

Town of Dover
Development Review Board

Meeting Minutes

February 7, 2019 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, Stephen Palermo, Steve Montello & Alternate Heather Kelly. The Board introduced themselves to the audience. Zoning Administrator Tabi Freedman and Administrative Assistant, Jeannette Eckert was also present along with Marcus Munsill, Michael McGillion, Stephanie Greene, Marshall Brooks, Cory Frehsee, & Ham Hodgman.
- 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, February 12, 2019 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.
- VII. **To consider application #19-RT110C-01** by Michael S. McGillion, Esq, representing Boulder Ridge REO, LLC, for minor changes to site plans, so that building footprints will comply with current wetland regulations.

ZA Freedman testifies that the hearing has been properly warned and posted.

Boulder Ridge REO, LLC has authorized attorney Michael McGillion to represent them in this application along with engineers Cory Frehsee & Ham Hodgman of Stevens Associates Applicants testify that all abutters have been properly warned & in a timely manner.

No interested parties were present or provided written testimony.

No conflict of interest was present.

The Applicants testify to the following:

- Proposing a slight alteration to the project
- Brief history of the project
 - Back in 2006, Boulder Ridge applied for a PUD for a 50-unit townhome development on the site
 - Only 13 units were built; 8 buildings constructed

- DRB approval was granted for the 50-unit development
- Original developer defaulted on a loan to the current developer and project was taken over by the current developer
- Current developer has engaged in the Dover process and Act 250 process for continuing development
- In 2016, Cory Frehsee requested an extension and it was granted at that time
- Engaged in the Act 250 process and wetland rules have changed
 - Set back went from 25 to 50 feet; northeast corner of Figure C-3 indicates the locations of the proposed new buildings
 - Buffer mitigation—slightly altering the footprint of the buildings
 - Change from previous decisions
- Not a clear route set in the Zoning bylaws on how to address this issue
- 50-foot buffer zone on Class 2 wetland
- In wetland mitigation process, parking in front of units 49 & 50 shifted to parallel parking
- Reviewed on November 14 by Fire Dept and acceptance was issued on these plans
- Made slight adjustments from units 37/38 to units 49/50
 - Added interior curve to driveway to accommodate building shift
- Maintaining 25 feet between buildings according to Fire Dept requirement
- Overall parking count went down—137 proposed spaces to 126 in the new layout
 - Required number is 100 parking spaces
- May be back at a later date to discuss the roof lines of the buildings
 - Architectural element but tied to the footprint of each building
- Dark dashed line indicated on Figure C-4 is the wetland set back
- In a wetland set back, one is allowed to have impact as long as it is mitigated in some reasonable way
 - Conveyed a permanent easement in the property to the east, further interior from Route 100, and a bit further south as well
 - Easement deed has been recorded in the Dover Land Records
 - Pulling buildings closer to the interior
- Wetland Buffer Impact Permit was issued—deed restriction element—was not needed previously but because of a rule change, it was required
- Site had already been cleared; Fire pond was locked in--not enough room to do a major reconfiguration
- There is a drop off/grade change behind the affected buildings where limited mowing and fencing will be necessary; signage as well
- A copy of the easement deed will be provided by the Applicant to complete the application

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

VIII. To consider application #19-RT015-01 by Leatherneck Associates, LLC for a PUD Change of Non-Conforming Use from Retail to Manufacturing, Packaging or Processing (Brewery) and from Office to Bar (Taproom).

Per the Applicant's request, the Board unanimously agreed to continue the hearing to Feb 28th at 7pm

IX. To consider continuance of application #18-RT133B-01 by Marcus Munsill to construct a single-family home in a Sensitive Wildlife Resource Overlay District.

Continuance of application first heard on July 12, 2018

A letter requesting information from the Board was sent to the Applicant on July 17, 2018

1. Letter from Wildlife Biologist was rec'd by Chair Shippee
2. Provide elevation plan for building

The Applicant Marcus Munsill testifies to the following

- Originally the plan was to construct a home, but conditions are such that it may not be affordable at this time
- Hoping to carry on as a recreational piece
- Blind sided by the cost of the septic
- Given the above conditions, the applicant would like to withdraw the application to construct a home on the parcel

On a motion by Alternate Kelly, seconded by Vice Chair Lynch, the Board voted 0-5-0 to approve the application

The application was unanimously denied without prejudice and the applicant can re-apply at a future date

Questions from any interested parties were entertained:

Stephanie Greene, interested party:

- If you put a septic system on a narrow piece of land and the effects of septic or leach field go onto another person's land & possibly impinge on their ability to build, acquire a septic or a well... how does all that work?
- When is the best time to get information?

Board comments:

- *Septic systems are designed to operate within certain boundaries as a mound system*
- *Every DRB application is considered & reviewed on its own merits and it would require documentation from the engineer who designed the system to confirm that if there was impact on an adjoining property, that some agreement had been made about it & the applicant supplies proof of that agreement*
- *Can't use another's property without their permission*
- *Questions that arose in this application were specifically about the well shield that extended onto abutters land and what that meant*
 - *It is not unusual for a well shield to extend onto abutting property*
- *Any investigation on a topic would be revealed in the decision*
- *Engineers are responsible for conforming to the bylaws and state regulations*
- *Applications are reviewed on the merit of testimony and merit of paperwork submitted. All the information taken in is provided by the applicant or the applicant's agents*
- *Interested parties may decide to hire their own engineers to review the application and how it impacts their property and he would offer testimony during an application review*
- *DRB goes forward based on assumption that testimony given is accurate and true; Findings of Fact on the decision are taken from the Applicant's testimony*

- *Testimony is only taken at the time of the hearing unless a written notification is issued requesting more information outside of the hearing*
- *Board's concern was regarding the well shield that extends onto abutters land*
- *If the Applicant desires to revisit this, a brand-new application would start fresh with new testimony; all that has been previously heard is set aside*

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

- Approve minutes of Dec 13, 2018

On a motion by Alternate Kelly, seconded by Vice Chair Lynch, the Board voted 3-0-2 to approve minutes of Dec 13, 2018 (Palermo & Montello abstain)

Board members whose 3-year terms are up in March:

- Steve Montello & Jim Lynch

Alternate's terms are up every year:

- Heather Kelly & Laurie Newton

Sarah has been approached by two people who are interested in Board positions

Often times it is difficult to obtain a full Board to hear applications which is unfair to the applicants; this is an ongoing issue; please consider whether you can make the time commitment & come on a regular basis

On a motion by Board member Montello, seconded by Alternate Kelly, the Board unanimously agreed to move into Deliberative Session at 7:52pm

On a motion by Vice Chair Lynch, seconded by Alternate Kelly, the Board unanimously agreed to move out of Deliberative Session at 8:00pm

XI. Adjournment at 8:00pm

Respectfully submitted by Jeannette Eckert, DRB Administrative Assistant

POSTED AT: Town Clerk's Office, Administration Office, Dover Free Library, East Dover Post Office & Town website www.doververmont.com.