

Town of Dover
Development Review Board

Meeting Minutes

October 15, 2015 at 7:00 PM
Dover 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.
- 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 & Geraldine Golet.
The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Applicant Laurie Newton, Ashley Grande, Steven Palermo, Ronald Joseph & Debbie Joseph.
- V. A draft of the minutes for the meeting will be posted by Tuesday, October 20, 2015 and all Applicants & Interested Parties 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 #15-MS300-35** by Mount Snow Ltd. for the construction of the Carinthia pump house and replacement of the Ski Baba double chair with a surface lift in accordance with Section 300 and Article 7 of the Zoning Bylaw. The property is located at 39 Mount Snow Road and along Handle Road at the base of Ski Baba in West Dover and is known as Carinthia at Mount Snow Resorts. Parcel #MS300

The Board requested additional information in a letter dated September 30, 2015:

1. The decibel rating for the planned generator
2. A complete plan that shows all structures relevant to this application including all setbacks, easements and dimensional information and identifies all symbols on the detention pond

The following new exhibits were introduced by Applicant Newton:

- Exhibit X: Site Plan with Setbacks (as requested in point #2 of above letter)
- Exhibit Y: Memo from RSG, Inc. regarding supplemental noise information on Mount Snow Carinthia pump house, dated September 30, 2015
- Exhibit Z: Memo in response to Michael Burrill, Forensic Acoustical Physicist at Arcadis in Carlsbad, CA (Abutter's exhibit CC)

Applicant Newton testifies to the following:

Addressing point #1 of above letter, the emergency generator information is located on page 2 of Exhibit Y

- Generator only runs during power emergencies and for routine exercising (about once a month during the day)
- When running during a power outage, the snowmaking pumps will not be operating
- Provides light for life safety issues and heat to the pump house so that systems don't freeze up

Noise Impact Assessment (appendix B of Exhibit Y)

Why was the reason for not doing the sound assessment at Ski Baba?

- Wasn't purposely not done
- Had data from Seasons area and Ski Baba's was similar to Seasons noise level at night
- Gives an idea of baseline noise in the evening

ZA Cerchio:

If the Board is considering the definition of "Land Development"...It appears that the retention pond does not meet the setback requirements: 50 feet from center line of the road or Section 632 "Landscaping" in the Bylaw

As stated in the Bylaw, Land Development is defined as "*The division of a parcel into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure; or of any mining, **excavation or landfill, or any change in the use of any building or other structure, or land, or extension of use of land.***" That trumps everything.

Chair Shippee: This will be addressed in Deliberative Session

Applicant Newton:

We do not consider a storm water pond a setback requirement. The Bylaw states "building or structure"—I don't believe a storm water pond is a building or a structure.

The distance from the edge of the retention pond and the center line of Handle Rd was unknown by the Applicant. Respectfully disagree with the ZA' determination that a storm water pond requires a set back because the definition specifically refers to buildings or structures. That is why I don't have a distance.

An estimated guess of the setback was made using the scale on Exhibit X: 30 feet from the detention pond to the edge of Handle Rd and approximately 15 feet to the center line.

ZA Cerchio: Is any part of the overflow stone swale above grade?

Applicant Newton: It is a swale lined with stones, not sure I understand the question. Can you see the stones? Yes.

Board member Golet: It appears on Exhibit X to be level at an elevation of 1934 feet

Ronald Joseph, owner at Glen Run, requested Interested Party Status for Debbie Joseph IP Status was denied by the Board since Ms. Joseph was not present at the first hearing

Ronald Joseph presented the following new abutter exhibits:

Exhibit CC: Letter from Michael Burrill, Forensic Acoustical Physicist at Arcadis in Carlsbad, CA

Exhibit DD: Easement Deed dated March 7, 1984

Exhibit EE: Email letter from Ronald Joseph dated October 15, 2015

Ronald Joseph testifies to the following:

- Michael Burrill composed a letter from his review of the noise study that Mount Snow had provided. He is not under contract yet. He found data missing that he could not determine proper levels & raised questions in his letter
- There is a big ambient difference between summer time noise and winter
- Regarding Exhibit DD, the easement is 15 feet wide from Grommet to Glen Run's well
- Requests that this easement be enforced and show on plans that any construction will not impede the easement
- Glen Run expects that water lines will not be disturbed during this possible construction
- Due to this previous agreement, Glen Run requests that this permit be denied
- Quoting from page 2 of Exhibit N (Warranty Deed dated Aug 10, 1983) previously provided by Mount Snow:
This includes letting Glen Run, "landscape and lay and maintain walkways and the right to use same on a parcel of land which extends 15 feet from and parallel to the north boundary of the premises herein conveyed, providing, however, that in exercising the foregoing rights, Grantee, it's successors and assigns, does not disturb or impair the existing drainage now in place."
- Requests to submit an additional document describing directions to Glen Run along with a site plan (see item #3 in Exhibit EE) *Request denied by the Board as not relevant*
- Requests the Board consider the landscaping requirements as stated in Section 632 of the Bylaw: ***"Where any non-residential land use abuts a residential land use, a strip of land at least twenty-five (25) feet in width shall be maintained as a landscape area or naturally wooded area in the abutting property."***
- There is a drainage ditch between Glen Run and abutting Mt Snow property that is weeded water area that cannot be crossed but aided by a culvert to make crossing possible

Applicant Newton's response:

- The Deeds referred to are two completely different items
- The earlier submitted Deed (Exhibit N) is a landscape & walkway easement—maintaining a ten foot walkway for Glen Run
- This second easement refers to a water transmission easement (Exhibit DD)
- The Stuggers (now Mount Snow) granted a 15 foot underground easement so Glen Run could access their well
- There is no relationship between the two easements
- Quoting from page 3 of Exhibit DD, ***"In the event it is necessary for Grantor, its successors and assigns, to disrupt or disturb the water supply to the Glen Run condominiums in connections with the installation of the casing, then Grantor shall give five reasonable advance notice to Grantee and no disturbance or disruption of service shall continue for a period in excess of 12 hours."***
- The existing easement will not be disturbed by the pump house development
- Mount Snow would not violate a legal document—we are bound by those documents regardless of what the DRB outcome is

- This project will not impact Glen Run’s water lines

Ronald Joseph clarifies that his previous statement in bold above was typed incorrectly in his email letter, it should read **“extends 10 feet” not 15 feet**

ZA Cerchio: Mt Snow is changing the use of the land and therefore changing the pre-existing non-conforming status

Applicant Newton addresses the letter from Michael Burrill (Exhibit CC)

- Mr. Burrill is not acquainted with the Vermont requirements for noise—unsure why an engineer from California was chosen
- Mr. Burrill received a full report of the noise study including appendices
- We are asking for a permit for the pump house
- We are not asking for a permit for existing snowmaking equipment
- These are pre-existing noises that were there before Glen Run was built
- The ambient noise has not changed since 2010
- The HUD standard of 45 decibels is for the interior of the home. The standard for the exterior is 65 decibels
- A lot of the letter is based on opinion
- Many of the points were already addressed in previous exhibits
- The DRB’s job is to determine whether this project has an undue, adverse impact. Our sound engineer indicates that it does not
- Snow mobile shift change –works in 12 hour shifts—7am to 7pm—mitigating factor is that there be no more than 2 snowmobiles going up and down the hill at one time—Mt Snow is fine with that condition

Ronald Joseph:

- What ski slope was used in the Seasons noise study—what type of sounds were measured and what time of year?
- Decibel level was lowered with the usage of more modern equipment
- We are fearful that the level will increase
- Glen Run is a residential property to be maintained with respect to the environment
- Will leave it in the DRB’s hands

Applicant Newton:

- Noise study was conducted for 4 days starting March 5, 2010
- Three locations: 1) Grand Summit, 2) Seasons Condo trail that goes from Seasons through to Sundance, 3) and a little higher up on Seasons
- Snow making was not going on at that time; ambient level is actually higher than what was in the report
- Snowmaking is not included in the numbers; a conservative number

The Board took a short recess at 8:33pm

The Board resumed at 8:35pm

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

The Board has 45 days to render its decision.

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

- Approve Minutes of September 24, 2015

On a motion by Vice Chair Lynch, seconded by Board member Golet, the Board voted 3-0-0 to approve the minutes of September 24, 2015

On a motion by Board member Golet, seconded by Vice Chair Lynch, the Board unanimously agreed to continue its Deliberative Session to Tuesday, October 27th

Meeting adjourned at 8:40pm

Next hearing is scheduled for October 22nd at 7pm

Respectfully submitted by 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.