

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 7, 2021

***Meeting held by teleconference.**

MEMBERS PRESENT: Mark Sammut (Chair); David Hillman, Mike Major, Anne Bentley, Allyson Myers, Zeke Plante. (John Day was absent.)

STAFF PRESENT: Dean Pierce, Planning Director; Dan Albrecht, Acting DRB Coordinator.

OTHERS PRESENT: Chris Galipeau, Gail Albert, Sarah Leduc, Bonnie Schumacher, Jed Graef, Peter Ewing, Brian Hehir, John Winston, team members from Bread & Butter Farm, Al Karnatz, The Saunders, Corie Pierson, William Forsyth.

AGENDA:

1. Call to Order and Agenda
2. Approval of Minutes (3/17/21)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Final Plan, Residential PUD, Three Home Sites, 33 Thomas Road, Three Jewels, LLC (SUB19-04)
 - Amendment to PUD, Add 3.11 Acres, 480 Thomas Road, Vermont Zen Center, Inc. (SUB09-02R1)
 - Amendment to PUD, Merge Two Building Sites, 300 Cheesefactory Lane, Peter Ewing (SUB18-01R1)
 - Boundary Line Adjustment, 1503 & 1507 Irish Hill Road, Hergenrother and Forsyth (BLA21-01)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

Chair, Mark Sammut, called the teleconference meeting to order at 7 PM, held rollcall, and explained the procedure to be followed.

2. MINUTES

March 17, 2021

MOTION by Mark Sammut, SECOND by Mike Major, to defer approval of the 3/17/21 minutes to the April 21, 2021 meeting. VOTING by rollcall: unanimous (6-0); motion carried.

3. PUBLIC COMMENTS

There were no comments at this time from the public.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

There were no announcements of potential conflicts of interest. 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.

The following two applications were reviewed simultaneously by the DRB:

SUB19-04: Final Plan for a PUD creating three homesites with open space area and transferring 3.11 acres to the adjoining PUD at 33 Thomas Road in the Rural District and Floodplain and Watercourse Overlay District by Three Jewels, LLC

SUB09-02R1: Amendment to PUD to add 3.11 acres to the adjoining property at 480 Thomas Road in the Rural District and Floodplain and Watercourse Overlay District by Vermont Zen Center, Inc.

Chris Galipeau, CEA, and Jed Graef, Vermont Zen Center, appeared on behalf of the applications.

STAFF REPORTS

The DRB received written staff reports on the applications, dated 4/7/21. Dean Pierce explained the joint hearing for two applications on Thomas Road (separate staff reports and separate approvals) and the staff recommendation to discuss the proposed road name into the PUD, lighting, and the fire pond.

APPLICANT COMMENTS

Chris Galipeau stated after meeting with the Fire Department on the site the Fire Department agreed the width of the driveway at 14' is acceptable provided there is a turnaround at each "Y" intersection (there is a third turnaround by the last house). The fire pond is not required at this time, but an area for a fire pond in the future has been identified. The Fire Department is looking at areas in town for centralized fire ponds. The suggested name for the new road is "Clover Field Lane". Regarding street trees, the applicant prefers not adding street trees to the area and will only clear out vegetation as needed.

Regarding the application for the land transfer (SUB09-02R1), Areas A & B will be transferred to Vermont Zen Center and merged with Lot 2.

PUBLIC COMMENT

John Winston, neighbor, said negotiations are ongoing with the applicant on the location of the septic on the property. Chris Galipeau said test pits were done and the system was designed and located where the best soils were found. John Winston asked if the land being transferred is still subject to the open space agreement. Chris Galipeau said the parcels are not part of the open space agreement. Dean Pierce added if there is any development the Zen Center would have to amend the PUD and get approval by the DRB.

Jed Graef, Vermont Zen Center, said he is willing to try to mitigate any view issues with the septic system, and with the land transfer, Parcel A will be the garden and fruit tree space and Parcel B will be for the retreat cabin.

Gail Albert, Shelburne Natural Resources Committee, said the committee wanted to be sure the septic is not located in the conserved portion of the property. It was confirmed the septic is located on non-conserved land.

DELIBERATION/DECISION

Final Plan, Residential PUD, Three Home Sites, 33 Thomas Road, Three Jewels, LLC (SUB19-04)

MOTION by Mark Sammut, SECOND by Anne Bentley, to approve the waiver request to allow a 14' road width for the new driveway extension for the three new house lots and a 12' width for the existing 580' driveway to Thomas Road and two pull-offs/turnarounds at the two "Y" intersections. VOTING by rollcall: unanimous (6-0); motion carried.

