

Town of Brattleboro
Development Review Board
Meeting
March 4, 2020

1 Call to order

The March 4, 2020 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 7:00 PM by Vice-Chair Maya Hasegawa; Chair James Valente was absent. Board members Ian Kiehle, Nora Dissinger, and Kathryn Turnas, Jr., and Michael Averill were present. Board member Eric Annis was absent. Alternate Member Ian Goodnow was present.. Brian Bannon (Zoning Administrator) was also present.

Also present were: Doug Beachel, Stephen Page, and Ann Doesburg.

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 January 22, 2020

Goodnow moved, which was seconded by Kiehle, to approve the Minutes of January 22, 2020. The vote in favor was 6-0; 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.

6 Disclosure of conflicts of interest and ex parte communications

Goodnow was appointed to hear application 2019-108.

7 Review of Cases/Public Hearings

2020-14	Amaryah Pendlebury for The Natural Child School, LLC: Rural Residential District; Request for Conditional Use Approval to operate a child day care of up to 12 children at 26 fort Dummer Heights; Tax Map Parcel 110428.000 Request for continuance to April 15, 2020
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Turnas made the motion and seconded Goodnow, that Application 2020-14 be continued to the Board’s meeting of April 15, 2020.

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

DRB members in opposition: none

DRB members not participating: none

The motion passed.

2020-11	Jason Evans Construction Inc. for EDW Realty Inc.; Residential Neighborhood District; Appeal of a Zoning Determination that the proposed use, a Construction-related business with specialized equipment, is an intensification of an existing non-conforming use, a Building materials sales establishment, and as such impermissible; and, should that determination be overturned, a request for Conditional Use and Site Plan Approval to operate a construction, paving and concrete business at 529 South Main Street; Tax Map Parcel 355149.000 Request for continuance to April 15, 2020
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Turnas made the motion and seconded Goodnow that Application 2020-11 be continued to the Board’s meeting of April 15, 2020.

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

DRB members in opposition: none

DRB members not participating: none

The motion passed

2019-108	Douglas Beachel for Carrols Restaurant Group for SMS Page, LLC; Neighborhood Center District; Request for Site Plan Approval to modify the approved access design to reconcile local and Vtrans standards at 548 Canal Street; Tax Map Parcel 340033.000
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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: Ann Doesburg.

Doug Beachel was in attendance to present this request by Douglas Beachel for Carrols Restaurant Group for SMS Page, LLC for Site Plan Approval to modify the approved access design to reconcile local and Vtrans standards at 548 Canal Street; Tax Map Parcel 340033.000

Beachel reviewed the amended site plan.

The Board reviewed submitted application materials and site plans. The Board discussed access, number of access ways, landscaping, and sidewalks.

Ann abutter expressed support for the project and stated that the drive through exist was the main exit and should be preserved.

Turnas made the motion, which was seconded by Goodnow, 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, this request by Douglas Beachel for Carrols Restaurant Group for SMS Page, LLC for Site Plan Approval to modify the approved access design to reconcile local and Vtrans standards at 548 Canal Street; Tax Map Parcel 340033.000. The Board added the following conditions to those in the draft decision:

- 1. All conditions of Board Decision 2019-108, dated August 21, 2019 remain in effect.**
- 2. The applicant will submit final plan by pdf to ZA: bbannon@brattleboro.org**
- 3. The parking space adjacent to southerly island will be eliminated and the planting island expanded and landscaped in a fashion similar to that already proposed**

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: Hasegawa, Kiehle, Dissinger, and Turnas.

DRB members in opposition: none

DRB members abstaining: Averill

DRB members: Goodnow, due to a conflict.

The motion passed.

8 Administrative Matters and New Business

The March 25, 2020 meeting will be canceled. Goodnow will step down from the Board as he has been elected to the Selectboard.

9 Adjournment

The meeting was adjourned at 7:45 pm.

Approved:

Maya Hasegawa, Vice-Chair

Date