

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

July 9, 2012

MEMBERS PRESENT:

Phil Carter	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Ray Ahern	Glenn Heitsmith	Susie Snow
Betsy Andrade	Eric Lever	Phil Stratman
Shirley Brand	Leslie Lever	Leslie Stuart
Nancy Buss	Betty Mc Enaney	Rolf Van Schaik
Tesha Buss	Jean Morrill	Claudio Veliz
Nancy Carle	Jane Rebhan	Mark Verespy
Peter Crowley	Todd Rebhan	Lisha Klaiber, Recorder
Warren Eastwick	Barbara Ruiss	Duncan Love – LPC-TV

1. **CALL TO ORDER**

A. Meeting opened at 6:05 p.m. by Chair Phil Carter. All members present

2. **RE-OPEN THE RECESSED PUBLIC HEARING FOR RAY AHERN**

- A. Phil Carter advised that this is an application to subdivide one parcel into five (5) parcels. Property is located at 27 Sears Farm Road in the Town Residential Commercial District. This hearing was opened on May 14, 2012, recessed until June 11, 2012 and again recessed until this meeting. He said that the hearing was recessed for many reasons. He added that a package had been received today from the agent for the applicant and asked the board if they wanted time to review it. He suggested that the applicant give a brief overview of the new information and that the hearing then be recessed until next month to give the board and interested parties the opportunity to review the documents. He then administered the oath to any persons who had not previously been sworn in for this hearing.
- B. Rolf Van Schaik advised that Steve Mungeon has an ongoing conflict for Monday evenings and asked him to come to this hearing. He apologized for the tardiness of the packages that he submitted today. He reviewed the responses to some of the questions the DRB had posed at the last hearing.
- i. Well Shields – Rolf Van Schaik said that the plan shows the well shields and that some do extend over to other lands. Water falls where it will and waters are public.
 - ii. Elimination of Lot #5 – Rolf Van Schaik said that eliminating this lot would have little or no impact on the project and would create an economic burden on the applicant.

- iii. Driveways – are shown on the map
 - iv. Covenants – a copy of the proposed covenants is included in the new packet. They cover compliance, location and design of homes, well locations and the shared driveway for lots 4 and 5.
 - v. Traffic Impact – Rolf Van Schaik said that he met with Chief Billings last week and the chief clearly indicated that the project would have no impact on the traffic. They discussed Rod and Gun Club Road and Route 100. Chief Billings said there is no history of repeated accidents there.
 - vi. Wildlife – Rolf Van Schaik advised that much of that land had been logged. The deer habitat is across the road. He provided a copy of the applicable ANR map.
 - vii. Public Road – Rolf Van Schaik said that Mr. Mungeon tried to contact Ron Tarbell and requested a letter from him. It is a Class III town highway.
 - viii. Impact on Existing Wells – Rolf Van Schaik said that he will give Rose Goings a copy of the local well sites and read specifics for each well. He said, based on the old way of estimating demand, (four 3-bedroom homes at 150 gallons per bedroom per day equals 1,800 gallons per day, divided by 1440 minutes per day equals 1.25 gallons per day increased demand on the aquifer. Newer low volume devices would probably amount to about 20% less demand.
- C. Phil Carter asked Rolf Van Schaik to get the drawing to Rose Goings as soon as possible. He would like to have the information available in the Planning Office within 2 weeks at which time abutters would be able to see copies.
 - D. Warren Eastwick said there are already FOR SALE signs on the property.
 - E. Phil Carter advised that they can put up signs, but right now there is nothing to sell. No deeds or other documents are in the land records.
 - F. Warren Eastwick also said that he is very concerned that this project is a picture of greed and selling the 5th lot is only for greed and money making.
 - G. Phil Carter advised that this board is not concerned with that. This board's concern is if the project complies with state and town regulations.
 - H. **MOTION by Linda Petty and seconded by Julie Nicoll to recess this hearing until August 13, 2012. Motion passed unanimously.**

