

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

May 14, 2012

MEMBERS PRESENT:

John Boehrer	Julie Nicoll
Richard Harrison	Linda Petty

MEMBERS ABSENT:

Phil Carter

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Nancy Carle	Thomas Harris	Thomas Potvin
Faith Eastwick	Ron Holm	Mark Verespy
Warren Eastwick	Scott Kilgus	Lisha Klaiber, Recorder
Steve Greene	Eric Lever	Duncan Love – LPC-TV
Patricia Harris	Leslie Lever	

1. **CALL TO ORDER**

A. Meeting opened at 6:01 p.m. by Vice Chair John Boehrer. Phil Carter absent.

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

- A. John Boehrer advised no agent is here to represent Mr. Ahern.
- B. Rose Goings advised that she did not receive any of the requested information from Mr. Ahern and has not heard from him. There is a good reason.
- C. Warren Eastwick asked if they could still present new evidence as they have someone present to speak.
- D. Julie Nicoll asked if they could get the person's evidence in writing.
- E. John Boehrer explained that since Mr. Ahern is not present, they will not take testimony because Mr. Ahern has to be able to respond to that testimony and question the witness.
- F. **MOTION by Julie Nicoll and seconded by Linda Petty to recess this hearing until July 9, 2012. Motion passed unanimously.**
- G. Warren Eastwick asked if he would be notified.
- H. Rose Goings said that the hearing will be on July 9th and that she will send out agendas. She told Mr. Eastwick that he can contact her by phone, come into the office or email her to find out if any new evidence has been submitted by Mr. Ahern.

3. **OPEN THE HEARING FOR KILLARNEY'S RESTAURANT**

- A. John Boehrer 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.
- B. Rose Goings advised that this is application 86-146-CU, Amendment #3. Posted on the Town Hall bulletin boards on May 25, 2012, advertised in THE VERMONT JOURNAL on May 23, 2012 and abutting property owners were notified on May 25, 2012.
- C. John Boehrer administered the oath to all wishing to speak at this hearing.
- D. Mark Verespy advised that he wishes to remove the bushes from the right side of the entrance, level the area and build a new deck. He also wishes to remove the existing cooler and put a slab in the same place for new coolers and change the roofline so that the snow falls on the deck instead of the pathway.
- E. John Boehrer asked if they would be changing the footprint.
- F. Mark Verespy said they would be staying within the area where the railroad ties are now. There would be no change to the footprint.
- G. Richard Harrison asked how many chairs there would be outside and also asked if there would be a fence.
- H. Julie Nicoll said that she believes that the state requires that any outside area for consumption be fenced in.
- I. Mark Verespy said that is true and that it would be.
- J. John Boehrer asked the number of seats.
- K. Mark Verespy said that the plans say 22, but that he thinks it may be about 16, definitely not more than 22.
- L. John Boehrer asked if they would be replacing some of the inside seating or adding to it.
- M. Mark Verespy said that the original permit says about 130-132 and he is only using 110-112 now. If there is a conflict, he will take some seating from inside.
- N. Linda Petty asked about lighting.
- O. Mark Verespy said there would probably be one single flood light, not bright and downward facing placed as low as possible.
- P. Linda Petty said they would not want it shining out into the parking lot.
- Q. Mark Verespy said it would be on the corner by the front door, facing inward.
- R. Richard Harrison referred to the letter from Chief Billings that says no outside consumption after 10:00 p.m.
- S. Mark Verespy said that he had only received that letter and is not happy with that restriction. Outside consumption after 10 p.m. is desirable to diners. What if someone starts eating at 8:59 and is not finished by 10, do they have to move. He will contact Chief Billings.
- T. John Boehrer said if Mr. Verespy is not happy with the letter, the board can recess this hearing until July.
- U. Mark Verespy asked if he could still start removing the bushes now.
- V. Rose Goings said yes.
- W. **MOTION by Julie Nicoll and seconded by Linda Petty to recess the hearing until July 9, 2012. Motion passed unanimously.**

4. **OPEN THE PUBLIC HEARING FOR THE D'AGOSTINO FAMILY, LLC**

- A. John Boehrer advised that this is an application to add a dormer to an existing condominium located at the Solitude Day Lodge. The attic space will be converted into a bedroom, bathroom and playroom. The unit is located at 845 Solitude Road, DL8 in the Mountain Recreation District.

- B. Rose Goings advised that this is application 0954-95-PUD, Amendment #6. Posted in the Town Hall bulletin boards May 25, 2012, advertised in THE VERMONT JOURNAL on May 23, 2012 and abutting property owners were notified on May 25, 2012.
- C. John Boehrer administered the oath to all wishing to speak at this hearing.
- D. Rose Goings advised that this would have been an administrative decision, except that they will be amending a PUD.
- E. Scott Kilgus advised that this is a 3rd floor unit at the south end of the building. It is a 2 bedroom unit and has a large attic space. The applicants wish to convert that attic into a bedroom, bathroom and sitting area.
- F. John Boehrer asked if there were other dormers on the building.
- G. Scott Kilgus said yes, on the north end and this would be almost identical to them.
- H. Linda Petty asked if it would be the same height as the others.
- I. Scott Kilgus said approximately, yes.
- J. Richard Harrison noted that the building is fully sprinkled, the exits are good, all fire codes are met or exceeded. This is a good addition.
- K. **MOTION by Julie Nicoll and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR THOMAS POTVIN**

- A. John Boehrer advised that this is an application for an addition to a nonconforming use (Auto Service Garage). Property is located at 255 North Hill Crossroad in the Town Residential 120,000 District.
- B. Rose Goings advised that this is application 362-12-CU. Posted in the Town Hall bulletin boards May 25, 2012, advertised in THE VERMONT JOURNAL on May 23, 2012 and abutting property owners were notified on May 25, 2012.
- C. John Boehrer administered the oath to all wishing to speak at this hearing.
- D. Tom Potvin advised that he would like to blow out the back wall an additional 12' x 30' for larger vehicles
- E. Linda Petty asked if the 8' roofline is enough.
- F. Tom Potvin said yes, in the back.
- G. John Boehrer asked if the new roof would be a continuance of the current roofline.
- H. Tom Potvin said he is not sure if it is the same pitch.
- I. Linda Petty asked if it would be flatter.
- J. Tom Potvin said yes.
- K. Rose Goings advised that this is a non-conforming use and that Mr. Potvin has owned the property for many years. The only way to change a non-conforming use is to come to this board.
- L. **MOTION by Richard Harrison and seconded by Linda Petty to close this. Motion passed unanimously.**

6. **OPEN THE PUBLIC HEARING FOR THOMAS AND PATRICIA HARRIS**

- A. John Boehrer advised that this is an application for a variance to extend a deck which is too close to the lake setback. Property is located at 1378 Route 100 North in the Lakes District.
- B. Rose Goings advised that this is application 363-12-VA. Posted in the Town Hall bulletin boards May 25, 2012, advertised in THE VERMONT JOURNAL on May 23, 2012 and abutting property owners were notified on May 25, 2012.
- C. John Boehrer administered the oath to all wishing to speak at this hearing.

- D. Tom Harris advised that the existing deck is rotting and too narrow. They wish to remove it and rebuild it, extending it 5'4" on the east and 12' on the south, making the usable area 12' x 20'. They wish to remove the roof and replace it with a better pitched roof, nestled under the existing roof.
- E. Linda Petty noted that the existing roof is not very high.
- F. Tom Harris said that it starts high and the new one will be right under it. They are only going out 5'4" and not towards the lake. They will only cover part of the deck. They are only extending on the south side.
- G. Julie Nicoll said that they could do all of the work under "conforming" except the extension.
- H. Tom Harris said they looked at other options and this would have the least impact. They only want a comfortable deck.
- I. Julie Nicoll asked when they bought the property.
- J. Tom Harris said March 18, 2011.
- K. Richard Harrison asked if they are aware of the lake setback regulations.
- L. Tom Harris said yes. He added that they are not going closer to the lake with this project. This is a minimal addition. The existing deck is too narrow, rotting and unusable.
- M. Richard Harrison said that there are a lot of properties in the Lakes District that cannot do additions because of the setbacks.
- N. John Boehrer said that it looks like on the section that you want to build, the corner is 40' from the lake.
- O. Julie Nicoll said the non-conforming section would add 100 square feet.
- P. Tom Harris said the closest points of non-conformance are on the north side of the house.
- Q. **MOTION by Julie Nicoll and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

7. **OPEN THE PUBLIC HEARING FOR RITE AID**

- A. John Boehrer 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.
- B. Rose Goings advised that this is application 88-221-CU, Amendment #11. Posted in the Town Hall bulletin boards May 25, 2012, advertised in THE VERMONT JOURNAL on May 23, 2012 and abutting property owners were notified on May 25, 2012. .
- C. John Boehrer administered the oath to all wishing to speak at this hearing.
- D. Nancy Carle advised that Rite Aid wishes to place an 8' x 8' x 20' trailer out back. Jim young has looked at it.
- E. John Boehrer advised that an email was received from Rebecca Pfeiffer of the Agency of Natural Resources, River Corridor and Floodplain Management Section concerning this project. He read the following:

"If Rite Aid was to put a storage container at the rear of the existing shopping plaza. There are two options for the company for placing the storage unit, however, additional information will need to be provided to the Village of Ludlow in order to ensure that the project will meet the local flood hazard area bylaws.

The first option for the storage container is to meet the requirements of an accessory structure (610.6(b) 12) and the incorporation of flood vents (as found in 610.6(b) 10) to design the storage container as having low flood damage potential.

The applicant will need to provide documentation as to how the container will be anchored against flood forces, how flood vents have been incorporated and the location of any utilities.

The second option is to treat the storage container as a new non-residential structure which is adequately elevated above the BFE and anchored to resist flood flows, or design the structure to be fully dry floodproofed. This would require documentation from a surveyor or professional engineer establishing the height that the container would need to be elevated and the applicant would need to demonstrate that the container has been anchored to resist flood forces, or the applicant would need to provide dry floodproofing design plans certified by a professional engineer or a licensed architect to meet the requirements of 610.6(b)10.

Either way, the applicant will need to provide additional documentation demonstrating how they will meet section 610 of the Village's flood hazard area regulations. Also, the Board will need to make sure that they are following the general specifications found in 610.8. The applicant will need to provide the additional documentation and plans to the Board in order to demonstrate that they will meet the Village of Ludlow's flood hazard regulations."

- F. John Boehrer continued, advising Ms. Carle that this board will need more information.
- G. Nancy Carle said that the trailer would be anchored like Shaw's.
- H. John Boehrer said the water must be able to pass through or under the unit, but it must also be anchored so that it would not float away.
- I. Julie Nicoll asked Nancy Carle if she thought a 30-day recess would be enough.
- J. Nancy Carle said yes.
- K. **MOTION by Julie Nicoll and seconded by Richard Harrison to recess this hearing until July 9, 2012. Motion passed unanimously.**

8. **OTHER BUSINESS**

- A. None

9. **REVIEW MINUTES**

- A. John Boehrer advised that the minutes from the April 9, 2012 and May 14, 2012 meetings are to be reviewed.
- B. Julie Nicoll noted that on page 4 of the April minutes item iii, it should read "*Julie Nicoll mentioned the demolitions of buildings in the Village.*"
- C. **MOTION by Julie Nicoll and seconded by Linda Petty approve the minutes of April 9, 2012 as amended. Motion passed unanimously.**
- D. Linda Petty advised that on page 2 of the May 14th minutes, page 2 item 3J, should read "A chain link fence acts like a *net* during..."
- E. Linda Petty advised that on page 5, item 5U, line should read "He read from the regulations ... preservation of wildlife habitats, *trees, adverse impact* on fragile areas..."
- F. Linda Petty noted that page 5, item 5Z commenter was *Betsy Andrade*.
- G. John Boehrer noted, also on page 5, item 5DD, should read "There is regular skeet shooting at the range *day* or night."

- H. **MOTION by Julie Nicoll and seconded by Linda Petty to approve the minutes from May 14, 2012 as amended. Motion passed unanimously.**

10. **DELIBERATIVE SESSION**

- A. **MOTION by Julie Nicoll and seconded by Richard Harrison to enter into Deliberative Session. Motion passed unanimously.**
- B. Board entered Deliberative Session at 6:47 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison