



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Town of Stowe
Development Review Board
Meeting Minutes – November 15, 2022

A regular meeting of the Development Review Board was held on Tuesday, November 15, 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: Mary Black, Chris Walton, Tom Hand, Peter Roberts, Michael Diender

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 5:02 P.M by Acting Chair Tom Hand.

Project #: 7022

Owner: AWH Stowe Resort Hotel LLC c/o AWH Partners LLC

Tax Parcel #: 11-138.000

Location: 199 Topnotch Dr

Project: Construct Four Story Multi-Family Dwelling with Conference/Banquet Room

Zoning: UMR/PUD

T. Hand stated there was a written request to recess the hearing until January. Zoning Administrator confirmed the request and suggested January 17th.

At 5:05pm the motion to recess the review of Project 7022 until January 17, 2022 was made by M. Black, seconded by C. Walton and unanimously approved. The hearing will be continued to the time and date certain on January 17th.

Project #: 7024

Owner: VR US Holdings II /Stowe Mountain Resort

Tax Parcel #: 14-002.000

Location: 7416 Mountain Rd

Project: Host A Temporary Food Trailer Adjacent to Spruce Camp Building (Nov.-April)

Zoning: RR 5/SKI PUD

At 5:07pm T. Hand swore in Applicant Matt Lillis of Stowe Mountain Resort.

M. Lillis provided a project overview which included the location of a food trailer adjacent to spruce camp. The trailer is 14’x7’ on a slope side location away from the road. Intention is to install it for the winter season and then relocate it off site. Hours of operation are 10am-4pm. Trailer is powered by electric service through the building. There will be trash and composting facilities nearby. The food trailer will not be visible from public roadways.

C. Walton requested more information on outdoor lighting. None proposed.

T. Hand requested clarification on whether it is a trailer or food truck. M. Lillis stated it is a trailer.

47 At 5:10pm C. Walton made the motion to approve the project as presented. The motion was
48 seconded by M. Diender and unanimously approved.

49

50 **Project #: 7017**

51 **Owner: David Wallace & Stephane Von Doering**

52 **Tax Parcel #: 03-053.02C**

53 **Location: 237 Points North Rd**

54 **Project: Appeal of Zoning Administrator's Denial of Zoning Permit #6993**

55 **Zoning: RR3**

56

57 At 5:11 pm T. Hand swore in Zoning Administrator Sarah McShane, Hal Stevens, and Stephane Von
58 Doering.

59

60 At 5:13 T. Hand requested to go into deliberative motion, motion was seconded by C. Walton and
61 unanimously approved. The Board resumed the hearing at 5:18 by motion made by C. Walton and
62 seconded by M. Black. The motion passed unanimously.

63

64 T. Hand requested a brief overview of how the project ended up in front of the DRB. Zoning
65 Administrator confirmed the original application was submitted for an after the fact approval of the
66 open wall pavilion structure, from staff's position it was constructed partially within the setback so
67 no permit could be issued. It is the applicant's position that the decision was wrongfully
68 determined. The 15-day appeal period came and went so with no appeal the decision was final. A
69 new application was then presented to correct the deficiencies which was also denied. An appeal
70 was submitted within the 15 days.

71

72 T. Hand stated the core issue that needs to be resolved is the Town's definition of side yard versus
73 front yard and whether or not this encroaches into the setbacks.

74

75 S. Van Doering stated they had a stone mason do a lot of work on the hillside and allowed him to
76 have artistic freedom. He suggested building a pavilion and didn't know there was an issue with
77 zoning regulations because it was not in view from the roadside. She testified that as the roof was
78 being constructed, she thought of checking in with zoning department. At the time the survey
79 company had told them they were okay but then they never heard back from them. She explained
80 that at that point they reached out to another company and visited the zoning department about an
81 application for a permit because the roof peak was a concern. She reported that she did not realize
82 the differences between side yard, front yard, and rear yard at the time of application. She thought
83 the next step was to apply for a variance. The pavilion costs in excess of \$300,000-\$350,000. After
84 the permit was denied, they reached out to an attorney; it was the opinion of Trudell Consulting
85 that the side yard is the Points North side.

