

**Development Review Board Minutes  
Town Offices, New Haven, Vermont  
April 21, 2014**

**Members & Alternate Present:** Kathy Barrett, Steve Dupoise, Jim Gallott, Donald Johnston (arrived at 7:08 PM)  
Mike Sweeney and Alternate-Victor Bolduc

**Members Absent:** Donna Blaise, Tim Bouton

**Staff:** Zoning Administrator-Dave Wetmore

**Visitors:** Lisa Sanchez; Mike Lee; Ebenezer Punderson, Esq.; Dave Russell

The Vice-chair, Jim Gallott, called the Development Review Board (DRB) meeting to order at 6:55 PM. The Vice-Chair made the suggestion to change the order of the meeting to hold Sketch Plan Reviews before the Public Hearing.

Barrett so moved

Dupoise seconded

Discussion – None

Vote: Yes – 5 (Barrett, Bolduc, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carried

**1. Sketch Plan Reviews:**

*a) 2014-DRB-02-SD, 2-lot subdivision by Lisa Sanchez*

Sanchez currently has a lot consisting of 10.2 acres at 931 Quarry Road located in a RA2 district. Sanchez would like to subdivide this acreage into 2 lots. Lot #1 being of 3.2 acres with the current residence and Lot #2 of 7 acres. There is sufficient road frontage for both proposed lots. Sanchez land borders land owned by Bessette and they had previously given each other access easements over their lands. The driveway cut for Lot #2 will be accessed by a right of way through Lot #1.

LaRose Survey's did the survey and submitted the application for the wastewater permit. Sanchez does not have the permit in hand as of yet. The proposed septic for the house on Lot #2 is located on Lot #1.

Currently Sanchez has no plans to build on Lot #2.

The DRB asked that Sanchez have the following provided on the final plat:

- Show the easements for the septic between Lots #1 and #2
- The driveway easements with Bessette's should be noted
- Update the survey to show current dates
- Easement for the existing CV Power lines and its corridor width need to be shown

## Public Hearing at 7:14 PM

1. *Application 2014-DRB-01-SP-Amendment to existing Site Plan by Mike Lee dba, New Haven Power Equipment.*

Attached to these minutes are:

1. March 31, 2014 letter from Ebenezer Punderson, ESQ to David Wetmore, Zoning Administrator
2. ZA Report prepared for Site Plan review, application #2014DRB-01-SP from David Wetmore, ZA

Ebenezer Punderson, attorney for the Mike Lee (applicant) presented. Punderson indicated that a Notice of Violation led to a discussion between the Zoning Administrator (ZA) and the applicant to see what items could be brought into compliance and what items are remaining that that would be on the docket for the Notice of Violation.

Items were addressed following the format of the letter dated March 31, 2014 from Punderson to the ZA.

### Fill

Applicant received a permit in 1999 to fill in the back lot which the applicant proceeded to do and has continued to do so since 1999 and would like to continue on with this project. This is a violation that was cited in the Notice of Violation as the 1999 permit expired after two years and the applicant did not request a continuance, fill is now not permitted.

The ZA was not comfortable issuing a fill permit given the history. The request for a fill permit under Section 560 is being referred to the DRB.

### Box Trailers

By continuing with the fill project this would level the land along the northern boundary and level and square off the western boundary and enable the applicant to move some (9) of the trailers into these areas away from their current location and visibility from Route 7.

Town of New Haven Regulations requires the banks of the slope cannot be more than a 50% slope. There is a question concerning compliance with the slopes. Jason Barnard measured the slope along the steepest banks located on the southern side. The banks had an average slope of 54%.

### Drainage

Punderson indicated the applicant has been careful with regards to the interior area of the lot and how it is sloped. There is a 1% grade towards the central subsurface drainage tiles and flow is to the back.

DRB asked for clarification regarding if there were two separate parcels involved with this Site Plan. Punderson indicated yes there are two lots a: 1.2+/- acre narrow lot and the 15.65+/- acre lot.

The applicant gave a summary of what he proposes with regard to sculpting the land when he is able to continue with bringing in fill.

Applicant also indicated that in this site plan he is asking to build another building. A 2006 building permit was granted to build another building but the applicant decided not to build that building back then. The applicant asked if 2006 site plan had expired. The ZA indicated that the 2006 site plan and building permits expire at the same time if the applicant doesn't perfect it. The applicant was unaware that it expired.

With this site plan, the applicant does want approval to build only the large building which would hold used equipment that is now being stored outside. The other building was shown on the map for historical purposes, but will be removed from the final site plan.

The DRB asked the applicant how many trailers he owns, and how many trailers have been on site for 15 years or more. The applicant owns 32 trailers and currently has 22 trailers on site. At this time he could not say how many trailers had been on site 15 years or more.

#### Junk Yard

The applicant is not asking to run a junk yard; this is in response to the Notice of Violation. There is lots of machinery stored outside. Punderson stated the equipment is not likely to be sold. Most is used inventory that the applicant indicated has value and the intent is to sell it as used inventory. The applicant will be “weeding” out this equipment by placing it in a couple of pickup trucks onsite and then the trucks and equipment will be hauled away.

The applicant indicated that the plan for traded-in inventory is that it is moved around frequently and a lot of equipment is placed out back. The applicant stated that he didn’t “see what the problem is” as the equipment is placed where it is not visible from the road. Applicant indicated that he does not sell used parts as they are not a salvage yard. They take trade-ins refurbish them and then sell them; “that is not junk that is what we do for business.”

#### Equipment Display

Equipment display has always been around the front yard of the site. The raised berm was constructed to prevent cars from driving across the lawn. At the same time, the light pedestals were installed and then fill, stone and drainage were placed creating the berm. The raised berm that currently has the equipment display out front is located over an old house foundation. Stone was put on an old house foundation in 2008 or 2009 as the house foundation kept settling. Installation of the light footings prompted a visit from the ZA (Cris Messerle) at the time. It was mentioned by the ZA that a site plan approval needed to be obtained. The applicant tried to get the site plan ready so the lights could be finished. The applicant said he was told (by whom, the applicant did not specify) the raised berm was bigger than the house foundation, but the applicant feels it is the same size as the old house foundation.

Punderson indicated that the display area encroaches in the 100 foot setback. Punderson felt that there may be some confusion when the sales of the sheds were approved in 2003. The ZA (Keith Hall) indicated that a Change of Use permit needed to be obtained. The applicant argued successfully to the Board since he was already legally selling and display equipment out front that he did not need a permit to sell sheds.

Punderson indicated that the raised berm area is a structure and not permitted with the 100 foot setback, is an issue. The applicant has tried to comply over the years and maybe getting mixed messages or possibly not following the process properly.

The applicant indicated that he can keep the equipment on the raised berm as he has been displaying out there for more than 15 years. “That’s not the question. The question is; does the DRB want to be spiteful and make him move the equipment”. Applicant would like to put the lighting (approximately 13 fixtures) in to keep people off the lawn.

#### Outside Wood Burner – not addressed

#### Fuel Storage Tanks – not addressed

#### Apartment Issue in the main building

The applicant’s official residence is 5688 Ethan Allen Hwy (Route 7). The applicant does occasionally sleep in a room located in the main building. This area is not intended to be rented out. The room has always been in this building since the applicant bought the property. This room has a couch and filing cabinets but there are no kitchen facilities.

The applicant indicated that the south boundary is covered with brush, he would like to go ahead and flatten out the hill and move the dirt to the west, if he is allowed to do what he wants to do, he will bring all into compliance – better than compliance.

The ZA (Dave Wetmore) presented:

ZA (David Wetmore) indicated that the display area was not done in late February 2010, it was done in 2011. ZA did write a letter to the applicant concerning the display area, but he did not follow up on the letter. ZA is not saying that equipment was not display on the berm and within the 100 foot setback.

Numerous complaints have been received over the years regarding the number of trailers on site. The regulations do say that all temporary structures – and ZA feels trailers are temporary structures – need to be screened from the road. Also trailers are not to be used for more than one year according to Section 516. But a certain number of trailers have been used on site over the years.

ZA knows that fill has been brought in over the years. There is some disagreement between the ZA and the applicant regarding the 1999 permit. There may have been some agreement with the past ZA's but a permit expires after two years per the zoning by-laws Section 516.

In 2011 fill was brought in for the display area and in 2013 a large amount of fill (~10,000 yards) was brought in and the ZA asked the applicant to stop bringing in fill. Fill delivery stopped for a while then began again.

Due to extensive changes that have happened on site the ZA did not feel comfortable issuing a zoning permit with regards to the town plan and impact on scenic vistas. There is about 40 foot of difference between what was the natural existing grade and the current grade and in the ZA's opinion it is currently out of character of the surrounding landscape. The ZA questions how much more fill should continue to come in.

A Notice of Violation was issued in the fall of 2013. This hearing for a site plan is to correct many of the violations cited.

Junkyard

The ZA sees accumulations of numerous piles of debris throughout the site and became concerned that equipment is being buried within the fill.

The 2006 site plan mentioned a brief discussion of trailers but the record is inconclusive as to the results. The record very clearly indicates that landscaping was to be done. The ZA does not believe that any of that landscaping was installed.

Due to the history of the property and how the site has morphed over time and the with the extensive amount of lighting the applicant wants to install, the ZA felt it was appropriate to bring the site plan to the DRB. Based on how the site plan gets resolved; the Town will move forward with the applicants appeal of the Notice of Violation.

The applicant indicated that he has pictures showing stone on the display area and the pictures prove that stone and cement footers for the lights were installed 2 years before the current ZA came on board with the Town. Also the fill started coming in in 1995.

The applicant mentioned to the DRB that he would like to continue receiving fill on site before the site plan approval is completed. He doesn't feel that fill is an issue. Bringing in fill and leveling it off the applicant will then be able to move the trailers to a better site. The DRB cannot approve any additional fill being brought onto the site separate from the entire site plan.

Opened for Public Comment

Dave Russell, associated with the DeGanahl property located to the north, raised a question regarding the flow of water to the north. The applicant indicated that he was not sure if the water flows actually reach the DeGanahl's property.

The proposed swale that the applicant wants to install will channel water flow from the edges of the property into the swale with water flows going to the west.

### **Public Comment Period Closed**

The DRB asked the applicant if he would be willing to have the DRB come for a site visit. The applicant was in favor of a site visit on Monday, May 5, 2014 at 6:00 PM.

Barrett made the motion to continue with a site visit on May 5, 2014 at 6:00 PM and the site plan hearing at 7:00 PM on May 5, 2014.

Dupoise seconded

Discussion: it was suggested that the applicant bring to the May 5, 2014 meeting any pictures he has that are relevant to this site plan; as well as the number of trailers that would be grandfathered.

Vote: Yes – 6 (Barrett, Bolduc, Dupoise, Gallott, Johnston, Sweeney)

No – 0

Abstention – 0

Motion carries

### **End of Public Hearing**

## **2. Minutes**

### *a) March 17, 2014*

Barrett made the motion to approve the DRB minutes of March 17, 2014 as presented.

Dupoise 2<sup>nd</sup>

Discussion – none

Vote: Yes – 4 (Barrett, Dupoise, Gallott, Johnston)

No – 0

Abstention – 2 (Bolduc, Sweeney)

Motion carries

### *b) February 3, 2014*

Barrett made the motion to approve the DRB minutes of February 3, 2014 as presented.

Bolduc 2<sup>nd</sup>

Discussion – none

Vote: Yes – 4 (Barrett, Bolduc, Gallott, Sweeney)

No – 0

Abstention – 2 (Dupoise, Johnston)

Motion carries

## **3. Review and Sign Decisions – none**

## **4. Review for Compliance and Sign Final Plats – none**

## **5. Correspondence**

- Wastewater Permit amendment for Peter Norris on Campground Road
- Rivers Bend Campground foreclosure and wastewater system
- Application for work on the Hydro project at Beldon Falls
- Amos Roleau's property on Route 17 road access permits have expired and need to be reapplied
- Wastewater Permit amendment for Ellen Rotax

## **6. New Business**

Dupoise indicated that he may have a person interested in being on the DRB board

Barrett will contact Blaise to see if she is still interested in remaining on the DRB board

**7. Old Business – none**

Barrett made the motion to adjourn

Dupoise 2<sup>nd</sup>

Discussion – none

Vote: Yes – 6 (Barrett, Bolduc, Dupoise, Gallott, Johnston, Sweeney)

No – 0

Abstention – 0

Motion carries

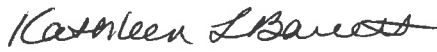
The meeting was adjourned at 8:34 PM

Respectfully Submitted By

Karen Gallott



Jim Gallott, Vice-Chair



Kathy Barrett



Victor Bolduc

Steve Dupoise

Donald Johnston, Secretary



Mike Sweeney