

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes

June 14, 2011

Present: Glenn Seward, Shannon Harrington, Barbara Truex, Hal Pyke, Genevieve Lemire, Paul & Brian Bevacqua, Martha Harrison

- 1) Call to Order – DRB Chair Glenn Seward called the meeting to order at 7:05 PM, following site visits to 389 Hotel Road in connection with application #2442, and to 449 Bible Hill Road in connection with an emergency stream bank stabilization project (application #2445).
- 2) Changes or additions to the agenda – None
- 3) Public Hearing – Glenn opened the public hearing on application #2442 by Rivers Northeast Adventures (applicant) and OLCC Vermont LLC (landowner) for conditional use and site plan approval for a child care facility in the Bennington Building at 389 Hotel Road (parcel #3-14.4). The application is subject to review under Sections 2.3-4, 3.11, 4.5, 5.1, 5.2, and 5.3 of the West Windsor Zoning Regulations. Glenn asked about conflicts of interest or ex parte communication. The DRB members said there had not been any. Glenn reviewed the definition of an interested party and noted that an interested party has to have participated in the proceeding to appeal the decision. Glenn swore in Paul and Brian Bevacqua. Brian said Rivers Northeast Adventures would like to take over Albert Bridge School's afterschool program hosting a maximum of 18 children, ages 5 to 12, from 2:30 PM until 6:00 PM. Activities will be indoor and outdoor, on and off premises. Hal asked who would be in charge of teaching the kids and whether he or she has to be a certified teacher. Brian said you don't have to have a certified teacher for afterschool programs. Brian said he will be the primary staff member in charge, along with his business partner, one or two teen helpers, and guest instructors for special programs. Brian said he has completed the state application but he needs to install an Exit sign and have the fire alarm system checked before he can get approval from the State Fire Marshal. Brian said the state requires Agency of Natural Resources water and sewer permits, asbestos and lead screening, trade name verification and corporate papers, a resume and transcript for the head teacher, state and IRS tax standing verification, local zoning approval, fire safety approval, a child support affidavit, insurance information, and a description of the daily schedule and program philosophy. Brian said if he were to offer the program at the school, he would not have to do any of that. Brian said he also offers summer camps and, if the program is licensed, the summer programs can be subsidized by the state. Glenn said Section 2.3-4 indicates that a child care facility is a conditional use. Glenn noted that the applicant has submitted evidence indicating that conditional use, planned unit development, and site plan approval were granted on June 12, 1984 and recorded in Book 29 pages 227-237. Shannon asked if that permit is still valid. Martha said the approval runs with the land, but doesn't cover child care. Shannon asked about conditions in the 1984 permit. Martha said it was pretty broad, approving retail service and retail sales. Martha said the 1984 decision references attachments which were never attached. Glenn noted that Section 3.11 of the zoning regulations addresses parking and he thinks the proposed use would be classified as "professional office and business services." The DRB members agreed. Glenn said it appears to him that, based on square footage, 12 parking spaces are required. Brian said the parking area is shared by all users so there is plenty of parking. Shannon noted that the children are going to be transported to the facility by school bus anyway. Shannon said the parking has to be adequate for the child care facility in addition to all the other things that Northeast Adventures is already approved for. Brian said he wasn't sure if they were already approved so he was told to include everything in the application. Shannon asked Brian if he is applying for more than the child care facility. Brian said he's pretty sure that the organization's other activities are approved under the existing permit. Martha said she asked Brian to describe everything they do and, when she searched for prior permits, she found the conditional use approval from 1984, which appears to cover everything except child care. The DRB agreed that they should only be considering the

request for approval of a child care facility. Section 4.5 simply indicates that conditional use and site plan review are required for child care facilities serving more than 6 full-time and 4 part-time children. Glenn said Sections 5.1, 5.2, and 5.3 cover site plan review and conditional use. Glenn said it is his opinion that the 1984 permit is still in place. Hal agreed. Barbara noted that the applicant is not proposing any alterations to the outside of the building or traffic patterns. Hal said the child care facility is not going to affect the neighborhood or traffic. Glenn asked if anyone has any questions on Sections 5.1, 5.2, or 5.3. Glenn said he feels that the criteria were covered in the original 1984 permit. Genevieve agreed that the applicant is not changing the existing building. Shannon noted that the Farnsworth survey submitted in 2006 references the 1984 decision, which helps validate that the decision is still in effect. **Glenn moved to close the public hearing. Barbara seconded the motion, which passed unanimously. Hal moved to approve application #2442. Barbara seconded the motion.** Shannon asked that the local approval be conditioned on the applicant obtaining all required state permits. **Hal accepted the amendment to the motion, which passed unanimously.** Paul asked if there is a waiting period. Martha said the DRB has to issue a decision within 45 days and the decision can be appealed within 30 days of being issued. Paul asked if the appeal period starts when the decision is recorded. Martha said yes. Martha noted that, in order to appeal, the person appealing has to have participated in the hearing and no one is here.

- 4) Emergency Public Hearing – Glenn opened the public hearing on application #2445 by Robert M. Calhoun for a stream bank stabilization project at 449 Bible Hill Road (parcel #2-90). The application is subject to review under Sections 3.5, 3.14, and 4.11 of the West Windsor Zoning Regulations. Glenn noted that the applicant is not present, nor are any interested parties. Glenn added that the application includes a copy of the applicant's approved state stream alteration general permit. Martha said the zoning permit application provides the applicant's name, address, parcel number, and the following description of the project: "Rip rap repair stream bank of unnamed tributary." Martha noted the attached state approval and sketch entitled "Bulk-toe Rock Revetment Typical," which includes a plan, profile, and cross-section. Glenn said Section 3.5 of the zoning regulations deals with erosion control and development on steep slopes and obviously it's a very steep slope. Shannon said the state used to specify that projects of this nature be done when the water is low. Shannon said it has to be fixed so it doesn't really matter but she's surprised that the state permit doesn't say anything about a time period. Glenn said he thinks any erosion control measures would be useless because the stream flow can't be isolated. Glenn said some silt fence or hay bales on the discharge side of the culvert might be helpful but he doesn't see the need. Glenn said he thinks they need to get in there and do it quick and get out. Shannon agreed. Barbara asked if they will do some filling where the bank is undercut. Glenn said he assumes that it will be filled with stone. Glenn said Section 3.14 deals with work in the stream buffer. Shannon noted that Section 3.14 requires state approval, which the applicant has. Glenn said Section 4.11 has to do with landfill, which is obviously necessary to correct the problem. Shannon noted that the project is not in a special flood hazard area. Martha confirmed that it is not. Glenn noted that the Highway Foreman has inspected the problem and is encouraging this repair to be made on a timely basis. Shannon asked if the Selectboard has reviewed this with regards to the work in the town right-of-way. Martha said the Selectboard discussed it at their meeting last night and Bruce Boedtger said it would be good if the permit process could be expedited. Barbara asked if this approval is solely for the work on Calhoun's side of the stream. Genevieve noted that the eroded area on Epstein's side of the stream is in the town right-of-way. Glenn said he informed Mr. Epstein that the town will probably be putting some stone on the area that is beginning to erode. Shannon said the town is not required to fix it just because it's in the right-of-way. Hal said in this case the erosion on the Epstein's side of the stream is caused by the slope of the road. **Glenn moved to close the emergency public hearing. Barbara seconded the motion, which passed unanimously. Hal made a motion to approve application #2445. Genevieve seconded the motion.** Shannon asked Glenn if he can tell from the sketch how high the rip rap is going to go. Shannon said the sketch indicates fill from the stream bed to the design

stage and asked if the contractor is going to know what that means. Glenn said it is his assumption that the specifics were discussed with Dan Lesnick at the site visit with the state stream alteration engineer. Shannon asked if Dan was at that site visit. Glenn said yes, that is his understanding. Barbara asked if scour depth refers to the natural scour caused by the brook. Glenn said he thinks they are anticipating further scour and want to ensure that the stone is below that point. Shannon asked if they are going to dig down into the stream bed. Glenn said yes, the rule of thumb is 3' below the existing brook bed. Barbara asked about the size of the rip rap. Glenn said generally it's 3' or smaller and angular so it locks in. Glenn said the contractor will often put smaller rock on top for aesthetic reasons. **Glenn called for a vote on the motion, which passed unanimously.**

- 5) Review waiver language proposed by the Planning Commission – Shannon asked if the waiver would only apply to yard setbacks or if it would also apply to surface water setbacks. Martha said the criteria would not allow development to encroach on surface water setback requirements. Martha noted that waivers would only allow fire safety improvements, disability access improvements, energy conservation structures, or the preservation of open space, agricultural land, scenic views, or natural resources. Shannon noted the stringent application requirements and said it's important to know where the property lines are if we're going to allow a reduced setback. Shannon said she doesn't think the DRB will get many waiver requests. **Shannon made a motion to recommend that the Planning Commission (PC) include the waiver language, as written, in the zoning regulations. Hal seconded the motion, which passed unanimously.**
- 6) Proposed changes to erosion control section of zoning regulations – The DRB reviewed Shannon's draft erosion control application requirements table. The DRB agreed that the table should refer to development on slopes of 25% or more with no streams or wetlands, rather than slopes of 30% or less. Shannon said the applications should still come to the DRB for review. The DRB discussed whether the cutoff should be at 20% or 25%. Shannon said she doesn't think Martha should be responsible for determining the slope percentage, but requiring the applicant to hire someone could be costly. Shannon said since we're concerned with protecting streams, why not leave it at 20% if there's a stream within 50' and increase it to 25% if there is no stream. Hal said he is more concerned with the tightness of the curves in a driveway and the ability of a fire truck to negotiate the driveway, especially in the winter. Glenn said he has no problem leaving it at 20% if it's within 50' of a stream or wetland. The DRB agreed.
- 7) Minutes – May 11, 2011: **Barbara made a motion to approve the minutes of May 11, 2011 as written. Hal seconded the motion, which passed with Glenn abstaining.**
- 8) Other Business – Martha asked the DRB if they think the town should get photos of the erosion on the Calhoun property. Glenn said yes. The DRB members agreed. Hal suggested taking photos at all site visits.
- 9) Adjourn – **Glenn made a motion to adjourn at 8:35 PM. Shannon seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison