

DEVELOPMENT REVIEW BOARD

PRELIMINARY MINUTES

ZOOM ELECTRONIC MEETING

Monday – June 13, 2022

6:00 P.M

Join Zoom Meeting

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MEMBERS PRESENT:

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Doug Sheehan

MEMBERS ASENT:

George Tucker, Jr.

STAFF PRESENT:

Rose Goings

Scott Murphy

OTHERS PRESENT:

Tom Berry

Tom Montminy

Michelle Suker

Paul Carrocchio

Ron Parry

Michael & Shelby – TPW

Lara Fram

Joe Poston

802-228-5639

Andi Goldman

Hank Prasse

434-401-1582

Christine Keklak

Rebecca Prasse

802-379-7088

Craig Kovalsky

Kim Price

Lisha Klaiber, Recorder

Meredith McClements

Josh Sapp

Okemo Valley TV

I. CALL TO ORDER – ELECTRONIC MEETING GUIDELINES

1. Phil Carter opened the meeting at 6:00 p.m.

2. Roll Call:

- a. Phil Carter advised that all members are present, except George Tucker, Jr. Phil Carter welcomed Mr. Tucker to the board and said that unfortunately, Mr. Tucker was delayed with airplane mechanical problems in Canada.

II. **OPEN THE RECESSED PUBLIC HEARING FOR OKEMO TRAILSIDE COMMUNITY ASSOCIATION, INC. (F.K.A. OKEMO TRAILSIDE MASTER ASSOCIATION)**

1. Phil Carter advised that this is an appeal to the Development Review Board from a Notice of Violation, dated February 22, 2022, issued by Rosemary Goings, Administrative Officer to the Okemo Trailside Master Association. Property is located at Okemo Trailside Condominiums in the Mountain Recreation District. This was recessed from the meeting of April 11, 2022 and May 9, 2022. He advised that the DRB has received a letter from our attorney, Chris Callahan advising us of a Memorandum of Understanding (MOU) between the Town and the association. He said that the intent is to move forward.
2. Tom Montminy said that the MOU has been signed and we are working with the town, the association, the attorneys and the Fire Marshall. He said that the association needs to replace the roofs this summer and will need a permit.
3. Phil Carter suggested they can recess this hearing until July. He said that the DRB has not seen the MOU and it is between the association, the Town and their respective attorneys. The DRB is not in the loop.
4. **MOTION by Doug Sheehan and seconded by John Boehrer to recess this hearing until the July meeting.**
5. Tom Montminy said that he thinks that waiting a full month will put the association in harm's way for the roofing project. He asked if we would be able to have a meeting sooner.
6. Scott Murphy said that we have a clean MOU and basically, it puts the Notice of Violation on hold. Mudroom projects can go forward.
7. Tom Montminy said at present, they can't sell units with clean titles.
8. Scott Murphy said it is our recommendation to proceed.
9. Phil Carter said that this hearing is about an appeal to a Notice of Violation that still stands. New evidence has been submitted, but the DRB did not see it and the board needs to see it. The agreement was between the town and the association. We do not know where the DRB will stand on it.
10. Scott Murphy said that Chris Callahan is representing the town. We recommend to the DRB that they put the NOV on pause. We will make sure they are moving forward with the terms of the NOV and we recommend that there be no holds on permit applications for the as long as they are moving forward.
11. Phil Carter said that the DRB is not enforcers. It is up to Rose Goings to issue permits.
12. Rose Goings explained that the association's representative submitted an application on Friday, but it was incomplete. The application will have to go to the DRB when the paperwork is complete.
13. Josh Sapp and asked if they could be put on the July agenda.
14. Rose Goings said they missed the deadlines, but could be put on the August agenda for the roofing project. She added that because they are a PRD, all applications for permits must go to the DRB. She approves the COs.
15. Josh Sapp said that they waited to submit the application because they were waiting for this meeting. If this gets pushed to August, it will pose a huge problem for the owners. He asked if they could have another meeting before August.
16. Phil Carter suggested that if they submit the completed application tomorrow, why they can't get on the July agenda.
17. Rose Goings said she doesn't know if they can be squeezed in; they already have 7 hearings on the July agenda.
18. Phil Carter said the point is for them to come into compliance, if they meet the deadline, we can put them on the July agenda.

19. Tom Montminy said they are trying to do the right thing. He said that getting the roofs repaired is essential. They need to ensure the roofs get fixed this summer.
20. Rose Goings said they will have to get the completed application in tomorrow because she will have to get the notice into the newspaper.
21. Phil Carter advised that the NOV still stands.
22. Tom Montminy said they don't want the roofs to start leaking because we can't get contractors. He added that the roof application has nothing to do with the NOV.
23. Doug Sheehan asked why they didn't do something last month.
24. Tom Montminy said because they were working with the town manager and attorney and were told they couldn't do anything.
25. **Motion passed unanimously**

III. **OPEN THE RECESSED PUBLIC HEARING FOR OFF THE RAILS RESTAURANT (64 Pond Street)**

1. Phil Carter advised that this is an application to amend a Conditional Use permit for Off the Rails Restaurant to construct an outdoor deck. The deck is for outside dining for up to 50 seats. The project is in the Village Residential Commercial District. He said that we have received a letter from Troy Caruso withdrawing the application.
2. **MOTION by John Boehrer and seconded by Doug Sheehan to close this hearing. Motion passed unanimously.**

IV. **OPEN THE PUBLIC HEARING FOR THE BODEGA LLC (117 Main Street)**

1. Phil Carter advised that this is an application to amend a Conditional Use permit to change the use from a retail store to a retail market and deli with 25 seats. The project is located in the Village Residential Commercial District.
2. Rose Goings advised that this is application 083-88-CU, Amendment #5. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website May 16, 2022 advertised in THE VERMONT JOURNAL on May 16, 2022 and abutting property owners were notified on May 19, 2022. She advised that the property owner is the Keeneland Group. Letters have been received from Police, Fire, Ambulance, TDS and Division of Fire Safety.
3. Phil Carter administered the oath to Rebecca Prasse and Craig Kovalsky.
4. Rebecca Prasse said that they plan to open a deli/market.
5. Craig Kovalsky said that they will have 25 seats. Some inside and some outside. They will serve breakfast, lunch and dinner and will have sandwiches and takeout.
6. Phil Carter described that the footprint was what the building looks like now and asked if there would be changes to the footprint.
7. Craig Kovalsky said that it will be different.
8. Rebecca Prasse said they will clean up the grounds and update the paint. They would like to have something like an English tea garden with seats.
9. Phil Carter asked about parking
10. Craig Kovalsky said there are 12 spaces.
11. Julie Nicoll asked if there will be handicapped spaces.
12. Craig Kovalsky said there will be a handicapped ramp and the building will be handicapped accessible throughout.
13. Doug Sheehan asked about the 2 fire pits.

14. Rebecca Prasse said they would prefer not to have them; they would rather have a garden space with flowers.
15. Doug Sheehan asked about tables and chairs in that spot.
16. Rebecca Prasse said they will have tables there.
17. John Boehrer said that they have said they will have 25 seats, are those seats included in the 25.
18. Craig Kovalsky said the 25 seats includes outside seating.
19. Doug Sheehan asked if part of that will be on the porch
20. Rebecca Prasse said they will have 2, two-seater tables there year-round.
21. Phil Carter said that in his letter, Chief Billings said that he wants an alarm system.
22. Rebecca Prasse said that they will do this, and a commercial fire alarm system.
23. Phil Carter asked if they are working with the Division of Fire Safety.
24. Rebecca Prasse said they have met with them twice. She said that they were waiting until they had this hearing to submit their application to Fire Safety. They do have a guide of things to do, pending DRB approval.
25. Phil Carter asked if they are aware of any issues.
26. Rebecca Prasse said no.
27. Phil Carter explained that any conditions imposed by Fire Safety will be part of this permit. He asked them, when they receive the Fire Safety permit, would they share a copy with Rose Goings.
28. Julie Nicoll asked what would be the hours of operation and what will they be doing with the 2nd floor.
29. Rebecca Prasse said the 2nd floor is their residence and the hours of operation will be 7 days per week, from 6:00 AM to 11:00 PM.
30. John Boehrer asked when they plan to open.
31. Rebecca Prasse said, ideally, September/October, depending on the DRB permit and contractors.
32. Phil Carter asked about exterior lighting.
33. Rebecca Prasse said there are quite a few large, halogen lights. They will be replaced with down lit, LED lights. They want to remove the existing lights on the sign and replace them with down lit lights.
34. Phil Carter explained that the DRB does not want lights that disturb the neighbors or interfere with traffic.
35. Rebecca Prasse said they would like to scale down the sign - it's obtrusive.
36. Phil Carter said that down lit, LED lights are fine.
37. Doug Sheehan asked about the stone wall.
38. Rebecca Prasse said it encapsulates the foundation and they would like to finish it within the next 2 years.
39. **MOTION by John Boehrer and seconded by Doug Sheehan to close this hearing. Motion passed unanimously.**
40. Phil Carter said that this hearing is closed and the DRB will not accept further evidence. He said they will review the evidence and issue its decision within 45 days.

