

**DEVELOPMENTAL REVIEW BOARD  
MINUTES**

**March 11, 2013**

**MEMBERS PRESENT:**

Phil Carter	Richard Harrison
John Boehrer	Julie Nicoll

**MEMBERS ABSENT:**

Linda Petty

**STAFF PRESENT:**

Rose Goings

**OTHERS PRESENT:**

Constance Bixby	Debra Lacroix	Mary Jane O'Hara
Ron Bixby	Andrea Lehtonen	Roger Ryan
Sharon Bixby	Jeremy Martel	Ginny Snyder
Willow Feller	John Martel	Bruce Stryhas
Marji Graf	Nancy Martel	Darren Williams
Patty Greenwood	Betty McEnaney	Laura Williams
Jonathan Houck	Susan McNeely	Duncan Love – LPC TV
Lorraine Hughes	Sandra Merrill	Lisha Klaiber, Recorder

1. **CALL TO ORDER**

A. Meeting opened at 6:01 p.m. by Phil Carter. All members present, except Linda Petty.

2. **OPEN THE PUBLIC HEARING FOR BRUCE STRYHAS/CONSTANCE BIXBY**

- A. Phil Carter advised that this is an application for a two (2) lot subdivision. Property is located at Bixby Road in the Town Residential District.
- B. Rose Goings advised that this is application SUB13-006. Posted in the Town Hall bulletin boards February 15, 2013, advertised in THE VERMONT JOURNAL on February 20, 2013 and abutting property owners were notified on February 15, 2013.
- C. Phil Carter administered the oath to all wishing to speak at this hearing.
- D. Bruce Stryhas advised that he would like to purchase 3 acres from Constance Bixby. He does not plan to develop it. He just wants to purchase it.
- E. Phil Carter referred to the drawing and asked if Lot 1 would be 3.01 acres and Lot 2, to be retained by Constance Bixby would be about 20+/- acres. He also asked if the 50 foot wide strip from Lot 2 would connect it to a town road, Bixby Road.
- F. Bruce Stryhas said that was correct.
- G. **MOTION by Richard Harrison and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

3. **OPEN THE PUBLIC HEARING FOR DARREN AND LAURA WILLIAMS**

- A. Phil Carter advised that this is an application to consider an amendment to a Conditional Use Permit to allow for a day spa and single unit apartment. Property is located at 70 Main Street in the Preservation District.
- B. Rose Goings advised that this is application 179-01-CU, Amendment # 2. Posted in the Town Hall bulletin boards February 15, 2013, advertised in THE VERMONT JOURNAL on February 20, 2013 and abutting property owners were notified on February 15, 2013.
- C. Phil Carter administered the oath to all wishing to speak at this hearing. He explained that he would open the discussion with the applicant, then ask for questions from the board and then open it to the floor for questions and comments.
- D. Darren Williams advised that they wish to relocate their business to 70 Main. They will have therapist rooms, a hair dresser and an office that they hope to rent to someone of a similar profession. A portion of the basement will be for a personal trainer. The second floor will be for an apartment for the owner.
- E. Phil Carter asked if they would be changing the footprint of the building or making any changes to the exterior.
- F. Darren Williams said that they would remain the same.
- G. Phil Carter asked about parking.
- H. Darren Williams said there would be 16 spaces, including a 3 car garage. Traffic flow would be from entry on the right and exit on the left.
- I. Phil Carter asked if there would be parking on Main Street.
- J. Darren Williams said no.
- K. Phil Carter asked the hours of operation.
- L. Darren Williams said business would be by appointment only from 7:00 a.m. to 9:00 p.m., seven days per week.
- M. Phil Carter asked about the theme of the businesses in the building.
- N. Darren Williams said wellness: skin massages, deep tissue massages, and a personal trainer.
- O. Phil Carter asked if they would be sticking to the floor plan that they submitted.
- P. Darren Williams said yes.
- Q. Phil Carter asked Darren Williams to describe the upstairs.
- R. Darren Williams said it would be a small owner's quarters.
- S. Phil Carter asked if there would be customers upstairs.
- T. Darren Williams said no.
- U. John Boehrer asked, if all of the businesses were occupied, what would be the maximum number of people.
- V. Darren Williams said 16.
- W. Phil Carter referred to the drawing and asked about the front reception/retail area.
- X. Darren Williams said they would sell items that would complement the spa or cosmetologists.
- Y. Phil Carter asked about the space labeled Meditation Room.
- Z. Darren Williams said the drawings would be amended to show that as an employee break room.
- AA. Andrea Lehtonen said that she is concerned about the scope of the business. It is the Preservation District and supposed to be limited to small scale businesses and she thinks this may be too large. She is also concerned about the hours and 7 days per week. She does not think it is appropriate. She wants the board to put conditions to prevent the business from expanding.
- BB. Sharon Bixby said that her office is near to the current business location and Darren Williams and Laura are good neighbors and run a lovely business.

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- CC. Nancy Martel said that she is a client and continuous 7:00 a.m., to 9:00 p.m. operation would be almost impossible for the employees. Most of their clients are by appointment only. Their business is very quiet and relaxing. She does not think it would be too crowded.
- DD. Andrea Lehtonen said the board has to look at the regulations. If there are no conditions, it would be open to expansion. People who live in the Preservation District have rights. The regulations were promulgated to have only small scale businesses. She thinks this may open a door to a slippery slope.
- EE. Ginny Snyder asked how many masseurs/masseuses would there be.
- FF. Laura Williams said 3Ginny Snyder said that for three masseurs/masseuses, it would be impossible to give constant massages. She is also a client and said that the nature of the business is quiet.
- GG. Susan McNeely said that she is also a client and it is a quiet business and they are putting a combination of small scale businesses in one place. Everything is small and it would cater to skiers. They can have facials and can go to one place as a day spa.
- HH. Ginny Snyder said that she was in support of the idea of a Preservation District when the idea was first developed. She said that this business will support the Preservation District.
- II. Andrea Lehtonen said that the board needs to put conditions on the business. She does not care if it caters to skiers. She wants conditions so that it will prevent future abuse.
- JJ. Jeremy Martel asked Andrea Lehtonen for suggestions.
- KK. Andrea Lehtonen said 7 days per week is large scale and the hours are too long. This is not a commercial district and they should not be given an open ended permit.
- LL. Lorraine Hughes said that there is a 15 foot high wall by the parking area and her property gets eroded from the run off. The problem has been there and never been solved.
- MM. Phil Carter asked about it.
- NN. Lorraine Hughes said that the sand and water come through the cracked asphalt and the hole is very deep. She would like this fixed.
- OO. Laura Williams said they would only be leasing the building.
- PP. Betty McEnaney said that Ray Martel repaired it after Sandy. It started as a gopher hole.
- QQ. Mary Jane O'Hara showed pictures of the area in question.
- RR. Phil Carter asked if there was work done this fall.
- SS. Lorraine Hughes said yes, Ray Martel put in composite, but it is deteriorating again.
- TT. Phil Carter asked Mary Jane O'Hara to leave the book with the board for review. He asked the board if this was actually an issue for the Trustees. It is not part of this permit and not under the authority of this board.
- UU. Richard Harrison said that it is a legal matter.
- VV. Phil Carter said that the board has heard about this problem in the past and it sounds like an issue for the Trustees. It is one property encroaching on another. This problem exists, but has nothing to do with this permit.
- WW. Mary Jane O'Hara said they are in small claims court about it right now. People park there and it is a safety issue.
- XX. Phil Carter asked how many spaces are affected.
- YY. Lorraine Hughes said 4-5.
- ZZ. Phil Carter said it looks like 5 on the drawings.
- AAA. Betty McEnaney said the parking does not go to the back of the wall and the passenger side of the left-most car would be affected.
- BBB. Ron Bixby said this should be handled by the property owner.
- CCC. Richard Harrison asked if they were making any construction changes inside or outside on the main floor.
- DDD. Darren Williams said no.

