

**Town of Middlebury- Development Review Board (DRB)  
Meeting/Hearing conducted in person and via Zoom  
Minutes of September 12, 2022**

Approved 10/24/2022

Members Present: David Hamilton, Chair, Gary Baker, Vegar Boe, John MacIntyre, Kevin Newton, Michael Reeves and Mark Wilch

Members Absent: Jason Larocque

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: Kevin and Royce McGrath, John and Madeline Tenny, John McPartland, Katie Koerber

MEETING AGENDA

**I. Call to Order-** David Hamilton, DRB Chair, called the meeting to order at 7:00 pm. David.- reviewed the agenda and announced that tonight’s agenda and mentioned that Richard Tinsley had a conflict and would not be attending tonight.

**II. Approval of minutes-**

**Motion by Vegar Boe-** Vegar moved to approve the minutes of July 11, 2022 as corrected, 2<sup>nd</sup> by Kevin Newton. Discussion- none noted, **Motion to approve minutes, 5 yes, 0-no- Gary and John abstained**

**III. Public comments-** None expressed

**IV. Public Hearing-** David Hamilton opened the hearing at 7:05 PM and read the hearing notice.

**Application (file #2022-24:176.000-CU/SP) is a request by Richard Tinsley (owner/applicant) for conditional use and site plan approval for the use identified as “Student Housing” outlined in the proposed Zoning amendments dated April 22, 2022, revised 6/8 and 7/15/2022. The existing property is a 2-family home (duplex) located at 53 North Pleasant Street, parcel ID# 024176.000. If approved, the “student housing use would be added to the existing 2-family use. The property is in the existing Office and Apartment (OFA) district and the proposed R-12 district.**

David H.- noted Richard Tinsley has asked that the hearing be continued to October 24, 2022 due to a scheduling conflict. David suggested that interested persons wishing to speak and/or provide testimony are encouraged to do so on October 24, 2022. After talking with Staff, David said that procedural questions related to the conduct of the hearing could be discussed.

DRB discussed whether a site visit should be held prior to the hearing continuation. DRB agreed that a site visit was in order. DRB suggested meeting at 5:30 PM on October 24, 2022. Staff reminded the DRB that no testimony should be presented at the site visit. The site visit provides an opportunity for the Board to familiarize themselves with the property and allow applicant and neighbors to point out features that may be presented as evidence during the hearing. As no testimony will be accepted at the site visit, participants will need to make sure their comments are expressed during the hearing.

David H.- recognized John Tenny and reminded him that testimony will be reserved for the October 24<sup>th</sup> continued hearing.

John Tenny- observed that the 53 North Street Property is now occupied by students.

1. The students continue to use the garage space as a gathering/party area which is a violation of the Fire Marshall's order.
2. Supports the Boards decision to conduct a site visit
3. Expressed concerns about the delay and the effects on the neighbors.

John would like the DRB to enforce the Fire Marshall's order and limit the number of guests on the property.

Staff- advised that the DRB has no enforcement authority under VT Law. If the Fire Marshall's order is being violated, the Department of Public Safety will enforce. Dave Wetmore expressed that any violation of the Town's Zoning must originate with the ZA. Based on his discussions with the applicant he was assured that each residential unit was rented out to only 3 students. Regarding residential occupancy Zoning does not regulate guests.

David H. recognized John McPartland. John McPartland- expressed that the barn/garage is being used as a congregant space and should be able to be regulated.

David H. recognized Katie Koerber, via Zoom. Katie Koerber expressed she knows the number of occupants.

David H. surveyed the DRB in regard to moving the hearing to October 24. Board felt that was appropriate but expressed concern for the 6-week delay. If the applicant failed to attend the 10/24 continued hearing as well, what was their recourse. Dave W. explained the reason for the lengthy delay. Staff opined that if the applicant failed to attend the 10/24 hearing continuance that the Board had the right to deny the application and suggest they reapply.

**Kevin Newton-** Kevin moved to recess the Tinsley hearing (file # 2022-24176.000-CU) to October 24, 2022 at 7:00 PM here in the conference room. Prior to the continued hearing, a site visit will be held at 5:30 PM. John MacIntyre 2nds. Discussion- Vegar suggested that there is parking along the shoulder of North Pleasant Street but it is limited. Motion to recess the hearing to October 24, 2022 approved, 7-yes and 0-no.

David H. asked Board if there is any need for a deliberative session at this time? DRB agreed it was not necessary.

## **V. Other business**

**Gary Baker-** Shared that at a recent Selectboard meeting, he spoke for the DRB regarding the Energy Committee. Specifically, the Energy Committee should work with the DRB. The DRB review process involves standards relative to energy efficiency and the Energy Committee should offer testimony during that process.

David Hamilton-expressed that he has a busy schedule this semester and would like to know as far in advance as possible when board meetings are coming up so he can try to arrange work coverage. He thought that he can be present for the 10/24 hearing.

## **VI. Adjournment**

**Motion by Gary Baker-** Gary moved to adjourn, 2nd by Michael Reeves. **Motion passed, 7-yes, 0-no.** Meeting adjourned at 7:35 PM.

Minutes submitted by Dave Wetmore