

**DEVELOPMENTAL REVIEW BOARD  
MINUTES**

**March 12, 2018**

**MEMBERS PRESENT:**

Phil Carter, Chair	Julie Nicoll	Dana Wilson
John Boehrer	Linda Petty	

**STAFF PRESENT:**

Rose Goings, Zoning Administrator

**OTHERS PRESENT:**

John Broker-Campbell	Ian Jewkes	Jim Tepper
Ed Floyd	Ralph Michael	Vincent Guerrero, Okemo Valley TV
Fred Glover	Deb Michet	Lisha Klaiber, Recorder
Mat Hughes	Janine Norman	

1. **CALL TO ORDER**

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

**NOTE: PHIL CARTER ASKED THE APPLICANT IF THE MILL COA HEARINGS COULD BE OPENED AND DISCUSSED AT THE SAME TIME. ED FLOYD SAID THAT WOULD BE FINE.**

2. **OPEN THE PUBLIC HEARING FOR THE MILL CONDOMINIUM OWNERS ASSOC., INC**  
3. **OPEN THE PUBLIC HEARING FOR THE MILL CONDOMINIUM OWNERS ASSOC., INC**

- A. Phil Carter advised that this is an application to consider an amendment to a Conditional Use Permit to do interior work in two units that received flood damage during tropical storm Irene. Property is located at 45 Main Street, Units 107 and 106, in the Village Residential Commercial District.
- B. Phil Carter advised that the second application is for local Flood Hazard Review to do interior work in two units that received flood damage during tropical storm Irene. Property is located at 45 Main Street, Units 107 and 106, in the Village Residential Commercial District.
- C. Rose Goings advised that this is application 80-50-CU, Amendment #2. Posted in the Town Hall bulletin boards February 20, 2018, advertised THE VERMONT JOURNAL on February 21, 2018, and the abutting property owners were notified on February 20, 2018.
- D. Rose Goings advised that this is application 464-18-FHR. Posted in the Town Hall bulletin boards February 20, 2018, advertised THE VERMONT JOURNAL on February 21, 2018, and the abutting property owners were notified on February 20, 2018.

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- E. Phil Carter administered the oath to all (Ed Floyd, John Broker-Campbell) wishing to speak at this hearing.
- F. Ed Floyd advised that the COA wants to renovate the space damaged during tropical storm Irene. When this project is complete, the space will be an empty shell, ready to be customized for the new owner or renter. All of the partitions will be removed, along with the drop ceiling. The sprinklers will be brought up to current standards, it will be made handicap accessible, fire and smoke protection will be upgrades.
- G. Phil Carter asked if all of the work is interior.
- H. Ed Floyd said yes.
- I. Phil Carter asked about their response to the Flood Hazard Regulations.
- J. Ed Floyd noted that the Flood Hazard maps had been redone. The waters go through the Depot Street Bridge along the wall of the building which is masonry and rock, 100 to 200 feet downstream, a flood wall all the way to Cumberland Farms. The Mill is an isolated cut out on the flood map.
- K. John Broker-Campbell said that in this case, the backside of the Mill building forms a floodway boundary within the flood area.
- L. Phil Carter said of the flood hazard regulations, is there anything that this board should be cognizant of.
- M. John Broker-Campbell said all of the work is interior and not a big concern. The project is not a substantial improvement.
- N. Phil Carter asked about the tanks.
- O. Ed Floyd said they are already anchored with ballasts.
- P. Phil Carter asked the Rose Goings and board members for comments.
- Q. John Boehrer read from the letter from fire chief, Kolenda noting that a permit from the fire marshal is required and the sprinkler system must be upgraded as needed to provide full coverage to all renovated areas.
- R. Ed Floyd said he had already met with the fire marshal and is expecting the permit within the next week or two.
- S. Phil Carter asked if the building were to burn down, would it change the floodway.
- T. Ed Floyd said the water would spread out and the level would drop off.
- U. Phil Carter asked about when the state changes the flood maps.
- V. John Broker-Campbell said that their last detailed study of the Black River through Ludlow was done in the 1970s. The maps they have now are the same maps, just digitized. If the building were to burn down, the maps would be the same. He added that there are no plans to redo the maps for Windsor County.
- W. **MOTION by Linda Petty and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

4. **OPEN THE PUBLIC HEARING FOR DANNE MOORE**

- A. Phil Carter advised that this an application to subdivide one lot into two separate lots. The property is located at Barker Road in the Town Residential District.
- B. Rose Goings advised that this is application SUB18-006. Posted in the Town Hall bulletin boards February 20, 2018, advertised THE VERMONT JOURNAL on February 21, 2018 and the abutting property owners were notified on February 20, 2018.
- C. Phil Carter administered the oath to all (Danne Moore and Ian Jewkes) wishing to speak at these hearings.

