

ORIGINAL

**Development Review Board
Town Offices, New Haven, Vermont
October 1, 2012**

Members Present: Kathy Barrett, Donna Blaise, Tim Bouton, Steve Dupoise, Jim Gallott, Mike Sweeney

Members Absent: Donald Johnston

Alternates Present: Victor Bolduc

Staff: Zoning Administrator-Dave Wetmore

Guests: Glenn Ash, Steve Revell, Bonnie Gardner, Andrew Moyer, Donald Clark, Jr., Jenny Clark, Thomas Fisher, Lee Saunders, Jennie Kimball, Wesley Kimball, Sarah Kaeck, Brian Kaeck

Tim Bouton, Chair, called the Development Review Board (DRB) meeting to order at 7:00 PM. Victor Bolduc will be a voting member tonight.

The chair requested that item #3 in the Public Hearing section be moved to the #1 spot tonight. The board agreed.

Public Hearing

1. *Application #2012-DRB-08 – continued from 9/17/2012 being a request for conditional use and site plan approval by the Chittenden County Transit Authority for a bus stop and associated parking.*

The representatives from Chittenden County Transit Authority (not present tonight) had previously asked the Zoning Administrator (ZA) if their application could be continued to the October 15, 2012 DRB meeting.

Gallott made the motion to continue the hearing for Chittenden County Transit Authority to the next regularly scheduled DRB meeting on October 15, 2012.

Barrett seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

2. *Application #2012-DRB-04 is a request for final plat approval for 2-lot subdivision by Steve Revell (applicant) of parcel #0545, 4199 River Road.*

Steve Revell (applicant) is the agent for the owners of the parcel. Owners – Thomas Fisher and Bernice (Bonnie) Gardner are requesting a 2 lot subdivision of the property.

Lot #1 of 10.04 acres and includes several outbuildings, the residence, primary and secondary springs, as well as a replacement disposal system; would go to Bonnie Gardner
Lot #2 of 40.20 acres all open agricultural land would go to Thomas Fisher

There is 400 feet of frontage on River Road and Sumner Road for both lots.

At the June 18 2012 DRB meeting the board asked for the following items:

- *FEMA Flood Plain to be shown on the Plat* – the Plat shows the FEMA flood plain line on Lot #2
- *Applicant to have a Wastewater permit from the State* – the permit has been approved and issued by the State
- *Deferral Language to be shown on the Plat* – Revell indicated that the language must be part of the deed, and he will make sure it is on the Mylar as well
- *Zoning Districts be identified* – they were not identified on the Plat

Open for Public Comment

No comments

Public Comment Period Closed

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

- Septic Deferral Language to be included on Lot #2 the Plat
- Zoning districts to be noted in the “Notes” on the Plat

Dupoise seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

3. *Application #2012-DRB-09 is a referral from the ZA for Don and Jenny Clark, expansion of a non-conforming use at 934 North Street.*

Victor Bolduc (board member) recused himself.

The ZA gave a brief background. The ZA felt that the Clark’s needed a building permit for the expansion of the non-conforming use on their property when they installed four silos on the property. The ZA did not think the building permit was something he could grant based on its non-conformity – it is not a permitted use defined by the regulations – thus requiring a review by the DRB. This is a referral to the DRB by the ZA.

The ZA believes this non-conforming as it did not meet the minimum lot size requirements for non-residential use in an RA-1 district (5 acres). Lot size is 4.3 acres. ZA also believes that it is not an acceptable agricultural practice for the site. The ZA is not challenging the existing use of the site for the feed business within the footprint of the existing building. The silos expanding outside of the footprint of the building, a permit was required, which did not conform to the zoning regulations so the ZA did not feel able to approve it. Also the silos were built without a building permit.

The Clark's explained they are back in business as an organic feed business after their building collapsed and was rebuilt. This is not their only full time business; they also perform other outside activities but not on the North Street property. They believe they are an agricultural use exempt from zoning requirements as approved by the Zoning Board of Adjustment at the time of the original application. The new silo storage is for organic feeds, feeds that cannot be easily stored in the building. Silos keep the rodents out of the feed and the Clark's contend that there is no room ~~there is no room~~ in the building for this storage.

The Clark's currently use three trucks full time for the feed business and two trucks are used part time for either for the feed operation or they do off site work. The Clark's noted that they have 3-4 trucks deliver feed each week and 3-4 trucks go out with deliveries to farmers each week. The two part time trucks are parked at the site. The Clark's answer with regard to maintenance performed on the trucks was unclear.

The DRB felt they needed to decide (1) if this a farming use as defined by today's Zoning Bylaws; (2) is or is not a conforming use; or (3) if it meets the same level as it was when originally granted.

Public Comment Period Open

Wesley Kimball expressed his concern on truck traffic, the different activities that the trucks are engaged in that is not related to the organic feed business.

Sara Kaeck showed a picture taken today of the type of truck that was on the site today. Sara also expressed concern regarding truck traffic.

Brian Kaeck indicated they are an abutting neighbor and they own the well on the Clark's property. Any expansion of the Clark's business including washing of trucks would affect the well (electricity and wear and tear on well pump) and ultimately would negatively affect them financially; they have noticed significant fluctuations in their power bill. Also the water runoff from truck washing runs directly onto their property.

The ZA indicated he had a phone call from Jack Gordon. Jack expressed his concern regarding the excess truck traffic and expansion of the site.

There was considerable discussion amongst the DRB if this is a farming or non-farming activity. The majority of the DRB felt they could not fit this into the farming category.

Then the DRB looked to see if this would fit as a non-conforming use and non-conforming structure. The DRB determined that this did not fit as a conforming use; and so will be considered as a grandfathered non-conforming use. The pre-existing structure will be considered non-conforming because the building does not meet the setbacks.

The question – are the silos an enlargement of either the use or the structure? The silos were not attached except for the augers that went through the wall into the building.

Discussion regarding a site visit was introduced. The DRB decided not to do this.

Barrett made the motion to recess to the October 15, 2012 DRB scheduled meeting, the application of the Clark's for the expansion of the non-conforming use of 934 North Street.

Discussion – none

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

No – 0

Abstention – 0

Motion carries

DRB Business

I Sketch plan review – none

II Review Minutes

Dupoise made the motion to approve the minutes of the September 17, 2012 DRB meeting as presented

Barrett seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

III Review and Sign Decisions

a) *Application #2012-DRB-07 is a request for site plan approval by Steve and Marcia Dupoise, dba Ethan Allen Highway Storage.*

Gallott made the motion to approve the decision as presented

Bolduc seconded

Discussion – none

Vote: Yes – 6 (Barrett, Blaise, Bolduc, Bouton, Gallott, Sweeney)

No – 0

Abstention – 1 (Dupoise)

Motion carries

b) *Application #2012-DRB-06 is a request for final plat approval for 2-lot subdivision by Charles and Heather Post (applicant).*

Dupoise made the motion to approve the decisions as presented

Barrett seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

IV Review for compliance and sign final plat

a) *Wright Stowe*

Dupoise made the motion to approve the final plat as presented

Gallott seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

V Correspondence – none

VI New Business – none

VII Old Business – none

Sweeney made the motion to adjourn

Dupoise seconded

Discussion – none

Vote: Yes – 7 (Barrett, Blaise, Bolduc, Bouton, Dupoise, Gallott, Sweeney)

No – 0

Abstention – 0

Motion carries

The meeting adjourned at 9:20 PM

Respectfully Submitted By

Karen Gallott



Tim Bouton, Chair



Victor Bolduc



Jim Gallott, Vice Chair

Steve Dupoise



Kathy Barrett

Donna Blaise

Mike Sweeney

