

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**

April 21, 2021

***Meeting held by teleconference.**

MEMBERS PRESENT: Mark Sammut (Chair); David Hillman, John Day, Mike Major, Anne Bentley, Allyson Myers. (Zeke Plant was absent.)

STAFF PRESENT: Dan Albrecht, Acting DRB Coordinator; Lee Krohn, Town Manager/Zoning Officer.

OTHERS PRESENT: Chris Galipeau, Gail Albert, Sarah Leduc, Peter Ewing, Brian Hehir, David Farrington, Al Karnatz, Lynn and Mark Saunders, Corie Pierce, Adam Nilson, Sam and Geraldine Bloomberg, Rolf Kielman, Sarah Dopp, Sarah Leduc, Joyce George, Brandon Bless, Allison Ewing, Mike Schramm.

AGENDA:

1. Call to Order and Agenda
2. Approval of Minutes (3/17/21)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Conditional Use, Elevator Lift, 120 General Greene Road, Sam and Geraldine Bloomberg (CU21-07)
 - Preliminary Plan, Re-Subdivision, Two Lots, 4788 Spear Street, David Farrington (SUB17-04R1)
 - Amendment to PUD, Merge Two Building Sites, 300 Cheesefactory Lane, Peter Ewing (SUB18-01R1)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

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

2. MINUTES

March 17, 2021

MOTION by John Day, SECOND by Mike Major, to approve the 3/17/21 minutes as presented. VOTING by rollcall: 5 ayes, one abstention (Allyson Myers); motion carried.

April 4, 2021

MOTION by Mike Major, SECOND by Mark Sammut, to approve the 4/7/21 minutes with the correction that Dan Albrecht was not present. VOTING by rollcall: 5 ayes, one abstention (John Day); motion carried.

3. PUBLIC COMMENTS

There were no comments at this time from the public.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

David Hillman announced he will recuse himself from the Farrington application for 4788 Spear Street.

John Day mentioned he is a neighbor of the Bloombergs (application for 120 General Greene Road).

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.

CU21-07: Conditional Use for a 35 s.f. addition to accommodate an elevator lift at 120 General Greene Road in the Rural District, the Lakeshore Overlay District and the Neighborhood Overlay District by Samuel and Geraldine Bloomberg

Geraldine and Sam Bloomberg and Rolf Kielman with Truexcullins appeared on behalf of the application.

STAFF REPORTS

The DRB received a written staff report on the application, dated 4/21/21. Dan Albrecht reported the 35 s.f. addition is for an elevator lift within a nonconforming structure. Information is needed on height and design criteria and Section 1910.4 of the regulations.

APPLICANT COMMENTS

Rolf Kielman, architect, reviewed photo renderings of the proposed elevator addition that will allow access to three levels of the house. The structure will conform to the existing roof pitch and mimic existing building materials.

Sam and Geraldine Bloomberg explained their desire to remain in the house they have lived in for the past 51 years and the lift will allow this.

PUBLIC COMMENT

None.

DELIBERATION/DECISION

Conditional Use, Elevator Lift, 120 General Greene Road, Bloomberg (CU21-07)

MOTION by Mark Sammut, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a decision indicating Conditional Use approval of CU21-07 for a 35 s.f. addition for an elevator lift at 120 General Greene Road by Samuel and Geraldine Bloomberg with the condition a zoning permit shall be

required prior to any improvements being made. VOTING by rollcall: unanimous (6-0); motion carried.

SUB17-04R1: Preliminary Plan for re-subdivision of an existing lot labeled Lot 2 into two new lots labeled Lot 5 and Lot 6 and incorporating a portion of Lot 2 into Lot 4 at 4788 Spear Street in the Residential District, Stormwater Overlay District, and a portion of the Watercourse Overlay District by David Farrington

David Farrington, applicant, and Chris Galipeau with CEA appeared on behalf of the application. David Hillman recused himself.

STAFF REPORT

The DRB received a written staff report on the application, dated 4/21/21. Dan Albrecht reported the application is for a re-subdivision of the subdivision approved in 2018. The application is a Major Subdivision and going through the subdivision review process. Stormwater comments have been received. The applicant is requesting waiver from municipal water and sewer service because there will be on-site systems and wells to serve the lots. Also, a new curb cut on Spear Street is requested, but if this is problematic the existing driveway can be used for access. A pedestrian easement is not proposed because the property is not near other residences or sidewalks/paths.

APPLICANT COMMENTS

Chris Galipeau, CEA, pointed out the current plan is the original goal David Farrington had for the property which was to separate the construction company and Lot 4 for development by his grandson which was done in 2018. The proposal is to create two new lots, Lot 5 and Lot 6, for single family residential use. Lot 2 is mainly wetlands, wooded, and prime ag soils. No development or changes to the lot are proposed. There are trails and the VAST snowmobile trail through Lot 2. Shelburne Water Quality Superintendent, Chris Robinson, agreed with the request to not connect to municipal water and sewer service despite being in the sewer service area due to the difficult terrain and the distance to the town service. The existing development has on-site sewer and water. An erosion control and state stormwater permit will be attained. A stormwater management plan has been provided to the town. Any necessary adjustments will be made once the house and driveway locations are defined. The access road will continue to serve Lot 1 and the construction company. Access to the other lots will be an easement across the property. Shelburne Natural Resources wanted the property owner to donate Lot 2 to the town, restrict tree cutting, and produce an open space agreement, but the applicant was not amenable to this and feels he has been a good steward of the land. Regarding the curb cut on Spear Street, Shelburne Highway Superintendent, Paul Goodrich, did not have an issue with this or having access off the existing driveway. Regarding a pedestrian easement, there are no sidewalks in the vicinity for connection so an easement is not proposed.

Dave Farrington noted that the frontage requirement on Spear Street for the curb cut is what prompted the current layout for the driveway.

PUBLIC COMMENT

Gail Albert, Shelburne Natural Resources Committee, said the committee recognizes the good stewardship of the land and simply wants to ensure that will continue. The committee would still like to discuss conservation of the land in perpetuity.

DELIBERATION/DECISION

Preliminary Plan, Re-Subdivision, Two Lots, 4788 Spear Street, David Farrington (SUB17-04R1)

MOTION by Mark Sammut, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a decision indicating Preliminary Plan approval of SUB17-04R1 for 4788 Spear Street by David Farrington to re-subdivide a portion of Lot 2 into two new lots (Lot 5 and Lot 6) and incorporate the remaining land into Lot 4 with the following conditions:

1. **The project shall be constructed in conformance with the approved plans.**
2. **No topsoil, sand or gravel shall be removed from the subdivision for any purpose other than to meet construction needs of that particular subdivision or to meet the requirements of the Shelburne Zoning Bylaws.**
3. **The plan is approved with the curb cut on Spear Street as proposed.**
4. **Waiver of the requirement to connect to municipal water and sewer service and waiver of the requirement for a pedestrian easement are granted.**

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

David Hillman returned to the DRB.

SUB18-01R1: Amendment to the PUD to merge two approved residential building sites and the new building site with the five-acre building envelope will be located on Parcel C previously designated for conservation at 300 Cheesefactory Lane in the Rural District, Conservation District, and Floodplain and Watercourse Overlay District by Peter Ewing

Peter and Allison Ewing, applicant, and attorney, Brian Hehir, appeared on behalf of the application.

Mark Sammut noted a site visit to the Ewing property occurred on 4/20/21.

STAFF REPORT

The DRB received a staff memo on the application, dated 4/15/21. Dan Albrecht reviewed meeting materials received on the application including site plan C2.01A revised 4/8/21 and C2.01B, and revised covenants detailing restrictions on the property.

APPLICANT COMMENTS

Peter Ewing stated the revised site plan and homeowners association agreement covers:

- The creation of a two-acre homestead under Vermont Current Use requirements at the north end of the five-acre building envelope in the Town of Shelburne. Having the house site on the field edge allows for a shorter driveway, not obstructing access between farm fields, being in a non-productive pasture versus a hay field, creating a buffer between neighbors/farms, and privacy.

- Combining lots 4 & 5 and moving the house onto the farm parcel, now labeled Lot 5. Additional houses have not been added.
- Incorporation of the town counsel's advice into the homeowners association covenants on the open, conserved land with the important point being the parcel cannot be further subdivided and there is no restriction on farming. There will be restrictions for subdividing in the deeds. Each deed will reference the covenants.

Mark Sammut stated the site plan should accurately reflect the proposed lots and the language in the covenants and the deeds restricting further subdivision should be provided to the town for review.

There was discussion of agricultural and forest use on the land. Peter Ewing noted more of the parcel is in Current Use for agriculture than forest presently, but this could change as trees continue to populate the southwest corner of the property.

There was mention of the distance between the houses on the lots, and mention in the covenants of domestic cats being outdoors at night.

Allison Ewing spoke about the plan for the land being good with 78 of the 101-acre parcel being in conservation (38 acres held by The Nature Conservancy and 40 acres voluntarily being conserved by the family) which represents over 75% of the land in conservation and only three houses proposed on 101 acres. This greatly exceeds open space requirements. The agreement with Vermont Land Trust expired in 2019 with no action taken.

PUBLIC COMMENT

Brandon Bless, Bread & Butter Farm, asked if deed restrictions can be changed. Attorney Hehir explained if there are reciprocal covenants then a change can be made by a vote of the homeowners association, but this rarely occurs. Covenants once in place tend to stay in place. There was mention of South Burlington's current rules having an influence on the continued conservation of the land and that the four homeowners (three in Shelburne and one in South Burlington) in the homeowners association will be able to make changes to the covenants.

Corie Pierce, Bread & Butter Farm, read a statement that was submitted to the town clarifying the confusion that came up through the process and restating Bread & Butter Farm's support of conservation of the land and farmland.

Mark Saunders, neighbor, asked for confirmation that the covenants and deed restrictions can be changed by the homeowners association. Peter Ewing said his understanding is the homeowners association agreement can be changed, but the deed restrictions are fixed. Mark Sammut stressed the Town Attorney will review the documents before the DRB makes a decision on the application.

Gail Albert, Shelburne Natural Resources Committee, said the committee is anxious to protect the property and feels the best protection is in perpetuity by a third party.

Sarah Dopp, South Burlington Land Trust, echoed the statement about protecting the land in perpetuity by a third party. There was discussion of the durability of the land conservation and that the applicant is voluntarily conserving additional acreage.

Al Karnatz, Vermont Land Trust, reiterated the offer by Vermont Land Trust to play a role if requested.

Mike Schramm, resident, asked if the five-acre building envelope within the 45-acre parcel is defined. Mark Sammut noted any boundary line adjustment would need DRB approval. Dan Albrecht pointed out the site plan and Current Use plan define the five-acre building site. Peter Ewing explained the house sites are hypothetical. The buyer and builder will determine the house site. The most attractive area for the houses is where they are shown on the site plan. There is a financial penalty to remove land from Current Use so if the house site is moved to another location a penalty would have to be paid.

Amendment to PUD, Merge Two Building Sites, 300 Cheesefactory Lane, Peter Ewing (SUB18-01R1)

MOTION by Mark Sammut, SECOND by Anne Bentley, to close the hearing and require the applicant to submit the following to the town by 4/28/21:

- **Revised and finalized homeowners association agreement**
- **Corrected site plan (change 96 acres to 45 acres as Lot 5, add “driveway and house location is conceptual only”)**
- **Deed restriction language for review by town counsel**

Additionally, other interested parties have until 4/28/21 to submit their statements, and further, the DRB will call a deliberative session to develop a decision on the application to be issued in writing within 45 days.

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

6. OTHER BUSINESS/CORRESPONDENCE

Administrative Site Plan Approvals

The DRB received a copy of the administrative approval for Atlas Gunworks at 135 Northside Drive. Adam Nilson, Atlas Gunworks owner, explained his company manufactures firearms for competitions. The location on Northside Drive had the proper zoning for the business.

Zoning Administrator/DRB Coordinator

Lee Krohn mentioned Sam Abraham will be the intern DRB Coordinator. The town is also seeking a temporary planning intern to assist in the absence of Dean Pierce.

7. ADJOURNMENT

MOTION by John Day, SECOND by Allyson Myers, to adjourn the meeting.

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

The meeting was adjourned at 9:27 PM.

RScy by tape: MERiordan