

Town of Waitsfield
DEVELOPMENT REVIEW BOARD
Meeting Minutes
Tuesday, December 9, 2008

- 1. CALL TO ORDER:** Gib Geiger, Co-Chair, called the meeting to order at 7:10 pm at the Waitsfield Town Office.

MEMBERS PRESENT: Brian Shupe (Chair) (at second and third hearings), Gib Geiger, Mike Kingsbury, Eleanor D'Aponte, Mark Sinclair, and Chris Cook.

MEMBERS ABSENT: None.

STAFF PRESENT: Vickie Trihy, Planning and Zoning Administrator

APPLICANTS AND THEIR REPRESENTATIVES: Pat Thompson, Sandy Lawton, Adam Lougee, Sheila Ware, Alice Olenick, Nancy Mongeur, Kevin Van Schaick, Brian Lavery, Valerie Capels, and Paul Hartshorn.

INTERESTED PARTIES: Jim Mall, Sue Dillon, Mike McGrath, Stephanie Cramer, Dennis Derryberry, Doug Barnes, Lynn Barnes, Kitty Werner, Anthony Santor, Kirsten Seibert.

OTHERS PRESENT: Joshua Schwartz.

- 2. #3204-CU, Brothers Graves Management Corp.,** request to amend site plan for Bisbee's building addition (permit #3139-CU), to eliminate cupola, one dormer, and two windows. The property is identified as Parcel #99152.00 in the Irasville Village District (§2.03).

Mr. Thompson, a representative of Brothers-Graves Management Corp. asked to amend the site plan for an addition to Bisbee's Hardware Store to eliminate a permitted cupola, a small dormer, and two windows, stating that the amendments are cost-cutting measures. The Board members examined the revised site plan. Ms. D'Aponte commented that the changes proposed are minor and don't detract from the original approved design. A motion was made and seconded to close the hearing, and all voted in favor.

- 3. #3205, Robert Schulz/Hastings Meadow LLC,** request to revise conditions of Hastings Meadow subdivision concerning the rear setback for lot #1. Property is identified as parcel #25001.101 in the Agricultural-Residential District (§2.07). Concurrent with this

application the Board considered **#3208, Robert Schulz/Hastings Meadow LLC**, request for variance to reduce rear setback for the same parcel.

Mr. Shupe addressed the group to explain that his wife, Valerie Capels, was the acting zoning administrator who issued the building permit for the parcel now being reviewed. He offered to recuse himself from the hearing if anyone had any concerns about him chairing or participating. No one did. Ms. D'Aponte recused herself from this hearing, because she helped design the house.

Mr. Lougee gave an overview of Hastings Meadow, a 10-lot planned residential development on 39 acres at the end of Hastings Road in Waitsfield. Mr. Lawton noted that during the lengthy review of that project there were many issues involving abutting owners with regard to lot size, setbacks, and the widening of the road. He further stated that with so many issues discussed over the course of years, the setback on Lot 1 was mistakenly overlooked. He explained that the computer-generated drawings he used for siting the house were based on site plans filed with the town that showed a setback of 15.78 feet from the rear property line, and when the DRB changed that setback the computerized plan was not amended by the engineer and remained unchanged all the way through the permit process, Act 250, the Environmental Board, and the Environmental Court. Mr. Lougee explained that Mr. Lawton was advised to build within the building envelope, but the CAD drawing was based on the 15.78 foot setback and not the required 25 feet. Mr. Lougee noted that when Mr. Lawton went before the Zoning Board for a building permit on July 13, 2007, the permit was issued based on the 15.78 foot setback drawing. Three days later on July 16, 2007 Mr. Lawton received a letter from the town informing him that the house needed to be built in accordance with the conditions specified in the town permits. Mr. Lougee stated that they believed they were in compliance as they were using the engineer's CAD drawing.

Mr. Lougee went on to say that in 2008 Ms. Trihy, the current Zoning Administrator, received a complaint that the house was too close to the lot line with Mr. Mall's property. Ms. Trihy did a site visit and noted that the concrete columns were approximately 19 feet from Mr. Mall's lot line. She informed Mr. Lougee, Mr. Lawton and Mr. Schulz, owner of lot 1, that the house location was not in compliance with the conditions of the PRD permit. Mr. Schulz offered to purchase some property from Mr. Mall to establish a lot line adjustment to correct the error. Hastings Meadow also offered Mr. Mall a land swap to compensate for the error. Mr. Lougee noted that neither of these offers was accepted, so the applicants are now asking the DRB to amend the 2002 PRD. Mr. Lougee noted that the setback encroachment was an innocent mistake resulting from using the engineer's CAD drawings without checking them against the PRD permit. He also noted that although they are six feet closer to the back lot line, there really is no substantive

impact on Mr. Mall's property. He passed around photos to show the visual impact of the house location. Mr. Lougee said that if their application is approved they would agree to place additional plantings on the back property line to help screen the sunporch area that encroaches on the setback, and displayed a proposed landscape mitigation plan. He stated that they would also agree to revise the building envelope on lot 2 to increase its setback from Mr. Mall's property.

Mr. Shupe asked how the developers could have forgotten setback issues as they received a lot of attention during the permitting process. Mr. Kingsbury noted that conditions 10 and 11 specifically noted the external setbacks would be 25 feet. Mr. Kingsbury asked if the structure could have been sited to make the 25 foot setback and still maintain compliance. Mr. Lawton answered yes, there was room to site the house further from the back line and still stay in compliance had he known he was in error.

