

**Development Review Board Minutes  
Town Office/Library, New Haven, Vermont  
March 16, 2015**

**Members & Alternate Present:** Kathy Barrett, Tim Bouton, Steve Dupoise, Jim Gallott, Donald Johnston, Mike Sweeney, Victor Bolduc-Alternate, Tom Fyles-Alternate

**Members Absent:** Donna Blaise

**Staff:** Dave Wetmore, Zoning Administrator

**Guests:** Mike Lee

The Chair called the Development Review Board (DRB) meeting to order at 7:00 PM. At this time board member Barrett was not present. The Chair indicated that both alternates (Bolduc and Fyles) will be voting members tonight.

I. There were no adjustments to the agenda

II. Visitors Business – none

III. Public Hearing

a) 2014DRB-01-SP- Mike Lee Site Plan continued from 12/15/2014 and 2/2/2015 (cancelled due to weather).

The applicant, Mike Lee presented to the DRB the site plan for the property. Lee's understanding after the last meeting (NOTE: the last meeting to deal with the site plan was on December 15, 2014) that the DRB gave approval of most of the Site Plan "within reason; with the exception of the area out front". Tonight Lee is asking the DRB to approve the Site Plan for the back area of the lot with the condition that the display area out front would be a non-conforming, pre-existing display area and subject to Environmental Court ruling.

Lee indicated that if the DRB approved the site plan as presented tonight then the DRB has the opportunity to have the trailers placed where they would like them. On the other hand, when the ruling goes through Environmental Court placement of the trailers may not be where the DRB would like to see them.

The DRB indicated again, that in their Decision on the Appeal of Violation, the trailers were not grandfathered, thus the trailers were not guaranteed to be part of the site plan.

DRB mentioned if the ruling from Environmental Court indicated that the trailers were grandfathered, the trailers would need to be screened as per the current zoning regulations. Lee indicated that the zoning screening regulation was adopted in Aug. 2012 and the trailers were already placed on site before this date.

DRB indicated that to their knowledge no permits were issued for the storage of trailers prior to adoption of the screening laws. With the site plan presented tonight the DRB is now looking at trailer permitting, so screening regulations will be in effect.

The DRB indicated that tonight's site plan is being reviewed with the current regulations not past zoning regulations. If there were permits issued for the placement of storage trailers under prior zoning regulations, then the DRB would have to abide by the regulations of that time. If there were no past permits issued for the placement of storage trailers, then the DRB would treat them as a new structure and they would be looked at under the current zoning regulations.

If zoning regulations in 1990, 2006, 2012 indicate a permit is required and the trailers were not permitted they are in violation. If the 1990, 2006, 2012 zoning regulations do not indicate that a permit is required and the trailers existed prior to these dates then the applicant has a reasonable argument.

Display Area:

Lee indicated that he has never been cited for display of equipment out front. He has displayed equipment continuously out front since he has owned the property. Display of retail equipment (sheds, mowers, etc.) was not viewed by the Zoning Board of Adjustment at that time as a change of use and no violations were issued for setback requirements.

There are two issues and there seems to be no agreement tonight between the applicant and the DRB. Storage Trailers – are the trailers permitted or not permitted? - does the DRB have jurisdiction over them?  
• Display Area – If the applicant agrees that what he has been using as a front display area is within the setbacks then he has a challenge to prove that to the DRB.

The DRB has nothing to reference during this discussion as the meeting was held in the Town Library and access to reference materials for prior zoning regulations are not available. If the applicant had brought forth prior zoning regulations and was able to specifically point out the areas of current discussion then the DRB would be able to reference them.

DRB asked the applicant if equipment displays were to be moved back to meet the current setback requirements how would that impact sales. Lee indicated this was an important issue and moving back displays would be a detriment to the business.

DRB indicated that they would not be permitting a display area that is within the setback area. All the DRB can do is take the current zoning regulations and apply them to the current site plan that is presented tonight.

DRB asked the applicant to address future plans for the site. The following plans were discussed:

- Complete the roads on site
- Move and screen some of the storage trailers
- Install slat screening on the fence to hide storage trailers and the area to the north of the main building. The fence would go from the building north to about the middle of the proposed driveway
- Construction of new building(s)
- Install outdoor lighting for the driveways
- Move soil to a 1% grade for the forklift
- Back slope – one part is too steep - move soil to even the slope
- Change water ditching for storm water

The applicant indicated that it will take more than 20 yds. of soil for the fill projects.

ZA indicated that he mentions to all applicants that they need to be aware of the type of material that is being used for fill. Fill is regulated by the VT Dept. of Agency of Natural Resources.

ZA indicated that more than 20,000 yards of fill has been brought into the site over time. The applicant agreed that more than 20,000 yards have been brought in.

The applicant needs to provide a master timeline of when:

- Year and construction of new buildings
- When the screening will be in place

The DRB suggested a 10 year plan. The ZA was hesitant to look at a plan that goes out that far. The applicant agreed in 10 years things and needs could change. A five (5) year plan was agreed on.

The applicant would like a ruling tonight from the DRB indicating that the outdoor display area is a pre-existing non-conforming use. The DRB indicated that evidence is needed showing that the display area is pre-existing non-conforming.

DRB members should look at the issue of the display area - is this a pre-existing non-conforming use or does the applicants have the ability to comply with the setback regulations?

The applicant indicated that he was not willing to move the outdoor display area back.

The DRB was resistant to make a motion on the display area being a pre-existing non-conforming use. Some DRB felt that more evidence/prove was needed from the applicant. Some DRB did not feel more evidence was needed.

The DRB will make a decision after the Environmental Court makes their decision.

Neither the applicant nor the DRB were able to come to an understanding/agreement over tonight's presented site plan. The applicant withdrew his application for the site plan.

Gallott made the motion to accept Mike Lee's withdrawal of his site plan application. Sweeney seconded  
Discussion: As per regulations, if/when the applicant comes back before the DRB with a site plan he will be required to submit a new application with the required fees.  
Vote: Yes – 7 (Bouton, Bolduc, Dupoise, Fyles, Gallott, Johnston, Sweeney)  
No – 0  
Abstention – 1 (Barrett who joined the meeting at 8:58 PM)  
Motion carries

**End of the Public Hearing at 9:00 PM**

**IV. DRB Business**

**1. Sketch Plan reviews – none**

**2. Minutes – January 5, 2015**

Barrett made the motion to approve the January 5, 2015 DRB minutes as presented

Johnston seconded

Discussion – none

Vote Yes – 5 (Barrett, Bouton, Fyles, Gallott, Johnston)

No – 0

Abstention – 3 (Bolduc, Dupoise, Sweeney)

Motion Carries

**3. Review and sign decisions – none**

**4. Review for compliance and sign final plats – none**

**5. Correspondence**

- John Madden – letter expressing concerns with regards to the vote on Article #13 at town meeting on March 3, 2015.

**6. New Business**

There are three DRB members up for reappointment: Gallott, Johnston, and Barrett.

- Gallott indicated that he will not be looking for reappointment.
- Johnston is willing to be reappointed, but made it clear that he does not want to be considered for either the Chair or Vice Chair positions. He will however continue as the clerk/secretary of the DRB.

- Barrett is willing to be reappointed.
- Alternate Bolduc was not interested in accepting a position as a full DRB member.
- Fyles agreed and is willing to be appointed as a full DRB member

For those members willing to be reappointed they must stop by the Town Office and fill out a volunteer form.

The Chair asked that the Selectboard contact Donna Blaise to find out the status of her appointment.

The April 4, 2015 DRB meeting would be looking for a board member to chair this meeting. Gallott will still be an active board member at this meeting, but he didn't feel it was appropriate to act as chair when he would be stepping down. Barrett will act as Chair and Sweeney will Co-Chair for that meeting.

Bouton indicated that he will not be seeking reappointment in two years when his term is up. In 2016 he will step down as Chair, and will help with the transition to a new DRB Chair.

**7. Old Business – none**

Dupoise made the motion to adjourn

Gallott seconded

Discussion – none

Vote: Yes – 8 (Barrett, Bolduc, Bouton, Dupoise, Fyles, Gallott, Johnston, Sweeney)

No – 0

Abstention- 0

Motion carries.

The meeting was adjourned at 9:19 PM

Respectfully Submitted By

Karen Gallott

Tim Bouton, Chair

Victor Bolduc

Jim Gallott, Vice-Chair

Steve Dupoise

Donald Johnston, Secretary

Tom Fyles

Mike Sweeney

Kathy Barrett

Karen Gallott