

**DEVELOPMENT REVIEW BOARD
MINUTES**

March 13, 2017

MEMBERS PRESENT:

Phil Carter, Chairman	John Boehrer
Julie Nicoll	Linda Petty

MEMBERS ABSENT:

Richard Harrison

STAFF PRESENT:

Rose Goings

OTHERS PRESENT:

Patricia Davis	Gary Mac Intyre	Ted Reeves
David Elias	George McNaughton	Robin Reilly
Todd Hindinger	John Neal	Lisha Klaiber, Recorder
Bill Hoynack	Mary Ann Neal	

I. **CALL TO ORDER**

1. Meeting opened at 6:00 p.m. by Chairman, Phil Carter. Richard Harrison absent.

II. **OPEN THE PUBLIC HEARING FOR JOHN NEAL AND MARY ANN NEAL**

1. Phil Carter advised that this is an application to consider a three (3) lot subdivision. The project is located at 33 Lakeshore Drive in the Lakes District.
2. Rose Goings advised that this is application SUB17-005. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on February 22, 2017, advertised in THE VERMONT JOURNAL on February 22, 2017 and abutting property owners were notified on February 21, 2017. She said that letters had been received from the Fire and Ambulance departments, but not the Police Department.
3. Phil Carter administered the oath to all (John Neal, Mary Ann Neal) wishing to speak at this hearing.
4. John Neal advised that the property they are applying to subdivide is part of the estate of their parents. It consists of 3+ acres and Steve Mungeon did the survey. They have already received their state Wastewater and Potable Water Supply Permit. The new lots meet all of the town's criteria.
5. Phil Carter noted, for the record, and from the drawing provided, that the three (3) new lots will each be 1.1 acres.
6. John Neal said that Lots A and B will both have approximately 100 feet of frontage off Red Bridge Road and Lot c will have about 350 feet frontage off Red Bridge Road.
7. Phil Carter verified that the ROW is 50 feet.
8. John Neal said yes.
9. Phil Carter asked if the well shields are all within the property.

10. John Neal said yes.
11. Phil Carter asked about the septic design.
12. John Neal said they have been submitted.
13. Rose Goings advised that they have been approved by the state. She suggested to the board that since the applicants have their approved state permit that the board consider an Up/Down vote. They would only need to submit the Mylar.
14. Phil Carter polled the board and they agreed to an Up/Down vote.
15. **MOTION by John Boehrer and seconded by Linda Petty to approve this application and close this hearing. Motion passed unanimously.**
16. Phil Carter asked John Neal to get the Mylar to Rose Goings and he would come in and sign it.

III. **OPEN THE PUBLIC HEARING FOR IMERYS TALC VERMONT, INC.**

1. Phil Carter advised that this is an application for a Local Flood Hazard Review to perform maintenance clean out of an Army Corps of Engineers' permitted sedimentation pond. Sediment is to be used in reclamation of a former mine site on appellant's acreage. Property is located on East Hill Road in the Special Flood Hazard Area of the Industrial District.
2. Rose Goings advised that the Flood Hazard Review hearing has been removed as John Broker Campbell from the State DEC had sent an email that advised that the property is not in the Ludlow Flood Hazard Area. This hearing will be off the record and the fee for this hearing will be returned to the applicant.
3. George McNaughton requested that this information be included in the DRB's Findings of Fact for the application.
4. Rose Goings advised that since the board will not be hearing the application, they cannot give Findings of Fact.
5. Phil Carter advised that the email from John Broker-Campbell will be included in the file.

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

IV. **OPEN THE PUBLIC HEARING FOR IMERYS TALC VERMONT INC**

1. Phil Carter advised that this is an application for a Conditional Use Permit to perform maintenance clean out of an Army Corps of Engineers' permitted sedimentation pond. Sediment to be used in reclamation of a former mine site on appellant's acreage. Property is located on East Lake Road in the Industrial District.
2. Rose Goings advised that this is application 451-17-CU. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on February 16, 2017, advertised in THE VERMONT JOURNAL on February 22, 2017 and abutting property owners were notified on February 21, 2017.

V. **OPEN THE PUBLIC HEARING FOR IMERYS TALC VERMONT INC**

1. Phil Carter advised that this is an application for Local Act 250 Review to perform maintenance clean out of an Army Corps of Engineers' permitted sedimentation pond. Sediment is to be used in the reclamation of a former mine site on the appellant's acreage. Property is located on East Lake Road in the Industrial District.
2. Rose Goings advised that this is application 452-17-ACT250. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on February 16, 2017, advertised in THE VERMONT JOURNAL on February 21, 2017 and abutting property owners were notified on February 24, 2017.
3. Phil Carter administered the oath to George McNaughton and Robin Reilly.
4. George McNaughton advised that the sedimentation pond was built in 1971 by the Army Corps of Engineers and it has been collecting sediment since then. It is time to clean it out and normally, this would be exempt from a hearing, except that they will also be moving the sediment. They will be taking the sediment from the pond and moving it up to the ledge at Black Bear and then cover it with top soil. It is part of the reclamation of the mine site. The pond has not been cleaned out for 40 years. There are no structures involved and they will not be digging a new hole. They need to remove the sediment from the pond for it to operate at full capacity. This will not block the flow of water. It does not impact renewable energy.
5. Phil Carter asked if they will rebuild the berms.
6. Robin Reilly said that they will have to break the berms to get to the pond. They will lay down a stone footing for the trucks. When they are done with the pond work, they will rebuild the berms. This is all on the parking lot side.
7. Phil Carter asked if they are aware of the invasive species phragmites.
8. Robin Reilly said it will be buried deep and is part of the Waste Management Plan. It grows by rhizome. She said if they see any come back, they will have someone come in to remove it.
9. Phil Carter asked how they would truck the sediment.
10. George McNaughton said they will truck it out the access road, up Crusher Drive.
11. Phil Carter asked how long they think the project will take.
12. Robin Reilly said hopefully less than a month.
13. Phil Carter asked if this is the first time they are cleaning out the pond.
14. Robin Reilly said it is the first time they are doing a full clean out.
15. Phil Carter advised that written comments regarding Local Act250 review have been presented as evidence.
16. **MOTION by John Boehrer and seconded by Linda Petty to close these two hearings. Motion passed unanimously.**

NOTE: Phil Carter advised that the following two hearings are for 24 FOX LANE, LLC and asked the applicant if they could be addressed concurrently. The applicant's representative agreed.

VI. **OPEN THE PUBLIC HEARING FOR 24 FOX LANE, LLC**

1. Phil Carter advised that this is an application to consider a Conditional Use permit to raze he current structure and construct a new building with added parking. The new building would contain two (2) commercial units on the first floor and four (4) residential units on the second floor. Property is located at 24 Fox Lane in the Town Residential/ Commercial District.

2. Rose Goings advised that this is application 449-17-CU. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on February 16, 2017, advertised in THE VERMONT JOURNAL on February 22, 2017 and abutting property owners were notified on February 21, 2017. She advised that Ambulance and Police Department letters have been received, but not the letter from the Fire Department.

VII. **OPEN THE PUBLIC HEARING FOR 24 FOX LANE, LLC**

1. Phil Carter advised that this is an application for a Local Flood Hazard Review to raze he current structure and construct a new building with added parking. The new building would contain two (2) commercial units on the first floor and four (4) residential units on the second floor. Property is located at 24 Fox Lane in the Special Flood Hazard Area of the Town Residential/ Commercial District.
2. Rose Goings advised that this is application 450-17-FHR. Posted in the Town Hall bulletin boards, the Berkshire Bank Bulletin Board and the Post Office Bulletin Board and on the website on February 16, 2017, advertised in THE VERMONT JOURNAL on February 22, 2017 and abutting property owners were notified on February 21, 2017.
3. Phil Carter administered the oath to Todd Hindinger, Bill Hoynack, David Elias, Patricia Davis and Ted Reeves. He explained to the representatives that the Ludlow DRB is on the record, such as a court. This hearing will not be heard again. In the event of an appeal, the judge will look at our decisions and Findings of Fact. Your testimony is under oath.
4. Bill Hoynack advised that the owners bought the property as a single family home and it was in bad shape. This application is for a mixed use building with two (2) Commercial and four (4) Residential units. Each residential unit will be a 2-bedroom condo.
5. Todd Hindinger advised, referring to the drawings that the building will be set on the raised area and that parking and driveways will be around the building. The physical limitations are the Black River, the wetlands on the south and the setback to the road on the north. There is a small building envelope. The sidewalks will have a gentle slope to the building. There will only be minor grading. The wetland was mapped by Briggs Environmental. The survey was done in 2009 and the property is 5.14 acres.
6. Rose Goings said that Don Stein sent the survey.
7. Todd Hindinger said that the property has been taxed as 5 acres, but we have over that. The property is not served by municipal water or sewer. There is a well on site. IN 2008, they applied for a Wastewater Disposal permit. They are waiting for local approval of the project before applying for the water system permit. Then they will drill the well. We have the permit to develop the property. Waste Water Management is holding our permit to see if there is enough water and the quality of that water. They have been working with Terry Shearer at the state. They have received a letter from the Supervisory Union.
8. Rose Goings said that she had not received a copy of that letter.
9. Todd Hindinger said that they have applied to every board that was required, Fire, Police, Ambulance and the Highway foreman. He said that the Highway foreman had suggested that we upgrade a culvert. He said that the drawings show the physical features of the property. He indicated where the 100-year Flood Hazard area is. He said that this project is 3 ½ feet higher. He showed the FEMA map and said they were able to map the Flood Hazard area on the property by taking the elevation and laying it into the physical features of the site. It includes the upper meadow. The building will be all outside the Flood Hazard area. This is not a conditional use for Flood Hazard review for the building. It is for a little bit of fill associated with the ramp to the lower parking area and a little bit by the leach field.

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- He indicated the wetlands ad 50 foot buffer. He indicated where the front of the building is 75 feet from the road. He said that map 1 gives the overview.
10. Phil Carter asked if part of the septic is in the flood plain.
 11. Todd Hindinger said the fill is in the Flood Hazard area. The well will be a mound and longer than a required residential one. The area will have no velocity.
 12. Phil Carter said that the state is generally concerned about raising a mound in the flood plain.
 13. Rose Goings agreed.
 14. Todd Hindinger said he had thought that was a wise process. He said that the state helps you to review our plan to see if it meets Ludlow requirements. John Broker-Campbell said the state doesn't have jurisdiction over this project. We have Ludlow zoning and flood hazard regulations. He said that Ludlow has not adopted that part of the state regulations. No compensatory storage is required and this project meets NFIL standards for Ludlow.
 15. Phil Carter asked if John Broker-Campbell has looked at this.
 16. Rose Goings said yes. There was a letter dated February 17, 2017.
 17. Phil Carter read the following excerpts from the letter.

“For all development located within the FEMA mapped SFHA, the National Flood Insurance Program (NFIP) minimum regulations require that all new development be reasonably safe from flooding and be:

 - Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood...
 - Constructed with materials resistant to flood damage such as pressure treated lumber...
 - Constructed by methods and practices this will minimize flood damage...’
 - Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other services facilities that are designed and/or anchored to prevent water from entering or accumulating within the design components during conditions of flooding.
 18. Todd Hindinger said when you approve the project, we have to develop a record of elevation and get a certificate that follows construction.
 19. Phil Carter read from the same letter from John Broker-Campbell,

“Due to the proximity of the regulatory floodway, I strongly encourage the town to request an Elevation Certificate to be completed following construction to ensure that all development was built in compliance with the town flood regulations. The site plan shows a revised flood hazard area based on the fill being brought onto the site for the creation of parking; however, unless a Letter of Map Revision-Fill (LOMR-F) is submitted and approved by FEMA, the effective map will remain the same.”
 20. Rose Goings advised that, per John Broker-Campbell, Todd Hindinger's map is more accurate than the FEMA map. The FEMA map shows the house across the street to be totally in the Flood plain.
 21. Todd Hindinger said that John Broker-Campbell says that our proposed building will be 3 ½ feet above Base Flood Elevation (BFE.)
 22. Phil Carter said that his concern is that they are raising the elevation by bringing in fill.
 23. Todd Hindinger said the fill is not for the parking lot.
 24. Phil Carter said the evidence says fill for the parking lot.
 25. Todd Hindinger said it says fill for the ramp to the lower parking lot. We need to shape it; we are not changing the grade in the parking more than 1 foot, to raise it in the middle for storm water drainage. There will almost be no change to the grade in the lower parking lot at all.
 26. Phil Carter asked if they plan to pave the parking lot.
 27. Todd Hindinger said probably put in gravel.

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28. Phil Carter said if they pave it, will that trigger anything with FEMA. They will be removing permeable space.
 29. Todd Hindinger said this is not affected. The river will rise in the flood and water will fill the site, then drain off. We have to go to the state for the Construction Storm Water permit. An Operating Storm Water permit for impermeable surfaces is not needed because our impermeable surface is less than one acre.
 30. Phil Carter said at some point the state will want to see the Storm Water Construction Permit.
 31. Todd Hindinger said they will need that. This is probably a low risk site and they will file a public Notice of Intent.
 32. Phil Carter referred to Map #3 and asked about the swale to the right of the parking lot. He asked if the state will require something at the end of that to catch the runoff from the parking lot.
 33. Todd Hindinger said no. He said that he set up a grassland swale and will have 50 feet of undisturbed buffer.
 34. Phil Carter asked about the upper parking area.
 35. Todd Hindinger said on the road side and parking lot side we have a swale and the lot is tilted toward the swale. It will be similar to what it is, like a knoll.
 36. Phil Carter asked about the parking lot front and side.
 37. Todd Hindinger said there will be all grass behind the building.
 38. Phil Carter asked about access for EMS vehicles. He said the Chief Kolenda may require maintained access. The letter from the Fire Department has not been received.
 39. Todd Hindinger said he will make sure that have access. He does not think they will need to bring fire trucks around the back. It wouldn't be wise to run the biggest trucks on the grass.
 40. Rose Goings said that Chief Kolenda usually requires a donation to the Fire Equipment Fund for all new construction of \$.35/per square foot of construction.
 41. Todd Hindinger asked how long we have to wait for his comments.
 42. Phil Carter said we usually hear from him soon. He added that any recommendations that the Fire Department makes will be a condition in the permit.
 43. Todd Hindinger said that the State Fire Marshal has reviewed the project and had made some comments which have been addressed.
 44. Phil Carter asked about the road along side of the building to the lower parking area.
 45. Todd Hindinger said it will basically be two lanes and it will work better for fire trucks and ambulances.
 46. Phil Carter asked if residents will want to use the upper parking area.
 47. Todd Hindinger said he wouldn't be surprised if they did.
 48. Phil Carter asked about the well.
 49. Todd Hindinger said that was the water supply for the old building and will be abandoned (the casing pulled and the hole filled.)
 50. Phil Carter asked about the new well behind the building.
 51. Todd Hindinger said that would be for the new building. He added that there will be 2 main sewer lines and flexible usage for the commercial units. There will be an external grease trap and septic tank.
 52. Phil Carter asked if that would be the only one.
 53. Todd Hindinger said yes. He added that the water would flow down by gravity, and then there would be a pump. Usage would be about 3,500 GPD (about 8 house usage.)
 54. Phil Carter asked about the test holes that were dug years ago.
 55. Todd Hindinger said it was unusual soil with a couple of dense upper layers. The water table is 6 to 7 feet down.
 56. Phil Carter said there was a farm there.
 57. Todd Hindinger referred back to the drawings and showed the areas to be filled.

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58. Phil Carter referred back to John Broker-Campbell's letter regarding elevation of the first floor units. He wants it on the record:
"Additionally, the Town of Ludlow Zoning & Flood Hazard Regulations dated November 7, 2016 require that new non-residential development to have the lowest floor (including basement) to be elevated to 2' above the Base Flood Elevation. The site plan submitted by Heritage Engineering has the calculated Base Flood Elevation at 1013.0' for the project site and a first floor elevation at 1016.5'. As the structure will be built slab on grade, the lowest floor should be at the elevation 1015' or above."
59. David Elias addressed the design of the building. He said it would have 2 fronts, one along Route 103 and the other along Fox Lane. He indicated where it will have cornices facades. The roof will be wood with asphalt shingles. The siding will be clapboard. The apartment units will have vinyl clad windows, while the commercial units will have aluminum clad windows. Each of the four residential units will have 2 bedrooms and one bathroom. Each will have its own exterior access stairway. The commercial units will each have 2 handicapped bathrooms. The color of the building will be as shown on the color drawing, a yellowish orange.
60. Phil Carter asked if they had had conversations with the Fire Marshal.
61. Todd Hindinger said they did send to the Fire Marshal for comments and when built, the construction drawings will go to the Fire Marshal for a permit. That has not happened yet. They have a lot of permits to work through and started with the Water and Wastewater permits.
62. Rose Goings asked about Landon Wheeler.
63. David Elias said the state would not have required sprinklers because the apartments have direct access to the outside and meet building codes. They don't need sprinklers.
64. Rose Goings said the drawings do show the outside stairways.
65. Phil Carter said the any conditions imposed by the State Fire Marshal will also be a condition of the permit. He said that the drawings show that the 2 commercial units will be 1,634 square feet and 2,571 square feet and asked about their entrances.
66. David Elias indicated the proposed entrances on the drawings and said that the doors could be moved. They will have 2 means of egress and said that they entrances have to be no more than ½ the diagonal distance of the space.
67. Phil Carter said there will be 2 commercial units downstairs and asked about signage. He said that this board does not issue sign permits. That would be done through Rose Goings' office. How will they let people driving down Route 103 know there are businesses there.
68. David Elias said he does not know Ludlow sign regulations.
69. Todd Hindinger said they will put in a sign application. He shows a sample of the sign. He said it may be at the corner of Route 103 and Fox Run, but the state owns part of that land. It is not on the site plan.
70. Rose Goings said the sign also may not be in the flood area.
71. Phil Carter said that the color of the building is also important; it should blend with the area. The colors there are subdued.
72. David Elias said the color is similar to the Ocean House in Watch Hill, RI, that was built in 1896. It will have a brown roof.
73. Rose Goings said she would like to have a color sample of the building for the file.
74. Phil Carter asked about exterior lighting.
75. Todd Hindinger indicated locations on the site plan, Map #2. It shows parking lot lights and bollards up the walkway.
76. Phil Carter asked how tall the parking lot lights would be, how bright and how they would be directed.
77. Todd Hindinger said the parking lot poles would be 20 feet high.

