

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 17, 2021

***Meeting held by teleconference.**

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

STAFF PRESENT: Dean Pierce, Planning Director; Dan Albrecht, Acting DRB Coordinator; Lee Krohn, Zoning Administrative Officer.

OTHERS PRESENT: Dave Marshall, Gail Albert, Fran Carr, Ed McMahon, Vlad Kogan, Chris Snyder, Andy Rowe, Jeff Hodgson, Jim Langam, Celeste Laramie, Kathy Deavitt.

AGENDA:

1. Call to Order and Agenda
2. Approval of Minutes (2/3/21)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Site Plan, Nine Unit Residential Building Expansion, 4253 Shelburne Road, Limoge Wheeler Shelburne Road, LLC (SP99-09R1)
 - Appeal, Building Permit #B21-003, 0 & 360 Sledrunner Road, Vladimir Kogan/Vlada Alexeeva (A21-01)
 - Appeal, Building Permit #B21-003, 0 & 360 Sledrunner Road, Edward McMahon/Frances Carr (A21-02)
 - Amend Final Plan, Modify Multi-Use Path, 5760 Spear Street, Snyder Shelburne Properties, LLC (SUB16-02R1)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

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

2. MINUTES

February 3, 2021

MOTION by John Day, SECOND by Mike Major, to approve the minutes of 2/3/21 as presented. VOTING by rollcall: unanimous (6-0); motion carried.

3. PUBLIC COMMENTS

There were no comments at this time from the public.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

Mike Major noted the applications under appeal were before his time on the DRB, and John Day mentioned an offer he made on a parcel in the subdivision before the DRB that was not accepted.

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.

SP99-09R1: Site Plan for a nine unit residential expansion and related site improvements to the east of the existing five unit apartment building at 4253 Shelburne Road in the Mixed Use District, Residential District, Stormwater Overlay District, and Special Flood Hazard Area Overlay District by Limoge Wheeler Shelburne Road, LLC

Dave Marshall with CEA appeared on behalf of the application.

STAFF REPORT

The DRB received a staff memo on the application, dated 2/11/21 and correspondence from CEA on building connectivity requirements and from the Denver, Colorado, Zoning Administrator on common walls, detached structures. Dean Pierce reviewed the outstanding issues with the application to be addressed including whether the addition is a separate building, second access for emergency vehicles, and buffering.

APPLICANT COMMENTS

Dave Marshall referred to his memo, dated 2/9/21 that discussed the research of bylaws in Shelburne and other towns on common walls. The research supports the position that the common wall between the existing building and the proposed addition is critical for the building addition to operate so the building should be considered as one structure. Following further discussion and a straw poll of the DRB there was agreement that there is a single set of framing connecting the structure (common wall with connected roof) to form one large building and the common wall is integral to the original structure and the addition.

There was discussion of the emergency access for firetrucks, the additional curb cut on Route 7, and screening. Dave Marshall said the applicant was trying to be proactive in providing the emergency access and screening for the neighbors to the north, but the access can be removed if necessary. Dan Albrecht noted input from the Fire Department is that the tie into the water supply and a fire hydrant should be on the south side of the building. Following further discussion there was agreement by the DRB that the curb cut and north accessway can be eliminated from the plan, water access and a fire hydrant should be located on the south side of the building, and NFPA and any applicable town ordinance should be followed.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Site Plan, Nine Unit Residential Building Expansion, 4253 Shelburne Road, Limoge Wheeler Shelburne Road, LLC (SP99-09R1)

MOTION by Mark Sammut, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a document granting approval of SP99-09R1 for a nine unit residential building expansion and related site improvements to the east of the existing five unit apartment building at 4253 Shelburne Road by Limoge Wheeler Shelburne Road, LLC with the following conditions:

1. All construction shall be done in accordance with approved plans and approved or required modifications thereto.
2. The applicant shall not remove any topsoil, sand, or gravel beyond that required to meet construction needs of the subdivision.
3. The applicant shall provide financial assurance for landscaping prior to issuance of a building permit.
4. The applicant shall regularly maintain all stormwater conveyance and treatment systems.
5. Water service for the project shall be brought into the south end of the property and a hydrant placed per NFPA 2015 standards and any Town of Shelburne Water Department requirements.
6. The manhole connection shall be completed to the satisfaction of the Shelburne Water Quality Superintendent.
7. The plans are approved without the curb cut and the fire access lane off Route 7.

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

A21-01 & A21-02: Appeal of a building (zoning) permit, Building Permit #B21-003, for fencing and gates at 0 and 360 Sledrunner Road in the Rural District and Lakeshore Conservation Overlay District by Vladimir Kogan and Vlada Alexeeva (A21-01) and Edward McMahon and Frances Carr (A21-02)

Celeste Laramie, attorney for Kogan/Alexeeva and McMahon/Carr, and Jim Langam, attorney for True North, appeared on behalf of the appeal.

STAFF REPORT

The DRB received a staff memo on the appeals, dated 2/11/21, and legal memos from the attorneys. Dean Pierce reviewed the purpose of the easement for ingress/egress and the jurisdiction of the DRB with easements per the Shelburne bylaws. The property owner, True North, cannot fence in the easement across a neighbor's property.

APPELLANT TESTIMONY

There was discussion of the easement. Jim Langam said his client, True North, is not denying there is an easement, but disagrees the easement would be violated by the fence. Celeste Laramie, attorney for Kogan and McMahon/Carr, stated the town bylaws say access should not be limited, that the property owner should have all manner of ingress/egress, and not be subjected to where that access is located. John Day advised

that the scope of the easement or whether the easement is encumbered is a property rights dispute and not the jurisdiction of the DRB.

Doug Griswold asked if the fence is built differently from the original permit. Attorney Laramie reviewed the layout of the 50 easement on Sledrunner Road, the easement to the beach and the location of the pedestrian gates, noting originally the gate was on the eastern side, but is now on the western side. David Hillman observed True North is providing access to the easement though it may not be as convenient as before.

Lee Krohn, Shelburne Zoning Administrative Officer, explained the DRB does not have jurisdiction over private easements. The fence is on True North property and the property owner is offering a gate for access. The DRB needs to determine whether the ordinance has been violated. Attorney Laramie said the DRB should address the 2019 permit and not just new portions of the fence. True North failed to post the permit and the neighbors had no opportunity to comment. The fence is also in violation of the 100' lakeshore setback.

Doug Griswold asked what the penalty is for not displaying the permit. Lee Krohn said publicly posting the permit is a requirement and not posting risks invalidation of the permit which would require reapplication and re-issuance of a permit.

Attorney Laramie said the road, not just the sight line, is obstructed by the fence. The fence encloses agricultural land and impacts wildlife corridors and views from the lake. The fence on the western side can be seen from the lake and the spur along the beach does not serve a purpose. Lee Krohn said it is not a statutory or zoning standard whether a fence has purpose and not the DRB's jurisdiction to ascribe purpose or value to a structure. There has been no testimony that the wildlife corridors are blocked by the fence or a natural resource is being violated. The decision before the DRB is whether to uphold the issuance of the 2021 permit.

Appellants, Ed McMahon, Frances Carr, and Vladimir Kogan, said the construction of the fence on the west side of Sledrunner Road was done prior to the issuance of the 2021 permit and the pedestrian access will not allow residents to maintain their property and use Sledrunner Road as in the past. Vladimir Kogan said the pedestrian gate will not allow access from his property.

There was mention of finding a compromise solution. The attorneys representing the parties said they would need to discuss the suggestion with their clients.

DELIBERATION/DECISION

Appeals, Fence/Gates at 0 and 360 Sledrunner Road, Kogan and McMahon/Carr (A21-01 & A21-02)

MOTION by Mark Sammut, SECOND by John Day, to continue appeal of a fence and gates at 9 and 360 Sledrunner Road by Kogan (A21-01) and McMahon/Carr (A21-02) to March 3, 2021 to allow legal counsel to confer with their respective

clients and allow the DRB to deliberate the issue if desired. **VOTING by rollcall: unanimous (6-0); motion carried.**

SUB16-02R1: Amendment to Final Plan for modifications to the multi-use paved path and associated landscaping along Spear Street frontage at 5760 Spear Street in the Residential District, Stormwater Overlay District, and Floodplain and Watercourse Overlay District by Snyder Shelburne Properties, LLC

Chris Snyder, Snyder Properties, Andy Rowe, Lamoureux & Dickinson, and Jeff Hodgson, landscape architect, appeared on behalf of the application.

STAFF REPORT

The DRB received a written staff report on the application, dated 2/7/21. Dan Albrecht reviewed the modifications to the plan to include change in alignment of the multi-use path and additions to landscaping along the path (plantings, lighting, sitting benches, stonewall, gazebo within the PUD setback). The DRB needs to determine if the modifications are compliant with the town plan and bylaws, that the lighting is compatible with surrounding properties, the benches and wall are compliant with height limits, and the gazebo is allowed in the setback.

APPLICANT COMMENTS

Chris Snyder said the modifications are to improve the bike path, corridor, and access. Jeff Hodgson explained the path will meander farther into the buffer along Spear Street and the corridor will be treated as a park with benches, landscaping, and lighting to be an asset for the public and residents in the neighborhood. To meet height limitation requirements the benches can be backless though they will not be as attractive or comfortable. The lights will be on from dawn to dusk only. There will be 11 light poles, 10' in height, and five benches concealed by landforms.

PUBLIC COMMENT

Gail Albert, neighbor to the development, said the adjacent neighborhood does not have streetlights. Jeff Hodgson said the proposed lights on the path are dark sky compliant and have house shields so light will shine on the Spear Street side only. The lights on 10' poles are more like a residential lamppost. Mark Sammut asked about bollard lights. Jeff Hodgson said bollards would not illuminate a person's face so they are not great for safety purposes.

DELIBERATION/DECISION

Amend Final Plan, Modify Multi-Use Path, 5760 Spear Street, Snyder Shelburne Properties, LLC

MOTION by Mark Sammut, SECOND by Doug Griswold, to finalize the record, close the hearing, and direct staff to prepare a decision indicating approval of SUB16-02R1 to modify the multi-use path and associated landscaping along Spear Street at 5760 Spear Street by Snyder Shelburne Properties, LLC with the following conditions:

- 1. The project shall be constructed in conformance with the approved plans.**

2. **The proposed lighting fixtures shall comply with Shelburne Lighting Standards, Section 1975 and Section 800(7)(d) Compatibility with Surrounding Property, Typical Exterior Lighting Levels and Requirements.**
3. **The gazebo shall be moved to the west to comply with the 30' setback requirement.**

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

6. OTHER BUSINESS/CORRESPONDENCE

Deavitt Open Space Agreement

Kathy Deavitt explained to the DRB that a paragraph in the Open Space Agreement that was approved by the DRB was edited after the fact though the paragraph had not been edited through the numerous reviews and edits of the document by the Town Attorney prior to approval by the DRB.

David Hillman will discuss procedure with this matter with the Town Manager.

7. ADJOURNMENT

MOTION by Doug Griswold, SECOND by Mike Major, to adjourn the meeting.

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

The meeting was adjourned at 10:13 PM.

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