

Development Review Board
April 27, 2020
Town Office, New Haven, VT

DRB Members Present via Remote:

Kathy Barrett, Carol Charbonneau, Victor LaBerge, Charlie Roy, Susan Smiley

DRB Members Absent:

Paul Audy, Donald Johnson

DRB Alternate Present via Remote:

Tom Fyles

Staff Present via Remote

Karen Gallott – Minute Taker

Aaron Brown – Zoning Administrator & Town Administrator

Guests via Remote:

Jeremy Ouimette, Esq for Parker, Kevin Brown, Esq for Rita Booska, Lonie Parker, Chyrstal Yantz

Charlie Roy, DRB Chair called the remote meeting to order at 7:02 PM.

Alternate Tom Fyles will be a voting member tonight.

Adjustments to the Agenda: None

Visitors' Business: None

Applications:

1) 2020-DRB-04-AP Booska Appeal of Zoning Administrator's Issuance of a Certificate of Occupancy for Porky's Barbecue Pavilion located at 7404 Ethan Allen Highway.

Kevin Brown, Esq presented for Rita Booska. The appeal is based on approval of all State permits including Wastewater; and the amendment site plan approval required within 60 days for the portable toilets on site.

Lincoln Applied Geology letter sited exemptions for updating wastewater system as long as Lonie Parker uses a mobile food truck (not the restaurant) to supply food preparation, cleanup and dishwashing. As per previous complaints from Ms. Booska, the exemption states if there is no dishwashing on site the site is limited to 28 events per year which is less than what the current permit allows (48 events). Also, there is no record of adequate portable toilets on site.

The appeal was issued because the Certificate of Occupancy should not have been issued:

- Required approvals from the State Department of Conservation were not provided.
- There is nothing in state regulations to coincide with the DRB decision regarding the meaning of an event to only hours of operation beyond 9 PM
- An event constitutes use of facility not hours of the event
- Currently there is a disconnect between Lincoln Applied Geology's letter that indicates 28 events per year based on state regulations and 48 events permitted by the DRB
- Conditions imposed by the DRB in their Findings and Decisions, allows the DRB to require evidence of adequate wastewater

NOTE: At some point in time during this meeting, Susan Smiley DRB board member, lost her remote connection and did not reconnect during the remainder of this meeting.

Jeremy Ouimette, Esq presented for Porky's Barbecue/Lonie Parker.

- Information was supplied to the DRB on wastewater within the 60-day limit
 - The DRB does not have jurisdiction over wastewater
 - The State does not write exemptions
- Pavilion
 - The wall enclosures were dealt with in the amended decision of the site plan
 - A letter from Lincoln Applied Geology was provided which stated that there were no more than 28 events and the outdoor pavilion is exempt from Water and Wastewater permitting.
 - Food preparation will be provided by a licensed catering food truck, which is covered under a separate license
 - The catering license covers the pavilion

All requested information asked for by the DRB has been supplied and the Zoning Administrator (ZA) issued a Certificate of Occupancy.

The ZA indicated that he issued the Certificate of Occupancy based on the letter from licensed designer, Revell, at Lincoln Applied Geology and Department of Health permits, which the ZA had received. The ZA also based his decision on a literal DRB decision stemming from the site plan amendment.

Charbonneau made the motion to maintain and uphold the Certificate of Occupancy issued by the Zoning Administrator.

LaBerge seconded

Discussion – none

Roll Call Vote: Yes - 5 (Barrett, Charbonneau, Fyles, Laberge, Roy)

No – 0

Abstention – 0

Motion carries.

Other DRB Business

1) Minutes of April 6, 2020

Barrett made the motion to approve the April 6, 2020 DRB minutes as presented.

Fyles seconded

Discussion: None

Roll Call Vote: Yes - 4 (Barrett, Fyles, Laberge, Roy)

No – 0

Abstention - 1 (Charbonneau)

Charbonneau made the motion to adjourn

Fyles seconded

Discussion: None

Roll Call Vote: Yes - 5 (Barrett, Charbonneau, Fyles, Laberge, Roy)

No – 0

Abstention – 0

The meeting was adjourned at 7:42 PM

Respectfully Submitted By:

Karen Gallott

Charlie Roy, Chair

Kathy Barrett, Vice Chair

Carol Charbonneau

Tom Fyles

Victor LaBerge