



DEVELOPMENT REVIEW BOARD MEETING MINUTES

Meeting Type: **Regular Meeting**
Date: **Thursday, September 24, 2015**
Time: **7:00 p.m.**
Place: **Municipal Building Community Room**
Address: **43 Bombardier Road, Milton, Vermont 05468-3205**
Contact: **802.893.1186**
Website: **miltonvt.org**

1 **1. CALL TO ORDER**

2 The Chair called the meeting to order at 7:02 p.m.

3
4 **2. ATTENDANCE**

5 **Members Present:** Bruce Jenkins, Chair; David Conley, Vice-Chair; Henry Bonges, Clerk;

6 **Members Absent:** Clayton Forgan

7 **Staff Present:** Jeff Castle, Town Planner; Jacob Hemmerick, Planning Director

8
9 **3. AGENDA REVIEW**

10 None.

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12 **4. PUBLIC FORUM**

13 None.

14
15 **5. OLD HEARINGS/BUSINESS**

16
17 *The following Hearing was continued from 9/10/2015 in order to conduct a site visit on 9/11/2015:*

18
19 **5(A). Conditional Use Application - 69 McMullen Road - Robert & Shirley Paradise, Owners/Applicants.**

20
21 The Chair read the following summary to open the hearing:

22
23 The Applicants are requesting an after-the-fact Conditional Use approval from the Development
24 Review Board according to Sections 363 and 500 of the Town of Milton Zoning Regulations. The
25 proposal would add an accessory, agricultural use (to raise swine within an existing barn and pen) to
26 the existing principal, single family dwelling use. The proposed use has not been found to be an
27 Accepted Agricultural Practice exempt from local regulation according to Title 24 Vermont Statutes
28 Annotated, Chapter 117, Section 4413(d). The subject property is located at 69 McMullen Road,
29 described as SPAN #13147, Tax Map 29, Parcel 47-1. The property contains a total of 1.09 acres and is
30 located within the "Beaverbrook Residential" (R7) Zoning District, the Town Core Planning Area,
31 and the Eastern Transition Sub-Area.

32
33 The Chair explained that the hearing was continued to conduct a site visit. The Chair administered the oath
34 to Interested Persons. The Applicants represented themselves at the hearing and are hereafter referred to as
35 the Applicant(s).

36
37 Bonges remarked that the site visit was helpful; noting that he did hear the loud banging noise coming from
38 the feeder that many neighbors had previously complained of and acknowledging that the noise could be
39 disturbing. He noted the number of flies was not excessive, that the odor was not terrible, and that overall it
40 seemed to be a good operation. Conley agreed with Bonges, stating that everything was well-kept and in its

1 place. Conley acknowledged it could be different on any given day and could have been cleaned up in
2 anticipation of the site visit. He noted some flies in the area and stated the chickens seem to be doing a good
3 job keeping flies at bay. Conley could not attest to the smell on other days as wind direction and weather
4 conditions could make it more or less offensive on any given day.
5

6 Jenkins agreed, adding he took a drive by the property to try to see if the odor was noticeable from afar
7 under different wind and weather conditions. He also noted the compost pile was well-contained, and
8 asked if Staff had anything to add. Castle agreed with the observations stated thus far; Hemmerick stated
9 that he noticed some standing water for wallowing that he didn't see as necessary, explaining that the wet
10 conditions could add to the smell and nuisance insects. Conley asked the Applicants if a wallow was
11 necessary. The Applicant replied that they tried sawdust instead and the pigs seem just as happy to roll
12 around in the sawdust as they were with the mud. Bonges advised that in his experience a wallow is not
13 necessary.
14

15 Conley inquired about the slamming feed bin door. The Applicant replied that they have removed the door
16 and added a roof instead, solving the problem. A neighbor (unidentified) asked why she was still hearing a
17 banging noise; the exact same noise she's been hearing all summer.
18

19 Neighbor Tom McCoy pointed out that if notice was given to him that the DRB was coming to his house, his
20 house would be clean. Other neighbors concurred. Jenkins stated they were not going to argue that point.
21 McCoy reiterated his frustration that the Applicants had prior notice of a site visit. Other unidentified
22 neighbors also expressed their frustration, several speaking at the same time and stating the Applicants had
23 a full day to clean. There was some terse exchange over the validity of observations made at a site visit when
24 notice is given in advance; Jenkins advised again that they were not going to argue that point and stated that
25 the Hearing would be conducted in a civil manner -- adding that if attendees could not be civil they would
26 be asked to leave.
27

28 Jenkins called upon Michael Boisjoli, an adjoining property owner who has expressed opposition to the
29 proposal. Boisjoli began with comments on after-the-fact permitting, a phrase he cannot find anywhere in
30 Milton's Zoning language. Boisjoli stated that in his opinion, if he built a garage and subsequently applied for a
31 permit, he would then have to tear down that garage. He stated ignorance of the law is not an excuse for
32 breaking it. He advised that nowhere in Milton's Zoning Regulations is there a regulation allowing after-the-
33 fact permitting. He felt that the Applicants should have been made to stop the Violation and apply for
34 Conditional Use approval; he did not understand why the Applicants were allowed to continue in the meantime
35 without approval. Boisjoli then commented on the useable space and the amount of manure that pigs produce,
36 expressing concern that the manure could leach in to the sandy ground and possibly contaminate the water of 6
37 neighbors who have wells. He also expressed concern over the precedent that could be set.
38

39 In response to agriculture being defined as a conditional use in the subject zoning district, Jenkins advised that
40 the DRB does not write the Regulations and the neighbors should may always present their [legislative]
41 concerns to the Planning Commission. At that, an unidentified neighbor spoke out, stating that although they
42 don't write the law, the DRB should follow the law. Jenkins tried explaining that the Applicant has a right to
43 request a Hearing, but was interrupted.
44

45 Neighbor Robin Perry quoted the Zoning Regulations as stating Conditional Use must be pre-approved by the
46 DRB. To clarify, Staff interjected that a Notice of Violation had been issued and recorded, and that this is a
47 normal process to attempt to cure the Violation; he explained that if the DRB does not grant conditional use
48 approval the Town may pursue enforcement. Perry stated she had a few other questions to ask and a letter from
49 residents of Hummingbird Lane to submit. Perry's main concern was the slaughtering of the animals. She

1 quoted the Zoning Regulations' definition of slaughterhouse and said they were not permitted in their district.
2 Jenkins stated the Applicants were not operating a slaughterhouse and Perry questioned that statement, asking
3 how the slaughtering of 4 pigs and many chickens does not constitute a slaughterhouse. In summary, Perry
4 finds this aspect particularly offensive and objectionable.
5

6 Chris Gillespie acknowledged that the DRB did conduct a site visit, but pointed out that all of the neighbors
7 were present at the hearing for a reason. They've all had similar comments about the odor and flies, and these
8 concerns should be taken in to account when the DRB makes its decision. The Chair acknowledged all
9 comments and said that these would be taken into consideration during deliberation.
10

11 The Chair closed the hearing at 7:25 p.m.
12

13 **6. NEW HEARINGS**

14 None
15

16 **7. OTHER BUSINESS**

17 Staff gave a brief Staff Update on Planning and Economic Development Department and Planning
18 Commission activities, and recapped the status of several projects that are in progress. Bonges asked if 6
19 p.m. would be a better time for the DRB to meet and discussion ensued. The DRB decided to keep their
20 meetings at 7 p.m.
21

22 **8. MINUTES**

23 The Minutes of September 10, 2015 were tabled by unanimous consent.
24

25 **9. DELIBERATIVE SESSION**

26 MOTION by Conley to enter Deliberative session at 7:30 p.m., SECOND by Bonges. Unanimously
27 APPROVED.
28

29 MOTION by Conley to exit Deliberative session at 8:25 p.m., SECOND by Bonges. Unanimously
30 APPROVED.
31

32 **10. ADJOURNED**

33 MOTION by Conley to adjourn at 8:26 p.m., SECOND by Bonges. Unanimously APPROVED.
34
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1 Minutes approved by the Commission this _____ day of _____, 2015.
2
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4 _____
5 Bruce Jenkins, Chair /kt
6

7 Filed with the Town Clerk this 28th day of September, 2015