3. **RE-OPEN THE RECESSED HEARING FOR KILLARNEY'S RESTAURANT**

- A. Phil Carter advised that this is an application to amend a Conditional Use Permit to build a deck for outside seating, build a new cooler and create a new roofline at Killarney's Restaurant. The property is located at 44 Pond Street in the Village Residential Commercial District. He said that it was recessed from the June 11, 2012 meeting for clarification of outside operating hours. The hours of outside operation listed in the original proposal were not in line with the hours provided in the letter from Chief Billings. A letter was received from Chief Billings stating that his only concern was noise and outside consumption after 11:00 p.m. He advised all who have previously been sworn in that they are still under oath. Phil Carter asked Mr. Verespy if this was now acceptable to him.
- B. Mark Verespy advised that the additional hour works fine for him.
- C. **MOTION by Julie Nicoll and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

4. **RE-OPEN THE PUBLIC HEARING FOR RITE AID**

- A. Phil Carter advised that this is an application to amend a Conditional Use permit to allow for the permanent placement of a storage container (8' x 8' x 20') in the rear of the Rite Aid store to store merchandise. Property is located at 213 Main Street in the Commercial District and the Special Flood Hazard Area. He said that this hearing was recessed from the June 11, 2012 hearing due to lack of compliance with state requests. He advised all who have previously been sworn in that they are still under oath
- B. Rose Goings advised that Nancy Carle has documents with her tonight.
- C. Nancy Carle provided a paragraph from corporate.
- D. Phil Carter asked if there are any engineers involved that can respond to board questions regarding flood regulations, breakaway chains, or potential for items to float away in a storm.
- E. Nancy Carle said no.
- F. Phil Carter asked Nancy Carle to have the people at corporate refer to the minutes from the June meeting. This board needs drawings and all of the comments from the state must be addressed. The town and state must approve this. If the town gives a permit to a project and something happens, it jeopardizes the town's insurance and FEMA guidelines.
- G. John Boehrer noted that the requirements contained in the letter from the state were copied into the June 11, 2012 minutes.
- H. Richard Harrison asked how deep the water was in the store after Irene.
- I. Nancy Carle said about 3 feet.
- J. Richard Harrison said that it was then possibly 4-5 feet outside.
- K. **MOTION by Julie Nicoll and seconded by Linda Petty to recess this hearing until the August 13, 2012 meeting. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR ELIZABETH MOLK**

- A. Phil Carter advised that this is an application to convert an existing open deck to a mudroom in the Mountain Recreation District.
- B. Rose Goings advised that this is application 128-98-PRD, Amendment #30. Posted in the Town Hall bulletin boards June 19, 2012, advertised in THE VERMONT JOURNAL on June 20, 2012 and abutting property owners were notified on June 22, 2012.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Peter Crowley advised that this application is exactly the same as those done previously. They wish to capture the existing space and enclose the deck to make a mudroom. There will be no changes to the footprint or roofline.
- E. **MOTION by John Boehrer and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

6. **OPEN THE PUBLIC HEARING FOR MARC AND LESLIE STUART**

- A. Phil Carter advised that this is an application to change the existing garage into a wine bar. Property is located at 46 Depot Street in the Village Residential Commercial District.
- B. Rose Goings advised that this is application 109-96-CU, Amendment #1. Posted in the Town Hall bulletin boards June 19, 2012, advertised in THE VERMONT JOURNAL on June 20, 2012 and abutting property owners were notified on June 22, 2012. She said that letters have been received from Leslie Lever and Steven Manning.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Leslie Stuart advised that they wish to convert the existing attached garage into a wine bar. She said that they would like to raze the existing structure and replace it with a post and beam

structure in the existing footprint. They would like to add a farmer's porch. There will be seating for up to 25 people.

- E. Phil Carter advised that if the porch is built within the setbacks, a variance is not required and the location that was shown to the board and measured is within setbacks.
- F. Linda Petty asked if this would just be for summers.
- G. Leslie Stuart said it would be open in the winter and other times based on visitors' traffic. The hours of operation would be 10:00 a.m. to 12:00 a.m. 7 days per week.
- H. Phil Carter asked if they would serve food.
- I. Leslie Stuart said yes, cheese, olives, Panini, salads, soup and very light fare, along with beer and wine.
- J. Phil Carter said they would need a beer and wine license.
- K. John Boehrer asked about lighting.
- L. Leslie Stuart said they would have exterior lights by the entrance and unobtrusive, non-glare lights along the driveway.
- M. Phil Carter asked about the existing business currently in the garage.
- N. Leslie Stuart said it would be moved off-site.
- O. Phil Carter asked about any historical aspects to the building.
- P. Leslie Stuart said she looked in the town records and the site survey list. She contacted Devin Colman of the VT Historical Preservation department and he said they do not comment on local buildings if there is no public funding, no grants and the owner is using their own money to finance the changes. He said that he would review the property and get a letter out to her this week. She would get a copy to Rose Goings.
- Q. Phil Carter asked about Labor and Industry (L&I.)
- R. Leslie Stuart said that she has left multiple messages for them and they have not responded. She will go to Springfield tomorrow.
- S. Rose Goings said that there is no letter from Chief Billings. She added that they will be able to use the bank parking after hours.
- T. Phil Carter said that this board still needs letters from L&I, Chief Billings and Mr. Colman from VT Historical.
- U. Phil Carter said that if Leslie Stuart has any questions or is not able to obtain the letters in time, to please call Rose Goings.
- V. **MOTION by Richard Harrison and seconded by Linda Petty to recess this hearing until August 13, 2012. Motion passed unanimously.**

7. **OPEN THE PUBLIC HEARING FOR TESHA BUSS**

- A. Phil Carter advised that this is an application for an outdoor recreational use, including a horse farm. Property is located at 512 Rod and Gun Club Road in the Town Residential/ Residential Commercial Districts.
- B. Rose Goings advised that this is application 366-12-CU. Posted in the Town Hall bulletin boards June 19, 2012, advertised in THE VERMONT JOURNAL on June 20, 2012 and abutting property owners were notified on June 22, 2012.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Tesha Buss advised that this property had been a horse farm for 32 years and she would like to revitalize it. She will have boarding, trail rides, classes and also farming, hiking and snow shoeing. She would also like to hold about 15 events per year there. These events would not have any permanent structures, there would be portable waste containers, port-a-pots and portable power supplies.
- E. Richard Harrison asked what the hours of operation would be.

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- F. Tesha Buss said it would be based on the events, probably ending at 10:00 p.m. She does not have specific hours yet. The indoor horse arena would be open until about 9:00 p.m.
 - G. Phil Carter asked if there would be an office.
 - H. Tesha Buss indicated they would use the farm stand and have trail maps there.
 - I. Phil Carter asked the total acreage.
 - J. Tesha Buss said 107+/- and that not all of it has been surveyed, but you can distinguish most of the boundaries.
 - K. Richard Harrison asked if she would be using the buses.
 - L. Tesha Buss said yes, for events. They would pick people up at where they are lodging.
 - M. Phil Carter asked what kinds of special events she was considering.
 - N. Tesha Buss said weddings, charitable events, family reunions, etc.
 - O. Linda Petty asked if there would be overnight camping in the tents.
 - P. Tesha Buss said no, that the tents would only be for the functions.
 - Q. Phil Carter asked if she was planning anything like "Ludlowstock," a Woodstock type of event. He said that would be new ground for this board.
 - R. Tesha Buss laughed and said she had not thought of it.
 - S. Rose Goings asked if Tesha Buss would be setting the business up through Good Commons.
 - T. Tesha Buss said no, it would be its own thing and not limited to Good Commons.
 - U. Phil Carter asked if she would be getting a liquor license, or would that be handled by the caterers.
 - V. Tesha Buss said it would be the caterer's responsibility.
 - W. Phil Carter asked about lighting.
 - X. Tesha Buss said there would be lights inside the tents and lighted walkways to the cars. Lights would be downward projected and run by generators, brought in by the caterers.
 - Y. Phil Carter asked about parking.
 - Z. Tesha Buss said that the plan that she submitted shows 100 feet around the corner from the field that would be about 60 spaces on site. She added that Chief Billings looked at it and said that there should not be any parking on Rod and Gun Club Road.
 - AA. Richard Harrison asked about port-a-pots.
 - BB. Tesha Buss said that they would have to contact the state and let them know the number of people expected and the state would say how many units they need.
 - CC. Linda Petty asked if they would be keeping the fields closely mowed.
 - DD. Tesha Buss said yes.
 - EE. Linda Petty asked if they would chlorinate the roads to keep dust down.
 - FF. Tesha Buss said yes.
 - GG. Shirley Brand said that she is an abutter and is concerned about the hours of operation, music, traffic and drinking.
 - HH. Julie Nicoll said that Tesha Buss testified that the end of events would be 10:00 p.m.
 - II. Shirley Brand asked who would supervise them.
 - JJ. Tesha Buss said she would be there.
 - KK. Phil Carter asked if 11:00 would be okay.
 - LL. Tesha Buss said that would be fine with her.
 - MM. Shirley Brand said 11:00 would be okay. She asked about the traffic impact and noted that the bridge by Buttermilk Falls Road is not good.
 - NN. Phil Carter asked how people would access the property.
 - OO. Tesha Buss said that she would tell people to enter through Buttermilk Falls Road. She does not like the turn on Rod and Gun Club Road.
 - PP. Todd Rebhan said that he is also an abutter and is concerned about the traffic and does not think the bridge can handle the additional traffic. He said that if she holds 15 events there each summer, there are only 20 weekends in the summer and that would be almost one event every weekend. He also asked about Good Commons. He asked if she would be for profit and if she would have someone for the horses. He also advised that he once had the police

- come to his house and ask them to quiet down when a party he was having ran past 10:00 p.m.
- QQ. Tesha Buss said that this would not be affiliated with Good Commons. She added that most farms are “for profit” and that she would need to hire a horse person.
- RR. Todd Rebhan said this sounds like a full-blown commercial operation.
- SS. Tesha Buss said that is correct.
- TT. Todd Rebhan asked if she would be using the land trust property.
- UU. Tesha Buss said yes.
- VV. Todd Rebhan asked how that would impact the land.
- WW. Tesha Buss said the previous owner also used that land for trails.
- XX. Todd Rebhan said those were old logging roads. He asked if there would be motorized vehicles on the trails.
- YY. Tesha Buss said none other than he own snowmobile and ATV for farming.
- ZZ. Todd Rebhan asked if that property is zoned commercial.
- AAA. Phil Carter said it is Residential/Residential Commercial.
- BBB. Todd Rebhan asked if Tesha Buss would need a variance.
- CCC. Phil Carter said no. This would be a recreational use. Recreational Use was originally conceived for mountain activities and people pay for those activities.
- DDD. Todd Rebhan said that he is concerned about people coming in and out all the time. If Tesha Buss were a horse person, she would not have torn out the barn and put busses there.
- EEE. Phil Carter said this is a 107+/- acre parcel. These are valid concerns that come up often with many projects. This board can look at what could happen on this parcel. What if it was subdivided and they put up 35 houses. This board looks at the character of the neighborhood and impact on the area. The land is only ¼ mile from Jackson Gore and homes there would have great views of the mountain. That would also be a major impact.
- FFF. Todd Rebhan said this would be commercial up there. With wedding parties, people in and out at night there could be new situations. How many people would be at a wedding? He lives next door and is concerned.
- GGG. Shirley Brand said there is a brook close to the barn and she wants it protected from horse waste. They need parameters for noise levels and hours of operation.
- HHH. Phil Carter said that this board is bound by requirements and requests from town departments. They have weighed in on this project and if they have not imposed any conditions, we cannot override them or ignore them. Letters are in on this project.
- III. Julie Nicoll noted about the Ambulance Department would like to be notified of any large events and would provide coverage.
- JJJ. Shirley Brand asked if Tesha Buss would hire traffic control for large events. Can that be a requirement?
- KKK. Phil Carter said that this board could request that Chief Billings address that issue. He could establish how large an event would have to be before it would need traffic mitigation. For the Jackson Gore and Timber Creek projects, traffic mitigation is in the permit and handled by the local police.
- LLL. Jane Rebhan asked if Ron Tarbell had weighed in on the impact on the roads and bridge.
- MMM. Phil Carter noted there was nothing from Ron Tarbell.
- NNN. Jane Rebhan said the road was worse with horse trailers. A truck got stuck in the mud this winter. She asked if the town would have to do more maintenance on the roads.
- OOO. Richard Harrison noted that Chief Kolenda wants the Division of Fire contacted for large events.
- PPP. Phil Carter said he would like to have a letter from Ron Tarbell regarding Rod and Gun Club Road condition, the condition of the bridge at the corner of Buttermilk Falls Road. He would also like a letter from Chief Billings indicating what size event would require traffic mitigation.

