

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

Meeting Minutes

**February 28, 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 7:03pm by Vice 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: Vice Chair Sarah Shippee, Jim Lynch, Andy Childs & alternates Steve Montello & Ned McElroy
The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Applicants Donald Klepacki & Bob Harrington.
- V. A draft of the minutes for the meeting will be posted by Tuesday, March 5, 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 Vice 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 13-TE000-01** by Ned Ski Association to amend their PUD in accordance with Article 7 and Section 335 of the Zoning Bylaw for a 5 lot sub-division, which would add an additional lot. The property is located on North Branch Rd in West Dover and is known as Trails Edge condominiums.

ZA Cerchio testifies that the hearing was properly posted and warned.
Applicants testify that all abutters have been notified.
Applicants reviewed the ZA's application summary and testified to its accuracy.
No conflict of interest was present.

The following exhibits were introduced:
Exhibit A: ZA Cerchio's review of application

Exhibit B: C2B-1 Subdivision of Existing Lots prepared by Dauchy-Creamer Associates, dated 2/12/13

Exhibit C: Warranty Deed & Revised Schedule A, dated 2/25/13

Exhibit D: Fourth Amendment to Condominium Declaration

Applicant Klepacki testifies to the following:

- Original Lot 4 contains sites for two unattached single homes and one triplex.
- Applicant is requesting to divide Lot 4 into two separate Lots: Lots 4 & 5.
- As shown on Exhibit B, a highlighted line is indicative of the new property line.
- The Association known as Trails Edge Home Owners Association would not be obligated to maintain the two homes on Lot 5.
- The owner of Lot 5, Mr. Hoekstra, would be responsible for his pro-rata share of the costs of each of the two buildings to be constructed on the lot associated with the maintenance & repair of:
 - Access Road known as Free Style Circle
 - Well #3 and related infrastructure
 - Septic System and its related infrastructure

Applicant Harrington testifies to a 50 foot right of way that exists as Free Style Circle which is also an access road to the rest of the property.

Applicant Klepacki introduced Exhibits C & D which specifically spell out Trails Edge HOA declarations. It will have the primary function of maintaining the roads. Exclusive Use Area—Common land but separate homes with their own boundaries yet still part of the Association

Board member Lynch confirms with the Applicants that by virtue of the parcel owner's payment of the pro-rata share, the HOA will retain control of the roads.

Vice Chair Shippee confirms that the two single family homes to be built on Lot 5 and buildings 3A thru H on Slalom Lane are all served by well #3.

Applicant Harrington: Over complicating the issue. Trails Edge HOA is getting its PUD on the whole piece of land and creating/selling the lot; buyer is subject to everything in its PUD, unable to get his own PUD as an individual. Cannot sell a lot off without a PUD. Everything is outlined in the deed. Any permits are treated as if Trails Edge HOA is the owner.

ZA Cerchio: What the summary is essentially saying is that because this PUD has 5 lots on it, the individual owners who have residences on these lots cannot sell individual lots separately from the PUD. If this is sold, the entire PUD is sold. The Town Attorneys were consulted on this language. Language should have been in the first PUD and it is put in when there is more than one lot per PUD as a condition. It will be recorded in the land records to insure that the individual lots are not sold in this way.

Vice Chair Shippee confirmed that individual owners can sell their *interest* in the Association but they can't sell parcels of land.

Board member Lynch: When you try to compare the exclusive use of a townhome sitting on conveyed land which is the footprint of the building to the conveyance of a lot...when you use the terms in the same way it doesn't really go together very well. It needs to be done in the deed which the Board will read.

Applicant Klepacki: One could argue if there is any difference between Exclusive Use Area and Legal Lot. One could argue that they are conveyed by warranty deed, that they have all the rights of a legal lot. Done in condominiums and PUDs continuously and there is never any problem—accepted as a legal equivalent. However, if there are any easements such as ski trails or access roads, everyone has access to them and those are defined in the deed.

The Board took a five minute recess at 7:35pm

ZA Cerchio testifies that the bold portion of Exhibit A will be recorded in the land records and should be included as a condition to the application.

On a motion by Alternate Montello, seconded by Board member Lynch, the Board unanimously agreed to continue the hearing to Thursday, March 14th at 7pm. The Board will contact the Applicants with any specific requests for information. Vice Chair Shippee confirms with Applicants that any language changes proposed by the Applicant's attorney regarding Exhibit A must be brought before the Board prior to the March 14th continuance.

VIII. Other Business:

Minutes were approved for the following date:

February 14, 2013

On a motion by Board member Lynch, seconded by Board member Montello, the Board voted 4-0-1 to approve the minutes (McElroy abstained)

On a motion by Board member Montello, seconded by Vice Chair Shippee, the Board moved into Deliberative Session at 7:42pm

The Board came out of Deliberative Session at 7:50pm and the meeting was 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.*