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**Town of Stowe**  
**Development Review Board**  
**Meeting Minutes – October 4, 2022**

A regular meeting of the Development Review Board was held on Tuesday, October 4, 2022, starting at approximately 5:00 pm. The meeting was held at the Stowe Town Office with remote participation using the “Zoom” application.

**Members Present:** Drew Clymer, Tom Hand, Mary Black, Chris Walton, David Kelly, Andrew Volansky

**Staff Present:** Sarah McShane- Planning & Zoning Director

**Others Present in Person:** [See sign-in attendance sheet]

**Approval of the Agenda** – The public meeting was called to order at 5:00 P.M by Chair Clymer.

**Project #: 6933 (WITHDRAWN)**

**Owner: Gregory S Kehr & Marjorie A Kehr**

**Tax Parcel #: 07-104.020**

**Location: Werner Road (lot 2)**

**Project: Pre-development Clearing Within the RHOD/Amend Prior Clearing Limits**

**Zoning: RR2**

Chair Clymer confirmed project 6933 had been withdrawn.

Zoning Administrator added the following project to the agenda:

**Project#: 6814;** 87 Farr Hill Rd; a two-lot subdivision. Staff noted that the applicant had verbally withdrawn the application and had since abandoned the application as no formal written withdrawal has been submitted. At 5:02pm C. Walton made the motion to close the hearing for project 6814 and deny as incomplete. The motion was seconded by M. Black, the motion passed with A.Volansky abstaining.

**Project #: 6966**

**Owner: Russell F Foregger Rev. Trust/Greg Zlevor**

**Tax Parcel #: 7A-191.000**

**Location: 4/6 Sunset St**

**Project: Outdoor Seating on Greenspace for Neighboring Retail/Coffee Shop**

**Zoning: VC-10**

Chair Clymer swore in Laura Vilalta at 5:03pm.

Ms. Vilalta stated during the pandemic outdoor seating was desired and during that time there was an exception for outdoor seating under the regulations. Ms. Vilalta continued to describe the lease that she has with the owners of 4 Sunset Street to lease the greenspace next to her business which is Black Cap Coffee. She submitted the application once made aware that a permit was required.

44 Chair Clymer requested clarification on whether there is any issue with using a neighboring  
45 property for outdoor seating. The Zoning Administrator stated the regulations allow it.

46  
47 At 5:06pm M. Black made a motion to approve the project as presented. The motion was seconded  
48 by C. Walton and unanimously approved.

49  
50 **Project #: 6997**  
51 **Owner: Mark Jackson**  
52 **Tax Parcel #: 07-236.070**  
53 **Location: 0 Summit View Dr**  
54 **Project: Appeal of 6968; Construct Single Family Dwelling**

55  
56 Chair Clymer confirmed the application had been withdrawn.

57  
58 **Review of 9/20 Minutes**  
59 While waiting for the Applicant for Project 6971, the DRB reviewed the meeting minutes from the  
60 last meeting. At 5:10pm D. Clymer made a motion to approve the minutes from 9/20/2022. The  
61 motion was seconded by D. Kelly and approved with Tom Hand abstaining.

62  
63 **Project #: 6971**  
64 **Owner: Percy Paul E Trustee/Percy Farm Trust**  
65 **Tax Parcel #: 10-114.000**  
66 **Location: 29 Percy Hill Rd**  
67 **Project: Increase Ag-PUD by Adding Landmark Meadows; Amend Density on Parcel within**  
68 **Ag-PUD**  
69 **Zoning: RR5**

70  
71 M. Black requested clarification regarding the project location as it was listed on the agenda. The  
72 Zoning Administrator stated it was probably pulled directly from the application itself.

73  
74 At 5:15pm Chair Clymer reviewed what qualifies an interested party. The Zoning Administrator  
75 recommended the applicant be present if interested parties are going to be determined.

76  
77 At 5:22pm Chair Clymer swore in Applicant Paul Percy and all members of public that were at the  
78 meeting. Interested Party status to be determined by the Board.

79  
80 Mr. Percy stated he owns the PRD and 10-15 years ago he bought land and he would like to add to  
81 the PRD and move density across the road.

82  
83 Chair Clymer clarified his request is to increase the Ag-PUD by adding the Landmark Meadow and  
84 then amend the density on a parcel within the Ag-PRD by transferring it to Lot 1 and Lot 5. Chair  
85 Clymer clarified this is an amendment to a previous approval which may require review under the  
86 Stowe Club Test. Mr. Percy testified there is no development proposed under this application.

87  
88 Chair Clymer asked if the Board felt the Stowe Club Test was necessary.

89  
90 Zoning Administrator stated when the Ag PRD was created the land of Lot 1 was set aside for  
91 farming and the density of Bouchard Farm was used for the Covered Bridge condos. The Zoning  
92 Administrator questioned whether this application triggers the need to evaluate under the Stowe  
93 Club Test. The Zoning Administrator also questions since Lot 1, 4, and 5 were set aside for

94 agricultural use if that triggers the need for the Stowe Club Test. Under the regulations it requires  
95 the DRB review to assess. The Zoning Administrator noted that she has been unable to locate any  
96 specific condition that those lots must be used for only agricultural use. There was discussion  
97 regarding specific regulations and any conditions which would require review under the Stowe  
98 Club Test.

99  
100 Chair Clymer asked for clarification on the Ag-PUD. Lot 3, Lot 1, Lot 2, and Lot 5 are all included  
101 within the PUD. Mr. Percy stated Lot 1 is mainly protected by the Land Trust.

102  
103 The Zoning Administrator recited Section 2.16 regarding an amendment; however, no condition has  
104 been found stating the lands must be retained for agricultural use. This has been an evolving  
105 project since the early 80's.

106  
107 T. Hand requested clarification regarding the Ag-PRD and the transfer of density which changes the  
108 final plan of the Ag-PRD. The Zoning Administrator clarified that the Board is reviewing amending  
109 the boundaries of the Ag-PRD to encompass more land and if it needs to be reviewed under the  
110 Stowe Club Test or based only on the merits. Discussion regarding when the Stowe Club Test was  
111 created. M. Black requested clarification on how the PRD has changed in the past. When the Ag-PRD  
112 was first approved, has the land increased and the boundaries changed? Mr. Percy stated that Lot 3  
113 may have changed but is uncertain whether the Ag-PRD changed previously.

114  
115 At 5:40pm Chair Clymer went through the Stowe Club Test Review.

116  
117 M. Black requested more clarity on if the Ag-PRD had previously changed.

118  
119 D. Kelly requested clarification on the applicant's testimony that the Landmark Meadow land was  
120 not developable. Mr. Percy stated the Landmark Meadow is protected under the Stowe Land Trust  
121 and has to be connected with the meadow on the other side of the road which is also protected by  
122 the Land Trust.

123  
124 C. Walton stated he does not believe there are any factual or regulatory circumstances which would  
125 require review under the Stowe Club Test.

126  
127 George Smith 217 Brook Rd, Lot 12, reported his concerns about the Stowe Club Test as it seems  
128 the Board doesn't know the original basis of the project and moving density to Lot 5 appears to be  
129 indicating future development, he requested clarification if Lot 5 is developable or not. Mr. Percy  
130 stated Lot 12 was not involved in the PRD; only the right to the use of the right-of-way was granted  
131 to Lot 12.

132  
133 Chair Clymer confirmed no development is proposed under this application. Chair Clymer also  
134 stated at this moment it is uncertain whether or not Lot 5 is developable, the absence of that clear  
135 language is why the Board was vague on applying the Stowe Club Test, there are no concrete  
136 conditions known regarding the original approval.

137  
138 Chair Clymer went through members of the public who were present for the meeting to determine  
139 interested party status and asked for relevant questions or comments:

140  
141 Scott Cuoto-61 Brook Rd Condo 23 spoke. Chair Clymer requested clarification on if the condos are  
142 within the Ag-PUD, it was confirmed. Mr. Cuoto requested clarification regarding if this decision  
143 paves the way for future development. Chair Clymer stated there is available density within the

144 PUD already but this application is not proposing any development. Mr. Cuoto was concerned with  
145 the road, it is extremely costly and the change in development would impact the road access, costs,  
146 and maintenance.

147  
148 C. Walton requested clarification on how the density changes on Lot 5. The Zoning Administrator  
149 stated it would increase from 1 unit to potentially up to 15 units of single-family or 46 units of two  
150 or multi-family units. Discussion regarding density changes through the history of the PRD.

151  
152 Ed Stahl-Brook Rd spoke. He requested clarification regarding if the project is approved and the  
153 property is sold to developers, would the developer have to come back to the DRB for approval?  
154 The Zoning Administrator stated plans would have to be submitted and follow the DRB process for  
155 any development on those lands.

156  
157 Jeff Rog, 61 Brook Rd (Covered Bridge Condos) spoke. He stated the road is dangerous during  
158 winter and there is a blind curve; increase in density would need an access study. Chair Clymer  
159 repeated there is no development proposed, if there were there would be standards regarding  
160 traffic impact on roads and highways in the vicinity.

161  
162 Neil Wheaton-owner of 3 lots in Majestic Heights- which includes 25 acres within RHOD. He  
163 reported that he owns 2 lots that have building envelopes 100 ft from Percy land. Concerned  
164 whether or not Lot 5 is within the RHOD and how big of a Lot is normal within the RHOD. The  
165 Zoning Administrator confirmed RR5 has a 5 acre minimum. Mr. Wheaton stated concern that the  
166 additional density is not characteristic with the RHOD. Chair Clymer stated there is no density  
167 restriction in the RHOD, rather in the underlying district.

168  
169 Sanjay Berdia-291 Brook Rd- Lot 11- Concern regarding environmental impacts, on October '19  
170 there was a lot of runoff damages to their property caused by non-functioning culvert; concerned  
171 about increased density of Lot 5 that may increase that issue. Also concerned about Lot 5 regarding  
172 public access use that is heavily used by a mountain biking club.

173  
174 Request from member of the public for clarification on how density can be transferred from one  
175 property to another. The Zoning Administrator stated the DRB or the Zoning Administrator have  
176 the authority granted by the zoning regulations which does not restrict density on conserved lands.

177  
178 Roger Joseph-Unit 12 Covered Bridge Rd, 1145 Brook Rd- reported concerns with increase in  
179 density and the increased traffic on road as well as the environmental impacts of building on Lot 5.

180  
181 Suzanne Danzig- abutter to Lot 5- reported concerns about the environmental impact, she  
182 requested interested party status.

183  
184 Francis Loewald-Unit 15 Covered Bridge- reported concerns with moving density is implying that  
185 the Town is looking favorably on building units, also concerned with Lot 5 and the impact it has on  
186 the viability of the existing septic fields.

187  
188 Joanne Burk-Unit 11 Covered Bridge- reported concerns with due diligence and legal work to  
189 determine if Lot 5 is in fact deemed agricultural or if it is developable.

190  
191 Pedro and Wife Rosario, Unit 21 Covered Bridge- concerned regarding uncertainty of past  
192 decisions.

193

194 Michael Sorier 1145 Brook Road #13, requested party status.  
195  
196 Wendy and Tom O'Connor-Lot 6 Majestic Heights- concerned this decision sets a precedent  
197 allowing future development.  
198  
199 Dave Monroe-Unit 16 Covered Bridge-requested party status.  
200  
201 Chair Clymer began standard review at 6:30pm.  
202  
203 C. Walton requested clarification from Mr. Percy regarding original approval and his knowledge of  
204 any conditions requiring Lot 1, 3, or 5 to be retained for agricultural use. Mr. Percy stated there was  
205 never any condition of such, he reported some it is agricultural lands, some of it is woods, some of it  
206 is open.  
207  
208 Discussion regarding who previously owned Majestic Heights.  
209  
210 Chair Clymer requested clarification on right-of-way. Mr. Percy stated there is a 50-foot deeded  
211 right-of-way which he owns and other property owners have the right to use it and maintain it.  
212  
213 T. Hand requested clarification of the possibility that the lots could be used for agriculture but also  
214 developed. The Zoning Administrator clarified that the conserved lands are indicated and must be  
215 retained in agricultural or forestry use, the conservation easements are private deeded agreements.  
216 T. Hand requested clarification regarding if there is conservation language for Lots 1,3 or 5 that  
217 required the land to be completely used for agriculture or partially. Mr. Percy stated any lands  
218 within conservation cannot be used for anything other than agriculture.  
219  
220 A.Volansky requested clarification regarding Lots noted as Sub-lot. The Zoning Administrator  
221 clarified lots on the plans.  
222  
223 T. Hand requested clarification regarding transferring development rights. The Zoning  
224 Administrator clarified the request is not a transfer of development rights, rather as under PRD and  
225 PUD the applicant is allowed to utilize the development rights anywhere within the PUD or PRD  
226 boundaries.  
227  
228 Chair Clymer requested clarification regarding moving density within the PRD, he asked who  
229 controls the density. The Zoning Administrator stated the density can be applied anywhere within  
230 the PUD/PRD boundaries and the density belongs to the property owner.  
231  
232 Chair Clymer requested confirmation regarding future density from the applicant. The Zoning  
233 Administrator stated the existing density regarding the lots Mr. Percy owns were provided and she  
234 provided the density for Lot 2. M. Black stated the densities appeared accurate.  
235  
236 Carolyn Loeb representing Stowe Land Trust read a statement.  
237  
238 Chair Clymer recited requirements for Ag-PRD. The Zoning Administrator stated at the original  
239 time of the approval the recited section was not a requirement. Chair Clymer confirmed any  
240 approval given today brings the plans into conformance with today's requirements which is to note  
241 what areas are to be developed and what plans to be retained as agricultural lands. T. Hand stated  
242 the plans may look like the conservation agreement. Zoning Administrator stated it may also be  
243 greater than those conserved lands.

244  
245 Chair Clymer requested the designation of agricultural lands versus development land be submitted  
246 to the Board.

247  
248 C. Walton stated there appears to be a need for recess to obtain the missing documents and  
249 materials requested. T. Hand requested to see internal lot lines as well.

250  
251 Neil Wheaton recited the RHOD language, concerned about Lot 5 increased density and its  
252 compliance with RHOD

253  
254 At 7:20pm Mr. Percy requested a recess to November 1, 2022. At 7:22 the motion was made by C.  
255 Walton to recess the item to November 1<sup>st</sup> and move into deliberative session. The motion was  
256 seconded by M. Black and unanimously approved.

257  
258 **Other Business:**

259  
260 At 7:25pm the motion to move into deliberative session and adjourn the meeting was made by C.  
261 Walton and seconded by M. Black.

262  
263 The meeting adjourned and the DRB entered deliberative session.

264  
265 Respectfully Submitted,  
266 Layne Darfler

267