

Town of Middlebury
Development Review Board (DRB)
Town Office Large Conference Room
Minutes of February 25, 2019
Approved as presented 3/11/2019

Members Present: Kevin Newton, chair, Gary Baker, Rick Emilo, David Hamilton, Donald Keeler, John MacIntyre and Anne Taylor

Members Absent:

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: Alice Eckles and Ross Conrad, Jean Panicucci, Eric Friend, Renee' Chamberlain, Dave Wetmore (representing Laurette Wetmore), Wesley and Kirstin Butler, John and Penny Curler, David Clark, Jason Barnard, Susan DeWind and Katherine Wheatley (videographer)

MEETING AGENDA

1. Application (file # 2019-08:053.000) request by Eric Friend (dba Friend Construction, LLC) for conditional use approval for a contractors shop/yard use on the property owned by Laurette Wetmore Life Estate. The property was previously used as a contractor's/ woodworking shop/retail space since the 1950's. The property is located at 1415 Case Street in the Agricultural Rural (AR), parcel ID #08:053.000.
2. Sketch plan application (file # 2019-08:181.000) request by Harley Grice Revocable Trust for a proposed 2-lot subdivision of his property located at 1126 Halpin Road. Pursuant to Section 561, the DRB will review the proposal for general compliance with Middlebury Zoning. Final plan/plat public hearing approval will be sought at a later date. This will be the DRB's second item of business. The subdivision proposed is located in the Agricultural Rural (AR), parcel ID #008:181.000.

I. Call to Order

Kevin Newton, DRB Chair, called the meeting to order at 7:00 pm, reviewed tonight's agenda, and asked if there are any non-agenda items/public communications. None expressed.

Kevin noted that it is important that all sign in and take the oath if they are to be considered "interested persons".

II. Approval of Minutes-

Motion by Gary Baker- moved to approve the minutes of 2/11/201 with the correction to add Fred Dunnington to line #32 as taken the oath as well. Don Keeler 2nds. No further changes or discussion.

Motion passed 5-yes, 0-no, Dave Hamilton and John MacIntyre abstained.

III. DRB public hearings:

1. Application (file # 2019-08:053.000) request by Eric Friend (dba Friend Construction, LLC) for conditional use approval for a contractors shop/yard use on the property owned by Laurette Wetmore Life Estate. The property was previously used as a contractor's/ woodworking shop/retail space since the 1950's. The property is located at 1415 Case Street in the Agricultural Rural (AR), parcel ID #08:053.000.

Kevin Newton opened the hearing, read the warning and administered the Oath to those present who intend to submit testimony. Those taking oath were Ross Conrad, Jean Panicucci, Eric Friend, Renee' Chamberlain, Dave Wetmore

Kevin asked about conflicts of interest and ex-parte communication. None expressed

41 Eric Friend- presented his conditional use application for a contractor's yard/shop which is an allowed use in
42 the AR district. Currently, his shop is located in Bristol. He is a roofing contractor and has as many as eight
43 (8) employees. The use of the property and existing building will include, office, shop area, material storage
44 and parking for work vehicles and trailers. Most employees will work off-site, the exception is the office
45 manager and Eric himself. Occasionally, a couple employees would work in the shop and around the
46 property. Parking will be available for employee vehicles on this business property. Most employees are laid
47 off in the winter. During the winter months the business concentrates on snow plowing and sanding.

48 **DRB questions/comments-**

49 Are there any changes proposed to the existing building footprint? Eric expressed, not at this time.

50 Will you be extending the driveway on the north side of the building for rear parking? Yes, all employee
51 (except office manager) and business vehicle parking will be behind the building.

52 Any changes to exterior lighting? Eric expressed that he will want one at the rear of the building for security.

53 Staff notes indicate that the entrance will need to comply with the B-71 Standard, what will this require? Eric
54 could not answer that. DRB suggested contacting Randy Snelling for guidance.

55 Please describe who will park in front? Office manager and customers. All other employee parking and
56 business vehicles (6 trailers, skid loader and bucket loader) will be parked in rear or under cover inside the
57 shop building.

58 Is this equipment excessively tall? No, it is all equipment designed to travel over the road.

59 Does the snow plowing business occur during night time hours? We usually start at 2:00 am. Equipment
60 would likely be prepared during daylight hours so they are ready to go when needed. We use 3 trucks for
61 snow removal/sanding.

62 Will the large pine tree need to be removed near where the shed is to be built as shown on the site plan?
63 Unsure, Eric expressed he would like to keep as many trees as possible.

64 Will a fence be installed along the south boundary? Perhaps a 6-ft high privacy fence if required. Presently
65 there is a wooded buffer along the south boundary behind the shop.

66 Do the green dots on the site plan represent mature trees? Yes.

67 How far is the building from the south property line? The boundary jogs around the south west corner of the
68 building and ranges from 25-ft to 12+/- feet. Is this building non-conforming due to side setback? Yes, the
69 side yard setback is 25-ft. The neighbor on that side is Robert Dyke.

