

Town of Brattleboro  
Development Review Board  
Meeting  
November 20, 2019

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**1 Call to order**

The November 20, 2019 meeting of the Development Review Board was held in the Selectboard's Meeting Room in the Municipal Center, 230 Main Street, Brattleboro, Vermont. The meeting was called to order at 7:05 PM by Chair James Valente. Board members Eric Annis, Maya Hasegawa, Kathryn Turnas, II, Nora Dissinger, Michael Averill, and Ian Kiehle were present.. Alternate Member Ian Goodnow was present.

Also present were: Tim Knapp, Chris Balzano, Tom Bachman, Michael Fifield, Shane Sage, Clare Hudon, Michael Abbott, George Perides, Katy Buyer, Christine Hart, Taylor Shulda, Jonathan Griffin, John Mahar, David Frothingham.

**2 Chair's opening remarks:**

At the DRB we hear applications for land development in the town of Brattleboro and appeals of zoning administrator decisions.

Procedurally the Development Review Board operates 'On the Record'. Broadly, this means that we take a clear record of testimony from the applicant and any interested parties and then issue a written decision with our findings. Applicants and members of the public should be aware, that as we are 'on the record' this is your opportunity to comment on and provide evidence relating to an application. In the event our decision is appealed to the Environmental Court, the court will **not** take or consider additional testimony at its hearing... but will look at the evidence from our hearings, the regulations, and determine if the evidence supports the findings and decision of this board.

Only interested persons that participate in this proceeding may appeal a decision made by the Board, so I strongly encourage all of you to speak up at this hearing.

As we are on the record we are going to ask that you affirm that your testimony will be truthful.

So would the applicants and anyone wishing to speak to an application please affirm the following:

"I hereby affirm that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury" .... I do.

Applicants require a majority vote of the full board to succeed. That is 4 votes out of 7. If we do not have a full board present to hear your application then we will consider a request to continue your application to the next public meeting.

After taking testimony the board will close the public hearing and may vote on your application. The board will issue a written decision within 45 days of the close of the hearing. While we may vote on an application it is the written decision that controls the timeline for appeal.

It should be noted that the TOB is a party with an interest in land development applications. The Town does not have a special status before this board. Documents provided to the board by the town planning department, town attorney or other town departments will be considered in exactly the same way as information from the applicant and all other interested parties.

**3 Approval of Minutes of October 16, 2019**

Turnas moved, which was seconded by Averill, to approve the Minutes of October 16, 2019. The vote in favor was 6-1-0 with Hasegawa abstaining; the motion carried.

**4 Affirmation of Interested Parties**

All interested persons took the following oath: I hereby affirm that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury.

**5 Confirmation that the meeting had been properly warned**

Brian Bannon (Zoning Administrator) stated that the meeting had been properly warned, excepting that 2019-157 was warned as a Conditional Use approval when it is a Site Plan approval. As the Site Plan approval has the same, but fewer review criteria, the fault is non-material.

**6 Disclosure of conflicts of interest and ex parte communications**

There were no conflicts of interest or ex parte communications.

**7 Review of Cases/Public Hearings**

<b>2019-156</b>	Timothy Cavanaugh and Diane Leary; Residential Neighborhood District; request for Riparian Area Conditional Use approval to reconstruct a garage destroyed by fire on an existing foundation; the building would extend over the Bonnyvale Brook at 55 Bonnyvale Road; Tax Map Parcel #100301.000 <b><i>request for continuance to December 18, 2019</i></b>
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Turnas made the motion and Annis seconded, that Application 2019-156 be continued to December 18, 2019.

DRB members in favor: Valente, Hasegawa, Annis, Averill, Turnas, Dissinger, Kiehle.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

<b>2019-149</b>	Housing Vermont and Brattleboro Housing Partnerships for Red Clover Commons, LTD; Neighborhood Center District; request for Subdivision Approval to create a condominium and for Site Plan, PUD Amendment, and Local Act 250 Approval to construct a 18,722 sq. ft. senior living facility containing 18 individual apartments (19 bedrooms); the proposed building is three stories; there will be a 122 sq. ft. addition to the existing building for ADA access; a new ADA surface parking space will be built; there will be 39 structured parking spaces and 3 surface ADA spaces at 30 Fairground Road; Tax Map Parcel #355125.100
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Persons who participated in the DRB hearing by “offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding” [pursuant to 24 VSA 4471(a)] were:

Christine Har, Katy Buyers, Chris Balzano, Tom Bachman and Tim Knapp were in attendance to present this request by Housing Vermont and Brattleboro Housing Partnerships for Red Clover Commons, LTD for Subdivision Approval to create a condominium and for Site Plan, PUD Amendment, Subdivision and Local Act 250 Approval to construct a 18,722 sq. ft. senior living facility containing 18 individual apartments (19 bedrooms); the proposed building is three stories; there will be a 122 sq. ft. addition to the existing building for ADA access; a new ADA surface parking space will be built; there will be 39 structured parking spaces and 3 surface ADA spaces at 30 Fairground Road; Tax Map Parcel #355125.100

Hart explained the project. Balzano reviewed site elements, Bachman commented on the building design. Buyers added program details.

The Board reviewed submitted application materials and site plans. The Board discussed stormwater, landscaping, design, lighting, compatibility and circulation.

**Annis made the motion, which was seconded by Turnas**, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Sections #434, # 435, #436, #440 & #453 of the Brattleboro Land Use Regulations this request by Housing Vermont and Brattleboro Housing Partnerships for Red Clover Commons, LTD for Subdivision Approval to create a condominium and for Site Plan, PUD Amendment, Subdivision and Local Act 250 Approval to construct a 18,722 sq. ft. senior living facility containing 18 individual apartments (19 bedrooms); the proposed building is three stories; there will be a 122 sq. ft. addition to the existing building for ADA access; a new ADA surface parking space will be built; there will be 39 structured parking spaces and 3 surface ADA spaces at 30 Fairground Road; Tax Map Parcel #355125.100.

This decision is subject to the condition that no changes, excepting those allowed under section 425 of the Brattleboro Land Use Regulations, shall be made to the submitted site plan as described and limited to the above Findings of Fact and Conclusions of Law without the written approval of the Brattleboro Development Review Board.

DRB members in favor: Valente, Hasegawa, Annis, Averill, Turnas, Dissinger, Kiehle.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

<b>2019-157</b>	George Perides; Mixed Use Residential District; request for Conditional Use approval to convert a 3 bedroom apartment into a 2 bedroom unit and an efficiency apartment 19 Elm Street; Tax Map Parcel #325066.000
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Persons who participated in the DRB hearing by “offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding” [pursuant to 24 VSA 4471(a)] were:

George Perides was in attendance to present this request by George Perides and Ramona Hamblin for Site Plan approval to convert a 3 bedroom apartment into a 2 bedroom unit and an efficiency apartment 19 Elm Street; Tax Map Parcel #325033.000

Perides explained the project.

The Board reviewed submitted application materials and site plans. The Board discussed snow storage, bike parking, EV charging, landscaping, code compliance.

**Turnas made the motion, which was seconded by Annis**, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Section #434 of the Brattleboro Land Use Regulations, present this request by George Perides and Ramona Hamblin for Site Plan approval to convert a 3 bedroom apartment into a 2 bedroom unit and an efficiency apartment 19 Elm Street; Tax Map Parcel #325033.000. The Board added the following conditions to those in the draft decision:

1. **A 120 volt, 20 amp GFCI outlet or a 220 volt, 50 amp GFCI protected outlet on a dedicated circuit, shall be provided convenient to parking and signed as an EV charge point.**
2. **Bike storage shall be provided.**
3. **A landscape design with a street tree, front yard plantings, and buffer plantings must be submitted to the Zoning Administrator for review and approval and executed within one year of the date of this decision.**

4. All on-site exterior lighting must be fully shielded and must not cast glare off the site, excepting that decorative fixtures of less than 2000 lumens (20 Watt LED) may be partially shielded. Color temperature for all fixtures shall be between 2500 and 3000 K.

This decision is subject to the condition that no changes, excepting those allowed under section 425 of the Brattleboro Land Use Regulations, shall be made to the submitted site plan as described and limited to the above Findings of Fact and Conclusions of Law without the written approval of the Brattleboro Development Review Board.

DRB members in favor: Valente, Hasegawa, Annis, Averill, Turnas, Dissinger, Kiehle.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

<b>2019-158</b>	Barrows Coal Company, Inc.; Waterfront District; request for Flood Hazard Conditional Use approval to make safety improvements and repairs to an existing fuel tank located in a Regulatory Floodway at Depot Street; Tax Map Parcel #325274.000
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Persons who participated in the DRB hearing by “offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding” [pursuant to 24 VSA 4471(a)] were:

Michael Fifield was in attendance to present this request by Barrows Coal Company, Inc. for Flood Hazard Conditional Use approval to make safety improvements and repairs to an existing fuel tank located in a Regulatory Floodway at Depot Street; Tax Map Parcel #325274.000

Fifield explained the project.

The Board reviewed submitted application materials and site plans. The Board discussed anchoring, underground conduits, stormwater.

**Hasegawa made the motion, which was seconded by Turnas**, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Sections #251 & #435 of the Brattleboro Land Use Regulations, this request by Barrows Coal Company, Inc. for Flood Hazard Conditional Use approval to make safety improvements and repairs to an existing fuel tank located in a Regulatory Floodway at Depot Street; Tax Map Parcel #325274.000.

This decision is subject to the condition that no changes, excepting those allowed under section 425 of the Brattleboro Land Use Regulations, shall be made to the submitted site plan as described and limited to the above Findings of Fact and Conclusions of Law without the written approval of the Brattleboro Development Review Board.

DRB members in favor: Valente, Hasegawa, Annis, Averill, Turnas, Dissinger, Kiehle, and Goodnow.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

**2019-165**

Barrows Coal Company, Inc.; Waterfront District; request for Site Plan Flood Hazard Conditional Use approval to construct six new above-ground storage tanks: one 20,000 gallon tank & five 15,000 gallon tanks; construct a new loading rack facility; and, remove the existing 20,000 tank and the five 15,000 tanks and associated loading rack.at 55 Depot Street; Tax Map Parcel #325219.000

Persons who participated in the DRB hearing by “offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding” [pursuant to 24 VSA 4471(a)] were:

Michael Fifield, Taylor Shulda, Jonathan Griffin, John Mahar, David Frothingham were in attendance to present this request by Barrows Coal Company, Inc. for Site Plan Flood Hazard Conditional Use approval to construct six new above-ground storage tanks: one 20,000 gallon tank & five 15,000 gallon tanks; construct a new loading rack facility; and, remove the existing 20,000 tank and the five 15,000 tanks and associated loading rack.at 55 Depot Street; Tax Map Parcels #325217.000, #325218.000, #325219.000, #325273.000 & #325274.000

Frothingham explained the project, while the other representatives offered clarifying details.

The Board reviewed submitted application materials and site plans. The Board discussed the relationship of the project to the bridge and to the prior application.

**Annis made the motion, which was seconded by Turnas**, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Sections #434, #251 & #435 of the Brattleboro Land Use Regulations, this request by Barrows Coal Company, Inc. for Site Plan Flood Hazard Conditional Use approval to construct six new above-ground storage tanks: one 20,000 gallon tank & five 15,000 gallon tanks; construct a new loading rack facility; and, remove the existing 20,000 tank and the five 15,000 tanks and associated loading rack.at 55 Depot Street; Tax Map Parcels #325217.000, #325218.000, #325219.000, #325273.000 & #325274.000. The Board added the following conditions to those in the draft decision:

- 1. A flood emergency operations plan shall be written and posted visible to site workers.**

This decision is subject to the condition that no changes, excepting those allowed under section 425 of the Brattleboro Land Use Regulations, shall be made to the submitted site plan as described and limited to the above Findings of Fact and Conclusions of Law without the written approval of the Brattleboro Development Review Board.

DRB members in favor: Valente, Hasegawa, Annis, Averill, Turnas, Dissinger, Kiehle.  
DRB members in opposition: none  
DRB members not participating: none.

**The motion passed.**

**8 Administrative Matters and New Business**

None.

**9 Adjournment**

The meeting was adjourned at 8:25 pm.

Approved: \_\_\_\_\_  
James Valente, Chair

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Date

