

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**

August 5, 2020

***Meeting held by teleconference.**

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

STAFF PRESENT: Dana Hanley, DRB Coordinator; Dean Pierce, Town Planner.

OTHERS PRESENT: Dave Marshall, Jeff And Megan McBride, Peter and Cindy Bessery, Kevin Worden, James Collins, John McEntee, Debra Niemasz, Bill Ryerson, Jeff Bernicke, David Webster, Dorilee Leblanc, Doug Owens, Joyce George.

AGENDA:

1. Call to Order and Agenda
2. Public Comment
3. Approval of Minutes (7/15/20)
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Design Review, Doorway Infill, 245 Marssett Road, McBride (DR20-13)
 - Design Review, Inground Pool and Fence, 84 Village Vale Drive, Bessery (DR20-14)
 - Sketch Plan, Subdivision, Three Lots, 537 Thompson Road, William and Christine Griffin (SUB19-11R2)
 - Boundary Line Adjustment, 5935 Dorset Street, Patrick Berkeley & Nina LaRosa (BLA20-03R1)
 - Final Plan, Re-Subdivision, One lot, 59 Webster Road, James Collins (SUB90-07R2)
 - Site Plan\Conditional Use, Tire and Auto Facility with Parking, 3303 Shelburne Road, V.I.P., Inc. (SP20-04\CU20-05)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

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

2. PUBLIC COMMENTS

There were no comments at this time from the public.

3. MINUTES

July 15, 2020

MOTION by John Day, SECOND by Mark Sammut, to approve the 7/15/20 minutes as presented. VOTING by roll call: 5 ayes, 2 abstentions (David Hillman, Allyson Myers); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

John Day clarified he is not involved with the Ondovchik Family Limited Partnership (Days Inn). David Hillman said he is an abutting neighbor to the LaRosa property. The DRB did not feel recusal was necessary for either member. 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.

DR20-13: Design Review to remove a doorway and infill with siding to match existing siding at 245 Marsett Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Jeff & Megan McBride

Jeff and Megan McBride appeared on behalf of the application.

Submittals:

- Shelburne Historic Preservation and Design Review Application
- Photographs of house
- Plat Plan
- Existing and proposed elevation sketches
- Town of Shelburne staff report, dated 8/5/20

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Dean Pierce explained the proposal to remove an existing door and replace with wall. Shelburne Historic Preservation & Design Review Committee recommended approval.

APPLICANT COMMENTS

Jeff McBride said the infill wall will match the existing siding on the house.

PUBLIC COMMENTS

None.

DELIBERATION/DECISION

Design Review, Doorway Infill, 245 Marsett Road, McBride (DR20-13)

MOTION by John Day, SECOND by Mark Sammut, per the proposed staff report language without modification to grant design review approval to Jeff and Megan McBride for the removal of a doorway to be infilled with siding to match the existing siding on the house at 245 Marsett Road with the condition a zoning permit

shall be required prior to the start of construction. VOTING by roll call: unanimous (7-0); motion carried.

DR20-14: Design Review to install an inground pool and replace a split rail fence at 84 Village Vale Drive in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Peter and Cindy Bessery

Peter and Cindy Bessery appeared on behalf of the application.

Submittals:

- Shelburne Historic Preservation & Design Review Application
- Fiberglass pool catalog sheet
- Photos of yard and existing split rail fence
- Site plan sketch
- Town of Shelburne staff report, dated 8/5/20

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Dean Pierce reported the inground pool and fence are around the rear yard. A supplemental statement was received on replacement of the fence. A neighbor, Wendy Smith, submitted questions on the fence and distance from the property line, expressing concern about water draining on her property. Shelburne Historic Preservation & Design Review Committee recommended approval with the condition a plan be submitted clearly showing the setbacks between the structures including the fence and the property line to eliminate any ambiguity.

APPLICANT COMMENTS

Pete and Cindy Bessery said the pool is 25' from the side property lines. There is no intention to infringe on abutting properties. The replacement fence is two feet closer to the property line, but still on the property.

PUBLIC COMMENT

John McEntee, 161 Harbor Road, expressed concern about the fence being on the border line since future maintenance will require going on a neighbor's property. Mr. McEntee spoke against any infringement on his property and suggested the fence be moved in two or three feet from the property line.

Debra Niemasz, 50 Cottage Lane, spoke in support of having the fence located off the property line.

Pete Bessery, 84 Village Vale Drive, noted the neighbors have bushes on the property line that have grown over onto his property.

DELIBERATION/DECISION

Design Review, Inground Pool and Fence, 84 Village Vale Drive, Bessery (DR20-14)

MOTION by John Day, SECOND by Doug Griswold, to grant design review approval to Peter and Cindy Bessery for an inground pool and replacement split rail fence with the following conditions:

- 1. A zoning permit shall be required prior to the start of construction.**
- 2. The plan submitted with the zoning permit application shall clearly indicate the setback between the structures and the property lines including new and replacement fence indicating there is no encroachment on the property lines.**

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

SUB19-11R2: Sketch Plan for a three lot residential subdivision at 537 Thompson Road in the Residential District and Stormwater Impaired Watershed Overlay District by William and Christine Griffin

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

Submittals:

- Cover letter prepared by Civil Engineering Associates, Inc., receive 6/22/20
- General Application Form, received 6/22/20
- Sketch Plan Review Application, received 6/22/20
- Summary of Applicable Planning Standards, Development and Design Standards, received 6/22/20
- Summary of review of the town plan housing objectives, received 6/22/20
- Adjoiner List, received 6/22/20
- ANR well data, received 6/22/20
- ANR Wildlife and Endangered Species Mapping, received 6/22/20
- Traffic data, received 6/22/20
- Overall Site Plan, Sheet C-0, dated 6/17/20
- Existing Boundaries, Sheet P-1, dated 4/4/20
- Existing Conditions Ortho Photo Site Plan, Sheet C1.0, dated 6/17/20
- Overall Proposed Conditions Site Plan, Sheet C2.0, dated 6/17/20
- Proposed Grading and Drainage Plan, Sheet C2.1, dated 6/17/20
- Written comments from Caroline Howland, received 5/12/20
- Town of Shelburne staff report, dated 8/5/20

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Dean Pierce said one of the three lots in the subdivision has the existing house. The two newly created lots are building lots. A nine lot subdivision on the land was originally proposed, but never built. The three lot subdivision conforms to the zoning regulations. There will be no further encroachment on the wetlands on the property though neighbors have expressed concern about impact on the wetlands buffer.

APPLICANT COMMENTS

Dave Marshall, CEA, stated the subdivision of the 14.3-acre parcel on Thompson Road is north and northeast of the existing home. The existing driveway will be used for access with a right-of-way to lots 2 and 3. The wetlands are on the western half of the property.

The drainageway moves water south to north. Planted pines on the property are the “forested area”. There is also open meadow. The subdivision is no more than three lots which meets the definition of “minor subdivision”. This is not an attempt to avoid major subdivision classification by doing the subdivision in stages. Shelburne does not identify a timeframe for subdivisions. The original subdivision of the property was 48 years ago.

David Hillman asked how far back the town records go with subdivisions. Dean Pierce said staff researches as far back as town review and approval of applications. The town reviewed and approved the original subdivision application in 1972. Following further discussion, the DRB agreed there is no flexibility to change the policy rules of the town, but there should be discussion of the rules with the Planning Commission.

Doug Griswold asked if there will be Act 250 review. Dave Marshall said subdivisions of 10 lots within a five year period are under Act 250 jurisdiction.

PUBLIC COMMENT

Bill Ryerson, 489 Thompson Road, corrected the address of the application to Thompson Road, not Thompson Point Road.

A resident on Vista Drive stated the concerns expressed with the original nine lot subdivision remain with the current application including adding impervious surface, impact to wetlands, impact on the lake by runoff, loss of green space and protected wetlands, loss of privacy, and continued subdivision and development of the land over time.

David Webster, 640 Webster Road, expressed concern about the driveway and building envelopes in the setback and the impact on privacy.

Dorilee Leblanc, 555 Thompson Road, asked about requirements to prevent growing into a larger subdivision and holding the proposal to the same regulations as a larger subdivision. Concern was expressed about impact on the protected wetlands and the buffer. Also, the driveway will impact backyard privacy with car and foot traffic that is not there now. The development does not fit in the neighborhood.

Jeff Bernicke, 72 Cedar Ridge Drive, stated the proposed subdivision and housing density does not fit with the neighborhood, and the concern for future subdivisions is shared.

It was noted the land is in the Residential District which allows smaller lots, and the regulations were changed in the recent past to allow increased density though that has not been the experience of the immediate neighbors. Dave Marshall said the comments from the neighbors will be taken under advisement and the subdivision regulations will be met.

DELIBERATION/DECISION

Sketch Plan, Subdivision, Three Lots, 537 Thompson Road, Griffin (SUB19-11R2)

MOTION by John Day, SECOND by Mark Sammut, to classify the application for a three lot subdivision at 537 Thompson Road by William and Christine Griffin as a

major subdivision, and finalize the record, close the hearing, and direct staff to prepare a decision authorizing the applicant to prepare a Preliminary Plan Review application for SUB19-11R2 with the following recommendations:

1. The dimensional table will be revised to conform with the recommendations of staff.
2. The application will include information supporting a request to allow use of onsite wastewater disposal in a location within the town's Sewer Service Area.
3. The applicant shall provide review letters from town departments or agencies listed under the Shelburne Subdivision Regulations, Section 600(28), prior to submitting the Preliminary Plan Review application.
4. The applicant should suggest a possible name for the access road serving the three lots.

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

BLA20-03R1: Boundary Line Adjustment between property located at 5935 Dorset Street and an undeveloped parcel owned by Debra LaRosa located directly to the south in the Rural District and Conservation District by Patrick Berkeley and Nina LaRosa & Debora LaRosa

Dave Marshall, CEA, appeared on behalf of the application.

Submittals:

- Cover letter prepared by Civil Engineering Associates, Inc., received 6/19/20
- General Application Form, received 6/19/20
- Boundary Line Adjustment Application, received 6/19/20
- Email exchange re: Project Review Sheet, received 4/26/20
- Boundary Line Adjustment Plat, (Sheet P-1), received 6/19/20
- Town of Shelburne staff report, dated 8/5/20

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Dean Pierce said the boundary line adjustment involves moving .08 acre. Staff recommends approval.

APPLICANT COMMENTS

Dave Marshall said the boundary line adjustment is so the onsite wastewater system will be on the Tenny Brook parcel.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Boundary Line Adjustment, 5935 Dorset Street, Berkeley/LaRosa (BLA20-03R1)

MOTION by John Day, SECOND by Anne Bentley, per the proposed staff report language without modification to finalize the record, close the hearing, and direct staff to indicate approval of the Boundary Line Adjustment application, BLA20-03R1, prepared by Civil Engineering Associates on behalf of Patrick Berkeley &

Nina LaRosa & Debora LaRosa for the properties identified as Tax Map #07-01-43.000 owned by Debora LaRosa and Tax Map #07-01-43.100 owned by Patrick Berkeley and Nina LaRosa subject to the following conditions:

- 1. A copy of the view easement document must be included with the submittal of the survey mylar.**
- 2. A mylar of the plat must be filed within 180 days of the signed approval pursuant to Shelburne Subdivision Regulations, Section 1030.**

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

SUB90-07R2: Final Plan Review for a residential re-subdivision to create a 7th lot from the original parent parcel with six lots at 59 Webster Road in the Residential District and Stormwater Overlay District by James Collins

Kevin Worden, Engineering Ventures, Tom Barnard, and James Collins appeared on behalf of the application.

Submittals:

- Sketch Plan Review Application Form, received 2/10/20
- Project description prepared by Kevin Worden, P.E., Engineering Ventures
- Table of Dimensional Requirements prepared by Kevin Worden, P.E., Engineering Ventures
- Subdivision Location Map
- Preliminary Survey Plat entitle “Webster Road, LLC”, dated 12/23/19
- Overall Existing Conditions Plan, Sheet C1.1, dated 2/6/20
- Existing Conditions & Demolition Plan, Sheet C1.2, dated 2/6/20
- Site Plan, Sheet C1.3, dated 2/6/20
- Preliminary Plan Review Application Form, received 5/19/20
- Overall Existing Conditions Plan, Sheet C1.1, dated 5/8/20
- Existing Conditions & Demolition Plan, Sheet C1.2, dated 5/8/20
- Erosion Prevention and Sediment Control Plan, Sheet C1.3, dated 5/8/20
- Site Plan, Sheet C1.4, dated 5/8/20
- Site and Storm Details and Notes, Sheet C3.1, dated 5/8/20
- Water Details and Notes, Sheet C3.2, dated 5/8/20
- Sewer Details and Notes, Sheet C3.3., dated 5/8/20
- Erosion Prevention and Sediment Control Details and Notes, Sheet C3.4, dated 5/8/20
- Letter of support from Susan Baldwin, dated 6/17/20
- Department Head letters
- Final Plan Application Form, received, 7/9/20
- Proposed Plat entitled “Plat showing a proposed subdivision of lands of Webster Road, LLC”, dated 12/23/19, received 7/9/20
- Overall Existing Conditions Plan, Sheet C1.1, dated 7/8/20, received 7/9/20
- Existing Conditions & Demolition Plan, Sheet C1.2, dated 7/8/20, received 7/9/20
- Erosion Prevention and Sediment Control Plan, Sheet C1.3, dated 7/8/20, received 7/9/20
- Site Plan, Sheet C1.4, dated 7/8/20, received 7/9/20

- Site and Storm Details and Notes, Sheet C3.1, dated 7/8/20, received 7/9/20
- Water Details and Notes, Sheet C3.2, dated 7/8/20, received 7/9/20
- Sewer Details and Notes, Sheet C3.3., dated 7/8/20, received 7/9/20
- Erosion Prevention and Sediment Control Details and Notes, Sheet C3.4, dated 7/8/20, received 7/9/20
- Water Easement from Webster Road, LLC to Fankhauser
- Warranty Deed with easement from Webster Road, LLC to Fankhauser
- Sewer Easement from Bourgea Trust to Fankhauser
- Town of Shelburne staff report, dated 8/5/20

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Staff reported the Final Plan is to split a lot to form two lots to be served by municipal sewer and water service. The sewer line capacity issue in the Route 7 area impacts municipal sewer service to the project and needs to be resolved. It is better for the applicant to have a building permit in hand when the sewer capacity issue is resolved in order to get an allocation. There should also be discussion of the interpretation of the regulations pertaining to sidewalk. John Day recalled the past position of the DRB on sidewalk has been that a private road is not a street for the purposes of a sidewalk. Dean Pierce said the regulations are suggesting the sidewalk should be extended to the partial sidewalk by the lot. Following further discussion, the DRB concurred the benefit is not apparent of extending a small section of sidewalk along the lot line. Dean Pierce said the regulations recognize that over time lots do develop and sidewalk sections need to be built. There was mention of establishing a sidewalk fund and the town having a sidewalk policy for the DRB to follow.

APPLICANT COMMENTS

Kevin Worden, Engineering Ventures, said the property owner intends to build a private residence on the subdivided lot and the \$10,000 cost of extending the sidewalk would be a significant impact and create a hardship. At Sketch and Preliminary review there was no discussion of the sidewalk. There was discussion of the sewer issue. The applicant is proceeding with optimism the sewer issue will be resolved in November, and suggests the town consider the larger developments to the south on Webster Road be required to make the sidewalk connectivity.

PUBLIC COMMENT

Doug Owen, neighbor, expressed concern the drainage swale will interfere with water flow to the property to the north, and noted support for not requiring the sidewalk portion to be built by the applicant. Kevin Worden said there are no changes to the drainage swale proposed.

DELIBERATION/DECISION

Final Plan, Re-Subdivision, 7th Lot from Parent Parcel, 59 Webster Road, Collins (SUB90-07R2)

MOTION by John Day, SECOND by Anne Bentley, to finalize the record, close the hearing, and direct staff to prepare a decision approving application SUB90-07R2 to

re-subdivide to create a 7th lot from the parent parcel at 59 Webster Road by James Collins with the following conditions:

1. The project must be implemented consistent with the approved plans.
2. The applicant is not authorized to apply for a zoning permit to construct a house on the proposed building lot until such time as a letter authorizing an application is furnished by the Wastewater Superintendent, and the purpose of such letter shall be to confirm that issues relating to the capacity of the wastewater collection system that serves the proposed building lot have been resolved to the satisfaction of the Wastewater Department.
3. 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.
4. Review of legal documents must be completed prior to recording the final plat, and review by the Town Attorney will occur pursuant to Shelburne Subdivision Regulations, Section 610(12).

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

SP20-04\CU20-05: Site Plan\Conditional Use for a 6,900 s.f. tire & auto facility with 42 parking spaces at 3303 Shelburne Road in the Mixed Use and Stormwater Overlay District by V.I.P., Inc./Ondovchik Family Limited Partnership

Dave Marshall, CEA, appeared on behalf of the application.

Submittals:

- Existing Conditions Overall Site Plan, Drawings No.C1.0 and C1.1, prepared by CEA, Inc., dated June 2020
- Proposed Landscaping Plan, Drawings No. L1.0 and L1.1, prepared by CEA, dated June 2020
- Building rendering
- V.I.P. Tire & Service building floor plan
- Proposed Conditions Site Plan, Drawing No. C2.0, Site Grading & Grading Plan, Drawings No. C2.1 and C2.3, prepared by CEA, dated June 2020
- Existing Hydrology Plan, Drawing No. SW1, Proposed Hydrology and Treatment Plan, Drawing SW2, Post Construction Soil Depth and Quality Test hole Plan, Drawing SW3, prepared by CEA, dated June 2020
- Turning Movements, Drawings No. T1.0, T1.1, prepared by CEA, dated June 2020
- EPSC Drawing No C3.0, Details and Notes, Drawings C3.1, C4.0, prepared by CEA, dated June 2020
- Utility Details, Drawing C4.1, prepared by CEA, dated June 2020
- Storm Details, Drawing No. C4.2, Chamber Details, Drawings No C4.3 and C4.4, prepared by CEA, dated June 2020
- Misc. Details, Drawing No. C4.4, prepared by CEA, dated June 2020
- Site Specifications, Drawings No. C5.0, C5.1, C5.2, C5.3, C5.4, C5.5, prepared by CEA, dated June 2020

STAFF REPORT

The DRB received a written staff report on the application, dated 8/5/20. Dana Hanley gave an overview of the proposed infill commercial development with 42 parking spaces on a 1.6-acre parcel on Shelburne Road in the Stormwater Overlay District. The applicant has submitted a landscape plan and addressed the conditions from the Fire Chief.

APPLICANT COMMENTS

Dave Marshall reviewed the site access and circulation for the tire and auto facility on the site. The traffic islands will help direct and divert vehicle traffic. Existing screening will be augmented with trees and hedgerow. The Fire Chief's requests for the site will be met.

Allyson Myers asked about plowing the sidewalk. Dave Marshall explained the change to the sidewalk for accessibility which will not impact plowing.

There was discussion of the tractor trailer movement on the site, and the stormwater management which is designed for the 50-year storm.

PUBLIC COMMENT

Joyce George, resident, spoke in support of the proposal as a great commercial addition to Shelburne North.

DELIBERATION/DECISION

Site Plan\Conditional Use, Tire and Auto Facility, 3303 Shelburne Road,
V.I.P./Ondovchik Family Limited Partnership (SP20-04\CU20-05)

MOTION by John Day, SECOND by Anne Bentley, to finalize the record, close the hearing, and direct staff to prepare a decision granting site plan and conditional use approval of SP20-04\CU20-05 for a tire and auto facility at 3303 Shelburne Road by V.I.P/Ondovchik Family Limited Partnership with the following conditions:

1. **The project shall be constructed in accordance with the plans listed in the staff report titled "V.I.P. Tire Facility".**
2. **The applicant shall create a landscaping escrow account prior to the issuance of a building permit.**
3. **The project shall conform to the Shelburne Public Works Specifications.**
4. **The applicant shall submit as-built drawings prior to filing for a Certificate of Occupancy.**
5. **In accordance with the Shelburne Fire Chief's requirements:**
 - **The proposed curb island at the entrance of the driveway to the property must not exceed road height and must allow for fire apparatus to drive over with minimal obstruction and have no elevated curbing around this island.**
 - **A fire hydrant will need to be placed in the green space at the south end of the proposed building, and Fire Department Connection (FDC) will be required and must be within 150 feet of the hydrant with both the hydrant and the FDC not being obstructed blocked, or rendered inoperable.**

- All access roads shall have an unobstructed width of 20' and a height of 14' clear of trees and other shrubbery to allow Fire Department apparatus access.
- All turn radii must meet current requirements on file with Civil Engineering Associates.

6. The applicant shall regularly maintain all stormwater conveyance and treatment systems.

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

6. OTHER BUSINESS/CORRESPONDENCE

Format of Staff Reports and Materials Distributed in Meeting Packets

There was discussion of the need to have access to all materials with an application due to on-the-record review. Staff will develop a proposal for the meeting packets.

Meeting Schedule

Next DRB meeting is 8/19/20.

Notice of Decisions for Signature

Staff will investigate digital signatures.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by Mark Sammut, SECOND by Doug Griswold, to adjourn the meeting.

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

The meeting was adjourned at 9:53 PM.

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