

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
May 6, 2020**

***Meeting held by teleconference.**

MEMBERS PRESENT: David Hillman (Chair); Mark Sammut, Mike Major, Doug Griswold, John Day, Anne Bentley. (Robert “Zeke” Plante was absent.)

STAFF PRESENT: Britney Aube, DRB Coordinator; Lee Krohn, Town Manager.

OTHERS PRESENT: Barbara and Jack Morrish, Jerker Taudien, Georgina Gruber, Elizabeth Rich Whalley, Russell Fox, Dave Marshall, Benjamin Heath, Andy Rowe, Bart Frisbie, Julie Tyler, Dale and Jerilyn Berghahl, Gail Albert, Lee Suskin, Eliot Lothrop, Chris Burke, Allyson Myers.

AGENDA:

1. Call to Order and Agenda
2. Public Comment
3. Approval of Minutes (4/22/20)
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Design Review, Replace Attached Shed with Additions, 954 Falls Road, Morrish Family Trust (DR20-03)
 - Design Review, Single Family House fronting Tracy Lane, 193 Harbor Road, Taudien (DR20-04)
 - Preliminary Plan, PUD, Nine Lots, 1348 Irish Hill Road, Elizabeth Whalley (SUB18-03R1)
 - Conditional Use\Site Plan, Two Retaining Walls, 4650 Harbor Road, Lake Champlain Transportation Co. (CU16-01R2 & SP19-13R1)
 - Conditional Use, Historic Barn Restoration, 3689 Shelburne Road, Building Heritage (CU20-02)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

Chair, David Hillman, called the teleconference meeting to order at 7 PM and explained the procedure to be followed.

2. PUBLIC COMMENTS

There were no comments at this time from the public.

3. MINUTES

April 22, 2020

MOTION by John Day, SECOND by Doug Griswold, to approve the minutes of 4/22/20 as presented. VOTING by roll call: unanimous (6-0); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

David Hillman said he will recuse himself from the discussion of the letter from Bob Bouchard regarding the Rice Lumber PUD under ‘Other Business’.

John Day said he is a customer of Shelburne Shipyard, but does not have any dealings with LCT (Lake Champlain Transportation Co.).

Doug Griswold said he is a friend of Betsy Rich (Whalley application), but this will not impact his review of the application.

Chairman Hillman asked those present 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.

DR20-03: Design Review to remove an attached shed-style structure and replace it with a 22’x 18’ addition plus a 12’x 9’ kitchen addition at 954 Falls Road in the Shelburne Falls Mixed Use District, Village Design Review Overlay District, and Stormwater Overlay District by Morrish Family Trust

Jack and Barbara Morrish appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Photographs of house
- Existing and proposed site plans
- Proposed elevations
- Specifications for proposed windows and sliding French door
- Town of Shelburne Staff Report, dated 3/18/20

STAFF REPORT

The DRB received a written staff report on the application, dated 3/18/20. Brittany Aube said Shelburne Historic Preservation & Design Review Committee recommended approval of the application as submitted.

APPLICANT COMMENTS

Jack and Barbara Morrish gave an overview of the project to demolish the structure at the rear of the house and replace with a 22’x 18’ addition and a 12’x 9’ kitchen addition. The new structures will not change the nature of the existing structure and the clapboard, paint, shingles, and windows will be matched as close as possible.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Design Review, Replace Attached Shed with Additions, 954 Falls Road, Morrish Family Trust (DR20-03)

MOTION by Mark Sammut, SECOND by John Day, to grant design review approval of DR20-03 by Jack and Barbara Morrish to demolish an attached shed structure and replace with a 22'x 18' addition on nearly the same footprint plus a 12'x 9' kitchen addition at 954 Falls with the condition a zoning permit shall be required prior to the start of construction. VOTING by roll call: unanimous (6-0); motion carried.

