

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
October 2, 2019**

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

STAFF PRESENT: Ravi Venkataraman, DRB Administrator.

OTHERS PRESENT: Benjamin Heath, Carol Smith, Darlene Sweeney, Gail Nilsson, David Shenk, Paul O’Leary, Andrew Antell, Jack Milbank, Amanda Herzberger, Ashish Ahlawat, Brian Precourt, Bruce Whitbeck.

AGENDA:

1. Call to Order and Announcements
2. Public Comment
3. Approval of Minutes (9/4/19)
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Design Review, Decks & Roof, 221 Harbor Road, Ressler (DR19-14)
 - Design Review, Demolition & Reconstruction, 1036 Falls Road, Gardner (DR19-15)
 - Design Review, Fencing, 992 Falls Road, Sweeney (DR19-16)
 - Design Review, Change of Use, 65 Falls Road, Precourt Investment, Co.
 - Final Plan, Re-Subdivision, 3 Lots, 152-372 High Acres Farm Road, Harris/Herzberger (SUB19-07)
 - Sketch Plan, Re-Subdivision, 4 Lots, 1036 & 1056 Falls Road, Gardner (SUB16-01R2)
 - Final Plan, Multi-Family Dwellings, 48 Units, 3972 Shelburne Road, Shenk (SUB19-09\FBZ19-01\CU19-08R1\SP19-05R1)
 - Sketch Plan, PUD, 48 Units, 181, 225, 263, 269 Shagbark Lane, CLS Holdings (SUB15-05R5)
6. Other Business
7. Adjournment

1. CALL TO ORDER and ANNOUNCEMENT

In the absence of Chair Jeff Pauza, David Hillman called the meeting to order at 7 PM.

2. PUBLIC COMMENTS

There were no comments from the public at this time.

3. MINUTES

September 4, 2019

MOTION by John Day, SECOND by Mark Sammut, to approve the 9/4/19 minutes as presented. VOTING: unanimous (5-0); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

Mark Sammut announced he will recuse himself for the application on Shagbark Lane (SUB15-05R5).

The Chair asked those present 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.

DR19-14: Design Review to replace existing front and rear decks and add a roof over the rear decks at 221 Harbor Road in the Village Residential District, Village Design Review Overlay District, and Stormwater Overlay District by David Ressler

Ravi Venkataraman said the application is pending Shelburne Historic Preservation & Design Review Committee approval. Staff recommends continuing the hearing to a date certain.

MOTION by John Day, SECOND by Norm Blais, to continue DR19-14 to 10/16/19. VOTING: unanimous (5-0); motion carried.

DR19-15: Design Review for demolition of a barn and single family dwelling and construction of a new single family dwelling at 1036 Falls Road in the Shelburne Falls Mixed Use District, Village Design Review Overlay District, and Stormwater Overlay District by Scott Gardner

Ravi Venkataraman said the application is pending Shelburne Historic Preservation & Design Review Committee approval. Staff recommends continuing the hearing to a date certain.

MOTION by John Day, SECOND by Mark Sammut, to continue DR19-15 to 12/4/19. VOTING: unanimous (5-0); motion carried.

DR19-16: Design Review for new fencing at 992 Falls Road in the Shelburne Falls Mixed Use District, Village Design Review Overlay District, and Stormwater Overlay District by John and Darlene Sweeney

Darlene Sweeney appeared on behalf of the application.

Submittal(s):

- Historic Preservation and Design Review Application
- Site Plan
- Photographs of proposed fence
- Town of Shelburne Staff Report, dated 10/2/19

STAFF REPORT

The DRB received a written staff report on the application, dated 10/2//19. Ravi Venkataraman said the proposal is for new fencing in the side and rear yards. Shelburne Historic Preservation & Design Review Committee recommends approval with the condition the applicant get a zoning permit.

APPLICANT COMMENTS

The applicant confirmed the address as 992 Falls Road.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Design Review, Fencing, 992 Falls Road, Sweeney (DR19-16)

MOTION by Mike Major, SECOND by John Day, to grant design review approval of DR19-16 by John and Darlene Sweeney for new side and rear yard fencing at 992 Falls Road with the condition a zoning permit shall be required prior to the installation of the new fencing. VOTING: unanimous (5-0); motion carried.

DR19-18: Design Review for a second floor change of use from retail to personal service (hair salon) at 65 Falls Road in the Village Center District, Village Design Review Overlay District, Village Core Overlay District, and Stormwater Overlay District by Precourt Investment Co., LLC

Brian Precourt appeared on behalf of the application.

Submittals:

- Historic Preservation and Design Review Application
- Town of Shelburne Staff Report, dated 10/2/19

STAFF REPORT

The DRB received a written staff report on the application, dated 10/2/19. Ravi Venkataraman said the application is for a change of use in a portion of the retail use in the building. There will be a personal use (hair salon) on the second floor. There will be no changes to the site plan. Administrative review can be done provided the application conforms to the bylaws.

APPLICANT COMMENTS

Brian Precourt said the space on the second floor was used as an office and is being converted to a hair salon which is also a permitted use.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Design Review, Change of Use, 65 Falls Road, Precourt Investment Co., LLC (DR19-18)

MOTION by Mark Sammut, SECOND by Mike Major, to grant design review approval of DR19-18 by Precourt Investment Co., LLC for a second floor change of

use from retail to personal service at 65 Falls Road with the condition a zoning permit shall be required prior to the change of use. VOTING: unanimous (5-0); motion carried.

SUB19-07: Final Plan for a proposed three lot re-subdivision at 152-372 High Acres Farm Road in the Rural District and the Lakeshore Overlay District by Jonathan Harris and Jeff & Amanda Herzberger

Jack Milbank, CEA, appeared on behalf of the application.

Submittals:

- Sketch Plan cover letter prepared by Civil Engineering Associates, Inc., received 5/21/19
- Letter regarding boundary line adjustments from High Acres Farm trustees, received 5/21/19
- Memo from Dunkiel Saunders Elliott Raubvogel & Hand, PLLC, received 5/21/19
- Sketch Plan Review Application, received 5/21/19
- General Application, received 5/21/19
- Maps and Plans, received 5/21/19
- Correspondence from Town Manager and Zoning Administrator, received 5/24/19
- Memo from Planning Director Pierce, received 5/28/19
- “The Vermont Approach” added to the record 6/13/19
- Staff memo for 6/19/19 DRB meeting
- Staff report for 6/19/19 DRB meeting
- Final Plan cover letter prepared by Civil Engineering Associates, Inc., received 8/12/19
- Final Plan Review Application, received 8/12/19
- Town of Shelburne Staff Report, dated 10/2/19

STAFF REPORT

The DRB received a written staff report on the application, dated 10/2/19. Ravi Venkataraman said the DRB determined the proposal for a three lot re-subdivision is a boundary line adjustment, but the adjustment is large enough that Sketch Plan review is needed.

APPLICANT COMMENTS

Jack Milbank explained the internal adjustments are to a large piece of property on the southern acres to reorganize the parcels to better equalize the size of each and bring a couple of buildings into compliance. This is no change to the sketch plan. A water line traverses the property. Reference to this was found in an agreement between Shelburne Farms and Kate Webb Harris (Jonathan’s mother).

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Final Plan, Re-Subdivision, 3 Lots, 152-372 High Acres Farm Road, Harris/Herzberger (SUB19-07)

MOTION by John Day, SECOND by Mark Sammut, to finalize the record, close the hearing, and direct staff to prepare a decision indicating approval of SUB19-07 for a three lot re-subdivision at 152-372 High Acres Farm Road by Jonathan Harris and Jeff & Amanda Herzberger with the condition a mylar must be recorded in the Shelburne land records within 180 days of the signed approval pursuant to Shelburne Subdivision Regulations, Section 370A. VOTING: unanimous(5-0); motion carried.

SUB16-01R2: Sketch Plan for a four lot re-subdivision at 1036 and 1056 Falls Road in the Shelburne Falls Mixed Use District, Village Design Review Overlay District, and Stormwater Overlay District by Scott Gardner

MOTION by John Day, SECOND by Mark Sammut, to postpone the hearing until the last item on the agenda to allow time for the applicant to arrive. VOTING: unanimous (5-0); motion carried.

At the conclusion of the DRB meeting, the applicant still had not arrived and the following motion was made:

MOTION By John Day, SECOND by Mike Major, to continue SUB16-01R2 for 1036 and 1056 Falls Road by Scott Gardner to November 6, 2019. VOTING: unanimous (5-0); motion carried.

SUB19-09\FBZ19-01\CU19-08R1\SP19-05R1: Final Plan to establish a 48-unit multi-family dwelling use at 3972 Shelburne Road in the Mixed Use District, Stormwater Overlay District, and Shelburne Road Form Based Overlay District by David Shenk

David Shenk appeared on behalf of the application.

Submittals:

- Sketch Plan cover letter by O’Leary Burke Civil Associates, PLC, received 5/14/19
- Site Plan Review Application, received 5/14/19
- Conditional Use Review Application, received 5/14/19
- ITE Trip Generation Rates Table for existing use, received 5/14/19
- ITE Trip Generation Rates Table for proposed uses, received 5/14/19
- Landscape Budget, received 5/14/19
- Site Plan, received 5/14/19
- Comments from South Burlington Assistant Stormwater Superintendent, received 5/29/19
- Water and waste water flow calculations, received 5/30/19
- Correspondence between applicant and Shelburne Water Quality Superintendent, received 5/30/19
- Staff report for 6/5/19 DRB meeting
- Updated Site Plans, received 6/24/19

- Cover letter by O’Leary Burke Civil Associates, PLC, received 6/24/19
- Sketch Plan Review Application, received 6/24/19
- Warranty deed re: Cedar Haven Road, received 6/24/19
- Letter from Cedar Haven Homeowners Association, received 7/2/19
- Staff memo for 7/17/19 DRB meeting
- Final Plan Review Application, received 9/10/19
- Cover letter by O’Leary Burke Civil Associates, PLC, received 9/10/19
- HydroCAD model for storm water impact and management, received 9/10/19
- Water and waste water flow calculations table, received 9/10/19
- Site Plans, received 9/10/19
- Additional lighting information and cut sheets, provided 9/24/19
- Town of Shelburne Staff Report, dated 10/2/19

STAFF REPORT

The DRB received a written staff report on the application, dated 10/2/19. Ravi Venkataraman said there have been revisions since Sketch Plan review to be presented by the applicant.

APPLICANT COMMENTS

David Shenk said Act 250 and ANR Wetlands Division found potential Class 2 wetlands in the southwest corner of the property, and rather than wait until spring and delay construction by a year, redesign was done to avoid the wetlands. The middle building was removed. There will be 24 units in each of the two remaining buildings. The center courtyard has fewer parking spaces and the parking has been reconfigured. All other elements remain in place and conform to form based code. There are 48 units rather than 63 units and all will be elder housing units. There will be a sidewalk which will be built once there is an agreement with the homeowners association. DRB approval is needed before the homeowners association will grant approval.

PUBLIC COMMENTS

Gail Nilsson, Winter Haven Road, asked if there will be another building if no wetlands are found. David Shenk said not in practicality because of lack of access. Gail Nilsson asked about the number of bedrooms in the units. David Shenk said there are 28 one bedroom units and 20 two bedroom units.

DELIBERATION/DECISION

Final Plan, Multi-Family Dwellings, 48 Units, 3972 Shelburne Road, David Shenk (SUB19-09\FBZ19-01\CU19-08R1\SP19-05R1)

MOTION by John Day, SECOND by Mark Sammut, to finalize the record, close the hearing for Final Plan (SUB19-09), Conditional Use (CU19-08R1) and Site Plan (SP19-05R1) for 3972 Shelburne Road by David Shenk, and direct staff to prepare a decision indicating approval with the following conditions:

- 1. Waivers pursuant to Form Based Code, Section 1.7.6, allowing multiple buildings on one lot, a deviation from Building Placement standards to reduce the required Build-to-Zone by 10’, and a deviation from Building**

- Elements standards to achieve compliance with the Americans with Disabilities Act.
2. **Conditional Use Review Application CU19-08R1 to allow for the creation of structure parking and surface parking in excess of the stipulated requirement in conjunction with the creation of 48 group living units at 3972 Shelburne Road.**
 3. **Site Plan Review Application SP19-05R1 to allow for the creation of buildings greater than 2,000 s.f. and a parking area with more than 21 spaces in association with the creation of 48 group living units at 3972 Shelburne Road.**
 4. **Final Plan Review Application SUB19-09 for a 48-unit Elder Housing use at 3972 Shelburne Road.**
 5. **Pursuant to Section 1900.5 the applicant must provide a suitable performance bond or other form of security to guarantee the performance and completion of all landscaping required for a period of two years with the zoning permit application.**
 6. **Pursuant to Section 1900.3 the applicant must provide a mechanism that would ensure the applicant and/or future ownership is responsible for the regular maintenance of all storm water conveyance and treatment systems with the zoning permit application.**
 7. **The mylar must be recorded within 180 days of the signed approval of the decision pursuant to Shelburne Subdivision Regulations, Section 1050.**
 8. **A zoning permit is required prior to any land development pursuant to Shelburne Zoning Bylaws 2010.1 and Shelburne Subdivision Regulations, Section 1120.**
 9. **Prior to the issuance of a zoning permit the developer, their engineer, their contractor, Shelburne Water Quality Superintendent or designee, Shelburne Planning & Zoning staff shall conduct a pre-construction meeting to inform the developer and parties associated with the developer of the rules and notifications concerning inspections in all phases of construction pursuant to Shelburne Subdivision Regulations, Section 740.**
 10. **Pursuant to Section 730 prior to the issuance of a zoning permit the applicant is required to notify the Town Manager when construction of required improvements shall begin so the town can inspect during the construction process in order to assure satisfactory completion of improvements or stipulations required by the DRB.**
 11. **Prior to issuance of the last Certificate of Occupancy the engineer providing construction observations and inspections for the work shall certify to the town in writing that the work was completed in accordance with the approved plans pursuant to Shelburne Subdivision Regulations, Section 1140.**
 12. **Prior to issuance of a zoning permit the developer is responsible for informing the Town Manager's Office of the name of the contractor who will be responsible for on-site installation, observations, and inspections for the erosion prevention and sediment control work as specified in Section 1145 of the Shelburne Subdivision Regulations.**

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

SUB15-05R5: Sketch Plan to merge four existing lots and establish a 48-unit multi-family dwelling use within a previously approved PUD at 181, 225, 263, and 269 Shagbark Lane in the Mixed Use District and Stormwater Overlay District by CLS Holdings

Ben Heath, Hamlin Engineering, appeared on behalf of the application. Mark Sammut recused himself.

Submittals:

- Cover letter prepared by Donald L. Hamlin Consulting Engineers, Inc., received 9/12/19
- General Application Form, received 9/12/19
- Sketch Plan Review Application, received 9/12/19
- Correspondence between the applicant and Jeff McMahon, Regional Permit Specialist, VT ANR, re: Project Review Sheet, received 9/12/19
- Site Plans connecting project area to Shelburne Road via Longmeadow Drive intersection, received 8/23/19
- Revised Site Plans, received 9/12/19
- Overlay image of approved building envelopes and proposed building sites per Final Plan approval SUB15-05 and the applicant's current proposal prepared by staff
- Town of Shelburne Staff Report, dated 10/2/19

STAFF REPORT

The DRB received a written staff report on the application, dated 10/2/19. Ravi Venkataraman said the proposal is for a 48 unit multi-family use with four lots merged into one to host the use. There is material provided on the need to amend the building envelopes and on the scale and size of the development. Healthy Living maximized on lot coverage by taking land from the conservation area and the applicant's proposal was amended to accommodate this. A waiver was requested for private wells for water, but the current proposal shows the 48 units connected to municipal water. The current proposal, Healthy Living, and Rice Lumber should be heard concurrently so all impacts can be understood. The Preliminary Plan shows all traffic going to Shelburne Road, but the preference is to go to the intersection, not the jug handle. A landscape plan must be submitted with the Preliminary Plan and a pedestrian connection from the 48 units to the adjoining lots in the PUD to Shelburne Road should be shown. A storm water management plan must also be submitted with the Preliminary Plan. The proposal is a Major Subdivision. If there is outdoor lighting a photometric plan must be submitted.

John Day asked if staff prefers the Longmeadow access and if a traffic study is needed. Ravi Venkataraman said a preliminary traffic survey has been provided and should be taken into consideration.

APPLICANT COMMENTS

Ben Heath said the PUD is 46.5 acres between the Longmeadow signal and Webster Road. Lots 7, 8, 9, and 10 are residential and will be merged into one 19 acre lot where

12 multi-family residential buildings with four units in each building will be constructed. The existing approved access drive connected to Shagbark Lane will be used for vehicle and pedestrian facilities. There are multiple projects happening on the PUD (development is proposed on lots 4, 5, 6) which have to work together so there is continuity. None of the improvements on lots 4, 5, 6 need to be complete in order for the current proposal to move forward. A boundary line adjustment has been included in the design plans. The same has been done with the subdivision and boundary line adjustment with lots 2 and 7. A five foot wide concrete sidewalk will be built in the development to the pedestrian facility on Shagbark Lane. Municipal water and sewer service will serve the development. The 10" water main on Shagbark Lane will be tapped for water. Gravity sewer mains and a pump station will handle the sewer flow. Drainage is west to east to the storm water system on Route 7. A state storm water permit is needed. New impervious and redeveloped impervious surface on the site will be treated. There will be limited development on the eastern side of the merged parcel. There could be up to 60 units, but to avoid impact on the viewshed and due to environmental sensitivity, the number of units was limited to 48. The proposed development will impact only .1% of the 11.4 acre conserved area. The development will have fiber optic, cable, and natural gas service. Comments from the town departments will be addressed. Regarding the staff condition for a pedestrian facility, there is a pedestrian connection to Shagbark Lane and Shelburne Road with the driveway. Regarding the staff condition about a traffic study, the survey showed 22 AM and 44 PM peak hour numbers which does not trigger the need for a traffic study.

John Day noted the previous survey was based on four single family houses, not 48 living units, so a traffic study is warranted. The DRB concurred.

Norm Blais asked if the other projects will be delayed by this project. Ben Heath said the projects do not rely on each other, but are in the same PUD. The consolidation of applications is not necessary. Ravi Venkataraman explained the entire PUD is a single entity and the DRB has jurisdiction to look at the entire PUD with any amendments. Ben Heath noted one condition of the PUD approval is as lots 4, 5, 6 develop then a private drive must be constructed to connect the lots and eventually connect to the signalized intersection.

PUBLIC COMMENT

Bruce Whitbeck, Winter Haven Road, expressed concern about 48 units and the increased traffic as well as the height of the end unit being able to look down on existing homes in the neighborhood. Mr. Whitbeck said the jackhammering that has been taking place during construction is disruptive. Wildlife in the area will disappear if there is no common land available. There is question of whether the schools can handle the number of children from the new units.

Gail Nilsson, Winter Haven Road, said there has always been a conservation area by the cliff where all the wildlife live. There was to be four single family houses and now there are 48 units proposed with the backyard being the cliff which is not good for children to be near. There are questions on the height of the buildings, the number of bedrooms, the

number of people to live there. Some of the conservation area was used to give extra density to the front of the lots so the same amount should be reduced from the back of the lots (i.e. 18 acres minus 11 acres so the coverage should be calculated on 7 acres). Ms. Nilsson said this is not the place for 48 units. There is other land (Yankee Doodle) that could be developed. Ben Heath noted there is clear language in the town's bylaws regarding coverage and gross density. The proposal is not close to the 50% coverage mark and not near the allowed density. There is sufficient capacity. Ravi Venkataraman explained the lot coverage with the PUD is aggregated and capped at 50%, but measured on the entire acreage. The projects on the site would not be allowed otherwise. The applicants have been told about having a clear sense of the conservation area.

DELIBERATION/DECISION

Sketch Plan, PUD, 48 Units, 181, 225, 263, and 269 Shagbark Lane, CLS Holdings (SUB15-05R5)

MOTION by John Day, SECOND by Mike Major, to classify SUB15-05R5 as a Major Subdivision, finalize the record, close the hearing, and direct staff to prepare a decision authorizing the applicant to prepare a Preliminary Plan application for the 48-unit proposal by CLS Holdings at 181, 225, 263, and 269 Shagbark Lane with the following conditions:

- 1. Pursuant to Shelburne Zoning Bylaws, Section 1070, a Site Plan Review Application must be provided with the Preliminary Plan Review Application.**
- 2. Pursuant to Shelburne Zoning Bylaws, Section 1930.7(B), a landscape plan must be provided with the Preliminary Plan Review Application.**
- 3. Pursuant to Shelburne Zoning Bylaws, Section 1930.7(B), pedestrian connection from the subject portion of the PUD to Shelburne Road must be shown on the plans enclosed with the Preliminary Plan Review Application.**
- 4. Pursuant to Shelburne Zoning Bylaws, Section 1930.7(B), building elevations must be provided with the Preliminary Plan Review Application.**
- 5. Pursuant to Shelburne Zoning Bylaw, Section 1930.7(C), the applicant must provide plans with modified areas for conservation in the Preliminary Plan Review Application.**
- 6. Pursuant to Shelburne Subdivision Regulations, Section 800(4), the applicant must provide a storm water management plan with the Preliminary Plan Review Application.**
- 7. Pursuant to Shelburne Subdivision Regulations, Section 800(12), a traffic study must be provided with the Preliminary Plan Review Application.**

VOTING: 3 ayes, one nay (David Hillman); motion failed.

David Hillman said he needs more information on the conservation land and is concerned about the proposal moving from four houses to 48 units on the site.

MOTION by Norm Blais, SECOND by Mike Major, to adopt the motion for SUB15-05R5 as previously stated and with the addition of a condition that the applicant take into consideration the concerns expressed by Acting Chair David Hillman. VOTING: unanimous (4-0); motion carried.

Mark Sammut returned to the DRB.

6. OTHER BUSINESS/CORRESPONDENCE

None.

7. ADJOURNMENT and/or DELIBERATIVE SESSION

MOTION by John Day, SECOND by Mark Sammut, to adjourn the meeting.

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

The meeting was adjourned at 8:38 PM.

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