86

87 H. Stevens stated exhibit 1 is the deed showing it is a 3-acre parcel designated as Lot 1B. The Salvas
88 subdivided their commercial lot. He stated if you look at the subdivision map from back then you
89 can see the existing house was facing Rt 100. No other lots were using Points North Road. The
90 subdivision permit the Salvas received stated Rt. 100 and Points North Road. Points North Road is a
91 private right of way. He explained that his argument is that the house was designed to front Rt. 100
92 and Points North Rd is essentially a driveway.

93

94 M. Black asked for clarification regarding exhibit 2A and that there were multiple owners shown off
95 Points North Rd at the time of subdivision. H. Stevens stated there was no development or access to
96 those lots at the time of subdivision.

97
98 T. Hand stated the argument is that historically it was one lot with frontage off Rt. 100 and that
99 house was built prior to the subdivision. He asked how the home was accessed. He asked was it
100 that Points North Rd was the driveway and once Points North Rd was established as a road, does it
101 then have dual frontage. He noted that the lot is disconnected from Rt. 100 now and there is a lot of
102 history, but the Board's task is to apply the standards.

103
104 M. Black requested the date the house was built. S. Von Doering stated the house was built in 2003
105 but there may have been a house there previously.

106
107 C. Walton stated Salvas subdivided the land with the knowledge that the road frontage would be cut
108 off. H. Stevens said he does not know what Salvas knew at the time. C. Walton stated the applicants
109 constructed a structure based on the town's bylaws today, stating the house fronts on Points North
110 Road. C. Walton asked for clarification as to what staff sees as the front yard. Zoning Administrator
111 confirmed staff finds the front yard to be measured off Points North Road.

112
113 M. Diender stated after the subdivision it changes the access to the lot so the argument of historic
114 does not hold up. T. Hand requested clarification regarding the setback measurements. H. Stevens
115 stated the front yard is where the first boundary line hits the road because it is an irregular shaped
116 lot. T. Hand asked H. Stevens to point out where he sees the front yard and setbacks on the plans.
117 T. Hand stated the lot and yard dimension requirements. Stating the notation from the applicants is
118 claiming this lot has no frontage and therefore no front yard. H. Stevens stated the key shape is the
119 front yard. T. Hand continued to request clarification regarding if Points North Road is a street,
120 even if private. H. Stevens argued that the lot does not meet Points North Rd first but is closer to Rt.
121 100. T. Hand clarified that is only if it has frontage on that road, but it does not. H. Stevens argued
122 that the language in the regulations does not specify that, stating it is ambiguous.

123
124 M. Black stated Section 16.17 provides the definition of street which includes a road on a
125 subdivisions plan approved by the DRB, the road is shown on a survey and listed as a road.

126
127 H. Stevens stated the other argument is where the setback is measured from. Zoning Administrator
128 stated it is measured from the edge of the right of way; the property line may be the centerline but
129 the setback is measured from the edge of the right of way.

130
131 T. Hand stated there was a prior condition which may have been a driveway which turned into a
132 road. Zoning Administrator confirmed any right of way serving three or more lots is considered a
133 road.

134
135 T. Hand requested the width of the right of way for Points North Road. H. Stevens stated three rods
136 or 29 feet. T. Hand stated it is called out as 50' on the subdivision plan. T. hand provided the
137 definition of a roadway under the regulations. The Board concluded that Points North Road is a
138 road.

