

MILTON DEVELOPMENT REVIEW BOARD PUBLIC NOTICE OF MEETING & HEARINGS

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

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

5(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. (Continued from September 10, 2015)

6. New Hearings/Business

None

7. Other Business

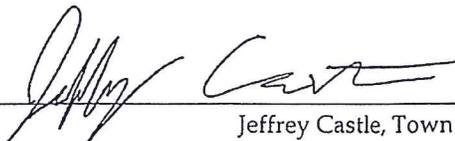
7(A). Staff Update

8. Minutes of Sept 10, 2015

9. Possible Deliberative Session

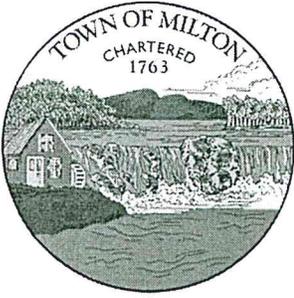
Private session for deliberations on applications and written decisions in accordance with 1 V.S.A. 312.

10. Adjournment



Jeffrey Castle, Town Planner

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.



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

43 Bombardier Road
Milton, Vermont 05468-3205
(802) 893-1186
miltonvt.org

MEMO

TO: Development Review Board
CC: Applicant
FROM: Jeffrey Castle, Town Planner
DATE: September 17, 2015
SUBJECT: MCMULLEN 69 CONDITIONS SUGESTIONS

In consideration of what was observed at site visit to 69 McMullen Road on Friday September 11, 2015, I propose the following conditions (in addition to those proposed in the Staff Report of September 3, 2015) to be considered by the Development Review Board, if Conditional Use is approved.

At the hearing and site visit, it was discovered that the applicant also hosts chickens, which would also be an agricultural use requiring conditional approval from the DRB in the R7 Zoning District and is also in violation of the Town's Zoning Regulations.

Conditional Use Limitations:

1. Conditional use shall be granted to and for Robert and Shirley Paradise, exclusively, and shall not be transferable nor run with the land.
2. Conditional Use shall be granted until the scheduled swine slaughter date (no later than November 20, 2015), after such time conditional use shall expire for the swine, but remain for the chickens.
3. The site may contain no roosters, and the number of chickens shall not exceed the currentt number of 11 chickens.
4. Upon the pigs being given away, sold, slaughtered, or otherwise deceased, they shall not be replaced without seeking new conditional use approval from the DRB demonstrating how the proposed operation will be in full compliance with the requirements of ZR710.2 which states, "No uses shall be permitted which are noxious or offensive by reason of emission of odor, dust, noise, smoke, gas, fumes, or which presents a hazard to public health and safety."
5. Revocation of Approvals and Permits shall be allowed in accordance with ZR1030, which states: "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."

If the applicant pursues a future conditional use application, Staff recommends that the proposed pen be placed in a central location on the lot adjacent to the applicant's home and provide a shade tarp for the pigs.

Animal Waste and Odor:

1. The pen shall be kept in a manner as to reduce moisture and shall not contain standing water.
2. All exterior areas associated with the keeping of pigs shall be cleaned and made free of waste on a regular basis.
3. The property owner shall employ all means necessary to control any odor problems as well as the propagation of insects.

Containment and Keeping of Animals:

1. A feeder shall be used that does not have a cover which closes with excessive noise.

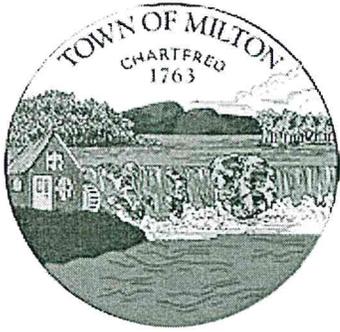
ATTACHMENT(S):

None

Respectfully Submitted:



Jeffrey Castle, Town Planner



DEVELOPMENT REVIEW BOARD MEETING MINUTES

Meeting Type: **Regular Meeting**
Date: **Thursday, September 10, 2015**
Time: **7:00 p.m.**
Place: **Fire Department Meeting 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 7:00 p.m.
3

4 **2. ATTENDANCE**

5 **Members Present:** Bruce Jenkins, Chair; Henry Bonges, Clerk; Clayton Forgan

6 **Members Absent:** David Conley, Vice-Chair

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

9 **3. AGENDA REVIEW**

10 There were no proposed changes to the Agenda.
11

12 **4. PUBLIC FORUM**

13 None.
14

15 **5. OLD HEARINGS/BUSINESS**

16 None.
17

18 **6. PUBLIC HEARINGS**

19 **6(A). Conditional Use Application – 69 McMullen Road – Robert & Shirley Paradise, Owners/Applicants.**

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

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

32 The Chair administered the oath to Interested Persons. The Applicants represented themselves at the
33 hearing and are hereafter referred to as the Applicant(s).
34

35 Staff noted that Michael Boisjoli, a nearby property owner, submitted a written statement via email that was
36 provided to the DRB and added to the file. Jenkins replied that Boisjoli’s statement would be read aloud during
37 the hearing.
38

39 In response to the following numbered items in the Staff Report:

40 1. The Applicant agreed to obtain any necessary Zoning Permits and associated Certificates of Compliance.

- 1 2. The Applicant agreed that the DRB may attach additional conditions and safeguards as it deems
2 necessary.
- 3 3. Discussion began regarding ZR850.7 and the Gross Floor Area involved. Staff and the Applicant
4 confirmed the dimensions of the pig pen as 1,024 square feet. Because the principal structure is listed as
5 3,536 square feet on the Assessor's Lister Card, the Applicant is in violation of this regulation. The
6 Applicant confirmed that he would have to make the pen smaller to meet this requirement and agreed to
7 this condition.
- 8 4. This numbered item pertained to noxious or offensive odor, dust, noise, smoke, gas, fumes and hazards
9 to public health and safety. Therefore Jenkins read aloud the statement submitted by Michael Boisjoli of
10 29 Birch Lane, as it contains complaints relating to these conditions. Boisjoli vehemently opposes the
11 proposed conditional use and asked that his statement be read aloud, as he was unable to attend the
12 hearing. This statement is kept on file in the Conditional Use application file in the Office of Planning &
13 Economic Development. Staff interjected that there were a couple of statements in Boisjoli's statement
14 they would like to correct: first, the Zoning Administrator has taken action and issued a Violation that
15 has been recorded in the land records. Second, in regard to an after-the-fact permit, the Fee Schedule
16 explicitly states if a formal violation notice has been issued, a violation penalty of two times the normal
17 fee will be charged. Jenkins inquired if the Applicant had received any direct complaints from neighbors
18 and the Applicant replied no. The Applicants were only made aware of the issue when they received a
19 Voluntary Compliance Letter from the Town. Furthermore, the only person that has been out to view
20 the site was David Trombley from the VT Department of Agriculture, due to Boisjoli's complaint.
21 Jenkins asked about the odor. The Applicant advised that they noticed an odor for a brief time this past
22 spring after days of heavy rain, and they were unable to immediately address it. As soon as was
23 practicable, it was cleaned up. Jenkins asked how often the pen is cleaned; the Applicants replied that
24 cleaning and application of sand and hay is done on a daily basis. Jenkins inquired as to the number of
25 animals the Applicants are keeping; the Applicants confirmed there are four pigs and eleven chickens.
- 26 5. Jenkins read the following from the Staff Report, "If approved, the Conditional Use approval shall expire
27 one year from the date of issue (unless extended by the Zoning Administrator)." Silence followed, at
28 which time Jenkins asked if anyone had any comments. At this time neighbors of the Applicants began
29 to address the DRB. The following neighbors spoke: Leslie Butler of 25 Birch Lane, Robin Perry of 4
30 Hummingbird Lane Unit 101, Laura Putnam of 4 Hummingbird Lane Unit 102, Ismet and Jennifer
31 Hasanovich of 12 Hummingbird Lane Unit 102, Chris Gillespie of 8 Hummingbird Lane Unit 101 and
32 Tom McCoy of 25 Birch Lane. All expressed nearly identical concerns and commented that the odor is
33 constant, foul, and especially bad in the morning; they cannot use their property, yards and pools; they
34 cannot have windows open; there is an extreme amount of green flies in the area and in their homes; and
35 there is a loud banging noise from the pen door slamming shut, a sound similar to a gunshot and
36 occurring at a rate of 5-6 times per minute. Those unaware that there were pigs in the area thought they
37 had septic problems because the smell was so bad, and one neighbor actually contacted the natural gas
38 company, thinking that perhaps there was a gas leak. McCoy of 25 Birch Lane stated the Zoning
39 Administrator had, in fact, visited the site and Staff clarified that the Zoning Administrator had observed
40 the site from an adjoining property in response to the complaints that had been received, in order to be
41 able to issue a Voluntary Compliance Letter. McCoy also pointed out that pigs carry diseases such as
42 MRSA, e. coli and parasitic worms. McCoy is concerned about the spread of disease especially to
43 children, particularly when runoff occurs after a rainstorm, for example. The DRB considered a site visit.
44 The Applicant, Staff and the DRB agreed on the next day, September 11, 2015 at 4 p.m. to perform a site
45 visit.

