

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

August 8, 2016

MEMBERS PRESENT:

Phil Carter, Chairman	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Alan Goralnik	Alice Nitka	Lisha Klaiber, Recorder
Carl Lavalley	Marty Nitka	Ed McEneaney – LPCTV
Steve Mongeon	Patrick Ross	

SPECIAL MEETING – REORGANIZATION

1. **CALL TO ORDER**

A. Meeting opened at 6:00 p.m. by Chairman Phil Carter. All board members present.

2. **ELECTION OF CHAIRPERSON**

A. **MOTION by Julie Nicoll and seconded by John Boehrer to elect Phil Carter as chairman. Motion passed unanimously.**

3. **ELECTION OF VICE-CHAIRPERSON**

A. **MOTION by Linda Petty and seconded by Phil Carter to elect John Boehrer as vice-chairperson. Motion passed unanimously.**

4. **ELECTION OF CLERK**

A. **MOTION by John Boehrer and seconded by Linda Petty to elect Rose Goings as clerk. Motion passed unanimously.**

5. **APPOINTMENT OF RECORDING SECRETARY**

A. **MOTION by Phil Carter and seconded by Julie Nicoll to appoint Lisha Klaiber as recording secretary. Motion passed unanimously.**

6. **DESIGNATION OF NEWSPAPER OF RECORD**

- A. Phil Carter advised that the previous newspapers of record were THE VERMONT JOURNAL and THE RUTLAND HERALD (as back-up).
- B. **MOTION by John Boehrer and seconded by Linda Petty to keep this the same. Motion passed unanimously.**

7. **ESTABLISH MEETING DATES AND TIMES**

- A. Previous DRB meeting schedule was to hold regular meetings at 6:00 p.m. on the second Monday of each month and alternate dates on the 4th Monday of the month.
- B. **MOTION by Linda Petty and seconded by Phil Carter to keep the schedule the same. Motion passed unanimously.**

8. **ADOPT RULES OF PROCEDURE**

- A. Phil Carter advised that the DRB has, in the past, adopted a set of Rules of Procedure. He asked if anyone had any changes or suggestions. There were none.
- B. **MOTION by Julie Nicoll and seconded by Linda Petty to re-adopt the Rules of Procedure as written. Motion passed unanimously.**

9. **ADJOURN**

- A. **MOTION by Phil Carter and seconded by John Boehrer to adjourn the special meeting. Motion passed unanimously.**
- B. **Phil Carter adjourned this special meeting at 6:04 p.m.**

REGULAR MEETING OF THE DEVELOPMENT REVIEW BOARD

I. **CALL TO ORDER**

- 1. Meeting opened at 6:05 p.m. by Chairman, Phil Carter. All members present

II. **OPEN THE PUBLIC HEARING FOR OKEMO MARKETPLACE, INC.**

- 1. Phil Carter advised that this is an application to amend a Conditional Use Permit to construct a 50 foot long interior wall partition in block 5 to create two units. Property is located at 57 Pond Street, Block 5 in the Village Residential Commercial District.
- 2. Rose Goings advised that this is application 85-105-CU, Amendment #17. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on July 15, 2016, advertised in THE VERMONT JOURNAL on July 20, 2016 and abutting property owners were notified on July 18, 2016.
- 3. Phil Carter administered the oath to all (Carl Lavalley and Patrick Ross) wishing to speak at this hearing.
- 4. Rose Goings asked if the applicants had received a letter from Fire Chief Kolenda.

5. Carl Lavallee said no. He advised that the project is to divide an existing 10,000 square foot space into two units. A 50 foot wall would be constructed to create one new 2,500 square foot space and leave the existing Tygart space at 7,500 square feet. The wall will be constructed at the far end of the unit. It will have a separate, existing entrance. It will have its own heating and electric services. It also has an existing bathroom. The only thing they are doing it to construct the wall. It will be 5/8 inch sheetrock. The unit will be fully sprinkled and has fire alarms. The state fire marshal, Paul Spicer, inspected the space on June 21st and said he would issue the state permit. Carl Lavallee said he contacted Act 250 and they do not require anything.
6. Phil Carter asked if there would be any expansion to the footprint or outside changes.
7. Carl Lavallee said no, except that when rented, the new tenant would have to come in for a sign permit. He added that parking will be the same.
8. John Boehrer asked about required letters.
9. Carl Lavallee said that he sent requests to the Municipal Manager, the Ambulance, Fire, Police and Electric departments, as well as the schools. He has not received the letter from the Fire Department.
10. Phil Carter advised that the permit from the DRB would include any conditions from the state Fire Marshal and the Ludlow Fire Department.
11. Rose Goings said that the applicants should check with the Water/Sewer department and advise them about the split in the unit.
12. Linda Petty asked if the wall is going to be solid or will there be a door between the units.
13. Carl Lavallee said there would not be a door; it would be a solid wall. He added that after the wall is completed, the State Fire Marshal would do an occupancy inspection.
14. Linda Petty asked if the wall would be a fire wall.
15. Carl Lavallee said no, it is not required. It will be 5/8 inch.
16. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing pending any conditions contained in the letter from the Ludlow Fire Chief and the State Fire Marshal, as well as a letter from the Village of Ludlow water/sewer department confirming that there will now be 2 units. Motion passed unanimously.**