- QQQ. Julie Nicoll added that she would like to have Chief Billings comment on the hours of operation, until 10:00 or 11:00 p.m.
- RRR. Glenn Heitsmith asked about Timber Creek traffic mitigation plans.
- SSS. Phil Carter said that was a very in-depth traffic plan designed by Chief Billings. If the chief feels that it is necessary, he will design a plan for this project. He said that if Chief Billings and Ron Tarbell say that Rod and Gun Club Road and the bridge can take the traffic, they can take it.
- TTT. Tesha Buss asked who should get this information.
- UUU. Phil Carter said it is up to her and that she can ask Rose Goings for assistance.
- VVV. Tesha Buss said she is not trying to diminish the quality of the neighborhood.
- WWW. Glenn Heitsmith said that Tesha Buss has set up some good operations since she has come to town.
- XXX. **MOTION by Richard Harrison and seconded by John Boehrer to recess this hearing until August 13, 2012. Motion passed unanimously.**

**NOTE: PUBLIC HEARINGS FOR EMERALD VEIL, LLC, AGENDA ITEMS 8 AND 9
WILL BE OPENED AND HEARD TOGETHER**

8. **OPEN THE PUBLIC HEARING FOR EMERALD VEIL, LLC**
9. **OPEN THE PUBLIC HEARING FOR EMERALD VEIL, LLC**
- A. Phil Carter advised that these are applications to add an apartment to the existing structure at 110 Main Street, including a variance to change the entryway on the front porch and also to change the driveways for the properties at 110 and 108 Main Street. Both properties are located in the Village Residential/Commercial District.
- B. Rose Goings advised that these are application numbers 364-12-VA, 365-12-CU and 271-05-CU, Amendment #1. Posted in the Town Hall bulletin boards June 19, 2012, advertised in THE VERMONT JOURNAL on June 20, 2012 and abutting property owners were notified on June 22, 2012.
- C. Phil Carter administered the oath to all wishing to speak at these hearings.
- D. Claudio Veliz said the applicant wishes to preserve the core of the building. They would like to demolish the back half and rebuild it as a two-story including 2 apartments. It would integrate with the existing 2-story front. The ad hoc conditions around the building would be demolished. The handicapped ramp is along the west face. The current entrance, diagonal stairs, would be flipped so that all would enter from the same side. There would be one, horseshoe shaped, one-way driveway for both properties, entering on the west side of 110 Main and exiting on the east side of 108 Main. There are minor changes from the drawings. The cupolas have been removed and the new rear structure at 110 Main will now be higher than the existing front portion, but will be 27'6" high.
- E. Rose Goings said the board would need new drawings with the changes.
- F. Phil Carter asked if the portion being demolished is of historical significance.
- G. Claudio Veliz said no, it was probably from the 1960s.
- H. Richard Harrison said he thinks it is older.
- I. Phil Carter noted that there was a window that looked to be earlier than the 1960s.
- J. Claudio Veliz said there had been some work done on the barn.
- K. Phil Carter said that before they demolish the barn, he would like to have Claudio Veliz contact Devin Colman and get a letter from the VT Historical Department.

