

**DEVELOPMENT REVIEW BOARD
MINUTES**

December 11, 2107

MEMBERS PRESENT:

Phil Carter, Chairman
John Boehrer

Julie Nicoll
Linda Petty

Dana Wilson

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Justin Hyjek
Prescott White

Ed McEaney – Okemo Valley TV
Lisha Klaiber - Recorder

I. CALL TO ORDER

1. Meeting opened at 6:00 p.m. by Chairman, Phil Carter. All members present.

II. OPEN THE RECESSED PUBLIC HEARING FOR HOMESTYLE HOTEL, LLC

1. Phil Carter advised that this is an application to amend a Conditional Use Permit to allow for eight (8) seats outside for outside consumption at the existing hotel. Property is located at 112 Main Street, in the Village Residential Commercial District.
2. Rose Goings advised that this is application 457-17 –CU, Amendment #1. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on November 14, 2017, advertised in THE VERMONT JOURNAL on November 22, 2017 and abutting property owners were notified on November 14, 2017.
3. Phil Carter administered the oath to all (Justin Hyjek) wishing to speak at this hearing.
4. Justin Hyjek advised that they would like to have 8 seats outside, with outside consumption. They would like to get things in place for the spring. He said the space will be fenced off, and they are waiting for Springfield Fence to install it.
5. Phil Carter asked where the seats would be located.
6. Justin Hyjek said you would go into the ROW, up the steps to the lobby and enter the area by exiting the lobby through the other door. The only way to enter the area is through the lobby.
7. Phil Carter asked if it is between the sidewalk and the building.
8. Justin Hyjek said it is off the old deck.
9. Linda Petty asked about the fence.
10. Justin Hyjek said it is from an old cemetery, old iron about 3 ½ to 4 feet high. Springfield Fence is cleaning it up.
11. Linda Petty asked if there would be a gate.
12. Justin Hyjek said not at this time. They don't want people to just walk into the area.
13. Phil Carter asked how many seats.
14. Justin Hyjek said 8 at most.
15. Linda Petty asked if there would be round tables.

16. Justin Hyjek said they would have Adirondack chairs and small, round end tables. It would not be a crowded space.
17. Linda Petty asked about something that looked like a planter
18. Justin Hyjek said it is a propane fire pit that they are trying to make operational.
19. Phil Carter asked about lighting.
20. Justin Hyjek said they would probably string lights off the 2nd floor porch.
21. Phil Carter asked if the lights would affect traffic.
22. Justin Hyjek said no. They want it low key. There is a condo association next door and they don't want to disturb them. There will not be music. It will have minimal lighting and the fire pit.
23. Phil Carter asked if servers would access the area from within the building.
24. Justin Hyjek said yes.
25. **MOTION by John Boehrer and seconded by Linda Petty to close this hearing. Motion passed unanimously.**

III. **OPEN THE PUBLIC HEARING FOR PRESCOTT WHITE**

1. Phil Carter advised that this is an appeal the Zoning Administrator's decision denying the change of the nonconforming use from a two-family residence to condominiums. Property is located at 149 Upper Crossroad in the Mountain Recreation District.
2. Julie Nicoll advised that this is application 461-18 -AP. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on November 14, 2017, advertised in THE VERMONT JOURNAL on November 22, 2017 and abutting property owners were notified on November 14, 2017.
3. Phil Carter administered the oath to all (Prescott White, Rose Goings) wishing to speak at this hearing. He explained that the DRB is a Quasi-Judicial board and testimony is taken under oath, official and on the record. Should this go to court, the judge will not hear this again. The judge would review the findings.
4. Prescott White advised that the structure is a duplex. Side by side units, with a cinder block wall separating them. Other than the wall, the units are separate, but share a lot and driveway. He would like to convert the units into two condominiums. There are units in the area, exactly like ours, that have been converted. They have the same 1/2 acre lots. There will be no interior or exterior changes to the units. All of the electrical service has been undated and last year, we connected to the town sewer. After this, they will go forward with other state permits.
5. Phil Carter explained that if this appeal is approved, they will have to file a new application with the town, then, if that is approved, the applicant can apply for state permits. He asked when they purchased the property.
6. Prescott White said 2015.
7. Phil Carter asked the size of the lot.
8. Prescott White said about .47 acres.
9. Phil Carter noted that the board did receive a letter from the Whites dated October 25, 2017 in which he outlines his reasons why he thinks the application should not be denied. He cited section 270 which addresses Planned Unit Developments requiring 10+ acres. He said that there will not be any changes to the land, structures, utilities, public ways or change in use. He cited section 263.2 which says that this nonconforming lot may be used for permitted purposes even though it does not meet the minimum lot size if 10 acres for a PUD and 40,000 square feet for a single dwelling. He also cited section 261.2 that states that the DRB has the option to approve the nonconforming use change.

