

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
September 21, 2016**

MEMBERS PRESENT: Mark Sammut, Ian McCray, Judy Christensen, Norm Blais. (Mary Kehoe, Jeff Hodgson, Jeff Pauza, Alex von Stange, and Ellery Harkness were absent.)

STAFF PRESENT: Kaitlin Mitchell, DRB Administrator.

OTHERS PRESENT: Dave Marshall, Jack Millbank, Chris Pingert, Elizabeth Smardon, Larry Godard, Rowland and Dianne Davis, Kevin Wise, Don Buermann, Jacqueline Hoes, Alan Nevins, Susan Baldwin, Chad Fitzpatrick, Elisia Laramee, David Hamilton, Doris Laramee, Marc Vincent, Alex Nalbach, Pat and Jim Collins, Russell Caffry, Joan Saar, Amy Saar, David McLean, Ulrike Bowen, Cathy Phillips, Linda Ryan, Heather Friedrichson, Pater Friedrichson, Andy Dunn, Wright Caswell, Maureen Post, Caroline Gorman, David Webster, Ann Clark, Jane Graham.

AGENDA:

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (9/7/16)
4. Applications
 - Design Review\Final Plan, Subdivision, Two Lots, 1056 Falls Road, Smardon (DR16-10\SUB16-01)
 - Sketch Plan, Subdivision, Two Lots, 653 Bay Road, Elisia Laramee (SUB16-04)
 - Amendment, Final Plan, Relocate Driveway, 3735 Harbor Road, John and Amy Saar (SUB04-05R1)
 - Amendment, Site Plan, Exterior Changes, 120 Graham Way/Sage Court, Graham Goldsmith (SP10-03R2)
 - Sketch Plan, Subdivision, 93 Webster Road, Susan Baldwin (FBZ16-01)
5. Other Business/Correspondence
6. Adjournment and/or Deliberative Session

1. CALL TO ORDER and ANNOUNCEMENTS

In the absence of Chair Kehoe, Mark Sammut called the meeting to order once a quorum was present at 7:08 PM. There were no disclosures of conflict of interest or ex parte communications. Mr. Sammut explained with regard to the Baldwin application and form based code features, the DRB charter is to adjudicate the bylaws. How the bylaws are drafted is the charge of the Planning Commission. Alternate DRB member, Norm Blais, was welcomed to the DRB.

2. PUBLIC COMMENT

Jim Collins, Bourgea Lane, submitted a written statement on the Baldwin proposal.

3. APPROVAL OF MINUTES

September 7, 2016

MOTION by Mark Sammut, SECOND by Ian McCray, to postpone action on the 9/7/16 minutes to the next meeting. VOTING: unanimous (4-0); 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.

DR16-10\SUB16-01: Design Review and Final Plan for a two lot residential subdivision at 1056 Falls Road in the Shelburne Falls Mixed Use District and Village Design Review Overlay District by Elizabeth Sardon

Jack Millbank, CEA, and Chris Pingert, attorney, appeared on behalf of the application. Norm Blais confirmed he viewed the video of the past hearing on the application.

Submittals:

- Final Plat Application, received 8/4/16
- Warranty Deed Draft – Lot 1
- Warranty Deed Draft – Lot 2
- Site Plan prepared by Civil Engineering Associates, Inc., titled “Proposed Two Lot Subdivision 1056 Falls Road, Shelburne VT”, dated August 3, 2016 and received August 4, 2016
- Final Plat titled “Property Survey & Subdivision of the Jeremy and Elizabeth Sardon Property 1056 Falls Road, Shelburne, Vermont” prepared by G.E. Bedard, Inc., dated 8/2/16 and received 8/3/16
- Town of Shelburne Staff Report, dated 9/21/16

STAFF REPORT

The DRB received a written staff report on the application, dated 9/21/16.

APPLICANT COMMENTS

Jack Millbank said comments have been received from the Fire Dept., natural resources committee, and historic preservation/design review. The Fire Dept. suggested the trees lining the driveway be limbed to 13’ and the gravel surface should be 16’ wide. The applicant feels 14’ wide is sufficient because the lot is narrow and the distance is short. There is good sight distance.

Mark Sammut mentioned the comments from Police Chief Warden. Jack Millbank assured the comments regarding the neighbor’s mailbox, trees in the public right-of-way,

and the turnaround for the second lot will be addressed. The existing driveway varies in width, but will be made consistent. A 14' width is adequate. Kate Mitchell pointed out the 14' wide driveway is in a 20' right-of-way so there will be no obstructions in the right-of-way. There will be room for snow storage.

Chris Pingert said there is not a buyer for the second lot at this time so the approval condition relative to the 20' access should be modified.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Design Review\Final Plan, Subdivision, Two Lots, 1056 Falls Road, Elizabeth Sardon (DR16-10\SUB16-01)

MOTION by Judy Christensen, SECOND by Norm Blais, to finalize the record for the Final Plan Application, SUB16-01, and Design Review Application, DR16-10, for 1056 Falls Road by Elizabeth Sardon. VOTING: unanimous (4-0); motion carried.

MOTION by Judy Christensen, SECOND by Norm Blais, to close the hearing for Final Plan Application, SUB16-01, and Design Review Application, DR16-10, and to direct staff to prepare a decision indicating approval of SUB16-01 as depicted on the Final Plat title "Property Survey & Subdivision of the Jeremy & Elizabeth Sardon Property 1056 Falls Road, Shelburne, Vermont" prepared by G.E. Bedard, Inc., dated August 2, 2016 with the following conditions:

- 1. The Mylar shall be recorded in the Shelburne land records within 180 days of the signed approval.**
- 2. Finalized and executed legal documents for the 20' access and utility easement shall be recorded with the Mylar after approval by the Town Attorney.**
- 3. A zoning permit shall be required prior to any improvements being made.**
- 4. Design Review approval shall be required prior to the issuance of a zoning permit.**
- 5. Erosion prevention and sediment control details shall be provided with the zoning permit application for any future land development on Lot 2.**
- 6. Site specific waste water details shall be provided prior to the start of any land development.**
- 7. Prior to commencing land development a pre-construction meeting will be held between the property owner, their engineer and contract, and town staff; additional meetings will be held as requested by town staff during construction.**

8. Design Review approval shall be required prior to any improvements being made in accordance with Article XV.

9. The comments from Police Chief Warden, dated 9/14/16, shall be addressed.

VOTING: unanimous (4-0); motion carried.

SUB16-04: Sketch Plan to subdivide a 9.1 acre lot into two lots at 653 Bay Road in the Residential District and Lakeshore Overlay District by Elisia Laramee

Elisia Laramee, Jeff Fitzpatrick, and David Hamilton appeared on behalf of the application.

Submittals:

- Application for Sketch Plan Review, received 8/30/16
- General Application, received 8/30/16
- Property Owner Authorization Form, received 8/30/16
- Site Plan prepared by Geobarns, LLC, titled “Concept Plans”, dated 8/26/16 and received 8/30/16
- Department comment letter, dated 9/14/16
- Town of Shelburne Staff Report, dated 9/21/16

STAFF REPORT

The DRB received a written staff report on the application, dated 9/7/16. Kate Mitchell noted the following:

- There may be a sensitive area for Native American artifacts. A survey will be done to confirm the house location will not disturb anything. [Jeff Fitzpatrick said the site of the house is where a dairy barn was previously located so the site has already been disturbed.]
- The actual lot size needs to be clarified.
- The DRB can grant a 20’ access easement if there is no lot frontage. The existing lot has enough frontage for two lots so the DRB may want to reconfigure the lots. [Elisia Laramee said the Perrigo family owns the full frontage. The Laramee family owns the frontage on the west side. There are other family members who may want lots and frontage in the future and that is why an easement was wanted for the driveway. David Hamilton added a future lot is only a possibility.]
- The driveway is in close proximity to the Bay Road underpass and the stop sign. [Elisia Laramee said the driveway is 30 away.]

APPLICANT COMMENTS

Elisia Laramee explained the plan to subdivide the property into two lots and construct a house on the new lot. The Laramee family owns the property to the west (formerly owned by Baggs) and Perrigo owned the front lot. The driveway, water and sewer lines are

detailed on the plan. Jeff Fitzpatrick said the application for waste water is started. Comments from Department Heads will be gathered. David Hamilton stated some brush clearing has been done on the site. Elisia Laramee said the least amount of trees will be cut.

Kate Mitchell mentioned the Champlain Water District water line on the property.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Sketch Plan, Subdivision, Two Lots, Laramee (SUB16-04)

MOTION by Mark Sammut, SECOND by Ian McCray, to classify Subdivision Application, SUB16-04, as a Minor Subdivision. VOTING: unanimous (4-0); motion carried.

MOTION by Mark Sammut, SECOND by Ian McCray, to authorize the applicant for SUB16-04 to prepare a Final Plan Application and consider the following recommendations:

- 1. Provide written comments from Department Heads as required by Section 610(13) of the Subdivision Regulations.**
- 2. Provide a State Project Review Sheet or statement certifying the applicant has been informed they are responsible for identifying and obtaining state permits.**

VOTING: unanimous (4-0); motion carried.

SUB04-05R1: Amendment to Final Plan to relocate the driveway approved as part of a subdivision at 3735 Harbor Road located in the Rural District and Lakeshore and Floodplain Overlay districts by John and Amy Saar

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

Submittals:

- Cover letter prepared by Civil Engineering Associates, dated 8/15/16 and received 8/24/16
- General Information Application, received 8/24/16
- Final Plan (Plat) Review Application, received 8/24/16
- ANR Aerial Map, Class II Wetlands Map, Shelburne Point Rare and Endangered Map, Natural Areas Map, received 8/24/16
- Planning and Development Requirements and Design Standards Supplemental Information, dated 8/15/16 and received 8/24/16

- General Permit, dated 6/17/16 and received 8/24/16
- Wetlands Site Evaluation Summary prepared by Wheeler Environmental Services, dated 11/17/15
- Civil Engineering Associates, Inc., dated 8/1/16 and received 8/24/16
- Town of Shelburne Staff Report, dated 9/21/16

STAFF REPORT

The DRB received a written staff report on the application, dated 9/21/16.

APPLICANT COMMENTS

Dave Marshall explained the proposal to relocate a previously approved driveway to better fit with the existing topography. The curb cut was approved in 2004. Erosion control measures will be employed. The area is undeveloped presently except for a cottage fronting the lake to the west. The driveway will support a proposed house at the far west end of the property.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Amend Final Plan, Relocate Driveway, 3735 Harbor Road, Saar (SUB04-05R1)

MOTION by Ian McCray, SECOND by Judy Christensen, to finalize the record for the Final Plan (Plat) Amendment Application, SUB04-05R1, for 3735 Harbor Road by John and Amy Saar. VOTING: unanimous (4-0); motion carried.

MOTION by Ian McCray, SECOND by Judy Christensen, to close the hearing on the Final Plan (Plat) Amendment Application, SUB04-05R1, and direct staff to prepare a decision indicating approval of SUB04-05R1 for the reconfiguration of a previously approved driveway for lot “FY” as depicted on the Plat Set prepared by Civil Engineering Associates, Inc., titled “Driveway Reconstruction”, dated 8/1/16 and received 8/24/16 with the condition an Excavation and Fill Permit shall be required prior to any alterations being made. VOTING: unanimous (4-0); motion carried.

SP10-03R2: Site Plan Amendment to remove three parking spaces, add new driveway area, relocate driveway, add new loading dock, new covered porch area, new concrete block retaining wall and chiller pad at 120 Graham Way and Sage Court in the Commerce and Industry South District and Stormwater Overlay District by Graham Goldsmith

Dave Marshall and Al Nevins appeared on behalf of the application.

Submittals:

- General Application, received 8/8/16
- Site Plan Review Application, received 8/8/16
- Parking Calculations Sheet, dated 6/15/16 and received 8/8/16
- Site Plan Set – C1.0, L1, prepared by CEA, last revised 8/8/16 and received 8/8/16
- Town of Shelburne Staff Report, dated 9/21/16

STAFF REPORT

The DRB received a written staff report on the application, dated 9/21/16. Kate Mitchell said the proposal includes realigning the existing drive to the dumpster, a covered porch area, concrete pad for a silo, and open air loading dock.

APPLICANT COMMENTS

Al Nevins explained the tenant for Building 1 needs an evaporator pad and shed for storage of empty kegs, grain silos, and a driveway for big equipment. The loading dock is the main in/out for the facility. The change in the driveway is for waste product to go to farms. It is easier to have straight access to the dumpster. There is interest in Building 4 (building not yet built) so approval of the common area loading dock shared with Building 10 is requested along with the ramp to the forklift loading area and connecting to the back of Building 4 and 10. Dave Marshall said the proposal is a work in progress with regard to each building that comes before the DRB. Each building has tenant driven needs. As amenities are added lot coverage increases. The development is a PUD and will stay within the requirements.

Mark Sammut asked about the retaining wall. Al Nevins said there is a walkway south of the retaining wall and a way for water to drain. Mr. Sammut asked if the shed (covered porch) to be used for storage of kegs will be screened. Mr. Nevins said there will be a fence with slats so the kegs are not seen. The chiller pad is to the west of the covered porch. Cedars will be planted around the evaporator and retaining wall. Cedars are intended to be planted along the dumpster drive as well. Mark Sammut said the landscape plan will need to be amended.

PUBLIC COMMENT

Kevin Wise, Green Hills Drive, mentioned the problem of vehicles using the gravel service road and going through the residential neighborhood rather than using Cynosure Drive to Shelburne Road. Mr. Wise suggested closing one lane of the gravel road or putting in a berm to direct traffic to the paved road. Mr. Nevins said more signs can be posted directing people to use the paved road.

Dave McLean, Green Hills Drive, echoed the problem of traffic cutting through the neighborhood. There is a high volume of cars traveling fast on the residential streets creating an unsafe situation.

Don Buermann, Green Hills Drive, stated cars using the gravel road and residential streets to avoid Route 7 is a continual problem that is adversely impacting the residents. Mr. Buermann suggested installing a gate on the gravel road with a device that would allow emergency access.

Heather Freidichson, Green Hills Drive, expressed concern about the level and speed of traffic on the street impacting the safety of the children in her daycare/preschool and in the neighborhood. There are no sidewalks or speed bumps. Residents park on the street. There are two 90° turns on the road. Installing a gate on the gravel road is a better idea than just signs to detour traffic.

Mark Sammut commented the problem of traffic cutting through the neighborhood was noted with the original development proposal. Dave Marshall pointed out Cynosure Drive is not owned by the applicant, but is privately owned (Pecor) and serves the loading areas of the historic building so access must be maintained. A plan can be developed to minimize cutting through the neighborhood and to slow drivers on Cynosure Drive.

David McLean stressed the issue is slowing cars through the residential neighborhood. The character of the neighborhood has changed because of the traffic. The town can install a gate where the private ownership of the road ends. Al Nevins said most of the traffic is people cutting through to avoid the traffic light on Route 7.

Judy Christensen suggested the neighborhood and the applicant address the Selectboard about the traffic problem.

DELIBERATION/DECISION

Amend Site Plan, Exterior Changes, 120 Graham Way & Sage Court, Graham Goldsmith (SP10-03R2)

MOTION by Mark Sammut, SECOND by Judy Christensen, to finalize the record for application SP10-03R2 for 120 Graham Way and Sage Court by Graham Goldsmith. VOTING: unanimous (4-0); motion carried.

MOTION by Mark Sammut, SECOND by Judy Christensen, to close the hearing for SP10-03R2 and direct staff to write a decision indicating approval of the site plan amendment application (SP10-03R2) as depicted on the Site Plan Set prepared

by Civil Engineering Associates, titled “Shelburne Green South” last revised 8/8/16 and received 8/8/16 with the following conditions:

1. A zoning permit shall be required prior to any improvements being made.
2. All previous conditions of approval for SUB13-02R2 still apply.
3. Cedars shall be planted on the west end of the covered porch and in the condenser and condenser pad area every two feet to screen/conceal, and screening shown as low blueberry bushes at the west end of Building 1 shall be substituted with cedars at two foot on center planting.

VOTING: unanimous (4-0); motion carried.

FBZ16-01: Sketch Plan to create nine new lots at 93 Webster Road in the Residential District and Stormwater Overlay District using the Shelburne Road Form Based Overlay District by Susan Baldwin

Dave Marshall, Civil Engineering Associates, appeared on behalf of the application. Norm Blais confirmed he viewed the video of the past hearing on the application.

Submittals:

- Cover letter prepared by Civil Engineering Associates, dated 7/12/16 and received 7/12/16
- General Application Form received 7/12/16
- Sketch Plan Review Application, received 7/12/16
- Property Owner Authorization Letter
- Proposed Conditions Site Plan Neighborhood Street Plan prepared by Civil Engineering Associates
- Town of Shelburne Staff Report, dated 9/21/16

STAFF REPORT

The DRB received a written staff report on the application, dated 9/21/16. Kate Mitchell stated the proposal is to create nine lots, one will be open space, one will contain the existing single family house, and one will have a duplex. The DRB did a site visit. Comments have been received from the Fire Department and from neighbors Jim & Pat Collins and the Loeb. The application is in conformance with the form based bylaws. The proposal is a Minor Subdivision and will go straight to Final Plan Review.

The DRB agreed to enter the following into evidence:

- Email from Jim Collins, dated 9/20/16, regarding staff report points.
- Letter from Pam and Stu Loeb, 1216 Webster Road, dated 9/21/16, regarding issues with traffic and density of development in the area.

APPLICANT COMMENTS

Dave Marshall discussed the request by the Fire Department for a 24' wide road that is only 20' long. With on-street parking the road width would have to be 28' wide. The proposed width of 20' is consistent with the NFPA1 Manual. A wider road will overwhelm the character of the area. The road and pedestrian way could be a shared use. Form based code provides more guidance on low impact design. Form based code calls for a 50' right-of-way with a 34' paved surface, promotion of parking on both sides of the roadway and an 18' wide travel way. The Fire Department is requesting a 28' travel way. Regarding comments from neighbors, more information will be forthcoming on storm water, utilities, traffic, and such.

The applicant will work with staff on issues that have been raised and on preparing the application for Final Plan Review.

PUBLIC COMMENT

Ann Clark, Webster Road, expressed concern about the density of the development, noting most of the property owners on Webster Road have acreage so what could be done in terms of development is huge. Ms. Clark said the houses do not need to be on top of one another. There is a traffic issue on Webster Road now and the proposal will compound that. The DRB is asked to be incredibly prudent with the application.

Pat Collins, abutter to the applicant's property, stated the road in the proposal will go nowhere because there are no plans to develop the property that abuts the applicant's property. The response from the Planning Director about the proposed development was very confusing and frustrating. Kate Mitchell explained the Planning Commission writes the bylaws, subdivision regulations, and form based code. The DRB enforces/implements the regulations and cannot deny an application that meets the bylaws because there is disagreement on whether the proposal is a good idea or not. The road in the Baldwin proposal is based on form based code. The road is not required, but must be taken into consideration because it is part of form based code and is shown on the plan. It is not advisable or legal for the DRB to eliminate the road. The Planning Commission is looking out 50 years with the regulations and trying to plan for the future.

There was further discussion of the road in the proposed development. Judy Christensen suggested the road does not need to be built to specification now and could exist as a right-of-way. A turnaround on the road serving the houses is needed though. Kate Mitchell said the DRB can modify the road to be a more narrow cul-de-sac for now. The temporary access as proposed was done by the applicant. The form based road would be deeded to the town. Dave Marshall said the intent was to make an offer of irrevocable dedication for the north-south roadway so the town has the ability to take over the road at some point in the future. The temporary road would remain private until there is

connectivity. Judy Christensen noted the town's interest is the form based road and not the temporary road so the form based road should be shown as a right-of-way for the future. Mark Sammut suggested the temporary private road be shared use (road and pedestrian/bike path). The road must be able to accommodate turning movements of fire vehicles. Dave Marshall said a hammerhead is created by combining two driveways.

David Webster, Webster Road, mentioned the percentage of the property that is unbuildable and not considered in the density. Dave Marshall said the proposed density is less than what is allowed. Kate Mitchell will research how form based code deals with wetlands, floodplain, and slope.

Wright Caswell, Farmstead Homeowners Associations, said the 18 members in the association were not notified of the proposal and Farmstead abuts the property. Going forward the residents want to be notified. Kate Mitchell confirmed the correct mailing information is now on file. Mr. Caswell asked for a copy of the past notification(s) to be forwarded to him as well.

Jim Collins asked where to get information on answers to the questions that have been raised. Kate Mitchell explained the information from the meeting is on the record. The staff report on the application also contains information and information is posted on Front Porch Forum.

DELIBERATION/DECISION

Sketch Plan, Subdivision, 93 Webster Road, Susan Baldwin (FBZ16-01)

MOTION by Mark Sammut, SECOND by Norm Blais, to continue the hearing on FBZ16-01 for 93 Webster Road by Susan Baldwin until November 2, 2016.

VOTING: unanimous (4-0); motion carried.

5. OTHER BUSINESS/CORRESPONDENCE

None.

6. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by Judy Christensen, SECOND by Ian McCray, to adjourn the meeting.

VOTING: unanimous (4-0); motion carried.

The meeting was adjourned at 9:20 PM.