- L. Claudio Veliz said that the existing front scab would be removed and replaced with a standing seam roof that would visually separate the historical portions from the new sections. He explained that the ramp would have a roof over it.
- M. Phil Carter asked about a letter from Chief Kolenda.
- N. Rose Goings advised that the Chief called, but had not had the chance to look at this project.
- O. Phil Carter asked Richard Harrison, as past fire chief, if, in his opinion, the fire department would want to be able to get around to the back.
- P. Richard Harrison said they would have to be able to get a truck back there.
- Q. Phil Carter asked if they might be able to pull in and back out.
- R. Richard Harrison said they would need room to make the swing.
- S. Claudio Veliz said they would be able to make the swing.
- T. Phil Carter asked about snow removal.
- U. Claudio Veliz said they could pile it on the east side of the 108 property. He thinks they have one or two additional parking spaces on each lot.
- V. Richard Harrison asked how many vehicles they could park.
- W. John Boehrer said, based on the drawings, 17 without the garages.
- X. Claudio Veliz said we are 1 or 2 spaces over on each property. We could consolidate and use that space for snow.
- Y. Phil Carter said they would need to keep it clear for emergency vehicles. He would like to see what Chief Kolenda says.
- Z. Rose Goings asked if the roof for the porch on 110 Main comes to the edge.
- AA. Claudio Veliz said it does not cover the deck. The front entry is 6 inches short of the setback.
- BB. Phil Carter clarified, noting that the current stairway on the front goes to the sidewalk that the proposed new stairway does not go to the sidewalk.
- CC. Claudio Veliz said that is correct. Also, the deck will remain in place, just be refurbished.
- DD. Richard Harrison asked about the apartments.
- EE. Claudio Veliz said the upper apartment would be one bedroom and the lower would be 2 bedrooms.
- FF. Phil Carter noted that 108 Main is already under a Conditional Use permit.
- GG. Claudio Veliz said that nothing will change on 108 except painting and the driveway.
- HH. Barbara Ruiss asked if they had done a traffic study. The parking lot for the Casbah is used a lot for U-turns.
- II. Phil Stratman said that he fears that with no 45° lines for driveway access, they would have to give up 3 spaces because the entrance to the driveway is difficult.
- JJ. Phil Carter said that this board does not have the authority to change Village parking.
- KK. Phil Stratman said that he could not pull his motor home in that driveway.
- LL. Phil Carter said that is an issue for the Trustees.
- MM. Phil Stratman said the fire department should consider it.
- NN. Rose Goings said that Mr. Stratman's concern is safety, people parking too close to the driveway.
- OO. Claudio Veliz said that is an existing condition.
- PP. Richard Harrison asked about snow coming off All Seasons' roof.
- QQ. Claudio Veliz said it is 200 square feet over about 50 feet and the setback is about 10 feet.
- RR. Julie Nicoll said they had stood on the grass there and there is a pretty good strip of grass there.
- SS. Phil Carter asked about L&I.
- TT. Claudio Veliz said they are already dealing with them.
- UU. Phil Carter recounted that this board would like to have letters from the fire department, VT Historical Division and L&I. He added that a permit could possibly be issued contingent upon compliance with L&I.
- VV. **MOTION by Julie Nicoll and seconded by Linda Petty to recess this hearing until August 13, 2012. Motion passed unanimously.**

10. **OTHER BUSINESS**

- A. Phil Carter signed the Mylar for John Yannes, Jr.

11. **REVIEW MINUTES**

- A. Phil Carter advised that the minutes from the June 11, meeting are to be reviewed.
- B. Rose Goings advised that the date on the first page reads May 14, 2012 and should read June 11 2012.
- C. Julie Nicoll noted that on page 4 item K, it should read "*Julie Nicoll asked...*" not "*said.*"
- D. **MOTION by John Boehrer and seconded by Julie Nicoll to approve the minutes from June 11, 2012 as amended. Motion passed unanimously.**

12. **DELIBERATIVE SESSION**

- A. **MOTION by John Boehrer and seconded by Phil Carter to enter into Deliberative Session. Motion passed unanimously.**
- B. Board entered Deliberative Session at 8:00 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison