

**Town of Middlebury
Development Review Board (DRB)
Meeting/Hearing conducted online via Zoom
Minutes of May 24, 2021**

Approved 6/14/2021

Members Present: David Hamilton, Chair, Gary Baker, Rick Emilo, Jason Larocque, John MacIntyre, Kevin Newton, Anne Taylor and Mark Wilch

Members Absent:

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: Jeremy Parker, Jean Terwilliger, Nancy Malcolm, Sarah and Mike Reeves, Dutton Smith, Keith Kearley, Kirke and Mika Hart, Rose Lovshin (Rose Smith), Mitchell Watson, Theresa Gleason, Sarah Ingersall, Abbey Lovshin-Smith and Caitlyn Ottinger (arrived late).

MEETING AGENDA

1. Continued from April 12- Application (file #2021-05:114.200-CU) is a request by Jeremy and Elizabeth Parker for development in the Forest District (FOR). Specifically, the applicants are proposing to construct a driveway and site a year around cabin in the FOR district, to be accessed from Washington Street Ext. The Applicants property is a 100+ acre parcel located on the south side of Washington Street Ext. and includes land located in the High Density Residential, Agricultural Rural and Forest Districts.

I. Call to Order- David Hamilton, DRB Chair, called the meeting to order at 7:00 pm. David reviewed the agenda. Chat feature on Zoom is set to allow one to visit with host only (Jennifer Murray).

II. Approval of minutes-

Motion by Gary Baker- Gary moved to approve the minutes of May 10, 2021 as drafted, 2nd by Mark Wilch. No further discussion, **Motion to approve minutes, 7 yes, 0-no-** Jason as alternate did not vote.

III. Conflict of interest and ex-parte communications- none expressed

IV. Parker hearing- review of application (file #2021-05:114.200-CU), Development in the Forest District.

David Hamilton – re-opened the hearing from April 12, 2021 for the Parkers proposed development in the Forest District. Dave reminded those present that if individuals wish to speak they need to do so under oath. Dave administered the oath to those present who intend to present testimony. Taking oath were -all guests and staff present, except Caitlyn Ottinger.

David H.- asked Dave Wetmore to summarize where we are in the review of the Parker application. Dave W. expressed that the DRB is continuing the review of the Parker application for development in the Forest District (FD). Specifically, a 3000-ft driveway through the FD that

would serve as primary access to the proposed cabin in the FD, and single-family home and farm complex in the Agricultural Rural district. The driveway access is proposed to be from Washington Street Ext.(WSE) at Bushey Corner. This afternoon at 2:00 PM a site visit was held to familiarize the DRB and others with the location of the access curb cut and alignment of the driveway. Twenty-one individuals attended, including Chief Shaw (fire), Chief Hanley (police) and Bill Kiernan (DPW). Dave noted that Chief Shaw will provide written comments. He has concerns about access design and construction that will permit his equipment to safely access the property. Chief Hanley shared that frequently people go off the road in this corner and he is concerned with snowbanks and winter maintenance as it relates to site distances, as well as turning and stopping distances.

Dave H.– expressed that the site visit was extremely helpful and civil. Information expressed/presented at the site visit is not part of the hearing record and that if individuals want evidence on the record it needs to be expressed during tonight’s hearing.

DRB comments on the site visit.

Anne- Anne walked some of the driveway alignment with the applicants and expressed that the vegetation loss is not significant. Applicant expressed that the new alignment of driveway will seek to avoid ledge and removes the big curve shown on site plan.

Kevin- asks if written testimony from Chief Shaw and Chief Hanley has been received? Chief Hanley had shared brief written comments before the April 12th meeting. Nothing more in writing has been received but they do plan to submit comments.

Mark- did Chief Shaw express any concern related to the length of driveway. Dave W. stated that Chief Shaw indicated that length is not a concern if the driveway is designed and maintained (width and clearance) to allow year around access for his equipment.

Kevin- do the Chiefs comments need to be entered into the record. Jen expressed that it is good to mention their concerns and shared that any written comments they submit will be part of the record. Jen also noted that this is a good time to ask the Applicant to share with the DRB what has changed or been considered regarding the scope of the project or site plan since the April 12th meeting. Dave noted that he does expect written comments from at least Chief Shaw.

Dave H.- noted a supplementary point that is critical to the discussion. Chief Shaw mentioned some of his equipment is 70,000 lbs and that he would prefer a substrate (paving tile or mat) that is designed to hold up heavy equipment. Dave suggested that DRB does need to ensure the curbcut and driveway is accessible to fire and other rescue equipment. Staff should request from Chief Shaw minimum design standards/requirements for the driveway and curb cut. Dave H. also noted that Chief Hanley expressed that most of the accidents on this corner are single car accidents generally from excessive speed.

Dave H.- asked that applicant (Jeremy Parker) confirm that the intersection with WSE would be level with WSE and the site distance measurements were taken from a point 15-ft from the edge of pavement and 3.5ft. above the ground. The site distances in both directions were at least 390-ft.

Mark W.- asked how far it was to the agricultural complex buildings? Jeremy estimated about 2400-ft. The alignment of the driveway would be altered to avoid the steeper ledge sections. Wide turnouts will be located along the driveway to allow cars to pass. Mark expressed that fire code requirements may require 120-ft turnarounds and that a 3-point hammer head turn around may not be sufficient. Jeremy expressed that there would be adequate turn around space for large equipment

around the farm complex structures. Additionally, farm ponds will provide a source of water for fire suppression purposes.

John- expressed that the primary issue for him is the curb cut and access from WSE. He will be looking for the comments from Chiefs Hanley and Shaw to assure that this access can be safely used.

Dave H.- the only access options shown by the applicant are the existing Painter Hills access and the proposed WSE access.

Jeremy- expressed that he is willing to comply but is not familiar with the B-71 standard. He is concerned that he would be held to a higher standard than others might be. Who will inspect to make sure compliance with the design standard? Jeremy noted that the access point proposed at WSE is inherently better because it is located on the outside corner.

Jean- noted that the A-76 standard for a cul-de-sac/turn around is 70-ft.

Dave H.- invited Jeremy and Jean to offer additional comments and updates of their plans.

Jeremy- The point of access at WSE has not changed. The alignment of the driveway has changed slightly to avoid some of the ledge outcroppings. Jeremy expressed that he is prepared to comply with the Towns access requirements. He does not feel that the existing Painter Hills right-of-way access is compatible with the mixed uses they are proposing. Agricultural farm traffic is not appropriate in a high density residential development and further the entrance from Painter Hill at WSE has less site distance than the one they propose above at Bushey Corner. Further, the Painter Hills access must cross a class 2 wetland which is more problematic than the small class 3 wetland that will need to be crossed at Bushey Corner. Jeremy stated that there should be plenty of turnaround area for large vehicles at the farm complex and ponds are proposed for fire protection sources, and will also serve animal and vegetable production needs.

Jean- acknowledged that the driveway curb cut will need to be located within Town owned trail/class 4 right-of-way. This is necessary to provide as much site distance as possible and not be impacted by utility lines that cross the property. This is really the safest spot to access the property. They understand that Selectboard approval will be required.

Jeremy- pointed out that the intersection with WSE is at the crest of the hill and the closest stakes positioned along the road are placed at 390-ft. The 2nd stakes are 440-ft to the south west (toward Town) and 565-ft north east.

Dave H. opened the hearing to public questions/comments-

Keith Kearley- shared that he lives on Juniper Lane and supports the Parkers development and use of the WSE access for the agricultural use of the property. A primary access though Painter Hills development would create a hazard in a high density residential area.

Sarah Ingersall- expressed that she prefers that the class 2 wetlands are not compromised any further and supports the development of the WSE access at Bushey Corner. Sarah asked how much weight do other residents from other areas of Town carry?