16
17 General discussion then ensued between the neighbors and the DRB, with the neighbors being upset that the
18 pigs could even *potentially* be allowed. Several of the neighbors commenting are new homeowners and stated
19 that they thought they were purchasing a home in a residential neighborhood, not next to a pig farm. The

1 neighbors were generally upset with the proceedings and that this is an after the fact permit, which they felt
2 should not be allowed. The neighbors asked about a variety of hypothetical situations, which the DRB did not
3 feel they could answer without further information; thus the need for a site visit. The slaughtering of the pigs
4 was brought up and Jenkins stated they were not there to discuss that, only to discuss the Conditional Use
5 application. The neighbors were generally frustrated with some commenting that a decision had already been
6 made and that they had wasted their time attending the hearing.

7
8 MOTION by Forgan to postpone a decision and continue the hearing on September 24, 2015. SECOND by
9 Bonges. Unanimously APPROVED.

10
11 **7. OTHER BUSINESS**

12 **7(A). Staff Update**

13 Staff gave a brief Staff Update on Planning and Economic Development Department activities. Work
14 continues on the Municipal Planning Grant, as well as wetland permitting. Staff has been very busy with
15 follow up on larger projects and applications. The Planning Commission is moving forward in terms of
16 policy goals. Questions were asked and answered.

17 **7(B). Capital Improvement Plan Recommendations**

18 Staff asked that if the DRB had any items that they thought should be included in the Capital Improvement
19 Plan. Jenkins stated he would like to see more sidewalk connections occurring in the center of Town.

20
21 **8. MINUTES**

22 MOTION by Bonges to approve the Minutes of August 27, 2015 as presented, SECOND by Forgan.
23 Unanimously APPROVED.

24
25 **9. DELIBERATIVE SESSION**

26 MOTION by Clayton to enter Deliberative session at 7:59 p.m., SECOND by Bonges. Unanimously
27 APPROVED.

28
29 Decision(s) Signed:

30 **9(A). Minor Conventional Subdivision Sketch Plan & Variance -- 947- 951 US Route 7 South -- General
31 Stannard House Committee /Miller Realty Group LLP (APPROVED)**

32 Bruce Jenkins, Chair yea/nay/abstain/absent/recusal

33 Dave Conley, Vice-Chair: yea/nay/abstain/absent/recusal

34 Henry Bonges, Clerk: yea/nay/abstain/absent/recusal

35 Clayton Forgan: yea/nay/abstain/absent/recusal.

36
37 **9(B). Boundary Line Adjustment- Cold Spring Road 171 & 232 - Robert & Carolyn Clark and Molly M.
38 Hastings Revocable Trust c/o Brent & Molly Hastings (APPROVED)**

39 Bruce Jenkins, Chair yea/nay/abstain/absent/recusal

40 Dave Conley, Vice-Chair: yea/nay/abstain/absent/recusal

41 Henry Bonges, Clerk: yea/nay/abstain/absent/recusal

42 Clayton Forgan: yea/nay/abstain/absent/recusal.

43
44 **9(C). Site Plan Amendment II Application - 121 Gonyeau Road - NG Advantage /Clean Energy
45 (APPROVED)**

46 Bruce Jenkins, Chair yea/nay/abstain/absent/recusal

47 Dave Conley, Vice-Chair: yea/nay/abstain/absent/recusal

48 Henry Bonges, Clerk: yea/nay/abstain/absent/recusal

49 Clayton Forgan: yea/nay/abstain/absent/recusal.

1 MOTION by Bonges to exit Deliberative session at 8:11 p.m., SECOND by Forgan. Unanimously
2 APPROVED.

3

4 **10. ADJOURNED**

5 MOTION by Bonges to adjourn 8:12 p.m., SECOND by Forgan. Unanimously APPROVED.

6

7 Minutes approved by the Commission this _____ day of _____, 2015.

8

9

10

11 _____
Bruce Jenkins, Vice-Chair & Acting Chair /kt

12

13 Filed with the Town Clerk this _____ day of _____, 2015