

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**

**July 21, 2021**

**\*Hybrid Meeting held in-person and by teleconference.**

**MEMBERS PRESENT:** Mark Sammut (Chair); Mike Major, Anne Bentley, David Hillman, John Day. (Zeke Plant and Allyson Myers were absent.)

**STAFF PRESENT:** Ken Belliveau, Interim DRB Coordinator.

**OTHERS PRESENT:** Dave Marshall, Gail Albert, David Shenk, Bryan Currier, Chris Bissonette, James Bissonette, Cathie Buscaglia, Michael Bissonette, Charlie and Corrine Bissonette, Jon Pizzagalli, Matt Chandler, Diane Chandler, David Nyquist, David Abbott, Sean MacFaden, Don Rendall, Fred Morgan, Brett Leonard, Media Factory (Wendy).

**AGENDA:**

1. Call to Order and Agenda
2. Approval of Minutes (7/7/21)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
  - Sketch Plan, Subdivision, Two Lots, 1 Nashville Road, Laurie and Mark Kotorman (SUB19-03R1)
  - Final Plan, Re-Subdivision, Two Lots, 4788 Spear Street, David Farrington (SUB17-04R1)
  - Final Plan, Mixed Use PUD Subdivision, Two Lots, 2659 & 2689 Shelburne Road, Shenk Enterprises, LLC (SUB11-02R1\CU20-06\SP19-01R1)
  - Sketch Plan, Mixed Use PUD, 4309 and 4385 Shelburne Road, Shenk Enterprises, LLC (SUB21-01, FBZ21-01, BLA21-03)
6. Other Business
7. Adjournment

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**1. CALL TO ORDER and AGENDA**

Chair, Mark Sammut, called the hybrid in-person and teleconference meeting to order at 7 PM.

**2. MINUTES**

*July 7, 2021*

**MOTION by Mark Sammut, SECOND by John Day, to defer action on the 7/7/21 minutes to the end of the agenda when a quorum of those present at the 7/7/21 meeting may be in attendance. VOTING by rollcall: unanimous (4-0); motion carried.**

Action taken on the minutes after the application hearings:

**MOTION by Mike Major, SECOND by John Day, to approve the 7/7/21 minutes as presented. VOTING by rollcall: 4 ayes, one abstention (David Hillman); motion carried.**

### 3. PUBLIC COMMENTS

None.

### 4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

David Hillman announced he will recuse himself from the Farrington application hearing.

Those participating in the meeting were asked if anyone had any concerns about the participation of any DRB member in any matter on the agenda. No concerns were raised.

### 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.

**SUB19-03R1: Sketch Plan for a two lot subdivision with an existing mobile home park on Lot 1 and a two-family dwelling unit on Lot 2 at 1 Nashville Road in the Residential District, Stormwater Overlay District, and a portion in the Watercourse Overlay District by Laurie and Mark Kotorman**

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

Gail Albert, Shelburne Natural Resources Committee (SNRCC), mentioned members of SNRCC are in attendance and would like to speak on the Kotoman application.

### STAFF REPORT

The DRB received a written staff report on the application, dated 7/21/21. Ken Belliveau reported the applicant received Sketch Plan approval for the two lot subdivision in 2019, but failed to file the Preliminary Plan application within the prescribed timeframe so the proposal is still at Sketch Plan review. The only change to the proposal is a duplex unit rather than a single family home is proposed to be built. Conditional Use and Site Plan approval is needed for the mobile home park. The DRB needs to assure that nonconformity is not being created within the subdivision. Staff suggested the proposal be deemed a Major Subdivision so there is Preliminary Plan review. Emails were received from an abutting property owner and the home owners association to the south of the applicant's property.

### APPLICANT COMMENTS

Dave Marshall confirmed the application is a resubmission of the prior Sketch Plan except a duplex rather than a single family dwelling is proposed. The applicant is addressing mitigation of the impact on the viewshed and will do a landscape plan. A 30' wide easement is proposed to access the lot from the mobile home park. There is still room for the mobile home park to expand. The subdivision will rely on the mobile home park infrastructure for sewer and water access. There is buffering to Monroe Brook due

to the location of the building envelope. There are no additional stream crossings from the original plan.

#### PUBLIC COMMENT

Matt Chandler, Kelady Drive Home owners Association, said the applicant is welcome to join the HOA and have access to their property from Kelady Drive, but the HOA rules must be followed. Concerns of the HOA include noise, visual corridor, and debris in the trailer park. These concerns were expressed during the site visit by the DRB a year ago. Following negotiation between the HOA and the mobile home park and to alleviate the concerns of noise, debris, and view of the trailer park, a stockade fence is being installed between the trailer park and Kelady Drive, but the way the proposed duplex is accessed through the trailer park will open up the view of the park to Kelady Drive.

Gail Albert, SNRCC, noted Monroe Brook is an endangered brook (MS-4 permit) and the driveway will add impervious surface. Controlled cutting of forest land on the site is requested. Dave Marshall assured the number of trees to be removed will be minimized.

Sean MacFaden, SNRCC, suggested the amount of lawn area be minimized and as much natural vegetation as possible be maintained to lessen the impact on Monroe Brook.

Don Rendall, SNRCC, urged minimizing impact on the forested area as much as possible.

There was discussion of the driveway coming off Kelady Drive and the requirement to join the HOA and follow HOA rules which the applicant is not desiring to do. Laurie Kotoman said they had been a member of the HOA for the past 20 years, but did not support the rule changes that were made and left the association. The ability to change the rules is unsettling which is why the decision was made not to have access from Kelady Drive and join the HOA. David Hillman opined there will be less impact to the environment and a nice neighborhood created by accessing the lot from Kelady Drive.

#### DELIBERATION/DECISION

Sketch Plan, Subdivision, Two Lots, 1 Nashville Road, Kotorman (SUB19-03R1)

**MOTION by Mark Sammut, SECOND by John Day, to classify SUB19-03R1 as a Major Subdivision. VOTING by rollcall: unanimous (5-0); motion carried.**

**MOTION by Mark Sammut, SECOND by John Day, to finalize the record and close the hearing for SUB19-03R1 for a two lot subdivision at 1 Nashville Road by Laurie and Mark Kotoman. VOTING by rollcall: unanimous (5-0); motion carried.**

The DRB will deliberate at a future time.

**SUB17-04R1: Final Plan for re-subdivision of a portion of Lot 2 into two new lots (Lot 5 and Lot 6) with the remaining portion of Lot 2 incorporated into Lot 4 at 4788 Spear Street in the Residential District, Stormwater Overlay District, and a portion in the Watercourse Overlay District by David Farrington**

Dave Marshall, CEA, and Dave Farrington appeared on behalf of the application. David Hillman recused himself from the hearing and left the meeting.

#### STAFF REPORT

The DRB received a written staff report on the application, dated 7/21/21. Ken Belliveau stated there are no outstanding issues with the proposal. An email from Persis Worrall was received requesting the conditions of approval carry forward as drafted.

#### APPLICANT COMMENTS

Dave Marshall said there is no modification to any findings from the DRB. Dave Farrington added no change to the original conditions is requested.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Final Plan, Re-Subdivision, Two Lots, 4788 Spear Street, Farrington (SUB17-04R1)

**MOTION by John Day, SECOND by Mike Major, to approve the Final Plan application for SUB17-04R1 at 4788 Spear Street submitted by David Farrington and prepared by CEA, Inc. for re-subdivision of a portion of existing Lot 2 into two new lots, Lot 5 and Lot 6, and the remaining portion of Lot 2 incorporated into Lot 4 with the following conditions:**

1. The project shall be constructed in conformance with the approved plans.
2. No topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs of that particular subdivision or to meet the requirements of the Shelburne Zoning Bylaws.
3. The plan is approved with the curb cut on Spear Street as proposed.
4. Waiver of the requirement to connect to municipal water and sewer service and waiver of the requirement for a pedestrian easement are granted.

**VOTING by rollcall: unanimous (4-0); motion carried.**

David Hillman returned to the DRB.

**SUB11-02R1: Final Plan for a two lot Mixed Use PUD subdivision with one lot associated with an existing commercial use and the second lot for residential use with an eight unit multi-family building at 2659 & 2689 Shelburne Road in the Mixed Use and Residential Districts, and Stormwater Overlay District by Shenk Enterprises, LLC**

David Shenk and Bryan Currier with O'Leary Burke appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application, dated 7/21/21. Ken Belliveau reported the applicant was not successful in working with the owner of the deli property on the property line issue and felt the town had opportunity to deal with the deli property owner when there was expansion on that property. The applicant was told by the

Planning Department that a subdivision would deal with some of the property line issues and a subdivision proposal was submitted. The applicant did offer a potential solution to the curb cut issue which fulfills Condition #6 in the previous approval.

#### APPLICANT COMMENTS

None.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Final Plan, Two Lot Mixed Use PUD Subdivision, 2659 & 2689 Shelburne Road, Shenk Enterprises, LLC (SUB11-02R1)

**MOTION by Mark Sammut, SECOND by Mike Major, to approve the Final Plat and Plan application for SUB11-02R1 and CU20-06\SP19-01R1 for 2659 & 2689 Shelburne Road by Shenk Enterprises, LLC with the Final Plat submittal plan set prepared by O’Leary-Burke Civil Associates, PLC, date stamped May 14, 2021, and the lighting plan, date stamped June 9, 2021, subject to the following conditions:**

- 1. The mylar for SUB11-02R1 of the Final Plat acceptable to staff shall be recorded in the Shelburne land records within 180 days of the signed approval by the DRB Chair.**
- 2. A zoning permit meeting Shelburne’s zoning regulations and consistent with the approval shall be issued by the Shelburne Planning Department prior to commencing any site work or construction.**
- 3. Prior to commencing construction, a pre-construction meeting will be held between the developer, the project engineer and contractor, and town staff; additional meetings will be held as requested by town staff during construction (e.g., following large storm events.**

**VOTING by rollcall: unanimous (5-0); motion carried.**

**SUB21-01, FBZ21-01, BLA21-03: Sketch Plan for a two-lot subdivision including a .22-acre boundary line adjustment, Lot 1 to be developed as a Mixed Use PUD and Lot 2 to be developed under Form Based Code with a 16-unit community care facility at 4309 and 4385 Shelburne Road in the Mixed Use District, Residential District, and Stormwater Overlay District by Shenk Enterprises, LLC**

David Shenk, Bryan Currier (O’Leary Burke), Cathie Buscaglia (Howard Center), Brett Leonard (Vermont Hockey Academy), Jon Pizzagalli (builder), and members of the Bissonette family appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application, dated 7/21/21. Ken Belliveau advised it needs to be determined whether the applicant can develop a portion of the property under conventional zoning and a portion under Form Based Code. Research of the bylaws did not provide any guidance on the matter so a precedent could be set with approval of the application. Also, staff recommends the street on the south side of the

property be fully developed to the eastern property line. Information was received on the hockey academy operation, the assisted living facility, and traffic counts.

#### APPLICANT COMMENTS

David Shenk stated there are no design changes. VTrans was contacted and had no issue with the concept and use on the property. The request by the Shelburne Fire Chief for hydrants, 24' width alley way and center stall by the hockey rink, and lock boxes on each building will be satisfied. Regarding interconnectivity on the site, what is proposed is felt to be the best use of the land and buildings. A right-of-way from the rink to the campground could be done, but the assisted living facility does not have much parking and a burden should not be put on that property. Also, a loop road would create more impervious surface and would not be a benefit to anyone. Clarity is needed on the right-of-way because the Howard Center facility is under Form Based Code which allows a 40' right of way, but the campground is under conventional zoning which requires a 60' right-of-way. The parcel to be developed under Form Based Code must be traversed to get to the campground parcel. A 50' right-of-way is proposed.

There was discussion of how to handle one proposal for development under both conventional zoning and Form Based Code. Clarity is needed. The matter should be added to the list of items to be addressed with regulatory reform. Bryan Currier said the bylaw states the applicant has a choice to use conventional zoning or Form Based Code, but the process needs to be better defined. The DRB may want to approve the subdivision as a first step and draft a finding saying the 50' right-of-way is adequate for future development of the campground.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Sketch Plan, Mixed Use PUD, 4309 and 4385 Shelburne Road, Shenk Enterprises, LLC (SUB21-01, FBZ21-01, BLA21-03)

**MOTION by John Day, SECOND by Mike Major, to finalize the record and direct staff to prepare a decision to approve the Sketch Plan for SUB21-01\FBZ21-01\BLA21-03 with the following conditions:**

- 1. The applicant shall file an application for Preliminary Plan and Plat approval within six months of the date of the approval meeting all applicable sections of the Shelburne Zoning Bylaws, the Shelburne Subdivision Regulations, and the Shelburne Road Form Based Overlay District as applicable to each portion of the proposed development or this authorization shall expire.**
- 2. The applicant shall submit a copy of the Section 111 Permit from the Vermont Agency of Transportation (VTrans) or a letter from VTrans stating the project is exempt for the two points of access for lots 1 and 2 from Shelburne Road.**

3. The applicant shall provide letters from the applicable town departments and agencies with comments and concerns regarding the proposed development.
4. The Preliminary Plan and Plat application shall depict the details of all the development on the subject property including the full development of any proposed buildings, roads, sidewalks, parking areas, and landscaping.

**VOTING by rollcall: unanimous (5-0); motion carried.**

**6. OTHER BUSINESS/CORRESPONDENCE**

*Next DRB Meeting*

August 18, 2021 is the next DRB meeting.

**7. ADJOURNMENT**

**MOTION by Mark Sammut, SECOND by Anne Bentley, to adjourn the meeting.**

**VOTING by rollcall: unanimous (5-0); motion carried.**

The meeting was adjourned at 9:04 PM.

*RScty by tape: MERiordan*