

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 20, 2020**

**\*Meeting held by teleconference.**

**MEMBERS PRESENT:** Mark Sammut, Mike Major, Doug Griswold, John Day, Anne Bentley, Allyson Myers. (David Hillman and Robert “Zeke” Plante were absent.)

**STAFF PRESENT:** Brittany Aube, DRB Coordinator; David Hall, Shelburne Tree Warden.

**OTHERS PRESENT:** J. Taudien, Benjamin Heath, Andy Rowe, Judith Raven, Michael DiNicola, Eric Denice, Rebecca Padnos, Bob Bouchard, Lisa McCullough, Stephen Wills Padnos, Brian Precourt, Troy Sumner.

**AGENDA:**

1. Call to Order and Agenda
2. Public Comment
3. Approval of Minutes (5/6/20)
4. Disclosures/Potential Conflicts of Interest
5. Applications
  - Design Review, Deck, 165 Marsett Road, DiNicola (DR20-05)
  - Design Review, Fence, 209 Marsett Road, Denice/Wolfson (DR20-06)
  - Design Review, Fence and Window, 6055 Shelburne Road, Comcast Corp. (DR20-07)
  - Final Plan, Subdivision, Three Lots, 157 Maple Leaf Lane, B&R Developers (SUB19-10\FBZ19-02)
  - Sketch Plan, Subdivision, Nine Lots, 537 Thompson Point Road, Griffin (SUB19-11R1)
  - Final Plan, Subdivision, Two Lots, 193 Harbor Road, Taudien/Brittain (SUB19-12)
6. Other Business
7. Adjournment

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**1. CALL TO ORDER and AGENDA**

In the absence of Chair David Hillman, Mark Sammut 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**

*May 6, 2020*

**MOTION by John Day, SECOND by Doug Griswold, to approve the minutes of 5/6/20 with the following amendment:**

- **Item #6, Other Business, Discussion of Letter from Bob Bouchard, Pizzagalli Properties, paragraph beginning “Brittany Aube reported...” – change the date of “June 17, 2019” to “June 19, 2019”.**

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

#### **4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST**

Mike Major announced he will recuse himself for the B&R application at 157 Maple Leaf Lane.

Mark Sammut disclosed his employer is a co-applicant on the Comcast application for 6055 Shelburne Road, but he has no vested interest or financial interest in the application. The DRB felt recusal was not necessary.

Those present at 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.

#### **DR20-05: Design Review to construct a 24’ x 16’ rear deck at 165 Marsett Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Michael DiNicola**

Michael DiNicola appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Photographs of back of house
- Rough sketch of proposed deck
- Materials list
- Town of Shelburne Staff Report, dated 5/20/20

#### **STAFF REPORT**

The DRB received a written staff report on the application, dated 5/20/20.

#### **APPLICANT COMMENTS**

Mike DiNicola reviewed the proposal to add a 24’ x 16’ pressure treated deck and railing to the back of the existing house.

#### **PUBLIC COMMENT**

None.

## DELIBERATION/DECISION

Design Review, Deck, 165 Marsett Road, DiNicola (DR20-05)

**MOTION by Mark Sammut, SECOND by John Day, to grant design review approval for a new 16' x 24' rear deck with either a stainless steel cable or pressure treated railing at 165 Marsett Road by Michael DiNicola with the condition a zoning permit shall be required prior to the start of construction. VOTING by roll call: unanimous (6-0); motion carried.**

**DR20-06: Design Review for a four-foot picket perimeter fence, six-foot rear privacy fence, and rebuild of the rear deck at 209 Marsett Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Eric Denice & Laura Wolfsen**

Eric Denice appeared on behalf of the application.

## Submittals:

- Historic Preservation and Design Review Application
- Photographs of existing deck and fencing
- Photographs of proposed picket and privacy fencing
- Aerial site plan depicting fence locations
- Town of Shelburne Staff Report, dated 5/20/20

## STAFF REPORT

The DRB received a written staff report on the application, dated 5/20/20.

## APPLICANT COMMENTS

Eric Denice explained the proposal to replace the broken chain link fence with a cedar picket fence and privacy fence, and fix the existing deck that is failing.

## PUBLIC COMMENT

None.

## DELIBERATION/DECISION

Design Review, Fence, 209 Marsett Road, Denice/Wolfsen (DR20-06)

**MOTION by Mike Major, SECOND by John Day, to grant design review approval for a four-foot cedar picket perimeter fence, a six-foot wood rear privacy fence, and a 12'x 32' pressure treated deck at 209 Marsett Road by Eric Denice and Laura Wolfsen with the condition a zoning permit shall be required prior to the start of construction. VOTING by roll call: unanimous (6-0); motion carried.**

**DR20-07: Design Review for a vinyl fence around a propane tank and replacement of the front bay window with two double-hung windows at 6055 Shelburne Road in the Village Residential District, Village Design Review Overlay by Comcast Corp.**

No one appeared on behalf of the application during the hearing. Troy Sumner with Wright & Morrissey representing the applicant, Comcast Corp., appeared later in the meeting.

## Submittals:

- Historic Preservation and Design Review Application
- Property site map
- Photographs of house and propane tank
- Photograph and catalog cut sheets of proposed vinyl fencing
- Photograph of proposed façade with window removed
- Town of Shelburne Staff Report, dated 5/20/20

## STAFF REPORT

The DRB received a written staff report on the application, dated 5/20/20.

## APPLICANT COMMENTS

None.

## PUBLIC COMMENT

None.

## DELIBERATION/DECISION

Design Review, Fence and Window, 6055 Shelburne Road, Comcast Corp. (DR20-07)

**MOTION by John Day, SECOND by Mike Major, to grant design review approval for a six-foot high white vinyl fence to be installed around a propane tank and to replace the front bay window with two double-hung windows with shutters to match the windows to the right of the front door at 6055 Shelburne Road by Comcast Corp. with the condition a zoning permit shall be required prior to the start of construction. VOTING by roll call: unanimous (6-0); motion carried.**

**SUB19-10\FBZ19-02: Final Plan for a three lot residential subdivision reviewed under Form Based Code at 157 Maple Leaf Lane in the Mixed Use District, Stormwater Impaired Watershed Overlay District, and Shelburne Road Form Based Overlay District by B&R Developers**

Brian Precourt with B&R Developers and Ben Heath with Hamlin Engineering appeared on behalf of the application. Mike Major recused himself.

## Submittals:

- General Application Form, received 7/10/19
- Sketch Plan Review Application, received 7/10/19
- Sketch Plan, received 7/10/19
- Staff Report prepared for 8/7/19 DRB meeting
- Staff Report prepared for 9/4/19 DRB meeting
- Final Plan Review Application, received 3/13/20
- Stormwater Specifications prepared by Hamlin Engineering
- Shelburne Department Head Review Letter
- Vicinity Map
- Site Plan, Sheet S-1, dated 2/17/20

- Stormwater Plan, Sheet SW-1, dated 2/17/20
- Details, Sheet D-1, dated 2/17/20
- Town of Shelburne Staff Report, dated 5/20/20

#### STAFF REPORT

The DRB received a written staff report on the application, dated 5/20/20. Brittany Aube noted the final plat is needed with the application and stormwater comments need to be addressed. Open space is shown on the site plan, but needs to be labelled.

#### APPLICANT COMMENTS

Brian Precourt stated the open space is per the “private yard/garden space” section of form based code. There is the required percentage. The space will be labelled. The sidewalk as required by the code will have to be built even though that will be the only section of sidewalk in the entire neighborhood because the Planning Commission did not want to change the regulations to allow a waiver or to pay into a sidewalk fund to build sidewalk elsewhere in town. If the Planning Commission moves forward with setting up a sidewalk fund, the site plan will need to be modified to remove the sidewalk shown on the plans. An easement could be granted for a sidewalk in the future. Regarding the planting of street trees, Shelburne Tree Warden, David Hall, indicated where the trees must be planted per the town’s tree policy, but a more logical location would be on the other side of the sidewalk out from under the power lines.

There was continued discussion of the sidewalk and tree requirements per form based code. David Hall, Shelburne Tree Warden, said there are four different regulations on trees in Shelburne including the zoning regulations on street trees for new development, the public works policy that disallows trees planted in the right-of-way, the town tree policy to plant the right trees in the right location, and the town tree management plan. There are ways to plant trees under power lines and make it work, but the tradeoff is high maintenance which is high cost. A developer should not be forced to plant trees that will be high maintenance for the town when there is area farther from the road that would eliminate this. Tree species selection is important (not too tall under power lines and salt tolerate if planted by the road). Brittany Aube mentioned waiving FBC1.5.1.6(b) so trees can be planted on the house side of the sidewalk. The applicant and the Tree Warden agreed with the waiver and urged ensuring the waiver is known to future applicants as well. John Day noted town counsel advised if form based code is used then the code must be applied as written. Staff will investigate the potential for a waiver relative to street trees.

There was discussion of stormwater management. Brian Precourt said the letter from the town was just received and that is why there is no response yet. Mr. Precourt expressed frustration at not receiving communications from the town in a timely manner or at all, noting this is not the first time this has happened with the town and a project in Shelburne. For the current proposal the stormwater management system designed for the site is above what is required and is the only stormwater system on the street. Ben Heath, Hamlin Engineering, gave a brief overview of the stormwater management system for the lot, noting the design meets all town and state rules. The system is a private stormwater

system on private property to be maintained by the property owner. There is question about some of the comments and requests from the town regarding the stormwater system because there are no zoning regulations to support the request, the system is a private system, and the amount of stormwater flow from the site is negligible in light of the size of the watershed.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Final Plan, Subdivision, Three Lots, 157 Maple Leaf Lane, B&R Developers (SUB19-10\FBZ19-02)

**MOTION by Doug Griswold, SECOND by John Day, to continue the Final Plan application by B&R Developers for a three lot subdivision at 157 Maple Leaf Lane until the June 3, 2020 DRB meeting pending further information from the applicant (i.e. final plat, response to stormwater comments, labelling open space on the site plan, update on waiver for trees). VOTING by roll call: unanimous (5-0); motion carried.**

Mike Major returned to the DRB.

**SUB19-11R1: Sketch Plan for a nine lot residential subdivision at 537 Thompson Point Road in the Residential District and the Stormwater Impaired Watershed Overlay District by William and Christine Griffin**

**MOTION by Mark Sammut, SECOND by John Day, to remove SUB19-11R1 from the agenda as the applicant requested the application be withdrawn. VOTING by roll call: unanimous (6-0); motion carried.**

**SUB19-12: Final Plan for a two lot subdivision at 193 Harbor Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Jerker Taudien and Rebecca Brittain**

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

#### Submittals:

- Cover letter prepared by Lamoureux & Dickinson Consulting Engineers, Inc., received 4/22/20
- Final Plan Application, received 4/22/20
- Limited Power of Attorney document, dated 9/18/19
- Limited Power of Attorney documentation (authorizing the applicant to file an application for a subdivision), received 11/18/19
- Conceptual Home Elevation Drawings, received 11/18/19
- Sketch Plan, received 11/18/19
- Staff Report prepared for the 12/18/19 DRB meeting
- Shelburne Department Head comments
- Stormwater Narrative, dated 3/30/20

- State issued Project Review Sheet, dated 5/4/20
- Signed Quitclaim Deed for an easement for the connection of sewer and water through the Brangan parcel
- Stormwater Layout Plan, Sheet ST-1, dated 3/20/20
- Site Plan, Sheet 1, dated 3/13/20
- Erosion Prevention & Sediment Control Plan, Sheet 2, dated 3/13/20
- Sitework Details, Sheet 3, dated 3/3/20
- Preliminary Subdivision Plat, Sheet P-1, dated 3/13/20
- Town of Shelburne Staff Report, dated 5/20/20

#### STAFF REPORT

The DRB received a written staff report on the application, dated 5/20/20.

#### APPLICANT COMMENTS

Andy Rowe reviewed the application to subdivide the 3.2-acre parcel at 193 Harbor Road and construct a house on the newly created Lot 2. There are no impacts to the ditch or Class 3 wetlands. Access and utilities to Lot 2 will be from Tracy Lane. Municipal sewer and water will serve the lot. Shelburne Water Quality Superintendent, Chris Robinson, reviewed the stormwater management plan and had no comments or questions. The front yard setback for Lot 2 was shifted per an angle point to a side yard setback on Tracy Lan. This was worked out in the final survey.

John Day noted staff's position is since 1900 the primary access to the principal structure at 193 Harbor Road has been in the same place and that has not been changed. The road frontage is nonconforming, but the proposal does not increase the nonconformance. Doug Griswold added there are no changes proposed to the abandoned house at 193 Harbor Road and the DRB cannot discuss this house as part of the subdivision application.

#### PUBLIC COMMENT

Judy Raven, Harbor Road, pointed out the condition of the building and surrounding property which is the address of the application (193 Harbor Road) is a blight on the neighborhood and decreases quality of life for the surrounding neighbors who maintain their property to make it welcoming. The house at 193 Harbor Road has been abandoned and the property is not being kept up, and now a new house will be built on the lot (which is good and probably helping the tax base).

Lisa McCullough, neighbor, said the heirs of the property are taking responsible steps toward managing the house which they do not consider 'abandoned'. The house will change with the new resources. The new neighbors on Lot 2 are welcomed into the neighborhood.

Stephen Wills Padnos and Rebecca Padnos, heirs to 193 Harbor Road, said the plan is to sell the house once the subdivision is approved. The subdivision is the first step. The new owner will have to do something with the house. The lot is nice. The process has been longer than anticipated.

## DELIBERATION/DECISION

Final Plan, Subdivision, Two Lot, 193 Harbor Road, Taudien/Brittain (SUB19-12)

**MOTION by John Day, SECOND by Doug Griswold, to finalize the record, close the hearing and direct staff to prepare a decision approving application, SUB19-12, for a two lot subdivision at 193 Harbor Road by J. Taudien and Rebecca Brittain with the following conditions:**

- 1. The applicant must furnish a mylar of 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. All legal documents must be submitted at the time of the final plat to be reviewed by the Town Attorney as needed pursuant to Shelburne Subdivision Regulations, Section 610(12).**

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

**6. OTHER BUSINESS/CORRESPONDENCE**

*Sketch Plan Extension Request: Deavitt Subdivision*

**MOTION by Mike Major, SECOND by John Day, to grant a six month extension of the sketch plan for the Deavitt subdivision at 25 Deavitt Farm Road as requested by the applicant in the letter, dated 5/8/20. VOTING by roll call: unanimous (6-0); motion carried.**

*Rice Lumber PUD Application Scheduling*

There was discussion of the prior decision by the DRB to hear the development proposals for lots in the Rice Lumber PUD simultaneously to better understand the impacts of each lot on one another. Research of past meeting minutes from the DRB and the fire/rescue committee show the understanding of the DRB's position to hear the proposals simultaneously. Brittany Aube stated applications for the Lot 4 & 5 subdivision, Healthy Living, and the fire station have been received. The application for the 48-unit residential development has not yet been received. Following further discussion, the DRB asked staff to schedule review of the Lot 4 & 5 subdivision, Healthy Living, and fire station applications on the June 17, 2020 agenda. The proposals will be heard separately, but at the same meeting. The application for the 48-unit residential development will be reviewed when received.

**7. ADJOURNMENT and/or DELIBERATIVE SESSION**

**MOTION by Doug Griswold, SECOND by John Day, to adjourn the meeting.**

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

The meeting was adjourned at 9:06 PM.

*RScty by tape: MERiordan*