

MINUTES OF THE TOWN OF SHAFTSBURY
DEVELOPMENT REVIEW BOARD
September 17, 2008
COLE HALL
SHAFTSBURY, VERMONT

Board Present: Phylis Porio (Chairperson), William "Jake" Jakubowski, Rick Mattison, Fritz Ludwig, David Mance, Wynn Metcalfe

Board Absent: Gary Burgess

Others Present: James Secor, Arthur E. Paulin, Kenneth Trimble, Jeff Walker, Joe Mazzola, Rachael Ryan, Joe Schueler, Keith Greene, Tony Zazzaro (zoning administrator), Gary Peterson (recording secretary)

1. Call Meeting to Order:

Phylis Porio (Chairperson) called the meeting to order at 6:58 PM. Chairperson Porio reported that Gary Burgess would not attend this evening.

2. Minutes:

September 3, 2008 Minutes

David Mance made motion to approve the September 3, 2008 minutes. Fritz Ludwig seconded. Motion to approve September 3, 2008 minutes carried 4-0-2 (Jake Jakubowski and Rick Mattison had not been present at that meeting).

3. Old Business

A. Permit # 08 85 13S: 5.06 FINAL PLAT SUBMISSION for TOM & KATHY DOCKUM OF BENNINGTON TWO LOT MINOR SUBDIVISION. PROPERTY ID 11 02 03 THIS PROPERTY IS LOCATED AT 4959 EAST RD

Mr. Mance recused himself from this matter and left the table.

James Secor distributed a revised sketch plan for the two lot subdivision. He stated that changes requested by the board at the initial hearing have been made, including flared intersections at the culvert, as well as notation of existing driveways and the buffer around the wetlands, and the fact that the septic would be a mound system. Mr. Secor added that the water/wastewater permit for lot 2 has been approved, and he stated that the permit number would appear on the mylar.

Chairperson Porio reviewed regulations 5.0.6, and board members noted, related to 5.0.6(4), the existence of a right of way; Mr. Secor indicated that a copy of the deed detailing the right of way would be provided.

Chairperson Porio asked for public comments; there weren't any.

Mr. Jakubowski made motion to close the hearing. Mr. Metcalfe seconded. Motion to close the hearing carried 5-0-0.

Mr. Jakubowski made motion to approve the application subject to submission of the right of way agreement and receipt of the mylar. Mr. Ludwig seconded. Motion carried 5-0-0.

B. Permit # 08 85 04: CONTINUATION OF REVIEW AND FINAL APPROVAL FOR KEN COONRADT - STEVENS LANE TWO LOT MINOR SUBDIVISION PLUS LOT LINE ADJUSTMENT. PROPERTY ID 17 22 45-46

Mr. Mance recused himself from this matter.

Mr. Mance, representing Mr. Coonradt, noted that this hearing was a continuation of the September 3, 2008 hearing, and stated that the neighbors had been contacted and do not object to the proposed subdivision and lot line adjustment. Mr. Mance provided a copy of the driveway maintenance

agreement in which each owner of the two lots would share responsibility. Mr. Mance reminded the board that the curbcut had been approved in 1996, that lot 2 has a deferral, and he added that the water/wastewater permit for lot 1 was issued in the late 1990's when the permit was referred to as an EC permit.

Chairperson Porio asked for public comments; there weren't any.

Mr. Jakubowski made motion to close the hearing. Mr. Metcalfe seconded. Motion to close the hearing carried 5-0-0.

Mr. Jakubowski made motion to approve the subdivision application and lot line adjustment. Mr. Ludwig seconded. Motion carried 5-0-0.

**C. Permit #08 85 33 Zoning BYLAW 6.2 ROADSIDE COMMERCIAL (RC) DISTRICT AND 6.1.3.4.4. SITE PLAN APPROVAL
JOSEPH SCHUELER 1835 VT RT 7A PARCEL I.D. 15 20 08**

Mr. Mance returned to the board table.

Joseph Schueler presented a site plan which the board reviewed. The board noted replacement of a split rail fence. Mr. Jakubowski asked if VTrans had seen the site plan, and Mr. Schueler presented a drawing which he stated VTrans had sent him and which served as the basis of the site plan. Mr. Schueler added that the loading area was only four inches above the driving surface and that large trucks seemed to have better access to that area.

Chairperson Porio asked for public comments; there weren't any.

Mr. Mance made motion to close the hearing. Mr. Metcalfe seconded. Motion to close the hearing carried 6-0-0.

Mr. Mance made motion to approve the site plan contingent on the final plan showing the location of the septic tank and that the note referring to berm plantings be changed. Mr. Jakubowski seconded. Motion carried 6-0-0.

The board expressed appreciation to Mr. Schueler for responding to earlier board concerns and presenting a more comprehensive site plan.

Mr. Jakubowski agreed to write the decision for this application.

4. New Business

A. Permit #08 86 24: 6.3. COMMERCIAL INDUSTRIAL (CI) DISTRICTS ARTHUR PAULIN 1250 VT RT 7A PROPERTY ID 15 20 36. TO INSTALL A NEW DIESEL PUMP ISLAND AND CANOPY.

Mr. Secor presented a site plan for the installation of a new diesel pump island at the rear corner of the property. Mr. Secor stated that the pump island would dispense both on-road and off-road diesel, and explained that the location of the new island was determined after testing the turning radius for large trucks which would be using the pumps. Mr. Secor stated that he was applying for a variance for the canopy and the setback requirement.

Arthur Paulin, owner of the property and business, described how the underground tanks have been replaced/upgraded. Mr. Paulin stated that he intended to sell heating oil from the pump which currently is used for diesel and kerosene, and he and Mr. Secor described the new tank for that pump and its three separate compartments which would afford the opportunity to distribute additional products such as kerosene and biodiesel.

There was discussion related to safety concerns when trucks enter and exit the property. One suggestion was to maintain a one-way flow of traffic through the property and new pump island by putting directional arrows on the travel surface and a sign near the edge of the berm.

Board members raised additional concerns related to the lighting for the new pump canopy, the new island's hours of operation and level of after-hours noise, and density coverage (zoning bylaw 6.4.3). Mr. Jakubowski also expressed concern about the level of contamination where the existing diesel/kerosene pump is located.

Chairperson Porio asked for public comments. Board member David Mance, speaking a resident of the village, stated that diesel truck traffic occurs at all hours in the town and undermines the stereotypic picture of a bucolic, Vermont village.

Mr. Mance made motion to continue the hearing. Mr. Jakubowski seconded. Motion to continue the hearing carried 6-0-0.

Mr. Paulin expressed concern that the permit process may take so long that he won't be able to offer heating oil this winter.

Board members stated that the next hearing on this application should be warned for a variance and conditional use for a twenty-four hour diesel fuel distribution operation, and be scheduled for October 15, 2008.

B. Permit # 08 86 22 : 4.2.3.1 CUSTOMARY HOME OCCUPATION FOR MOBILE AUTO REPAIR SERVICE. JEFF WALKER IS THE APPLICANT AND OWNER OF THIS PROPERTY LOCATED AT 17 LEDGELY DR. ID 17 22 39

Jeff Walker described his plan to operate a mobile auto repair service and respond to requests from motorists who have broken down. He stated that he intended to obtain a truck or van, did not intend to operate a tow truck, and would not do any repair work at the property. He added that he would store all his tools in his vehicle or the existing garage. Mr. Walker estimated the garage dimensions as 19 x 16 feet and indicated the only other business space on the property would be for office work. He stated that he is in the process of purchasing this property where he now lives, and provided letters from neighbors indicating that they did not object to the existence of the business.

The board determined that the property is in a VC-1 zone. Mr. Mance asked about the storage of waste oil, and Mr. Walker indicated that he would store waste oil in a container on his truck/van before taking it to a disposal site. Mr. Walker stated that he has sold a couple of cars which had been parked on the property, and noted that an individual may sell twelve cars per year before needing to secure license.

Mr. Walker stated that the primary reason for the application was for advertising purposes and expressed a desire to erect a 3 x 8 foot sign on the property to publicize the business. The board determined that he would be permitted either a one-sided 2 x 4 sign or 2 x 2 sign with writing on each side. Board members expressed concern about this business changing the character of the neighborhood and wondered whether this business could be considered customary in a residential area.

Chairperson Porio asked for public comments; there weren't any.

Mr. Mance made motion to continue the hearing. Mr. Jakubowski seconded. Motion to continue the hearing carried 6-0-0.

C. Permit # 08 86 28: 5.01 APPLICABILITY LOT LINE ADJUSTMENT PARCEL 17 21 47 DORIS AND NANCY BAILEY AND PARCEL # 17 21 46 RUTH O'DELL. BOTH LOCATED ON MEADOW LANE

Mr. Mance recused himself from this matter, and left the table.

Mr. Mance presented a map of the properties and described how a .03 acre shift in the lot line would result in a tree on the O'Dell property moving to the Bailey property. Mr. Mance provided a letter from the state which indicated this action was non-significant and he stated that the changes in lot sizes did not affect existing conformity with zoning requirements.

Mr. Metcalfe made motion to approve the lot line adjustment. Mr. Ludwig seconded. Motion carried 5-0-0.

D. Permit # 08 86 29: 5.01 APPLICABILITY LOT LINE ADJUSTMENT PARCEL 06 20 18 FRITZ LUDWIG AND PARCEL # 06 20 18.2 DAVID MANCE. BOTH LOCATED ON WEST MT ROAD

Mr. Ludwig and Mr. Mance each recused himself from the matter, and left the table.

Mr. Ludwig and Mr. Mance presented a map of the two adjacent parcels, and described the lot line shift which would add 9.8 acres to Mr. Mance's parcel and give him better access to his woodlot.

Mr. Mattison made motion to approve the lot line adjustment. Mr. Metcalfe seconded. Motion carried 4-0-0.

5. Other Business:

Mr. Ludwig and Mr. Mance returned to the board table.

Chairperson Porio noted the receipt of a letter from the Natural Resources Board related to an amendment to a Dailey land use permit, and asked that it be put in the appropriate Dailey file.

Chairperson Porio asked that the next agenda include an opportunity to discuss (1) appropriate meeting warnings and (2) consistent zoning bylaw interpretation.

Mr. Jakubowski made motion to go into deliberative session. Mr. Metcalfe seconded. Motion carried 6-0-0.

The board went into deliberative session at 9:00 PM.

Respectfully Submitted,

Gary Peterson