

Fairlee Development Review Board April 14, 2009

7:03 PM Meeting called to order.

Board members present: David Fracht (Chair), Amy Record, Peter Berger & Anthony Gahagan; Also Present: Tracy Thurston, ZA, William Todd Pierson, Thomas Otterman, Peter Lange and community members.

Minutes from March 10, 2009 tabled to next DRB meeting on April 28, 2009.

7:04 PM

Preliminary Subdivision application # 09-SUB-1 (William Todd Pierson)

William Pierson proposes to divide his 28 acre parcel into nine lots as follows: Lot 1: 1.3 acres, Lot 2: .9 acres, Lot 3: 1.3 acres, Lot 4: 1.1 acres, Lot 5: 1.0 acres, Lot 6: 1.0 acres, Lot 7: 1.0 acres, Lot 8: .9 acres, Lot 9: 5.4 acres. The property is located on 501 Route 5 S and is further identified as Tax Parcel # 8-3-10.1.

David Fracht asked Zoning Administrator Tracy Thurston to introduce Preliminary Subdivision Application # 09-SUB-1. Thurston said the subdivision was in the preliminary stage and applicants were working on obtaining Act 250 Permits.

William Todd Pierson & Thomas Otterman < sworn in by Fracht.

Pierson explained his proposal and new changes to # 09-SUB-1. Lot 2 would come out of the subdivision plan altogether. The 50' right of way becomes private driveway access to the existing residence located on Lot 1. Lot line adjustments will increase the size of the Lot. He further conveyed that Lots on backside of field and in the middle would be open land. Pierson wants the Lots to be aesthetically pleasing. Preliminary covenants include the stipulation of pavement or hard pack driveways and the exclusion of metal outbuildings. Pierson talked to Lance Colby and the town may ask for a hydrant. Pierson said the Lots would have underground power. He hopes to start one house this fall.

Tom Otterman (septic designer and surveyor) said it was prime agricultural soil. He explained how the subdivision might be conceptually ambitious yet could be scaled back as needed.

Amy Record asked about the high power line (located on the front field along the tree line). Record said a 50' access is required. Otterman explained that the map was GIS generated with fieldwork pending.

Fracht expressed safety concerns with Lots being near railroad tracks. Otterman would consider safety fencing if needed. Record asked, "Is agricultural access the same to the back?" Otterman replied, "Yes". Fracht questioned if it was a State or railroad setback and Otterman informed the State owned it. Peter Berger said the railroad and power line right of way would resolve some of this issue.

David Fracht referred to the provision in Fairlee Subdivision Regulations, Article 1V, Section 10 as this may be considered a scenic byway. He thought that the State may tell the applicants when they applied for Act 250. He further said that we have to investigate as we go forward (in regards to impacting the view from the road).

Fracht said covenants & conditions (road maintenance) are part of the package. He suggested that each owns part of common area. Otterman discussed formation of a Homeowner's Association for equality in maintenance (plowing, grading etc.).

Otterman does not expect drainage issues.

Peter Lange < sworn in by Fracht.

Mr. Lange asked about the Lot on the riverside of the railroad tracks. The Lot will continue as undeveloped with an existing 40' easement and deeded right of way to the field from the dump.

Fracht asked how large the town water main is and Pierson said it was 6" and was on Leda's side and will have to go under the road. Pierson intends to have his electrician go over it with CVPS.

Pierson pointed out that the Lots could be residential or for commercial purposes. He had decided on residential and wanted neighbors here and thought it would be nicer being a neighborhood.

Fracht and all board members agreed that this was a major subdivision and was consistent with the regulations and town plan.

The application has 6 months, until October 14, 2009 to meet requirements for the next step.

Other Business:

Organizational meeting to elect Chair and Vice Chair and a review of Town of Fairlee Development Review Board Procedural Rules.

Peter Lange (DRB alternate) joins meeting.

MOTION: (PB) To elect David Fracht for DRB Chair > SECOND: (AG) > no discussion > VOTE: unanimous (4-0).

MOTION: (PB) To elect Amy Record for Vice Chair > SECOND: (AG) > no discussion > VOTE: unanimous (4-0).

Fracht described rule 10.0-Voting as an unworkable provision. An abstention in a tied vote could not go to the majority, thus, five members should be voting and if a conflict of interest exists an alternate takes one's place. Zoning Administrator Tracy Thurston suggested informing the board so an alternate can be made available.

In regards to 6.52 of the procedural rules, Record feels an abstainer should be able to sit with the public.

There was discussion on to what constitutes an excused absence and if to define or drop the 3.2 Attendance procedural rule. Berger thought the attendance rule was to make sure there is enough on the board to make decisions. Berger also said an alternate should take the place of someone voted off the board.

Peter Lange asked about an alternate's role when called in on a case. 4.3 E Assignment to Active Membership and duties states: "An alternative member who is called upon to serve shall be required to be a part of the Development Review Board until a final decision is made on any application heard by the Development Review Board while serving as an active member. Participation includes attending deliberate sessions and any continuance of a public hearing if the application has been tabled or adjourned to another date."

In regards to procedural rule 5.1 Distribution of Agenda and Materials Berger wants the agenda and minutes posted on the town's website. Draft minutes are acceptable for this purpose. The board members agreed that the public should have full disclosure.

Berger said 7.0 Minutes should be more inclusive as recordings may be erased. The Planning Commissions recorded minutes are available for 5 years and the DRB recorded minutes only have to be kept for six months. Fracht thought the DRB recorded minutes

should be available to the public longer. All board members agreed. Berger has been researching digital recording devices.

Fracht asked if there had been any 8.1 Quasi-judicial Decisions by the board. The rule was implemented once during the Bittenger application process on September 9, 2008. Berger offered the rule exists on the Board of Civil Authority and felt the rule should be understood as opposed to just throwing it out. Berger will research the pros and cons of Quasi-judicial Decision at Fracht's request.

Lange expressed (based on his experience as an applicant) how you might not feel free to speak your mind.

Fracht said votes are a part of public record. Berger said it should be a number as opposed to showing how each member voted as this would protect board members from making a stand.

Berger inquired if the present Chair can sign on prior paperwork. Tracy Thurston will look it to that matter.

MOTION: (AG) To table language and acceptance of Development Review Board Procedural Rules to next meeting > SECOND: (PB) > no discussion > VOTE: unanimous (4-0).

MOTION: (PB) To adjourn > SECOND: (AG)

Adjourned 8:15 PM

Respectively submitted

Irene Wheeler David Fracht, Chair