

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

Meeting Minutes

**September 10, 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 7:05pm 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, Geri Golet, and Jim Lynch. The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Laurie Newton, Ashley Grande, Edie Mas, Stephanie Greene, Kevin Joyce, Tim Callahan, Ronald Joseph, Anne DeFrancesco
- V. A draft of the minutes for the meeting will be posted by Tuesday, September 15, 2015 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. **To consider application #15-MS100-20** by Mount Snow Ltd. for the construction of a 70'x50' pump station for snowmaking in accordance with Section 300 and Article 7 of the Zoning Bylaw. The property is located at 39 Mount Snow Road in West Dover and is known as Mount Snow Resorts. Parcel #MS100.
 - ZA Cerchio testifies that the hearing has been properly warned and posted
 - Applicant Laurie Newton, empowered to speak on behalf of Mt Snow Ltd., testifies that all abutters have been properly warned and in a timely manner
 - No conflict of interest was expressed by either the Applicant or the Board

The following exhibits were introduced:

Exhibit 1A: List of Exhibits provided by the Applicant

Exhibit A: Project Summary

Exhibit B: Site location plan with setback distances

Exhibit C: Site plan

Exhibit D: removed in lieu of Exhibit J
Exhibit E: Survey of area
Exhibit F: Pump house elevations
Exhibit G: Copy of the original permit dated July 29, 2010 with the findings for the same project being proposed in 2015
Exhibit H: Abutters List
Exhibit I: Pump house relocation plan
Exhibit J: Updated site plan

Applicant Newton testifies to the following:

- Application was originally approved in 2010
- Permit was going to expire and was already renewed up to the maximum time allowed
- Mt Snow Ltd is requesting to amend the existing PUD
- Propose to construct a pump station located on the mountain
- Only difference between now and 2010 is the location of the pump house
 - Location of building and detention pond have moved 50' cross slope as seen on Exhibit I
 - New location will be 1340' from the Grand Summit & 800' from Seasons
 - It will be located closest to Drop Trail
- No variance is being requested and no requirements exist for a variance
- No interested party status for this application was requested

The Board took a brief recess at 7:24pm

The Board resumed the hearing at 7:26pm

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

VIII. To consider 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

- ZA Cerchio testifies that the hearing has been properly warned and posted
- Applicant Newton testifies that all abutters have been properly warned and in a timely manner

Applicant Newton reviewed the ZA's summary (Exhibit AA) and approved it with the following corrections:

1. There are 19 proposed parking spaces as opposed to 16 stated by ZA Cerchio
2. Regarding Conservation Committee comments, Applicant did not see this stated in the Bylaw as a "requirement"

ZA Cerchio states it appears in Section 385 (6) under Conditional Use; it is up to the DRB to make that a condition of the application if it so chooses

Chair Shippee amended the language on the summary to read "may require" comments from the Conservation Committee

3. Applicant Newton testifies to submitting an incorrect Exhibit F which indicates the height of the new building at 39.9' at the cupola
The correct Exhibit F (two sided) was submitted on the hearing date which indicates the total height of 32.8' at the cupola thus meeting the height requirements

The following exhibits were introduced:

- Exhibit AA: ZA Cerchio's summary
- Exhibit 1A: Exhibit List
- Exhibit A: Project Summary
- Exhibit B: Site plan with setbacks (LA407)
- Exhibit C: Site plan depicts 1 story building with 3960 square feet (C2.07)
- Exhibit D: Grading and drainage plan (C3.07)
- Exhibit E: Survey of existing conditions
- Exhibit F: Elevations & floor plans—two sided (A-7.2)
- Exhibit G: Visual simulation
- Exhibit H: Noise Impact Assessment by RSG Inc. (Addendum to this is Exhibit L)
- Exhibit I: Visual of covered magic carpet
- Exhibit J: Abutter List (same as Exhibit H in first application)
- Exhibit K: Parking summary
- Exhibit L: Addendum to Exhibit H (email from RSG Inc.
- Exhibit M: Partial findings of fact

Applicant Newton testifies to the following:

- New Pump house to be located at the base of Ski Baba
- Old metal building located adjacent to the Carinthia Base Lodge will come down—new building to replace it
- Sized to hold pumps, locker room for snowmakers and freestyle crew and gravel parking lot for staff only
- As it is on Handle Rd, it was esthetically designed to look like a VT barn rather than metal frame structure
- Setbacks are shown on Exhibit B—135 feet 5 inches to center of Handle Rd; 38 feet 3 inches to the property line on the north; 96 feet 5 inches to property line on the south
- Storm water detention pond to the south of the pump house
- 1 story building; parking will be either gated or signed that it is for staff only

Noise Assessment prepared by RSG Inc. findings:

- Noise generated from pumps themselves
- Most noise occurs when pumps are starting up
- Can only start one pump at a time—will never have all pumps starting up at once
- With two pumps running, noise 20 feet outside the pump house was no louder than the ambient sounds like the snowmaking, lift operations, snowmobile operations etc.
- No noticeable undue adverse effect of noise 20 feet away from the pump house
- New pump house will be more insulated than the old one

- Old pump house is located right next to Somerset Home Owners—have had complaints relative to snow making noise but never about the pump house noise
- Ten pumps in new building
- RSG Inc. recommends an architectural design that provides an overall noise reduction of at least 50 decibels (dBA)
- Reducing the pump generated noise by 50 dBA will result in a max sound level of 43 dBA outside the building
- Sound levels would be lower than this at nearby residences
- 30% of the time eight pumps were running; 3% of the time all ten pumps would be running based on previous year's use—going from 8 to 10 is only 1 decibel difference
- Garage door – recommend a sound attenuating garage door and kept closed during operation of pumps
- Snow mobile sounds--12 hour shifts—up and down the mountain—would have no adverse effect—recommends no more than two go down ski baba at one time
- Select 4 stroke engines going forward as they need to be replaced—no idling outside the pump house
- Snowmaking and lift noise already going on at the same time
- Takes such a short amount of time on snowmobile—don't believe it to be an undue adverse effect

Covered magic carpet:

- Propose to remove double chair as it is in the way of the pump house & replace it with a covered magic carpet
- If a safety issue presents itself, the pump house will be fenced off to prevent skiers running into it

Parking:

- The replacement of the Ski Baba double chair will result in an increase of 50 in Mt Snow's comfortable carrying capacity (CCC)
- Approved parking plan in 2010 was based on lift capacity
- Last time the parking was changed was in 2011 in the application for bluebird express
- Per the 2011 decision, parking is based on the formula of CCC divided by 3.25. The increase will result in the need for an additional 15.4 spaces
- Spaces required: 3858 / Available spaces: 4029; therefore parking requirement will be met
- 19 spaces where staff parked are now being given back as public spaces
- Could be 20 or more employees working at one time; depends on snow making or holiday
- Same number of employees will be parking however they will now have locker space in the new pump house
- There will be a bathroom as currently exists in old pump house—same gallonage will be used
- Will have either a shingled or metal roof on the new pump house

Wildlife Overlay District:

- There is no overlay on the previously developed Mt Snow land

- There is an overlay on undeveloped land which needs to be addressed for Act 250
- 2010's Act 250 Master Plan approval includes plans & locations for Carinthia pump house and development
- ANR Wildlife Biologist reviewed the master plan and determined there would be no impact on the sensitive wildlife overlay
- Development is located in a previously disturbed area

Chair Shippee requested a signed copy of the findings of fact or both cover page and signature page dated July 3, 2011.

Applicant testifies that she did not type the findings of fact and agrees that the Chair's request could be a condition of the application approval

ZA Cerchio requested clarification on the number of decibels 'guaranteed'

Applicant Newton, reciting from Exhibit L, "*with a minimum 50 dB reduction due to the building shell, as was our (RSG Inc.) recommendation, the sound level just outside the building, with 8 pumps in operation, would be about 50 dBA. About 20 feet away from the building, the sound level would drop to about 41 dBA.*"

Applicant Newton testifies that she does not "guarantee" anything but quotes from the study. Dover has no noise standard, reciting acceptable noise standards

Applicant Newton clarifies that when snowmobiles get *retired* they are replaced with 4 stroke engines which are quieter—this could be an acceptable condition of the application

However not all snowmobiles in use will be 4 strokes

Noise study was done with the louder 2 stroke machines—those louder machines are being used now at the mountain—certainly will not be louder than the grooming machine

It was unknown as to how many snowmobiles are in current use at Mt Snow

Grooming would occur adjacent to Glen Run but would not be going as far down

Landscaping:

- Landscape plan will include year round trees (conifers)
- Planned shrubbery up by the building which faces Handle Rd and 3 trees there
- Planned for 5 trees down by the road
- No specifics on the size of the trees at this time—*Board has the authority to specify*
- Wooden split rail fence will be around storm water pond; green material added will prevent someone from crawling through fence
- Storm water pond will be 4 feet deep

ZA Cerchio also testifies that the Town did not supply Mt Snow with an abutter list. Applicant testifies that it generated its own list from the same source as the Town's

The following written testimony was read into the record by Chair Shippee:

- Letter from Thomas Corell of 261 Handle Rd; was granted Interested Party status
- Letter from Barbara Peters of 3 Slopeside Drive; also granted IP status

Applicant rebuttal:

- Water supply--do not believe this is the purview of the DRB, but handled at the State level—would have to obtain a permit to supply potable water
- Also an approved storm water plan would need to be approved by the State regarding drainage

Chair Shippee noted that water supply and the effect on abutting wells is in the purview of the DRB; part of what is covered when reviewing a PUD

Kevin Joyce indicated locations of 4 of the abutters' wells on site plan SV-1

- There is an existing well which serves the old building—can hook up to this well that is currently permitted
- Eventually will hook up to a new system which will require a state permit—Water supply division will not issue a permit unless it can be shown that there is no impact to existing wells—once this permit is obtained, can provide a copy to the DRB
- There is nothing in the deed for Mr. Corell or any other abutter that guarantees there will not be a lift there—we are in the ski business—as far as abutters requesting where we groom etc. –not sure this is in the purview of DRB
- There is no current agreement with any single family home owners that I am aware of or that anyone has been able to produce that says Carinthia must continue to operate a lift at this location; Not aware of any ski on / ski off conditions
- Have spoken with Mr. Corell and we are discussing ways we can work together on this; not sure it is part of this application—between landowner and applicant

Stephanie Greene representing Mt View Cemetery Association (cemetery is located directly across Handle Rd from the pump house) testifies to the following:

- Letter submitted from a Trustee authorizing Stephanie as Association President to represent them
- Mt View Cemetery is included on the abutter list and was notified
- Concerns are with landscaping
- Suggested landscapes have deciduous trees (artist rendering depicts such)

Types and heights of trees can be a condition of the application

- Entire frontage along the road—prefer more than 5 trees
- Conifer trees are preferred
- Bit concerned about noise and esthetics—shielding as much of the building and parked cars is preferred

Applicant rebuttal:

- Mt Snow is happy to screen the building—that is the plan
- Experts will provide the correct amount, height and placement of trees
- Happy to work with Stephanie and present the plan going forward for her reasonable approval
- May be some activity in the summer but no pumps or snowmobiles will be running—not a lot of noise

Ronald Joseph—Owner at Glen Run & also President of the HOA, testifies to the following:

- Testimony is as an individual owner rather than that of the board—no letter empowering him to do so was submitted
- Tim Callahan, secretary for Glen Run supplies oral authorization for Ronald to speak on behalf of the HOA
- Will email Dave a letter of authorization (rec'd on 9/11/15)
- Commend Mt Snow for fantastic efforts in economic development in the Valley
- There may be some encroachments upon an idyllic situation of beauty being slopeside to a learning slope
 - Many condo owners have easement documents
 - There is an easement to the well—unsure of the footage width
 - Also “No build” document from Mt Snow's border for 35 years/100 feet
 - So this development came as quite a surprise to owners

No copies of these documents were supplied with Mr. Joseph's testimony

- Spoke with the Sprague family who donated Ski Baba lift—was saddened to hear it was coming down
- References to a Walter Stugger document giving discounts to Glen Run owners
- No documentation to the above was presented
- Concerns with use of this slope between the holding pond and Glen Run property line
- These concerns lead to others...Noise, light pollution, kids playing after hours, kids playing near holding pond

Tim Callahan, owner at Glen Run and member of the HOA testifies to the following:

- Works in public health industry and owns/manages multi-family housing
- Pump house is commercial use on land bordered by residential housing
 - Creating a Non-Conforming Use in a Residential Zone
- Noise study concludes that there is going to be minimal noise—keep in mind that these are estimates taken during the day
- Keep in mind pumps will be running 24/7 for weeks on end; this presents a very different story at night
- Health effects of constant low level noise were not taken into account: causing sleep disturbance, difficulty in sleeping, reduction in quality of sleep, increases in blood pressure, changes in respiration, chronic fatigue and depression
- Storm water retention pond located on north side of property line—creating mosquito and other insect breeding grounds; especially serious during spring & early summer months; artificial breeding ground is a very bad idea
- Parking spaces are not sufficient—Glen Run parking is right next door—will create an overflow that could be problematic; excess vehicles will find their way to Glen Run parking lot
- How are agreements to be enforced? Who do we turn to? What is our recourse when there are violations?

There is a path of enforcement through the Zoning Administrator

- Why put a pump house in a residential zone? When there are acres of land available?
- Great to get away from a hectic lifestyle to a quiet one--this is beginning to change which is disturbing
- Members are looking towards Govt. to protect our property & neighborhood

Applicant rebuttal:

- Document being referred to is a 10 foot easement for Glen Run which is still on the proposed plan
- Also there is a 25 year no build which has expired—it is recorded in Dover land records
- Easement to their well is not affected by pump house
- Only lights on pump house are switch lights and downward shielding—three exterior lights; one above each door
- Pumps will not operate 24/7—snowmaking occurs when temp is below freezing; varies from year to year—never would be on all the time
- Current location of pump house has neighbors closer than Glen Run
- Submitted Diane Stugger email—her grandfather Baba was the one who put the lift in; previous testimony is not true
- Yes, a number of other locations were considered. But this was the best one and it is permitted in that area. Present location is cited to permit future development as described in the Master Plan

- Because it is on Handle Rd, we wanted to provide an esthetically pleasing structure and landscaping

Eddie Mas:

Not a direct abutter to this application; owns property down the road from proposed development and at Butterfield Common

Question: Issues with traffic & Valley Trail extension

Board requested that her concern be brought before the Select Board; not a matter for the DRB

Anne DeFrancesco, owner at Glen Run since 2002 testifies to the following:

- Thrilled that Mt Snow is making well needed improvements
- Hope that the Board can step back and look at the quality of life that abutters have been able to enjoy
- Lots of families living in Glen Run and they take advantage of Ski Baba
- Concerns over whether the pond is safe for kids
- Will the pump house encroach on our quality of life? Quality of life is important here
- Enjoy the mountain and it's a great way to recharge our batteries
- Help us to keep that intact; Who is managing the ins and outs? Who is in charge of making sure they adhere to restrictions in the permit? Please keep these in mind

Applicant rebuttal:

- Comment on the summer breeding area in the storm water pond—it is not in my purview but I do know that the storm water ponds are required in any development by the State to control the storm water. I don't believe it is an issue otherwise the State would mandate something. If you look at any development, there is a storm water pond

The Board recessed at 9:28 pm for a short break

The Board reconvened at 9:35pm

On a motion by Vice Chair Lynch, seconded by Board member Golet, the Board unanimously agreed to continue the hearing to Sept 24th

Request for additional information will be made in Deliberative Session and submitted to the Applicant to respond by 9/24 hearing or they can request an extension if needed

Interested parties will be notified if continuance is needed by the Applicant in order to supply the additional information

On a motion by Vice Chair Lynch, seconded by Board member Golet, the Board unanimously moved into Deliberative Session at 9:40 pm

The Board came out of Deliberative Session at 9:50 pm and the meeting was adjourned.

Next hearing is scheduled for September 24th

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.