

DEVELOPMENT REVIEW BOARD

PRELIMINARY MINUTES

ZOOM ELECTRONIC MEETING

**Monday – June 14, 2021
6:00 P.M**

Join Zoom Meeting Online:

<https://us02web.zoom.us/j/89445497136?pwd=aVI5WkVKOXN3VGdGZnFBN3lvQ2ltdz09>

Meeting ID: 894 4549 7136

Passcode: 480295

To dial in by phone - +1 929 436 2866

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MEMBERS PRESENT:

Phil Carter, Chairman

Julie Nicoll

Julie Bowyer

Doug Sheehan

MEMBERS ABSENT:

John Boehrer

STAFF PRESENT:

Rose Goings

Lisha Klaiber, Recorder

OTHERS PRESENT:

Eric Alden

Ed Kelleher

Kathy Moraveck

Paul Carrocchio

Marec Kovak

Brian Schwinn

Daniel Fram

James Levy

Chad White

Lara Fram

Carl Lisman

mc ? (did not identify)

I. CALL TO ORDER – ELECTRONIC MEETING GUIDELINES

1. Phil Carter opened the meeting at 6:01 p.m. He advised that the Electronic Meeting Guidelines explained previous DRB meetings are still in effect. We request that everyone mute and unmute only to speak, then re-mute. If you wish to speak, you will be recognized .
2. Roll Call: Phil Carter noted that all board members are present except John Boehrer.

II. OPEN THE PUBLIC HEARING FOR LARA FRAM

1. Phil Carter advised that this is an application to appeal the Decision by the Administrative Officer for the denial to allow for mudroom expansion on the Trailside condominium unit. The property address is 166 Trailside Extension, Unit 20B, located in the Mountain Recreation District.
2. Rose Goings advised that this is application 483-21-AP. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website May 26, 2021 advertised in THE VERMONT JOURNAL on May 26, 2021 and abutting property owners were notified on May 26, 2021. She said that the board received packets with information from her office and the applicants.
3. Phil Carter administered the oath to all (Paul Carrocchio, Carl Lisman, James Levy, Rose Goings, Lara Fram, Daniel Fram) wishing to speak at this hearing. He explained that the initial request for a permit was denied by the Zoning Administrator.
4. Rose Goings said that we have had issues with the water systems and in 2011, the fire hydrants were welded closed. There is not enough domestic and fire protection water. She said that we sent letters that there is a violation against the permit. The fire chief and the Fire Marshal have tried to work this out, but were not able to. A letter was sent about the welded fire hydrants and they were un-welded last year. There is insufficient water for fire protection and domestic use. She said that last year, Chief Kolenda sent a letter to Paul Carrocchio explaining, very clearly, what needs to be done and how to do it. She said that last year Paul Carrocchio came into the office with an application and did not bring a check for the fees. The next day, he called and they wouldn't be applying for a permit. We cannot allow anymore new structures. It is an unsafe situation with fire protection. She said that she told Paul Carrocchio they would need permits from Ludlow, their State ACT250 and Ludlow ACT250, as well as from the Fire Marshal and Ludlow water allocation. We all want it to be safe.
5. Phil Carter read from the letter from Fire Chief Kolenda dated July 16 2020. "The existing fire pond will need to be cleaned out (assumed as a maintenance activity) to restore the volume needed for fire protection, and may include a mechanical mixer or aerator to eliminate ice build up to increase usable volume for fire protection." He asked if this has been done.
6. Rose Goings she went up last week and looked at one pond, but is not sure if it was the pond Chief Kolenda referred to. There was no construction being done. She was told that an email had gone out. Also, she was told that people were told to go ahead with construction without permits. She said that she will go up again and if there is construction, she is authorized by VT Statute 24 VSA to issue a notice of violation. She talked to Chief Kolenda on Friday and he brought in a copy of his letter from July 16, 2020 to make sure that she has a copy. She said that nothing has changed. and the Fire Marshal still has the same position.
7. Carl Lisman said that it is his proposition that the Ludlow Zoning and Fire Hazard Regulations should be read in accordance to the terms and intent as written. He said that per 2 sections of them. Rose Goings' decision to deny the application is not valid. Section 220 which describes land development and Section 227 that describes the need for a Certificate of Occupancy. Nowhere is the term "project" defined. The zoning ordinance makes it clear that it refers to new construction. There is no basis to deny this application. He said that he asked Steve Ankuda, via email and letter, for his conclusion and received no response.
8. Phil Carter asked if they have considered the conditions we issue on permits.
9. Carl Lisman said he is aware of them.
10. Phil Carter asked if they are aware of the conditions we put on Trailside.
11. Carl Lisman said no.

