



## MILTON DEVELOPMENT REVIEW BOARD PUBLIC NOTICE OF MEETING & HEARINGS

Meeting Type:.....Regular Meeting  
Date:.....Thursday, September 10, 2015  
Time:.....7:00 p.m.  
Place:.....FIRE DEPARTMENT MEETING ROOM  
Address:.....47 Bombardier Road, Milton, Vermont 05468-3205  
Contact:.....(802) 893-1186  
Website:.....miltonvt.org

*Bruce Jenkins*

*Clayton Forgan*

*David Conley*

*Henry Bonges*

### AGENDA

1. Call to Order
2. Attendance
3. Agenda Review
4. Public Forum

*The public may attend and be heard in accordance with Vermont's Open Meeting Law (1 V.S.A. 312).*

5. Old Hearings/Business

*None*

6. New Hearings/Business

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

7. Other Business

7(A). Staff Update

7(B). Possible Plat for Signature

7(C). Capital Improvement Plan Recommendations

8. Minutes of August 27, 2015

9. Possible Deliberative Session

*Private session for deliberations on applications and written decisions in accordance with 1 V.S.A. 312.*

9(A). Minor Conventional Subdivision Sketch Plan & Variance -- 947- 951 US Route 7 South -- General Stannard House Committee /Miller Realty Group LLP

9(B). Boundary Line Adjustment- Cold Spring Road 171 & 232 – Robert & Carolyn Clark and Molly M. Hastings Revocable Trust c/o Brent & Molly Hastings

9(C). Site Plan Amendment II Application - 121 Gonyeau Road – NG Advantage /Clean Energy

10. Adjournment

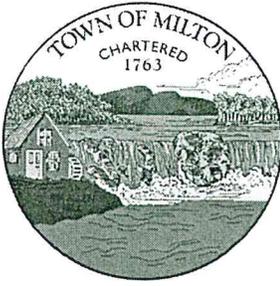


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Jeff Castle, Town Planner

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Filed in the Town Clerk's Office. Posted in the Municipal Building Lobby, Planning & Economic Development Department, Town's Facebook page, Town's DRB webpage, Middle Road Market, Milton Beverage, & Rene's Discount Beverage. E-mailed to the Regional Planning Commission, Burlington Free Press, Milton Independent, & LCATV.



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
 43 Bombardier Road  
 Milton, VT 05468-3205  
 (802) 893-1186  
 miltonvt.org

## DEVELOPMENT REVIEW BOARD STAFF REPORT

<b>Hearing Date:</b> September 10, 2015 at 7:00 p.m.	
<b>Case No:</b> 2015-26	
<b>Application(s):</b> Conditional Use	
<b>Application Received:</b> July 8, 2015	
<b>Application Deemed Complete:</b> August 6, 2015	
<b>Staff Report Finalized:</b> September 3, 2015	
<b>Applicant(s):</b> Robert Paradise 69 McMullen Road, Milton, VT 05468 <a href="mailto:bjparadise1@gmail.com">bjparadise1@gmail.com</a> 802.233.1548	<b>Owner(s):</b> Robert and Shirley Paradise 69 McMullen Road, Milton, VT 05468 <a href="mailto:bjparadise1@gmail.com">bjparadise1@gmail.com</a> 802.233.1548
<b>Engineer/License:</b> None	<b>Surveyor/License:</b> Not Applicable
<b>E-911/Postal Address:</b> 69 McMullen Road	
<b>Tax Map, Parcel(s):</b> 29, 47-1	
<b>School Parcel Account Number(s) (SPAN):</b> 13147	
<b>Deed(s):</b> Book 364, Page 417	
<b>Existing Size:</b> 1.09	
<b>Zoning District(s):</b> Beaverbrook Residential (R7)	
<b>Comprehensive Plan Planning Area/Sub-Area:</b> Town Core / Eastern Transition	
<b>Location:</b> Rear lot off McMullen Road between Evergreen Dr. and Birch Ln.	

## SUMMARY OF PROPOSAL

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

**Comments:** Jeff Castle, Town Planner; Amanda Pitts, Zoning Administrator; and Jacob Hemmerick, Planning Director, herein referred to as staff, have reviewed the application, materials and plans submitted and have the following comments. The numbered items below requests points of clarification, frame discretionary decisions for the DRB and recommend conditions of approval.

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**Application:** This matter comes before the Town of Milton Development Review Board (DRB) for Conditional Use approval.

**Applicant(s):** The application was submitted by Robert Paradise, referred to hereafter as the "applicant".

**Application Submission:** The application form and associated exhibits were received by the Planning and Economic Development Department on July 8, 2015; however, the application lacked plans (as required), and staff notified the applicant. The application and its associated materials are maintained by the Town in the application file and are available for public inspection.

**Application Completion:** The application was deemed complete by Staff on August 6, 2015 when the applicant submitted plans.

**Landowner(s):** The property is owned by Robert A. and Shirley J. Paradise. Robert A. Paradise is a signatory to this application.

**General Jurisdiction:** Land development is subject to regulation by the Town of Milton pursuant to, but not limited to, the following: The Vermont Planning and Development Act (Act); The Town of Milton Zoning Regulations (ZR), effective January 5, 2015; the Town of Milton Interim Zoning Regulations (IZR) effective February 26, 2015; and The Town of Milton Subdivision Regulations (SR), effective June 28, 2010.

**Conditional Use Specific Jurisdiction:** ZR110 states, "No LAND DEVELOPMENT shall be undertaken or effected except in conformance with the applicable provisions of these Regulations. No land, building or other STRUCTURE shall be used for any purpose except as provided in these Regulations."

ZR120 states, "Permitted and CONDITIONAL USES for each district of the Town are specified in these Regulations. Both types of USE require a Zoning Permit (commonly called a "Building Permit") and a Certificate of Compliance from the Zoning Administrator as prescribed in Section 1000 and 1010 below. A Zoning Permit for a CONDITIONAL USE requires prior approval of the Development Review Board,

which can only be issued upon a finding of conformance with the requirements indicated in Section 500, and with any additional criteria cited for a specific CONDITIONAL USE within the Zoning Ordinance."

**Warning of Hearing:** Public warning was issued by the Department of Planning and Economic Development for the hearing according to Vermont Statutes Annotated Chapter 24 §4464 with the exception that the requirement to publish in a newspaper of general circulation was not met within the required time frame. Staff herein discloses that the warning for this hearing was defective by 24 hours. Warning was submitted by the new Planning Assistant to the *Milton Independent* requesting publication on August 10, 2015; however, the advertising agent for the *Milton Independent* did not receive this e-mail from an unfamiliar e-mail address. Staff discovered that the notice was not published in the August 10, 2015 edition of the *Independent* and immediately scheduled publication of the warning in the next edition, August 27, 2015. Staff finds that this is a minor defect of warning; however, statute requires fifteen instead of fourteen days notice. The DRB may wish to continue this hearing to ensure that all interested persons have received adequate warning.

**Site Visit:** The DRB may schedule a site visit and recess the hearing to a subsequent meeting if on-site observation would better inform the DRB's decision.

**Application Exhibits:** The following exhibits were submitted with the application and attached to the Staff Report:

- Property Sketch received by the Planning Department on 8/6/15.

**Staff Exhibits:** The following exhibits from staff are attached to the Staff Report.

- Technical Advisory Committee (TAC) Public Works Review Sheet dated 8/24/15;
- TAC Police Review Sheet dated 8/26/15; and
- TAC Recreation Review Sheet dated 8/19/15.

**Compliance:** After receiving a complaint from a nearby property owner and viewing the site from an adjacent property, the Zoning Administrator issued a Voluntary Compliance letter on June 24, 2015 for conducting an agricultural use in the R7 Zoning District without Conditional Use approval, Zoning Permit approval and Certificate of Occupancy approval. The Zoning Administrator later issued a Zoning Violation on July 30, 2015, recorded in the Town Milton Land Records on August 19, 2015. The applicant has submitted this application in order to bring the site into compliance after-the-fact.

**Property Location:** The subject property is located at 69 McMullen Road and shown on Milton's Tax Map 29 as Parcel 47-1. The corresponding School Parcel Account Number (SPAN) is 13147.

**Size/Area:** The subject parcel is approximately 1.09 acres or 47,480 square feet.

**Property Deeds:** The Deed is recorded in Book 364, Page 417 of the Town of Milton Land Records.

**Zoning District:** The site is located within the Beaverbrook Residential (R7) Zoning District described on the Town of Milton Zoning Map, last amended August 22, 2011, on record and display at the Municipal Offices and available on the Town's website. The ZR361 states that the purpose of this district is to "allow for moderately high-density residential development in an area that is linked closely to downtown."

**Comprehensive Planning Area:** The site is located within the Town Core Planning Area, as delineated in Map 2 of the 2013 Comprehensive Plan. The site is located in the Eastern Transition Sub-Area, as delineated in Figure 9.1 of the 2013 Comprehensive Plan (p.112). The Plans states the following goals for this area:

Any future development within this area should be served by the full range of public services, including municipal water and wastewater, sidewalks, and street lighting. Those already developed portions, which are not served by all these services, should be permitted to be served through the extension of water and wastewater lines and the installation of sidewalks and street lights. Standards for outdoor lighting and signage that respect the historic character of the area should be developed. The 2007 Streetscape Study and the 2012 Enhancing Route 7 public forum and survey provide recommendations on parking, streetscape design (roadway infrastructure, street trees, pedestrian access and crossings, signage, and lighting), stormwater management, building location and design, way-finding and street furniture. The recommendations most appropriate from Milton's needs from these studies should be incorporated into the Zoning Regulations to ensure that new development is cohesive and resembles that of a downtown, pedestrian atmosphere.

Sidewalks should connect to the existing sidewalk system along Route 7, within the Village and extend to other densely developed areas in the community. This entire area is within easy walking distance of Bombardier Park. However, the lack of a connecting sidewalk network is a serious hindrance to optimal use of the park and the adequate provision of recreation services to residents. To facilitate the development of the necessary infrastructure, the Town enacted a Tax Increment Financing District (TIF) for this area (which is addressed in more detail in the Economic Development Chapter of this Comprehensive Plan). The 2007 Route 7 Land Use Study has recommended reducing some of the height requirements, as the allowed heights are significantly higher than the heights of the buildings that currently exist. While this planning area is where development is appropriately encouraged, the study found that the Town has significant vacant, developable land to accommodate future growth even while limiting new building construction to a scale compatible with existing structures.

**Goal 9.6.1.** Enhance all aspects of transportation opportunities.

**Objective 9.6.1.a.** Review the Town's access management guidelines, and encourage the development of a secondary road network.

**Objective 9.6.1.b.** Develop fully linked systems to include sidewalks, bike paths, and bus and rail service.

**Objective 9.6.1.c.** Enhance pedestrian friendly environments incorporating streetlights, street trees, signage and public spaces. Incorporate appropriate recommendations from the 2007 Streetscape Study and the Enhancing Route 7 public forum and survey into the Zoning Regulations.

Within the Town Core Area, there are five sub-areas with their own unique characteristics and subsequent 5-year vision. These include the New Downtown, Gimlet Hill Transition, Old Towne, Checkerberry, and Eastern Transition sub-areas. The site is located within the Eastern Transition Sub Area. The Plan states the following goals about the Eastern Transition sub-area (p. 120):

The vision of this sub-area is a transitional area between the Town Core and the more rural East Milton. This sub-area lies to the east of the New Downtown, Gimlet Hill, and Old Towne sub-areas. The Beaverbrook zoning district, at the southern end of this sub-area, is a large moderate density residential neighborhood that is largely built-out. This sub-area also includes larger undeveloped parcels along East Road, and newer residential neighborhoods to the north. The western boundary of this sub-area is Railroad Street. Railroad Street seems to function as the logical first line of transition from the denser Town Core to the less dense East Milton planning area, particularly because the railroad tracks and ROW creates a natural boundary.

Currently some of the existing zoning districts within this sub-area have a minimum lot area as small as 10,000 square feet (about ¼ of an acre). This does not make a very logical transition to the 10-acre zoning district within the East Milton planning area. The presence of Mallets Creek creates a limiting factor to development in this area, however dimensional standards within this sub-area should also be revised to establish an appropriate level of density that transitions between 10,000 square feet to 10-acre zoning. In addition, amenities such as sidewalks and/or bike paths should be considered to help improve linkages between the Beaverbrook sub-area and the New Downtown sub-area.

#### **9.5. Town Core – Eastern Transition Sub-area Goals**

**Goal 9.5.1.** Encourage public green spaces and small parks throughout this area (such as neighborhood parks as recommended in the 2007-2027 Recreation Plan).

**Goal 9.5.2.** Dimensional standards should be reviewed in this sub-area in order to establish an appropriate level of density that transitions between 10,000 square feet to 10 acre zoning.

**Physical Characteristics/Natural Features:** The site is flat, drains to Lake Champlain via the Mallets Creek watershed, contains agricultural soils of statewide significance, contains no presumed wetlands, and contains a vegetative buffer to the north and east.

**Existing Use:** The site consists of a principle single family dwelling and accessory structures.

**Proposed Usage:** The proposal would add an accessory, agricultural use (to raise swine within an existing barn and pen) to the existing principal, single family dwelling use.

ZR1110 defines AGRICULTURE as, “The production of farm products, including, but not limited to, dairy farming, animal husbandry, horticulture, tree farming, maple sugaring, the USE of farm STRUCTURES, the storage of agricultural products raised or acquired for USE on the premises, and direct sales of products so raised.”

**Proposed Improvements:** The application includes no new improvements.

**Existing Access:** The site is a rear lot with no frontage, currently accessed from McMullen Road via a right-of-way across an adjacent lot fronting McMullen Road. No access changes are proposed.

**Existing Utilities:** The site is serviced by municipal water. No changes are proposed.

**Waivers Requested:** None.

**Surrounding Use/Structures:** The property is surrounded by residential duplexes to the North, and single family residential dwellings to the West, South and East.

## CONDITIONAL USE REVIEW

**ZR363 Conditional Uses:** Agriculture is listed as a conditional use in the R7 Zoning District per ZR363(1).

### **ZR120, Applicability of ZP/CC for Permitted & Conditional Uses**

Permitted and CONDITIONAL USES for each district of the Town are specified in these Regulations. Both types of USE require a Zoning Permit (commonly called a "Building Permit") and a Certificate of Compliance from the Zoning Administrator as prescribed in Section 1000 and 1010 below.

1. If approved, a Zoning Permit is required and an associated Certificate of Compliance is required to cure the Zoning Violation.

### **ZR120, Applicability of Conditional Use Review**

A Zoning Permit for a CONDITIONAL USE requires prior approval of the Development Review Board, which can only be issued upon a finding of conformance with the requirements indicated in Section 500, and with any additional criteria cited for a specific CONDITIONAL USE within the Zoning Ordinance.

**ZR500 Conditional Use:** The section states, "The authorization by the Development Review Board shall be granted only upon a finding by it that the proposed USE complies with the specific dimensional and other applicable standards as set forth in these Regulations and that the proposed CONDITIONAL USE does not have an undue adverse effect [on the following standards]:"

#### **ZR500.1, Capacity of Community Facilities**

"The capacity of existing or planned community facilities or services including water, waste disposal, roads, police, fire services and schools."

Unless otherwise stated in this Report, Staff finds that the proposed use would not impact the capacity of existing or planned community facilities.

#### **ZR500.2, Character of the Area**

"The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan."

Staff finds that ZR361 states that the purpose of the R7 Zoning District is to "allow for moderately high-density residential development in an area that is linked closely to downtown." Staff further finds that the Comprehensive Plan's vision for this area and sub-area could be characterized as downtown development surrounded by a medium density residential neighborhood. The question for the DRB is whether or not this type of agricultural use is compatible with the character of the area. Staff finds that the definition of agriculture is broadly defined by the Regulations to include diverse agricultural uses, some of which are less likely to have an undue adverse impact on the character of this area; however, an "undue adverse impact" can be difficult to assess and often depends on site-specific and operational considerations. However, staff finds that the smaller the lot and the greater the housing density in proximity, the more likely it is that animal husbandry will cause an undue adverse impact to the character of the area and the more important operational considerations that mitigate impact become.

ZR500.3, Environmental Limitations & Natural Resources

“Environmental limitations of the site or area, and significant natural resource areas or sites.”

Livestock has the potential to impact water resources, although best management practices can effectively mitigate impacts. It is unknown if there are wells in close proximity to this use, and unknown if the manure waste is managed in such a way as to not impact natural resources such as ground and surface water. However, the Vermont Agency of Agriculture Accepted Agricultural Practices (AAPs) provide some benchmarks that the DRB may wish to take into account:

4.01(b) Barnyards, manure storage areas, animal holding areas and production areas shall be managed or controlled to prevent runoff of wastes to adjoining waters, groundwater or across property boundaries.

4.02(a) Manure stacking sites, fertilizer storage and other nutrient source storage shall not be located within 100 feet of private wells unless it can be demonstrated to the Secretary that there is no suitable alternative site or if the private well is in a location that is inconsistent with state law or regulation. Fertilizer may be stored within 100 feet of private wells provided it is stored in a structure that minimizes leaching and runoff potential. Manure shall not be stored within 100 feet of property boundaries unless it can be demonstrated to the Secretary that there is no suitable alternative site.

ZR500.4, Comprehensive Plan, Bylaws, Ordinances, Regulations

“The *Comprehensive Plan* and all bylaws, ordinances and/or regulations of the Town of Milton.”

Unless otherwise stated in this Report, Staff finds that the proposal would not have an undue adverse effect on the standards of 500.4.

ZR500.5, Traffic

“Traffic on roads and highways in the vicinity.”

Unless otherwise stated in this Report, Staff finds that the proposal would not have an undue adverse effect on the standards of 500.5.

ZR500.6, Renewable Energy Resources:

“Utilization of renewable energy resources.”

Unless otherwise stated in this Report, Staff finds that the proposal would not have an undue adverse effect on the standards of 500.6.

ZR501, Conditional Use Conditions

2. In granting such CONDITIONAL USE, the Development Review Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the provisions and intentions of these Regulations and the Milton *Comprehensive Plan*.

**GENERAL ZONING PROVISIONS**

**ZR580 Accessory Structures & Uses:**

ACCESSORY USES and STRUCTURES, as defined in Section 1010 of this Ordinance, shall be allowed in all districts, subject to the following provisions:

580.1, Regulatory Conflicts

“They do not conflict with any other provision of this Ordinance.”

580.2, Nuisance

“They do not constitute a threat or nuisance to the health, safety, and welfare of neighboring property owners.”

580.7, Accessory Use Area Limitation

“ACCESSORY USES shall not exceed 10% or 2,000 sq. ft., whichever is the lessor, of the total GROSS FLOOR AREA of the PRINCIPAL STRUCTURE.”

Staff finds that the language of ZR580.7 does not clearly explain the purpose and questions if the intent is to limit the space within a principal structure, within accessory structures, or the space designated to a use outdoors. Staff finds that the pig pen occupies 1,024 square feet of area, and the barn occupies 896 square feet. The gross floor area of the principal structure is listed as 3,536 square feet the Assessor’s Lister Card. Staff finds that the use exceeds 10% of the gross floor area of the principal structure.

3. The Final Plans shall show that the area of the proposed accessory use does not exceed 10% of the total Gross Floor Area of the Principal Structure, per ZR850.7.

ACCESSORY as defined by ZR 1110:

A USE or STRUCTURE on the same lot with, and of a nature customarily and clearly incidental and subordinate to, the PRINCIPAL USE or STRUCTURE. See the definition for PRINCIPAL STRUCTURE and PRINCIPAL USE.

580.8, Accessory Use District Compliance

“Only a permitted or CONDITIONAL USES allowed in a district can be an ACCESSORY USE in that district.”

The use is conditionally permitted within the district.

**ZR710 Prohibited Uses**

ZR710.2, Prohibition of Noxious and Offensive Uses

No USES shall be permitted which are noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, or which present a hazard to public health and safety. This Section shall not be interpreted to prohibit agricultural USES in ZONING DISTRICTS in which AGRICULTURE is a permitted USE.

Staff finds that AGRICULTURE is not a permitted USE in the Beaverbrook Residential (R7) Zoning District, and the potential of offensive emission of odor should be considered.

4. The use shall be conducted in a manner as to not emit noxious or offensive odor, dust, noise, smoke, gas, fumes or present a hazard to the public health and safety, per ZR710.2.

#### ADMINISTRATION

ZR1020 states, “A Zoning Permit, variance or CONDITIONAL USE approval shall expire one year from the date of issue. If the work has not been completed, the applicant shall apply to the Zoning Administrator for an extension. The Zoning Administrator may grant a single one-year extension for the identical project only.”

5. If approved, the Conditional Use approval shall expire one year from the date of issue (unless extended by the Zoning Administrator), per ZR1020.

#### ZR1030 Revocation of Approvals and Permits

In addition to any other remedies provided for by law, a Zoning Permit, Sign Permit, variance, CONDITIONAL USE approval, or Site Plan approval may be revoked by the Zoning Administrator or Development Review Board, whichever granted the permit or approval, for violation of these Regulations or the terms and conditions of the permit or approval.

Omission or misstatement of any material fact by the applicant or agent on the application or at any hearing which would have warranted refusing the permit or approval shall be grounds for revoking the permit or approval at any time.

#### CONCLUDING REVIEW

6. The Applicant shall address any remaining concerns from the DRB concerning the standards above.

#### STAFF RECOMMENDATION

The Planning Staff recommends that the DRB **approve** the Conditional Use application for the property located at 69 McMullen Road, described as SPAN #13147, Tax Map 29, Parcel 47-1, subject to the conditions proposed above.

Respectfully Submitted:

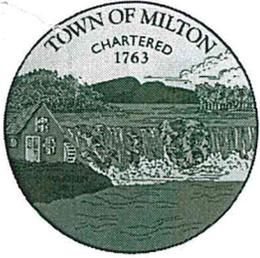
  
\_\_\_\_\_  
Jeffrey Castle, Town Planner

#### ATTACHMENTS:

1. Property Sketch
2. TAC Comments

**COPIES TO:**

1. Applicant(s)
2. Owners(s)



TOWN OF MILTON  
Planning & Economic Development Department  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, September 10, 2015

Date of Review: 8-19-15

Department: Recreation

TAC Member: Kym Buchesneady

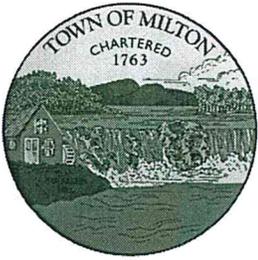
Conditional Use Application - 69 McMullen Road - Robert & Shirley Paradise, Owners/Applicants.

No ~~other~~ comments.

RECEIVED

AUG 19 2015

Planning & Economic Development  
Milton, Vermont



**TOWN OF MILTON**  
**Planning & Economic Development Department**  
43 Bombardier Road  
Milton, Vermont 05468-3205  
802.893.1186  
miltonvt.org

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## TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, September 10, 2015

Date of Review: 09-26-15

Department: POLICE

TAC Member: BRETT VAN NOORDST

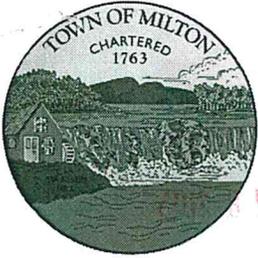
Conditional Use Application - 69 McMullen Road - Robert & Shirley Paradise, Owners/Applicants.

NO COMMENTS or CONCERNS.

**RECEIVED**

**AUG 26 2015**

Planning & Economic Development  
Milton, Vermont



TOWN OF MILTON

Planning & Economic Development Department

43 Bombardier Road

Milton, Vermont 05468-3205

802.893.1186

miltonvt.org

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TECHNICAL ADVISORY COMMITTEE REVIEW SHEET

Development Review Board Meeting of Thursday, September 10, 2015

Date of Review: 8/24/15

Department: Public Works

TAC Member: Roger Hunt

Conditional Use Application - 69 McMullen Road - Robert & Shirley Paradise, Owners/Applicants.

The water service and other underground utilities are not shown on the plan.

No further comments.

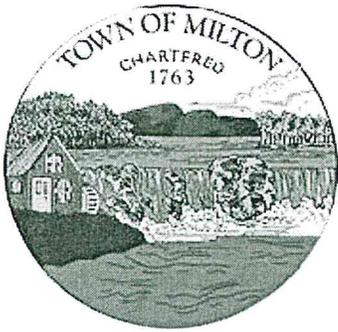
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AUG 24 2015

Planning & Economic Development  
Milton, Vermont





# DEVELOPMENT REVIEW BOARD MEETING MINUTES

Meeting Type: Regular Meeting  
Date: Thursday, August 27, 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

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1 **1. CALL TO ORDER**

2 The Chair called the meeting to order at 7:03 p.m.  
3

4 **2. ATTENDANCE**

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

6 **Members Absent:** None

7 **Staff Present:** Jacob Hemmerick, Planning Director; Jeff Castle, Town Planner  
8

9 **3. AGENDA REVIEW**

10 No changes.  
11

12 **4. PUBLIC FORUM**

13 None  
14

15 **5. OLD HEARINGS/BUSINESS**

16 None  
17

18 **6. PUBLIC HEARINGS**

19  
20 **6.1 Minor Conventional Subdivision Sketch Plan & Variance - 947-951 US Route 7 South - General**  
21 **Stannard House Committee, Applicant/Miller Realty Group LLP, Owner**  
22

23 The Chair read the following summary to open the hearing:  
24

25 The Applicant seeks a 2-lot Minor Conventional Subdivision Sketch Plan approval per Subdivision  
26 Regulations Article III to place the existing Stannard House on a new, non-conforming, 68,000 square foot  
27 lot with access from US Route 7; the remaining 860,374 square foot lot would contain the existing  
28 Gardener's Supply distribution warehouse. The property is described as 947-951 US Route 7 South; Tax  
29 Map 8, Parcel 1; SPAN #13967; contains approximately 19.75 acres; and is located within the General  
30 Industrial (I-2) Zoning District and the Catamount Planning Area. The Applicant seeks a Variance  
31 approval according to Section 1070 of the Zoning Regulations from Subdivision Regulations Sections 700.5  
32 and 880.1 as well as Zoning Regulations Section 620 and 394.  
33

34 The Chair administered the oath to Interested Persons. The Applicants were represented at the hearing by  
35 Bill Kaigle, Co-chair of the General Stannard House Committee; Kate Cadreact, Co-chair; Terry Richards,  
36 Committee Historian; and Roger Dickinson, Lamoureaux and Dickinson Engineer [collectively referred to  
37 hereafter as the "Applicant(s)"].  
38

39 Staff advised that a correction was needed; the proposed lot is 6,800 square feet, not 68,000 and the prior lot  
40 size is 860,374 which includes the 6,800 square foot proposed subdivided lot. Conley asked the dimensions of

1 the proposed lot, Applicant stated that it is 68' by 100'.  
2

3 The Applicant gave general background information on the General Stannard House Committee, stating the  
4 group was formed in July 2014 and comprised of Milton Historical Society members and other interested  
5 members of the general public. The Committee's primary goal is to save and restore the post-war home of  
6 Civil War General George Stannard. Applicant stated that they have worked with the property owner, Robert  
7 Miller, and he has agreed to donate the structure and a lot of land on which it sits to the Town. Applicant  
8 stated that in April 2015, the Selectboard unanimously agreed to accept the donation. Applicant stated that  
9 the committee will fund all repairs to the structure and hopes to operate a small museum there in the future.  
10 The Committee is aggressively fundraising and has currently raised almost \$20,000.00.  
11

12 In response to the following numbered items in the Staff Report:  
13

- 14 1. In response to Item 1, the DRB determined that a site visit was not necessary.
- 15 2. A) In response to Item 2A, "Within six months of classification by the DRB of the sketch plan as a  
16 minor subdivision, the subdivider shall submit an application for approval of a subdivision plat. The  
17 application shall contain those items set forth in Section 610 of the Zoning Regulations, and shall  
18 conform to the layout shown on the sketch plan plus any recommendations made by the DRB." The  
19 Applicants agreed.  
20 B) At this time Staff interjected there was a numbering error on page 6 of the Staff Report, and the item  
21 labeled #14 should actually be item 2B. In response to Item 2B, requesting that the Applicant address  
22 any current concerns that the DRB may have related to SR700 and that the Final Plan include  
23 comments that specifically address how the proposal meets each standard in Section 700: Conley  
24 inquired whether or not anything that is there now will remain and Applicants replied yes; however  
25 the back garage addition and a deteriorated rear dormer will be removed. Otherwise, the exterior will  
26 remain as-is. The Applicant noted that the foundation is in good shape. The Applicants advised that  
27 they also intend to install a historically accurate fence. Some discussion followed regarding the period-  
28 specific building materials. The Applicant explained the 2014 conditions assessment that gives an  
29 overview of proposed restoration methods, and further stated that they intend to use cost effective  
30 materials that meet Vermont Division of Historic Preservation requirements.
- 31 3. In response to Item 3, requesting that the Final Plans shall include a drainage plan, the Applicants  
32 agreed.
- 33 4. In response to Item 4, requesting that the Final Plan identify proposed water and wastewater service:  
34 Applicants stated there is a municipal water line across the street, US Route 7, and they are exploring  
35 alternatives for wastewater disposal. Applicants stated they will have something to present at Final  
36 Plan stage.
- 37 5. In response to Item 5, requesting the Final Plans label the dimensions of all new and existing  
38 Easements, the Applicants agreed.
- 39 6. In response to Item 6, stating the DRB may grant a variance from SR700.5 and 880.1 as well as ZR620  
40 and ZR394 in accordance with ZR1071: there was no comment.
- 41 7. In response to Item 7, requesting that the final plat application be accompanied by a certificate of title  
42 showing the ownership of all property and easements to be dedicated to the Town and any proposed  
43 deeds, covenants and other legal data as the DRB deems necessary, the Applicants agreed. Applicant  
44 also stated the Town has already obtained a Letter of Intent for the Vermont Agency of Transportation  
45 regarding the proposed driveway.  
46

47 The Chair asked if anyone had any further comments or questions. The Applicant stated the existing drive  
48 was determined, by VTRANS, to be too close to another entrance and therefore they have proposed an  
49 alternative driveway configuration. Jenkins asked how much parking would be available on-site. The

1 Applicant responded approximately 4-5 spots maximum. Jenkins inquired if the parking area would be large  
2 enough for a school bus, and the Applicant acknowledged they would have to figure that out. Conley asked if  
3 the site would be staffed all day; Applicant replied that they would have limited but well-publicized hours  
4 and would likely be open in small chunks, perhaps 3 hours at a time and by appointment. Conley asked if  
5 there would be a sign and the Applicant confirmed there would be a tasteful sign, smaller than the "Save My  
6 House" banner that is currently in place. Conley also inquired about landscaping. Applicants stated they  
7 may have some small plantings in mind, but their main concern is ADA compliance. Therefore they plan to  
8 have sidewalks to the back and front of the house and keep the existing landscaping. Conley asked about the  
9 Town's plans to extend the sidewalk; Staff advised that it isn't anticipated the sidewalk extend that far and  
10 explained that site design questions (landscaping, parking, ADA compliance) can be answered when a use is  
11 identified and site plan application is subsequently submitted, if approved.

12  
13 MOTION by Conley to APPROVE the Minor Conventional Subdivision Sketch Plan and Variance application  
14 by the General Stannard House Committee, subject to the conditions proposed in the Staff Report. SECOND  
15 by Forgan. Unanimously APPROVED.

16  
17 **6.2 Boundary Line Adjustment - 171 & 232 Cold Spring Road - Robert & Carolyn Clark and Molly M.  
18 Hastings Revocable Trust c/o Brent & Molly Hastings, Owners/Applicants**

19  
20 The Chair read the following summary to open the hearing:

21  
22 The Applicants are requesting Boundary Line Adjustment approval to adjust the property boundary between  
23 two adjacent lots located at 171 and 232 Cold Spring Road described as SPAN #s 10522 and 12636, Tax Map  
24 39, Parcels 4-3 and 4-1. The proposal would transfer a total of 0.30 acres from the Clark lot to the Hastings lot.  
25 The subject properties contain a total of approximately 3.09 acres and are located within the "Shoreland  
26 Residential" (R6) and "Agricultural/Rural Residential" (R5) Zoning Districts.

27  
28 The Chair administered the oath to Interested Persons. The Applicants were represented at the hearing by  
29 Robert Clark (referred to hereafter as "Applicant").

30  
31 Staff advised that the DRB previously approved this application, but a final plat was not recorded within  
32 the allowable timeframe. The Applicant stated he was not aware that it was time-sensitive.

33  
34 In response to the following numbered items in the Staff Report:

- 35  
36 1. The Applicant agreed to include a note on the plat confirming that that no further subdivision shall  
37 occur.
- 38 2. The Applicant agreed that the plat will be in compliance with the sizing and formatting requirements  
39 of SR Section 610.1
- 40 3. The Applicant agreed to a Survey Pin Attestation, stating that he already has it.
- 41 4. The Applicant agreed the Final Plat will show the location of all improvements referred to in Article  
42 VIII according to SR 310.1(7).
- 43 5. The Applicant agreed to submit deeds and any other legal instruments associated with this adjustment  
44 for review and approval by the Town Attorney.
- 45 6. The Applicant agreed to submit \$500 for Legal Escrow to cover the legal review of deeds and other  
46 legal instruments, of which any unused balance would be refunded to the Applicant.
- 47 7. The Applicant agreed to submit one reduced version of the Final Plat for review and approval by Staff  
48 prior to submitting the Final (mylar) Plat for recording.
- 49 8. The Applicant agreed to submit a mylar Final Plat, signed by the licensed surveyor and the Chair of

1 the DRB, and recorded in the Town Clerk's Office within 180 days of the date of decision per SR  
2 Section 940. The Applicant also agreed to submit one full-sized (to scale) paper Final Plat depicting the  
3 requested changes to be maintained in the Planning Office's application file.  
4

5 Jenkins asked staff if any conditions proposed in this Report are different than the prior Decision. Staff  
6 explained that there are some changes to account for prior conditions that were already met, such as a  
7 wastewater review by the State.  
8

9 MOTION by Bonges to APPROVE the Boundary Line Adjustment application, subject to the conditions  
10 proposed above in the Staff Report. SECOND by Conley. Unanimously APPROVED.  
11

### 12 **6.3 Site Plan Amendment II - 121 Gonyeau Road - NG Advantage, Applicant/Clean Energy, Owner**

13  
14 The Chair read the following summary to open the hearing:  
15

16 The Applicant requests Site Plan Amendment approval from the Development Review Board per the  
17 Milton Zoning Regulations to reconfigure and expand the natural gas production and fueling equipment.  
18 The proposal would reconfigure internal circulation, lighting, electrical service as well as add 4 electrical  
19 compressors, 2 fuel dispensers, and other associated equipment and fencing. The Applicant proposes no  
20 building, access, parking or water/wastewater changes to the site. The property is described as 121  
21 Gonyeau Road, Tax Map 3, Parcel 8-6; SPAN #13971; contains approximately 6.3 acres and is located  
22 within the "General Industrial" (I2) Zoning District and the Catamount Planning Area.  
23

24 The Chair administered the oath to Interested Persons. The Applicant was represented at the hearing by  
25 Jerry Myers and Steve Palmer, both of NG Advantage. Also in attendance was their contractor from Green  
26 Mountain Engineering.  
27

28 Staff advised that an additional TAC comment was received, after the issuance of the Staff Report, by Chris  
29 Poirier of the Milton Fire Department, and submitted this as evidence.  
30

31 In response to the following numbered items in the Staff Report:  
32

- 33 1. The Applicant stated none of the violations noted in the Compliance section of the report were  
34 intentional. Specifically, there are trailers located within the property set-backs, but at least one has  
35 received a Certificate of Compliance and the Applicants were not aware of the issue until recent  
36 weeks. If not for the fact that the trailers are plumbed and connected to Town water and wastewater,  
37 they could be easily moved. However, because they are connected, relocating these trailers by 7' will  
38 cost \$10,000-\$15,000. The Applicant went on to advise that there will be a third Site Plan Amendment  
39 submitted to the Planning Office in mid-October, in which they will propose the addition of a new  
40 building. The Applicant would rather put the money in to that new building, and fully remove the  
41 trailers in question in May 2016 upon completion of the new building, rather than sink money in to  
42 their plumbing when they will ultimately be removed. However, the Applicant was clear that if the  
43 DRB requires them to do so, they will. Discussion ensued regarding different ways to bring the project  
44 in to compliance, with reclassification of the trailers to "construction trailers" being the item agreed  
45 upon. This would allow for the trailers to remain where they are temporarily, until the permanent  
46 building can be built in early 2016. The applicant agreed to the DRB reclassifying the existing office  
47 trailers as temporary construction trailers (instead of moving them out of the setback to bring them  
48 into compliance at this time) and return to the DRB with a site plan for a new building, resulting in the  
49 eventual removal of the existing trailers.

2. Regarding the non-compliant outdoor storage and unpermitted structure (a 20' steel "box"): the Applicant stated they simply ran out of room and will be happy to comply; it was also stated that most of the items will be removed within seven days.
3. The Applicant agreed to submit a Final Plan showing all elements previously approved in the Site Plan and that only those items specifically labeled as site changes may be altered through this proposal. The Applicant added that some existing, desirable features were omitted from the Site Plan and would be included on the Final Plan; for example there is some landscaping in place already and their trash container is currently screened from view.
4. The Applicant agreed that the height of all proposed structures shall be compliant with ZR560. The Applicant stated that they are in compliance currently, that all lighting fixtures are no more than 16' in height and that the tallest structure on the site is the canopy over the fueling stations, measuring at 20'.
5. The Applicant stated they have been in discussion with Assistant Fire Chief Poirier, adding that the Chief was included on those emails, and that they have an approved plan in place to use a flare off trailer and be in compliance no later than October 15, 2015. They will also be conducting a demonstration of the trailer for the Fire Department.
6. The Applicant stated that no additional employees will be needed due to this proposal and that currently there are 17 employees with a maximum of 7 employees on-site at any given time; therefore the 10 existing parking spaces are adequate.
7. The Applicant agreed to delineate 10 parking spaces and include a note showing the dimensions on the Final Plan. It was also clarified that car parking is separate from trailer parking.
8. The Applicant agreed the Final Plans shall designate a handicapped parking space.
9. The Applicant agreed the site's northern highway access egress shall be painted with egress arrows and that two "Do Not Enter" signs will be erected on each side of the entrance in compliance with ZR551, 815 and 830.
10. The Applicant agreed the Final Plans will show a bike rack.
11. The Applicant agreed that if any light fixture must be replaced, the replacement fixture shall be in compliance with ZR820. The Applicant noted, however, that this is not really applicable as they will only be relocating, not replacing, lighting fixtures.
12. The Applicant agreed to obtain a Project Review Sheet from the Agency of Natural Resources and obtain all necessary state permits, adding that they already have Act 250 approval.
13. The Applicant agreed to submit two full-sized and two reduced Final Plan sets depicting the requested changes, which must be deemed Final by the Town Planner prior to the issuance of a Zoning Permit.
14. The Applicant agreed to obtain a Zoning Permit prior to construction and a Certificate of Compliance upon completion of construction and before use or occupancy of the new structure.
15. The Applicant agreed to respond to any further questions the DRB has. Conley asked how often the off-gassing occurs or the flare-off would occur. The Applicant replied that it occurs 6-8 times per year, perhaps 10-12 times as the business grows. The Applicant explained the nature of their business and cautioned against thinking of the gas as a liquid. The gas is always lighter than air, therefore a "spill" in the traditional sense is not possible. If there is any leak, the gas always goes up in to the air. The DRB had no other questions.

MOTION by Conley to APPROVE the Site Plan Amendment II application, with the condition agreed upon.  
SECOND by Bonges. Unanimously APPROVED.

## 7. OTHER BUSINESS

7(A). Staff presented the DRB's Fiscal Year 2016 meeting schedule and asked the DRB to review the schedule. There is a conflict with Thanksgiving 2015 and 2016, and Christmas Eve 2015. Jenkins mentioned that in the past when resolving these types of conflicts the meetings have been advanced one

1 week, or cancelled if there are no hearings scheduled. Conley, in reviewing the schedule, advised that  
2 there may be a couple meetings he will be unable to attend but that he would let everyone know ahead of  
3 time.

4  
5 Staff briefed the DRB regarding the Planning Commission's August 18, 2015 meeting and the Economic  
6 Development Commission's upcoming September 9, 2015 meeting. There was discussion regarding the  
7 vacancies on the Economic Development Commission, as well as the Conservation Commission's trail  
8 project, for which the Town Planner, Jeff Castle, is looking in to the cost of wetland permitting. The DRB  
9 was advised that there is one application scheduled for their next meeting and currently none for the  
10 following meeting on September 24, 2015. Training and development opportunities were also discussed.  
11 The new Town Planner, Jeff Castle, was welcomed aboard.

12  
13 **8. MINUTES**

14 MOTION by Bonges to approve the Minutes of August 13, 2015 as written, SECOND by Conley.  
15 Unanimously APPROVED.

16  
17 **10. DELIBERATIVE SESSION**

18 MOTION by Conley to enter Deliberative session at 8:27 p.m., SECOND by Bonges. Unanimously  
19 APPROVED.

20  
21 Decision(s) Signed:

22 **10(A). 37 Centre Drive - Site Plan Application - Gordon & Margaret Gilbert,**  
23 **Owners/Applicants (APPROVED)**

24 Bruce Jenkins, Chair                    yea/nay/abstain/absent/recusal  
25 Dave Conley, Vice-Chair:            yea/nay/abstain/absent/recusal  
26 Henry Bonges, Clerk:                yea/nay/abstain/absent/recusal  
27 Clayton Forgan:                      yea/nay/abstain/absent/recusal.

28  
29 MOTION by Conley to exit Deliberative session at 8:37 p.m., SECOND by Forgan. Unanimously  
30 APPROVED.

31  
32 **11. ADJOURNED**

33 MOTION by Conley to adjourn 8:38 p.m., SECOND by Bonges. Unanimously APPROVED.

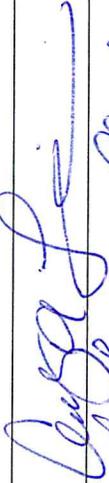
34  
35 Minutes approved by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

36  
37  
38  
39 \_\_\_\_\_  
Bruce Jenkins, Chair /kt

40  
41 Filed with the Town Clerk this \_\_\_\_\_ day of \_\_\_\_\_, 2015

# MEETING SIGN-IN SHEET - Milton Development Review Board

Date: Thursday, August 27, 2015

NAME (PRINT)	SIGNATURE	MAILING ADDRESS	PHONE #
Courtney A. Landin		P.O. Box 143	893-2028
Robert M. Clark		121 Eld Sp Rd Winton	893-2315
Bill King		30 Railroad	893-7387
Roger Dickinson		176 Circle Rd	893-7749
Pete Culmeat		709 GOREAT Rd	
Janet Terry Richards		72 Sheldon Rd.	
Charlie Farrell		23 Main Street	893-1085

**NOTE:** THOSE WISHING TO GAIN INTERESTED PERSON STATUS AND TESTIFY ON AN APPLICATION MUST ALSO SIGN-IN ON THE HEARING SIGN-IN SHEET.