

***Town of Dover
Development Review Board***

Meeting Minutes

July 10, 2014

7:00pm at Town Office

**THESE MINUTES ARE NOT OFFICIAL UNTIL THEY HAVE BEEN APPROVED BY
THE DEVELOPMENT REVIEW BOARD**

- I.** The regular meeting was called to order at 7:00pm by Chair Shippee. The Board introduced themselves to the audience.
- II.** All parties present were asked to sign in.
- III.** The notice of hearing was read into the record.
- IV.** Board members present were: Chair Sarah Shippee, Vice Chair Jim Lynch, Geri Golet, Andy Childs* and Ned McElroy. The Zoning Administrator, David Cerchio, and Recording Secretary Jeannette Eckert, was also present. Kelly Pawlak, Taylor Wilkins, Richard & Jean Meduski, Bob Fisher, Cory Frehsee, Kim Trinklein, Bill Stewart, Linda Anelli, Jordan Mayer, Chris Roy, Betsy Wadsworth, Rob Wadsworth & Christine Toupenca were also present.
- V.** A draft of the minutes for the meeting will be posted by Tuesday, July 15, 2014 and all Applicants are encouraged to review those minutes for accuracy and any comments or inconsistencies should be sent to the ZA before the next meeting. All exhibits presented are available for public viewing through the ZA or Recording Secretary. All parties intending to give testimony were sworn in.
- VI.** **To consider continuance of application #14-MS100-01** by the Mount Snow Resorts to amend their PUD to include a retail sign facility in accordance with Article 7 of the Zoning Bylaw. The property is located on Route 100 in West Dover. Parcel Number MS100.

*Board member Childs recused himself from application 14-MS100-01 due to a conflict of interest.

- ZA Cerchio testifies that the hearing has been properly warned & posted.
- Applicants testify that abutters have been properly notified according to the lists given them by ZA Cerchio & Mount Snow's Laurie Newton. However it was noted that not all individual condominium owners were notified but their Associations were.
- ZA Cerchio testifies that it is the responsibility of the Applicants to notify the appropriate parties.
- Applicants testify that they are willing to take the risk of an appeal by any individual that was not notified.
- Applicants testify that ZA's summary is accurate.

The following exhibits were introduced:

1. Exhibit A: ZA Summary
2. Exhibit B: Color map of retail building and surrounding area

3. Exhibit C: Letter from Snow Tree Condominium Association Board

The Applicants, Kelly Pawlak & Taylor Wilkins, testify to the following:

- Mt Snow presently has a sign shop for the manufacturing of its own signs
 - Would like to open it up to the public on an appointment basis
- Currently do makes some signage for the public
- Offer a non-profit rate and a business rate
- Hoping it will open up another job opportunity for one additional person
- No effect on fire protection for the current building
- There are already enough parking spaces available
- 1000 square feet of shop space
- No impact on any exterior operations
- Space was formerly a doctor's office at entrance to Snow Tree Condo Assoc.
- No change of footprint

Kim Trinklein, owner of 17A Snow Tree Lane, representing the Snow Tree Condo Association Board, testifies to the following:

- Letter from the Board was read into the record (Exhibit C)
- Residential zoned space
 - Serious zoning change would result from a change to a retail business
- Some owners were not notified of the hearing
- Water and sewer concerns
- Commercial property would have an negative impact on the resale value of the condominiums
- A few questions to consider:
 - What will building look like as a retail space?
 - What is the traffic impact?
 - Is the building up to fire code?
 - Anticipate amount of increased business?
 - Outdoor lighting?
 - What will screening be between Snow Tree Lane and the building?
 - Maintain the property by keeping it clean and neat at all times?
 - Control on the noise of increased manufacturing?
 - Will larger retail business go in once zoning is changed
- There was no feedback on the noise level from condo owners
- Being able to make a change to the retail business in future is a concern
- Concerned about value of property and quality of life

Chair Shippee clarified that this is in a Resort District zone not Residential District zone

Applicants' response:

- Exterior—updating outside signage on Handle Rd and one on the building are the only changes
- No changes to the building itself
- Fire codes are up to date
- No changes to outdoor lighting—shop closes at 5pm
- No changes to present screening
- Business is on an appointment basis only—one person at a time
- Signs may be on the front side of the property but not on the Snow Tree side

- Prior to this, it was a reservation office—cannot imagine any more traffic than that produced
- As far as noise levels--Using the same tools that are currently being used
- Not expecting to expand the retail shop size—may go from 2-3 employees

At 7:32pm the Board took a short recess until 7:36pm

On a motion by Vice Chair Lynch, seconded by Alternate McElroy, the Board unanimously agreed to close the hearing.

Specifics on the appeal process were requested—Mr. Trinklein will consult with ZA Cerchio

*Board member Childs joined the Board at 7:40pm

VII. To consider application #14-UR001-01 by Andrew Rebak the construction of a garage in a Sensitive Wildlife Resource Overlay District in accordance with Section 300 and Article 9 of the Zoning Bylaw. The property is located at 54 Upton Road in West Dover. Parcel Number UR001.

- ZA Cerchio testifies that the hearing has been properly warned & posted.
- Rob Wadsworth has permission from owner/applicant Andrew Rebak to represent him this evening.
- Mr. Wadsworth testifies that all abutters have been properly notified.
- Mr. Wadsworth reviewed ZA's summary and testifies to its accuracy.

The following exhibits were introduced:

1. Exhibit A: ZA Summary
2. Exhibit B: Wildlife Biologist Forest Hammond's comments

Mr. Wadsworth testifies to the following:

- Requesting to build a garage attached to the Rebak home on Upton Rd
- No setback issues
- Property is located in a Sensitive Wildlife Resource Overlay District
- There is a garage there currently
- Will be adding a second bay to an already existing garage

The Board took a short recess from 7:42pm to 7:43pm

Chair Shippee inquires as to the presence of any Interested Parties. There were none.

On a motion by Board member Golet, seconded by Vice Chair Lynch, the Board unanimously agreed to close the hearing.

VIII. To consider application #14-SG002-09 by Stevens & Associates on behalf of Richard Meduski for a 10 lot subdivision in accordance with Sections 335.2, 330 and 405(a) of the Zoning Bylaw. The properties are located on Blue Brook Road, Someday Road and Hathaway Trail in West Dover. Parcel Numbers SG002, SG002A, B, C, D, E.

- ZA Cerchio testifies that the hearing has been properly warned & posted.
- Applicant Richard Meduski and representatives Bob Fisher & Cory Frehsee testify that all abutters have been properly notified.
- All parties have permission from owner Mr. Meduski to represent him

- Applicants review the ZA summary and testify to its accuracy with the following exceptions:
 - No problems with points #1 & #2
 - Concerns with points #3 & #4
 - Not seeking variance on Lot 9—will discuss later in the proceedings
 - Lot 8 is a single family residence which would be in conformance

The following exhibits were introduced:

1. Exhibit A: ZA summary without points #3 & #4
2. Exhibit B: Joyce Land Surveying Map
3. Exhibit C: Sub division plan by Joyce Land Surveying
4. Exhibit D: Existing conditions plan (C-1)
5. Exhibit E: Lot layout plan (C-2)
6. Exhibit F: Overall site plan with subdivision
7. Exhibit G: Site Plan shows turn around for fire access—Figure 2
8. Exhibit H: Letter to Dover Select board from WDFD
9. Exhibit I: Project Review Board report (MIQ) dated June 2, 2014
10. Exhibit J: North Branch Gallonage report for a 4 bedroom house on lot 8
11. Exhibit K: Minutes from SB meeting of July 1, 2014
12. Exhibit L: Email from Linda Holland dated June 6, 2014
13. Exhibit M: North Branch Fire District Notice of Lien
14. Exhibit N: Letter from Chris Cady, abutter Anthony Gaglio’s attorney dated June 25, 2014
15. Exhibit O: Letter from Anthony & Caroline Gaglio, dated July 10, 2014
16. Exhibit P: Email from Bill O’Connell, dated July 10, 2014
17. Exhibit Q: Letter from Chris Roy, abutter Jordan Mayer’s attorney, dated July 10, 2014

Applicants Meduski, Fisher and Frehsee testify to the following:

- Requesting subdivision of the following properties as noted on Exhibit B
 - The Courthouse—lot #2; 2.32 acres
 - Main house—Meduski’s residence is lot #1; 1.06 acres
 - Cottage—lot #7; 1.01 acres
 - Garage/car barn—lot #8; 1.54 acres
 - Existing maintenance garage-- lot #9; 2.37 acres
 - Lots 10-14—to be accessed off Hathaway Trail; all above 1 acre
- Lots 3-6—on Someday Rd
- Property in question was previously owned by Mr. & Mrs. Duffy
- During Act 250 process—Meduski’s rented the main house
- Mrs. Duffy passed away during the process
- Mr. Meduski decided to purchase the whole property
- 18 foot wide road was approved by the SB on July 1, 2014
- MIQ approval by Project Review Board on June 2, 2014

Richard Meduski testifies to the following:

- Meduski’s have been in the area for 40 years; avid skiers and snowmobilers
- Offered to purchase lots with 4 buildings from the Duffy’s

- Reached an agreement with Mrs. Duffy in Sept 2010
- Closed on the property a few months later
- Act 250 process began
- Bought the rest when Mr. Duffy expressed interest in getting out
- Duffy's did not improve the property when they owned it; let it get run down
- Mr. Taub was the original owner and maintainer of property
- Since Meduski bought the property it has been improved in a major way
- Could have put more lots in than what is being done
- Wants to keep it tasteful and spread out
- Upscale property—good addition for the Town, wants to be proud of it and enjoy it or many years to come

Cory Frehsee (Stevens & Associates) testifies to the following:

- 10 lots as seen on Lot Layout plan---feasibility studies were completed
- All meet minimum lot size; adequate frontage; can accommodate single family homes; within required setbacks
- Have municipal sewer connections through extension of the sewer main on Someday Rd that will accommodate all the lots
- Private wells will be established along with storm water improvements
- Resolved fire protection concerns with the fire dept.
- Several State permits will confirm & strengthen the process
 - Storm water, erosion control, wastewater, Act 250 process

Bob Fisher testifies to the following:

- There have been several meetings with the SB and WDFD
- Fire suppression systems have been addressed
 - There will be a pump going uphill to serve a dry hydrant on Hathaway Trail (labeled adjacent to lot 10)
- Car barn with apt.(lot #8)—property was approved for a 4 bedroom house back in 1993
 - Gallonage allocation for apartment—stove, refrigerator, sink, bedroom, office—fully complying single family lot
- Lot 9: originally thinking a variance was needed—but can be a conforming single family residential lot
 - Non-conforming lot as described in the Zoning bylaws
- Existing maintenance garage on the lot based on ZA's interpretation is a storage facility which is not allowed in a residential zone
- Presenting application for three bedroom house on lot 9 for purpose of what would be filed with ZA
 - Propose a condition on this application that it be used as only a single family lot
 - Building a house on lot 9 which already has a garage on it
- Maintenance on Hathaway Trail will be done privately although the Trail is open to public access
 - Association will be established in order to have a road maintenance agreement
 - Not requesting that the Town take over the road maintenance--SB & WDFD have approved 18 foot road width
- Every lot has the ability to have a house built on it

- Good building sites and driveway opportunities
- Wells—there will be one per lot that has a house on it
 - State requirements will dictate the sufficiency of the water supply
 - New wells proposed will be possibly 6 or 7—unsure
 - Existing wells on lots 1,2 & 8
- Trail is currently 1800 feet of gravel road
 - 1400 feet of proposed road improvements
- Need to create a reasonable access to the 5 lots
- Steep slope from Someday Rd up to Hathaway Trail
 - Hathaway Trail has more gradual slope
- SB approved a width of 18 feet with no shoulders—this is a common standard for public roadways
 - Currently varies from 15 to 26 feet
 - Slopes downward; Ditches on both sides of road
- Water run off—control water and erosion
 - Required to meet the VT storm water standards
 - Culverts and ditches—treatment and detention measures
- Slope average is 10%--max grade is 12%
- Within the Town road standards and sufficient for fire fighting vehicles
- Swimming pool located on map C-2 (Exhibit E) will be filled in

ZA Cerchio: Was kitchen recently added at the car barn?

- This would determine if single family dwelling/apt. or simply a storage facility
- Change of use permit from car barn to single family would be needed
- Should be updated by North branch
- Email from Linda Holland, dated June 6, 2014 was read into the record
 - Inspection was performed 6/10/13 at which time there was no kitchen
- Traditionally used State's definition for "kitchen"

Mr. Meduski:

- Apt. has a bedroom, full bath, room with fridge, sink, microwave
- 3 weeks ago a stove was installed meeting the requirement of a kitchen
- Town bylaws do not define "kitchen"

The Board took a five minute recess at 8:54pm and returned at 9:00pm

The following letters were read into the record by Chair Shippee:

1. Letter from attorney Chris Cady on behalf of abutters Anthony & Caroline Gaglio
2. Letter from Anthony & Caroline Gaglio
3. Email from Bill O'Connell dated July 10, 2014
 - Interested Party Status for Mr. O'Connell?
4. Letter from Jordan Mayer's attorney—He has written permission to speak on Mr. Mayer's behalf

The Board recessed briefly at 9:05pm to discuss IPS status

On a motion by Vice Chair Lynch, seconded by Board member Golet, the Board unanimously granted IPS for Mr. O'Connell

Applicants' response:

- Mr. O'Connell's concern about bump out—all work done is done within the 50 foot right of way—will not go onto his land—building the bump out would be the start of a driveway for him
 - 2 turn outs are being referred to—all would be contained in ROW—see Exhibit F
- Mr. Roy's letter refers many times to Town road specs
 - Town road specs state that “no alterations can be made without permission from the SB and direct supervision by Road Commissioner”
 - SB did approve & give permission for the road specifications variance
 - It is that Board that controls with regard to the road
 - Don't like to say it but it seems like a classic example of “not in my backyard”
 - Two property owners who constructed Hathaway Trail—prior to their ownership it looked just like the 1400 feet that Mr. Meduski is trying to improve
 - 16-20 foot width along the way; 18 feet is the average which will continue up the hill
- This is a residential district—these lots are permitted uses within this district
- Frontage—defined as “bordering on a private or public ROW”—this is a public ROW
- Zoning bylaw does not define Town trail. It does define public way as “a municipally owned road, walkway, piece of land”. It certainly also includes a Town trail
- As such this does not require a Conditional Use evaluation
 - Overall neighborhood is residential and adding 5 more homes would not change that
 - The SB, Road Commissioner and Fire Dept. have all reviewed the safety & traffic aspects and determined no undue adverse effect regarding Town facilities
- Withdrawing request for variance—lot 9 is capable of being occupied with a single family home. A garage is an incidental and accessory use to a house
- Flood plain—lots being discussed in this application are not in flood hazard area
- Mr. Meduski has hired a wetland scientist; site visits with State wetland's division which will be pertinent to Act 250 process
 - Project as proposed meets with their recommendations and requests

Chris Roy, attorney for the Mayer's, & Jordan Mayer, owner of 35 Hathaway Trail testifies to the following:

Mr. Roy:

- Focus on the safety of access to homes that are being permitted by this board
- 2 steps to making this subdivision
 - SB approval to make use of the Town trail
 - DRB approval
- According to the July 1, 2014 SB draft minutes, it was not in their “purview to determine safety”
- Conditional Use standard for traffic & access—maximize safety
 - Clearly the SB was not making it a priority of their review
 - Safety of this access is to be determined by the DRB

- This road is a trail—it is the access that requires conditional use approval and is what is relevant here
 - Points to two items: safety and compliance with other bylaws & ordinances of the Town. In this case it includes road specs
- There was some suggestion that the Mayers and Gaglios are being hypocritical. They played by the rules. The rules are if you have access to three or fewer single family homes it is a driveway. Specs for driveways are limited.
- Expectation is that 4 or more lots would require additional widening of the trail
- When the Mayers and Gaglios bought their properties, there was the expectation that the road specs would remain in place. More lots would require updates.
- The SB waived one aspect of the road specifications
- Regarding satisfaction of other road specifications:
 - 40 feet of cleared corridor: 20 feet each side of the center line
 - Road surface
 - Culverts, gravel coverage, drainage
 - Depiction of 50 foot ROW—is this a surveyed corridor?
 - 18 foot standard and 100 vehicle trips a day—no resource for this is given
 - There is to be no slope on a collector road that is greater than 10%
 - Need for guard rails on the downward slope
- Lots are not landlocked—currently have access to Someday Rd
 - Lots only become landlocked when the lines are drawn in the way they are drawn
 - Owner chooses not to pursue that due to expense
- Car barn—just because a living space is included in a structure doesn't mean it's a single family dwelling. It can be an accessory apt. Principal use can be a car barn and an apt. which is not a primary use. A storage facility is not a permitted use. Creating a non-conforming situation by subdividing the lots
- Drainage issues—only downslope property is the Mayer's home. Downward erosion is possible down into Mr. Mayer's driveway and into his home. Cannot determine if this is being addressed adequately
- Reference to Mayer's home as a seasonal residence—Mayer family has been in this house since 2005 and have long term plans to stay here—made a significant investment and improved it as directed and believed it would continue with other developments

Mr. Mayer:

- Property was bought in 2005—Gary Carruthers was the Road Commissioner at the time. Road needed cover with 6-8 inches of gravel. Two years later Gaglio's bought their property. Concerned then about the safety of the road--two cars cannot pass on this road. Snowmobilers are on it up and down.
- Gaglio's met the standards but people cannot get up their driveway.
- Safety hazards exist. Trying to put twenty pounds of potatoes into a 5 lb. sack.
- Circular driveway and shrubbery will be encroached on by this trail—adds to the safety issue and decreases value of my house substantially
- Use common sense on this issue
- Mr. Meduski is going to unleash the economic value of properties
- Will fight this as long as I have to—this is a safety issue for me

- Think about what is attempting to be accomplished
 - Review Palmiter Realty listings for these lots
- Huge drainage concerns—I will be the lowest point on Hathaway Trail
- Rural nature of this trail should be maintained, just going to take more investment dollars
- Letter from March 8, 2007 from the Town to my attorney which was presented at the MIQ review— which states in part “If there are any future applications to alter Hathaway Trail, this office will notify you and your client, Jordan Mayer, via certified mail”
 - There were no notifications of the multiple meetings that have taken place
- Go look at the property & use your common sense

Linda Anelli, owner of 18 Someday Rd which abuts lot 14, testifies to the following:

- Did not get a chance to see map C-2 which indicates the lot line until tonight
- There was in the past, when Taub’s owned Someday, an easement in the bottom right hand corner of our property as seen on Ben Joyce’s preliminary map
- Quid pro quo that new houses gave them to create tee and fairway on their land—all fine, no problems
- With demise of the golf course—after going through the Act 250 process— one thing that got resolved was that land has been seeded back to us
 - 732 square feet of golf cart path that goes across bottom of property
 - Can only be used by whoever owns Someday in order to get a lawnmower across the land
- Retention pond—on lot 14?
 - Drainage from Someday Rd onto our land—drainage pipes that are no longer necessary because there is no golf course & no water
 - Lot 14 is much higher than my land
- HOA—part of the finale of Act 250 process with previous owner
 - New lots will observe all covenants of the existing HOA which is reassuring
- Sewer line on Someday Rd—6 or 8 inches?
 - Is existing line big enough to accommodate 5-8 more lots along with those it already serves?
- Well testing as lots get developed—will this get addressed?
- How does the pumping of water from the large pond on Someday to a dry hydrant on Hathaway Trail impact the residents?

Cory Frehsee response:

- It is an 8 inch sewer line
- Will design storm water and drainage in accordance with State regulations
 - Can’t just discharge onto another person’s lot
- Are aware of the easement triangle, cart path and passage for mowing and that is was resolved
- Lot 14 drainage—underground infiltration is a possibility—there will be an outlet; will have to get it over to the stream for ultimate discharge
 - Not allowed to increase peak flow in overall drainage area
 - Not aware of any specific failures
 - Will need to meet State regulations

- Water is to be pumped up from large pond on Someday Rd to a dry hydrant on Hathaway Trail
 - Second dry hydrant will still be in use
 - Will be required to make sure gallonage is sufficient

The Board took a brief recess at 10:17pm & returned at 10:20pm

On a motion by Board member Golet, seconded by Vice Chair Lynch, the Board unanimously agreed to continue the application to July 15, 2014 at 5pm at the entrance to Hathaway Trail off Bluebrook Rd for a site visit

- Scheduled site visit is open to the public
- May ask for additional documentation from Applicants
- And set date for continued hearing

IX. To consider application #14-SG002-10 by Stevens & Associates on behalf of Richard Meduski for a variance for a stand-alone garage as a primary structure in accordance with Section 1140 of the Zoning Bylaw. The property is located on Blue Brook Road and Hathaway Trail (Lot #9 of the above subdivision) in West Dover. Parcel Number SG002.

- Application has been withdrawn by the Applicants.

X. To consider any other business which may legally come before the Development Review Board.

- Approve Minutes of June 12th and 26th 2014

On a motion by Board member Golet, seconded by Vice Chair Lynch, the Board unanimously approved the minutes of June 12th, 2014

On a motion by Board member Golet, seconded by Chair Shippee, the minutes of June 26th 2014 were unanimously approved

On a motion by Board member Golet, seconded by Board member Childs, the Board unanimously agreed to move into Deliberative Session at 10:35pm

On a motion by Board member Golet, seconded by Vice Chair Lynch, the Board unanimously agreed to move out of Deliberative Session at 11:00pm

Meeting adjourned.

Respectfully submitted,
Jeannette Eckert, Recording Secretary

POSTED AT: Town Clerk's Office, Administration Office, Dover Free Library and East Dover Post Office.

After minutes are approved, they will be posted on the Town website for a period of six months from date of meeting at www.doververmont.com.