10. Phil Carter asked Rose Goings why she denied the application.
11. Rose Goings said that this is a grandfathered lot of .46 acres and a 2 family dwelling is a conditional use. This application does not meet the district standards for a PUD. Section 580 of the Zoning Regulations states that Condominiums shall be developed as part of a PUD and must comply with district density standards for the residential dwelling units. The district standards require 40,000 square feet per dwelling unit and 1.89 acres are needed. Also, condominiums must be part of a PUD. The 2-family use is grandfathered on the nonconforming small lot. If allowed, it would create more nonconformity. She also cited section 470 of the regulations noting that condominiums are not allowed.
12. Phil Carter asked if condominiums only exist as part of a PUD.
13. Rose Goings said there is no exemption for condominiums alone.
14. Phil Carter noted that Prescott White had cited section 261.2 that allows the DRB to approve the application if the use is of the same nature and section 270 stating that there will not be any development. He asked Prescott White if the property was 2 separate units when they purchased it.
15. Prescott White said yes, but that changes in circumstances make it necessary to sell one side of the unit because they can't keep it as it is.
16. John Boehrer asked Rose Goings why other units were allowed to change from 2-family to condominium.
17. Rose Goings explained that some of them were converted in 1978 and some in 1984. They are in violation, but state law says that you may only go back as far as 15 years to violate a property. At the time these were converted, it was not the Mountain Recreation District and the standards allowed for 40,000 square feet density for 2 dwelling units at the time.
18. John Boehrer asked who creates the zoning regulations.
19. Rose Goings said the Planning Commission.
20. Linda Petty asked Rose Goings if there is a difference between a condominium and a town house.
21. Rose Goings said no.
22. Prescott White said in his comments, he had also included letters of support from neighbors.
23. John Boehrer asked Rose Goings, if there was any time in the last 10 years that a structure changed from a 2-family to a condominium.
24. Rose Goings said none that were brought to her attention.
25. Prescott White said he thinks his is the only one left as 2-family.
26. **MOTION by Linda Petty and seconded by Julie Nicoll to close this hearing. Motion passed unanimately.**
27. Phil Carter advised Prescott White that the DRB will deliberate on this and write a decision.

IV. **APPROVE MINUTES**

1. Phil Carter advised that the minutes to be reviewed are from September 11, 2017 and October 23, 2017.
2. September 11, 2017
 - a. Linda Petty noted that on the minutes from September 11, 2017, item II, #7 should read "2 tables with 2 chairs each."
 - b. Phil Carter noted that for item II, #19 should read that "Phil Carter advised that they will only address part of the hearing as there are still negotiations going on with the town regarding the driveway..."
 - c. Phil Carter advised that item III, #5 should read "Phil Carter asked if Parcel #1..."

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- d. **MOTION by Julie Nicoll and seconded by Linda Petty to approve the minutes from September 11, 2017 as corrected. Motion passed unanimously.**
3. October 23, 2017
- a. Linda Petty noted that on page 9, item V, #51 should read “HIPA laws...”
- b. **MOTION by Julie Nicoll and seconded by John Boehrer to approve the minutes from October 23, 2017 as corrected. Motion passed unanimously.**

V. **OTHER BUSINESS**

1. Okemo Market Place
- a. Phil Carter advised that the hearing for the drive-up window at Okemo Market Place is being appealed to the Environmental Court.
- b. Rose Goings said the documents and tapes are being prepared and will be forwarded to the state.
2. Rose Goings advised that there is one hearing for January 2018.
3. Phil Carter advised that the town attorney, Chris Callahan is retiring.
4. Phil Carter advised that the town manager, Frank Heald is retiring in May 2018.

VI. **ADJOURN**

1. **MOTION by Linda Petty and seconded by Julie Nicoll to adjourn. Motion passed unanimously.**
2. Meeting adjourned at 6:32 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Linda Petty

John Boehrer

Dana Wilson

Julie Nicoll