

*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  
August 21, 2019**

**MEMBERS PRESENT:** David Hillman (Vice Chair); Mark Sammut, John Day, Mike Major, Anne Bentley.) Jeff Pauza and Doug Griswold were absent.)

**STAFF PRESENT:** Ravi Venkataraman, DRB Administrator.

**OTHERS PRESENT:** Tony Wang, Lisa & Philippe Charlebois, Clark Hinsdale, Anne Powell, Cari Howland, Llynda Bigalow, Chris & Bill Griffin, Karen Breswehan, Nancy Hinsdale, Suzanne Hinsdale, Leta Finch, Bill Ryerson, Dave Marshall, Dorilee Leblanc, Anne Knowlton, Margaret Titus, David Webster, Peter Regan, David Hall, Ian Rutherford, Norman Stanislas, Graham Goldsmith, Liam Murphy, Ken Albert, Jerry Fisher, Andrea Menke, Lisa Scagliotti (Shelburne News).

**AGENDA:**

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (7/17/19 & 8/7/19)
4. Disclosures/Potential Conflicts of Interest
5. Applications
  - Design Review, Exterior Repairs/Improvements, 41 Falls Road, 41 Falls Road, LLC (DR19-12)
  - Design Review, Windows, 203 Harbor Road, Shapiro (DR19-13)
  - Conditional Use\Site Plan, Change Use to Building Material Sales, 3910 Shelburne Road, Dream Come True, LLC (CU19-09\SP19-08)
  - Sketch Plan, Subdivision, Two Lots, 1 Nashville Road, Laurie and Mark Kotorman (SUB19-03)
  - Sketch Plan, Subdivision, Nine Lots, 537 Thompson Road, William and Christine Griffin (SUB19-11)
  - Final Plan, Modify Conditions of Approval, 120 Graham Way, Shelburne Green, LLC (SUB13-02R3)
6. Other Business
7. Adjournment

---

**1. CALL TO ORDER and ANNOUNCEMENT**

In the absence of Chair Jeff Pauza, Vice Chair, David Hillman, called the meeting to order at 7 PM and then due to laryngitis turned the facilitation of the meeting over to John Day, DRB Clerk.

**2. PUBLIC COMMENTS**

There were no comments from the public at this time.

### 3. MINUTES

*July 17, 2019*

**MOTION by Mark Sammut, SECOND by Anne Bentley, to postpone approval of the 7/17/19 minutes to the next meeting. VOTING: unanimous (5-0); motion carried.**

*August 7, 2019*

**MOTION by Mark Sammut, SECOND by Mike Major, to postpone approval of the 8/7/19 minutes until the next meeting. VOTING: unanimous (5-0); motion carried.**

### 4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

### 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.

**DR19-12: Design Review for exterior repairs and improvements at 41 Falls Road in the Village Center District, Village Design Review Overlay District, Village Core Overlay District, and the Stormwater Overlay District**

Philippe Charlebois appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Photographs the building
- List of proposed renovations
- Sketch of west elevation with proposed renovations and materials noted
- Town of Shelburne Staff Report, dated 8/21/19

#### STAFF REPORT

The DRB received a written staff report on the application, dated 8/21/19. Ravi Venkataraman explained the proposed work on the windows, gutters, roof, and front porch decking on the building at 41 Falls Road. Shelburne Historic Preservation & Design Review Committee recommended approval with the condition a zoning permit must be secured before installation.

#### APPLICANT COMMENTS

Philippe Charlebois explained the necessary repairs and improvements to the commercial building while preserving the character.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Design Review, Exterior Repairs/Improvements, 41 Falls Road, 41 Falls Road, LLC (DR19-12)

**MOTION by Mark Sammut, SECOND by Mike Major, to grant design review approval of DR19-12 by 41 Falls Road, LLC/Philippe and Lisa Charlebois for improvements to the building at 41 Falls Road as outlined in the HP&DRC application with the condition a zoning permit shall be required prior to the commencement of construction. VOTING: unanimous (5-0); motion carried.**

**DR19-13: Design Review to replace basement windows and add window wells at 203 Harbor Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by Russell Shapiro**

Jerry Fisher appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Photographs of the building and existing basement windows
- Catalog cut sheets for proposed windows and window wells
- Town of Shelburne Staff Report, dated 8/21/19

#### STAFF REPORT

The DRB received a written staff report on the application, dated 8/21/19. Ravi Venkataraman explained the plan for six replacement basement windows and wells. Shelburne Historic Preservation & Design Review Committee recommended approval of the application with the condition a zoning permit be required prior to construction.

#### APPLICANT COMMENTS

Jerry Fisher said the six new windows are 12” higher than the existing windows and the wells are bigger for better ventilation of the basement.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Design Review, Windows, 203 Harbor Road, Shapiro (DR19-13)

**MOTION by Mike Major, SECOND by Mark Sammut, to grant design review approval of DR19-13 by Russell Shapiro for six replacement basement windows and new window wells at 203 Harbor Road with the condition a zoning permit shall be required prior to commencement of construction. VOTING: unanimous (5-0); motion carried.**

**CU19-09\SP19-08: Condition Use\Site Plan for a change of use to building materials sales at 3910 Shelburne Road in the Mixed Use District and Stormwater Overlay District by Dream Come True, LLC**

Tony Wang appeared on behalf of the application.

Submittals:

- Conditional Use Review application, received 7/23/19
- Site Plan Review application, received 7/23/19
- Drawing Set, received 7/23/19
- Town of Shelburne Staff Report, dated 8/21/19

#### STAFF REPORT

The DRB received a written staff report on the application, dated 8/21/19. Ravi Venkataraman explained the change in use from a furniture store retail use to a building materials sales use. Storage of materials will be inside. There are no exterior changes to the building or site. Two bike racks are needed in the parking area.

John Day asked about screening on the western boundary. Ravi Venkataraman said staff feels the existing screening is sufficient.

#### APPLICANT COMMENTS

Tony Wang said the kitchen showroom will be changed to a cabinet showroom so the use is still retail.

#### PUBLIC COMMENT

None.

#### DELIBERATION/DECISION

Conditional Use\Site Plan, Change Use to Building Material Sales, 3910 Shelburne Road, Dream Come True, LLC (CU19-09\SP19-08)

**MOTION by Mark Sammut, SECOND by Mike Major, to finalize the record, close the hearing, and direct staff to prepare a decision indicating Conditional Use approval of CU19-09 and Site Plan approval of SP19-08 for a change of use to building material sales at 3910 Shelburne Road by Dream Come True, LLC with the following conditions:**

1. A zoning permit is required prior to any land development pursuant to Section 2010.1.
2. The applicant must include site plans that show a bike rack with at least two bicycle parking spaces with the zoning permit application pursuant to Section 1960.4.

**VOTING: unanimous (5-0); motion carried.**

**SUB19-03: Sketch Plan for a two lot subdivision at 1 Nashville Road in the Residential District, Stormwater Overlay District, and Floodplain and Watercourse Overlay District by Laurie and Mark Kotorman**

**MOTION by Mark Sammut, SECOND by Mike Major, per the request of the applicant to continue the application hearing to October 16, 2019. VOTING: unanimous (5-0); motion carried.**

**SUB19-11: Sketch Plan to create a nine lot subdivision at 537 Thompson Road in the Resident District and Stormwater Overlay District by William and Christine Griffin**

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

Submittals:

- Cover letter prepared by Civil Engineering Associates, Inc., received 7/16/19
- General Application Form, received 7/16/19
- Sketch Plan Review Application, received 7/16/19
- “Land Use: 210 – Single Family Detached Housing” from ITE Trip Generation Manual 10<sup>th</sup> Edition, received 7/16/19
- Vermont ANR Area Well Mappin, received 7/16/19
- Wildlife and Endangered Species Mapping from Vermont ANR, received 7/16/19
- Town of Shelburne Staff Report, dated 8/21/19

STAFF REPORT

The DRB received a written staff report on the application, dated 8/21/19. Ravi Venkataraman reviewed the proposed nine lot subdivision at the end of Thompson Road with 2.65 acres of the 15.04 acre parcel set aside for open space. The proposal is a Major Subdivision. The maximum number of units allowed per the Residential District is 32 units. Hardwood shade trees need to be shown on both sides of the roadway on the landscaping plan.

APPLICANT COMMENTS

Dave Marshall said a “T” intersection will be created from the subdivision to Thompson Road. Wetlands have been identified on the property (Class 2 wetlands run south to north). The cul-de-sac will serve a number of house sites. The eastern third of the property is forested and has a pond. Some of the proposed houses will have a view of the pond. Buffering to the south will be dedicated open space or a boundary line adjustment will be made with the neighbor. The existing driveway is to Thompson Road. As much of the screening features as possible will be retained. Well water will serve the lots. A low pressure force main will be tied into the gravity system on Thompson Road for the sewer. Shelburne Water Quality Superintendent asked that any existing on-site septic systems in the area having problems should be allowed to use the same sewer system.

PUBLIC COMMENT

William Ryerson, Thompson Road, said the roadway 20’ off the turnaround is on their property and mature trees will have to be removed for the road so the request is to move the access road. Also, it is not necessary to have a four-way intersection because there is no outlet on Ridge Road. There is concern about the impact nine more houses may have on the water table which could impact existing wells. Dave Marshall said improving the buffering of the roadway to the houses to the south will be looked at and the applicant will comply with the state rules for water and waste water.

Leta Finch, Thompson Road, said there is only one outlet to Thompson Road and Irish Hill Road and the addition of potentially 18 cars for the proposed nine houses is significant. Ms. Finch asked for border protection for property liability.

Caroline Howland, Vista Drive, expressed concern about the stop sign at Thompson Road not being respected now and more traffic will make the neighborhood less safe and more suburban. There is also concern about impact on the Class 2 and Class 3 wetlands by the increase in impermeable surfaces, and the change in the nature of the neighborhood with the subdivision. Dave Marshall noted the town plan has identified the area as having a much higher density than what is proposed. The intent is to bring new residential growth closer to the village. The new impervious surfaces must meet the 2017 state storm water rules.

Llynda Bigalow, property owner to the east, said where Thompson Road ends need to be clarified before the intersection is changed. There is a house close to Thompson Road on a small lot on the corner. Other considerations include available well water, aesthetics, traffic. Connection to sewer is a plus and will be an improvement for existing homes in the area. Dave Marshall said a boundary survey will be done to determine the extension of Thompson Road to the north. The small house on the corner lot is using a portion of the right-of-way. The plan tries to minimize impacts on the front of the house.

Dorilee Leblanc, Thompson Road, said the small house is hers and has been in her family since 1952. Thompson Road ends 106' from Cedar Ridge. The right-of-way is in the deed. A four-way stop at the intersection will isolate her house and is not needed. A nine lot subdivision will impact the character of the neighborhood since Cedar Ridge and Vista each have five acre minimum lots. Ms. Leblanc said there are wetlands on her property and the proposed driveway does not meet the 50' setback. There is concern about any impact on the spring on her property. Also, there is not proper pedestrian safety in place on the road with cars. There is a year-round preschool with a summer camp on the road. Ravi Venkataraman said 32 units is the maximum number based on 20,000 s.f. for a single family dwelling over 618,805 s.f. including Class 2 wetlands. With the wetlands removed from the calculation there could still be up to 28 or 30 units. Dave Marshall stated a professional wetlands ecologist will do a site visit and evaluate the wetlands which are covered by federal and state regulations.

There was additional comment from the public stressing the importance of the wetlands and nine houses essentially doubling the existing volume of traffic in the neighborhood. It was noted that though there are many people who walk and bike, they must drive into the village because it is not safe to walk/bike without sidewalks in place. Pedestrian safety needs to be enhanced. Impact on the intersection of Irish Hill Road/Thompson Road should also be considered with the increase in the number of cars. Dave Marshall noted a study was done to connect to the concrete sidewalk on Falls Road. Topography, trees, and houses along the road created many challenges.

#### DELIBERATION/DECISION

Sketch Plan, Subdivision, Nine Lots, 537 Thompson Road, Griffin (SUB19-11)

**MOTION by Anne Bentley, SECOND by Mike Major, to classify SUB19-11 as a Major Subdivision, and to finalize the record, close the hearing, and direct staff to prepare a decision to authorize the applicant, William and Christine Griffin, to prepare a Preliminary Plan application for a nine lot subdivision at 537 Thompson**

**Road with the condition a landscape plan be included in the Preliminary Plan Review application and the plan must depict hardwood shade trees on both sides of the proposed roadway pursuant to Shelburne Subdivision Regulations, Section 810(4). VOTING: unanimous (5-0); motion carried.**

**SUB13-02R3: Final Plan to modify previous conditions of approval at 120 Graham Way (formerly 6221 Shelburne Road) in the Commerce and Industry South District and Stormwater Overlay District by Shelburne Green, LLC**

Dave Marshall, Liam Murphy, Graham Goldsmith, Norm Stanislas appeared on behalf of the application.

Submittals:

- Comments from Clark Hinsdale, Nancy Hinsdale, 153 Covington Lane, regarding the Shelburne Green Final Plat Review Application, SUB13-02R3, dated 8/21/19
- Exhibit A: Memo from Ravie Venkataraman to the DRB, dated 8/15/19, regarding Final Plan Review application, SUB13-02R3
- Copy of letter to the editor of the Shelburne News from Lynn Pruitt, dated 8/15/19, regarding the Fiddlehead expansion.
- Town of Shelburne Staff Memo, dated 8/15/19

STAFF REPORT

The DRB received a staff memo on the application, dated 8/15/19. Ravi Venkataraman noted Exhibit A contains corrections to the conditions of approval to include the consolidation of buildings 1, 5, 6 to form up to 40,000 s.f. and the hours of operation changing from 10 PM to doors closing at 9 PM.

John Day mentioned amendments such as the change of location of the food service or special events are outside the scope of the application before the DRB and should be submitted as a separate application. Ravi Venkataraman said anything extraneous to the hearing is not approved and must be submitted as an amendment to the conditions of allowed uses. David Hillman recalled the DRB previously discussed the food service as an incidental use. More information was needed such as a menu. Ravi Venkataraman said the change in hours of operation may lead to an accessory food service becoming a primary use. The DRB did not have enough information on the matter. Whether the accessory food service use with the proposed hours of operation is before the DRB for a decision.

APPLICANT COMMENTS

Liam Murphy, attorney representing the applicant, said the letter of July 31, 2019 clarifies the two issues of combining the buildings and the food service hours ending at 9 PM. In the 2014 approval a food service accessory use from 6 AM to 6 PM was fully permitted. Condition #4 in the Preliminary Plat limited the location of the food service to Building 6 as shown on the plan. The DRB cannot now make a determination on the use as accessory or not. Changing the hours of operation for the food service does not change the use. David Hillman said the menu for the proposed food service and hours of operation could define the use as accessory or a destination like a restaurant. Liam

Murphy reiterated the food service use is already approved. The issue is whether the food service is incidental to the 100,000 s.f. PUD. John Day clarified procedurally with the application the DRB is being asked to rule on the combination of buildings and change in the hours of operation for the food service. Liam Murphy said if the applicant opens a restaurant that will be subject to enforcement action by the town because the use is not accessory. The question before the DRB presently is not about the use being accessory or not. The applicant would like a decision on the building combination and the change in food service ending hour to 9 PM.

Graham Goldsmith reviewed the improvements to the buildings and the site in pursuit of creating an office park that meets ‘green building’ standards, offers manufacturing and office space, creates jobs, raises tax revenue. There are small areas for retail and food service (café). Finding an operator for the food service was not successful due to the limited hours of operation so a change is requested. The concerns of the neighbors have been heard and are being mitigated with landscaping, fencing, color and design of the building, limiting deliveries to the front of the building, location of the food service area inside the building. An agreement was signed with The Gables Homeowner Association. The development is a great transition from the town to the farm belt. Fiddlehead is an existing tenant at the site and is in need of more manufacturing space as well as the food service area. Shelburne is in danger of losing the entire Fiddlehead operation and associated jobs and tax revenue to Williston which has all the needed space available now.

Norm Stanislas, property manager at Shelburne Green, said a letter of intent was signed with Fiddlehead for expanded space which is needed to produce more beer for new markets in New Hampshire and Rhode Island. Fiddlehead has rented space in Williston in order to be able to manufacture more beer now. The Town of Williston has indicated the entire Fiddlehead operation can be accommodated without further permitting so Shelburne is at risk of losing a great business. One option may be for the DRB to act on the expansion and staff issue the building permit halfway through the appeal period then have the appeal period for both requests overlap and run simultaneously.

#### PUBLIC COMMENT

Clark Hinsdale, III, submitted written comments on the scope of the hearing and everything submitted by the applicant being part of the legal application, noting the public has a different opinion on what the town and applicant are discussing. The applicant could modify the request to add to the list of items. John Day clarified the request is to combine buildings and change hours of operation for the food service. All comments and submittals are evidence before the DRB. Mr. Hinsdale expressed concern about materials being put into the record and the DRB being silent on them which puts the town at risk. All issues raised by the application (maps, documents, testimony) should be available for comment. The town’s zoning does not permit a restaurant in the location. John Day assured the DRB declining to act on an issue does not give either party the right to proceed by default. Liam Murphy noted the issues raised by residents regarding concerts and events should be discussed with the Selectboard or other town commissions. The Preliminary Plan decision by the DRB references maps submitted including the



north-south road. The decision was not appealed. Condition #4 discusses where the food service can be located (“restricted to Building 6 as shown on the floor plan”).

Ian Rutherford, 132 Covington, expressed concern about noise and late night activity at the food service/restaurant or when there are concerts at the site. The brewery is not a problem in the industrial park. Graham Goldsmith said Fiddlehead has held three events in 1100 days of operation, and the concert was over at 7 PM. Teddy Bear held a concert with fireworks until 10 PM and there were no complaints. The application before the DRB is not about events, but rather the food service hours ending at 9 PM in order to find an operator, and to combine the buildings for an expanded space for an existing tenant.

Peter Regan, 119 Covington, recalled past meetings and conversations with the developer on the location and hours of the food service which was said to be ancillary to the manufacturing on the site and primarily there for employees. The location of the food service needs to be settled and should be part of the current discussion. Graham Goldsmith said the food service per the original approval was to be in Building 6 and Building 6 is part of the requested combination of buildings. The food service café will be encased within the building which will be behind a fence and a vegetative/treed buffering.

Anne Powell, 11 Covington, said the residents of The Gables have worked hard to limit the hours of the food service to 6 PM. Later there was discussion of the hours ending at 10 PM then changed to 9 PM. There is no disagreement with combining the buildings so it appears Fiddlehead may be leaving due to the food service issue. Graham Goldsmith said the 2/6/19 agreement with The Gables set the agreed upon terms for events and buffering. Fiddlehead needs to expand in order to manufacture more beer to fill orders now and cannot wait any longer.

Anne Knowlton, 121 Covington, questioned why Fiddlehead needs a café to make money. Graham Goldsmith explained the bigger issue is to continue to make product and have a place for people to grab a bite to eat.

Ken Albert, Shelburne Vineyard, spoke positively of the Shelburne Green development and the viable vertically integrated entities located there from beginning to end of a product manufacture including the consumer coming to the site to view the operation. There have been no complaints about music from the vineyard which have continued later into the evening than the events at Fiddlehead. Shelburne Vineyard does not have the buffers in place that Shelburne Green will be installing. The town needs to find a way to support Shelburne Green’s requests.

Janet Knowlton, 121 Covington, said there have been a number of changes not being discussed. There are other food service providers in the area that close by 6 PM or earlier so there are places to grab a bite. Noise and litter are issues. Food and alcohol create issues. The DRB should consider what defines a restaurant.

DELIBERATION/DECISION

Final Plan, Modify Conditions of Approval, 120 Graham Way, Shelburne Green, LLC (SUB13-02R3)

**MOTION by David Hillman, SECOND by Anne Bentley, to finalize the record, close the hearing for SUB13-02R3 by Shelburne Green, LLC, and enter deliberative session. VOTING: unanimous (5-0); motion carried.**

The DRB entered deliberative session at 10:09 PM and ended at 10:32 PM.

**6. OTHER BUSINESS/CORRESPONDENCE**

None.

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

**MOTION by Mark Sammut, SECOND by Mike Major, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 10:33 PM.

*RScty: MERiordan*