139
140 T. Hand stated when a lot has no frontage on a street it gets measured from the nearest street.
141 Requested clarification regarding where in the documentation of the subdivision approval shows
142 the side yard setback noted. H. Stevens stated under the subdivision approval the plat does not
143 show any other lots being serviced by the driveway- how would you know that Points North Road
144 is a road and not a driveway. T. Hand stated the applicant referenced 2a but 2b is the actual
145 subdivision plan, he requested clarification regarding the 2 lot subdivision plan from 2004 shows
146 Points North Rd continuing onward with the subdivision of the 2 lots but at the same time the

147 subdivision filed in 2004 does show additional lots; your argument is that no access is shown;
148 however the property in question does show access off from Points North Road which is called out
149 as Points North Road on the subdivision plan. M. Black added that exhibit 2b is not a recorded
150 survey, it is a plan that was submitted to wastewater management division; it is a public record but
151 by that time period there were other lots off from that road as it was built in the 70's to sell lots off
152 from it.

153
154 At 6:05pm C. Walton made the motion to uphold the Zoning Administrators decision to deny the
155 application. The motion was seconded by M. Black and unanimously approved.

156
157 Project #: 6808 (Cont. 4/19; 6/7; 7/19; 9/20)

158 Owner: Aaron & Carolyn Solo

159 Tax Parcel #: 07-073.080

160 Location: 0 Foxfire Ln/West View Heights

161 Project: Preliminary Review: Subdivision of 67 Acres into 9 Lots & One Buffer Lot

162 Zoning: RR2

163

164 Zoning Administrator clarified that the application has been updated and now involves 2 buffer
165 lots, 8 residential lots, and 1 common lot.

166

167 T. Hand requested clarification regarding how many times the project has actually been heard by
168 the Board. Zoning Administrator stated it has only been heard one time by the Board prior to the
169 current meeting, however it was continued a number of times.

170

171 Gunner McCain provided the redesign overview in which building zones have been shifted slightly
172 to avoid and protect the spring rights. The setup is challenging as the water lines are above ground
173 and some are leaking, the first aspect of the project is to bury the lines to protect those water lines.
174 He explained it is a 67-acre parcel, currently all lots are around 4 acres, there is a playground space,
175 walking trail, a screening plan, the project is consistent with development surrounding the lot, the
176 viewshed is consistent with what exist both north and south. He noted that the project is
177 considered an in-fill project in terms of rural residential. They are working on state permitting.
178 They have tightened up clearing limits, updated the plans to show development envelopes which
179 are where trees will be thinned, removed and/or planted, buyers will have to pick an acre with the
180 envelope to build. Anything outside of the 1 acre will be part of a forestry management plan. The
181 proposal includes 30 acres of common land. He explained they have met with the fire department
182 regarding the fire pond and determined it is adequate, the dry hydrant will need repair, both will be
183 updated to meet the Town requirements.

184

185 A.Solo stated trying to work with everyone around them to make this a subdivision that everyone
186 can enjoy. He hopes the use of common areas, playground, and trails will do that. Gunner McCain
187 stated the whole point is the owners want to live there with their family so they will be onsite.

188

189 T. hand requested clarification on the total number of lots. Gunner McCain stated 8 residential lots
190 and 2 common lots which are used as buffer lots from neighboring properties. Total acreage is 34.7
191 acres including the common lot which takes up half of the property.

192

193 Zoning Administrator requested clarification as to what the common lots are intend to be, will they
194 be boundary line adjustments? Gunner McCain stated they are intended to be boundary line
195 adjustments.

196

197 Zoning Administrator requested clarification regarding if the applicants are proposing any
198 limitations to those or will there be ability to build structures, or clear areas. Gunner McCain noted
199 if we allowed structures to be built on those lots they wouldn't be buffer lots. T. Hand would they be
200 sold to the neighbors? Gunner McCain responded yes the lots would be conveyed to the neighbors.
201 A. Solo stated his assumption is that with the boundary line adjustments they would be limited to
202 the conditions that were applied to them, however if someone wanted to clear in them, he wouldn't
203 be opposed to it. T. Hand stated technically you are conceding rights to your neighbor. Gunner
204 McCain stated the common land includes a playground area, as the project moves forward they
205 could come back with what would be included within the playground area but it wouldn't require
206 significant tree cutting. Zoning Administrator stated, assuming they return for final approval the
207 plans should show what the intended future use would be, if there were to be structures within the
208 playground areas or otherwise. Gunner McCain stated the playground area would not be part of the
209 forestry area. Zoning Administrator stated the open space versus common area would need to be
210 distinguished, the applicant was directed to review the regulations.

