

**Town of Middlebury
Development Review Board (DRB)
Town Office Large Conference Room
Minutes of April 22, 2019
Approved 5/13/2019**

Members Present: Rick Emilo, Vice chair, Gary Baker, Donald Keeler, John MacIntyre and Anne Taylor
Members Absent: Kevin Newton, David Hamilton
Staff Present: Jennifer Murray, Dave Wetmore
Others Present: Peter DeGraff, Mark Bradley and Anthony Neri (left at 7:00) and Kathleen Wheatley (videographer)

MEETING AGENDA

- I. 1. Due to administrative error, the following application is being rewarned and will be heard on May 13th.** Application (file #2019-28:176.000-CU) request by Anthony Neri Property Rentals, LLC for conditional use approval for the mixed retail commercial use of the property and existing structure located 55 Middle Road. The 55 Middle Road property is located in the Village Residential Commercial (VRC) on parcel #028176.000.
2. Application (file #2019- 24:232.010-CU) request by Town Hall Theater, Inc. for conditional use approval for the change of use proposed for the former “Park Diner” property located at 66 Merchants Row. Specifically, the former restaurant would be used as flexible space for performing arts, events, meetings, work and storage. The 66 Merchants Row property is located in the Central Business District (CBD) on parcel #024232.010

II. Call to Order

Rick Emilo, DRB Vice-chair, called the meeting to order at 7:00 pm, reviewed the night’s agenda, and asked if there are any non-agenda items/public communications. None expressed.

Don Keeler acknowledged that Mr. Neri was in attendance prior to the start of the meeting and asked Staff to explain why. Jennifer stated that Tony was there to express his apology regarding a comment cited in a recent Addison Independent article, referring to political obstacles to new construction. He was not referring to the Town, the comment was directed toward the State.

Tony also wanted to confirm that the hearing for his application at the 55 Middle Road property would be moved to May 13th. Dave confirmed that it is being re-noticed and held on May 13th.

III. Approval of Minutes-

Motion by Gary Baker- moved to approve the minutes of 4/8/2019 as amended. Don Keeler 2nds. Anne asked that her comments around line 262 be added, which is “would it be an issue for Mr. Holmes if the snow piled on his lawn was only from the easement area? Mr. Dumont stated that he would not be here if that was the case, the snow wouldn’t be from Dunkin Donuts property”. No other changes.

John asked why there was no motion by the Board regarding the Stone Mill decision. Dave stated that it was not required, that the written decision acknowledges the Board’s approval.

Don asked whether he should vote to approve the minutes, since he recused himself for the Holmes appeal. Staff noted that he was in attendance and could vote. **Motion approved 4-yes, 0-no, John MacIntrye abstained.**

IV. DRB public hearings:

46 **1. Application (file #2019- 24:232.010-CU) request by Town Hall Theater, Inc. for conditional use**
47 **approval for the change of use proposed for the former “Park Diner” property located at 66**
48 **Merchants Row. Specifically, the former restaurant would be used as flexible space for**
49 **performing arts, events, meetings, work and storage. The 66 Merchants Row property is**
50 **located in the Central Business District (CBD) on parcel #024232.010**

51 Rick Emilo opened the hearing, by noting that it is important that all sign in and take the oath if they are
52 to be considered “interested persons”. Rick read the warning and administered the Oath to those present
53 who intend to submit testimony. Taking oath were Peter DeGraff and Mark Bradley.
54

55 Rick- asked if there are any DRB conflicts of interest or ex-parte communication. None expressed
56

57 Don Keeler- Acknowledged receipt of additional project materials related to traffic and parking from
58 Peter DeGraff.

59 Rick- asked the applicants to introduce themselves and present their application.

60 Mark Bradley is Town Hall Theater (THT), Executive Director and Peter DeGraff is a Board Member.

61 Mark- THT space has very limited and the purchase of the former Park Diner property allows them to
62 use the dining space for small events and performances for up to 50 people. The former dining room is
63 730 square feet. The kitchen space (400 square feet) will be used for workshop and storage space. THT
64 uses storage space all over Town, some rented and some donated space. This storage space will
65 eliminate some of the off-site storage needs. Kitchen equipment has been removed, gutted and a new
66 floor installed.

67 Mark expressed that while the Park Diner space is critical to their needs, they hope that as flex space it
68 can be made available to the community for short term lease, i.e. film festival, etc.

69 THT long range plans include an addition to the theater and purchase of the Diner property is key to
70 that plan. The Diner preserves THT opportunity to expand. In the short term, use of the existing Diner
71 space will allow THT to provide a smaller venue that can serve THT programing without a big
72 investment. Proposed renovations include ADA accessibility improvements, upgrading bathroom
73 facilities and a small kitchenette. Exterior improvements would be limited to structural stabilization and
74 paint/facelift. No new exterior lighting is proposed

75 The Diner property is a .15 acre property, which includes the hillside down to the railroad. DRB and
76 THT discussed how the overall Theater space is used now. Don asked why this application was not
77 handled administratively.

78 Staff- expressed that THT asked that the Diner property and THT be considered a Planned Unit
79 Development (PUD). In the Central Business District a PUD can be allowed on any site in the CBD.
80 Since THT can be considered a public purpose, open space requirements are met. The benefit of a PUD
81 to THT is that existing and future development and uses may be modified, even if the uses are not
82 expressly allowed in the CBD.

83 DRB- what is the maximum occupancy for the Diner space? THT believes it is about 50. That will be
84 confirmed by the Fire Marshall.

85 THT- reviewed parking count estimations and referred to the email received today from Peter DeGraff.
86 In that email, DeGraff determined that the parking needs for the property would be reduced to 13
87 parking spaces from the former Diner needs which was 22 spaces. Most all these spaces were on-street.

88 DRB- will food be served in the building? A small kitchenette is proposed. This will likely be movable.
89 Additionally, a food truck vendor may be invited to provide food services for venues/events or
90 receptions. THT stated that Diner space and any food truck use would be consistent with THT
91 objectives. Staff noted that a zoning permit will be required and compliance with health regulations is
92 also required. THT has a liquor license which is not transferrable to the Diner property. It was noted
93 that alcohol consumption had to be contained within a prescribed area of the property.

94 Staff- asked how non THT events could be regulated. DRB agreed that a condition requiring
95 compliance with performance standards would be appropriate.

96 Staff- asked THT to describe off-street parking arrangements? THT has made arrangements to use
97 existing parking after 5:00 PM at two South Pleasant Street businesses. This works well for THT
98 programing.

99 Rick surveyed the Board and Staff for further questions/comments.

100 Motion by Gary Baker- I **move** that the Middlebury Development Review Board, having reviewed the
101 application submitted and having heard and duly considered the testimony presented at the public
102 hearing of April 22, 2019, approve this Planned Unit Development and the change of use proposed for
103 the 66 Merchants Row property (formerly the Park Diner) as presented in the application by Town Hall
104 Theater, Inc., parcel # 024232.010, subject to conditions. 2nd by Anne Taylor. Motion approved 5-yes,
105 0-no

106 **V. Other business-**

107 **1. Amendment to DRB Rules of Procedure-** DRB discussed amendments proposed to DRB
108 Rules of Procedure dated 9/10/2007. The DRB received the proposed amendments first by email
109 on 4/12/2019 and again in the DRB packets distributed on April 18, 2019. The amendments
110 proposed are;

- 111 a. Specific to Section II.A.- Reduce the number of alternates from five (5) to one (1).
- 112 b. Specific to Sections II.G. and IV.A.- Replace “Town Planner” with “DRB Coordinator”.

113 **Motion by Don Keeler- I move to amend the DRB Rules of Procedure, Section II.A. to read “The**
114 **Board shall consist of seven (7) voting members appointed by the Select Board. The Select Board**
115 **will appoint one (1) alternate. Members and alternate may be concurrent members of the**
116 **Planning Commission or any other Town Board”.** Gary Baker 2nds.

117 DRB discussed that 5 alternates was not manageable and that one has worked well in the past. Presently
118 the DRB does not have any appointed alternates. Anne and John felt that they could support having two
119 alternates to encourage participation. Don expressed that Kevin supports having only one alternate.
120 John is ok with one as the Rules can be changed fairly quickly if it is found that one is not sufficient to
121 meet Board attendance needs. Jennifer suggested that a future amendment could limit alternate
122 participation. Dave noted that in the Towns he had worked with, the DRB met with interested
123 candidates and made recommendations to the Select Board.

124 **Motion to amend Section II.A. approved 5-yes, 0-no.**

125 **Motion by Don Keeler- I move to amend the DRB Rules of Procedure, Sections II.G. and IV.A. to**
126 **replace Town Planner reference with DRB Coordinator. Gary Baker 2nds.**

127 No Discussion-

128 **Motion to amend Sections II.G. and IV.A approved 5-yes and 0-no**

129 **2.** Next meeting is May 13, 2019

130 **V. Deliberative session-** none

131 **VI. Adjournment**

132 **Motion by John MacIntyre-** moved the DRB to adjourn at 8:00 PM, 2nd by Anne Taylor. **Motion**
133 **passed, 5-yes -0-no.** Meeting adjourned at 8:00 PM

134 Minutes Submitted by Jennifer Murray and Dave Wetmore