

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

Members &

Alternates Present: Kathy Barrett, Tim Bouton, Steve Dupoise, Jim Gallott, Donald Johnston, Mike Sweeney, Tom Fyles-Alternate

Members &

Alternates Absent: Donna Blaise, Victor Bolduc-Alternate

Guests:

Jed Malcolm, Alan Karnatz, Bernard Nobel, Tammy Downer, Daniel Collette, Eben Punderson Esq. for David Visser, Wayne Sturtevant, Norma Norland, Ken Norland, David Santos, Candace Swain, Douglas Tolles

Tim Bouton, Chair, called the July 21, 2014 Development Review Board (DRB) meeting to order at 7:02 PM. Alternate Tom Fyles will be voting tonight.

Visitors Business – none

Public Hearing

1) Application #2013DRB-11-A – Appeal of decision of Zoning Administrator (ZA) to issue “Notice of Violation” dated 11/5/2013 by Mike Lee – continued from 1/20/2014, 3/17/2014 and 5/5/2014. *It is anticipated that this will be continued so that the Site Plan review currently underway can be addressed.*

The DRB is currently reviewing a site plan for this property that will address many of the violations mentioned in the Notice of Violation. The site plan hearing is scheduled for August 18, 2014.

Barrett made the motion to continue application #2013DRB-11-A to October 6, 2014.

Gallott seconded

Open to Public – no comments

Discussion – Fyles asked if the DRB had heard from Mike Lee regarding a time frame when he would be ready to come back to the DRB. Gallott indicated the DRB set the date of August 18, 2014 with the understanding the DRB would not continue the application after that date.

Vote: Yes – 7 (Barrett, Bouton, Dupoise, Fyles, Gallott, Johnston, Sweeney)

No – 0

Abstention – 0

Motion carried

2) Application #2014DRB-07-SP – amended site plan review by Newton Holdings LLC, dba Phoenix Feed and Nutrition, on parcel #0193.

Bouton recused himself from this hearing.

Vice-Chair Gallott officiated.

David Santos, Vice President and co-owner of Phoenix Feeds and Nutrition presented tonight. Newton Holdings LLC would like to finish Phase 3 of the site plan. The project is driven primarily in response to operational changes mandated by the Food Safety Modernization Act of 2010.

- Phase 3 is construction of an upright mill (cluster of bins 30 ft x 40 ft x 90 ft high); bucket elevators and spouting to fill these bins would be as high as 150 ft. This would eliminate use of the front end loader which is currently being used and not compatible with the new laws and would increase the amount of feed produced in a shift and in turn reduce operating hours.
- Construction of an enclosed Railcar Unloading Track Shed (24 ft x 160 ft long) located by the western rail siding where railcars are currently unloaded. The shed will hold up to 3 railcars at a time providing protection from the elements. The shed would be insulated with doors at either end. The doors would be open when the railcars are being loaded and when the cars need to be moved during the day. The cars are not moved at night and the doors would be closed then, creating a sound barrier for noise.

Santos indicated that they have received a letter from Vermont Rail System, David Wulfson, President, granting permission to construct the Railcar Unloading Track Shed on railroad property. The proposed shed straddles the boundaries of Phoenix Feeds and either land owned by the State of Vermont or by the Railroad Company. Ownership of the land needs to be figured out.

The proposed grain elevator will not exceed 149 ft and may be reduced to 146 ft. The height requirement is for the use of bucket elevators which are quieter than chain drags. The lower part of the elevator will be located inside a building but the top part of the elevator will be outside.

The current grain elevator is at 90 ft and will stay in place after the new grain elevator is built and up and running. It will be used when needed. Santos was not certain if the two elevators can run at the same time. Incoming materials will come in the same as now – via truck or rail car.

Santos mentioned that they have exceeded the hours of operation. In order to get the trucks loaded they have worked until 2:00-3:00 AM.

Open for Public Comment

Wayne Sturtevant –

- Mentioned that there is a whining sound associated with the running of the current tower and auger that is 24/7.
- Sturtevant is afraid that a higher elevator with more motors running will generate more noise.
- Also there is a pounding sound that has not been stopped that goes throughout the night. He has voiced complaints and the response was for him to install an air conditioner in the window.
- Sturtevant asked if there was a guarantee that the new elevator would cut down on the noise. Santos indicated there was no guarantee this would happen.
- Is there similar equipment nearby that one could visit to assess noise levels?

Dan Collette –

- Indicated that at the last Phoenix Feeds meeting, Phoenix Feeds promised to reduce noise. Now Phoenix Feeds has incorporated the use of an air hammer to unload rail cars. This has produced more noise all hours of the night.
- Doesn't feel more motors should be allowed if enforcement now cannot address the problems.

Bernie Noble –

- Indicated that from his property he can clearly hear the noise at all hours of the day and night (2AM, 6AM, 6:30PM 9:30PM) is a continual nuisance and concern. He wants a quality of life to live, not lip service from Phoenix Feeds that they will do what it takes to reduce the noise levels and co-exist with the neighborhood.

Tim Bouton –

- Indicated that he has the same concerns as what was just expressed by the previous public attendees.
- Concerned that the height of the new structure, an additional 60 ft higher than what is current on site, will broadcast further than what is currently on site.
- Are there other options to deliver materials from the rail cars to the elevators?
- Concerned Phoenix Feeds has a letter from someone that does not own the property granting permission for the construction of a building. Bouton suggested that this issue get resolved.
- There are many different locations indicated on the modified site plan, which location(s) is the DRB addressing; all locations or just the grain elevators and track shed?

Santos indicated that there are no plans to do anything more than the proposed grain elevator and track shed. The modified site plan does show a proposed new office building, and a squaring off of a building. The site plan shows what Phoenix Feeds may want to do in the future there are no plans to do these at this time. The goal of Phase 3 will reduce the hours of operation. The height of the tower does not create more noise, the elimination of the use of chain drags will create less noise. The plant does have existing chain drags that will continue to be used.

Doug Tolles –

- Asked if the 149 ft tower replaced the existing 90 ft tower?

Santos indicated that the 90 ft tower will stay in tack and will be used when needed, but not in conjunction with the 149 ft tower.

The ZA indicated that an engineer could estimate noise decibel levels of the equipment that is currently on site.

Johnston indicated that a presentation in writing from an independent engineering firm assessing noise decibels with an explanation and pictures of the proposed tower would be beneficial.

Candy Swain –

- Indicated that the past two weeks it has been impossible to sleep as the noise continues at all hours.
- Concerned about the hours of operation

Eben Punderson – representing David Visser and Daniel Collette. There hasn't been discussion yet on the enclosure over the Track Shed.

The Track Shed will enclose the cars and will allow the doors to be closed. The doors will be closed when the cars go in and opened when the cars go out. The building will be insulated and will create a sound barrier

- David Visser's grievances
 - No change in noise levels i.e. pounding on box cars outside of agreed upon hours.
 - Still not adhering to original noise ordinance
 - Motion to enforce original noised ordinance and reinforce
 - Example date July 5th 2:15 AM (air hammer)
 - Diminished property value
 - Unacceptable living conditions
 - Creating adverse living conditions for present occupants and diminishes property value for future development of property

Public Comment Period Closed

Sweeney made a motion to have

- Noise studies done for the overall plant operation, current equipment operation, proposed new equipment operation, the currently used vibrator, and the Railcar Unloading Track Shed.
- Noise levels evaluations should be done during normal business hours as well as throughout night time hours. This study will give noise levels provide the information needed on how noise levels will be managed 24/7.

Barrett seconded

Johnston made an amendment to the motion – to include a letter from the State of Vermont agreeing to the building of the Railcar Unloading Track Shed.

Sweeney & Barrett both agreed to the amendment.

The motion now reads:

- Noise studies done for the overall plant operation, current equipment operation, proposed new equipment operation, the currently used vibrator, and the Railcar Unloading Track Shed.
- Noise levels evaluations should be done during normal business hours as well as throughout night time hours. This study will give noise levels provide the information needed on how noise levels will be managed 24/7.
- Phoenix Feeds and Nutrition dba as Newton Holdings LLC should obtain a letter from the State of Vermont agreeing to the building of the Railcar Unloading Track Shed.

Discussion – Santos indicated that he will begin working on this noise studies right away.

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

No – 0

Abstention – 0

Motion carries

Barrett made the motion to continue this hearing to August 18, 2014.

Dupoise seconded

Discussion - none

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

No – 0

Abstention – 0

Motion carries

The Vice Chair turned the meeting back to the Chair.

3) Application #2014DRB-08-SD – final plat review of 2-lot Subdivision of parcel #0381-100 by Richard Tracey Sr. and Vermont Land Trust (VLT).

Alan Karnatz representing VLT, Richard Tracey, Sr. and Richard Tracey Jr., presented tonight. The VLT is has conserved 182 acres, 10 acres will be maintained by VLT but this acreage and existing buildings can be purchased. There is sufficient road frontage. 7.3 acres is not included in the sale to VLT.

Opened for Public Comment

Norma Norland asked what the role of the Vermont Land Trust is. Karnatz explained.

Doug Tolles – asked if written permission was obtained from all the co-holders. The land cannot be subdivided unless all the co-holds agree. He also felt the deed should be looked at.

Public comment Period Closed

Sweeney made the motion to approve the subdivision as presented with the following conditions:

- Water and wastewater permits in place prior to approval by the DRB

Gallott seconded

Discussion – none

Vote: Yes – 7 (Barrett, Bouton, Dupoise, Fyles, Gallott, Johnston, Sweeney)

No – 0

Abstention – 0

Motion carries

4) Application #2014DRB-05-PUD – multiple use of property by Malcolm/Horn, parcel #0788-100, *continued from 7/7/2014.*

Fyles recused himself from this hearing.

Jed Malcolm, owner of Salamander Construction presented tonight a revised site plan and revised narrative. He would like to convert the property to a multi-use property with the existing single family residence with an accessory apartment and add a separate use structure (80 x 40 ft with a 10 ft overhang on the east and south sides) a small woodworking/carpentry workshop on the southern portion of the property. The entrance from Route 7 has been deleted. The driveway to the proposed building has been reconfigured using the River Road entrance and going behind the current storage building. The site would contain a parking area to house trailers, such as tool/dump body and small flatbed trailers. There will be nine (9) designated parking spaces. Landscape screening will be provided for both ends of the building. A second well has been determined as needed. There was correspondence to Granstrom's about overshadowing.

The Chair presented written testimony from Jim Walsh (email correspondence) –

- Well and septic over shadow requirement

John Madden – calls into question the following concerns:

- The property is still a residential zoning district RA-10
- Indicates that this proposal for a contractors yard

Dupoise made the motion to approve the application as presented with the following conditions:

- Access from Route 7 will be blocked off
- A single existing curb cut will come off River Road
- Water and wastewater permits are approved by the State
- The current residence should be mentioned as a two family home, not a duplex
- Zoning issue regarding highway commercial needs to be resolved and clarified
- Lighting should be down shaded so as to not be a visual glare to traffic on Route 7. Over door lighting will be located on the north and south ends of the building. Lighting will also be installed on the east side of the building for the parking area.
- Hours of operation will be Monday – Friday from 7:00 AM to 5:00 PM, with an option of up to ten (10) working Saturdays per year
- The final plat will have a rough location indicated for placement of the business sign

Johnston seconded

Discussion – none

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

No – 0

Abstention – 0

Motion carries

DRB Business

1. Sketch plan reviews – none

2. Minutes – July 7, 2014

Barrett made a correction to item #6 New Business – change the word opening to open

Barrett made the motion to approve the DRB July 7, 2014 minutes as corrected

Dupoise seconded

Discussion – none

Vote: Yes – 6 (Barrett, Bouton, Dupoise, Fyles, Gallott, Johnston)

No – 0

Abstention – 1 (Sweeney)

Motion carries

3. Review and sign decisions

a) Application #2014DRB-04-SP – amendment to existing Site Plan by C.D. Cairns Trust Partnership, dba Champlain Oil Company, parcel #0197.

Barrett made the motion to approve the decision as presented

Dupoise seconded

Discussion – none

Vote: Yes – 6 (Barrett, Bouton, Dupoise, Fyles, Gallott, Johnston)

No – 0

Abstention – 1 (Sweeney)

Motion carries

b) Application #2014DRB-06-NCS – expansion for a non-conforming structure by Mary Kellington, parcel #0421-100

Dupoise made the motion to approve the decision as presented

Barrett seconded

Discussion – none

Vote: Yes – 5 (Barrett, Bouton, Dupoise, Gallott, Johnston)

No – 0

Abstention – 2 (Fyles, Sweeney)

Motion carries

4. Review for compliance and sign final plats – none

5. Correspondence

A letter from John Madden through Cindy Hill (Town Lawyer) regarding the version of the zoning map the DRB is using. DRB Chair will draft a reply response.

6. New Business – none

7. Old Business – none

Barrett made the motion to adjourn

Fyles seconded

Discussion – none

Vote: Yes – 7 (Barrett, Bouton, Dupoise, Fyles, Gallott, Johnston, Sweeney)

No – 0

Abstention – 0

Motion carries

The meeting was adjourned at 9:35 PM

Respectfully Submitted By

Karen Gallott



Tim Bouton, Chair



Jim Gallott, Vice-Chair

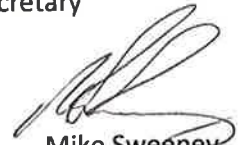
Donald Johnston, Secretary



Kathy Barrett

Steve Dupoise

Tom Fyles



Mike Sweeney