DR20-04: Design Review for a two lot residential subdivision and a single family house on the newly created lot at 193 Harbor Road (new lot fronting Tracy Lane) located in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Jerker and Rebecca Taudien

Andy Rowe with Lamoureux & Dickinson and Jerker Taudien appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Project narrative
- Site plan
- Floor plans
- Elevations
- Materials listing and spec/catalog sheets
- Town of Shelburne Staff Report, dated 3/18/20

STAFF REPORT

The DRB received a written staff report on the application, dated 3/18/20. Brittany Aube said the Shelburne Historic Preservation & Design Review Committee recommended approval as submitted.

APPLICANT COMMENTS

Andy Rowe reviewed the plans (style and materials) for a single family house on the southerly parcel at 193 Harbor Road with access to be off Tracy Lane. The survey of the property showed the house location meets all setbacks.

PUBLIC COMMENT

Lee Suskin, Harbor Road, asked if the plan will address the existing house fronting Harbor Road which is an eyesore. John Day pointed out the application before the DRB is for design review of the new house to be built. The applicant must receive subdivision

approval before proceeding with construction. The subdivision review will take place at the May 20, 2020 DRB meeting.

There were no further comments.

DELIBERATION/DECISION

Design Review, Single Family House fronting Tracy Lane, 193 Harbor Road, Taudien (DR20-04)

MOTION by Mike Major, SECOND by John Day, to grant design review approval of DR20-04 by Jerker and Rebecca Taudien for construction of a single family house at 193 Harbor Road on the newly created lot fronting Tracy Lane with the following conditions:

- 1. The applicant must receive subdivision approval from the DRB for the two lot subdivision prior to applying for a zoning permit.**
- 2. A zoning permit shall be required prior to the start of construction.**

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

SUB18-03R1: Preliminary Plan for a nine lot residential PUD subdivision at 1348 Irish Hill Road in the Rural District & Stormwater Overlay District by Elizabeth Whalley

Dave Marshal with Civil Engineering Associates and Betsy Rich Whalley appeared on behalf of the application.

Submittals:

- Site plans (pre-application conference)
- Cover letter prepared by Civil Engineering Associates, received 10/11/19
- Sketch Plan Review Application, received 10/11/19
- General Application Form, received 10/11/19
- Attachments, received 10/11/19
- DRB minutes from May 4, 2016 meeting, received 10/11/19
- Site plans, received 10/11/19
- Attachment maps, received 10/11/19
- Staff Report for the 11/20/19 DRB meeting
- Cover letter prepared by Civil Engineering Associates, received 2/18/20
- Preliminary Plan Review Application, received 2/18/20
- Site Plan Review Application (completed criteria only), received 2/18/20
- General Application Form, received 2/18/20
- Attachments, received 2/18/20
- VT ANR Atlas Map of Habitat Blocks
- Natural Heritage & Biological Natural Areas Map
- VT ANR Atlas Rare & Endangered Species Map
- Wildlife Habitat & Associated Resources Map
- Site plans, received 10/11/19
- Draft Open Space Agreement
- Draft warranty deeds

- Stormwater Permitting Application with applicable attachments
- List of abutters
- Site plans and details
- Comments from municipal departments
- Town of Shelburne Staff Report, dated 3/18/20

STAFF REPORT

The DRB received a written staff report on the application, dated 3/18/20. Brittany Aube advised the DRB should ask if blasting will occur with the development.

APPLICANT COMMENTS

Dave Marshall reviewed features on the 87.32-acre parcel at 1348 Irish Hill Road such as wetlands, ledges, steep slopes. The density allowed on the site is 14 units. The proposal is for nine units. A community mound on-site septic system will serve five houses. Lots 2 and 3 will share a two-lot septic system. Each lot will have a well for water with fair to good capacity. There are tree clearing limits with the intent to preserve as many trees as possible. The existing house and horse barn with apartment are on Lot 1. Lots 2, 3, 4, 5, 6, 7, 8, 9 are to be developed. Regarding comment from Shelburne Natural Resources Committee, surrounding subdivisions have fragmented habitat and wildlife corridors. Wildlife species on the lots are of a common type (spring peepers, wood frogs, great treefrogs, American bullfrog). The proposal seeks to have a balance between preserving the area and development. There will be an open space easement agreement with the town. The houses will be located on the edge of the open space or slightly in the woods. The applicant will work with the Fire Dept. on emergency access to each lot. There is a blasting protocol as required and the applicant will work with the neighbors on blasting.