78. Bill Hoynack said they would be downward directed. The residential lights would be 2,000 lumens and the pathway lights would be 270 lumens.
79. Todd Hindinger said the walkway lights would be 27.5 inches high.
80. Phil Carter asked about the lights on the building.
81. Bill Hoynack said they would be motion-activated about 2,000 lumens.
82. Todd Hindinger showed their locations on the drawing.
83. John Boehrer asked about motion activated.
84. Bill Hoynack said they could also be on timers.
85. Phil Carter said that lighting can't distract drivers. The lights should look nice, but not like a birthday cake.
86. Linda Petty asked if the parking lot lights would be on all the time.
87. Bill Hoynack said that is a good question. He said that maybe the two closest to the building could be on all night and the others on a timer.
88. Phil Carter said he thinks they could probably set up a system like that with the two closest to the building on all night and the others on a timer. He said that any conditions from the Fire Marshal or Ludlow Fire Department would have to be met.
89. Rose Goings said they still need the letter from the Fire Department. She said she would like to talk to John Broker-Campbell again.
90. Todd Hindinger asked Rose Goings to ask John Broker-Campbell to do a summary of what they need.
91. Rose Goings said she is still confused about the fill. She said the Ludlow zoning regulations dated November 2016 require a Conditional Use permit for fill and you can't increase the BFE. She would like this clarified by John Broker-Campbell.
92. Phil Carter said the state wants things done properly and we need that information in order to issue a permit. He would like to recess this hearing. We will probably have heard from Chief Kolenda by then.
93. Rose Goings said that Chief Kolenda may require the \$.35/per square foot donation to the Fire Equipment Fund.
94. Todd Hindinger said that rental unit's fee is per unit.
95. Phil Carter said they can work that out with the chief.
96. Rose Goings said she will call John Broker-Campbell tomorrow.
97. Phil Carter said they can recess the hearing for one month or 2 weeks.
98. Rose Goings said she also would like to talk to Frank Heald about the Enterprise Fund and he is away. She explained that we (Ludlow) attaches donations to the fund to large projects to be used for the community. It generally goes about \$500 per unit.
99. Ted Reeves asked what the commercial units will be used for. He had heard something about a restaurant.
100. Bill Hoynack said office and retail, probably not a restaurant.
101. Ted Reeves said he is concerned about the lighting on the building affecting the golf course. He is requesting full cutoff wall packs.
102. Bill Hoynack said they could do that.
103. Patricia Davis said she would appreciate that the lighting issue be addressed. She owns the house across Fox Run.
104. **MOTION by John Boehrer and seconded by Linda Petty to recess these two hearings until the April meeting. Motion passed unanimously.**

VIII. **APPROVE MINUTES**

1. Phil Carter advised that the minutes to be reviewed are from February 13, 2017.

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2. Linda Petty advised that on page 1, her name was split between absent and present.
 3. Phil Carter noted that on page 2, item III, 6, it should read, "...use for the trail surface."
 4. **MOTION by Julie Nicoll and seconded by John Boehrer to approve the minutes from February 13, 2017 as corrected. Motion passed unanimously.**

IX. **OTHER BUSINESS**

1. Permits from Last Meeting
 - a. Jackson Gore Traffic - approved
 - b. Okemo Bike Trails – approved
 - c. Lamere Square Apartment – approved
2. Next Meeting – Monday, April 10, 2017.

X. **ADJOURN**

1. **MOTION by John Boehrer and seconded by Phil Carter to adjourn. Motion passed unanimously.**
2. Meeting adjourned at 7:51 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Linda Petty

Richard Harrison