211
212 M. Diender requested clarification regarding the topography of the lots. Gunner McCain stated the
213 low part of the property runs uphill continuously to the high side. The difference in elevation is
214 roughly 300', they are trying to stay off the very steep areas.

215
216 George McCain stated he has provided topographic plans.

217
218 Carol Fano stated the new layout shows the protected area has changed, but no one has spoken to
219 them about water rights even though they stated that they have reached out to those who own the
220 water rights. Gunner McCain stated they reached out to everyone who has been using the water as
221 potable water and haven't reached out to the Fanos since they have a drilled well. A. Solo stated he
222 is happy to come to an agreement with anyone that has water rights, those that they have reached
223 out to have stated they are happy to get rid off the spring systems.

224
225 T. Hand stated that for the final plan, the applicants will need to note the abutters on the final plan.
226 C. Fano stated should their well fail they want to retain the option to be able to hook into that
227 spring. Also concerned that the drainage ditch coming through the power lines directly through
228 their property, the water comes from up the hill and is concerned about having more runoff coming
229 from those lots and flooding Scribner Rd. Gunner McCain stated as part of their State permitting
230 they will have to prove that no additional runoff will come from the property.

231
232 T. Hand began the subdivision review at 6:38pm

233
234 T. Hand requested clarification regarding the intention of the buffer lots and when they would do
235 the lot line adjustment. Gunner McCain stated they will wait until the permit for this project is
236 issued to make those lot line adjustments. Zoning Administrator stated if granted approval they
237 would have 180 days to file and record the plat which would need to be treated as a boundary line
238 adjustment within that time. Gunner McCain stated they are waiting for the okay from the DRB so
239 they can move forward with all of their other applications.

240
241 T. Hand requested clarification regarding the lot sizes being an issue. Zoning Administrator stated
242 the final plat couldn't be approved with those lots as shown but after the lot line adjustment is
243 made it would be possible. There are several ways to make it work.

244
245 T. Hand requested setbacks be labeled on the plans

246

247 T. Hand requested clarification regarding lots 7 and 8 there is a wetland shown. Gunner McCain
248 stated they would be modifying that line to show it is not within the streambed.
249

250 T. Hand requested clarification regarding if the road was preexisting. Gunner McCain stated the
251 road has been there since probably the '90s, that road goes up as far as Lot 2 to the switchback
252 where the new portion needs to be created and the existing needs to be improved. Gunner McCain
253 pointed out the plans which showed the construction plans for the road. T. Hand requested
254 clarification on the material existing roadway. Gunner McCain stated the beginning portion is gravel
255 but mostly dirt, with a lot of newer culverts. Discussion regarding road creation and improvements.
256

257 T. Hand stated there is a driveway going through wetland. Gunner McCain confirmed avoiding
258 wetland impacts but there are some buffer impacts, but they are not significant. The state has
259 conducted a site visit.
260

261 Gunner McCain stated there are some prime agricultural lands that are technically not actually
262 agricultural lands that will be affected. T. Hand stated there is a house proposed in that area.
263 Gunner McCain confirmed.
264

265 T. Hand requested information regarding the scenic vistas. George McCain showed the topographic
266 map and Gunner McCain provided an overview on the site elevations. Gunner McCain pointed out
267 the surrounding house sites sitting higher in elevation as well as the consistencies with what
268 already exists in the surrounding areas.
269

270 T. Hand asked if there is the potential for downhill screening for homes on lower elevations. Gunner
271 McCain stated the lower homes won't see anything because of the existing forest.
272

273 Gunner McCain stated the forest is generally young but there are a few in the area they would want
274 to remove.
275

276 P. Roberts requested clarification as to who retains the open space and will the deed identify future
277 development restrictions? Gunner McCain stated unsure of how it will ultimately be written but it
278 will be written that in perpetuity the open space and forested areas remain.
279

280 M. Diender stated the spring rights and water rights be reflected in the record.
281

282 T. Hand stated there is a need to change the existing water system they will either bury the lines or
283 drill wells. Gunner McCain stated the Applicant has offered affected property owners if they want to
284 get rid of the spring the Applicant would install a well however they can keep the spring if they
285 want. H. Stevens noted that the rights are shown on the survey and the lines are where they are. T.
286 Hand requested that the easements for those lines be shown on the plans.
287

288 Carol Fano requested to see the plan showing where the water lines are.
289

290 Gunner McCain stated the original title search of the property did not show there were water rights
291 on the property so they are working to correct the issue.
292

293 T. Hand stated there is a small portion that blocks access to a small lot off West View Heights Road.
294 H. Stevens stated a 150' strip was reserved with the Atkins. T. Hand stated the information and
295 notations needs to be shown on the plan. A. Solo stated the property was historically used for
296 logging and accessed from the West View Heights Road

297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346

T. Hand requested clarification regarding landscaping. Gunner McCain stated they plan to clear 1 acre and any landscaping would be at the future owners discretion.

Gunner McCain stated the peak vehicle trips generated were minimal.

T. Hand requested clarification regarding the development envelope and where within those envelopes can they build. Gunner McCain stated they would have to be within setbacks. T. Hand clarified that the development envelope includes the building zone as well as outbuildings etc. A. Solo stated the development envelope allows for flexibility as to where exactly the house is put. C. Walton requested clarification as to how much actual space they have within that envelope. Gunner McCain stated 1.4 acres, they can't clear the entire envelope, but they have flexibility on where within that 1 acre they can build.

T. Hand requested clarification on whether the hammer-head turnaround was included based on the fire marshals request. Gunner McCain stated that may have been missed. The road is 20' with a couple of pull offs which they believe is more than adequate for the use of that road. T. Hand stated the fire truck ease of access and turning is a different issue than residential use. T. Hand continued to request if the emergency access had been considered. Gunner McCain stated there should be enough room for turnarounds. Zoning Administrator stated prior to the submission of the final application the applicants are required to meet with the Fire Marshal to come to an agreement.

T. Hand requested a brief overview of the Homeowners Association agreements. Gunner McCain reviewed the open space, common lands, playground, shared access, rights that would be shared and maintained through the HOA agreement. H. Stevens depicted the maintenance agreement for West View Heights. T. Hand stated there was also mention to improve the existing portion of the road. Gunner McCain confirmed A.Solo has offered to complete the work.

T. Hand requested clarification regarding building phases and if the road will be damaged by construction. Gunner McCain stated they can't regulate when the work might be done but any construction damage will be repaired by the builders.

Gunner McCain stated no official stormwater plan but in order to meet state requirements they will have one finalized.

P. Roberts requested the applicant discuss the onsite waste disposal, all lots other than 6 and 7 have forced mains while the others have leech fields. Gunner McCain confirmed the waste systems for each lot.

At 8pm C. Walton made the motion to approve the project with the conditions that will be fulfilled as part of the final application. The motion was seconded by M. Black and unanimously approved.

Other Business:

At 8:04pm motion was made by C. Walton to approve the meeting minutes from 11.01.22. The motion was seconded by M. Black and unanimously approved.

The meeting was adjourned at 8:05pm by motion from M. Diender.

347 The meeting adjourned and the DRB entered deliberative session.

348

349 Respectfully Submitted,

350 Layne Darfler

351