Mr. Shupe asked if everyone understood what was being requested, and no one had any questions. He asked for comments from the neighbors. Mr. Mall noted that the main impact to his property is the visibility of the structure. He said that he can see two levels of glass doors and he probably would not see any if the structure complied with the 25 foot rear setback. Mr. Sinclair asked if a tree screening would make a positive impact. Mr. Mall said that it would need to be a substantial screening to make any difference. Mr. Sinclair asked if a wooded view would be preferable to seeing the house, and Mr. Mall said it would. Ms. Dillon, a neighbor further down Hastings Road, said from her house she can also see the upper sliding glass doors as well as the peak of the roof. Ms. Seibert said that driving up Hastings Road all houses are visible and done in good taste. Another resident suggested a berm be put in place.

Ms. D'Aponte pointed out that she was there on the day Mr. Lawton laid out the site for the building, and verified that his intent was honest.

Ms. Ware reminded the group that Mr. Schulz, owner of the house, had played no part in the siting error. She conveyed Mr. Schulz's regret that this error had occurred, and his wish to resolve the issue and maintain good relations with his future neighbors.

Mr. McGrath asked how much progress had been made at the time the house was discovered to be out of compliance. Mr. Lawton noted that footers were placed in September 2007, followed by walls in April 2008, and the roof was already under way when they discovered they were out of compliance in August 2008.

Mr. Lawton noted that the glass doors visible from Mr. Mall's property are not on the part of the house that encroaches on the setback.

Mr. Shupe stated that a site visit would be necessary in order to gain a better perspective and better enable the DRB to make a decision. The site visit is scheduled for January 13 at 8:00am.

Mr. Kingsbury moved to recess until the site visit on January 13 at 8:00am. Mr. Geiger seconded. There was no discussion. All members voted in favor.

4. **#3156-CU, Mad River Valley Ambulance Service.** Reopen hearing to consider revised landscape plan for southern boundary. The property is identified as parcel #99057.000 in the Village Residential District (§2.02) and the Historic Waitsfield Village Overlay District (§2.09).

Mr. Shupe explained that this is the result of a longstanding permit issue in town where the MRVAS was given a permit several years ago amending conditions involving the driveway, front sidewalk, and landscaping which the MRVAS never complied with. There was an appeal by the neighbors; it was sent to court, and remanded back to the DRB. Mr. Shupe further explained that the DRB issued an approval last spring contingent upon submission of a final landscaping plan. The plan was submitted at a hearing on October 14th, but later that month MRVAS later contacted Ms. Trihy stating that they felt there were better options not considered at previous meetings and asked that the DRB reopen the hearing to review a revised plan.

Ms. Olenick explained that the only changes in the revised plan there were to landscaping on the southern boundary, and the location of flag poles being stated correctly as mounted on the wall. Ms. Olenick stated that with regard to the southern boundary, one option is to use two fences side by side with an air space in between to lessen noise. Ms. Mongeur noted that a better option would be a sandwich-type assembly having a one-inch noise absorption material on the MRVAS side of the fence and behind that a one-quarter inch noise barrier. This would absorb the noise as opposed to reflecting the noise. The proposed height of the fence is seven feet to accommodate both noise reduction and aesthetics. Photos of the site with computer-generated images of various fences in place were passed around. Ms. Olenick stated that the back-up beepers on the emergency vehicles, which had been discussed at prior meetings, can be completely silenced between the hours of 9:00pm and 6:00am.

Ms. Seibert verified with MRVAS that the fence would be completely on MRVAS' property. She also asked how the length of the fence had been determined. Ms. Olenick replied that the proposed fence was the same length as the trailer currently in place, and

would run as far as the Seibert porch. She stated this was the furthest it could extend without impeding visibility for motorists and to be aesthetically pleasing.

Ms. Seibert stated that she and Mr. Lawton appreciate the efforts of MRVAS with regard to the fencing issue. Ms. Seibert also noted that she and Mr. Lawton would be willing to construct a garden/yard shed on their side of the proposed fence and create a green space or garden running from there to the ambulance service property line to avoid the abrupt/out-of-place impact of the proposed fence. Ms. Trihy pointed out that such a structure would require a separate application and would have to comply with district setbacks. Ms. Olenick asked that the MRVAS application be considered with an option to come back if they receive an opinion from the Zoning Administrator that the structure proposed by Ms. Seibert is a possibility, and are then given time to research the option with neighbors, and submit a joint application.

Mr. Shupe stated that the DRB would deliberate on the current MRVAS application as submitted and any change to the proposed fence would be a separate application in the future.

Mr. Sinclair moved to close the hearing. Mr. Geiger seconded. There was no discussion. All members voted in favor.

5. **Mr. Joshua Schwartz, Mad River Valley Planning District.** Mr. Schwartz introduced himself, his background, the role of the MRVPD, current projects with which he has recently been involved, and areas where he can be of support and assistance to the DRB and other Boards.
6. **APPROVAL OF MINUTES:** Mr. Kingsbury moved to approve the minutes of the November 11 meeting with the changes Ms. Trihy had noted on the hard copy. Mr. Geiger seconded. There was no discussion. All members voted in favor.
7. **OTHER BUSINESS:** Ms. Trihy noted that Open Hearth plans to submit an application to build a skateboard park near Shaws and the Post Office.
8. **ADJOURNMENT.** The meeting adjourned at 9:35 pm and the Board went into deliberative session.

Respectfully submitted,
Nancy Myrto