

Town of Brattleboro
Development Review Board
Meeting
May 20, 2019

1 Site Visits

The May 20, 2019 Site Visits of the Development Review Board was held 51 & 53 Ivy Lane and at 112 Lawton Drive, Brattleboro, Vermont. The Ivy Lane site visit was at 5:15 PM and the Lawton Drive at 6:00 PM. Chair James Valente, Maya Hasegawa, Eric Annis, and Ian Kiehle were present; Michael Gouin and Kathryn Turnas, li were absent. Alternate David Whittle and Nora Dissinger were present. Brian Bannon (Zoning Administrator) was also present. The Board observed site conditions; no testimony was taken.

Also present were: Miranda Neizer, Harry Heilman, Donna Russel, Brad Lacky, Mark Limogis, Gary Russell, and Stephan Atkins.

1 Call to order

The May 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. Other Board members present were Maya Hasegawa, Eric Annis, and Ian Kiehle; Michael Gouin, and Kathryn Turnas, II were absent. Alternate David Whittle and Nora Dissinger were present and appoint to hear all applications. Brian Bannon (Zoning Administrator) was also present.

Also present were: Harry Heilman, Eric Waite, Geoffrey Dolman, Stephen Atkins, Mark Speno, Stephen Barrett, Lee McClogan, Harry Heilman, Alice Kriz, Mitchell Warren, Gary Russell, and Bradford Lackey.

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

Annis moved, which was seconded by Whittle, 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.

6 Disclosure of conflicts of interest and ex parte communications

There were no conflicts of interest or ex parte communications.

Whittle and Dissinger 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 Request for continuance to June 17, 2019
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Annis made the motion and Kiehle seconded, that Application 2019-19 be continued to June 17, 2019.

DRB members in favor: Valente, Annis, Hasegawa, Turnas, Kiehle, Whittle, 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 Continued from April 15, 2019
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Kiehle made the motion and Whittle seconded, that Application 2019-11 be continued to June 17, 2019.

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

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2018-6	Geoffrey Dolman; Rural District; renewal of request for subdivision approval to create a new residential parcel across from 236 Barrows Road; Tax Map Parcel #90036.000
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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.

Geoffrey Dolman was in attendance to present this request by Geoffrey Dolman for subdivision approval to create a new residential parcel across from 236 Barrows Road; Tax Map Parcel #90036.000. The request is for a renewal of the permit originally heard February 18, 2018.

Dolman explained the changes in the project, the material change being the refinement of the right of way easement. He has consulted with Efficiency Vermont and intends to take most of their recommendations.

The Board reviewed submitted application materials and site plans. The conditions on the original approval were reviewed.

Hasegawa 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 #440 of the Brattleboro Land Use Regulations, this request by Geoffrey for subdivision approval to create a new residential parcel across from 236 Barrows Road; Tax Map Parcel #90036.000

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, Annis, Hasegawa, Turnas, Kiehle, Whittle, 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 #200003.000 & 200003.001 Continued from April 15, 2019
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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, Steve Barrett, Eric Waite, Mark Speno.

This hearing was conducted by Vice-Chair Hasegawa.

Garry Russell and Brad Lackey were 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 distributed a revised plat.

The Board reviewed submitted application materials and site plans.

Abutters raised concerns about impacts on neighboring properties, the good repair of sewer, water, roads, road maintenance, past water system failure, and past agreements to repair the infrastructure for town takeover.

Kiehle made the motion, which was seconded by Annis, to enter deliberative session at 7:55. The hearing reconvened at 8:20.

Upon reconvening, Hasegawa indicated that it was the sense of the Board that The proposed subdivision will contribute excessively or unreasonably to cumulative impacts within the neighborhood that would limit, impair or preclude the future use of property for its permitted uses.

Dissinger 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 #440 of the Brattleboro Land Use Regulations, approve 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.

DRB members in favor: Valente.

DRB members in opposition: Annis, Hasegawa, Turnas, Kiehle, Whittle, Dissinger

DRB members not participating: none.

The motion failed.

2019-39	Town of Brattleboro; Rural District; Request for Local Act 250, Site Plan, Riparian Area, and Wetland Conditional Use Approval to install approximately 3,737 linear feet of new sewer main from the Water Treatment Facility to the existing sewer collection system on Reservoir Road/Valley Rd in the Mountain Homes Park with the line laid under the "Pipeline Trail" or "Reservoir Trail" road with a stream crossing permitted separately under a state Stream Alteration Permit; project located between 416 Pleasant Valley Road and Reservoir Drive alongside an existing town watermain and the Pleasant Valley Brook; Tax Map Parcels #60110.000, 60126.000, 60127.000, 60128.000, 60129.000, 60159.300, & 60159.200.
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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:

Steve Barrett was in attendance to present this request by the town of Brattleboro for Local Act 250, Site Plan, Riparian Area, and Wetland Conditional Use Approval to install approximately 3,737 linear feet of new sewer main from the Water Treatment Facility to the existing sewer collection system on Reservoir Road/Valley Rd in the Mountain Homes Park with the line laid under the "Pipeline Trail" or "Reservoir Trail" road with a stream crossing permitted separately under a state Stream Alteration Permit; project located between 416 Pleasant Valley Road and Reservoir Drive alongside an existing town watermain and the Pleasant Valley Brook; Tax Map Parcels #60110.000, 60126.000, 60127.000, 60128.000, 60129.000, 60159.300, & 60159.200

Barrett explained the project.

The Board reviewed submitted application materials and site plans.

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 Sections #436, 434, 334, 335 & 435 of the Brattleboro Land Use Regulations, this request by the town of Brattleboro for Local Act 250, Site Plan, Riparian Area, and Wetland Conditional Use Approval to install approximately 3,737 linear feet of new sewer main from the Water Treatment Facility to the existing sewer collection system on Reservoir Road/Valley Rd in the Mountain Homes Park with the line laid under the "Pipeline Trail" or "Reservoir Trail" road with a stream crossing permitted separately under a state Stream Alteration Permit; project located between 416 Pleasant Valley Road and Reservoir Drive alongside an existing town watermain and the Pleasant Valley Brook; Tax Map Parcels

#60110.000, 60126.000, 60127.000, 60128.000, 60129.000, 60159.300, & 60159.200. The Board added the following conditions to those in the draft decision:

- 1. Construction shall not begin without necessary utility easements, not to exclude the effect of existing easements to allow the for the construction of the sewer line project as an appurtenance to the water pipeline.**

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, Annis, Hasegawa, Turnas, Kiehle, Whittle, Dissinger

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

2019-42	Alice Kriz & Mitchell Warren; Residential Rural District; Request for Riparian Area Conditional Use Approval to construct a new driveway with a brook crossing at 1505 Ames Hill Road; Tax Map Parcel #90001.000
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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

Alice Kriz & Mitchell Warren were in attendance to present this request by Alice Kriz & Mitchell Warren for Riparian Area Conditional Use Approval to construct a new driveway with a brook crossing at 1505 Ames Hill Road; Tax Map Parcel #90001.000

The applicants explained the project.

The Board reviewed submitted application materials and site plans. The Board discussed the need for the project and snow storage

Hasegawa made the motion, which was seconded by Kiehle, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Sections #435 & 334 of the Brattleboro Land Use Regulations, this request by Alice Kriz & Mitchell Warren for Riparian Area Conditional Use Approval to construct a new driveway with a brook crossing at 1505 Ames Hill Road; Tax Map Parcel #90001.000.

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, Annis, Hasegawa, Turnas, Kiehle, Whittle, Dissinger

DRB members in opposition: none

DRB members not participating: none.

The motion passed.

8 Administrative Matters and New Business

The Board received a potential revision to the Development Review Board Rules & Procedures, changing meeting dates to first and third Wednesdays. Members will review the change and vote on the matter at their June 17, 2019 meeting, with the change taking effect for the July meeting..

9 Adjournalment

The meeting was adjourned at 8:50 pm.

Approved: _____
James Valente, Chair

Date