

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

Meeting Minutes

December 8, 2016 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, Geri Golet, Stephen Palermo, Steven Montello. The Board introduced themselves to the audience. The Zoning Administrator, David Cerchio and Recording Secretary, Jeannette Eckert was also present along with Marcia Conrad, Edward Barber, David & Heather Kelly, Michael McGillion, Jim McDevitt, Greg Hayes & Scott Dupuis
- V. 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.
- VI. A draft of the minutes for the meeting will be posted by Tuesday, December 13, 2016 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.

1. **To consider application #16-RT110C-01** by Scott Dupuis on behalf of Boulder Ridge REO, LLC for an amendment to their PUD for a 12-year extension of the completion date of the project in accordance with Article 7 of the Zoning Bylaw. The property is located at 368 Route 100 in West Dover and is known as Boulder Ridge. Parcel Number RT110C.

ZA Cerchio testifies that the hearing has been properly warned and posted

Applicant Greg Hayes, representing Boulder Ridge REO, LLC testifies that all abutters have been properly notified & in a timely manner

Applicant Hayes also testifies that ZA Cerchio's summary is accurate (labeled Exhibit A)

Applicant is accompanied by Attorney Michael McGillion & contractor Scott Dupuis

Exhibit B: Partial As-Built Utility Plan

Applicant testifies to the following:

- The property owner, Boulder Ridge REO, LLC is requesting an amendment to their PUD for a 12-year extension of the completion date which is currently set as December 31, 2016.
- 36 units across 19 buildings that remain to be completed from ground up under the master plan originally approved 9/13/2006
- 3 units across 2 buildings are partially completed
- All are duplex units:
 - Units 1-9 along with 15 & 16 are completed & occupied; 10 is incomplete; 11 & 12 are weathertight; 13 & 14 are unbuilt
- Requesting from DRB because ZA cannot offer any additional extensions
- Confirmation of new ownership
 - Property has just changed hands & is recorded in Dover Land Records
- Request a decision by end of December 2016, if possible, to avoid any lapse in permit
- Extension will go through December 2028
- Utilities are in place for completed units as well as rough base gravel driveways

On a motion by Board member Montello, seconded by Alternate Palermo, the Board unanimously agreed to close the hearing

2. **To consider continuance of appeal #16-RT068-10** by Marcia Conrad for the appeal of the Zoning Administrator's decision, which states that the maintenance work performed on a shed located at 210 Route 100 was completed in accordance with Section 332.2 and 332.5 of the Dover Bylaw. The shed is located at the Northern end of the aforementioned property. The property is known as Sticky Fingers. Parcel #RT068.

Applicant Conrad testifies to the following:

- Introduced a survey completed by Joyce Land Surveying
- According to the scale on the survey, the approximate length of the shed is 10 feet; distance from back of the shed to the river is at least another 10 feet
- Requested that the Board take a look at the measurements
- At the last meeting, it was stated that Google Earth could not be used for measurements unless it is taken from above
 - However, photo does show the tree behind the shed which is right on the bank
- According to the Zoning Ordinance, there is a regulation that there be no building within 50 feet of the bank of a river
- Sticky Finger's website picture shows quite a space between the tree and the back of the shed; today there is no space
 - Obviously the building was extended
- Flood plain development—space has disappeared; clearly in the flood plain—confirmed by Montpelier
- It was previously answered that the replacement wood was because of rotten wood. The original shed has very little replaced wood but between the back of the original shed and the tree, every single bit of wood is new wood
 - Totally new floor; Piers have paper on them—they are new also

- According to my previous testimony, this was up on skids, never any sonotubes under this
- No reason the non-conforming use has to be made worse by this extension
- Who is Stone 1 Metal and Wood Works? *Referred to in the 9/22/16 minutes as the contractor who inspected the shed and there was no indication of expansion*
- Dave testified that the shed may have been there as early as 1977; I have been there since 1968 and it was not there then; Jimmy Fernot bought the property in the 1992 and he built the shed
- Regarding Zoning permit inspections: This is right on Route 100; why is no one looking at what is going on? There has to be some reason why the whole space is gone; increase in non-compliance
- Main issues are that the shed is not 50 feet from the river bank, it never was. And now it is worse than it ever was, right up against a tree. Clearly it is in the flood plain
- This concern was expressed to the Kelly's when they first purchased the property & it would be appreciated that it not be expanded; but they have expanded it
- Do not consider this normal maintenance—increase in size and structure has been re-enforced
- It is taking away from the value of my property—could be a potential problem for any future development across the river
- Do not believe this was built in good faith; an expansion of this building, there is nothing old in the new section of the shed

Chair Shippee: Your testimony is that your surveyor says that it is approximately 10 feet in length but he could not swear to it. Do you have any quantitative demonstration showing the length of the building prior to the work that was done?

Ms. Conrad: All I have is what is in the survey done in 2003. And photographs in color and black & white that show that the space is no longer there behind that shed

New exhibits introduced by the Applicant

Exhibit Z: Survey by Richard Joyce

Exhibit AA: Handout provided by Applicant

ZA Cerchio:

- I would challenge that Exhibit Z is not a legal survey as it is not stamped or signed
- It is a survey of the Conrad's property and has no relationship or accuracy at all to the shed in question
- It has been repeatedly stated that the shed has been there since the 1990's. There is 15-year statute of limitations on zoning; therefore, the shed is considered non-conforming; whether it is pre-existing is inconsequential
- It is in a flood plain but since it is non-conforming, we can take no action
- Stone 1 Metal and Wood Works are the contractors who worked on the shed
- In regard to the photos, they can be distorted to reflect any angle by the positioning of the camera; would take into question any photos that have been submitted
- Statement that the Town has not taken any action; If individuals knew it was in violation, it should have been brought to our attention prior to the renovation of the shed
- Renovations did not alter the size of the shed

Heather Kelly testifies to the following:

- Property owner of Sticky Fingers Bakery, 210 Route 100
- The day we took ownership of the home; Ms. Conrad's first interaction with us was aggressive, by yelling that we had moved/stolen her pins; I introduced myself properly as the new owner—she thought I was a renter
- Since then, Ms. Conrad has asked us to illegally hold her husband's mail; watch her home while she is away and notify her if any red lights go off in her home; more and more weird over the last couple of years
- Has come into our place of business; yelling loudly in front of customers; accosted our builders and employees; had no business being on our property; has never been welcomed into our shed; feel she has illegally trespassed on our property—the photographs are proof of that
- Situation has caused much anxiety. Hoping to end the situation today and be good neighbors. I am trying to teach my children that neighbors take care of each other and don't argue over a shed

Board member Montello: Heather, is it your testimony that the shed has not increased in size during the whole renovation?

Ms. Kelly: We have stuck to the original footprint size of the building; it was refortified due to flood damage; we lost banks of the river, we lost feet from the river, yes, it is closer to the river but that is because of the flood

Mr. Edward Barber expressed interest in giving testimony on the application but was denied by Chair Shippee because he did not take part in the original hearing. Recording Secretary, Jeannette Eckert apologized for the miscommunication between herself and Mr. Barber. Chair Shippee also apologized for the miscommunication. There are certain regulations that must be abided by. Because Mr. Barber did not request Interested Party status at the original hearing, no testimony can be accepted from him at this point.

Ms. Conrad in rebuttal to Ms. Kelly: I was never on their property; Those pictures were taken from the road. Interior pictures-- they left the doors open

Chair Shippee: Going to stop you here. The issue of trespassing is irrelevant to the application. It is an issue between the two of you but has no bearing on the decision being rendered tonight. Both parties' personal comments are irrelevant to this decision

Ms. Conrad: Regarding the builders, they were well aware of where the markers were. It is clear that it is 3 feet from the property line

Chair Shippee: The fact that it is 3 feet from your property line has never been in question

ZA Cerchio:

- Regarding photos of the shed—camera angles can produce any result that you want them to
- Shed was inspected on at least two occasions—work performed was in compliance with the bylaw; it represents normal maintenance. Whether there are new sonotubes or no sonotubes is inconsequential—it was the foundation that was damaged due to flooding
- This appears to be a classic case of neighbor harassment

Ms. Conrad:

- Are there written records with dates of the inspections made by ZA Cerchio?

- Did not see any record of inspections in the file
- There is a registered survey, stamped and sealed downstairs

Chair Shippee: This is a survey of your property, not the Kelly's property

Board member Montello: We are not asking you for a survey, you have the opportunity to offer one to us as part of your testimony. Do you have that evidence tonight?

Ms. Conrad: I do not

The Board took a brief recess at 7:50pm

The Board returned at 7:52pm

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

Ms. Conrad requested clarification on the opportunity for Mr. Barber to speak. State Statute requires that Interested Parties to an application submit either verbal or written testimony during the initial hearing. She affirmed with Chair Shippee that the only recourse would be if the decision was appealed to the Environmental Court.

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

- Approve minutes of Oct 27, 2016

On a motion by Board member Golet, seconded by Alternate Palermo, the Board voted 3-0-1 to approve the minutes of Oct 27, 2016 (Montello abstained)

- Andy Childs seat on the Board is up for renewal in March; he will not be seeking another term; recommendations to fill the seat are welcome
- Chair Shippee expressed that the Board has an obligation to the Town and should seat a full board on the 1st and 3rd Thursdays of the month

On a motion by Board member Montello, seconded by Board member Golet, the Board moved into Deliberative Session at 8:10pm

On a motion by Board member Golet, seconded by Board member Montello, the Board moved out of Deliberative Session at 8:20pm

Respectfully submitted by Jeannette Eckert, Recording Secretary

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