

Town of Hinesburg
Development Review Board
December 6, 2016
Approved December 20, 2016

Members Present: Greg Waples, John Lyman, Ted Bloomhardt, Dennis Place, Sarah Murphy, Rolf Kielman, Dick Jordan arrived at 7:40 pm.

Members Absent: None.

Representing Applications: None.

Public Present: None.

Also Present: Dawn Morgan (Recording Secretary), Alex Weinhagen (Director of Planning & Zoning), Mitchel Cypes (DRB Coordinator & Zoning Administrator).

Dennis P. chaired the meeting, which was called to order at 7:31 pm.

Agenda Changes: None.

Public Comments for Non-Agenda Items: None.

Minutes of 11/01/16: Greg W. made a **motion to approve the 11/01/16 minutes as amended.** Ted B. **seconded the motion.** The Board voted **6-0.**

Other Business:

- **Stevie Spencer & Rolf Kielman: Extension request (six months) – Sketch Plan Approval for a 2-lot subdivision on Fox Meadows. Decision dated 6/7/2016, expiring 12/7/2016.**

Rolf K. recused himself from the discussion.

Dennis P. **made a motion to approve an extension of 6 months.** Greg W. **seconded the motion.** The Board **voted 5-0.**

- **Hinesburg Center LLC, David Lyman – Review draft denials – Subdivision preliminary plat application and conditional use application for development in a flood hazard area. Public hearing closed on 11/1/2016.**

John L. recused himself from the discussion.

Greg W. suggested discussing the preliminary plat draft denial first. Greg W. said that he had no questions, comments or concerns regarding the draft denial. Ted B. commented

on item number 5 in the conclusion, suggesting that he thought it did not need to mention “should this decision be reversed on appeal” as it is hypothetical. Greg W. said that the phrase was harmless, given that the Board is given little consideration during appeal.

Alex W. said that it was included as instruction to a judge, should the denial reach that stage. He continued to say that the Board wouldn’t want a judge to assume this was a complete preliminary plat review, but would instead want it remanded back to the Board for review of the entire project. Alex W. also noted that this specific denial would not be appealed, as the Applicant has already begun working on his next application.

Ted B. noted that the language “A full review of the project would still be necessary” is also included at the beginning of the same sentence, and said that appeal is something that doesn’t happen very often. Greg W. said that appealing decisions is something that is happening more often now, but that he had no issue with removing the phrase. Alex W. said that he would remove it.

Greg W. made a motion to approve the preliminary plat draft denial as amended. Rolf K. seconded the motion. The Board voted 5-0.

Ted B. made a motion to approve conditional use application draft denial as written. Rolf K. seconded the motion. The Board voted 5-0.

On the Record Review discussion (cont’d from 11/1):

Ted B. asked how the Town of Shelburne’s use of on the record review was working for them and Alex W. said that they had just started using the process this year. Alex W. said that he received feedback from the Shelburne Town Manager saying that he felt the process had made a recently contested decision more difficult due to increased legal representation of the parties involved.

Alex W. went on to say that feedback received from the Shelburne Director of Planning & Zoning indicated that the application in question was unique in nature and involved a zoning violation. Greg W. noted that it was likely Shelburne’s first significant on the record review and there is a learning curve to implementing this process.

Greg W. said that although he has been vocal about the possibility of implementing the process for Hinesburg, after reading the information about the process he feels less ardor for it now. He said that his initial enthusiasm was a reaction to some of the issues that have occurred recently, but that the likelihood of similar situations coming up is small.

Greg W. went on to say that once on the record review is in place for several years it could be a smooth process. However, he said the implementation period could be quite bumpy.

Ted B. noted that there are some significant proposals coming that could result in appeals, and if the Board would like their review of the proposals to stand in court then adopting on the record review is the only way to make that happen.

John L. asked if it would be wise to see how some other towns like the process. There was general discussion about other towns that have implemented the process and which ones might be good to solicit feedback from.

Alex W. said that he understands the benefit to the process, but has a concern that for some of the more controversial applications attorneys could take the opportunity to create a courtroom dynamic at meetings. He indicated that there is a likelihood for sworn testimonies, cross examinations, formal submissions into evidence, formal closing arguments, etc. Alex W. said his concern is that this could significantly change the more informal setting where the Board currently reviews applications.

There was general discussion about the formality of the process and how that might impact the Board's current process. Alex W. said he would solicit feedback from the Town of Middlebury.

News/Announcements/Correspondence

Alex W. said that interviews are potentially scheduled for next week.

Alex W. said that annual reports for the Town Report are due soon, so he will be sending statistics to Dennis P. shortly. Dennis P. extended the invitation for feedback from other Board members.

There was discussion about the date of the next meeting, and Mitch C. and Alex W. said they would inform the Board of the date.

Dennis P. made a **motion to adjourn. Sarah. seconded the motion.** The Board **voted 6-0,**

The meeting adjourned at 7:51 pm.

Respectfully submitted,
Dawn Morgan, Recording Secretary