

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

***Meeting Minutes
April 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.
- 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, Vice Chair Sarah Shippee, and Geri Golet

The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Applicants Bob Fisher, Bob Harrington & Bob Rubin

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.

- V. The Vice Chair advised all in attendance that draft minutes for the meeting would be posted by Tuesday, April 30, 2013 and advised/encouraged all Applicants to review those minutes for accuracy and that 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. **Hearing for 13-HL002-01** by Hermitage Inn Real Estate Holding for a two lot sub-division in accordance with Sections 335, 375 and 405 of the Dover Zoning Bylaw. The property is located at 25 Handle Road in West Dover just north of the Hermitage Inn.

The Zoning Administrator testifies that the hearing has been properly warned and posted.
The Applicant testifies that all abutters were notified in a timely manner.
No conflict of interest was present.

The following exhibits were introduced:

Exhibit A: Proposed Subdivision Survey for Hermitage Holding Co, LLC by Ben Joyce, dated April 15, 2013

Exhibit B: Email from Chris Bernier, Fish & Wildlife Specialist, dated October 4, 2010, was read into the record by Chair Daniels

Applicant Fisher testifies to the following:

- Original application back in 2010 was to build a house on 5 acres and that house was going to be the Innkeeper's house, not a separately divided property

- Since that time, Mr. Barnes, the property owner has taken up residence in Lot 2 of Rushing Creek
- There is interest by a third party in purchasing the 5 acres and building a house
- Request approval of the sub-division of the 5 acres along with the 50 foot right of way which comes up the driveway by the sugarhouse and into the 5 acre parcel
- Applicant presented a draft of the First Amendment to Grant of Development and Conservation Restrictions to the Board
 - The document has not been signed by Vermont Land Trust as of the hearing date
 - The Land Trust needs to see that the subdivision has been granted before signing
 - Requests that this document be filed before any building can commence

Chair Daniels confirmed a condition of the original application:

- Condition One: Applicant shall submit to the ZA, prior to any construction, “a revised easement showing that the Vermont Land Trust (VLT) agrees to exclude the 5 acres in exchange of 28+/-acres to be added”
- Confirms that Applicant is looking for that same condition with tonight’s application

Applicant Harrington testifies to the following:

- The 50 foot right of way is an extension off Town Highway 84 which is a private right of way

Board member Golet confirmed that the right of way is the road that comes off of Handle Rd, goes through the covered bridge and comes around to the back of the Hermitage

Applicant Fisher: Right of way starts at the end of Town Highway 84 and is approximately 800 feet

Vice Chair Shippee: Does a right of way of that length trigger any additional permitting issues?

Applicant Fisher: No, ordinarily this lot would not trigger Act 250 but because the Hermitage has constructed more than 10 units within 5 years, anything that the Hermitage does on non-preexisting lots has to go through Act 250. Hopefully in the next two weeks will be making that application

Applicant Harrington: Act 250 wants one application—master plan application and will address everything that is to be done in the next 10 years. Hope to submit it in a month, close to the first of June.

Vice Chair Shippee: It is noted on the application that the house is moving...however that is not what we are approving today

Applicant Fisher: The application is for the sub-division and as far as building permits, they would have to go through zoning.

ZA Cerchio: The original permit expired in 2012. A new application would need to be submitted

Applicant Fisher: The 5 acres is within the PUD perimeter but given it is 5 acres we do not need to amend the PUD density because that was already approved in 2010. All we need to do if this is approved is come in for a building permit.

Vice Chair Shippee: Are you extracting the 5 acres from the PUD?

Applicant Fisher: You can have different parcels within a PUD

Vice Chair Shippee: But they are all governed by the PUD

Applicant Fisher: It does not affect anything in the PUD. In 2010 the approval was for this house on these 5 acres. It doesn’t change anything of the 90 acres that are in the PUD—25 acres of the Hermitage and 65 of the Ratheau property

Chair Daniels: This was approved as a single family dwelling on a 5 acre parcel. So it has not changed.

Board member Golet: But if the location of the house changes because it is in Sensitive Wildlife Resource Overlay, doesn’t it need to be looked at again by a wildlife biologist?

ZA Cerchio: According to the law, yes.

Chair Daniels: The permit is not for the construction of a single family dwelling. It is my understanding that the State biologist revisiting the application would not necessarily occur for a subdivision of land but rather for construction and location of the home itself which would be a different application.

Applicant Fisher: My only thought with respect to that since the house is being moved all of a 100 feet, is that the biologist's review would go straight to the Zoning Administrator in order to avoid another hearing here.

Vice Chair Shippee: According to Article 9, Section 920 (4) "No Zoning permit shall be issued by the Zoning Administrator for development in the Sensitive Wildlife Resource Overlay District until the Development Review Board has issued approval for the development in accordance with the requirements of this Article."

Chair Daniels: That is something we can discuss in deliberative.

Applicant Fisher: That is really an administrative change as far as the slight movement

Chair Daniels: To cover all the bases, if the Board decided that the State biologist's review was required, you as the Applicants would rather have us require that now and include it in this approval so that our approval has been provided. ZA Cerchio can then do the house construction administratively without the second hearing.

ZA Cerchio: Normally, when you move closer to development it is not a problem

Applicant Harrington: This entire parcel is within the Sensitive Wildlife Resource Overlay. The location of the home is being moved roughly 150 feet in order to leave more wetlands buffer. This has been reviewed by biologists Forest Hammond and Tina Sharp. There are no real concerns down around the Hermitage except for the wetlands. Where we do have sensitive wildlife is up on the slope above the wetlands—bear scarred beech trees. We can get that verified in writing. This will not have any impact on the wildlife overlay.

Applicant Fisher: If you make that a condition of this approval, we would be happy to get that letter

Applicant Harrington: We would have to have this reviewed before construction anyway.

Chair Daniels: I believe the Board can discuss this in deliberative. To cover all the bases in case we do decide we can do it and save another hearing, let's confirm that all regulations for Section 920 are being met:

- This is a permitted use in the underlying district since it is a single family residence
- It is a PUD inside of it so it is a conditional use
- Any application for the division can take advantage of the provisions in Article 7
- No Zoning permit shall be issued by the Zoning Administrator for development in the Sensitive Wildlife Resource Overlay District until the Development Review Board has issued approval for the development in accordance with the requirements of this Article.

Let's make sure we cover those requirements so that we can then make a decision without having to continue the hearing:

Section 930 Special Requirements: The DRB shall not approve development until the following conditions are met:

- Proposed development minimizes the impact on sensitive wildlife to the greatest extent possible
 - Applicant Harrington has just given a narrative of its moving away from the wetland and increases the provided buffer by 150 feet
 - Applicant Fisher also made note of the letter from Chris Bernier
- A buffer of existing vegetation, a minimum of 50 feet wide, shall be maintained from the nearest bank of any stream
 - No streams but areas of wetlands
- Applicant must show that the District Wildlife Biologist has reviewed the development plan and submit any comments received (see Exhibit B)

ZA Cerchio confirms that the sewer line will come from the Hermitage. Coldbrook gallonage should be submitted with the house construction application.

Chair Daniels confirms that the house location meets all property line setback requirements; existing well is depicted on the map

ZA Cerchio: In regards to the wildlife overlay, I noticed that the house is moved closer to the Hermitage by 150 feet which is what they like to see. I did not evaluate the application in regards to setbacks but that is easy enough to do. As far as the conditions: when can you have that Land Trust document signed?

Applicant Fisher: They want to see the decision from the DRB first; should have the document ready within a week or two

ZA Cerchio: I am reasonably comfortable with the conditions

Chair Daniels confirms with ZA Cerchio that the development of the house itself would require written gallonage approval from Coldbrook. What else do you require?

ZA Cerchio: Elevations, house plans, setbacks, density

The Board took a 3 minute recess at 7:40pm

On a motion by Board member Golet, seconded by Vice Chair Shippee, the Board voted 3-0-0 to close the hearing.

VII. Other Business:

Brief overview of the airport plans was presented by Bob Harrington

ZA Cerchio: Applications are currently due four Wednesdays before a hearing—would like to extend it to five Wednesdays; giving more time to review and send the application back if incomplete

The Board reviewed the Rules of Procedure and confirmed that no revision was required. The Board supported the change but did not feel a formal vote was required.

VIII. On a motion by Board member Golet, seconded by Chair Daniels, the Board went into Deliberative Session at 7:55pm

IX. On a motion by Board member Golet, seconded by Vice Chair Shippee, the Board came out of Deliberative Session at 8:04pm and the hearing was Adjourned

The next hearing is scheduled for Thursday, May 9th at 7pm.

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 month from date of meeting at www.doververmont.com.