- D. Ian Jewkes advised that this is part of the solar farm project. They need to create a separate lot for the step-up transformer. The parcel will be 3 acres to the town line.
- E. Phil Carter asked the lot sizes.
- F. Ian Jewkes said the new lot will be 3.34 acres from the original lot of 108.92 acres.
- G. Phil Carter asked about access to the new lot.
- H. Ian Jewkes said it will be accessed from Barker Road.
- I. Phil Carter asked about increase in traffic.
- J. Ian Jewkes said it will only be accessed about once a month. He said it will be fenced with good setbacks. It will have a roadway and storm water pond.
- K. Phil Carter asked about buildings
- L. Ian Jewkes said none, just the transformer.
- M. Phil Carter asked about lighting.
- N. Ian Jewkes said there will only be motion-activated emergency lights.
- O. **MOTION by John Boehrer and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

5. **OPEN THE PUBLIC HEARING FOR JOSSELYN PLACE, LLC**

- A. Phil Carter advised that this an application to subdivide one lot into two separate lots. The property is located at Tepper Drive in the Town Residential District and the Lakes District.
- B. Rose Goings advised that this is application SUB18-005. Posted in the Town Hall bulletin boards February 20, 2018, advertised THE VERMONT JOURNAL on February 21, 2018 and abutting property owners were notified on February 20, 2018.
- C. Phil Carter administered the oath to all (Ralph Michael, Jim Tepper, Janine Norman and Fred Glover) wishing to speak at these hearings.
- D. Fred Glover noted that the project is about 35 acres and 25 acres are in Current Use. They want to create a lot of 6 acres for development and the remaining property in Ludlow will be in deferral of development and they will not be able to do anything with that portion until they come back to the DRB. There are currently no plans to develop that portion. If the 6-acre subdivision is approved, the balance will be returned to Land Use program. The access to the 6-acre parcel will be over the existing Tepper Drive.
- E. Phil Carter asked what the process is for deferral.
- F. Fred Glover said when a parcel is to be developed; it must satisfy requirements for soil tests and isolation for water. If the applicant wants to develop one parcel and it satisfies the requirements and defer development on the balance.
- G. Phil Carter asked how they would start because there is no procedure for deferrals in the Ludlow zoning regulations.
- H. Fred Glover said they can defer the development on the other to a later date, if all of the information is not in on all of the land. The deed for the land would be required to state that no development will be done on the balance of the land unless approved by the state.
- I. Ralph Michael referred to a letter from Steve Ankuda (Ludlow town counsel.)
- J. Phil Carter said that the board had just received that letter and had not had a chance to review it.
- K. Fred Glover recalled that the DRB asked how the state handles the deferral process.
- L. Ralph Michael said that in this case there are 2 lots and one meets water and wastewater requirements and the other larger parcel is in current use. This land adjoins Plymouth

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- and the 50-foot ROW to the town line. On Sketch Plan Sheet w, Notes, Article 4 § 4.7 has language which would be included in the deed. Article 4 § 4.6 states that the proposed subdivision is accessed on Tepper Drive and Ellison Lake Road in Ludlow and Kingdom Road and an access road in Plymouth.
- M. Phil Carter said the drawing shows that parcel 1 is 6.02 acres and parcel 2 is 25.71 acres and that parcel 2 has a 50-foot ROW to Kingdom Road in Plymouth. He asked if there are any encumbrances on the ROW.
- N. Ralph Michael said the ROW was established when previous owners still owned the land. He doesn't think there are any conditions.
- O. Phil Carter asked if the ROW could be improved to meet town specifications.
- P. Jim Tepper said yes.
- Q. Fred Glover said the DRB can issue a decision on the subdivision with conditions. They can say that there can be no development in any way on parcel 2.
- R. Phil Carter said that in Ludlow, subdivisions must have a 50 ROW created within the lot. He recalled that Fred Glover was the Chairman of the Planning Commission when that regulation was written. He asked Fred Glover what the intent was.
- S. Fred Glover said he does not know what the intent was. He said that if there was to be no further development, it doesn't have to adhere to the subdivision regulations.
- T. Phil Carter asked what protects the statute for development in years to come.
- U. Fred Glover said the DRB decision can read that Parcel 2 cannot use Tepper Drive.
- V. Phil Carter asked if it is Fred Glover's position that you can build on the property and use Tepper Drive.
- W. Fred Glover said yes.
- X. Phil Carter asked would there be development on lot 1 of the subdivided lot using the grandfathered ROW.
- Y. Fred Glover said yes and there would not be access to the other lot.
- Z. Phil Carter asked if the town of Plymouth wants them to bring the ROW up to town standards, can it.
- AA. Jim Tepper said yes.
- BB. Phil Carter asked, if, down the road, they were to build on lot 2 and there was an emergency in Ludlow, who would respond. In the situation with the Terrible Mountain subdivision, it was decided that Ludlow would respond to emergencies, not Andover. In this case, how would we protect Ludlow?
- CC. Fred Glover said there would not be a house on lot 2 unless the applicant came back to the DRB and the DRB approved the application and the Zoning Administrator issued the permit and the application complies with Ludlow Zoning Regulations.
- DD. Phil Carter advised that there is no defined procedure on the Ludlow Zoning Regulations for deferrals; however, there is a procedure for variances. In Ludlow, the minimum ROW is 50 feet, but under State Statute 114, Chapter 24 §4469, they can apply for a variance.
- EE. Fred Glover said it could be a possibility. It is the same concept and the DRB has the power to impose restrictions.
- FF. Phil Carter said with the variance process, you would get to the same end.
- GG. Ralph Michael said if there is a 911 call on Kingdom Road, it would probably go to Plymouth or the address of the driveway. The same driveway could be continued to lot 2.
- HH. Phil Carter asked why not just run a 50 ROW to parcel 1.
- II. Ralph Michael said originally, it was that way.
- JJ. Jim Tepper said they can't close Tepper Drive because it serves 10 houses.
- KK. Phil Carter said it would be clear access from Kingdom Road for Lot 1.

