

**DEVELOPMENTAL REVIEW BOARD
MINUTES**

July 13, 2015

MEMBERS PRESENT:

Phil Carter, Chairman
John Boehrer

Richard Harrison
Julie Nicoll

Linda Petty

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

David Burgess
Mike Doran
Dave Josselyn
Gary McIntyre

Betsy Mitchell
Kelsey Nassetta
Ted Reeves

Mike Sattler
Lisha Klaiber, Recorder
Fred Marin, LPC TV

I. CALL TO ORDER

1. Meeting opened at 6:02 p.m. by Chairman Phil Carter. All members present.

II. OPEN THE PUBLIC HEARING FOR WILLIAM AND SHERYL STONE

1. Phil Carter advised that this is an application to amend a Planned Residential Development Permit to allow for a mudroom addition. The project is located at 101 Village IV, 41 Sachem, located in the Mountain Recreational District.
2. Rose Goings advised that this is application 128-98-PRD, Amendment #52. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 19, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 19, 2015.
3. Phil Carter administered the oath to all (Dave Burgess) wishing to speak at this hearing.
4. Dave Burgess advised that this is another of the mudroom enclosure projects and will match 2 others that are on the opposite end of the building. And 8 x 5 deck will be added with a ski closet. It will be the same as the 2 previous projects.
5. Phil Carter asked if there would be any expansion to the footprint.
6. Dave Burgess said no.
7. Phil Carter said the board has seen many of the same projects.
8. Rose Goings said at least 100.
9. **MOTION by John Boehrer and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

III. OPEN THE PUBLIC HEARING FOR RICHARD AND PAMELA GRISWOLD

1. Phil Carter advised that this is an application to amend a Planned Residential Development Permit to allow for a mudroom addition. The project is located at 182 Village IV, 42 Sachem, located in the Mountain Recreational District.

2. Rose Goings advised that this is application 128-98-PRD, Amendment #51. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 16, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 16, 2015.
3. Phil Carter noted that no one is present to speak at this hearing.
4. Rose Goings advised that this is the same as all Peter Alberti previous mudroom enclosure projects. It will be the same specifications as his other projects.
5. John Boehrer noted that in the plans are the same?
6. **MOTION by Linda Petty and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

IV. **OPEN THE PUBLIC HEARING FOR KELSEY NASSETTA**

1. Phil Carter advised that this is an application to amend a Planned Unit Development Permit to allow for change a former massage therapy office into a retail store. The project is located at LaMere Square in the Village Residential Commercial District.
2. Rose Goings advised that this is application 51—92-PUD, Amendment #10. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 16, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 16, 2015.
3. Phil Carter administered the oath to all (Kelsey Nassetta) wishing to speak at this hearing.
4. Kelsey Nassetta said that she would like to change the use of the space from a massage office to retail space. She will be selling outer gear and apparel for biking, hiking, skiing, snow shoeing. This will be on consignment. She will sell winter items from September through March and summer items from March through September. She still needs to get approval from the Fire Marshal. There will be shelves and racks. She hopes to put out a sign, similar to the one that AMF has, and also a decal in the window. The hours of operation will be from 8:00 a.m. to 8:00 p.m., seven days per week.
5. Phil Carter asked if the business would be contained within the existing footprint.
6. Kelsey Nassetta said yes.
7. John Boehrer asked if there would be any changes to the lighting.
8. Kelsey Nassetta said no.
9. John Boehrer asked if there would be any additional storage space, including any additional exterior storage unit.
10. Kelsey Nassetta said no. There would be some storage upstairs and some storage near the bathroom.
11. **MOTION by Richard Harrison and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

V. **OPEN THE PUBLIC HEARING FOR MARION AND SIMON BURCH**

1. Phil Carter advised that this is an application to consider a variance to allow for a deck with stairs within the fifty (50) foot setback within the lake. The property is located at 71 Ellison's Lake Road in the Lakes District.
2. Rose Goings advised that this is application 434-15-VA. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 16, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 16, 2015.

