

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELburne DEVELOPMENT REVIEW BOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

**TOWN OF SHELburne
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
April 17, 2019**

- MEMBERS PRESENT:** Jeff Pauza (Chair); David Hillman, Mark Sammut, Doug Griswold, John Day, Mike Major, Anne Bentley, Norm Blais [left at 7:20 PM].
- STAFF PRESENT:** Ravi Venkataraman, DRB Administrator; Dean Pierce, Director of Planning; Ed Adrian, Town Attorney.
- OTHERS PRESENT:** Tim O'Brien, Nicholas Low, Nate Burris, Celeste Burris, Bart Frisbie, Nancy Berger, Dave Marshall, Bridget Barry Caswell, Tina Helzer, Tracey Beaudin, David Webster, Gail Albert, Collin Frisbie, Matt Knudsen, Andy Rowe, Ann Clark, Kim Stevens.

AGENDA:

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (4/3/19)
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Appeal, Zoning Permit Denial, 499 Beaver Creek Road, Burris (A17-12)
 - Final Plan, Subdivision, Two Lots, 3735 Harbor Road, Saar (SUB04-05R4)
 - Site Plan\Design Review, Reduce Parking & Expand Deck, 5573 Shelburne Road, 5573 Shelburne Road, LLC (SP17-08R1\DR19-03)
 - Final Plan, Relocate Driveway, 4188 Shelburne Road, Rice Lumber Co., LLC (SUB15-05R2)
 - Sketch Plan, Subdivision, 15 Lots, 428 Webster Road, Sterling Land Co. (SUB19-05)
6. Other Business
7. Adjournment

1. CALL TO ORDER and ANNOUNCEMENT

Chair Jeff Pauza called the meeting to order at 7 PM and welcomed new DRB members, Anne Bentley and Mike Major.

2. PUBLIC COMMENTS

There were no comments from the public at this time.

3. MINUTES

April 3, 2019

MOTION by John Day, SECOND by Norm Blais, to approve the 4/3/19 minutes as presented. VOTING: 4 ayes, 4 abstentions (Jeff Pauza, Anne Bentley, Mike Major, Doug Griswold); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

- Mark Sammut will recuse for the Rice Lumber application
- Mike Major will recuse for the Burris appeal.
- John Day disclosed he lives three houses away from the Saar property, but feels he can still be impartial on the application.

5. APPLICATIONS

The function of the Development Review Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the DRB were sworn in.

A17-12: Appeal of Zoning Permit Denial for 499 Beaver Creek in the Residential District and Stormwater Overlay District by Nathanael Burris

Attorney Adrian explained in adversarial proceedings against the town he cannot advise the Selectboard and be engaged in the proceedings. In this case Mr. Adrian said he is defending the town. The appellant approved the revision suggested by Doug Griswold on indemnification language versus general release language, and adding Norm Blais to the signature block. The DRB needs to sign off on the permit, but not the agreement. The Selectboard already agreed to the terms of the agreement. The agreement is fair and a compromise as directed by the Selectboard.

John Day clarified the DRB is not adopting the agreement, but is agreeing to the issuance of the agreement.

Norm Blais asked if there is language about fences being in an area contrary to Shelburne's zoning regulations. Ed Adrian said the agreement was based on the town's past practice. Whether this has been a practice or pattern remains open. Norm Blais expressed concern about setting a precedent if the permit is issued. Attorney Adrian said each application is decided on a case-by-case basis. There was continued discussion of setting a precedent and impact on future applications for a fence in Shelburne.

The two parties (Town of Shelburne and Nate & Celeste Burris) signed the agreement with the revisions as noted.

MOTION by John Day, SECOND by Doug Griswold, that the appeal hearing for a fence at 499 Beaver Creek Road by Nate and Celeste Burris is closed and a permit issued per Paragraph 1 of the Settlement Agreement signed by the Shelburne Town Attorney and the appellants, Nate and Celeste Burris. VOTING: 6 ayes, 2 recusals (Norm Blais, Mike Major); motion carried.

Norm Blais left the meeting.

SUB04-05R4: Final Plan for a two lot subdivision at 3735 Harbor Road in the Rural District, Lakeshore Overlay District, and Floodplain and Watercourse Overlay District by Amy and John Saar

Dave Marshall, Civil Engineering Associates, appeared on behalf of the application.

Submittals:

- Cover letter prepared by Civil Engineering Associates, Inc., dated and received 11/14/18
- Sketch Plan Review Application, received 11/14/18
- Planning/Development Requirements and Design Standards Appendix, received 11/14/18
- Site Plans
- Cover letter prepared by CEA, received 3/15/19
- Final Plan Review Application, received 3/15/19
- General Information Application, received 3/15/19
- State of Vermont Department of Environmental Conservation and Natural Resources Board Project Review Sheet, received 3/15/19
- Authorization to discharge storm water runoff from low risk construction activity from the Vermont Department of Environmental Conservation, dated 6/27/16 and received 3/15/19
- Vermont Agency of Natural Resources Abutters Map, received 3/15/19
- Town of Shelburne department comments, received 3/15/19
- Site Plans, received 3/15/19
- Town of Shelburne Staff Report, dated 4/17/19

STAFF REPORT

The DRB received a written staff report on the application, dated 4/17/19. Ravi Venkataraman explained the applicant's plan to create two lots for single family houses. The application is vested and subject to the bylaws last amended May 2, 2018. Per the town's recommendation the water service is changed to PVC pipe.

APPLICANT COMMENTS

Dave Marshall gave background on the plan to subdivide 20.2 acres into two lots, one of 12.4 acres and one of 7.8 acres. The existing common driveway will be used for access to the lots so a new curb cut does not need to be created. The lots will have on-site septic and municipal water service.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Final Plan, Subdivision, Two Lots, 3735 Harbor Road, Saar (SUB04-05R4)

MOTION by John Day, SECOND by Doug Griswold, to finalize the record and direct staff to prepare a decision to indicate approval of the Final Plan application for a two lot subdivision at 3735 Harbor Road in the Rural District, Lakeshore Overlay District, and Floodplain and Watercourse Overlay District by Amy and John Saar (SUB04-05R4) with the following conditions:

1. **The Mylar must be recorded within 180 days of the signed approval pursuant to Shelburne Subdivision Regulations, Section 1050.**

2. A zoning permit is required prior to any land development pursuant to Shelburne bylaws, Section 2010.1, and Shelburne Subdivision Regulations, Section 1120.
3. Prior to the issuance of a zoning permit the developer, their engineer, their contractor, Shelburne Water Quality Superintendent or designee, Shelburne Planning & Zoning staff shall conduct a pre-construction meeting that would also inform the developer and parties associated with the developer the rules and notifications concerning inspections in all phases of construction pursuant to Shelburne’s Subdivision Regulations, Section 740.
4. Pursuant to Section 730 and prior to the issuance of a zoning permit the applicant is required to notify the Town Manager when construction of the required improvements shall begin so the town can inspect during the construction process in order to assure satisfactory completion of improvements or stipulations required by the Development Review Board.
5. Prior to the issuance of the last Certificate of Occupancy the engineer providing construction observations and inspections for the work shall certify to the town in writing that the work was completed in accordance with the approved plans pursuant to Shelburne’s Subdivision Regulations, Section 1140.
6. Prior to the issuance of a zoning permit the developer is responsible for informing the Town Manager’s Office of the name of the contractor who will be responsible for on-site installation, observation, and inspection of the erosion prevention and sediment control work as specified in Section 1145 of Shelburne’s Subdivision Regulations.

VOTING: unanimous (7-0); motion carried.

SP17-08R1\DR19-03: Site Plan\Design Review to reduce the required number of parking spaces for the existing use and expand the rear deck at 5573 Shelburne Road in the Village Center District, Stormwater Overlay District, Village Core Overlay District, and the Village Design Review Overlay District by 5573 Shelburne Road, LLC

Tina Helzer appeared on behalf of the application.

Submittals:

- Site Plan Review Application, received 3/26/19
- Proposed Conditions Site Plan, received 3/26/19
- Historic Preservation and Design Review Application, received 4/2/19
- East elevation drawings, received 4/2/19
- Image of “Cocoweb’s Gooseneck Wall Barn Lights” webpage, received 4/2/19
- Correspondence between the applicant and staff, received 4/4/19
- North elevation drawings, received 4/5/19
- Modified north elevation drawings, received 4/11/19
- Town of Shelburne Staff Report, dated 4/17/19

STAFF REPORT

The DRB received a written staff report on the application, dated 4/17/19. Ravi Venkataraman explained the request to increase the parking waiver due to expansion of the primary use on the property at 5573 Shelburne Road. Staff feels 17 parking spaces is adequate for the use on the property. The applicant is proposing landscaping and must comply with the design review guidelines for decks/patios.

APPLICANT COMMENTS

Tina Helzer explained the proposal to install a 12' x 14' deck in the rear of the property so patrons have an outdoor area. The deck is not visible from Route 7. Arborvitae will be planted on the northern border of the deck. The current parking waiver that was approved is 20% and the request is to increase this by 5% which will increase the parking by one space. The number of parking spaces is not changing. The parking waiver is needed in order to gain the space for the deck.

John Day mentioned simplifying the landscaping and not requiring a bond in this case because the area will be self-policed by the applicant.

Mike Major asked about the number of patrons and seating on the deck. Tina Helzer said the restaurant is 30 seats with additional 200 s.f. of lounge space inside. Low tables that will accommodate approximately 10 people will be on the deck.

PUBLIC COMMENT

Gail Albert, resident, questioned why the town wants to hide people having fun with landscaping. Ravi Venkataraman referred to Section 1900.5 of the regulations related to landscaping and screening for maximum compatibility with adjoining properties. Shelburne Historic Preservation & Design Review Committee (SHP&DRC) also wanted screening.

DELIBERATION/DECISION

Site Plan\Design Review, Reduce Parking & Expand Deck, 5573 Shelburne Road, 5573 Shelburne Road, LLC (SP17-08R1\DR19-03)

MOTION by Mark Sammut, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a decision indicating site plan and design review approval to reduce parking and expand the deck at 5573 Shelburne Road (SP17-08R1\DR19-03) by 5573 Shelburne Road, LLC, and to increase the parking waiver to 25% subject to the following conditions:

- 1. A zoning permit is required prior to any land development pursuant to Section 2010.1**
- 2. Pursuant to Section 1900.5 the applicant must notify staff within two years of the issuance of the zoning permit that the proposed landscaping has been installed, and in addition, the applicant must receive a statement of compliance with the Shelburne zoning bylaws and the permit conditions within two years of the issuance of the zoning permit. The applicant is responsible for replacing any and all deceased landscaping should the landscaping die within two years of the issuance of the zoning permit, and if the applicant has not installed the landscaping with two years of the issuance**

of the zoning permit they must provide \$500 to the town (the slated cost of the landscaping) in cash or check to cover the cost of landscaping and installation.

3. Pursuant to Section 1520.3 the applicant must develop according to the modified north elevation drawing, dated 4/11/19.
4. Pursuant to Section 1520.3 the applicant must adhere to the guidelines for decks and patios stated in “Design Review in Shelburne: Guidelines for the Town of Shelburne Village Design Review Overlay District”, Sections 8-23 to 8-27.

VOTING: unanimous (7-0); motion carried.

SUB15-05R2: Final Plan to relocate a residential driveway at 4188 Shelburne Road in the Mixed Use District and Stormwater Overlay District by Rice Lumber Co., LLC

Mark Sammut recused himself. Dave Marshall appeared on behalf of the application.

Submittals:

- Cover letter prepared by Civil Engineering Associates, received 3/12/19
- Site Plan Review Application, received 3/12/19
- General Information Application, received 3/12/19
- Property Owner Authorization Form, received 3/12/19
- Site Plans, received 3/12/19
- Town of Shelburne Staff Report, dated 4/17/19

STAFF REPORT

The DRB received a written staff report on the application, dated 4/17/19. Ravi Venkataraman said the Fire Department has some concern about the street grades. Staff recommends a Project Review Sheet for storm water be submitted with any zoning permit application.

APPLICANT COMMENTS

Dave Marshall explained the proposal to have a separate driveway to the residential houses from the commercial driveway. NFP1 standards for access will be followed. The 20’ wide driveway will have a flat landing at the intersection. The slope is 9.6% average grade. The space for parked vehicles and the turn area by the driveways have been integrated.

Following discussion the consensus of the Selectboard is to hear testimony from the Fire Department on the accessway.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Final Plan, Relocate Driveway, 4188 Shelburne Road, Rice Lumber Co. (SUB15-05R2)

MOTION by John Day, SECOND by Doug Griswold, to continue the application by Rice Lumber (SUB15-05R2) to May 1, 2019. VOTING: unanimous (6-0); motion carried.

Mark Sammut returned to the DRB.

SUB19-05: Sketch Plan for a 15 lot subdivision at 428 Webster Road in the Residential District and Stormwater Overlay District by Sterling Land Co., LLC

Andy Rowe with Lamoureux & Dickinson, Bart Frisbie and Collen Frisbie with Sterling Land Co. appeared on behalf of the application.

Submittals:

- Cover letter prepared by Lamoureux & Dickinson Consulting Engineers, Inc., received 3/26/19
- General Application Form, received 3/26/19
- Sketch Plan Review Application, received 3/26/19
- Sketch Plan (Sheet #1), received 3/26/19
- Town of Shelburne Staff Report, dated 4/17/19

STAFF REPORT

The DRB received a written staff report on the application, dated 4/17/19. Ravi Venkataraman said the proposal is a major subdivision and the appropriate density for the zone. The applicant is proposing a path on at least one side of the road and along Acorn Lane. The path will connect to the path on Webster Road. Staff is recommending a traffic impact study be submitted at Preliminary Plan review. Open space would be a good addition to the proposal. The DRB has discretion in requiring open space. Staff has no issues with the layout of the proposed development.

APPLICANT COMMENTS

Andy Rowe reviewed the proposal for 15 lots on the 8.7 acre parcel in the Residential Zone on Webster Road. Twelve lots will be 20,000 s.f. for single family houses and three lots will be 30,000 s.f. for duplexes. Lots 13 and 14 will share a driveway off Webster Road. Lot 15 will have a driveway off Acorn Lane. The driveways to the remaining lots will be off the new street in the development. Lot 9 lacks 100' of frontage on the new street, but has over 100' of frontage on Acorn Lane. The driveway for Lot 9 can be relocated if the DRB wants this. The access to Lot 5 will be in a 30' wide easement. Lot 4 has reduced frontage and is on a curve so relief is being requested.

Jeff Pauza expressed concern about adding driveways off Webster Road. It was pointed out the sight distance is very good by the site and there are other driveways onto Webster Road. Jeff Pauza asked if the existing structures will be removed. Andy Rowe said the structures will be removed.

Doug Griswold asked if the road will be curbed. Andy Rowe said Paul Goodrich wants a 28' wide, uncurbed road with closed drainage.

Anne Bentley asked about the sidewalk crossing Webster Road. Andy Rowe said there will be a painted sidewalk and pedestrian signs. Ravi Venkataraman said there is a crosswalk on Acorn Lane so the infrastructure is in place.

PUBLIC COMMENT

Gail Albert asked if the house built in the 1800's will be reviewed by the Shelburne Historic Preservation & Design Review Committee. Ravi Venkataraman said the DRB can request comments from SHP&DRC. The house dates back to the 1840's. Other structures are from the 1900's. Gail Albert said Shelburne Natural Resources Committee should review the project.

Nic Low, neighbor, read a list of questions/concerns covering the following:

- Pond or dam installed – Andy Rowe said town and state storm water requirements will be met. Grass swales and central features and detention will be installed, but not necessarily a pond. There could be a graveled wetland. The feature will be on the westerly portion of the property located within an easement area.
- Historic structure having historic value and should be preserved.
- Traffic study including pedestrian activity should be done.
- Impact on the habitat area on the raw land stretching to Spear Street.
- A formal landscape plan should be done.
- The southern and western boundaries of the lots have streams or significant ditches with flowing water so a buffer area is needed.

Tim O'Brien, neighbor, said the proposal is very dense with 18 families living on 8.6 acres of land. There will not be any open space. The site is wet year-round with lots of wildlife habitat. Webster Road is not the safest place for a walkway. Cars are moving quickly by Gardenside.

Ann Clark, 521 Webster Road, urged dealing with the historic nature of the 1840 house. Little has been done in Shelburne to preserve historic properties. There is concern about traffic, the frontage of properties facing Webster Road, and the deer run from Webster Road to the Haddock property.

Kim Stevens, 97 Gardenside, said the area is very wet so there should be a plan for managing water and making the development more attractive to abutting properties.

David Webster, Webster Road, expressed concern about the orientation of the structures on lots bordering Webster Road. Most houses orient the front of the house on Webster Road. The historic house is one of three Greek revival houses on the south side of Webster Road. There are a total of eight historic houses on the road, one from the 18th Century and the rest from the 19th Century. The house is part of the fabric of Webster Road. It will be a shame to remove it.

Jeff Pauza asked if the house structure is beyond repair. Bart Frisbie said the house is in rough shape. The roof leaks and the foundation is crumbling. The floor sags. Raccoons

are living in the basement. The house is moving in multiple directions. At this point the house is not worthy of repair.

The DRB noted the following issues with the application:

- Collection basin on a specific lot rather than open space is a detriment to the lot and lot owner.
- More information is needed on the proposed drainage system.
- Landscaping on the perimeter to protect existing surrounding residents.
- View of the development from Webster road.
- Houses facing Webster Road.
- Keep houses and clearing out of wildlife corridors and defined deer paths.
- There should be sidewalk.
- Landscape trees planted along Webster Road and Acorn Lane should be shown on the site plan.
- Structured crosswalk is needed at the intersection of Webster Road and the new street.

DELIBERATION/DECISION

Sketch Plan, Subdivision, 15 Lots, 428 Webster Road, Sterling Land Co. (SUB19-05)

MOTION by Jeff Pauza, SECOND by Doug Griswold, to finalize the record and close the hearing on the Sketch Plan for a 15 lot subdivision at 428 Webster Road by Sterling Land Co. (SUB19-05). VOTING: unanimous (7-0); motion carried.

The DRB will deliberate the application and document the issues.

6. OTHER BUSINESS/CORRESPONDENCE

CU19-05\SP19-04

Ravi Venkataraman said Suzan White has withdrawn the application for 5779 Dorset Street.

Historic Houses

David Hillman said at some point the DRB should discuss whether to be involved with historic houses in Shelburne.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by John Day, SECOND by Doug Griswold, to adjourn the meeting. VOTING: unanimous (7-0); motion carried.

The meeting was adjourned at 8:25 PM.

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