PUBLIC COMMENT

Jerilyn Berghahl, Red Tail Lane, expressed concern about the potential increase in water flow across their property from the second culvert the town wants to install. Dave Marshall pointed out the state and town approved the stormwater management facilities on lots 4, 5, 6. The pond provides peak flow mitigation. The town highway department proposal to increase the capacity of the culvert is to have water go under the road for safety purposes rather than flowing over the road. The culvert can be removed from the plans and the highway department can work out the issue. With the proposed development there are no peak flows greater than existing conditions and the volume of water will be no different regardless of whether there are two culverts or one culvert. There was continued discussion of the impact of the proposed development on stormwater flow onto the Berghahl property. It was noted the highway department proposal is separate from the development, but needs to be acknowledged.

Gail Albert, Shelburne Natural Resources Committee, said there should be covenants or restrictions on further cutting of trees because trees and their root systems work to mitigate stormwater flow. Dave Marshall said the plans are specific regarding tree clearing and the building envelopes. Adding cutting restrictions to the deeds is a legal question.

There were no further comments.

DELIBERATION/DECISION

Preliminary Plan, PUD, Nine Lots, 1348 Irish Hill Road, Whalley (SUB18-03R1)

MOTION by John Day, SECOND by Mark Sammut, to finalize the record, close the hearing, and direct staff to prepare a decision authorizing the applicant, Elizabeth Rich Whalley, to prepare a Final Plan Review Application for SUB18-03R1 for a nine lot Residential PUD at 1348 Irish Hill Road with the following conditions:

- 1. Legal documents for the project consisting of the proposed Open Space Agreement and easement documents for the 10' wide pedestrian easement(s) and the Shelburne Fire Department dry hydrant easement shall be submitted for review, and such documents will require final review and approval by the Town Attorney prior to recording in the Shelburne land records.**
- 2. The applicant shall supply a copy of the Homeowners Association Document or equivalent subdivision covenants that discuss the responsibility of maintenance of all shared utilities (i.e. wastewater lines, pump stations, shared leach fields, shared driveways, etc.) and the proposed legal documents should also reference the “tree retention areas”, and further, such documents should be submitted with the Final Plan Review Application.**
- 3. The applicant shall supply road names for the two shared driveways that will serve three or more units (final approval of road names is granted by the Selectboard).**
- 4. All outdoor lighting shall be installed and comply with the general regulations, Section 1975.2.**

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

CU16-01R2\SP19-13R1: Conditional Use\Site Plan Review for the proposed addition of two retaining walls to be located on the east side of a previously approved shed at 4650 Harbor Road in the Rural District and Lakeshore, Floodplain & Watercourse Overlay Districts by Lake Champlain Transportation Co.

Representative Chris Burke. appeared on behalf of the application.

Submittals:

- Conditional Use Review Application, received 2/21/20
- Site Plan Review Application, received 2/21/20
- Attachments, received 2/21/20
- Town of Shelburne Staff Report, dated 3/18/20

STAFF REPORT

The DRB received a written staff report on the application, dated 3/18/20. Brittany Aube stated Lake Champlain Transportation Co. is adding two retaining walls to the existing patio. The retaining walls will have limited impact because the buildings are existing.

APPLICANT COMMENTS

The representatives from Lake Champlain Transportation Co. stated the intention from the start was to have a walkout/driveout basement on the building. The retaining walls needed to be clearly depicted and that is the purpose of the application before the DRB.

