

Town of Brattleboro  
Development Review Board  
Meeting  
August 21, 2019

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**1 Call to order**

The August 21, 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 7:07 PM by Chair James Valente. Other Board members present were Maya Hasegawa, Eric Annis, Kathryn Turnas, II, Ian Kiehle, Nora Dissinger, and Michael Averill; alternate Ian Goodnow was absent.. Brian Bannon (Zoning Administrator) was also present. Vice-Chair Hasegawa heard application 2019-108 as Valente had a conflict.

Also present were: Robert Blood, Robert Storie, Doug Beachel, Terry Briggs, Anne Doesburg, Isaac Wagner, Bill Jahn, Melanie Boese, Linda Bailey, Victor Morrison, Christopher Wocell, Jim Westbrook, William Hill, Joe Meyer, Stephen Page, Robert Tortolani, and Jackie Reis.

**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 July 17, 2019**

Hasegawa moved, which was seconded by Turnas, to approve the Minutes of July 17, 2019. The vote in favor was 7-0; 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**

Valente had a conflict with application 2019-108; Kiehle with 2019-104

**The Board reorganized the agenda.**

**7 Review of Cases/Public Hearings**

<b>2019-75</b>	Carol Lolatte for the Town of Brattleboro; Waterfront District; Request for Site Plan and Local Act 250 Approval to Construct 1600 sq. ft. addition to an indoor skating rink with stormwater treated in an infiltration trench below the roof dripline, with overflow onto a forested area of more than 100' before discharging into pond at 61 Memorial Park Drive; Tax Map Parcel 110215.000 <b>Withdrawn</b>
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**Kiehle made the motion and seconded by Turnas**, that Application 2019-75 be withdrawn without prejudice.

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

DRB members in opposition: none.

DRB members not participating: none.

**The motion passed.**

<b>2019-108</b>	Douglas Beachel for Carrols Restaurant Group for SMS Page, LLC; Neighborhood Center District; Request for Site Plan Approval to renovate the building and building façade with site plan improvements 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:

Robert Blood, Robert Storie, and Doug Beachel were in attendance to present this request by Douglas Beachel for Carrols Restaurant Group for SMS Page, LLC for Site Plan Approval to renovate the building and building façade with site plan improvements at 548 Canal Street; Tax Map Parcel 340033.000

Beachel explained the project. Blood reviewed the building and site changes.

The Board reviewed submitted application materials and site plans. The Board discussed signage, landscaping, onsite circulation, lighting, sidewalks, bike racks, and parking.

**Averill made the motion, which was seconded by Dissinger**, 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 renovate the building and building façade with site plan improvements at 548 Canal Street; Tax Map Parcel 340033.000. The Board added the following conditions to those in the draft decision:

- 1. The project will be phased; phase one: site improvements and building improvements completed in 2019; and, phase two: sidewalks to be rebuilt in 2020, contingent upon approval by the Vermont Agency of transportation. Certificates of Compliance will be issued upon the completion of each phase, with the use authorized to commence upon receipt of the Certificate of Compliance for the first phase.**

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, Dissinger, Averill, and Kiehle.

DRB members in opposition: Turnas.

DRB members not participating: Valente, due to a conflict.

**The motion passed.**

<b>2019-92</b>	Bill Jahn for the Brattleboro Outing Club and Advanced Technologies Management; Rural Residential District; Request for Site Plan and Local Act 250 Approval to place an unfinished 15' x 36' preconstructed building on a paved parking area for storage and use as a warming hut at Senator Gannett Drive; Tax Map Parcel 70401.000
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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: Robert Tortolani.

Bill Jahn and Melanie Boese were in attendance to present this request by Bill Jahn for the Brattleboro Outing Club and Advanced Technologies Management for Site Plan and Local Act 250 Approval to place an unfinished 15' x 36' preconstructed building on a paved parking area for storage and use as a warming hut at Senator Gannett Drive; Tax Map Parcel 70401.000

Jahn explained the project.

The Board reviewed submitted application materials and site plans. The Board discussed parking, circulation, utilities, and lighting.

**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 Sections #434 & #436 of the Brattleboro Land Use Regulations this request by Bill Jahn for the Brattleboro Outing Club and Advanced Technologies Management for Site Plan and Local Act 250 Approval to place an unfinished 15' x 36' preconstructed building on a paved parking area for storage and use as a warming hut at Senator Gannett Drive; Tax Map Parcel 70401.000.

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, Dissinger, Averill, and Kiehle.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

<b>2019-103</b>	William Hill for Rachel Frieda Hill Trust; Residential Neighborhood District; Request for Site Plan and Conditional Use Approval to create a forth dwelling unit, a retroactive permit, at 80 Grove Street; Tax Map Parcel 275255.000
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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: Jackie Reis.

Bill Hunt was in attendance to present this request by William Hunt for Rachel Frieda Hill Trust for Site Plan and Conditional Use Approval to create a forth dwelling unit, a retroactive permit, at 80 Grove Street; Tax Map Parcel 275255.000

The history of the fourth unit.

The Board reviewed submitted application materials and site plans. The Board discussed parking, landscaping, stormwater, energy efficiency, and exterior outlet.

An abutter expressed concerns with the boundary line and boundary line plantings.

**Annis made the motion, which was seconded by Hasegawa**, that the Brattleboro Development Review Board **approve**, based upon the foregoing Findings of Fact and Conclusions of Law, pursuant to Sections #434 & # 435 of the Brattleboro Land Use Regulations, this this request by William Hunt for Rachel Frieda Hill Trust for Site Plan and Conditional Use Approval to create a forth dwelling unit, a retroactive permit, at 80 Grove Street; Tax Map Parcel 275255.000. The Board added the following conditions to those in the draft decision:

- 1. A professionally prepared landscaping plan with street trees and front yard plantings must be submitted to the Zoning Administrator for review and approval and executed within one year of the date of this decision.**

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, Dissinger, Averill, and Kiehle.

DRB members in opposition: none

DRB members not participating: none.

**The motion passed.**

<b>2019-104</b>	Serenity Smith and William Forchion; Rural District; Request for Minor Subdivision and Local Act 250 Approval to create new 17.08 acre residential lot, renewing subdivision permit 2017-38 at 416 Meadowbrook Road; Tax Map Parcel 60169.100
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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: none.

Jim Westbrook was in attendance to present this request by Serenity Smith and William Forchion for Minor Subdivision and Local Act 250 Approval to create new 17.08 acre residential lot, renewing subdivision permit 2017-38 at 416 Meadowbrook Road; Tax Map Parcel 60169.100

Westbrook explained that this is a renewal of the prior subdivision approval with no changes to the plan

The Board reviewed submitted application materials and site plans. The Board discussed public access, solar orientation, trails, and right of way.

**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 Sections #440 & #436 of the Brattleboro Land Use Regulations, this request by Serenity Smith and William Forchion for Minor Subdivision and Local Act 250 Approval to create new 17.08 acre residential lot, renewing subdivision permit 2017-38 at 416 Meadowbrook Road; Tax Map Parcel 60169.100. The Board added the following conditions to those in the draft decision:

- 1. There will be a written driveway maintenance, repair, and improvement agreement executed by the owners of the two parcels and recorded in the Brattleboro Land Records.**

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, Dissinger, and Averill.

DRB members in opposition: none

DRB members not participating: Kiehle, due to a conflict.

**The motion passed.**

## **8 Review of a Finding of Non-Substantial Improvement**

<b>2019-101</b>	Brian Bannon for Darlene Jenson; Residential Neighborhood District; review of cumulative improvement percentage for a roof replacement project on a home located in a Special Flood Hazard Area at 216 Williams Street; Tax Map Parcel 315131.000
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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.

Bannon outlined procedures for tracking cumulative improvements to buildings in the Special Flood Hazard Area. Permits are required for all improvements, including repair. The costs of those permits are combined over a floating three year period. Buildings must be brought into conformance with flood standards if they have improvements of 50% or more.

Bannon explained the calculations for 2019-101, which found an improvement of 40.1%; projects between 40% and 60% approval are subject to review in a public hearing.

The Board reviewed submitted materials. The Board discussed procedure.

**The Board determined that the improvement calculation is reasonable.**

***The Development Review Board’s determinations and recommendations on this request, as recorded in these minutes and provided to the applicant, do not constitute a formal decision and are not be eligible for appeal under SECTION 467.***

**9 Administrative Matters and New Business**

Valente discussed elements to be considered while making a decision, in particular, that decisions must be based strictly on the review criteria of the requested approvals. He noted that strong feelings about a particular permitted or conditional use that precluded dispassionate consideration of the evidence at hand should lead a Board member to recuse themselves.

**10 Adjournment**

The meeting was adjourned at 8:30 pm.

Approved:

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James Valente, Chair

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Date