

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**

November 16, 2022

***Hybrid Meeting**

- MEMBERS PRESENT:** Mark Sammut (Chair); Anne Bentley, John Day, Mike Major, Allyson Myers, David Hillman, Zeke Plant, Bob Glover.
- STAFF PRESENT:** Lee Krohn, Town Manager; Kit Luster, DRB Coordinator; Aaron DeNamur, Planning Coordinator; Ken Belliveau, Planning Consultant.
- OTHERS PRESENT:** Julie Parsons, Nancy Badami, Rick Poirier, Barbara Grant, Edwin Bouill, Russell Barone, Andrea Crook, Burton Putvah, Hillary Hutchins, Shelley Crombach, Steve Brandon, Bryan Currier, Mary Bauman, Alan Bauman, Derek Brouwer, Donna Millay, Robilee Smith, Kevin O'Brien, Andrea Bergeron, Tim Bergeron, Robert Millay, Chris Latta, Karen Allen, Robert Bouchard, Ann Hogan, Ron Bouchard, Susan Bouchard, Dave Marshall, Chris Galipeau, Gail Albert, Andres Torizzo, Jeff Hodgson, Roger Dickinson, Dori Barton, David White, Media Factory.

AGENDA:

1. Call to Order and Agenda
2. Approval of Minutes (11/2/22)
3. Public Comment
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Sketch Plan, Subdivision, Two Lots, 897 Falls Road, Mechanicsville, LLC (SUB22-02)
 - Site Plan, 78 Residential Units & 4,000 s.f. Commercial Space 2870 & 2882 Shelburne Road (parcels consolidated), Stephen Brandon & Shelley Crombach (FBZ22-02)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

Chair, Mark Sammut, called the meeting to order at 7 PM. There were no changes to the agenda.

Town Manager, Lee Krohn, introduced the new DRB Coordinator, Kit Luster, and noted Aaron DeNamur is the new Planning Coordinator and Ken Belliveau will assist in the Planning & Zoning Office for an interim period.

2. MINUTES

November 2, 2022

MOTION by John Day, SECOND by Mike Major, to approve the minutes of 11/2/22 as presented. VOTING: unanimous (8-0); motion carried.

3. PUBLIC COMMENTS

None.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

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.

SUB22-02: Sketch Plan for a two-lot subdivision of a residential lot at 897 Falls Road in the Shelburne Falls Mixed Use District, the Village Design Review Overlay District, and the Stormwater Overlay District by Mechanicsville, LLC

Russ Barone and Bryan Currier appeared on behalf of the application.

STAFF REPORT

The DRB received a written staff report on the application for the 11/16/22 meeting. Lee Krohn reported the two lot subdivision has been through Sketch Plan review and issues raised then have been addressed by the applicant. A drainage issue has been raised by a neighbor.

APPLICANT COMMENTS

Russ Barone confirmed the issues noted at Sketch Plan review have been addressed. The driveway has been moved away from the property line and decreased in size. No water will leave the property. There is a retention area and a 10' wide strip of grass to capture water. The drainage will pitch to the north.

PUBLIC COMMENT

Gail Albert, Shelburne Natural Resources Committee, said the committee requests that language be added to the deeds saying no clearing on preserved property (the applicant's property borders the LaPlatte conservation area) and signs be added at the border of the property. Also, access to the LaPlatte conservation area is requested through a right-of-way or the driveway so trails are not made on the preserved land in the future. There was discussion by the DRB on the Town having responsible to ensure no trails are made on the conserved land. The applicant agreed language can be added to the deeds to allow the residents on the two new lots to have access through the property to the LaPlatte area.

The property owner at 913 Falls Road expressed concern the driveway elevation will cause runoff to impact the stone foundation of his historic house. Russ Barone assured the water will be pitched to the north and the high spot will be removed so water will no longer pool. Bryan Currier, O’Leary Burke Engineering, explained the water will sheet drain to the west and be collected. There will not be an impact on water to the east.

DELIBERATION/DECISION

Final Plan for a two lot subdivision at 897 Falls Road in the Shelburne Falls Mixed Use District, the Village Design Review Overlay District, and the Stormwater Overlay District by Mechanicsville, LLC (SUB22-02)

MOTION by John Day, SECOND by Mike Major, to close the hearing, finalize the record, and authorize staff to draft a decision approving SUB22-02, Final Plan application by Mechanicsville, LLC for a two lot subdivision at 897 Falls Road pursuant to the application materials submitted, Plan Sheets 1-4, dated 10/12/22, prepared by O’Leary Burke Civil Associates, PLC, and “Duplex Elevation B” with the following conditions:

- 1. The Mylar of SUB 22-03 of the Final Plat meeting the requirements of Section 620 of the Shelburne Subdivision Regulations and applicable State statutes shall be recorded in the Shelburne Land Records within 180 days of the signed approval by the DRB Chair.**
- 2. Other documents as may be required (including but not limited to property deeds and associated easements) shall also be recorded in the land records within 180 days signed approval by the DRB Chair.**
- 3. Prior to any site work or construction, a zoning permit for that work must be obtained from the Planning & Zoning Office.**
- 4. As the property is located within the Village Design Review Overlay District, the architectural design for the new duplex must also be reviewed and approved through the Town’s Design Review process.**
- 5. Prior to any site work or construction, all final details for water supply, wastewater disposal, and stormwater treatment shall be reviewed and approved by the relevant department heads to ensure that these are designed to required specifications.**
- 6. Upon completion of installation, “as built” record drawings for all installed infrastructure (water, wastewater, stormwater...) shall be submitted to the Town in both paper form as well as digital formats appropriate to the needs of those public works departments.**
- 7. A formal easement is not necessary as long as the deed provides access limited to the residents of the two lots to the conservatory.**

VOTING: unanimous (8-0); motion carried.

FBZ22-02: Site Plan for consolidation of two parcels with a total of 78 residential units and 4,000 s.f. of commercial space in four buildings at 2870 & 2882 Shelburne Road in the Shelburne Road Form Based Code Overlay Mixed Residential Character District, Mixed Use Street Character District, Stormwater Overlay District, and partially in the Lakeshore Overlay District by Stephen Brandon and Shelley Crombach

Steve Brandon, Shelley Crombach, and consultants covering engineering, traffic circulation, landscaping, stormwater management, architectural design, lighting, and wildlife assessment appeared on behalf of the application.

STAFF REPORT

The DRB received a written staff report on the application for the 11/16/22 meeting. Lee Krohn stated the application was submitted under form based code and the recent action by the Selectboard on the zoning amendment does not impact the project moving through the review process. The application includes 78 housing units and 4,000 s.f. of professional/commercial space fronting Route 7 in four buildings.

APPLICANT COMMENTS

Consultants on the project reviewed the following:

- project layout on the site
- parallel parking and underground parking
- sidewalks
- street trees
- stormwater management on the site (state stormwater permit needed)
- screening/landscaping
- traffic generation (less traffic will be generated in peak hour trips than with the prior plan)
- access to Shelburne Road (right turn in from Shelburne Road and right turn out; Clearwater Road will not be impacted)
- lighting (locations and distribution)
- wildlife assessment (no significant wildlife habitat identified)
- wetlands
- water and sewer
- architectural features

David Hillman asked about future development of the forested area. David White said there is no plan to develop the area, but if it is developed it would be with a single family house for the property owners and that is what is shown on the site plan. Dave Marshall added that it is believed in order to preserve future development rights per the requirements of the Stowe Club Highlands court/Act 250 decision, future prospective

building sites must be shown now on the site plan, even if not actually proposed as part of this application, or other parties may try to foreclose that possibility in the future. A note can be added on the site plan indicating “for potential future development”.

Allyson Myers asked who owns Clearwater Road. Lee Krohn said the first 150’ is owned by VTrans.

Mike Major asked if the traffic flow is approved by Shelburne Fire and Rescue. Lee Krohn confirmed this. The applicant was asked to address internal infrastructure issues, such as the size of the elevators and to ensure the street trees in front of the buildings have a more columnar rather than broad canopied growth pattern so the ladder truck can access the buildings.

PUBLIC COMMENT

Bob Bouchard, Clearwater Road, asked that the neighbors be allowed to speak with the consultants on the project about the existing water flow in the area and have the consultants look at stormwater flow beyond the applicant’s property. Also, the applicant had a meeting with neighbors to review the proposed development, but the plan before the DRB is not the plan shown to the neighbors at the meeting. There was not potential for three additional properties in the buffer shown to the neighbors. The wildlife consultant says there is no wildlife but there are turkey vultures which neighbors say are a federally protected species. No nesting sites were found on the property. Residents on Clearwater ten years ago allowed the wastewater line to go under the private road to assist with a failed septic system on the applicant’s property when it was owned by the prior landowner. This will not be an option with the current proposal unless the applicant has a right-of-way or easement.

Ann Hogan, Wild Rose Circle, questioned how the DRB can review the project when the town hired a consultant to look at form-based code and found the language was not clear, there were omissions on maximums, and the focus was on a lot not a parcel. Also, the Selectboard voted to remove the Mixed Residential Character District from form-based zoning. John Day explained the rules in effect when an application is submitted is what binds the review and approval of the application.

Robilee Smith, Wild Rose Circle, asked who reviews and confirms the application is complying with the complex form-based code. John Day said the report from staff on the application identifies any failure to comply with any rule and the DRB tries to address this. Robilee Smith expressed concern about more buildings being constructed in the wooded area in the future. Mark Sammut said the area is developable land. Any future proposed development would have to be considered under the regulations in place at that

time which would not be form based code because that code would no longer exist in the area. Lee Krohn pointed out the underlying zoning is Mixed Use which allows a wide array of uses other than residential.

Nancy Badami, Palmer Court, stated there is no VTrans permit in place, only a letter of intent. Policing the entry only from Clearwater will be difficult. Roger Dickinson, traffic consultant, said following discussion of the access with VTrans it was deemed safer to turn right onto Route 7 and make a U-turn to go north so this was the preferred option. There will be signs and pavement markings to inform drivers of the traffic flow. Residents will be notified of the one-way entrance to Clearwater. Dave Marshall explained the letter of intent is issued with applications and once all local, state and Act 250 permits are in place, then the VTrans permit will be issued.

Gail Albert, Shelburne Natural Resources Committee, asked when an assessment will be done for the endangered bat that is suggested may be on the property. Also, the committee requests tree cutting be limited while birds are nesting. There is concern about the lots shown in the wooded area so it is suggested a notation be added to the site plan saying these lots are not deemed for the future. The wooded area is part of the character of the neighborhood. Reducing the number of trees will impact that character.

The wildlife consultant explained the reduction of the clearing with the project is close to but less than the 1% regulatory threshold that would require a seasonal limitation on tree cutting/clearing. Being less than the 1% regional threshold, the property owner can determine the timing of cutting. Urban tolerant wildlife is on the property. No federally or state protected habitat for protected species was found. There was common, general habitat. Turkey vultures are not listed as threatened or endangered in Vermont, but are considered protected under the Migratory Bird Act. The project does not have the intention to kill birds, so there will not be a violation of the Migratory Bird Act by shooting birds.

Rowland Davis, SAFE, voiced objection to the “ghost lines” of potential properties on the plan, saying the town will be ill served by having these lines on the application. A poll of the DRB was requested on this matter; the DRB declined.

Karen Allen, Clearwater, said there is a stream on her property that is slow at times and raging at other times so there is concern about increasing water flow. Also, it is not clear how a project can be approved when open green space is shown, but it is noted as potential, future developable land.

The stormwater consultant explained with regard to runoff there will be controlled peak discharge to the 100-year storm which exceeds the state standard of the 10-year storm. Stormwater runoff will be returned to ground water with the stormwater management system on the site. Given the substantial stormwater detention systems planned, less stormwater will leave the site under any normal circumstances than exists today.

DELIBERATION/DECISION

Site Plan, 78 Residential Units & 4,000 s.f. Commercial Space, 2870 & 2882 Shelburne Road (parcels consolidated), Brandon & Crombach (FBZ22-02)

John Day asked if more information is needed on downstream water impact. The stormwater management consultant explained in the 10, 25, 50-year storms there will be no increase in offsite flows due to storage being built into the stormwater management system on the site. The analysis of the project site shows the 10 year storm decrease is from 5 c.f./second to 2.9 c.f./second and the 25 year storm decrease is from 7.7 c.f./second to 5 c.f./second.

MOTION by Mark Sammut, SECOND by Anne Bentley, to close the hearing and have the DRB engage in a deliberative session. VOTING: unanimous (8-0); motion carried.

The DRB will issue a written decision on the application within 45 days.

6. OTHER BUSINESS

None.

7. ADJOURNMENT

MOTION by Mark Sammut, SECOND by John Day, to adjourn the meeting. VOTING: unanimous (8-0); motion carried.

The meeting was adjourned and deliberative session convened at 9:03 PM.

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