

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
February 3, 2016**

MEMBERS PRESENT: Mark Sammut (Chairman); Jeff Pauza, Jerry Storey, Jeff McBride, Mary Kehoe, Jeff Hodgson, Alex von Stange. (Ian McCray and Ty Parker were absent.)
STAFF PRESENT: Kaitlin Mitchell, DRB Administrator.
OTHERS PRESENT: Michael O'Brien, Jeremy Owens, Diane McCarthy, Erik Daley, John Paul, Dale Arango, Bob Woodworth, Patrick McKee, Mark Severance, Lili Ruane, Will Smith, Dave Marshall, Maura Wygmans, Chris Galipeau.

AGENDA:

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (1/20/16)
4. Applications
 - Conditional Use, Structure in 100' Setback of 102' Elevation, 4650 Harbor Road, Lake Champlain Transportation (CU16-01)
 - Sketch Plan, Re-Subdivision, Five Lots to Four Lots, 539 Irish Hill Road, Wygmans/Lissarrague (SUB92-7R5)
 - Final Plan, Mixed Use PUD, 2055, 4188, 4190, 4484 Shelburne Road, Rice Lumber Company (SUB15-05)
 - Preliminary Plan\Conditional Use, 39 Unit Building & Continuing Care Facility, 200 Wake Robin Drive, Wake Robin (SUB03-08R5\CU16-02)
5. Continued Discussion of Revised Rules of Discovery/Evidence
6. Other Business/Correspondence
7. Adjournment and/or Deliberative Session

1. CALL TO ORDER and ANNOUNCEMENTS

Mark Sammut called the meeting to order at 7 PM.

2. PUBLIC COMMENT

None.

3. APPROVAL OF MINUTES

January 20, 2016

MOTION by Jerry Storey, SECOND by Jeff Hodgson, to approve the minutes of January 20, 2016 as written. VOTING: unanimous (6-0); motion carried.

4. 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 Board were sworn in.

CU16-01: Conditional Use to reconstruct an existing noncomplying structure within the 100' setback of the 102' elevation contour at 4650 Harbor Road in the Rural District and Lakeshore Conservation Overlay District by Lake Champlain Transportation

John Paul with Lake Champlain Transportation (LCT) appeared on behalf of the application.

Submittals:

- General Information Application, date stamped 1/8/16
- Conditional Use Review Application, date stamped 1/8/16, and Property Owner Authorization Form
- Project Description titled “Lake Champlain Transportation Co. Preliminary Dry Dock Overhaul Plan Shelburne LCFD(1)”, date stamped 9/10/14 and date stamped 1/8/16
- Site Plan Set prepared by Bourne Consulting Engineers, PC titled “Lake Champlain Transportation Company Marine Railway Reconstruction, Shelburne, VT Project Number: Shelburne LCFD(1)”, dated December 2015 and date stamped 1/8/16
- Conditional Use Plat Plan prepared by Bourne Consulting Engineers, dated 12/22/15
- Site Plan prepared by Little River Survey Company, LLC titled “Crandall Marine Railway”, dated May 2015
- Survey prepared by Fred C. Koerner, CC titled “Survey of a Parcel of Land around Crandall Way Shelburne Harbor Shipyard”, dated June 1960
- Town of Shelburne Staff Report, dated 2/3/16

STAFF REPORT

The DRB received a written staff report on the application, dated 2/3/16. Kate Mitchell explained the reconstruction is of an existing dry dock. There are no changes to the site plan. Site plan approval was also required and given administrative review and approval. Vermont Agency of Natural Resources had no comments on the application.

APPLICANT COMMENTS

John Paul explained the dry dock is a 600' marine railway that submerges into the lake and is needed to lift large vessels (ferry boats) out of the water for maintenance and repair. The original wood timber dock was built in 1929 and is worn out. A portion of the track in the water is being replaced. The extension into the water will be increased by 32' in order to have the needed slope for boats. The portion of the dock on the shore will be replaced with foam or concrete. Grading will be done after the dry dock is properly situated. The work is planned to start in July.

PUBLIC COMMENT

There were no comments from the public on the application.

DELIBERATION/DECISION

Conditional Use, Reconstruct Dry Dock, 4650 Harbor Road, Lake Champlain Transportation (CU16-01)

MOTION by Mark Sammut, SECOND by Jerry Storey, to close the hearing on the Conditional Use application, CU16-01, by Lake Champlain Transportation and direct staff to prepare a decision to indicate approval of the reconstruction of a nonconforming structure in the Lakeshore Overlay District to include reconstruction of the existing dry dock as depicted in the plans prepared by Bourne Consulting Engineering, PC titled “Lake Champlain Transportation Company Marine Railway Reconstruction, Shelburne, VT, Project Number LCFD(1)”, dated December 2015, and with the following conditions:

1. A zoning permit shall be required prior to any improvements being made.
2. Any zoning permit application for site work shall include the submission of a Vermont Agency of Natural Resources Project Review Sheet.
3. Certificate of Occupancy shall be required.

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

SUB92-7R5: Sketch Plan for re-subdivision of five lots into four lots at 539 Irish Hill Road in the Residential District by Maura Wygmans and Alice & Christophe Lissarrague

Maura Wygmans with Classic Home appeared on behalf of the application.

Submittals:

- General Application Form, date stamped 1/8/16
- Sketch Plan Review Application, date stamped 1/8/16, and Property Owner Authorization Form and List of Adjoining Property Owners
- Sketch Plan Set prepared by Civil Engineering Associates, Inc. titled “Christophe & Alice Lissarrague 539 Irish Hill Road Shelburne VT”, dated 4/20/13 and date stamped 1/8/16
- Town of Shelburne Staff Report, dated 2/3/16

STAFF REPORT

The DRB received a written staff report on the application, dated 2/3/16. Kate Mitchell stated the application is a re-subdivision and is technically a Major Subdivision, but there

is no language in the regulations prohibiting the DRB from classifying the proposal as a Minor Subdivision, especially since fewer lots are being created (the parent lot still must be considered). The applicant is transferring over 20,000 s.f. between lots and dissolving one of the five lots.

Mark Sammut asked if the DRB must classify as either a Minor or Major Subdivision. Staff will investigate the matter and inform the applicant.

Jeff Hodgson asked about demonstrating sufficient water to the lots. Kate Mitchell said the lots will be served by on-site wells. The DRB can ask for well data.

APPLICANT COMMENTS

Maura Wygmans reviewed the proposal to change the previously approved and recorded five lot subdivision to four lots, and the request to consider the subdivision as a Minor Subdivision or a boundary line adjustment. The first two lots will be served by separate driveways. The upper two lots will share a driveway. The layout of the four lots is in line with the lot lines across the street.

PUBLIC COMMENT

Dave Marshall urged looking at the intent of the classification rule to identify large potential changes and impacts to the community. With a large subdivision the middle step of review helps identify any issues. The proposal already has been through all the levels of review, and there is a reduction in the number of lots previously approved. Department Heads have provided input. If the DRB can declare the proposal to be a Minor Subdivision then that seems the practical way to go.

Will Smith, 255 Thompson Road, expressed concern about headlight shine inside their house due to the alignment of the driveway, and suggested egress between the two property lines. Maura Wygmans said the preference is individual curb cuts for the lots. The driveway location can be adjusted somewhat.

Mark Severance, 291 Thompson Road, spoke in support of four lots which are more spaced out and in character with the neighborhood. Also, having the driveway staggered will suit everyone better.

There were no further comments.

DELIBERATION/DECISION

Sketch Plan, Re-Subdivision from Five Lots to Four Lots, 539 Irish Hill Road, Wygmans/Lissarrague (SUB92-7R5)

Mark Sammut made a motion to authorize preparation of the Preliminary Plan for the application taking into consideration the concerns expressed regarding the location of the driveway on Lot 2 relative to safety and headlight migration. The motion was not seconded.

MOTION by Mary Kehoe, SECOND by Jeff Pauza, to close the hearing, take the matter under advisement, deliberate and issue a decision accordingly. VOTING: unanimous (6-0); motion carried.

SUB15-05: Final Plan for a Mixed Use PUD in the Mixed Use District and Storm Water Overlay District to include subdivision of four existing lots into six commercial lots and four residential lots at 2055, 4188, 4190, and 4484 Shelburne Road by Rice Lumber Company, LLC

Dave Marshall appeared on behalf of the application.

Submittals:

- Final Plan Review Application with Abutters List and Final Plan Submittal Requirements Summary
- General Information Application
- Department Head Comments
- Formal Waiver Request
- Attorneys Report & Opinion on Title
- Legal Documents including Irrevocable Offer of Dedication, Warranty Deed, Rice Lumber Redevelopment Project Declaration of Covenants, Easements, Restrictions, and Liens, and Bylaws of Rice Lumber Owners Association
- Supplemental Water Allocation
- Landscaping Goals and Objectives Narrative
- Planning and Design Standards Summary (Sections 800 & 900)
- Project Information Summary
- Site Plan Set prepared by Civil Engineering Associates titled “Rice Lumber Company Redevelopment Project”, dated March 2012 and received January 12, 2016
- Town of Shelburne Staff Report, dated 2/3/16

STAFF REPORT

The DRB received a written staff report on the application, dated 2/3/16. A waiver to allow well water rather than municipal water for the PUD is requested by the applicant. The waiver is reasonable and can be granted to each lot within the PUD. It would be burdensome to install municipal water. The Water Department does not have a problem with the wells.

APPLICANT COMMENTS

Dave Marshall explained the zoning permit was not pulled in a timely manner following site plan and PUD approval so the Final Plan needs to be approved. Outstanding items that have been addressed include:

- Information has been submitted to staff on the density available on the property. There is plenty of density available.
- When a tenant is ready to occupy the lot on Route 7 there will be an amendment to the PUD filed.
- There are natural resource and wildlife areas of interest so the single family lots have clearing limits (no clearing beyond the building envelope).
- The PUD will be served by municipal water and sewer, and state permits for wells as the water source for the residential lots have been secured. A waiver of the water requirement by the town has been requested.
- Schedule for build-out is lots 1 & 2 will be built first then the Rice Lumber campus will be relocated and the existing buildings will be removed. Future construction will be based on demand.
- With four siblings building the residences there will likely be four different types of homes. The plan for the residential lots has generally been for single family homes.
- A waiver request has been made for setbacks (Section 1930.7.c) until the buildings are removed. The situation is temporary. The existing Rice Lumber buildings do not meet the necessary setbacks, but there will be compliance once the buildings are removed.

Mary Kehoe asked about turning right only from Jay Way. Dave Marshall said the only option is a right turn out of Jay Way onto Route 7. There is no left turn from Route 7 onto Jay Way from the south. Mary Kehoe asked if ingress and egress to lots 4, 5, and 6 could be from the back side rather than from Route 7. Dave Marshall said the lots will be internally connected and go to the Longmeadow traffic signal. Lot 4 can use the Jay Way curb cut now.

Jeff McBride asked about the scope of work on lots 1 & 2 and if Lot 3 is being graded to provide access to lots 1 & 2 versus site work for the road. Dave Marshall pointed out there may be opportunity to modify lots 3 & 4 to balance the site.

Jeff Hodgson asked about the ponds between lots 4 & 5, observing the pond limits the building location on Lot 5. Dave Marshall said the most southerly pond will be built first. The northerly pond is a placeholder to be built if needed after lots 4, 5, and 6 are built out. Jeff Hodgson asked about the landscape plan. Dave Marshall said the landscape plan

has been submitted. Conifers will be planted on the slope to screen the large buildings. Street trees will be planted. The landscaping will be better defined once it is known what is proposed on lots 3 & 4.

Alex von Stange asked about storm water management of impervious surface and significant storms. Dave Marshall assured the benchmarks have been met (two year storm to protect streams, 10 year storm to protect the property and culvert, 100 year storm with 10 acres of impervious surface).

Jerry Storey asked how the integrity will be protected and adequate maintenance done on the storm water mitigation features. Dave Marshall said covenants and bylaws will be drafted on shared maintenance of common infrastructure. There will be annual inspections by the owner with the results sent to the state and recertification every three years by a certified engineer.

Mark Sammut asked about comments from the Fire Dept. Dave Marshall said the Fire Dept. wants hydrants on the perimeter for the large building on Lot 1. The water main will be extended. The applicant has no issues with the obligation to maintain the water line to lots 1 & 2.

PUBLIC COMMENT

There were no comments from the public.

DELIBERATION/DECISION

Final Plan, Mixed Use PUD, 2055, 4188, 4190, 4484 Shelburne Road, Rice Lumber Company (SUB15-05)

MOTION by Jerry Storey, SECOND by Jeff Pauza, to finalize the record for the Final Plat Application for SUB15-05 (Rice Lumber). VOTING: unanimous (6-0); motion carried.

MOTION by Mary Kehoe, SECOND by Jerry Storey, to close the hearing on SUB15-05 (Rice Lumber) and direct staff to prepare a decision to indicate Final Plan approval subject to the condition that all items waived by the DRB must be submitted in order for the Final Plan application to be considered complete. VOTING: unanimous (6-0); motion carried.

MOTION by Jeff Pauza, SECOND by Mary Kehoe, to direct staff to prepare a decision to indicate approval of the Final Plat application, SUB15-05, by Rice Lumber for 2055, 4188, 4190, 4484 Shelburne Road with the following conditions:

1. The Mylar shall be recorded in the Shelburne Land Records within 180 days of the signed approval.
2. The applicant shall record the finalized legal documents approved by the Town Attorney and Zoning Administrator within 180 days of the signed approval.
3. Prior to commencing construction a pre-construction meeting will be held with town staff, the developer, the developer's engineer, and the developer's contractor, and additional meetings will be held as requested by town staff during construction (e.g. following large storm events).
4. Prior to the issuance of any permits for construction (including excavation and fill permits and building permits) the applicant shall file finalized and executed documents with the Zoning Administrator for the dedication of any road, sewer, water, and storm water improvements all of which shall be to the satisfaction of the Town Manager and the Zoning Administrator.
5. The project shall be constructed in accordance with the plans listed in the document titled "Rice Lumber Redevelopment Project".
6. The applicant shall complete the sidewalk improvements prior to the issuance of the Certificate of Occupancy for any buildings on lots 1 or 2.
7. Screening landscaping located on lots 1 and 2 provided for the new lumberyard facility shall be installed prior to the issuance of the Certificate of Occupancy for any buildings on lots 1 or 2.
8. Clearing shall be limited to the established building envelopes in the plans listed in the document titled "Rice Lumber Redevelopment Project".
9. The project shall conform to Shelburne Public Works Specifications.
10. The applicant shall prepare supporting details for the new water main crossing on Route 7 at the Jay Way intersection in coordination with the Shelburne Water Department and the detail shall be approved by the Water Department prior to submission of applications to the Vermont Agency of Transportation (VTrans) for an access permit and prior to the submittal of the zoning permit application for the project.
11. Future development of lots 4, 5, and 6 shall enable future interconnection of the north water service with the south water service that crosses Route 7.
12. The Water Department will periodically be required to flush the lines associated with the dead-end water main in an effort to maintain

chlorine residual and the costs associated with the process shall be borne by the property owner.

13. Certificate of Occupancy shall be required for all primary structures including those on lots 1 and 2.
14. The timeline for demolition of structures is one year within a year of the issuance of the first Certificate of Occupancy.
15. A waiver shall be granted for municipal water service for the four residential lots.

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

SUB03-08R5\CU16-02: Preliminary Plan\Conditional Use to amend the PUD-R to renovate existing facilities and add a 39 unit apartment building and a continuing care retirement facility at 200 Wake Robin Drive in the Residential District and Storm Water Overlay District by Wake Robin

Erik Daley, Diane McCarthy, Chris Galipeau, and Jeremy Owens appeared on behalf of the application.

Submittals:

- Project Description received 1/12/16
- Conditional Use Application received 1/12/16
- General Information Application received 1/12/16
- Site Plan Review Application 1/12/16
- Preliminary Plan Review Application received 1/12/16 and including project narrative, list of abutters, endangered species, necessary wildlife habitat, rare and irreplaceable natural areas mapping, waiver request, open space areas, and wetlands mapping
- Wake Robin Renovation and Expansion Project Summary of Applicable Planning Standards received 1/12/16
- Land Survey prepared by Civil Engineering Associates titled “Wake Robin Corporation, Bostwick Road, Shelburne, Vermont”, dated 6/1/15 and received 1/12/16
- Plans prepared by Perkins Eastman titled “Wake Robin 200 Wake Robin Drive Shelburne Vermont 05482”, undated and received 7/15/15
- Town of Shelburne Staff Report, dated 2/3/16

STAFF REPORT

The DRB received a written staff report on the application, dated 2/3/16. Kate Mitchell noted information has been received on the impact to the town’s budget by SSTA service, elevator cut sheet confirming a stretcher can be accommodated, third party review for traffic by Regional Planning, and third party review for storm water by South

Burlington's Storm Water Superintendent. A fee schedule can be prepared for the applicant. Shelburne Natural Resources Committee requested the hearing not be closed until the committee can review the plans.

APPLICANT COMMENTS

Erik Daley reviewed the proposal for a new apartment building, covered walkway, and addition to the healthcare and community center. The individual residences will have garages rather than underground parking. Comments from staff are being addressed. Mr. Daley requested discussion of the following:

- The town request that Wake Robin help with the cost to repave Bostwick Road to Route 7 based on the assumption the construction at Wake Robin will accelerate degradation of the road condition.
- Rewording the language relative to the fire truck to avoid saying the project triggers the need for a new fire truck.
- Clarification of the third party review at Wake Robin's cost (why it is necessary, the scope, cost estimate and a cap).

Chris Galipeau stated school impact information has been submitted to the town (letter from Bob Mason saying Wake Robin residents will not have an impact on schools). Regarding storm water, the project requires state permits and all requirements will be satisfied. Information required by the town will be submitted. A condition indicating there must be compliance with all state permits is suggested rather than having third party review. Traffic study and traffic counts (Bostwick/Route 7 intersection and Wake Robin/Bostwick intersection) have been submitted and will be reviewed by Regional Planning and Act 250. Fire truck turning movements have been accommodated with the proposed width of the road and the information has been submitted. The foundation plans for the water tank will be submitted for Final Plan review. A meeting is scheduled with Shelburne Natural Resources Committee. Parking includes one covered parking space per unit plus additional parking by the fire truck turnaround. Handicap parking is at the front of the building and by the walking trails.

Mark Sammut suggested having a meeting with appropriate town staff and the applicant to discuss storm water and the fire truck and avoid duplicating or exceeding what is required at the expense of the applicant. Also, confirmation from the Town Manager is needed that the information from CCTA is satisfactory. Staff will schedule a meeting with the necessary parties.

Kate Mitchell noted there are 251 independent living units shown while the maximum is 250 units. Erik Daley said one of the existing units is being taken off line.

Mark Sammut asked about the conservation easement. Chris Galipeau said the limit for the number of units on the site is reached and 33% is conserved so of the 90 acres, 70% is conserved. Wake Robin prefers not having to dedicate 33% in any particular location. Any changes to the site will require review by the town. There are also Act 250 permit restrictions on the property. Diane McCarthy, attorney for Wake Robin, added Wake Robin has bonding requirements that restrict the conservation easements. Staff will send a memo to Shelburne Natural Resources Committee regarding the conserved land prior to the meeting with the applicant.

Jeremy Owens discussed lighting on the site. Lighting is requested dusk until midnight. An email on the matter will be sent for inclusion in the record.

PUBLIC COMMENT

There were no comments from the public.

DELIBERATION/DECISION

Preliminary Plan\Conditional Use, 39 Unit Apartment Building and Continuing Care Retirement Facility, 200 Wake Robin Drive, Wake Robin (SUB03-08R5\CU16-02)

MOTION by Mark Sammut, SECOND by Jerry Storey, to conduct a site visit to Wake Robin on February 10, 2016 at 3:30 PM. VOTING: unanimous (6-0); motion carried.

MOTION by Mark Sammut, SECOND by Jeff Hodgson, to continue the hearing for SUB03-08R5\CU16-02 by Wake Robin to February 17, 2016. VOTING: unanimous (6-0); motion carried.

5. DISCUSSION OF REVISED RULES OF DISCOVERY/EVIDENCE

MOTION by Mark Sammut, SECOND by Mary Kehoe, to continue discussion of the revised Rules of Discovery/Evidence. VOTING: unanimous (6-0); motion carried.

6. OTHER BUSINESS/CORRESPONDENCE

None.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by Jeff Pauza, SECOND by Jerry Story, to adjourn the meeting. VOTING: unanimous (6-0); motion carried.

The meeting was adjourned at 9:09 PM.