

Town of Waitsfield
DEVELOPMENT REVIEW BOARD
Meeting Minutes
Tuesday, November 11, 2008

1. **CALL TO ORDER:** Brian Shupe, Chair, called the meeting to order at 7:35pm at the Waitsfield Town Office.

MEMBERS PRESENT: Brian Shupe (Chair), Gib Geiger, Mike Kingsbury, Eleanor D'Aponte, and Mark Sinclair.

MEMBERS ABSENT: Chris Cook, and David Galfetti (Alternate).

STAFF PRESENT: Vickie Trihy, Planning and Zoning Administrator

APPLICANTS AND THEIR REPRESENTATIVES: Douglas Turner, Sharon Turner, Valerie Capels, and Paul Hartshorn.

INTERESTED PARTIES: Joe Turner, Kenneth Quackenbush, and Stewart Grandfield.

OTHERS PRESENT: Nancy Myrto, minutes taker.

2. **#3202-CU, PRD Review, Douglas and Sharon Turner.** Proposal to establish a PRD encompassing farm and residences with modified stream setback for mobile home. Property is located at 911 Main Street and identified as parcel #99006.00 in the Agricultural-Residential District (§2.07).

Mr. Shupe stated that Mr. and Mrs. Turner originally applied for an enlargement of a non-conforming structure. The Turners' request was to replace an existing mobile home behind the house with a larger one, using the existing pad, as part of the farmstead cluster. The DRB determined this would increase the degree of noncompliance by 75%, and could not be approved under the non-conforming structure criteria. The DRB further determined the Planned Residential Development provision, in this case, was a better avenue for getting the modification of the setback because PRD's encourage clustering, and preservation of open space. Mr. Shupe asked if the new structure was on a separate lot. Mr. Turner explained originally his parents owned the three-acre farm lot and he owned the one-acre lot containing the mobile home, and he now owns all the land and is not sure if they are considered separate lots. Ms. Trihy stated that you can include two parcels in a PRD if they are contiguous. Mr. Turner further stated the structure will not be any closer to Shepard Brook as they will be using the same pad, and the eaves point to

the side and not toward the Brook negating a possible run off situation. In addition, he said the current septic and dry well are both set up and were designed for the number of people in residence.

Ms. D'Aponte inquired about density compliance for a PRD. Mr. Shupe explained that it would be roughly equivalent to one unit per acre, which this request complies with.

Mr. Kingsbury moved to close the hearing at 7:40pm. Mr. Geiger seconded. There was no discussion. All members voted in favor.

3. **Application #3185 Town of Waitsfield, Conditional Use Review for establishment of a municipal gravel pit.** Hearing reopened to receive comments from interested parties on a draft decision. The property is defined as parcel #99037.000 in the Agricultural-Residential District and is accessed off Armstrong Road. Less than 10 acres of the 74.2-acre parcel is proposed to be used for the gravel pit operation.

Mr. Shupe explained that a draft decision was issued five days before the 45-day time clock expired. The draft decision allows feedback from interested parties before a final decision is reached. Mr. Shupe further said the DRB received a memo from Ms. Capels requesting seven amendments to findings and conditions

Ms. Capels stated that the requests are a summarization of comments from the Selectboard and the engineer working on the project. She noted the first item pertains to Section C, Findings of Fact 7.B., requesting to replace the words "limited to" (used twice in the final sentence) with "estimated at;" with regard to extraction and on-site crushing. Mr. Hartshorn noted that flexibility would be needed in the event of an emergency requiring more material, such as a major flood. Mr. Sinclair asked for confirmation that the Town is comfortable with the rolling average figures, but would like to exceed the rolling average rate over three consecutive years as necessary to deal with special circumstances and emergencies. Ms. Capels and Mr. Hartshorn agreed this is the case.

The second item pertains to Section C, Findings of Fact 7.C., requesting to add "access to" in the first sentence to read, "which has direct access to Route 100". Ms. Capels explained that this is a typographical error and the words "access to" were erroneously omitted.

The third item pertains to Section C, Findings of Fact 9(1), requesting to add "on the Town parcel" between the words "habitat" and "will" in the final sentence of the 2nd paragraph. Ms. Capels explained that this is a request of the engineer who suggested that the remainder of the habitat on the town parcel be managed by the town to maximize

wildlife value so there is no confusion that the town is accepting responsibility to manage wildlife value outside of that area.

The fourth item pertains to Section E, Decision, 1, requesting to add a provision to allow exceptions for special circumstances and emergencies such as flooding events or road washouts;

The fifth item pertains to Section E, Decision, 4, stating the Town would like to be able to harvest appropriate timber from the parcel to use to build the bridge for the new stream crossing and, at some point, to build a new salt shed at the Town Garage. In addition, communication from the Conservation Commission was conveyed that they would prefer to be involved in the management of the property only *after* the gravel pit has ceased operating. Mr. Shupe stated that during the site visit discussion was had regarding the harvesting of timber from the gravel pit. Mr. Shupe then asked if harvesting would involve going outside the clearing area. Mr. Hartshorn replied that this is a possibility so the right trees are harvested for the bridge construction. Mr. Shupe explained that the concern in this condition is that the deer yard area should stay a deer yard. Mr. Hartshorn explained that the Conservation Commission does not want to become involved until the gravel is removed. One reason being that if, after the gravel is extracted, the Town would like to use the land for housing, it would be impossible if the Conservation Commission was already managing the land as a forest. Mr. Kingsbury suggested adding “with exception for tree removal associated with phased extraction of earth resources and harvest for use by town projects” to cover this request. Mr. Sinclair suggested that a condition be added to the effect that the Town could harvest timber for those two uses subject to consultation with the Conservation Commission and the tree warden. Mr. Shupe clarified that the DRB issues permits that go with the land, and not relative to any of the people involved.

The sixth item pertains to Section E, Decision, 5, requesting to re-word the crushing limitation from “four weeks in any calendar year” to “20 days in any calendar year” to allow for weeks with adverse weather conditions. Ms. Capels stated that the concern here is of being tied to the week as a unit of time as opposed to days. Mr. Kingsbury asked if it could read twenty working days. Mr. Grandfield stated that twenty crushing days would be more accurate.

The seventh item pertains to Section E, Decision, 6, requesting to re-word the first sentence to replace “In the event that a stream alteration...” with “In the event that a stream crossing...”. Ms. Capels noted that this request is due to the findings of the engineer that a stream alteration permit is not necessary, but that a stream crossing permit is needed.

Mr. Hartshorn asked for an approximate time for a final decision as the town crew is in a position to have time available to cut brush and begin work on this project. Mr. Grandfield further noted that he is in the process of creating a budget and needs to know whether or not to budget for purchasing gravel elsewhere. Mr. Shupe felt a final draft could be reached before 45 days.

Mr. Hartshorn noted that he feels receiving the draft decision was a good step in the process. He further explained that if this were issued as a final decision the only recourse would have been to go to environmental court.

Mr. Kingsbury moved to close the hearing at 8:10pm. Mr. Sinclair seconded. There was no discussion. All members voted in favor.

4. **APPROVAL OF MINUTES:** Mr. Kingsbury moved to approve the minutes of the October 28 meeting. Mr. Geiger seconded. There was no discussion. All members voted in favor.
5. **OTHER BUSINESS:** Ms. Trihy asked for an attendance count for the December 9 meeting. Mr. Shupe, Ms. D'Aponte, Mr. Kingsbury, Mr. Geiger, and Mr. Sinclair all confirmed their expected presence at the meeting. Mr. Shupe also stated that Ms. Cook, the newly appointed member of the DRB, would also be present.
6. **ADJOURNMENT.** The meeting adjourned at 8:20pm and the Board went into deliberative session.

Respectfully submitted,
Nancy Myrto