

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

May 13, 2013

MEMBERS PRESENT:

Phil Carter	Richard Harrison	Linda Petty
John Boehrer	Julie Nicoll	

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Angie Ciufu	Jean Morrill	Georgia Wyman
Donald Lagro	Ted Reeves	Noah Schmidt – LPC TV
Doug LeMire	Chris Rowen	Lisha Klaiber, Recorder
Ursula Middel	Ted Stryhas	

1. **CALL TO ORDER**

A. Meeting opened at 6:01 p.m. by Phil Carter. All members present.

2. **OPEN THE PUBLIC HEARING FOR URSULA MIDDEL**

- A. Phil Carter advised that this is an application for flood hazard review to replace and enlarge an existing deck. Property is located at 15 Denardis Road in the Special Flood Hazard Area of the Lakes District.
- B. Rose Goings advised that this is application 375-13-FHR. Posted in the Town Hall bulletin boards April 23, 2013, advertised in THE VERMONT JOURNAL on April 24, 2013 and abutting property owners were notified on April 23, 2013.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Ursula Middel explained that she had a very small deck and would like to replace it with a larger deck. Her daughter is an architect and drew up plans for her. The deck will be 10' x 22' and will be constructed to all codes, have railings, piers at the required depth and be made from timbertech (material.)
- E. Phil Carter noted that since this is in the Special Flood Hazard Area, the board needs to address the letter from the state and the deck must meet the following requirements listed in that letter. He added that the 4th requirement does not apply because there will not be any plumbing or electrical work done
 - i. Designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure during the occurrence of the base flood.
 - ii. Constructed with materials resistant to flood damage such as pressure-treated wood (see FEMA technical bulletin 2-08: *Flood Damage Resistant Materials Requirements* available online at www.fema.gov)

- iii. Constructed by methods and practices that minimize flood damage and...
- F. Ursula Middel said that they plan to attach the deck to the house with joist hangars.
- G. Phil Carter continued, saying that the state language is somewhat vague. He said that the challenge is to construct the deck in a way that the state will accept if they come to inspect it. If FEMA or the state is not happy with the deck and wants it changed, she will have to change it. They have fooled this board in the past as much as a year after our decision.
- H. Rose Goings explained that Ursula Middel did submit an estimate from the builder that shows that the deck would cost \$12,350 and is under 50% of the value of the house and would not be considered a substantial improvement. She added that the board will need an Elevation Certificate to show that the deck is out of the base flood elevation.
- I. Richard Harrison said it is important to get an engineer in and have them verify the elevation.
- J. Phil Carter said that the maps show that the property is in the Special Flood Hazard Zone, but an engineer may possibly find it different. He said that her house and the deck have good elevation.
- K. **MOTION by Richard Harrison and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

3. **OPEN THE PUBLIC HEARING FOR FLETCHER FARM FOUNDATION, INC.**

- A. Phil Carter advised that this is an application to consider an amendment to a Conditional Use Permit to allow for the conversion of 3 motel rooms into offices. Property is located at 611 Route 103 South in the Residential Commercial District.
- B. Rose Goings advised that this is application 084-95-CU, Amendment # 4. Posted in the Town Hall bulletin boards April 23, 2013, advertised in THE VERMONT JOURNAL on April 24, 2013 and abutting property owners were notified on April 23, 2013.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Doug LeMire advised that they wish to take 9 rooms and change them into 3 offices. They will remove 4 half-baths and put in 2 new ones. This will be ½ of the existing building and will reduce the overall usage of the building. There will be 3 people there all of the time with an additional 2 people who will come and go. Two Rivers Supervisory Union will be the tenant. The Act 250 Amendment is in place with sewage and water also approved.
- E. Phil Carter asked about L&I.
- F. Doug LeMire said they had done a walk-through with Ted Stryhas and L&I wants a firebreak wall between the offices and motel units. They will inspect toward the end of the project.
- G. Phil Carter said that in his letter, Fire Chief Kolenda advised that he wants copies of new lock keys for the Fire Department.
- H. Doug LeMire said there is a firebox on site with keys to the buildings.
- I. John Boehrer asked about changes to the exterior/footprint.
- J. Doug LeMire said none at this time.
- K. Linda Petty asked about night time usage.
- L. Doug LeMire said there would not be overnight usage, but possibly meetings.
- M. Linda Petty asked about additional exterior lighting.
- N. Doug LeMire said no additional lighting would be needed.
- O. Linda Petty asked about the trees.
- P. Doug LeMire said that the trees would be removed, along with roots and the area would be gravel. He said it would be better for parking. He added that excess parking can also be in the fields. It will be a quiet use for the building.
- Q. Rose Goings asked about parking spaces.

- R. Doug LeMire said 12 for that building.
- S. Rose Goings asked if the motel occupants would also use those spaces.
- T. Doug LeMire said yes, but there are additional spaces available at the end of the building.
- U. **MOTION by Linda Petty and seconded by Richard Harrison to close this hearing.**
Motion passed unanimously.

NOTE: The following two (2) Okemo hearings will be opened and addressed concurrently.

- 4. **OPEN THE PUBLIC HEARING FOR OKEMO, LLC/CNL INCOME OKEMO MOUNTAIN LLC**
- 5. **OPEN THE PUBLIC HEARING FOR OKEMO, LLC/CNL INCOME OKEMO MOUNTAIN LLC**

- A. Phil Carter advised that the first is an application for Local Act 250 Review to allow for the construction and operation of a challenge course. Property is located at Okemo Ridge Road/Jackson Gore Road in the Jackson Gore Recreational District.
- B. Rose Goings advised that this is application 376-13-ACT250. Posted in the Town Hall bulletin boards April 23, 2013, advertised in THE VERMONT JOURNAL on April 24, 2013 and abutting property owners were notified on April 23, 2013.
- C. Phil Carter advised that the second is an application to amend a Planned Unit Development to allow for the construction and operation of a challenge course. Property is located at Okemo Ridge Road/Jackson Gore Road in the Jackson Gore Recreational District.
- D. Rose Goings advised that this is application 152-00-PUD, Amendment # 25. Posted in the Town Hall bulletin boards April 23, 2013, advertised in THE VERMONT JOURNAL on April 24, 2013 and abutting property owners were notified on April 23, 2013.
- E. Phil Carter administered the oath to all wishing to speak at these hearings.
- F. John Boehrer recused himself from these hearings.
- G. Ted Reeves explained that they plan to create two levels of a series of events possibly including bridges, ropes walkways and ziplines. There will be a novice level with 9 events and an intermediate level with 6 events that would require more strength and balance. The courses would be located about the mini-golf course. They would construct a bridge across the Coleman Brook Trail and the project would also include a 10' x 10' storage shed for equipment. They had the Act 250 hearing this morning. They expect usage of about 160 people per day and there would be negligible traffic impact. They would not operate in the winter. They have applied for all required letters and have only received the letter from the fire department.
- H. Phil Carter referred to a letter from ANR noting that it says that the construction of the bridge would not require the removal of trees. He asked about this.
- I. Ted Reeves said the bridge would be a 170' free span and outside of the buffer area.
- J. Phil Carter asked about reference in the letter to discontinuance of the Coleman Brook Trail as mitigation for the project disturbance to the riparian buffer. He asked if that trail was the trail which was part of the conditions for Phase I of Jackson Gore.
- K. Ted Reeves said he is not sure. He was not there when that was done.
- L. Phil Carter said as he recalled, the trail looped around.
- M. Ted Reeves described a trail that was part of the Green Mountain Turnpike to Ranta Road and also a trail on the west side of the tracks. He said there was also a trail to Little Falls that the railroad said to stop using due to crossing the tracks.
- N. Rose Goings said they would need to review the files.

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- O. Phil Carter said that he thought the trail may have been on the original Mylar, but it was a condition of the permit and they need to know if that is the trail being discontinued. The original intent was to have a trail that people could walk and picnic where they could have a nice, level easy walk.
- P. Ted Reeves said he would check the files.
- Q. Phil Carter asked for more information about the courses.
- R. Ted Reeves said people would be harnessed in. They would design the course as they build it and he is not sure exactly what they may have.
- S. Phil Carter asked about rock climbing walls.
- T. Ted Reeves said no, they have a movable truck with one mounted on it.
- U. Phil Carter asked about parking.
- V. Ted Reeves said by the Ice House lots.
- W. Richard Harrison asked if they would be closed in the winter.
- X. Ted Reeves said that is the plan.
- Y. Linda Petty asked about how they would regulate it to keep people from walking up through the woods and jumping into the courses.
- Z. Ted Reeves said they would have staff walking the area and they would be able to secure the area.
- AA. Linda Petty asked if they would have security cameras.
- BB. Ted Reeves said no. He added that they run those risks every day and so far, have had no problems. They can secure the entrances to the loops at the end of the day.
- CC. Donald Lagro asked what they would do if someone got injured, how would they get them out.
- DD. Ted Reeves said they would use their own medical personnel or call the Ambulance or Fire Departments.
- EE. Phil Carter asked about DART.
- FF. Ted Reeves said the helipad is located by his office.
- GG. Ted Reeves responded to the Act 250 as follows:
- i. Education – The project does not include any residential construction and will not result in an increase in student enrollment. Okemo will use existing seasonal staff to operate and service the challenge courses
 - ii. Municipal or Governmental Services – Ability to serve letters from the Ludlow Ambulance, Ludlow Police Department and Ludlow Fire Department were requested on March 13, 2013. The challenge course will not be lighted or require electrical service from the Ludlow Electric Department. No additional municipal services are requested as part of this proposed project; including solid waste, water supply, sewage disposal or road maintenance. Access to the proposed project will be via existing private roads, Okemo Ridge Road and Jackson Gore Road. The roads are previously permitted and constructed in accordance with the Town of Ludlow specifications. No new access points are proposed.
 - iii. Municipal Plan – The Ludlow Municipal Development Plan designates the project area as within the Jackson Gore Recreation District, which provides as follows: *“The purpose of the Jackson Gore Recreational District is to provide for a resort growth center that encourages innovation of design and lay-out and more efficient use of land through the clustering of units and buildings. Through the clustering of units and buildings, open lands become available for recreational uses including alpine skiing and golf. The Jackson Gore Recreational District shall provide for 326 residential dwelling units, four season recreation facilities, including a recreation/health center, and **other uses and structures which complement a destination resort and recreation area** (underscores added for emphasis). The Jackson Gore Recreation District shall*

include public use lands consisting of 51.16 acres of open undeveloped land. (Ludlow Municipal Development Plan, Section 9, page 9-4.) The Town Plan is implemented by the Ludlow Zoning and Flood Hazard Regulations which incorporate the same language of the above plan. (Town of Ludlow Zoning and Flood Hazard Regulations Section 475, Page 31.)

- HH. Phil Carter asked about lights.
- II. Ted Reeves said there would not be any.
- JJ. **MOTION by Richard Harrison and seconded by Linda Petty to close this hearing, pending receipt of Ambulance and Police letters.**
- KK. Phil Carter asked about L&I.
- LL. Ted Reeves said there is a gap in the codes and L&I is not involved in this.
- MM. **Motion passed unanimously.**

6. **APPROVE MINUTES**

- A. Phil Carter advised that the minutes from the meeting of March 11, 2013 would be reviewed at their next meeting.

7. **OTHER BUSINESS**

- A. **Interpretation of a condition in a Development Review Board decision for Anthony and Angie Ciufu**
 - i. Rose Goings advised that there is a situation on Route 100 between Georgia Wyman and the Ciufos regarding storage outside of the buildings. There are 2 trailers, cars, snow plow and trucks. The Conditional Use permit issued in 2005, #290-06-CU was to convert a single family house into offices. They would add a mudroom and the garage would be for storage only. The dispute is whether that means that storage would be kept within the garage or that the garage could only be used for storage and not uses as additional offices of other uses.
 - ii. Phil Carter asked if everything else with the permit is okay.
 - iii. Rose Goings said no, they did not get a CO because they did not build the mudroom.
 - iv. Angie Ciufu said they did not build it because at that time they were too busy and not there is a question of money.
 - v. Rose Goings said if they are not going to build the mudroom at all, they can get the CO.
 - vi. Angie Ciufu asked that if they were only supposed to store things in the garage, wouldn't that have been a condition.
 - vii. Georgia Wyman said there are 3 parking spaces and she believes that the intent was that nothing was to be stored outside. No gas tanks or anything flammable. She said that she want to Tony Ciufu and asked about the big blue trailer and the trailer with the snowmobiles and he did not do anything. She said that every year they go through this. She said that in 2009, Rose Goings sent them a letter saying that outside storage was not allowed. She said that she does not want the stuff in her yard. She said that what is up against her fence bothers her. She believes that per the permit, it was to convert a single family house into office space. It is a residential area and there should be no adverse impact on the area.
 - viii. Angie Ciufu said that she does not see in the permit where is says they can't have trucks.

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- ix. Phil Carter said that everything is said under oath and intent is a part of it.
 - x. Angie Ciufu said that the minutes did not say anything about it. She added that where they are stored is not on this property, it's on TCA property.
 - xi. Georgia Wyman said the building is on a pie shaped piece where the 3 parking spaces are allowed and there are always more than 3 cars there. There is construction equipment.
 - xii. Angie Ciufu said that on that property there are 2 work trucks and a lawn mowing trailer. The 2 other trailers are on the TCI property and they are her personal things.
 - xiii. Georgia Wyman asked why there are personal things on the property.
 - xiv. Angie Ciufu said when it is not wet, they try to put it in the back.
 - xv. Phil Carter that intent is just as important. If this goes to court, they will listen to the tapes, watch the video and read the minutes. Was the intent to meet clients or run the business.
 - xvi. Angie Ciufu said both.
 - xvii. Phil Carter asked that since they own the adjacent property, would it be convenient to move the things to that property.
 - xviii. Angie Ciufu said that she does not see why, they own the land and those trailers are more difficult to move down there.
 - xix. Georgia Wyman said that last year he moved the snowmobile trailer down there,
 - xx. Phil Carter asked Georgia Wyman and Angie Ciufu if they would try to solve this here.
 - xxi. Georgia Wyman said the question is what was the use. They were supposed to use it for clients and workmen would come in the morning and evening. They never said they would be storing things outside.
 - xxii. Phil Carter asked about the buffer zone.
 - xxiii. Angie Ciufu said they did some planting that did not take then planted some spruce.
 - xxiv. Richard Harrison suggested putting up a higher fence so you could not see from the road.
 - xxv. Phil Carter said this board will discuss this, look at the minutes and listen to the tape. They will look for the intent and then guide Rose Goings. They want to see if it is in violation of the intent.
 - xxvi. Julie Nicoll said this started in 2006, she would like to see the neighbors work together.
 - xxvii. Angie Ciufu said that Georgia Wyman never calls us, she goes to Rose Goings.
 - xxviii. Georgia Wyman said she went to Tony Ciufu and he did nothing. She said she does not want to look at these things. She said she never had to look at them before and does not want to look at them now.
 - xxix. Phil Carter said the board would review the hearing information and guide Rose Goings as to how to proceed.
- B. Extension of Chris Rowen/Barry Herring Subdivision Permit
- i. Rose Goings explained that Chris Rowen wants a 2-year extension on his permit.
 - ii. Phil Carter asked if it was for changes or just more time.
 - iii. Chris Rowen said that it is pretty much an extension but he also has an idea to amend the design and move the configuration of the road. As the permit currently stands, the construction of the road would involve lots of cutting, grading and paving. If he moved it up the hill to where his driveway is and his driveway would become part of the main road, it would reduce cutting, grading and paving.
 - iv. Phil Carter said that would require an amendment to the permit.
 - v. Chris Rowen said that Teresa Gilman from the state is in favor of the change. It would also give him the ability to create more lots or improvements. It would have pitch and he would pave 1,000 to 1,200 feet up the side of the hill.

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- vi. Phil Carter said that it is hard for this board to weigh in on this. The board is always concerned about impacts to the Aquifer area and bear corridors. If this would lessen the impact, it may be more favorable due to the fragility of the area and help preserve the land along the ridgelines. If Chris Rowen thinks the redesign would lessen the impacts, good, but the board would have to see evidence and drawings.
 - vii. Phil Carter continued, saying that the board could do an up/down vote to extend the permit until May, 2015.
 - viii. **ALL MEMBERS WERE IN FAVOR OF THE EXTENSION UNTIL MAY 2015.**

8. **ADJOURN**

- A. **MOTION by John Boehrer and seconded by Linda Petty to adjourn to Deliberative Session. Motion passed unanimously.**
- B. Meeting adjourned at 7:16 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison