

Town of Middlebury
Development Review Board (DRB)
Town Office Large Conference Room
Minutes of September 25, 2017
Approved, October 9, 2017

Members Present: Kevin Newton, Scott Foster, John MacIntyre, Anne Taylor, Gary Baker, Don Keeler

Members Absent: Rick Emilo, David Hamilton

Staff Present: Jennifer Murray, Katherine Wheatley (videographer)

Others Present: Frank Alexander (Primax), Scott and Jennifer Jacobs, Duncan Rollason, Dave Kelly (broker for Primax), Martin R. Clark, Peter Cross (Cross Engineering), Mike McGrath, George Foster, Toni Neri, Michael Livingston

MEETING AGENDA

1. An application by Rollason Properties, LLC and Primax Properties, LLC for final Conditional Use review of a proposal to construct an approximately 19,113 sf retail store. The property is located on Foote Street, north of Route 7, parcel ID 08:160, in the PHD zoning district.
2. An application by Chuck Steady for final Conditional Use review of a contractor storage yard and setback waiver. This property is located at the corner of Quarry Road and Route 116, parcel ID 6:073 in the AR zoning district.

Kevin Newton called the meeting to order at 7:00 pm.

He announced that the second application by Chuck Steady has been withdrawn

1. Minutes of 9/11/2017

On a **Motion** by Anne Taylor, seconded by Don Keeler, the Development Review Board voted to approve the minutes of 9/11/2017, as amended. Motion passed 5-0, Scott abstained. Lines 92-97 will be deleted, as they are replicated from an earlier meeting.

2. Hearing for Rollason Properties, LLC and Primax Properties, LLC – Final Conditional Use Review

Kevin Newton administered the oath to those present. Don Keeler recused himself from the discussion and vote, because he was unable to review the tape from the preliminary hearing for this application.

Peter Cross delivered a presentation providing the details of the proposal. Anne asked if the landscaping would be guaranteed more than 1 year, and Mr. Cross responded that Act 250 will require an indefinite guarantee. Anne shared some observations about their Shelburne store, where she finds that the parking lot plantings are poor, no one is watering them, and there is a lot of mulch. She asked how the plantings will be maintained. Anne asked if Tractor Supply has vacated any of their stores and what kind of tenant would occupy this space. Mr. Alexander responded that he is not sure. He can't think of a newly constructed store they have closed down. If they were to vacate, they would try to market to a retailer consistent with the zoning and any restrictions the Town may place thereon. Anne addressed Mr. Alexander- last time you said they wouldn't have any nursery stock, but in Shelburne they have mums and trees. At other times of year, their staff reports that they have seed packets, vegetable plants and flowers. She said they

42 had three outdoor storage areas, and nursery stock was in front of the door on either side- she
43 wants to know is this something they are doing on their own. Mr. Alexander responded that
44 outdoor storage areas are specified in the lease, they are very responsive to any concerns that are
45 raised by the local officials, and that they have a good working relationship with the planner in
46 Shelburne. Anne asked about the site plan, and what is between the berm and the right of way?
47 Mr. Alexander explained that is lawn area, a natural seed mix that was recommended by the
48 landscape architect.

49 Kevin read the rules of procedure for public hearings and opened the floor to public comment at
50 7:26.

51 George Foster asked how high is the berm. Peter Cross showed the site grading plan, which
52 illustrates that the berm is 10feet higher on one end, then slopes off to the north. The berm is 5 to
53 10 feet high depending on where you are. George Foster asked when are deliveries. Mr.
54 Alexander responded that they expect UPS deliveries every day, with one or two larger truck
55 deliveries during the week. These deliveries arrive during working hours, which may be earlier
56 than the store opens. The deliveries may be 7am into the evening, but not 1-2am or that type of
57 thing. George Foster asked about lighting and Peter Cross discussed the location of the LED
58 lighting fixtures, and that there would be little or no offsite migration of light.

59 A representative of Martin's Hardware read a prepared statement that was entered into the record.
60 The statement addressed several concerns about the detrimental effect this business would have on
61 existing businesses, talked about how difficult recent years have been on their business as more
62 people shop on line, and raised specific concerns about the proposal's conformance with the Town
63 Plan.

64 Mike McGrath provided comments. He represents Mike's Auto and Towing. He is not worried
65 about his business directly, but has concerns about the effect on other businesses. He feels that,
66 like the town plan says, we need to keep existing businesses viable. He doesn't feel the Town let
67 the public know like they should have, and doesn't think this business is the right fit for
68 Middlebury altogether.

69 Scott and Jennifer Jacobs provided comments, and are the owners of Middlebury Agway. Mr.
70 Jacobs feels there is a tremendous overlap of products between Tractor Supply and his store. He
71 distributed his notes on the town plan to the DRB members. On page 18, he noted the reference to
72 community character and prototype architecture, stating that he was able to find dozens of stores
73 online that look like this. He also sited references to prototypical architecture on pg. 147 and 149
74 of the town plan. On pg. 161, he feels the reference to enhancing the viability of existing
75 businesses on Rte 7 south of Boardman Street supports denying this application. On pages 162
76 and 170, he cited references to the desire for additional planning and public process to improve
77 land use policy in this section of town. He stated that he believes the proposal is in conflict with
78 these sections of the town plan. He said the Town doesn't need this. He said he knows the Town
79 is looking for a larger store, and products are more readily available elsewhere. Finally, he wants
80 to reiterate what he said last time since there are so many more people filling seats.

81 Tony Neri provided comments. He takes issue with the DAC agreeing that it is acceptable to have
82 some portion of the newly redesigned building visible from Route 7, because past boards have
83 required him to add screening at the A&W. He is also concerned that more water will be
84 discharged to the culvert crossing Route 7, as he says this all flows through his property. Behind
85 his property he would like to see a fence, and more trees than he had to plant! As a businessman,
86 he states- if this project offsets his taxes and doesn't increase them, then he likes it.

87 Scott Jacobs asked to add to his comments from earlier. He said this section of Route 7 is a
88 gateway. This is the first thing people would see coming into town- that and a big old parking lot.

89 Anne asked Mr. Alexander- have any of the Primax projects been stopped at the planning phase?
90 Frank said no, they've all been approved.

91 Kevin provided Mr. Alexander with an opportunity to respond to the comments received. Mr.
92 Alexander said that there is a process for how you apply and seek approval for projects in
93 Middlebury. He has followed that process, including attending two DAC meetings. Input has
94 been received- there have been warnings that were published in the paper and an article in the
95 newspaper. They have followed the code in Middlebury as to what they have been asked to do.
96 As far as them bringing the first corporate business- that is inaccurate, as there are many already in
97 Middlebury. They will employ local people, pay local taxes, and the economic viability of the
98 community may improve. He showed a table of businesses that have remained viable in other
99 places Tractor Supply stores have been built in the Northeast.

100 Peter Cross discussed the stormwater plans and showed that stormwater discharges to a wetland
101 beside the proposed development site, then discharges to a VTrans culvert at Route 7. He shows
102 the stormwater discharging onto the Magic Wok property, and does not believe Tony's property
103 will be impacted. Tony replies that he does not agree- that it would travel across his property to
104 reach the culvert at Route 7.

105 Mr. Alexander responded to the aesthetic concerns about the building being prototypical, saying
106 that the design had been modified from the original and reviewed by the DAC.

107 Mike McGrath said more public input would have been nice.

108 Scott Jacobs disagrees with Mr. Alexander's data on the viability of businesses in the vicinity of
109 other Tractor Supply stores, and said he has a friend at Montpelier Agway whose business was
110 impacted by a Tractor Supply.

111 Tony shares observations regarding the culvert at Magic Wok, which he believes receives the
112 majority of the runoff from the area around Breadloaf Construction.

113 Scott Foster moves to close the hearing and enter deliberative session, seconded by Anne. Motion
114 passes 5-0.

115

116 The DRB voted to exit deliberative session at 9:53pm.

117

118 On a **motion** by Gary Baker: I move that the Middlebury Development Review Board, having
119 reviewed the application submitted and having heard and duly considered the testimony
120 presented at the public hearings of August 28, 2017 and September 25, 2017, approve this
121 conditional use request by Rollason Properties, LLC and Primax Properties, LLC to construct an
122 approximately 19,113sf retail store on a portion of Parcel 8:160 on Foote Street, north of Route
123 7. **Seconded** by John MacIntyre. Motion passed 5-0 (Don abstaining).

124

125 3. Other business

126 Scott will not be attending the next hearing

127

128 4. Adjournment

129 On a **motion** by Gary Baker, seconded by Anne Taylor, the DRB **voted to adjourn**. Motion
130 passed, 6-0.

131 Meeting adjourned at 10:00 pm.

132

133 Minutes Submitted by Jennifer Murray