III. **OPEN THE PUBLIC HEARING FOR ALAN GORALNIK AND IRIS SIMON**

1. Phil Carter advised that this is an application to subdivide a lot into 2 separate lots. The project is located at 142 North Ridge Road in the Town Residential District.
2. Rose Goings advised that this is application SUB17-001. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on July 15, 2016, advertised in THE VERMONT JOURNAL on July 20, 2016 and abutting property owners were notified on July 18, 2016.
3. Phil Carter administered the oath to all (Steve Mongeon, Al Goralnik, Marty Nitka and Alice Nitka) wishing to speak at this hearing.
4. Steve Mongeon advised that the applicant wishes to subdivide a 7 acre lot into two lots. One lot, the new lot will be 120,000 square feet and the balance is where the existing house is. They want to build a new house on the new lot and it may or may not have onsite or off site water and septic. They have not explored the ground water conditions.
5. Phil Carter asked Steve Mongeon to show the location of the existing house on the drawing.
6. Steve Mongeon did.
7. Phil Carter asked if the access for both lots would be off North Ridge Road on a 50 foot ROW.

8. Steve Mongeon said, yes and it would extend to Commonwealth Avenue.
9. Linda Petty asked if the 2 houses would share the same septic.
10. Steve Mongeon said possibly. They are now permitted under a state permit that would have to be amended. They have not done the soil tests yet as they were waiting to see if they could subdivide.
11. Linda Petty asked about the well being used.
12. Steve Mongeon showed the one for the house.
13. Linda Petty asked about well shields.
14. Steve Mongeon said there are none around the existing well. He said they will show the well shield on the drawing if one is needed.
15. Marty Nitka said he thought the scope of this hearing is for a subdivision. He asked if it is for a sketch plan.
16. Steve Mongeon said he thought the hearing was for the sketch plan.
17. Phil Carter said it was warned as a subdivision. He added that soil tests and state septic permits are different parts of the process. He said the lot may not be developable, but could still be subdivided. We are looking at subdividing a 7 acre lot into 2 lots.
18. Rose Goings said that Mr. Mongeon has another drawing that shows the well shields.
19. Phil Carter asked if the well shield is within the lot.
20. Steve Mongeon said yes.
21. Marty Nitka said that the well shown on his land is not the one they use. They have another well that is due south of the house. They never used the one that is shown.
22. Steve Mongeon said that he has a copy of a 1983 drawing that shows 2 wells and indicates the one on his drawing is the primary well.
23. Julie Nicoll noted that Mr. Goralnik's septic is on the Nitka property,
24. Marty Nitka said all the septic are on his 5 acres, referring to Mr. Goralnik's septic and replacement septic as well as Mr. Nitka's septic and replacement septic. He that that his concern is that they will put another home's septic on his property and to that, he objects. He added that the road was designed for 2 houses and now there will be 5.
25. Phil Carter asked how this came about and was there a legal agreement.
26. Alice Nitka said that the person who owned the land sold it to Bruce Watson. He built what is now the Nitka house and sold it, reserving 5 acres and the right to build the septic.
27. Phil Carter said that now, there would be a new lot and asked if there is an agreement for that septic to go on the Nitka property.
28. Marty Nitka said that the state no longer requires replacement systems for mound systems. He said that the plan is to use his property for the new septic.
29. Steve Mongeon said that he said the land "could be used for the septic for the new house." He never said that privilege came with ownership. He said that Bruce Watson added another acre to the original 10 acres, making it 11 acres because the house was built over the lot line. He said that along with the parcel, was the privilege of putting the septic for the existing 3-bedroom house. He said that with today's new permitting laws, there is an opportunity to use that unused replacement area for the septic for the new house. He added that they could modify the existing 3 bedroom septic to accommodate 6 bedrooms. He said that the state now allows doubling on the same property.
30. Phil Carter asked if that would be if all parties agreed.
31. Steve Mongeon said he does not think it comes to that.

32. Phil Carter asked if there was an agreement between Bruce Watson and the current owners and does it say that you can add another lot created by the subdivision.
33. Steve Mongeon said that the system on the Nitka property that is being used would not be changed by expanding it.
34. Phil Carter asked who says this can be done. He said that he would think that there has to be an agreement for that house, it would be a brand new lot and there has to be a new agreement.
35. Steve Mongeon said that the statute says that the footprint can be modified to go from 3 bedrooms to 6 bedroom usage. He said with new treatment factors, there would be no additional encumbrance.
36. Julie Nicoll said she does not understand how it could be enlarged to accommodate 6 bedrooms.
37. Phil Carter said he would need to see the pathway for expansion of the existing systems. He asked why not put the system on another property. He wants to see the agreement, that this lot, including subdivisions, can use the septic.
38. Marty Nitka said it would be an additional burden on his land.
39. Steve Mongeon asked what the additional burden would be.
40. Marty Nitka said it would be twice the existing use of the septic. He added that when the Goralnik house was on the market, it was listed as 5 bedrooms and now they want to add another 3 bedrooms. This is more than anyone intended 30 years ago.
41. Phil Carter said he would like to see proof that further development and a new lot are allowed.
42. Steve Mongeon said that he cannot give any proof that the agreement allows further development. He can show the deeds for the properties involved.
43. Julie Nicoll asked, for the record, how many bedrooms does the Goralnik house have.
44. Steve Mongeon said that he has a state permit approved for 3 bedrooms and does not know if it has 5.
45. Phil Carter said this board needs to know.
46. Linda Petty asked, if the system fails, who pays for it.
47. Steve Mongeon said that Mr. Goralnik is responsible for the system.
48. Marty Nitka said it is a very sophisticated system.
49. Phil Carter said the board needs to see the agreement of who is responsible for the system.
50. Marty Nitka said that there were 2 white boxes to show the driveway. He said that they showed Steve Mongeon where the pins are.
51. Steve Mongeon said he showed the Nitkas the ones in the woods that were set out by the owners.
52. Julie Nicoll said she would like to recess the hearing in order to see the agreements.
53. Phil Carter said he would like to see upgraded drawings with well shields and the agreement showing who is responsible in case of septic failure.
54. Julie Nicoll added that she wants the well that the Nitkas are using indicated on the drawing.
55. Steve Mongeon said the location indicated on his drawing, of the Nitka well, is the one shown of the state approved drawing. He added that he has a copy of the listers' card showing 5 bedrooms.
56. Phil Carter said he would like to see a maintenance agreement.

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57. Steve Mongeon said there isn't one. The information is on the state permit. He added that he has the deed that shows the creation of the easements and there is nothing in the deed about maintenance. He said he also has a certificate of compliance and the listers' record.
 58. Phil Carter said this board is just here for the subdivision.
 59. Marty Nitka asked if they will have another hearing for this and asked for copies of all documents provided by Steve Mongeon.
 60. Phil Carter said this hearing will be recessed.
 61. Rose Goings said she would mail copies of documents to Mr. Nitka.
 62. Phil Carter said he would like the locations of the well shields and wells on the drawings.
 63. Steve Mongeon said he gave the board one showing the well shield within the 120,000 square foot lot.
 64. Phil Carter said that this board wants, for new subdivisions, well shields to be located within the created lot.
 65. Marty Nitka said the drawing does not show a well shield for his water supply.
 66. Julie Nicoll said that Steve Mongeon gave testimony that the Goralnik house has 3 bedrooms, and that there will be 6 bedrooms with the new house, but with the listers' card information, now it will be 8 bedrooms.
 67. Steve Mongeon said that he said that the state permit is approved for 3 bedrooms.
 68. Phil Carter said if there are 5 bedrooms, then it is in violation of the state permit.
 69. Al Goralnik said that four of the rooms are bedrooms and two are study rooms that they use as dens, not bedrooms.
 70. Phil Carter said that Marty Nitka said he saw the ad for 5 bedrooms.
 71. Marty Nitka said that is what he saw, but he does not have knowledge of what is actually there.
 72. Phil Carter said there are at least 4 bedrooms and the permit is for 3.
 73. Steve Mongeon said the state permit allows for the septic to serve 6 bedrooms and he has not said how many bedrooms there are.
 74. Julie Nicoll said that Steve Mongeon gave the board the listers' card.
 75. Steve Mongeon said that he has said that the house is permitted for 3 bedrooms and we may be able to modify the existing septic system.
 76. Marty Nitka said that they object as it will be an extra burden to his land.
 77. Phil Carter said this board is stuck on permission about the new lot. The original agreement was made years ago for a 3 bedroom house with approved septic for 3 bedrooms. Now, there will be a new lot and we need to see the agreement to see if future subdivisions can use these systems.
 78. Steve Mongeon said that he had said that it was possible to use it. We would be better served to use our own lot. He said that he had said that they would look into their own land. He added that he did not know that this was not a hearing about the sketch.
 79. Phil Carter said it was warned as a hearing for a subdivision.
 80. Steve Mongeon said there is a possibility to use this property. He added that he had met with the Nitkas weeks ago and they did not object at that time.
 81. Marty Nitka said that they had met to discuss property lines.
 82. Phil Carter said that the applicant will have a viable lot that meets zoning requirements. He said if someone subdivides a lot, this board wants the well shield for the new lot on

- that new lot. He said that the hearings for the next phase of the project will not be in front of this board.
83. Rose Goings said if they are planning to build, they have to post the permit on their property.
 84. Marty Nitka asked when concerns about the septic get addressed.
 85. Rose Goings said at the state hearings.
 86. Marty Nitka asked if they would be notified.
 87. Phil Carter said if they do a self-contained system, it will not come back to us. This board's dilemma is that this is just a subdivision and they are not asking to develop the land.
 88. Julie Nicoll suggested that this board may want to seek legal counsel.
 89. Phil Carter said he would feel more comfortable with legal advice. He would like to recess this hearing for one month for legal advice and proof of agreements from Steve Mongeon
 90. Steve Mongeon said there is nothing that says we can't use the septic.
 91. Julie Nicoll said that under testimony, Mr. Goralnik said there are at least 4 bedrooms.
 92. Steve Mongeon said that he has a state permit approved for 3 bedrooms.
 93. **MOTION by Linda Petty and seconded by Julie Nicoll to recess this hearing for one month, until September 12, 2016 for time for this board to get legal advice and more information.**
 94. Steve Mongeon asked for another date as he has a conflict.
 95. Phil Carter said they could recess it until the October meeting.
 96. Steve Mongeon asked if there is anything they can do now. He said that anything done to the septic has to be approved by the designer and there is a declaration in the deed.
 97. Phil Carter said anything to support the applicant's position would help.
 98. Rose Goings said they need to do a site inspection of the house to find out exactly how many bedrooms there are.
 99. Steve Mongeon said that Mr. Goralnik would adjust the bedrooms to be compliant.
 100. Rose Goings said that Ludlow has a definition of a bedroom and if a room meets those requirements, it is a bedroom.
 101. Steve Mongeon said Mr. Goralnik will make the adjustments to meet the permit.
 102. Phil Carter asked Steve Mongeon if he knew the house had 5 bedrooms.
 103. Steve Mongeon said not before tonight.
 104. Marty Nitka said when you buy a house, you buy it subject to any permits.
 105. **Motion passed unanimously.**

IV. **APPROVE MINUTES**

1. Phil Carter advised that the minutes to be reviewed are from July 11, 2016.
2. John Boehrer noted that on page 3, item IV, 11, should read "...state fire marshal..."
3. It was noted that on page 3, item IV, 26, while not stated by Jon Folkersen, the reference to Springfield was to the State Fire Marshal.
4. John Boehrer noted that on page 4, item IV, 62 should read "...Debish Well..."
5. Phil Carter noted that on page 4, item IV, 62 should read "...are not part of the town water system and not the town's responsibility."
6. **MOTION by Phil Carter and seconded by Julie Nicoll to approve the minutes from July 11, 2016 as corrected. Motion passed unanimously.**

V. **OTHER BUSINESS**

1. **Permits from Last Meeting**
 - a. Conniff Trailside Mudroom - approved
 - b. Van Hosen Trailside Mudroom - approved
2. **Winterplace Condominiums Permit - approved**
 - a. Phil Carter noted that the state fire marshal had imposed conditions on the permit
 - i. Condo J303 and all units similar to J303 cannot have the bedroom.
 - ii. All new bedrooms are required to have windows.

VI. **ADJOURN**

1. **MOTION by John Boehrer and seconded by Linda Petty to adjourn. Motion passed unanimously.**
2. Meeting adjourned at 7:15p.m.

Respectfully submitted,
Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison