

**Development Review Board Minutes
Town Office New Haven, Vermont
December 4, 2017**

Members Present: Kathy Barrett, Carol Charbonneau, Tom Fyles, Donald Johnston, Charlie Roy, Susan Smiley, Mike Sweeney

Staff: Dave Wetmore*, Karen Gallott-Minute Taker
*(*Dave Wetmore was the Zoning Administrator at the time the zoning permit was issued October 3, 2017. Dave has since resigned the position of Zoning Administrator)*

Guests: June Moncrief, Nick Tonzola, Douglas Tolles, Dan Monger

At 7:00 PM, Kathy Barrett-Chair, called the Development Review Board (DRB) to order. Introductions were made.

Adjustments to the agenda: None

DRB Chair, Kathy Barrett, turned the meeting over to Mike Sweeney, Acting Chair. Barrett left the room.

Acting Chair Sweeney Open the continuation of public hearing - Appeal of ZA decision #2017-ZP-46 by Moncrief/Tonzola #2017DRB-15-A, from November 20, 2017.

Sweeney mentioned a recently received ruling (via email) from the Town's Attorney. Which stated that at the Nov 20th meeting there was a quorum of DRB members (4). The vote needed to be all for or all against. The vote was split. Since the vote was not unanimous it does not comprise a decision on the appeal. At the next date to which the hearing has been continued additional members of the DRB may vote if they have reviewed the audio recording and reviewed all exhibits, prior to deliberation.

Absent members from November 20, 2017 DRB meeting:

- Susan Smiley indicated she had reviewed the audio recording and all exhibits and minutes
- Donald Johnston indicated he had reviewed the minutes and the ruling from the Town's Attorney; but not the audio recording – he will not vote tonight.

Sweeney indicated there are five (5) voting members tonight.

Smiley asked the Acting Chair about the possibility of closing the hearing and going into deliberative session. The Acting Chair indicated that she could make the motion to do this.

Wetmore explained policy procedures regarding closing the hearing then entering into deliberative session; or, not closing the hearing but going into deliberative session and come out and make the motion in an open meeting.

There were three DRB members that voiced their opposition to going into deliberative session they preferred transparency.

Tolles asked the Acting Chair to ask DRB members if they have had any ex parte communication with regards to this case. The Acting Chair asked all DRB members if they had any ex parte communications. All DRB members responded they had not had any ex parte communications; other than reading the email from the Town's Attorney.

Dan Monger a member of the New Haven Planning Commission. Was here tonight as an observer. He did read the November 20, 2017 DRB minutes and asked for clarification regarding rescinding the permit that was granted. Monger's

understanding was there is an easement on Tolle's land, a road built, the Moncrief/Tonzola's have a failed system and are committed to building a mound septic system on Tolle's land?

Acting Chair indicated that was not what he heard.

Acting Chair asked if DRB members understand what they are here tonight for; what they are voting on tonight: appeal of the Zoning Administrator (ZA) decision to grant a permit.

Fyles asked Tolles how much fill (trucks of stuff) was moved in:

Tolles moved in 42 yards of stone. Non-stone/earth materials, removed 3 overweight truckloads of excrement filled soils and replacing with 3 truck loads of clean clay.

Smiley: in stating parts of the Attorney's letter with regards to easements and deeds being outside the scope of the ZA's review and jurisdiction, the ZA need not conduct a title search. It doesn't say the ZA, by extension the DRB, could not conduct a title search. Need Not doesn't say Can Not.

Other DRB members said:

- The DRB cannot set precedence of doing title searches.
- A title search is to understand what rights go with the private property. If the ZA has no jurisdiction, why would the ZA do a title search.

Fyles made a motion based on his (Fyles) understanding of the ZA job description; based on testimony by the guests and the ZA; I feel the ZA did due diligence in issuing the zoning permit within the scope of his job description and review of the presentation paperwork received from applicant. I make the motion to deny the appeal.

Charbonneau second

Discussion – none

Vote: Yes – 5 (Charbonneau, Fyles, Roy, Smiley, Sweeney)

No – 0

Abstention – 1 (Johnston because he did not listen to the audio)

The ZA decision will stand. A written decision will be available within 45 days.

The public hearing was closed at 7:16 PM

Acting Chair Sweeney turned the meeting over to the Chair, Barrett.

Sketch Plan Review – none

DRB Regular Business

Minutes

- a) Smiley made the motion to approve the November 6, 2017 DRB minutes as presented.

Fyles seconded

Discussion – none

Vote: Yes – 6 (Barrett, Charbonneau, Fyles, Johnston, Smiley, Sweeney)

No – 0

Abstention – 1 (Roy)

Motion carries

- b) Roy made the motion to approve the November 20, 2017 DRB minutes as presented.

Charbonneau seconded

Discussion – none

Vote: Yes – 4 (Charbonneau, Fyles, Roy, Sweeney)
No – 0
Abstention – 3 (Barrett, Johnston, Smiley)

Motion carries

Review and Sign Decisions

a) Colander - #2017DRB-13-BLA

Charbonneau made the motion to accept the Findings and Decisions as presented.

Sweeney seconded

Discussion – none

Vote: Yes – 5 (Barrett, Charbonneau, Fyles, Smiley, Sweeney)
No – 0
Abstention – 2 (Johnston, Roy)

Motion carries

b) Stark Mountain Woodworking - #2017DRB-14-SP

Sweeney made the motion to accept the Findings and Decisions as presented.

Smiley seconded

Discussion – none

Vote: Yes – 5 (Barrett, Charbonneau, Fyles, Smiley, Sweeney)
No – 0
Abstention – 2 (Johnston, Roy)

Review Decision Compliance and/or sign final plats – none

Correspondence – none

Old Business

There was a discussion with regards to a procedure that happened at the November 2, 2017 meeting relating to a statement made...feeling pressured to make a decision. The DRB needs to be careful with what they say and as this type of statement may present misperception. DRB need to stick to the facts presented.

New Business

- Johnston will write up the Findings and Decision for the Appeal of ZA decision #2017-ZP-46 by Moncrief/Tonzola#2017DRB-15-A.
- Discussion on the search for a new zoning administrator. The Planning Commission is taking applications and currently have two.

Fyles made the motion to adjourn

Roy seconded

Discussion – none

Vote: Yes – 7 (Barrett, Charbonneau, Fyles, Johnston, Roy, Smiley, Sweeney)
No – 0
Abstention – 0

Motion carries.

The meeting was adjourned at 7:35 PM

Respectfully Submitted By
Karen Gallott

Kathy Barrett, Chair

Mike Sweeney, Acting Chair

Donald Johnston, Clerk

DRAFT