70 5 parking spaces are shown in front, is that enough for customer because all other parking appears to be
71 used? Customer traffic is not expected to be much, 5 should be more than enough.

72 Who are your customers? Will there be any retail sales? No retail sales, customers are those who might stop
73 to pay a bill, drop off a contract or pick up/look at material samples.

74 Do you have a design for the building out back? Site plan shows a 24-ft by 36-ft building. It will be approx.
75 18-ft at the peak. Overhead doors will allow for a dump truck to dump.

76 Procedural question- Are we reviewing the design of this new building? Jen expressed that what is being
77 requested is the contractors yard/shop use. Any changes to the existing building or the new building will
78 likely be handled administratively providing setback compliance can be met.

79 Will the applicant be required to pay a fee for the green space parking waiver being requested. Jen responded
80 no, that only applies to on-street parking in Middlebury. The DRB may grant a green space parking waiver if
81 the applicant does not show all necessary parking as required by the Zoning Regulations. In this case the
82 property can easily accommodate the 3 additional green spaces requested.

83 The wastewater permit shows a home, is that there or proposed? No, the owner of the property completed a
84 design and approval to facilitate sale of the property. There are no plans to develop a home on the property.

85 Will there be any outside storage of materials? No, everything will be under cover as it is at his present shop.

86 Where will the fuel tank be located and what is it for? It is used to fuel business vehicles. The location of the
87 500 gallon tank has yet to be determined. It is a double-walled above-ground tank with a leak detector.

88 **Public questions/comments**

89 Jean_Panicucci- Jean shared that she lives across the street. She is concerned about aesthetics, this is a rural
90 residential area and wants it to remain the same, “VT like”. What will the new building look like and how far
91 will it be setback. The site plan shows the building along the north boundary, behind the existing shop
92 building. It will be used to store salt/sand and long materials. Eric reiterated that he does not plan to store
93 materials outside.

94 Do you think it could look like a barn? Eric responded that it’s possible.

95 Anne Taylor- shared the site plan for the benefit of the neighbors, which includes shed location, lighting,
96 setbacks etc. She also noted the applicant proposed that business activity would typically start around 7:00
97 am and conclude around 5 PM.

98 Ross Conrad- Will there be anything separating salt/sand storage from groundwater and aquifer? DRB noted
99 that Staff will determine what is required when the building permit is requested.

100 Will the fuel tank be covered or have a retention area should a spill/rupture occur? The tank is a double
101 walled tank with a leak detection sensor system. The tank will be located on a concrete slab.

102 12 parking spaces don’t seem like enough given the number of business vehicles. Where will employees
103 park? Most employees are laborers are on the construction site. The availability of employee parking will be
104 offset by the business vehicles leaving for the job site. Eric noted that several of his employees don’t/can’t
105 drive so they are picked up. Fewer employees during winter months.

106 Dave Wetmore- expressed he is here representing his Mom as the owner of the property. Dave had checked
107 with Randy Snelling regarding access permit. Randy stated that Eric will have to comply with the B-71
108 standard. Randy felt it was mostly compliant but that the radius at the intersection with Case Street may need
109 to be modified. A permit will be required.

110 Dave shared that the Pine tree reference earlier is actually a group of Christmas trees that were never set out.
111 They are 10-15-ft from the property line. There is also a group of Maple trees along the north boundary that
112 provides additional screening. The south boundary behind the shop between the Dykes property and his
113 Mom’s is a mix of a cedar hedge and mixed hardwood that provides a fairly dense screen.

114 Kevin- asked if there were more comments or questions? - none expressed

115 **Motion by Don Keeler- I move** that the Middlebury Development Review Board, having reviewed the
116 application submitted and having heard and duly considered the testimony presented at the public hearing of
117 February 25, 2019, approve this request for final conditional use approval for contractor yard and/or shop on
118 parcel #008053.000 located at 1415 Case Street. 2nd by Rick.
119

120 Dave Hamilton- friendly amendment to add greenspace waiver for three (3) additional required parking
121 spaces. Don Keeler and Rick Emilo agree to amendment. No further discussion.

122 **Motion passes 7-yes and 0-no.**

124 **Motion by Rick Emilo- I move** to close the Friend/Wetmore conditional use hearing, 2nd by Dave Hamilton.
125 Motion passes 7-yes, 0-no
126

- 127 2. Sketch plan application (file # 2019-08:181.000) request by Harley Grice Revocable Trust for a
128 proposed 2-lot subdivision of his property located at 1126 Halpin Road. Pursuant to Section 561, the
129 DRB will review the proposal for general compliance with Middlebury Zoning. Final plan/plat public
130 hearing approval will be sought at a later date. This will be the DRB’s second item of business. The
131 subdivision proposed is located in the Agricultural Rural (AR), parcel ID #008:181.000.
132

133 Kevin Newton opened the meeting at 7:30 PM, read the warning and administered the Oath to those present
134 who intend to submit testimony. Those taking oath were Wesley and Kirstin Butler, John and Penny Curler,
135 David Clark, Jason Barnard and Susan DeWind.

136 Kevin asked about conflicts of interest and ex-parte communication. None expressed

137 Dave Wetmore- expressed that this review is noticed only as a sketch plan and as such it is an opportunity
138 for the Board and neighbors to hear the SD plans and offer comments. DRB may wish to provide comments
139 and direction as to whether the SD complies with the Regulations. A final hearing will need to be warned and
140 reviewed at a later date.

141 Wesley Butler and Jason Barnard- Jason began by describing the proposed 2-lot SD. Harley is not attending
142 but Wes and Kirsten will be purchasing the property. Harley is Wesley's grandfather.

143 Jason noted that the Grice Farm is a 280 acre property. He proposes to subdivide and create one new 2.86
144 acre parcel. The entire Grice property is in the Agricultural Rural (AR) District. The proposed new lot would
145 be an interior lot accessed via a 50-ft right-of-way (ROW) onto Halpin Road. The intersection with Halpin
146 Road and ROW would follow a field road that is used for agricultural access. Wes and Kristen would
147 purchase and build a new home for themselves. Jason's firm has completed soils testing and determined that
148 there is a suitable wastewater site located east of the proposed home site. It would be a mound type system.
149 Potable water would source from a drilled well on the lot.

150 **DRB questions/comments-**

151 Are there views to the west? Some and the house would be visible from Halpin Road. Primarily the views
152 are to the east. The home would sit slightly over the ridge facing easterly.

153 Are there wetlands on the lot? Not on the 2.86 acre lot being created but there maybe (likely) on the rest of
154 the Grice property.

155 Do the dimensions of the 2.86 acre lot meet the requirements of the AR district? Yes, the minimum
156 requirements for a lot served by on-site drilled well and septic is 2 acres.

157 Dave Hamilton- expressed that this is well thought out and asked how steep the driveway will be? Jason
158 expressed that it is 5% or less.

159 **Staff questions/comments**

160 What are the site distances at Halpin Road? Jason and Wes felt that they were at least 300-ft to the north and
161 more than 300-ft to the south. An Access Permit is required to improve the driveway intersection with
162 Halpin Road. The culvert near the curve in the farm road/proposed driveway will be replaced with a larger
163 one.

164 How much clearing will be required? Wes stated that the house site is partially cleared. Additional clearing
165 will be necessary on the east side of the house site and around septic mound location. Wes expressed that
166 they want to preserve the larger trees and screening for their own privacy. Wes and Jason agreed that perhaps
167 ¾ acre would be cleared to site the home/septic.

168 Why is an internal lot being proposed? Wes replied there are many reasons including financial concerns,
169 Current Use and less impact upon the remaining agricultural use of the property. Cows are typically grazed
170 between the proposed new lot and Halpin Road.

171 **Public questions/comments**

172 Susan DeWind- Would the driveway intersection with Halpin Road be where the gate is presently? Yes.

173 Will the house site be near where the brush pile is located? It will be east of the brush pile.

174 Will the land between Halpin Road and the 2.86 acre lot continue to be used for agricultural purposes? Yes.
175 There are no plans to change the agricultural use as long as it is viable.

176 Penny Curler- Penny is Harley's daughter and she expressed that the land will remain in agricultural use as
177 long as possible.

178 David Clark- expressed he owns directly across from the proposed driveway. He hopes that Wes and Kristen
179 would consider moving their driveway south approx. 45 paces to prevent light trespassing into their
180 windows. A Lilac hedge a little further south would help to limit headlight glare. Wes thought that he could
181 agree with that. Dave and Wes will stake where the new intersection would be.

182 DRB-

183 Dave Hamilton expressed interest in how lots in the AR district are tracked, given the limits on developed
184 lots allowed in AR. Jen expressed that the Planning Office has the historic 1987 maps and from those maps
185 we determine and track subdivisions.

186 Dave Wetmore- expressed that it is his opinion that what the applicants have proposed is clearly a minor 2-
187 lot SD requiring only a final plat hearing review. DRB and Jen agreed.

188 Kevin Newton- suggested that the applicants consult with staff to ensure that the final plat plan complies
189 with the recording requirements.

190 Meeting concludes 8:00 PM.

191 **IV. Deliberative session-** none

192 **V. Other business**

193 Next meeting- 3/11/2019- Mandigo 2-lot SD on South Munger Street and Middlebury College CU for 82
194 Weybridge Street.

195

196 **VI. Adjournment**

197 **Motion by Rick Emilo-** moved the DRB to adjourn at 8:20 PM, 2nd by Don Keeler. **Motion passed, 7-yes -**
198 **0-no.**

199 Meeting adjourned at 8:05 PM

200

201 Minutes Submitted by Jennifer Murray and Dave Wetmore