

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**

November 3, 2021

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

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

STAFF PRESENT: Ken Belliveau, Interim DRB Coordinator.

OTHERS PRESENT: Stephen Brandon, Shelley Crombach, Erin Hower, Gail Albert, Claire Prus, Dawn Schmidt, Abby Hill, Tim Cowan, David Roy, Barbara Grant, Edwin Bovill, Karen McAndrew, Julie Parsons, Chris Latta, Bob Bouchard, Becky Bouchard, Robilee Smith, Ron and Susan Bouchard, Kelley Desroches, Pete Serisky, Chris Badami, Nancy Badami, Chris Ladder, Robert Millay, Donna Millay, Greg Doremus, Anne Doremus, Karen McAllen, Kevin O'Brien, Roger Dickinson, Dorothea Penar, Joyce George, Media Factory.

AGENDA:

1. Call to Order and Agenda
2. Approval of Minutes (9/15/21; 10/6/21)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Sketch Plan, FBZ Mixed Use Development, 107 Housing Units & Commercial Office Space, 2870 & 2882 Shelburne Road, Brandon/Crombach (FBZ21-02)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

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

2. MINUTES

September 15, 2021

MOTION by Mike Major, SECOND by John Day, to approve the 9/15/21 minutes as presented. VOTING: all ayes except one abstention (David Hillman); motion carried.

October 6, 2021

MOTION by Mike Major, SECOND by John Day, to approve the 10/6/21 minutes as presented. VOTING: all ayes except one abstention (John Day); motion carried.

3. PUBLIC COMMENTS

None.

4. DISCLOSURES/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.

FBZ21-02: Sketch Plan for consolidation of two parcels with 118 housing units and mixed use commercial office space to be developed in three phases at 2870 & 2882 Shelburne Road in the Mixed Use District, Stormwater Overlay District, and Shelburne Road Form Based Code Overlay District by Stephen Brandon and Shelley Crombach

Steve Brandon appeared on behalf of the application.

STAFF REPORT

The DRB received a written staff report on the application, dated 11/3/21. Ken Belliveau reported the opinion letter from the land surveyor contradicted the legal opinion from Liam Murphy, attorney representing Clearwater Association, but a recently received email from Attorney Liam Murphy shows a corrected statement (Attorney Murphy based his legal opinion on the wrong site plan) which is in agreement with the site plan showing VTrans owns 123' of the top eastern portion of Clearwater Road.

APPLICANT COMMENTS

Steve Brandon reviewed items highlighted at the last hearing. The following was noted:

- Tim Cowan, senior land surveyor with Civil Engineering Associates, reviewed information on the rights-of-way and the 25'x123' piece of land taken by VTrans from Clearwater Association which includes Parcel 73A. The elimination of the curb cuts to provide access off Palmer Court and Clearwater Road was also reviewed.
- A professional traffic engineer has conducted a traffic study.
- Application has been submitted to VTrans for a 1111 permit.
- The design of the project has been changed to meet the parking requirements of form based code.
- Changes to the design were made by the applicant after meeting with the neighborhood group.
- Impact on natural resources will be addressed at Act 250 review. A wetlands study was done which has been reviewed by the state. A professional wildlife consultant has assessed the property. The applicant has attended meetings with Shelburne Natural Resources Committee.
- A proposal from a stormwater professional has been received.
- The application conforms to form based code because multi-family and commercial buildings are allowed in the form based code character districts. The buildings,

street, and sidewalk will be constructed as prescribed and in full compliance with form based code. [John Day observed that the DRB has no authority to dictate changes if the application is in compliance with form based code standards.]

- In response to concerns/questions from neighbors:
 - Density – the density was chosen based on form based code.
 - Number of vehicle trips generated – the report from the traffic study will be provided.
 - Loop road – the revised design includes a loop road with green space in the middle.
 - Traffic – the traffic study will show the traffic load from the proposal versus what already exists. Statistically the traffic from the proposal is negligible.
 - Screening – more screening has been kept and/or increased on the northern, western, and southern boundaries.
 - Stormwater – discussions are ongoing with the state stormwater agency.
 - View into existing homes – the new buildings are 100’ away from existing houses and the tree line will remain in place.
 - Height of buildings – the design and shape of the buildings have been changed to be more in character with the adjoining neighborhood.
 - Natural resources – the health of the forest is being assessed and an environmental assessment will be done.
 - Many changes to the proposal have been done to try to address the concerns raised by neighbors.

PUBLIC COMMENT

There were several questions on when the traffic study will take place and what streets will be covered. Roger Dickinson, traffic engineer with Lamoureux Dickinson Engineers, said the peak hour periods of 7 AM – 9 AM and 4 PM – 6 PM on a weekday will be measured at the two access points (right turn ingress and right turn egress at 2870 Shelburne Road) as well as the access onto Clearwater and Palmer Court. Traffic congestion and safety impacts will be studied.

Gail Albert confirmed the DRB received the Section 600 letter from Shelburne Natural Resources Committee regarding stormwater runoff from the property going into the lake and the destruction of the forest area.

There was question about the two points of entrance being so close to each other. David Roy, architect on the project, said the Fire Chief confirmed the access will work. The primary entrance/exit will be onto Shelburne Road (right turn in/out) which alleviates pressure points on Clearwater and Palmer Court. The two accesses meet the code.

Greg Doremus, 210 Clearwater, commented the proposal does not have to be as dense as allowed by form based code. Common sense should be used with the rules. There will be over 160 residences using the 50’x 23’ road. Also, the buffers do not seem large with the redesign. The development feels very dense and unsafe in terms of activity. The DRB has to approve the subdivision so there is some flexibility to step in and potentially have

further requirements. John Day stated the recourse for people is to talk to the Planning Commission about changing the regulations.

Robilee Smith, 169 Wild Rose Circle, questioned if the redesigned buildings will ameliorate the view into neighboring houses and yards. Kelly Desroches, architect on the project, said the design was to create more of neighborhood based buildings in the model of Harrington Village. The building height will be 29'. Robilee Smith referred to the town's comprehensive plan that shows a space of 6.2 acres could hold a maximum of 18 single family houses or 27 multi-family units which is quite a difference from 118 units in the proposal. At the charette for form based code 18 single family houses were shown in the applicant's 6.2 acres. There is concern about the density of the proposal, but residents feel they do not have a say.

Pete Serisky, Clearwater, described the chaotic activity of cars, pedestrians, schoolchildren, the school bus on the roads in the neighborhood now with 27 homes.

Nancy Badami, Palmer Court, mentioned there are two buildings in the lakeshore overlay district, and the purpose of Shelburne's zoning bylaws is to protect from undue concentration of population and overcrowding. One hundred eighteen units is excessive. Only Burlington and Winooski allow this type of density. The DRB is morally obligated to provide maximum safety of vehicle and pedestrian circulation on site and between the site and adjacent roads and developments. VTrans owns the top of the road and will have to invest in a traffic signal. A report should be given from VTrans on the road.

Karen McAllen, Clearwater, calculated there will be 200 cars coming and going with 118 units. There are already a large number of cars on Shelburne Road and a huge traffic problem. There are no services within walking distance of the proposed project. Bus service is intermittent.

Dorothea Penar, Penny Lane and former resident on Wild Rose Circle, said form based code does not take into account character or historic buildings in the area and provides "cookie cutter" buildings. Stormwater runoff is an issue in the area. There is no retention and the runoff goes right into the lake. This should be considered before the project goes too far. There is a responsibility to the neighbors and lake. As good planners, the town should help put the developer on a good path.

There was comment that the neighbors have shared their concerns and frustration, and that a business owner has the responsibility to look out for what is best for the area. The question is what are the benefits to the neighborhood from the development.

Joyce George, resident, clarified there is opportunity for input by the DRB under conventional zoning but not with form based code.

Chris Badami, Palmer Court, said residents brought their concerns to the Selectboard and Planning Commission and were told to go to the DRB. The new town planner, Adele Gravitz, mentioned micro-neighborhoods within form based code, but the existing

neighborhoods of Clearwater, Palmer Court, and Wild Rose Circle were not taken into account. There was no communication that the neighborhood changed when form based code was put in place. The road is one lane with two-way traffic. The traffic study needs to take this into account.

Bob Bouchard, Clearwater, noted in 2002 when VTrans compensated Clearwater Association for the property the agreement was made in good faith with the intent to relocate the curb cut for the chiropractic office. The curb cut was not intended to be used for other development and certainly not a development of this size.

Bob Millay, Clearwater, suggested the traffic study be done by an independent organization or VTrans and not hired by the developer. Mark Sammut said licensed professionals do the study. People can talk to VTrans about their concerns with the traffic.

Ken Belliveau made the following comments:

- The lakeshore overlay district regulations pertain to land within 100' of the 102' contour. The DRB should ask the applicant to provide documentation of the buildings not being within this space.
- The property is in the stormwater overlay district and all requirements for this district must be met.
- The bylaws require a traffic study. VTrans controls access to Route 7 and has standards for when a traffic study is required (i.e., if a project generates more than 75 PM peak hour trips, and this project does). The standard is the applicant hires a traffic consultant to generate a report for the town and VTrans. The town and VTrans will review it and can opt to do a separate traffic study.
- In addition to form based code there are significant sections of the bylaw that will apply to the project.

Allyson Myers urged the applicant to seriously consider the feedback from Shelburne Natural Resources Committee. Also, it is a choice as to which zoning standard to use with the project, and based on public comment the community might like to see a revised plan considering alternative zoning schemes.

John Day stated the DRB is bound by form based code whether there is agreement with the outcome the code prescribes or not. Approval of sketch plan allows the applicant to move to the next step in the process, but does not approve the project or any aspect of the project. At the next phase, the project can be approved or not approved.

DELIBERATION/DECISION

Sketch Plan, FBZ Mixed Use Development, 107 Housing Units & Commercial Office Space, 2870 & 2882 Shelburne Road, Brandon/Crombach (FBZ21-02)

MOTION by John Day, SECOND by Mike Major, to finalize the record, close the sketch plan hearing, and direct staff to prepare a decision authorizing the applicant to prepare a site plan application for FBZ21-02 with the following recommendations:

1. **The applicant must obtain comments from various town departments regarding their development as stipulated in the Shelburne Subdivision Regulations, Section 610(13).**
2. **The applicant shall submit a traffic study meeting the requirements of Section 1900.9 of the Shelburne zoning bylaws.**
3. **The applicant shall submit documentation of a Section 1111 permit from VTrans approving access from Shelburne Road and Clearwater Road and any required traffic mitigation measures.**
4. **The applicant must include a Project Review Sheet from VT DEC with the Preliminary Plan application pursuant to Shelburne zoning bylaws, Section 530.**
5. **The applicant shall demonstrate compliance with all applicable provisions of Shelburne’s zoning bylaws, subdivision regulations, and SR-FBOD standards for streets and other public utilities.**

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

6. OTHER BUSINESS/CORRESPONDENCE

New Town Planner & DRB Coordinator

Adele Gravitz begins work on December 1, 2021. Interviews are being conducted to hire a full time DRB Coordinator. Ken Belliveau will help with the transition.

Meeting Schedule

The DRB will hold regular meetings through the end of the year. Hard copies of meeting materials are available to DRB members upon request. Shelburne Natural Resources Committee will receive a hard copy of materials along with a digital copy.

7. ADJOURNMENT

MOTION by Mark Sammut, SECOND by John Day, to adjourn the meeting.

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

The meeting was adjourned at 8:58 PM.

RScty by tape: MERiordan