12. Phil Carter said there is a 15-year statutory expiration. Anything we put before that is over. Water has always been a problem and never fixed. This project was built before our current zoning regulations. In his letter, Chief Kolenda also refers to a letter from Chief Harrison dated July 28, 1982 in which he recommended a 100,000 gallon storage tank tied into the existing 60,000 gallon and 5,000 gallon tanks (in regards to the 48 additional units.) These were never fulfilled and the issue still exists. How can we issue another permit.
13. Carl Lisman said he went to the Planning Office and they would not give him a copy of the permit. He doesn't think it exists.
14. Phil Carter said that the Ludlow Fire Chief refers to it in his letter.
15. Rose Goings said it is in the office.
16. Phil Carter said that permits exist. Attorney Ankuda said that any new projects would still be required to comply with new conditions. They need adequate fire protection.
17. Paul Carrocchio said that if you apply today's National Fire Protection codes, most of the projects in Ludlow would not meet the codes, for example, feet away from fire hydrants. He said that he has asked Rose Goings to send copies of the permits, and has been there 4 times and she was not there and she still did not get the permit to him.
18. Rose Goings said another instance of Trailside is she found one condo, listed as 4-bedroom, with 16 beds. That may possibly require sprinklers. It is also a violation of the Ludlow Municipal Water/Sewer regulations which allow 2 persons per bedroom. It is a huge violation with the fire marshal. She said that some of the older units may not be fire protected with sprinklers, but the new ones are required to have sprinklers with more than 5 units. Winter Place is also being inspected by the Plumbing Inspector.
19. Carl Lisman said that he will be in Ludlow tomorrow at noon to pick up a copy of the permits and suggested that they close this hearing.
20. Julie Nicoll said they would need to recess it.
21. Julie Bowyer agreed.
22. Phil Carter said he has no problem with that and he is surprised that they are not aware of the conditions on the permits.
23. Carl Lisman said what the fire chief has in his letter, we don't think is in the permit. We have the right to see the permit.
24. Paul Carrocchio said that the permit does not exist. He said he can show copies of emails that he has sent requesting copies of the permit.
25. Rose Goings said that she has been working from home since 2020.
26. **MOTION by Julie Nicoll and seconded by Julie Bowyer to recess this hearing until July 26, 2021.**
27. Phil Carter said they will get copies of permits to everyone.
28. Daniel Fram asked if Rose Goings will commit to handing over copies of the permit .
29. Rose Goings said if they are pre-1970, they may not.
30. Lisha Klaiber asked Phil Carter to repeat what he started to say as other people were speaking when he was trying to speak.
31. Phil Carter said it doesn't matter when. If there are conditions that Chief Kolenda mentions. It doesn't matter when, because every time there is amendment, we have the authority to look at the permit again and it opens the door for the DRB to look at Fire Safety. With this hearing, the permit has been opened and we can require new conditions.
32. Kathy Moraveck said that she purchased her unit in October and wants to add the mudroom, If TPW is making progress with the Fire Marshal, and couldn't we cooperate to get things done. She said that in October, the Fire Chief said the unit was okay.
33. Phil Carter said we have to satisfy the fire chief and the Fire Marshal. They say Trailside must have adequate fire protection water.