John Day pointed out the retaining walls will not increase the nonconformity of the property and continue the grandfathered use that predates town zoning.

PUBLIC COMMENTS

None.

DELIBERATION/DECISION

Conditional Use\Site Plan Review, Two Retaining Walls, 4650 Harbor Road, Lake Champlain Transportation, Co. (CU16-01R2\SP19-13R1)

MOTION by Mark Sammut, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a decision indicating approval of CU16-01R1 & SP19-13R1 by Lake Champlain Transportation Co. to renovate and expand two nonconforming structures with the condition a zoning permit is required prior to commencing any site work pursuant to Section 2010.1. VOTING by roll call: unanimous (6-0); motion carried.

CU20-02: Conditional Use to restore a nonconforming historic barn partially located in the Special Flood Hazard Area Overlay at 3689 Shelburne Road in the Mixed Use District, Floodplain & Watercourse Overlay District, and Stormwater Overlay District by 3689 Shelburne Road, LLC

Eliot Lothrop appeared on behalf of the application.

Submittals:

- Conditional Use Review Application, received 3/6/20
- Site Plan Review Application, received 2/21/20
- Written response to Article AVII, Section 1830 criteria
- Photographs provided by the applicant documenting existing condition of barn
- South elevation of concrete foundation looking north
- Front wall and framing detail
- Foundation Plan
- 3689 Shelburne Road Site Plan
- VT ANR Atlas Map
- Comments from Rebecca Pfeiffer, VT Floodplain Coordinator
- VT Historic Sites & Survey Form #0414-60
- Email from Devin Coleman, VT Division of Historic Preservation
- Town of Shelburne Staff Report, dated 5/6/20

STAFF REPORT

The DRB received a written staff report on the application, dated 5/6/20. Brittany Aube said the barn is historic and does not need to meet flood hazard zone requirements despite being partially located in a Flood Hazard Area Overlay.

APPLICANT COMMENTS

Eliot Lothrop described the project to restore the historic barn from the foundation up.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Conditional Use, Restore Historic Barn, 3689 Shelburne Road, 3689 Shelburne Road, LLC (CU20-02)

MOTION by John Day, SECOND by Doug Griswold, to finalize the record, close the hearing, and direct staff to prepare a decision indicating approval of CU20-02 to renovate a historic barn located partially in the Special Flood Hazard Zone at 3689 Shelburne Road by Eliot Lothrop of Building Heritage on behalf of 3689 Shelburne Road, LLC with the following conditions:

1. The applicant shall provide dimensions for the proposed floodwater doors to be located in the barn basement prior to applying for a zoning permit.
2. The decision contains a condition that states the basement of the barn may only be utilized for parking vehicles, storage, and building access pursuant to Section 1830.5(J).
3. Silt fencing should be used around the excavation site to prevent sediment from reaching Monroe Brook and disturbed areas should be mulched and seeded upon completion of the excavation activities.
4. No modifications shall be made to the barn that would affect the status of the barn as an “historic structure”.
5. A zoning permit shall be required prior to commencing any site work pursuant to Shelburne Zoning Bylaws, Section 2010.1.

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

6. OTHER BUSINESS/CORRESPONDENCE

Gardenside Sketch Plan Extension Request

MOTION by Mark Sammut, SECOND by John Day, to grant a six-month extension of the Gardenside sketch plan approval that expired on 5/1/20. VOTING by roll call: unanimous (6-0); motion carried.

Review Letter from Robert Bouchard and Discuss Rice Lumber PUD Application Scheduling

David Hillman recused himself and left the meeting. Mark Sammut assumed facilitation of the meeting. Robert Bouchard (Pizzagalli Properties), Ben Heath (Hamlin Engineering representing CLS Holdings, and Lee Krohn (Shelburne Town Manager) participated in the discussion.