V. **OPEN THE PUBLIC HEARING FOR MICHELLE SUKER (47 Depot Street)**

1. Phil Carter advised that this is an application to amend a Conditional Use permit to change a retail store into a deli/restaurant with 12 seats. The project is in the Village Residential Commercial District.
2. Rose Goings advised that this is application 22-485-CU, Amendment #1. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website May 16, 2022 advertised in THE VERMONT JOURNAL on May 16, 2022 and abutting property owners were

notified on May 18, 2022. She advised that the property owner is Jacob Lombard. She said that the board received additional information for their packets today. Letters have been received from Police, Fire, Ambulance, and TDS.

3. Phil Carter administered the oath to Michelle Suker.
4. Michelle Suker said that they own a food truck and have a large following. They want to open a deli with a commercial kitchen (for the truck). She said that they will have grab and go food and 8 to 10 seats with quick turn-around. They will have on-line ordering, serving breakfast and lunch.
5. Phil Carter asked if they will be making any changes to the exterior of the building.
6. Michelle Suker said there will be some. They want to paint the building and wrap the brick façade around the side of the building. She said there is a sloped roof in the back that leaks and they want to cover it with a flat roof with ancillary area for cooking. It will be easier to vent and cut off part of the back for room for the smoker. In July, they plan to out an apartment upstairs to serve as a year-round home for their daughter. They want to clean up the lines of the building.
7. Phil Carter asked about changes to the footprint of the building.
8. Michelle Suker said the back corner will be removed by about 11 feet. She said that they will make room for the smoker, dumpster and another parking space.
9. Doug Sheehan referred to page 2 of the drawings and asked if that shows where the piece of the building will be removed.
10. Michelle Suker said yes.
11. Julie Nicoll asked about parking.
12. Michelle Suker said there are 4 spaces in front, one of which is for Hair by Paula. The 3 remaining spaces will be for the deli. She said the seating is 312 square feet and the 3 spaces allows up to 450 square feet.
13. Doug Sheehan asked if they will share the bathroom with Hair by Paula.
14. Michelle Suker said no, we have our own and will make it handicapped accessible with new features.
15. Doug Sheehan asked if the handicapped entrance will be in the rear.
16. Michelle Suker said no, it will be in front. We will replace the front door.
17. Phil Carter noted that in his letter, Chief Billings said they need an alarm system, is that an issue.
18. Michelle Suker said no.
19. Phil Carter asked if they have met with the Division of Fire Safety.
20. Michelle Suker said that they have spoken with Jay Moody and Landon Wheeler. We are waiting for the change of use permit for approval. We will be making small changes inside. She has spoken to and will send in the application. It may take 30 to 45 days. She wants to open before ski season.
21. Phil Carter said that she will have to have the permit from the Division of Fire Safety and that any conditions imposed by them, will be part of this permit. He asked her to get a copy of their permit to Rose Goings when she receives it. He asked her the hours of operation.
22. Michelle Suker said 6:30 AM to 4:00 PM
23. Phil Carter asked about exterior lighting and that this board doesn't want lighting that interferes with the neighbors or traffic.
24. Michelle Suker said they will only have what lighting is necessary for safety. It will be classy and down lit with a clearly marked path.
25. Phil Carter noted that there is no parking in front of Town Hall and would she be willing to put up sign advising her customers not to park in front of Town Hall.
26. Michelle Suker said yes.
27. Doug Sheehan said that the drawing shows that handicapped entrance in the rear.

28. Michelle Suker said they will be adding a slanted roof in the back with a step up. Originally it had included the wheel chair access ramp for employees. That ramp location is in the exact location where it would be the best place for the cooker. She said that she talked to Landon Wheeler and said the ramp in the back would have a huge financial impact on the cost. She said that they want the renovation costs to be more than 20% of the budget. The access out front and with the changes inside, we will have met that 20% mark. They will be submitting new drawings that will show the ramp in the front.
29. Doug Sheehan asked if there is parking by the smoker.
30. Michelle Suker said yes. She said that Chief Billings suggested employees park in the municipal lot.
31. Phil Carter asked about seating.
32. Michelle Suker said the plans show 10 seats.
33. John Boehrer asked if the ramp will be interior.
34. Michelle Suker said yes.
35. Craig Kovalsky asked about seats at the service counter.
36. Michelle Suker said they will keep the total seats to 10 and will put them where they feel best.
37. John Boehrer explained that at this hearing, they can say longer hours of operation than they may want. He said what they say here, will be the limit.
38. Michelle Suker said that hours of operation will be 6:00 AM to 7:00 PM.
39. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

