

Town of Brattleboro
Development Review Board
Meeting
April 15, 2019

1 Call to order

The April 15, 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 7:02 PM by Vice Chair Maya Hasegawa. Other Board members present were Eric Annis, Kathryn Turnas, II, and Ian Kiehle; James Valente and Michael Gouin were absent. Alternates David Whittle, and Nora Dissinger were present and appointed to hear all applications. Brian Bannon (Zoning Administrator) was also present.

Also present were: Stephen Atkins, Mark Westa, Serenity Wolf, Carol Franco, Miranda Neizer, Joseph Becker, Harry Heilman, Brad Lackey, John Sohl, Robert Clark, Melissa Clark, Jeff Clark, Carol Lolatte, Elizabeth McLoughlin, Tom McLoughlin, Michael McColgan..

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 April 15, 2019

Kiehle moved, which was seconded by Annis, to approve the Minutes of April 15, 2019. 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 excepting that some abutters to application 2019-21 did not receive warning letters.

6 Disclosure of conflicts of interest and ex parte communications

There were no conflicts of interest or ex parte communications. Dissinger and Whittle were appointed to hear all applications.

7 Review of Cases/Public Hearings

2019-19	Gabriel Hulme for Lucinda McGovern; Rural Residential District; Request for Site Plan & Conditional Use Approval to reconstruct and expand a garage for use as a third dwelling unit, an efficiency apartment, and two car garage at 63 Laurel Street; Tax Map Parcel #265011.000
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Annis made the motion and seconded by Whittle, that Application 2019-19 be continued to May 20, 2019.

DRB members in favor: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none.

DRB members not participating: none.

The motion passed.

2019-1	John Sohl for The Brattleboro Retreat; Institutional District; Request for Site Plan and Local Act 250 Approval to construct a 15 parking space parking expansion, with landscaping, stormwater treatment and electric vehicle chargers located elsewhere on campus at 112 Anna Marsh Lane Road; Tax Map Parcel #110172.000
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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: none

John Sohl, Serenity Wolf and Mark Westa were in attendance to present this request by John Sohl for the Brattleboro Retreat for Site Plan Approval to construct a 15 parking space parking expansion, with landscaping, stormwater treatment and electric vehicle chargers located elsewhere on campus at 112 Anna Marsh Lane Road; Tax Map Parcel #110172.000

Wolf explained site plan elements. Sohl discussed EV Charger locations.

The Board reviewed submitted application materials and site plans. The Board discussed landscaping and chargers, noting that the project was a natural continuation of the development pattern of the PUD.

Turnas made the motion, which was seconded by Whittle, 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 John Sohl for the Brattleboro Retreat for Site Plan Approval to construct a 15 parking space parking expansion, with landscaping, stormwater treatment and electric vehicle chargers located elsewhere on campus at 112 Anna Marsh Lane Road; Tax Map Parcel #110172.000.

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: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2019-11	Miranda Neizer for Bob Remy-Power; Residential Neighborhood District; Request for Conditional Use Approval to keep sheep, goats, and chickens in an existing shed, a retroactive approval request, at 53 Ivy Lane; Tax Map Parcel #235222.100
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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:

Miranda Neizer and Joseph Becker were in attendance to present this request by Miranda Neizer for Bob Remy-Power for Conditional Use Approval to keep sheep, goats, and chickens in an existing shed, a retroactive approval request, at 53 Ivy Lane; Tax Map Parcels #235222.100 & 235222.200

Neizer explained the project.

The Board reviewed submitted application materials and site plans. The Board discussed the number of animals, wetlands, manure, odor, runoff, noise.

Annis made the motion, which was seconded by Turnas, that the Brattleboro Development Review Board enter deliberative session. The motion passed and the hearing recessed at 7:30 with the hearing resuming at 7:44.

Annis made the motion, which was seconded by Kiehle, that the Brattleboro Development Review Board **continue** the hearing to May 20, 2019 and make a site visit, obtain contour map of site, and obtain wetland plan.

DRB members in favor: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2019-17	Town of Brattleboro; Waterfront District; Request for Site Plan Approval to construct a skatepark, a renewal of a permit approved in 2015, at 139 Memorial Park Drive; Tax Map Parcel #110215.000
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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: Jeff & Wendy Brewer.

Carol Lolatte, Elizabeth McLoughlin, and Jeff Clark in attendance to present this request by the Town of Brattleboro for Site Plan Approval to construct a skatepark, a renewal of decision 2015-66, at 139 Memorial Park Drive; Tax Map Parcel #110215.000

Lolatte reviewed the project permit history.

The Board reviewed submitted application materials and site plans. The Board discussed winter use, signage, lighting and fencing.

Annis made the motion, which was seconded by Whittle, 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 the Town of Brattleboro for Site Plan Approval to construct a skatepark, a renewal of decision 2015-66, at 139 Memorial Park Drive; Tax Map Parcel #110215.000. The Board added the following conditions to those in the draft decision:

1. The Zoning Administrator may administratively approve minor modifications of the site plan.

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: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2019-21	Brad Lackey for Clayton Russell Revocable Trust; Residential Neighborhood District; Request for Minor Subdivision Approval to create a 0.46-acre parcel off Lawton Drive; Tax Map Parcel #265011.000
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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: Harry Heilman, Stephen Atkins, Carol Franco, Michael McColgan.

Brad Lackey was in attendance to present this request by Brad Lackey for Clayton Russell Revocable Trust for Minor Subdivision Approval to create a 0.46-acre parcel off Lawton Drive; Tax Map Parcel #200003.000

Lackey explained the project.

The Board reviewed submitted application materials and site plans.

Abutters noted the land owner’s failure to follow through on past commitments to finish the subdivision road. Abutters noted improperly graded and crowned road, potholes, lack of paving, failing sewer and water lines, unclear infrastructure ownership, inadequate stormwater treatment, possible boundary line confusion, unreasonable cumulative impact, improper drive/road intersection geometry.

Photos and site plans were entered into the record.

Kiehle made the motion, which was seconded by Annis, that the Brattleboro Development Review Board **continue** the hearing to May 20, 2019, make a site visit, rewarn abutters, and receive final plat.

DRB members in favor: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2019-27 Windham Southeast Supervisory Union; Institutional District; Request for Site Plan and Local Act 250 Approval to construct a new maintenance building, relocate driveway, and construct previously approve stormwater improvements at 131 Fairground Road; Tax Map Parcel #355156.000

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: Brattleboro Fire Department.

Serenity Wolf and Robert Clark were in attendance to present this request by Windham Southeast Supervisory Union for Site Plan and Local Act 250 Approval to construct a new maintenance building, relocate driveway, and construct previously approve stormwater improvements at 131 Fairground Road; Tax Map Parcel #355156.000

Wolf explained the site plan; Clark spoke to the use.

The Board reviewed submitted application materials and site plans. The Board discussed lighting, fire conditions, access, use, construction type.

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 & #436 of the Brattleboro Land Use Regulations, this request by Windham Southeast Supervisory Union for Site Plan and Local Act 250 Approval to construct a new maintenance building, relocate driveway, and construct previously approve stormwater improvements at 131 Fairground Road; Tax Map Parcel #355156.000. The Board added the following conditions to those in the draft decision:

1. **A Knox box shall be installed in a location approved of by the Fire Department.**
2. **The Fire Department will review the location of the fence gate; the gate shall be relocated if needed to insure hose access from the building site to nearest hydrant.**
3. **The drive shall be posted “Fire lane, no parking”**
4. **The Zoning Administrator may administratively approve minor modifications of the site plan.**

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: Annis, Hasegawa, Turnas, Kiehle, Whittle, and Dissinger.

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

8 Administrative Matters and New Business

Site visits to 53 Ivy Lane and to Lawton Drive will be arranged for May 20th.

9 Adjournment

The meeting was adjourned at 9:11 pm.

Approved:

Maya Hasegawa, Vice-Chair

Date