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- EEE. Richard Harrison noted that they are not hurting or marring the building.
- FFF. Phil Carter asked about Labor and Industry (L&I.)
- GGG. Darren Williams said they did a walk through about a month ago. There was a small checklist and all items identified can be easily rectified. They applied for and were granted a variance for egress upstairs. They can use the back door.
- HHH. Mary Jane O'Hara asked about BYOB parties listed on their website.
- III. Darren Williams said it was bring your own refreshments for a small group of about 3-4 people for a spa party. They do not cater or serve food.
- JJJ. Laura Williams said they don't have licenses to serve food or liquor.
- KKK. Andrea Lehtonen asked about wine.
- LLL. Laura Williams said she is not sure if it is a closed party, but they would not be doing it in this building.
- MMM. Patty Greenwood said that alcohol is not good for a person before or after a massage. They would need to keep hydrated with water.
- NNN. Marji Graf said that she is excited about another wellness center in town and thinks it would be a great asset. She does not think that tons of people will all be there at one time and she can vouch for the applicants.
- OOO. Andrea Lehtonen said that this board deals with zoning and the application needs to be judged by the zoning.
- PPP. Mary Jane O'Hara said that she is concerned about the fumes from the nail polish and hair chemicals. She does not want to see expansion to the living quarters, she wants no access for clients after hours, she does not want them to be allowed to have meetings or gatherings that bring in crowds, she does not want them to expand the basement and she does not want adult massages as on their website. She said that adult shops are not allowed in town.
- QQQ. Laura Williams objected to the terminology, saying they do have couples' massages. She added that they are licensed and insured.
- RRR. Phil Carter asked them to keep focus, saying this about the permit. It is not about the website. The board takes the information provided by the applicant. He added that adult book stores are allowed in town in the Industrial District.
- SSS. Laura Williams said that the website is not for this business. They have reorganized and there will be a new website.
- TTT. Mary Jane O'Hara voiced objections to noise, smells, hours of operation and giving the combination to the door to clients for after-hours entry.
- UUU. Darren Williams said that they would not be giving entry information to others for after hours.
- VVV. Julie Nicoll asked about outside lighting.
- WWW. Darren Williams said there would be no changes to the existing lighting.
- XXX. Mary Jane O'Hara said she wants the lights off after hours.
- YYY. Richard Harrison said there would have to be lights for safety.
- ZZZ. Phil Carter said they could use a motion detector for the lights.
- AAAA. Ron Bixby said that he is a Deputy Chief of the Fire Department. He said that he would like to see the building occupied. He added that the occupants must identify chemicals in the building. He added that the building must be alarmed.
- BBBB. Phil Carter said that in his letter, Chief Kolenda said the build must have smoke, fire and CO detectors.
- CCCC. **MOTION by Julie Nicoll and seconded by Richard Harrison to close this hearing. Motion passed unanimously.**

4. **OPEN THE PUBLIC HEARING FOR MOUNTAIN LAUREL SKIERS, INC.**

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- A. Phil Carter advised that this is an application to consider an amendment to a Conditional Use Permit to convert a bed and breakfast into a multiple dwelling unit/private club. Property is located at 82 Andover Street in the Village Residential Commercial District.
  - B. Rose Goings advised that this is application 86-153-CU, Amendment # 3. Posted in the Town Hall bulletin boards February 15, 2013, advertised in THE VERMONT JOURNAL on February 20, 2013 and abutting property owners were notified on February 15, 2013.
  - C. Phil Carter administered the oath to all wishing to speak at this hearing.
  - D. John Houck advised that the property is the former B&B, Jewel Brook Inn. The ski club is looking to convert it into a ski club for members and guests. The kitchen is just for the club and there will be no liquor license. Members bring their own beverages. They have been renting in Proctorsville for 33 years. The house will be used year round.
  - E. Phil Carter asked if they would be changing the footprint.
  - F. John Houck said no. They have been in contact with Landon Wheeler of L&I and there is a requirement for an ADA access ramp.
  - G. Phil Carter asked about the fire escape.
  - H. John Houck said they would be removing the fire escape and the Mr. Wheeler wants them to install a sprinkler system, exterior doors and the 3<sup>rd</sup> floor staircase may be removed.
  - I. Phil Carter asked if the intent was for the building to be used for the ski club only and not open to the public and there would be no exterior.
  - J. Rose Goings said they would need a parking plan, site plan and building layout plan. They would also need letters from fire, ambulance, police and the town manager.
  - K. John Houck said they have drawings and are working with Mike Blais from Countryside on other drawings. They will be altering the drawing that they have now.
  - L. Phil Carter said the board could take this drawing as evidence with the condition that they provide corrected drawings.
  - M. Roger Ryan said there would not be any changes to the floor plan except for the exterior.
  - N. Rose Goings said that they need to get the water/sewer straightened out.
  - O. John Houck said that they were not sure of the sequence of what they needed to do. He would contact Loran Greenslet tomorrow.
  - P. Rose Goings said they should contact Pam Cruickshank first.
  - Q. John Houck said they would get the drawings to Landon Wheeler for review. He added that he has sent copies to Frank Heald.
  - R. Rose Goings said they would need to send the Water/Sewer information to Frank Heald.
  - S. Phil Carter said the permit would be conditional upon L&I, and letters from Fire, Water, Ambulance, Town Manager, Police and updated drawings.
  - T. **MOTION by John Boehrer and seconded by Richard Harrison to close this hearing..**  
**Motion passed unanimously.**

5. **SUBDIVISION MYLAR – PHIL CARLUCCI & LISA CARLUCCI-HEMBURY**

- A. Phil signed the drawings.

6. **SUBDIVISION MYLAR - FRANCIS AND MARIE MARINI**

- A. Phil Carter signed the drawing.

7. **APPROVE MINUTES**

- A. Phil Carter advised that the minutes to be reviewed are from the meeting of January 14, 2013.
- B. Phil Carter noted that on page 3, 5D should read, "he would like to attach the time line to the phasing plan."
- C. Julie Nicoll advised that on page 2, 3L should read, "Don Eatmon showed that there would be sufficient parking."
- D. Phil Carter advised that on page 3, 6D should read, "...They would like to create... and leave the remaining acres undeveloped."
- E. **MOTION by Julie Nicoll and seconded by John Boehrer to accept the minutes from November 26, 2012 as corrected. Motion passed unanimously.**

8. **OTHER BUSINESS - FEMA**

- A. Phil Carter advised that what this board has run into is that the FEMA input into our permits arrives long after the permits have been issued. He has spoken to the Planning Commission and we all agree that we need to have FEMA input in a more timely matter. He said that he suggested that in order to protect the town and the applicants, that if a property is in the floodway, the applicant must be advised, upfront, that FEMA must sign off on the permit. We should have the OK from FEMA before we issue a permit.
- B. Richard Harrison asked if the board can let the applicant clean up the property.
- C. Rose Goings said that if the damage is less than 50% of the property value, they can.
- D. Phil Carter said that in the Flood Plain, there is the same problem, except that the state must approve the permit. He said that in the Floodway, FEMA must approve and in the Flood Plain, the state has to approve the permit. IF this does not happen, it jeopardizes the town's flood insurance. He said that both Frank Heald and Chris Callahan are aware of this.
- E. Rose Goings advised that the Planning Commission is currently working on the Flood Hazard Regulations and this will be included.
- F. Phil Carter said that there was an engineering study done for Northern Ski Works and after the fact, FEMA questioned the study.
- G. John Boehrer said that this will hold up the process.
- H. Rose Goings said definitely and many towns are going through this.
- I. Phil Carter said that FEMA said they are adding resources.
- J. Rose Goings said that this is about substantial improvements and additions.

9. **ADJOURN**

- A. **MOTION by Julie Nicoll and seconded by Richard Harrison to adjourn to Deliberative Session. Motion passed unanimously.**
- B. Meeting adjourned at 7:28 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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Richard Harrison