MOTION by Mark Sammut, SECOND by Mike Major, to approve the waiver request as drafted to comply with Shelburne Subdivision Regulations, Article VIII: Planning Standards, 810 Site Preservation, Landscaping and Grading and Excavation, notably the requirement in item 4, Landscaping, stating "suitable hardwood shade trees shall be planted along both sides of streets or private ways where there are or otherwise would be no trees in a manner consistent with the Shelburne Tree Policy". VOTING by rollcall: unanimous (6-0); motion carried.

MOTION by Mark Sammut, SECOND by Anne Bentley, to approve the waiver request to comply with Shelburne Subdivision Regulations, Article IX: Development Requirement and Design Standards, 900 Streets, notably the requirement "Unless waived by the Development Review Board, paved access for emergency vehicles shall be provided to within 100' of a principal entry for multi-family dwellings and commercial, industrial, and institutional establishments. All streets and roads shall be constructed to meet Shelburne Public Works Specifications. Streets and roads shall be paved unless this requirement is specifically waived by the Development Review Board upon determination that paving is not justified." VOTING by rollcall: unanimous (6-0); motion carried.

MOTION by Anne Bentley, SECOND by Mark Sammut, to finalize the record and close the hearing for the Final Plan application, SUB19-04. VOTING by rollcall: unanimous (6-0); motion carried.

MOTION by Anne Bentley, SECOND by Mike Major, to direct staff to prepare a decision to indicate approval of the Final Plan application, SUB19-04, submitted by Three Jewels, LLC, and prepared by Civil Engineering Associates, Inc., with the following conditions:

1. The project must be implemented consistent with the approved plans except where modified to address conditions.
2. The applicant must furnish a mylar for the Final Plat for signature by the DRB Chair, and the plat must be recorded in the Shelburne land records within 180 days of the signed approval of the decision pursuant to the Shelburne Subdivision Regulations, Section 1050.
3. Review of legal documents must be completed prior to the recording of the Final Plat, and review by the Town Attorney will occur pursuant to the Shelburne Subdivision Regulations, Section 610(12).
4. Sewage disposal facilities shall be designed and installed in accordance with all applicable local and state regulations and standards.
5. The applicant shall regularly maintain all stormwater treatment systems.
6. The property will have to retain the space as depicted on Sheet C1.1, dated 4/19/19, as a potential area for a fire pond in the future.

VOTING by rollcall: unanimous (6-0); motion carried.

Amendment to PUD, Add 3.11 Acres, 480 Thomas Road, Vermont Zen Center, Inc. (SUB09-02R1)

MOTION by Mike Major, SECOND by Anne Bentley, to finalize the record, close the hearing, and direct staff to prepare a decision approving the Final Plan amendment, SUB09-02R1, submitted by Vermont Zen Center, Inc. and prepared by CEA, Inc. with the following conditions:

1. The applicant must furnish a mylar for the Final Plat for signature by the DRB Chair and the plat must be recorded in the Shelburne land records within 180 days of the signed approval of the decision pursuant to Shelburne Subdivision Regulations, Section 1050.
2. The approval shall not have the effect of modifying any underlying legal documents approved as part of the original PUD approval, and if changes are to be made to legal documents approved as part of the original PUD approval, the changes shall be reviewed by the Town Attorney pursuant to the Shelburne Subdivision Regulations, Section 610(12).
3. Prior to any land development on non-conserved land in the amended PUD including land transferred from the Three Jewels property, the applicant shall return to the DRB to demonstrate continued compliance with the density requirements of Section 330.1 and the open space requirements of Section 1930.3(c)(4).
4. All other prior conditions of approval not affected by this decision shall remain in effect.

VOTING by rollcall: unanimous (6-0); motion carried.

SUB18-01R1: Amendment to the PUD to merge two approved residential building sites and the new building site with the five acre building envelope will be located on Parcel C previously designated for conservation at 300 Cheesefactory Lane in the Rural District, Conservation District, and Floodplain and Watercourse Overlay District by Peter Ewing

Peter Ewing and attorney, Brian Hehir, appeared on behalf of the application.

STAFF REPORT

The DRB received a written staff report on the application, dated 4/7/21.

