

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  
January 6, 2016**

**MEMBERS PRESENT:** Mark Sammut (Chairman); Jeff Pauza, Mary Kehoe, Jerry Storey, Jeff McBride, Ian McCray, Alex von Stange, Ty Parker. (Jeff Hodgson was absent.)

**STAFF PRESENT:** Kaitlin Mitchell, DRB Administrator.

**OTHERS PRESENT:** Jeff Jackson, Scott Jaunich, Chris Galipeau, Tracey Beaudin, Ken and Julie Cartularo, Trish Blood, Dave Potter, Don Phelps, Traci Wright, Jim Warden, Brian Precourt, Dan Casey, Rick Fisher, Tracy Fisher, Jerry Fisher, James Bahrenburg, Dave Marshall, David Webster.

**AGENDA:**

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (12/2/15 & 12/16/15)
4. Applications
  - Design Review, Deck & Shed, 104 Marsett Road, Blood (DR15-30)
  - Design Review, Demolish Garage, Lot #2, 82 Shelburnewood Drive, Phelps (DR15-31)
  - Findings, Conditions, Jackson Subdivision, Lands End Lane (SUB05-08)
  - Sketch Plan, Re-subdivision, Mixed Use PUD, Shelburne Shopping Park, Precourt Investment Company, LLC (SUB15-11)
  - Final Plan, Subdivision, Two Lots, 3182 Shelburne Road, Buono Appetito Corporation (SUB15-10)
  - Conditional Use\Site Plan, Automotive Body Repair Shop, 135 Northside Drive, R&Y Northside, LLC/Daniel Casey (CU12-15R2\SP95-2R2)
5. Continued Discussion of Revised Rules of Discovery/Evidence
6. Other Business/Correspondence
7. Adjournment and/or Deliberative Session

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**1. CALL TO ORDER and ANNOUNCEMENTS**

Mark Sammut called the meeting to order at 7 PM and announced Jeff McBride will recuse himself for the Jackson application (SUB05-08).

**2. PUBLIC COMMENT**

None.

**3. APPROVAL OF MINUTES**

*December 2, 2015*

**MOTION by Mark Sammut, SECOND by Ian McCray, to approve the minutes of December 2, 2015 as written. VOTING: unanimous (6-0); motion carried.**

*December 16, 2015*

**MOTION by Mark Sammut, SECOND by Jerry Storey, to approve the December 16, 2015 minutes 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.

**DR15-30: Design Review to remove an existing pool and deck and build a new 20'x 26' deck and 10'x 10' storage shed at 104 Marsett Road by David and Patricia Blood**

Trish Blood appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application, dated 1/6/16.

#### APPLICANT COMMENTS

Trish Blood explained the plan to remove the existing deck and above ground pool and build a smaller deck and shed within the fenced area.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Design Review, Deck and Shed, 104 Marsett Road, Blood (DR15-30)

**MOTION by Jerry Storey, SECOND by Jeff Pauza, to grant design review approval to David and Patricia Blood for removal of an existing pool and deck and construction of a new 20'x 26' deck and 10'x 10' storage shed at 104 Marsett Road. VOTING: unanimous (6-0); motion carried.**

**DR15-31: Design Review for the demolition of a two-story garage on Lot #2 at 82 Shelburnewood Drive by The Commons at Shelburnewood, LLC/Donald Phelps**

Donald Phelps appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application, dated 1/6/16.

#### APPLICANT COMMENTS

Donald Phelps explained he is trying to purchase the property (Lot #2), but the bank will not finance the purchase until the garage is removed or relocated.

## PUBLIC COMMENT

None.

## DELIBERATION/DECISION

Design Review, Demolish Garage, Lot #2, 82 Shelburnewood Drive, Phelps (DR15-31)

**MOTION by Mark Sammut, SECOND by Jeff Pauza, to grant design review approval to The Commons at Shelburnewood, LLC/Donald Phelps for the demolition of the garage on Lot #2, 82 Shelburnewood Drive. VOTING: unanimous (6-0); motion carried.**

**SUB05-08: Reconsideration of Conclusion, Findings, and Conditions in the Notice of Approval for the setback cutting plan for Lands End Lane by Jeff Jackson**

Jeff Jackson, Scott Jaunich, and Chris Galipeau appeared on behalf of the application. Jeff McBride recused himself.

**MOTION by Jeff Pauza, SECOND by Jerry Storey, to reconsider the Findings of Fact and Notice of Decision dated October 21, 2015 issued with respect to the Vegetation Cutting Plan filed on behalf of SUB05-08 by Jeff Jackson. VOTING: unanimous (5-0); motion carried.**

## STAFF REPORT

The DRB received a staff memo on the application, dated 12/30/15.

## APPLICANT COMMENTS

Scott Jaunich explained clarification is sought on the permit conditions relative to tree cutting and removal of invasive plants. The Jacksons would like to modify the conditions as suggested in the Jaunich letter, dated 12/5/15. Regarding Sections 1761 & 1762 (Lakeshore Overlay District cutting approvals), this is not applicable in the proceeding because the applicant has not yet filed for these particular permits. Also, regarding the condition disallowing further cutting of any trees without prior approval and identification of the view zone, if 10 years from now the lots have not sold it will be necessary to do best management practices without identifying the view zone which cannot be done without knowing the house site. Condition 4 must be modified. Following further discussion there was agreement Attorney Jaunich will prepare revised language for review and deliberation by the DRB.

## PUBLIC COMMENT

There were no comments from the public on the reconsideration.

## DELIBERATION/DECISION

Reconsideration, Findings & Conditions, Lands End Lane, Jackson (SUB05-08)

**MOTION by Mark Sammut, SECOND by Jerry Storey, to close the hearing with the understanding Attorney Jaunich will submit proposed revised language within the next couple of weeks and the town will issue revised Findings of Fact and Conditions. VOTING: unanimous (5-0); motion carried.**

Jeff McBride returned to the DRB.

**SUB15-11: Sketch Plan for re-subdivision of three lots in a 12-lot subdivision into a one lot Mixed Use PUD in Shelburne Shopping Park in the Village Center Mixed Use District and Village Design Review, Village Core, and Storm Water Overlay districts by Precourt Investment Company, LLC**

Brian Precourt appeared on behalf of the application.

## STAFF REPORT

The DRB received a written staff report on the application, dated 1/6/16.

## APPLICANT COMMENTS

Brian Precourt reviewed the proposal to add 50,000 s.f. to the back and side of the Rite Aid building connecting to Cucina and with a drive-thru pharmacy and defining the drive behind Aubuchons. The suggestion by the Design Review Committee for an information kiosk area on the building to break up the blank wall can be done if required by the DRB. Changes previously requested by the DRB (crosshatching, storm water, dumpster enclosure) have been implemented. The calculations for lot coverage and the residential units on the property (6 units) have been submitted. Per the calculations there can be up to 7 residential units, but no additional units are proposed.

There was discussion of adding a window to break up the solid wall of the building façade. Brian Precourt noted Rite Aid has design standards for the internal space which may prevent a window on the building wall. There was discussion of use of the loading dock. Brian Precourt stated he does not control deliveries. The area is used to store the totes which are at least out of sight from the front of the store. There was mention of adding vegetation to the bump-out to help break up the long building expanse or adding benches or large rocks.

## PUBLIC COMMENT

Rick Fisher asked about the road and parking behind the hardware store. Brian Precourt said the road will be a one way connector to exit. The parking spaces will remain.

Tracy Fisher asked about the drive-thru pharmacy. Brian Precourt said there will be pavement markings in the shopping park to direct people to the drive-thru. There will be enough stacking for three cars in the queue. The roadway is two lanes and the perpendicular parking spaces are mainly used by employees, not customers. Ms. Fisher asked about large tractor trailer trucks. Brian Precourt said the supermarket has the most truck traffic. Most of the complaints are about idling trucks at 5AM disturbing the residential tenants. Cucina has a tractor trailer truck delivery on Thursday. Most of the other deliveries are bulk and through the front of the building.

There were no further comments.

#### DELIBERATION/DECISION

Sketch Plan, Re-Subdivision, Redevelopment PUD, Shelburne Shopping Park, Precourt (SUB16-11)

**MOTION by Mary Kehoe, SECOND by Jerry Storey, to classify subdivision application, SUB15-11, as a Major Subdivision. VOTING: unanimous (6-0); motion carried.**

**MOTION by Mary Kehoe, SECOND by Jerry Storey, to close the public hearing for SUB15-11 for a Redevelopment PUD at Shelburne Shopping Park by Precourt Investment Company. VOTING: unanimous (6-0); motion carried.**

**MOTION by Mary Kehoe, SECOND by Jerry Storey, to authorize the preparation of a Preliminary Plan application for SUB15-11. VOTING: unanimous (6-0); motion carried.**

#### **SUB15-10: Final Plan for a two lot Minor Subdivision at 3182 Shelburne Road in the Mixed Use District and Storm Water Overlay District by Buono Appetito Corporation**

Dave Marshall appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application dated 1/6/16.

#### APPLICANT COMMENTS

Dave Marshall reported presently there are two commercial buildings on one parcel and there is a buyer of the restaurant to own the land fee simple. A survey was done and the lot is larger than first thought so a variance is no longer needed to subdivide the lot into two lots. The property line dividing the lot is no closer to any parking spaces than existing conditions. Buono Appetito Restaurant has frontage on Champlain Drive and

Route 7 which exceeds the 150' requirement. No physical changes are planned to the land. The parking is shared between the two lots.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Final Plan, Minor Subdivision, 3182 Shelburne Road, Buono Appetito Corp. (SUB15-10)

**MOTION by Mark Sammut, SECOND by Jeff Pauza, to close the hearing on the Final Plat application for SUB15-10 for a two lot subdivision at 3182 Shelburne Road. VOTING: unanimous (6-0); motion carried.**

**MOTION by Mark Sammut, SECOND by Jeff Pauza, to direct staff to prepare a decision to indicate approval of the Final Plat for SUB15-10 for a two lot subdivision at 3182 Shelburne Road by Buono Appetito Corporation as depicted on the plans submitted with the application and 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 Parking Easement approved by the Town Attorney and Zoning Administrator within 180 days of the signed approval.**

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

**CU12-15R2\SP95-2R2: Conditional Use\Site Plan for change of use from warehousing to automotive body repair shop at 135 Northside Drive in the Commerce & Industry District and the Storm Water Overlay District by R&Y Northside, LLC\Daniel Casey**

Dan Casey appeared on behalf of the application.

#### STAFF REPORT

The DRB received a written staff report on the application dated 1/6/16. Kate Mitchell noted there were no comments on the application from the town departments of Waste Water, Water, or Highway. Comments have not yet been received from Fire, Police or Emergency Services.

#### APPLICANT COMMENTS

Dan Casey stated the building at 135 Northside Drive is better suited for the business than the existing building.

Alex von Stange asked about screening the dumpster. Mr. Casey said the dumpster will be behind a tree and not seen from the road.

#### PUBLIC COMMENT

Jim Bahrenburg mentioned the residential houses across the street from the business. Mark Sammut said any request to change the zoning of an area must be submitted to the Planning Commission for consideration and approval. Mr. Bahrenburg asked about hours of operation, deliveries, noise, and cars parked on the street side of the building. Mr. Casey said the hours of operation are 8 AM – 5 PM, Monday through Friday. Office work may be done after hours. Deliveries are local with pickup trucks or small vans mainly. All repair work is done inside the building. Cars will not be parked outside. Cars will be repaired and delivered to their owner. There will be no sales of cars.

There were no further comments.

#### DELIBERATION/DECISION

Conditional Use\Site Plan, Automotive Repair Shop, 135 Northside Drive, Dan Casey (CU12-15R2\SP95-2R2)

**MOTION by Mark Sammut, SECOND by Jerry Storey, to close the public hearing on CU12-15R2\SP95-2R2 for an automotive repair business at 135 Northside Drive. VOTING: unanimous (6-0); motion carried.**

**MOTION by Mark Sammut, SECOND by Ian McCray, to direct staff to prepare a decision to indicate approval of CU12-15R2\SP95-2R2, conditional use and site plan for an automotive repair business at 135 Northside Drive by Dan Casey as depicted on the plans submitted with the application and with the following conditions:**

1. A zoning permit shall be required prior to any improvements being made.
2. Approval is conditional upon the applicant submitting a waste water management plan to be approved by the Shelburne Waste Water Department Head.

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

#### 5. REVISED RULES OF DISCOVERY/EVIDENCE

**MOTION by Mark Sammut, SECOND by Mary Kehoe, to continue discussion of the revised rules of discovery/evidence until January 20, 2016. VOTING: unanimous (6-0); motion carried.**

Mary Kehoe mentioned there are only 12 towns in Vermont with on-the-record review.

**6. OTHER BUSINESS/CORRESPONDENCE**

*Reappointments*

Let Mark Sammut know by February 29, 2016 of interest in being reappointed to the DRB. Reappointments are done April 1<sup>st</sup>.

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

**MOTION by Mark Sammut, SECOND by Mary Kehoe, to adjourn the meeting.**

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

The meeting was adjourned at 8:25 PM.

*RScty: MERiordan*