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34. Rose Goings said Trailside has to apply for State and Local ACT250 and have not applied.. We have to be sure that the construction is proper, using the correct pipes and tanks. She said that all of the letters have gone to TPW.
 35. Phil Carter said that the Condo Association could change property managers. There is not adequate water for fire protection. If we impose conditions on the community, they will not go away. Let's get it fixed.
 36. James Levy said that illegal bedrooms is news to him. He said that almost every unit up there has double bunk beds in all the rooms.
 37. Rose Goings said there is also the sewer ordinance.
 38. Phil Carter said that this about an appeal of the decision by the Zoning Administer to deny a permit, based on the Fire Marshal and Fire Chief. The project does not meet the conditions. Phil Carter said that Rose Goings says that the permits exist.
 39. James Levy was talking when Phil Carter was trying to speak and Mr. Carter asked Rose Goings (host of the meeting) to mute Mr. Levy.
 40. Daniel Fram said there is some conflict about the permit. Will Rose Goings commit to turn it over tomorrow.
 41. Rose Goings said this has been going on forever. The conditions are stated in the letter from Chief Kolenda.
 42. Phil Carter said we all want to see the conditions.
 43. Rose Goings said this is an excuse to stall and not comply.
 44. Carl Lisman said if you cannot produce the permit . He said that he has seen the letter from the fire chief. He said that Rose Goings said it is over 15 years. You can't deny the application.
 45. Phil Carter said this is now an open application and the fire chief may put conditions on this project. If the Chief wants it, he's going to get it. It can say that he wants the 100,000 gallon tank and he has the right to do it. It doesn't have to go back to the beginning of the permits.
 46. Lara Fram said she just wants to put in a mudroom. It is not a new structure.
 47. Phil Carter said it is an amendment to the permit and opens the permit for total review. Fire suppression requirements 15 years ago may not be what they are today.
 48. Daniel Fram asked if Carl Lisman will receive a copy of the permit.
 49. Phil Carter said this is public information.
 50. Daniel Fram said that he would drive up tomorrow, will Rose Goings commit to giving me a copy of the permit.
 51. Carl Lisman said if there is no permit...
 52. Phil Carter asked if they want to close the hearing or recess it.
 53. Carl Lisman said recess.
 54. Rose Goings said that they should close the hearing. She said that she feels like they are bullying her, with the "Give a commitment." She said that she will have to look for permit and some are 45 to 50 years old. She is not going to commit to you what permit she will provide. They will say what she provides would not be the right permit.
 55. Phil Carter asked where Chief Kolenda got his information.
 56. Rose Goings said he's been working on it for a long time. She said 1983, 1984, 1986. She said permits at that time were 1 page.
 57. Phil Carter said there may not be "A" single permit, there may be multiple permits. He said that what the chief wants, he may add as a condition to this permit. The permit is now open. We will ask the chief what he wants. This is not cut and dry, it is complex with many permits through this long period of time. It's a "living beast." He said he wants to know what the fire chief and the Fire Marshal want.

58. Rose Goings said that in 1986, 15 additional units were added. They are all different files. She said that Trailside thinks they are the only one, but Kettlebrook is on the Bull Run system and is having the same problems and have to upgrade and they are doing it. It is the same situation. It also includes the Okemo Mountain Lodge. It is not just one group. All of them were done in the 1980's and didn't upgrade their water systems. These are serious issues.
59. Phil Carter said he wants to know exactly what Peter Kolenda and the fire marshal want. **Phil Carter called for a vote and the motion was passed unanimously.**

III. OTHER BUSINESS –

1. Summit Distributing, LLC (129 Main Street)
 - a. Phil Carter asked Rose Goings if there has been any communication with Summit LLC.
 - b. Rose Goings said not a word.
 - c. Phil Carter said it is about 15 to 16 months.
 - d. Rose Goings said the last time we heard from them was February 2020. This board has changed members since that time.
 - e. Phil Carter said that he spoke to Steve Ankuda, the town attorney and he said the purpose of a recess was to clarify information, while the process was moving forward. This process with Summit, LLC is not moving forward.
 - f. **MOTION by Phil Carter and seconded by Julie Nicoll to not extend the hearing any further. Motion passed unanimously.**

IV. MINUTES

1. April 12, 2021
 - a. Phil Carter noted that on page 3, item #III3 should read “Superior Court.”
 - b. Julie Nicoll said page 6, item #59 should “golf.”
 - c. **MOTION by Julie Nicoll and seconded by Julie Nicoll to approve the minutes from April 12, 2021 as corrected. Motion passed unanimously.**
2. May 10, 2021
 - a. Phil Carter said on page 4, item #25 should read “findings of fact.”
 - b. Phil Carter said on page 4, item #26 should read “He said no one parked above.”
 - c. Phil Carter said on page 12, item #130 should read “All parts of this are public record. He asked if there is an expert witness.”
 - d. Phil Carter noted that on page 12, item \$134 should read “...evidence submitted about the road.”
 - e. **MOTION by Julie Nicoll and seconded by Phil Carter to approve the minutes from May 10, 2021 as corrected. Motion passed unanimously.**

V. ADJOURN

1. **MOTION by Doug Sheehan and seconded by Julie Bowyer to adjourn. Motion passed unanimously.**
2. Meeting adjourned at 6:59 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Doug Sheehan

Julie Bowyer