VI. **APPROVE MINUTES**

1. Phil Carter advised that the minutes to be reviewed are from April 11, 2022 and May 9, 2022.
2. John Boehrer asked if a hearing does not go forward, do we still need to review the minutes.
3. Phil Carter said no. Our review is for legalese and if the applicant withdraws the application, it is a moot point.
4. April 9, 2022
 - a. Page 5, item III-23 should read..."He said that they met the requirements..."
5. May 9, 2022
 - a. Page 3, item IV-38 should read..."they would still be help to the hours of operation..."
6. **MOTION by Doug Sheehan and seconded by Julie Nicoll to approve the minutes of April 11, 2022 and May 9, 2022 as corrected. Motion passed unanimously**

VII. **OTHER BUSINESS**

1. Divided Sky
 - a. Doug Sheehan asked about this hearing.
 - b. Phil Carter said they (Chris Roy, attorney for Divided Sky and the homeowners representatives) met and discussed mediation. We are not part of that. If the mediation does not work, the court will hear the appeal in August.
2. DRB Member Terms

- a. Phil Carter advised that next year, all 5 members' terms will be up. Rose Goings found a document that shows what the terms should be. We need to correct this. We cannot do it until next year. We should have two, three (3) year terms, one (2) year term and two (1) year terms.
- b. John Boehrer said that the terms begin in July, but this year the Select Board appointed us in June. That wording also needs to be changed.

3. Up/Down Votes

- a. Phil Carter said that he is not a real fan of Up/Down votes. With them, this board is just giving the applicant the permit. If we need them to do things, there are no written conditions to the permit. We wanted conditions on the Chocolate shop, no cooking until the received the permit from the Division of Fire Safety. An Up/Down vote erases that. Is that what we really want to do – have no written-out permit conditions? How can we put conditions on the permit and make them adhere to those conditions?
- b. John Boehrer said he is leery about not approving something that appears straight forward.
- c. Rose Goings said this is an on the record board. We should still issue a decision if there is an Up/Down vote. There are still deadlines and we can still get a decision in the mail to them, listing any conditions we have.
- d. Phil Carter said that we need something on the record about the Chocolate shop.
- e. Rose Goings said we can still write the decision.
- f. Doug Sheehan said we said – at the hearing – no cooking at all until the Fire Marshall issues their permit.
- g. Phil Carter said it would be a hybrid.
- h. John Boehrer said he doesn't want to nix the use of Up/Down votes.
- i. Phil Carter said if we do use an Up/Down vote, we need to tell them what conditions will be on the permit and that they will receive it in writing.
- j. Rose Goings said we need the enforcement aspect and an appealable aspect for neighbors.
- k. John Boehrer said that is a good point.
- l. Phil Carter said that the town attorney had told him never to do Up/Down votes, but he like John Boehrer's point about being expeditious with permits that are going forward.

4. Virtual or In-Person Meetings

- a. Phil Carter asked the board whether they wanted to stay with virtual or go back to in-person meetings.
- b. Doug Sheehan said he is in favor of in-person.
- c. Julie Nicoll said she is also in favor of in-person
- d. John Boehrer said if all of the members want in-person, he will say yes.
- e. Rose Goings said the virtual, open meeting law has been extended until January 2023.
- f. Phil Carter said that we extended it because of the rise in cases of COVID in Ludlow, possibly because of the penny sale. If things are calming, we can go back to in-person. We can wear masks.
- g. Rose Goings said we have to do the warning for the July meeting.
- h. Phil Carter asked if they want to do in-person or on more virtual.
- i. Doug Sheehan said town hall.
- j. John Boehrer said town hall.
- k. Rose Goings said the meeting will be on July 11 and the Select Board will also be meeting that evening. They will be meeting upstairs. We will have 7 or 9 hearings. She added that Lisha Klaiber will be at the Select Board meeting.
- l. Phil Carter asked if this board could hold its meeting on July 18th.

- m. Rose Goings said that all of the applicants are expecting the meeting to be on the 11th.
- n. Phil Carter said they will meet virtually on July 11th.

VIII. **ADJOURN**

- 1. **MOTION by John Bohrer and seconded by Julie Nicoll to adjourn. Motion passed unanimously.**
- 2. Meeting adjourned at 7:09 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Bohrer

Doug Sheehan

George Tucker, Jr.