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- LL. Ralph Michael said it would be about 200 feet.
- MM. Fred Glover asked if Phil Carter is suggesting developing a 50 ROW to lot 1 and no future development on Parcel 2 and they can use Tepper Drive for lot 1.
- NN. Phil Carter said because the subdivision regulations say that they must have a 50-foot ROW, he would like to recess this hearing and be able to talk to town counsel. There is a variance process to overcome the 50-foot ROW, but they have never had this situation before.
- OO. Fred Glover said he would also like to recess and get back to the board with the steps.
- PP. Phil Carter said they might consider extending the 50 ROW to parcel 1, but the DRB needs to confer with town counsel.
- QQ. John Boehrer noted that the Plymouth warning for this hearing stated March 19, 2018.
- RR. Ralph Michael said they were told the 12<sup>th</sup>.
- SS. Phil Carter said he is not familiar with Plymouth regulations and asked if abutters do get notified.
- TT. Ralph Michael said Plymouth has the same requirements as Ludlow.
- UU. Phil Carter asked if the abutters for parcel 2 were notified in Plymouth.
- VV. Ralph Michael said yes, they got the letter.
- WW. Janine Norman said that for the subdivision application years ago, they were told they couldn't subdivide.
- XX. Phil Carter said that application was different. At that time, they were requesting a 5-lot subdivision.
- YY. Janine Norman said that Moss' septic is under the driveway.
- ZZ. Phil Carter said if there is no subdivision, they can use Tepper Drive for one house.
- AAA. Rose Goings said Fred Moss has an attorney, but neither he nor his attorney could make this meeting. She said they were apprised of this hearing.
- BBB. **MOTION by Julie Nicoll and seconded by Linda Petty to recess this hearing until April 9, 2018. Motion passed unanimously.**

6. **OTHER BUSINESS**

- A. New Town Counsel meeting
- i. Rose Goings asked when the board would like to get together with Steve Ankuda.
  - ii. Linda Petty said that she will be leaving town on March 24th.
  - iii. Phil Carter asked Rose Goings to get some dates from Mr. Ankuda and the board can find the one that most of them can make.

7. **REVIEW AND APPROVE MINUTES**

- A. The board reviewed the minutes of the February 12, 2018 meeting.
- i. Linda Petty noted the following correction: Page 1, item 1 A should read "All board members present."
  - ii. Phil Carter noted that on page 3, item 2 RR should read "Phil Carter asked about the state storm water threshold."
  - iii. Linda Petty noted that on page 5, item 2 TTTTTT should read "Motion by John Boehrer..."

- B. **MOTION by Julie Nicoll and seconded by John Boehrer to approve the minutes of February 12 2018 as corrected. Motion passed unanimously.**

8. **ADJOURN**

- A. **MOTION by John Boehrer and seconded by Linda Petty to close this meeting. Motion passed unanimously**  
B. Meeting closed at 7:02 p.m.

Respectfully submitted,

Lisha Klaiber

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Phil Carter, Chairman

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Julie Nicoll

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John Boehrer

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Linda Petty

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Dana Wilson