

**Development Review Board Minutes  
Town Offices, New Haven, Vermont  
August 18, 2014**

**Members &**

**Alternates Present:** Kathy Barrett, Tim Bouton, Jim Gallott, Mike Sweeney, Victor Bolduc-Alternate

**Members &**

**Alternates Absent:** Donna Blaise, Steve Dupoise, Donald Johnston, Tom Fyles-Alternate

**Guests:**

Steve Volk, Tammy Volk, Liam Murphy, Esq., David Santos, Eric Benson, Karl Washburn, Tammy Downer, Daniel Collette, Wayne Sturtevant, Mike Lee, Eben Punderson Esq. , Peter Norris, Douglas Tolles

Tim Bouton, Chair, called the August 18, 2014 Development Review Board (DRB) meeting to order at 7:00 PM. Alternate Victor Bolduc will be voting tonight. The Chair indicated that a full board was not present tonight and made the offer to the attending public if they desired the board would take testimony tonight and delay decisions to the next DRB meeting, September 15, 2014.

**Visitors Business** – none

**Public Hearing**

**1. Application #2014DRB-01-SP – Amendment to existing Site Plan by Mike Lee dba, New Haven Power Equipment, continued from 4/21/2014, 5/5/2014 and 6/16/2014.**

Mike Lee presented the new site plan showing proposed long term plans for the site: grading, proposed new buildings, and the expansion of the current display area.

Lee indicated that revisions to the site will be LONG time in coming to completion.

The site plan did not show any plans for screening. Lee felt screening will hide the view of the Adirondack's which is enjoyed by travelers.

The DRB indicated their issues with the current site plan:

- Site plan does not show temporary location for the re-location of trailers
- Site plan does not show the final permanent location of the trailers
- Site plan needs to show screening, what type and kind
- The expansion of the display area within the 100 foot set back
- Needs a time frame when proposed building are to be built
- Lighting should be shown , as well as type of lighting and wattage
- For site plan approval nothing should be shown within the 100 foot setback

Open for Public Comment

None

Public Comment Closed

Gallott made the motion to continue the hearing for application #3014DRB-01-SP to October 20, 2014.

Barrett seconded

Discussion – none

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

No – 0

Abstention – 0

Motion carries

## **2. Newton Holdings LLC, Phoenix Feed, continuation.**

Bouton recused himself from this hearing.

Vice-Chair Gallott officiated.

Karl Washburn, Senior Consultant for RSG, Inc.; Liam Murphy, Attorney for Phoenix Feeds and Eric Benson consul for Vermont Railway were introduced by David Santos.

Liam Murphy stated that this application has 2 elements: 1) new grain elevator and 2) rail shed. He acknowledged concerns from the past regarding noise levels. The issue of noise is different because anything to do with the operation of the railroad (train, side car, deliveries, unloading & trans-loading [unloading from the car to the site]) is exempt from local regulations. Murphy distributed to DRB members a letter, dated August 18, 2014 that addresses the exemption of these regulations. Murphy acknowledged that there is a legal difference between the rail shed and the grain elevator. Noise level primarily has been connected to the trains the unloading of the cars and that is not something the DRB can impose conditions on, preempted by the Federal Government.

Eric Benson explained the railroad regulations under federal law.

Karl Washburn, Noise Control Engineer for RSG Inc. did a sound studies at Phoenix Feeds and looked at two issues: 1) operation of the grain elevator and 2) banging noises. The study measured sound from all trucks and equipment on Phoenix Feeds site from 8/7/2014 through 8/12/2014. Washburn distributed a Preliminary Report to all DRB members.

The Preliminary Noise Assessment Report indicated:

### 1) Grain Elevator –

- Over all the mill operations was not a major noise contributor. The addition of running two grain elevators will not significantly increase noise levels above the current equipment noise at the mill.
- There was an exhaust fan on the north side of the “bakery” bldg. that was extremely noisy – this fan has been disconnected and Santos indicated that they are looking for a newer more efficient model to replace it.
- New proposed grain elevator will be a minuscule increase of decibel over the old elevator

### 2) Sources of Banging –

- Movement of rail cars
- Coupling and uncoupling of cars
- Unloading dry materials from rail cars with sledge hammer or vibrator - The construction of a rail shed 150 feet long will reduce the sound from the rail cars.

The sound study also found that the current use of the vibrator was being used incorrectly resulting in a decibel reading in the high 90’s. Corrected procedures have been put in place. Use of the sledge hammer may or may not be discontinued, but if use is continued, the generated noise would be less noticeable within the rail shed.

There was discussion regarding the construction of the rail shed. Karl Washburn assumed for the sound study the shed would be post and plywood sheathing with exterior and roofing and it would be an open ended shed. Sturtevant indicated the public was told the shed would have end doors. Santos indicated the shed would be a heavily insulated, steel building. At this time Santos is awaiting the engineers study to see if end doors can be added. If the shed is open ended there will be a fair amount of sound that will escape out the ends.

Collette and Sturtevant both agreed that over the past 3 weeks while the sound monitoring was ongoing noise levels were reduced and sleeping was good.

Sturtevant asked with the new equipment which would mean quicker operations, will it mean more customers and increased operating hours? Is there any guarantee that operating hours will not be increased? Gallott indicated that Phoenix Feeds was granted operating hours of 4:00AM to 11:00 PM.

The DRB issues to be addressed:

- Noise level from new elevator
- Noise level from vibrator and sledge hammer
- Rail shed location
- Hours of operation with penalty for not following hours of operation
- Lighting exterior/internal for the rail shed
- Letter requesting permission from land owner/land lease owner for permission to construct the rail shed
- Plans for construction of rail shed and impact of sound study

Santos indicated there would be no change in traffic flow or volume from what it currently is.

DRB asked if there were any further plans for Phoenix Feeds to continue the sound study with relation to the rail shed. Santos indicated they will follow though for the final report. There were no plans to continue the sound study beyond this study.

Barrett made the motion to continue the hearing for Newton Holdings LLC, Phoenix Feed to September 15, 2014.

Sweeney seconded

Discussion – none

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

No – 0

Abstention – 0

Motion carries.

Bouton retained the Chair position.

### **3) Steven and Tammy Volk, expansion of non-conforming structure.**

Volk's have an "L" shaped porch on the front of their house. There is an 8 ft x 7 ft section of this porch that is not covered with a roof. The Volk's would like to roof this section to match the other section. The front of the house and the front edge of the porch does not meet current front setbacks. The Volk's indicated that the roof to the 8 x 7 ft section would not extend beyond the front edge of the house.

There is also an existing barn on site and the Volk's would like to add a 12 x 26 foot lean-to on the south side of this barn. Again the existing barn does not meet setbacks. Volk's indicated that the lean-to would not be constructed any closer to the road than the existing barn.

Open for Public Comment

None

Public Comment Period Closed

Gallott made the motion to approve the proposed 8 x 7 foot covered porch with the condition it does not extend past the front of the house. Approve the proposed 12 x 26 foot lean-to on the south side of the existing barn with the condition the lean-to does not come any closer to the road than the edge of the barn.

Bolduc seconded

Discussion – none

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

No – 0

Abstention – 0

Motion carries

End of Public Hearing at 9:35 PM

### DRB Business

#### 1) Sketch plan reviews:

##### a) Norris Boundary Line Adjustment (BLA)

Peter Norris, Jr presented a sketch plan for a BLA for Greenhaven Gardens, Route 7. Peter Norris, Jr. currently owns the property south of Greenhaven Gardens.

DRB requested at the final plat hearing:

- Plat should show where the old boundary line was
- Show the new boundary line
- no additional lots will be created with the BLA
- Letter from Peter and Daenen Norris indicating their agreement with the BLA

#### 2) Minutes

##### a) July 21, 2014

Barrett made the motion to approve the July 21, 2014 minutes as presented.

Sweeney seconded

Discussion – none

Vote Yes – 4 (Barrett, Bouton, Gallott, Sweeney)

No – 0

Abstention – 1 (Bolduc)

Motion carries

#### 3) Review and Sign Decisions

##### a) Horn/Malcolm

Barrett made the motion to approve the decision as corrected.

Gallott seconded

Discussion – none

Vote Yes – 4 (Barrett, Bouton, Gallott, Sweeney)

No – 0

Abstention – 1 (Bolduc)

Motion carries

##### b) Tracey SD (subdivision)

Barrett made the motion to approve the decision as presented.

Sweeney seconded

Discussion – none

Vote Yes – 4 (Barrett, Bouton, Gallott, Sweeney)

No – 0

Abstention – 1 (Bolduc)

Motion carries

4) Review for compliance and sign final plats:

a) Sanchez

The plat was approved and signed by the Chair prior to this meeting.

5) Correspondence – none

6) New Business – none

7) Old Business – none

Sweeney made the motion to adjourn

Gallott seconded

Discussion – none

Vote Yes – 5 (Barrett, Bolduc, Bouton, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

The meeting was adjourned at 10:10 PM

Respectfully Submitted By

Karen Gallott

Tim Bouton, Chair

Jim Gallott, Vice-Chair

Kathy Barrett

Victor Bolduc

Mike Sweeney