3. Phil Carter administered the oath to all (Dave Josselyn and Gary McIntyre) wishing to speak at this hearing.
4. Dave Josselyn said that the applicant wishes to add a single stairway from their existing deck down to the ground. The only safe egress now is from the front door. They want to add a single flight stairway, with no landing as additional safe egress.
5. Phil Carter asked if the new steps would all be within the 50 foot setback.
6. Dave Josselyn said about 50/50.
7. Linda Petty asked if the existing deck is wraparound.
8. Dave Josselyn said on the side and lake sides of the house. The side is actually closer to the lake.
9. Richard Harrison suggested they put handrails on the stairway.
10. Dave Josselyn said the owners are not asking for it, but he would suggest it. He added that they recently had a report for bringing it up to code and handrails were not mentioned.
11. Phil Carter said the applicants must have an argument for a variance. He clarified that Dave Josselyn had advised that the only current for emergencies such as fire, would be the street side door.
12. Dave Josselyn said going out the front door, there is a long corridor to the garage or there are stairs to the basement and they would have to traverse to the deck. It is twice as far.
13. Phil Carter asked what if there is a fire on the street side.
14. Dave Josselyn said they would have to jump out the windows.
15. Phil Carter asked about stairs on the other side.
16. Dave Josselyn said it is 30 foot closer to the lake.
17. Phil Carter asked Rose Goings if she had any comments.
18. Rose Goings said no.
19. Gary McIntyre said that he lives on Lake Rescue has worked as an architect. To him, there is no code issue here and no hardship. For fire safety, 2 exits to the outside are required. The applicant has a garage exit, a slider and an exit at grade level. There are 2 means of exits from bedrooms. There are no hardships off the deck. Their request is adding to the non-conformity and there are adding more impervious ground. This request only gives the applicant a stairway to the lake. A possible suggestion would be to put a whole in the deck and build a spiral stairway down. That would require a hole of about 4 ½ feet round for a spiral stairway. Another possibility would be to add a 6' x 8' hole for a switchback stairway.
20. Linda Petty said a spiral stairway would be hazardous for small children.
21. Gary McIntyre said in other states, it would meet code. The other possibility, a 6' x 8' foot opening with a regular long, an "L" shape or a switchback stairway would also work and a variance would not be needed. They would be building within the existing structure area.
22. **MOTION by Linda Petty and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**
23. Phil Carter said that the board will issue a decision on this and advise the applicant.
24. Gary McIntyre asked in a decision about the lakes, with the state's Lake Protection Act, who is first, the town or state.
25. Phil Carter said that the board has checked on this, and the town regulations trump the state's.

NOTE: Phil Carter advised that the following two hearings are for OKEMO and asked the applicant if they could be addressed concurrently. The applicant's representative agreed.

VI. **OPEN THE PUBLIC HEARING FOR OKEMO, LLC/CNL INCOME OKEMO MOUNTAIN LLC**

1. Phil Carter advised that this is an application to amend a Planned Unit Development to modify the existing chairlift with expanded chair storage and maintenance assembly at the base terminal. Property is located at Jackson Gore in the Okemo State Forest in the Jackson Gore Recreation District.
2. Rose Goings advised that this is application 152-00-PUD, Amendment #26. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 16, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 16, 2015.

VII. OPEN THE PUBLIC HEARING FOR OKEMO, LLC/CNL INCOME OKEMO MOUNTAIN LLC

1. Phil Carter advised that this is an application for Local Act 250 Review to modify the existing chairlift with expanded chair storage and maintenance assembly at the base terminal. Property is located at Jackson Gore in the Okemo State Forest in the Jackson Gore Recreation District.
2. Rose Goings advised that this is application 435-15-ACT250. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board on June 16, 2015, advertised in THE VERMONT JOURNAL on June 24, 2015 and abutting property owners were notified on June 16, 2015.
3. Phil Carter administered the oath to all wishing to speak at these hearings (Ted Reeves and Mike Doran.)
4. John Boehrer recused himself from these hearings.
5. Ted Reeves distributed additional photographs.
6. Mike Doran distributed photos comparing old and new layouts. Addressing Act 250, he said there will be no new residents to the town; they will use existing lift employees. With no new residents, there will not be new students for the schools. Municipal services will include ambulance, fire, police and electric departments. The operation of the lifts and slopes will be the same, patrolled and maintained by Okemo. This application conforms to the town plan it is in the Okemo State Forest and there are no goals in the town plan for it. The viability of the ski resort affects the economic goals of the town. The project is to retrofit the Jackson Gore Express Lift, changing it to 4-passenger, with more comfortable seats and bubble covers similar to the Sunburst lift. The chairs come off at night, so they will need more storage space. They will be adding a second loop with arched roof to protect chairs from weather. There will not be any other visible changes.
7. Phil Carter asked about the new structure.
8. Mike Doran said it would be for the chairs.
9. Phil Carter asked if they planned on putting in a 3rd loop.
10. Ted Reeves said no. A third loop would be needed if they expanded the length of the lift, not to accommodate more chairs. This project will accommodate the existing conditions.
11. Linda Petty asked about the chairs at night, asking will there be anything else to keep out the weather.
12. Ted Reeves said no, just the roof to protect the chairs and grips.
13. Linda Petty asked if they brush off the chairs.
14. Ted Reeves said the spooning of the chairs keeps some snow off and they do brush off the chairs. During operation, they brush off the chairs going up, but the bubbles automatically close on the chairs coming down the mountain.
15. Linda Petty asked if there would be any blasting.
16. Ted Reeves said the area was surveyed and there will not be blasting.
17. Linda Petty asked about the piers.
18. Ted Reeves said the foundation depth is no more than 4 feet.
19. Ted Reeves said that he was aware that Chris Callahan may not approve, but requested the DRB consider an Up/Down vote.

20. Phil Carter asked for the board to decide on an UP/DOWN vote and the consensus was yes.
21. Phil Carter called for the UP/DOWN vote and the board unanimously approved the project.
22. Phil Carter advised the applicants to proceed at their own risk as there is an appeal period.
23. **MOTION by Linda Petty and seconded by Julie Nicoll to close these two applications for Okemo. Motion passed unanimously.**
24. Phil Carter advised the applicants that there is a 15 day appeal period.

VIII. **APPROVE MINUTES**

1. Phil Carter advised that the minutes to be reviewed are from June 8, 2015.
2. John Boehrer noted that on the last page, in the signature section, it listed him as chairman.
3. **MOTION by Julie Nicoll and seconded by John Boehrer to approve the minutes from June 8, 2015 as corrected. Motion passed unanimously.**

IX. **OTHER BUSINESS**

1. **Steve Rolka – 59 Main Street Extension**
 - a. Phil Carter advised that Mr. Rolka has requested an extension for the building permit for 59 Main Street. He has also requested a change of status from duplex to single family home.
 - b. Rose Goings said they can extend the permit, the change of use can be added. He would be going from two kitchens to one. The number of bedrooms will be the same.
 - c. Julie Nicoll asked, if they extend the permit for 2 years, will that be as a duplex or single.
 - d. Linda Petty suggested they extend the permit for 2 years as it currently is written.
 - e. Julie Nicoll said if they approve it, can he still rent out the apartment for the next 2 years.
 - f. Phil Carter said once this board votes to change it, it would be a single.
 - g. Rose Goings said they can extend it as is, or extend it as a single and he must immediately change it to a single. He can also extend it as is and apply for a single.
 - h. Phil Carter said they can vote on the extension and Rose Goings can clarify what the current use actually is. If it is a single, okay and next month, we change vote to change it to a single.
 - i. Rose Goings said that it is her understanding that he wants to change it to a single family dwelling once he does the renovations.
 - j. Phil Carter said that when the renovations begin, the board can change it to single. He has 2 years to begin the renovations. We need to be clear with him, that when the renovations start, it will be a single.
 - k. Julie Nicoll said it is now being taxed as a duplex.
 - l. **MOTION by Linda Petty to approve the extension for a period of 2 years with no change in status.**
 - m. Phil Carter asked what happens in 12 months.
 - n. Linda Petty said then he can come back and ask for the change of status.
 - o. John Boehrer said that the vote condition that once work is started, it be a single.
 - p. Phil Carter said they board would have to make sure that the construction would be a single, not a duplex and they must begin construction within 2 years. He added, how they know it is a single.
 - q. Linda Petty said when he stops renting it out.
 - r. Phil Carter said Rose Goings would have to enforce it. We do not have the authority to make them do anything before 2 years.
 - s. Linda Petty said that if they eliminate one kitchen, does the design need to change from a duplex to a single and how do we handle that.

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- t. Phil Carter said Linda Petty is correct. If the floor plans on record with the permit say duplex and he builds a single, then the house will be different from the plans on file. They must come back to us with new floor plans for a single, otherwise the house won't match the record
 - u. **MOTION by Linda Petty and seconded by Julie Nicoll to approve the two year extension and to have the applicant come back to this board and apply for a change in status with new floor plans. Motion passed unanimously.**
- 2. Mylars
 - a. Rose Goings gave Mylars to Phil Carter to sign.
 - 3. OMS Project
 - a. Rose Goings advised that this has been appealed. The appeal came in last Friday. We are getting documents ready to send to court. The appellants said that the project does not coincide with the Zoning Regulations. She said that they will have to have much deeper arguments than that.

X. **ADJOURN**

- 4. **MOTION by Linda Petty and seconded by Richard Harrison to adjourn this meeting. Motion passed unanimously.**
- 5. Meeting adjourned at 6:51 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison