

*Town of Dover
Development Review Board*

Meeting Minutes

July 25, 2013

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 Daniels. 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 Daniels, Geri Golet, & Ned McElroy

The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Rich Werner, Jeff & Kate Teitel, Kelly Pawlak, Taylor Wilkins John Cooney, John Hayden, Gary Brown, Judy & Gordon MacKinney.
- V. A draft of the minutes for the meeting will be posted by Tuesday, July 30, 2013 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. A general description of the evening's proceedings was presented by the Chair, as well as a brief explanation of Interested Parties. All Interested Parties were notified of their rights as Interested Parties to speak on the application and to appeal the application. Interested Parties were notified that participation in the hearing, either by verbal or written testimony, is required in order to appeal the Decision to the Environmental Court.
- VII. **Hearing for Application #13-YE030-01** by 90 Miles Production on behalf of Stonewall VT, LLC to construct a camp, which is a residence without plumbing or running water, in a Sensitive Wildlife Overlay District in accordance with Articles 3 & 9 and Section 470 of the Zoning Bylaw. The property is located at 43 Yeaw Road in East Dover – Parcel #YE030.

ZA Cerchio testifies that the hearing has been properly posted and warned.
Applicants testify that all abutters have been properly warned in a timely manner.
Applicants reviewed ZA Cerchio's summary (Exhibit A) and verified its accuracy.

The following exhibits were introduced:

Exhibit A: ZA Cerchio's summary of application

Exhibit B: Email letter from Wildlife Biologist dated July 1, 2013

Exhibit C: Aerial photo site map

Applicant Brown testifies to the following:

- Building a 16x20 log cabin as part of a National Geographic television special
- Requesting to put it in a particular area which is in a wildlife overlay district
- Submitting letter from Wildlife Biologist Forrest Hammond (Exhibit B) dated July 1, 2013 which was read into the record by Chair Daniels
- Camp is a Conditional Use per ZA Cerchio
- Meets all set back dimensional requirements per ZA Cerchio

Chair Daniels walked the Applicants through Article 9 requirements

Section 920: Use regulations

1. Conditional use
2. PUD—n/a
3. PUD—n/a
4. DRB approval required for Sensitive Wildlife Resource Overlay District

Section 930: Special requirements are met

1. Minimizing impact on sensitive wildlife resource
2. Buffer of vegetation shall be maintained—no streams within the area
3. Forrest Hammond comments—there is an existing foundation on the parcel—Applicants should be within 100 feet from it. John Cangiano, owner of the parcel, had been permitted to build a house on that foundation.
 - Applicant requests to build the structure further away in a clearing, not visible from Yeaw Rd
 - No additional clearing will take place

Applicant Brown: Not sure where the deer wintering area is, is it the whole clearing?

Chair Daniels: There is no evidence in the Biologist's letter referencing a deer wintering area but obviously there is some reason it is a sensitive wildlife area.

What the Bylaw requests is that the applicant show that the District Wildlife Biologist from Fish & Wildlife has reviewed the development plan and the applicant shall submit any comments received from the department. The bylaw requirement is that you show that it has at least been discussed with the Biologist and then the Board takes it from there in deliberative session.

ZA Cerchio: Bylaw reads that the Biologist should comment, nothing in the bylaws state that we need to follow what he says

Board member Golet: Confirms with Applicant that there will be no changes to the camp for a year, no plumbing, no power to the grid.

Applicant Brown: It will be wired for a small generator. We are building nine of these cabins; will build an outhouse if it is required.

Board member Golet: Use just for summer and fall? Any wood burning stoves?

Applicant Brown: Yes, summer and fall. Possibility of a wood burning stove

Interested Party Status was requested by Kate & Jeff Teitel of 25Yeaw Rd.

On a motion by Board member Golet, seconded by Board member McElroy, the Board unanimously agreed to grant Interested Party Status to the Teitels.

Kate Teitel: I heard you say it is to be used for fall and summer? Is that every year?

Applicant Brown: I would assume they would use it every summer and fall.

Kate Teitel: Can you explain what this is used for? Is this a project of the current owners of the land or of 90 Miles Production?

Applicant Brown: All 90 Miles Production wants to do is shoot an episode of "Building Wild." The project will air on National Geographic in January. We are building nine of these for nine different owners to use as they see fit. Once we leave, we leave. I can't tell you how they are going to use it because I can't speak for them; may follow up in a year.

Kate Teitel: How long will you be there building it?

Applicant Brown: It will take 5 days, starting Oct 3rd; asking for volunteers

Kate Teitel: If the Wildlife Biologist recommends within 100 feet do you have the right to just ignore that?

Chair Daniels: We follow the Bylaw as set up by the Planning Commission.

Kate Teitel: Then why do you even ask for his recommendations if you are not going to follow them?

Chair Daniels: We always take the comments under consideration. The bylaw states that the applicant must show that the District Wildlife Biologist from Fish & Wildlife has reviewed the development plan and the applicant shall submit any comments received from the department. That is the end of the section. There is no part B stating that the DRB must act. 99% of the time comments are followed.

Kate Teitel: So the Wildlife Biologist comments on the application and then if you at this meeting hear that the desire is to do something greater; there is no need to go back to the Wildlife Biologist?

Chair Daniels: If we feel it is appropriate to go back to the biologist, we absolutely will.

Kate Teitel: To explain my concern. This is an area where there has been a wildlife concern in the past.

Chair Daniels: That is a question for the Planning Commission. "If you are going to require it and not hold the DRB to it...."

Kate Teitel: That is exactly my question.

Jeff Teitel: We represent domiciliaries without any other second homes or residences. As an environmental lawyer, I have another perspective. As I tried to research applicable law, I was unable to find anything definitively that would serve as a basis for accepting or rejecting this application. What I did learn is that the relevant judgments being made are very subjective in nature; DRB has specific bylaws to refer to and have the welfare of the affected townspeople to consider. As the Board knows, the DRB in looking at the affected townspeople should take into consideration the economics of this decision. It is my understanding that the DRB is free to make decisions, but I see this structure differently from a garage or barn; concerned that this particular kind of structure may not be consistent with the neighborhood. Yeaw Rd is a bit more upscale, populated by year round residences, and a certain level of taxes which should be the focal point. I think there is an open question as to the impact this structure will have on the fair market value of the residences. Not in a position to say one way or the other what the impact will be. Because you are in a responsible position, I would urge the DRB to take the opportunity to learn from qualified experts whether or not this would have an impact on fair market value.

On a motion by Board member Golet, seconded by Board member McElroy, the Board unanimously agreed to take a 5 minute recess at 7:36pm.

The Board resumed at 7:43pm.

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

VIII. Hearing for Application #13-MS650-01 by Mount Snow Resorts, LTD for conditional sign permits for 2 oversized signs of which one will be an additional sign in accordance with Section 130 of the Dover Sign Ordinance. The property, where all signs are to be displayed, is located at the corner of Handle Road and South Access Road and is known as The Snow Barn – Parcel # MS650.

ZA Cerchio testifies that the hearing has been properly warned and posted
Applicant Pawlak testifies that all abutters have been properly notified in a timely manner and that Taylor Wilkins has permission to represent the Applicant.
Chair Daniels states for the record that her husband works full time for Mount Snow but in a completely different department than has anything to do with this particular application. I have no problem hearing the application.
No conflict of interest was present.

The following exhibits were introduced:

Exhibits A through G: Various digital prints of the sign proposals

Applicant Wilkins testifies to the following:

- Logo for the Snow Barn was changed and removed from the buildings
- New logo is larger than the one that was allowed
- There is presently confusion at the entrance, feels that a larger sign would lessen the confusion

Board member Golet: Are there free standing signs out front? Are you taking those down?

Applicant Wilkins: Yes, those will remain to announce bands playing.

Chair Daniels: Those are not part of this application

Board member Golet: So this came to us because it is bigger than allowed?

ZA Cerchio: Yes, bigger. They are allowed three signs: The size for both signs and the additional sign apply to this application.

Applicant Pawlak: There are two different views. South Access Rd and Handle Rd

Chair Daniels: The free standing signs are signs 1 & 2 for Snowbarn. One face of the requested sign is sign #3 and the other face of the requested sign is sign #4

ZA Cerchio: Signs 3 & 4 are larger than the bylaw allows.

Chair Daniels: How much larger are the new signs from what came down?

Applicant Wilkins: Almost double the width. The old signs are 8 feet wide and 3.5 feet tall. The new ones are 15 feet by 5 feet—more than twice the original size.

Chair Daniels: The larger lettering was in the hope of avoiding driver confusion coming down the South Access Rd into the resort.

Applicant Wilkins: Before it was pretty much impossible to see. South Access Rd has the majority of our traffic.

Chair Daniels walked through Section 130 A. & B. of the Dover Sign Ordinance with the Applicants:

- A. No sign permit shall be granted by the ZA for any sign which requires Conditional Sign approval until the DRB grants such approval. Conditional Sign approval may be granted by the DRB for a pre-existing or new sign in a specified location
- B. 1. Additional sign or signs may be approved for a business that has property with frontage access from two public roads or on both sides of a public road, right of way or where public safety may be involved.

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

IX. Other Business:

Approve minutes for July 11, 2013

On a motion by Board member Golet, seconded by Board member McElroy, the Board unanimously approved the minutes of July 11th

Chair Daniels announced her resignation from the Board, effective August 8th.

On a motion by Board member Golet, seconded by Board member McElroy, the Board unanimously moved into Deliberative Session at 7:57pm

The Board came out of Deliberative Session at 8:08pm and the meeting was adjourned.

Next hearing is scheduled for August 8th.

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.*