

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes

March 9, 2010

Present: Glenn Seward, Shannon Harrington, Hal Pyke, Martha Harrison, Maggie Garrand, Ted Emerson, Joel Schreiber

1. Call to Order - Chair Glenn Seward called the meeting to order at 7:00 PM.
2. Changes or Additions - None
3. Public Hearings - The DRB members confirmed that there has been no ex parte communication. Glenn reviewed the definition of an interested party and swore in Maggie, Ted and Joel. Application #2391: Glenn opened the public hearing on application #2391 by Margaret Garrand for an amendment to an approved 22' variance of the front yard setback. The amendment, if approved, would allow a 25 ½ foot variance of the front yard setback at 2253 Brownsville-Hartland Road (parcel #5-108) to permit a 9 ½ 'x 8'x 8' entryway roof. The application is subject to review under Sections 2.3-3 and 6.8 of the West Windsor Zoning Regulations. Glenn said it's his opinion that the general findings, with regards to the variance criteria of Section 6.8, have not changed since the initial hearing on the 22' variance. Shannon and Hal agreed. Maggie said she didn't keep a copy of the plans so the posts were placed on the other side of the walk instead of near the ramp. Maggie asked if it is the eave that is 2 ½ feet farther than planned. Martha said yes; she has to measure the farthest point where the roof hangs over the post. Shannon said she doesn't have a problem with it as long as Maggie realizes that the edge of the structure is only 4 ½ feet from the edge of the highway right-of-way. Glenn said if the town were to improve the road or alter the alignment of the road, the edge of this structure would be 4 ½ feet away from that. Glenn closed the hearing on application #2391. **Shannon made a motion to approve the variance amendment as shown on application #2391 by Margaret Garrand. Hal seconded the motion, which passed unanimously.** Application #2393: Glenn opened the public hearing on application #2393 by Ted Emerson for a variance of the stream buffer and landfill requirements of Section 3.14 and 4.11 of the West Windsor Zoning Regulations to allow relocation of the lower portion of the driveway at 1119 Rush Meadow Road (parcel #1-61) 25' to the north. The application is subject to review under sections 3.2-1, 3.14, 4.11 and 6.8 of the West Windsor Zoning Regulations. Glenn noted that the Selectboard granted initial approval for Ted's highway access application subject to the DRB's approval. Regarding Section 3.2-1, Glenn said the issue is the distance between the driveway and the property line. Ted confirmed that he will proceed with a boundary line adjustment if the DRB approves the project. Shannon said Section 3.2-1 also specifies that the grade will not exceed 15% or 3% within 35 feet of the right-of-way. Ted agreed that the project will be completed in accordance with state specifications. Glenn said the grade issue was mentioned last night under Detail I of the B-71 standard. Regarding Section 3.14, Ted said he contacted State Engineer Patrick Ross, who said that the stream buffer is a local ordinance and doesn't fall under his domain. According to Ted, Patrick said if the stream were in a floodplain, he might be concerned about it but it's not so he referred Ted back to the DRB. Martha said Patrick told her that Willow Brook drains a five square mile area and if it drained a ten square mile area, then the project would have fallen under state jurisdiction. Ted said he also contacted State Permit Specialist Sandra Conant, who said there are no issues with potable water or

stormwater runoff. Ted said he also put straw down and put up a silt fence to control local erosion. Shannon asked if the silt fence was in place before any of the rocks were installed. Ted said yes. Ted said they also had to clear some brush and they put hay down at that time. Glenn read Section 3.14 into the record: "To prevent soil erosion, protect wildlife habitat and maintain water quality, a natural, undisturbed, vegetated buffer shall be maintained for a minimum of fifty (50) feet from all wetlands currently under federal or state jurisdiction, and from streams and rivers located on the U.S. Geological Survey map. The 50' buffer shall be measured from the high water mark or from the delineated wetland boundary. No new development, excavation, landfill or grading, other than that which is associated with an approved stream crossing, or other activity deemed acceptable by the Vermont Department of Fish and Wildlife, shall occur within the buffer strip. Vegetation shall be left in a natural, undisturbed state. Applications for stream crossings must be approved by the State of Vermont River Management Program and the Zoning Board, following Conditional Use review." Glenn said the proximity of the construction to the stream is one issue we have to deal with. Shannon asked how close the limits of fill will come to the high water mark. Ted said all of the fill will be above the high water mark. Shannon said it can be difficult to determine the high water mark. Ted said in this case there is not a sloping bank; there is a vertical bank. Shannon asked how close the construction will be to the high water mark. Ted said the project will abut the high water mark but there will be no fill going into the water below the high water mark. Shannon said the project, at the closest point, has a zero foot buffer to the high water mark. Ted said that is correct. Hal said Ted's email indicated that his abutters have no problem with the project. Ted said one of his neighbors, Joel Schreiber, is present and the others are supportive. Joel said he not only doesn't object, he thinks it is the right thing to do. Regarding Section 4.11, Glenn said the concerns are that "final contours are graded, covered with topsoil, and re-seeded to prevent erosion, and natural drainage flows are not obstructed or diverted onto adjacent property, there is no disturbance to, or filling of, water bodies, wetlands, buffers, or other significant natural areas, and such filling does not result in a slope greater than 15% within 100' of any property line." Glenn said there's going to be a slope off the end of the wall and asked Ted how far out that slope will extend. Ted said the rock wall will be vertical, tapering to grade. Ted said he wants the wall to be vertical so he can dump snow off it and there's somewhere for the snow to go. Ted said he approached the Corps of Engineers about filling in a stream buffer and they said because it wasn't a floodplain it wasn't in their jurisdiction. Ted said he will be filling an approximately 10' x 30' section of buffer to the height of the driveway. Shannon asked Ted what he is going to do with the existing driveway. Ted said it will remain so the driveway will be wider. Shannon asked if it will all be gravel. Ted said no, on the south side it will probably go into grass. Ted said this allows him to plow and not have to make a big pile. Shannon said she doesn't understand why Ted can't push the snow off to the side now. Ted said, with the angle of the driveway, he's never been able to get the snow to go off to that side adequately. Ted said pushing snow around an outside corner, if you don't do it just right, you risk putting the whole vehicle over the bank. Ted said to throw the snow far enough out of the driveway you have to plow with some speed. Ted said he initially plows from the house to the road and then turns around and goes back. Ted said the proposed project will give him enough width to get a tractor in to clear the snow if it piles up too high. Ted said the project also takes some of the curve out of the driveway, which makes it safer. Shannon noted that the existing and proposed sight line distances are both 175 feet. Ted said when there is a pile of snow, the

sight line distance is about 5 feet. Ted said twice now he has had close calls at the end of the driveway. According to Ted, Mike Spackman said the proposed driveway would be better than what exists currently. Ted said it's a visibility and safety issue. Glenn said he measured the sight distance at a little more than 175 feet, although not the approved sight distance for a 35 MPH road. Glenn said the Selectboard did talk with Mike about trimming some of the brush and saplings along the right-of-way. Ted said it's good to leave the larger trees because they slow the rate at which the undergrowth comes up again. Ted said some of the big trees have already come down at Mike's suggestion. Glenn read the first variance criterion and asked Ted to read his written response. Ted said, "For 30 years I was able to plow the snow at the Rush Meadow road end of my driveway across Rush Meadow onto a piece of my property on the far side of the road. About 5 years ago I was informed that this was not legal and have since plowed it into a pile where the north edge of the driveway meets the town road. This practice often results in a large pile of snow that severely limits visibility to the left as you proceed from the driveway to the town road. After several close calls I asked Mike Spackman to come out and look at this intersection and he agreed that the proposed changes (which will allow snow removal off the edge of the driveway) along with selective tree removal to improve sight distance to the north on the town road would make for a safer intersection." Glenn read the second variance criterion. Ted said, "I feel that "reasonable use of the property" includes a safe access to the town road." Glenn read the third variance criterion. Ted said, "For 30 years there was no "hardship". I do not know when it became illegal to deposit snow across a town roadway; I only know when it was brought to my attention." Glenn read the fourth variance criterion. Ted said, "All neighbors and abutters are aware of and in accord with this project." Glenn asked abutting property owner Joel Schreibman if the requested variance would adversely affect the neighborhood. Joel said he sees no impact, positive or negative. Glenn read the fifth variance criterion. Ted said, "I believe this to be true." Hal said the Selectboard mentioned last night that in case there is additional development at some point in the future, it should be built to B-71 standards. Ted said he is not doing this to put in a subdivision. Joel said if Ted's property were subdivided it would have to be reviewed by the DRB again. The DRB agreed. Shannon questioned whether the proposed variance really represents the *minimum* that will afford relief and the *least* deviation possible from the regulations. Ted said he believes the variance to be appropriate and adequate for the situation. Shannon outlined a "less deviant" possibility. Ted said the corner is, in itself, a safety issue and the bridge angle dictates the track of the driveway. Shannon wondered why it was built this way in the first place. Ted said Stanley Clay, former owner of the Schreibman property, wouldn't sell him the land he needed to straighten it out. **Glenn closed the hearing and made a motion to go into deliberative session because some of the issues may be precedent setting.** Ted said Patrick Ross was surprised when Ted called him about this project because it concerns a town ordinance. Ted wondered if that is part of the precedent that the DRB has to consider. Glenn said, safety concerns aside, this project involves obvious construction and fill in the stream buffer so he wants to consider the decision carefully before authorizing a variance of the zoning regulations. Shannon said she thinks Mill Brook would fall under state jurisdiction. Ted said he got the impression, from Patrick Ross, that the DRB will have to grant variances in the buffer area because the state won't do it. **Hal seconded the motion, which passed unanimously.** After deliberations, **Glenn made a motion to come out of deliberative session. Hal seconded the motion, which passed unanimously.**

4. Minutes – February 9, 2010: **Shannon made a motion to approve the minutes of February 9, 2010 as written. Hal seconded the motion, which passed unanimously.**
5. Other Business – Mountainside Drive Mylar: Glenn said Martha received a Mylar showing one of the changes she requested but not the other. Martha said where the original Mountainside subdivision Mylar showed a 100’ “greenbelt,” the revised Mylar showed a 100’ right-of-way. Martha said she had asked Steve to change that particular right-of-way back to a greenbelt and to change the wording in the signature box to reflect the fact that it was a boundary line adjustment approved by the Zoning Administrator, not a Subdivision approved by the DRB. Martha said the new Mylar does show the greenbelt change, but does not have the correct wording in the signature box. Shannon said the DRB cannot sign it unless it has the correct wording. Martha said the six-month deadline for filing a Final Plat is approaching. The DRB briefly reviewed Section 2.6 of the Subdivision Regulations regarding Plat Recording Requirements and agreed that Martha should ask the applicant to correct the wording in the signature box.
6. Adjourn –**Shannon made a motion to adjourn at 8:40 PM. Glenn seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison