

Town of Brattleboro
Development Review Board
Meeting
September 18, 2019

1 Call to order

The September 18, 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 7:01 PM by Vice Chair Maya Hasegawa; Chair James Valente was absent. Board members Eric Annis, Nora Dissinger, Michael Averill, and Ian Kiehle were present. Board member Kathryn Turnas, II was absent. Alternate Member Ian Goodnow was present and appointed by the Chair to hear this application. Brian Bannon (Zoning Administrator) was also present.

Also present were: **Bill Hodgeman of Tri Park Cooperative Housing and Rick Fleming of Dead River**

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 August 21, 2019

Annis moved, which was seconded by Goodnow, to approve the Minutes of August 21, 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.

Goodenough was appointed to hear all applications.

7 Review of Cases/Public Hearings

2019-119	Sandra Matteson & Tri Park Cooperative Housing, Corp; Residential Neighborhood District; request for Flood Hazard Overlay District approval to install a replacement oil tank with tie-downs in a regulatory floodway at 11 Village Drive; Tax Map Parcel #MH060159.G11
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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: John Brooker Campbell, River’s Program.

Bill Hodgeman of Tri Park Cooperative Housing and Rick Fleming of Dead River were in attendance to present this request by Sandra Matteson & Tri Park Cooperative Housing, Corp. for Flood Hazard Overlay District Conditional Use Approval to install a replacement oil tank with tie-downs in a regulatory floodway at 11 Village Drive; Tax Map Parcel #MH060159.G11

Fleming and Hodgemen explained the project.

The Board reviewed submitted application materials. The Board discussed the site specific hazard, the tank location, the risk from ice dams, erosion risk, potential protective measures, and advisability of continuing occupation of the house. Members felt the project reduced risk, even though the home continues to be at high risk.

Averill moved, and Dissinger seconded that the Board enter deliberative session at 7:22; the hearing reconvened at 7:35

Annis 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 #251 and #436 of the Brattleboro Land Use Regulations, this request by Sandra Matteson & Tri Park Cooperative Housing, Corp. for Flood Hazard Overlay District Conditional Use Approval to install a replacement oil tank with tie-downs in a regulatory floodway at 11 Village Drive; Tax Map Parcel #MH060159.G11. The Board added the following conditions to those in the draft decision:

- 1. The requirements to bury the tank or elevate above base flood elevation are waived; the first is cost prohibitive; the second would create a tipping risk.**
- 2. Steel strapping shall be used.**

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: Goodenow, Annis, Hasegawa, Dissinger, Averill, and 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 7:37 pm.

Approved:

James Valente, Chair

Date