Dave H.- the Board is here to review the testimony, weigh the evidence presented as they apply to the Zoning review standard.

Mike Reeves- expressed that he disagrees with Keith and Sarah about the WSE access. He is genuinely concerned about the hazards and safety challenges that the WSE access may create.

Safety should be paramount. The number of accidents and the safety of pedestrians, bikes needs to be considered as well.

Nancy Malcolm- agrees with Mike that the proposed access at Bushey Corner is not safe. How much traffic will be generated from the applicants project? Jeremy expressed he does not know how much traffic to expect. They are planning to buildout the project as they have proposed. They plan a diversified agricultural operation, including permaculture, livestock, fruit and vegetable production. They hope to begin by serving their family and friends and build from there. They are interested in building a healthy ecosystem and soils.

Nancy- asked if the kind/size and scale of agricultural equipment they will use could be compatible with the Painter Hills residential development. She supports wetlands but safety (for all types of traffic, bike, pedestrians as well as autos) along WSE is also a serious issue and for that reason she feels the Painter Hill access should be more strongly considered, regardless of the wetlands present.

John M.- asked if the applicants would manage and process livestock on the farm. Jeremy stated maybe chickens and other fowl, but not larger animals.

Kirke Hart- has walked some of the property and expressed that the WSE access has quite good visibility, better than the Painter Hills intersection. If engineering design complies with the Towns required standards, it should be fine.

Jennifer- explained that the Zoning Regulations outline specific standards for driveway and road design. The conditional use standards are more subjective but require the DRB to consider municipal services, which include fire, rescue and police services.

Mika Hart- stated there are a lot of children in Painter Hills who ride bikes and walk about freely. The applicants agricultural use will add traffic and raise safety concerns.

Jeremy- as applicants, the development they have proposed in the FD requires conditional use approval. If they had proposed to develop in the High Density Residential directly adjacent to WSE it would not have required conditional use review. He is and concerned that he be held to the same standards than others would be.

Jennifer- noted that all driveways are required to meet the specific standards outlined in Section 705 and the Town Highway access requirements administered by DPW through a “work in ROW permit”. Fire access and safety are part of that review.

Jennifer- explained to participants that to be considered an interested person and allowed appeal rights, participants will need to contribute to the discussion. Thresea Gleason, Dutton Smith, Rose Lovshin, Abbey Lovshin-Smith and Mitchell Watson expressed concern about safety of a primary farm access in Painter Hills. Dave H. administered the oath to Abbey and Mitchell, as they were not in attendance at the beginning of the hearing tonight.

Abbey- stated that she was raised and lives in the Painter Hills development and now has 2 children and is concerned for the safety of all Painter Hills residents if traffic increases from the Parker project.

Caitlyn Ottinger attends- 7:45

Dave H. asked DRB how they wish to proceed?

Jennifer- asked whether Selectboard approval for the use of the Town trail/class 4 road should be required before closing hearing?

Kevin- expressed that he would like to have written comments from the Chiefs Hanley and Shaw before closing hearing. DRB members agreed.

DRB- agreed to continue the hearing but they would like to deliberate tonight as well.

Motion by Gary Baker- I move to continue the hearing of the Parker application #2021-05114.200-CU, to June 14, 2021. 2nd by Mark Wilch. Motion to continue to June 14, 2021 approved 7-yes and 0-no, Rick abstained.

Hearing concludes tonight at 8:11 PM and will be continued on June 14, 2021.

Motion by Gary Baker- I move to enter deliberative session to discuss the Parker application in preparation for the hearing continuation on June 14th. 2nd by Mark Wilch. Motion passes 7-yes and 0-no, Rick abstained.

V. Other Business- none

V. Adjournment

Motion by Gary Baker- Gary moved the DRB to adjourn at 8:12 PM, 2nd by Mark Wilch.

Motion passed, 7-yes, 0-no. Meeting adjourned at 8:12 PM.

DRB- entered new Zoom link to deliberate on the Parker application.

Minutes Submitted by Dave Wetmore