Brittany Aube reported inquiries have been received about why the Rice Lumber PUD project is not moving forward. John Day noted the DRB made a decision at the June 17, 2019 meeting that all parts of the PUD development need to be heard concurrently

because of the interaction of the lots with each other (the decision was not appealed), and the DRB wanted each project approval to reference past approvals.

Bob Bouchard, Pizzagalli Properties, said the purpose of the request to move the Healthy Living and Fire Station projects forward is outlined in his letter to the DRB, dated 4/27/20. The projects are ready for review. Presently, some lots in the PUD do not have development proposals.

Ben Heath with Hamlin Engineering and representing CLS Holdings said their project was granted sketch plan approval. The project is separate and self-sufficient from the other lots in the PUD (different landowner, different applicant, different consultants, different project schedule, and different goals). Mr. Heath said he was not made aware of the stipulation the DRB wants to hear all parts of the PUD development project before granting approvals, adding the reason for a PUD is so different development can happen at different times. The decision by the DRB to hear all applications for lots in the Rice Lumber PUD before granting approvals could cause a large piece of land along a major highway in Shelburne to sit idle. The PUD is the master plan for the lots, and it will be impossible for all pieces to come together at the same time. Mr. Heath asked the DRB to reconsider its decision and define where the authority to require permitting different project with different landowners concurrently is stated.

Anne Bentley questioned discussing the Rice Lumber PUD without a public warning of the discussion.

Mark Sammut recalled the 2012 approvals for the PUD discuss how the permitting on individual lots is laid out. The DRB and staff should review these approvals.

Lee Krohn, Shelburne Town Manager, said the prior sketch plan approvals did not specify every other lot in the PUD so prior approvals did not state the concurrent requirement. It is questionable to have the DRB sit on potentially complete applications until all other proposals are in. There are two complete applications waiting for review now, and to require waiting until all other proposals come in for the other lots is unfair and unreasonable. Brittany Aube said as the DRB Coordinator she will decide if the applications are complete at this time, and the decision by the DRB on hearing all proposals for the PUD concurrently could influence the decision.

Mark Sammut suggested aspects that should be under concurrent review, such as utilities, traffic mitigation, landscaping, should be determined and the obstacles to completing the applications identified. Bob Bouchard said the applications for Healthy Living, Fire/Rescue Building, amendment for Shelburne Commons, and subdivision of Lot 6 were complete four weeks ago. Ben Heath said CLS Holdings still has not received letters from department heads that were requested four weeks ago to complete their application. Brittany Aube added input from Shelburne Natural Resources is also pending. Gail Albert, Shelburne Natural Resources, said the environmental decision in 2005 identified environmental areas with rare species which could affect the projects in the PUD.

It was acknowledged the COVID pandemic has impacted operations.

Doug Griswold reiterated the DRB needs to know how the lots will interact so any decision does not devalue any of the lots. Also, any proposal not impacting the PUD needs to be identified.

Dave Marshall, CEA, said the property owner must decide how to develop their parcel under the circumstances at the time of the proposal. The PUD is the umbrella that defines what can be done. The usual practice has been to consider one property proposal at a time.

At the conclusion of the discussion there was agreement to the following:

- Staff will compile a list of items outstanding to the town by the applicants and a list of items outstanding from the town to the applicants.
- The DRB will re-read the 2012 decision and Shelburne Natural Resources minutes pertaining to the Rice Lumber PUD.
- The Rice Lumber PUD applications will be placed on the DRB agenda as soon as possible. The DRB will discuss scheduling at the May 20, 2020 meeting.
- Staff will get a legal opinion on holding special meetings to deliberate procedural issues on complicated applications.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by Mark Sammut, SECOND by Doug Griswold, to adjourn the meeting. VOTING by roll call: unanimous (5-0) [Dave Hillman not present for vote]; motion carried.

The meeting was adjourned at 10:53 PM.

RScty by tape: MERiordan