APPLICANT COMMENTS

Peter Ewing stated the revisions to the PUD are minor. No new lots are being created. Lots 4 & 5 are being combined and the house is being moved to the farm parcel. Sprinklers will be installed so there is no need for a fire pond. The road is being moved 60'. There was discussion of amending the open space agreement to allow farming on the property. The land is not a natural area or a town park. The houses will be located in the wooded area, not in the open field, so there is a buffer from a working farm operation and to avoid the easement to The Nature Conservancy land.

Mark Sammut suggested the applicant finalize the homeowners association documents and submit them to the DRB for review.

PUBLIC COMMENT

The Saunders, neighbors to the development, asked for clarification on the land holdings, specifically the farm parcel, Lot C (94.5 acres), and expressed concern the covenants are not strong enough to ensure the conservation easement remains open land if there is a change in the owner of the 40 acres. Peter Ewing said the 45-acre parcel will remain as one parcel with one owner. The parcel will be put on the market. The 50-acre part of Lot C was sold to The Nature Conservancy (only 38.8 acres are in Shelburne). Attorney Hehir added future subdivision of lots will not be allowed. Agricultural use is allowed. There are 38 acres deeded to The Nature Conservancy so the deed restrictions are met and there are no grounds to impose the town's open space agreement. The application is for a minor driveway relocation, combining lots 4 & 5 with one house on the two lots combined, and locating one house on the non-agricultural part of the 45-acre parcel.

Mark Sammut confirmed the applicant's position is that the acres turned over to The Nature Conservancy fulfill the open space requirement for the PUD. The applicant was again urged to finalize the documents with consideration of the comments heard.

Team members from the Bread & Butter Farm spoke against moving the house site due to the adverse impact on conservation of the area. A statement will be submitted to the DRB. Peter Ewing said the intention is to prevent the property from further subdivision and to meet the town's requirements.

Corie Pierson, owner of Bread & Butter Farm, said the farm had a desire for the land and to continue the agricultural use, but the situation was complicated. The road across the ledge is a massive change.

Al Karnatz, Vermont Land Trust, said Vermont Land Trust would be interested in working with the Ewing Family if there is a role for the organization.

Amendment to PUD, Merge Two Building Sites, 300 Cheeseactory Lane, Peter Ewing (SUB18-01R1)

MOTION by Mark Sammut, SECOND by Anne Bentley, to continue SUB18-01R1 until April 21, 2021 pending additional information from the applicant. VOTING by rollcall: unanimous (6-0); motion carried.

BLA21-01: Boundary Line Adjustment resulting in an equal transfer of land between two parcels at 1503 and 1507 Irish Hill Road in the Rural Zoning District and Stormwater Overlay District by Adam Hergenrother and William Forsyth
William Forsyth appeared on behalf of the application.

STAFF REPORT

The DRB received a staff report on the application, dated 4/7/21.

APPLICANT COMMENTS

Bill Forsyth explained a third acre of land will be swapped between the two parcels. Each parcel will retain exactly the same acreage as before the swap.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Boundary Line Adjustment, 1503 and 1507 Irish Hill Road, Hergenrother and Forsyth (BLA21-01)

MOTION by Mark Sammut, SECOND by Anne Bentley, to finalize the record, close the hearing, and approve the proposed written decision for BLA21-01. VOTING by rollcall: unanimous (6-0); motion carried.

6. OTHER BUSINESS/CORRESPONDENCE

Decision Signing Procedures

Following discussion, the DRB concurred with either signing decisions via GoogleDocs or having the Chair sign on behalf of the DRB.

Doug Griswold Concerns

Discussion deferred to the next meeting when the full board is present.

Application Protocols

Discussion deferred to the next meeting when the full board is present.

Administrative Site Plan Approvals

Staff will send the DRB the administrative approval for Atlas Gunworks on North Shore Drive.

Procedure for Requesting a Site Visit

Dean Pierce said the DRB can schedule a site visit as desired. There was discussion of doing a site visit on the Ewing property. Staff will arrange a visit prior to the next DRB meeting contingent on approval from the landowner.

7. ADJOURNMENT

MOTION by Mark Sammut, SECOND by Mike Major, to adjourn the meeting.

VOTING by rollcall: unanimous (6-0); motion carried.

The meeting was adjourned at 9:09 PM.

RScty by tape: MERiordan