

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes
December 8, 2009

Present: Glenn Seward, Shannon Harrington, Genevieve Lemire, Hal Pyke, Pete Ladd, Martha Harrison, Roy Allen Welles Jr., Elizabeth Weber, Anne Marie Savino

1. Call to Order: Chair Glenn Seward called the meeting to order at 7:00 PM.
2. Changes or Additions: Brown Subdivision Plan
3. PUBLIC HEARINGS: Glenn read the notice for the scheduled public hearing. The hearing was on application #2381 by Roy Allen Welles, Jr. for Conditional Use approval for a 32' x 24' two-story single-family house at 1692 Brownsville-Hartland Road (parcel #6-90). The application is subject to review under the West Windsor Flood Hazard Area Regulations. The hearing was preceded by a site visit to the subject property at 4:00 PM on December 8, 2009. Glenn asked the members of the Development Review Board (DRB) if there was any conflict of interest or any ex parte communication. All said no. Glenn reviewed the definition of an interested person. Glenn swore in all those present. Glenn asked Allen to provide an overview of his project for the record. Allen described the project as a small house within view of the barn on 5.9 acres. Glenn said the basis of the hearing was that the house site was suspected to be in the floodplain. Glenn stated that the applicant submitted a copy of a Flood Study by Michael Engineering, which states that the house site is in fact out of the 100-year floodplain. Hal concurred. No comments from the Board. Glenn stated that the Board needs to review Section 5.3 of the West Windsor Zoning Regulations for Conditional Use. Regarding, Section 5.3(C)(1), Capacity of existing or planned community facilities or services, the board felt the project would not result in any undue adverse effect. Regarding Section 5.3(C)(2), Character of the neighborhood, area or district, the board felt the project would not result in any undue adverse effect. Regarding Section 5.3(C)(3), Traffic on roads and highways in the vicinity, the board felt the project would not result in any undue adverse effect. Regarding Section 5.3(C)(4), Bylaws now in effect, Shannon suggested the Board consider Section 3.5 of the West Windsor Zoning Regulations - Erosion Control & Development on Steep Slopes involving excavation and re-grading. The applicant was asked about the proposed grading and stated that half of the foundation will be in the ground and half out. The board discussed the slope on the back side of the proposed house site. Glenn said he looked at the Flood Study and found a maximum grade of 13% and assumed that this was the steepest slope in the project area. Shannon questioned the slope on the back side toward the brook and recommended to the applicant that his contractor install erosion control measures prior to construction. The applicant stated that he would. Allen said that no winter construction was to be done. Glenn asked Allen if the basement floor elevation would be lower than the 943.0 elevation. The applicant stated that the lowest slab elevation would be 943.0. Hal stated that 1 foot above the floodplain elevation was required per the Floodplain Regulations. Glenn reiterated that special attention should be given to installing erosion control measures before any bulldozing occurs on the site due to close proximity to the stream and wetlands. Allen stated that he understands and wants to do the right thing. Glenn asked if there were any other questions. Shannon asked Martha if she has received a response letter from Rebecca Pfeiffer, VT DEC. Martha stated that a fax was just received but only page one of three. Martha stated that Rebecca has been to the site and, although the NFIP flood mapping shows the site as being in the floodplain, Rebecca indicated verbally that she thought it was actually out of the flood area, based on her site visit. Martha stated that she could not anticipate what Rebecca's letter would say. Hal asked Martha if the State regulations were stricter than the one-foot requirement in the Town Regulations. Martha said the Town revised its Flood Hazard Regulations to be consistent with the State Regulations. Martha was asked if we received a Project Review Sheet. She said no, but the applicant has spoken with Sandra Conant and requested a Project Review Sheet. Glenn asked if the Public had any

questions. Anne Marie stated that she also owns the subject property. Anne Marie asked what a Project Review Sheet is. Shannon explained it as a review process of any State Permits required whenever there is development in the State of Vermont. Anne Marie asked if it was due to the Floodplain issue specifically. Anne Marie asked about the process for documentation regarding the well and septic site when issuing a building permit. Glenn said that the water and septic systems need to be designed by a licensed Engineer and stated that this permit could be issued subject to the applicant receiving a State Water-Wastewater Permit before construction can begin. Anne Marie stated that this needs to be looked at closely in this area. It was again stated that no construction may occur until the State Water-Wastewater Permit is received. The definition of 'development' was read by Hal. Tree cutting and grading were discussed by the Board. It was determined that excavating was more of a concern than tree cutting. Anne Marie stated that the septic site is a concern. Shannon stated that the Site Technician List can be obtained from the State of Vermont in lieu of a licensed Engineer who could design the well and septic system. Liz Weber stated that she was at the hearing to support Allen and was surprised how long the process has taken him. Glenn wanted the applicant to be aware that any fuel storage tanks cannot be below the floodplain and that the wastewater system has to be designed to take the floodplain into account. Shannon asked if the house site was staked as she only saw one stake. According to the other board members and the applicant, all four corners were staked. Glenn asked the board if they would like to close the hearing to deliberate or deliberate in public. A letter from Marianne and Peter Flack dated 12/8/09 was read and entered into the record. The Flacks are located to the East of the applicant. The letter was discussed, specifically setbacks, the septic system and consideration of equipment access and storage of materials. Glenn noted that the setbacks on the application are beyond the minimum required. It was stated that nothing should be stored within the Floodplain. A brief review of the Flood Hazard Area Regulations determined that those regulations are negated due to the project site being located outside of the floodplain as determined by the Flood Study prepared by Michael Engineering Co. Glenn said any storage or development in the floodplain would require flood hazard review. Pete said his understanding of a Site Plan includes contours. Glenn said he thinks the Flood Study submitted is adequate as a Site Plan if Martha is satisfied with it. Martha said the Flood Study appears to be drawn to the 1" = 100' scale and corresponds with the measurements that she took when she visited the site. Martha added that, although the Flood Study doesn't cover the whole 5.9 acres, it does cover the area that is going to be developed. Hal stated that a Site Plan would be prepared when the Septic System was designed. The applicant stated that the septic system will be located downhill from the existing well site. Shannon noted that site plans are not defined in the zoning regulations. Glenn stated that a Sketch Plan was adequate for submission of a Zoning Permit. Shannon suggested that a Site Plan should be drawn to scale, as stated in the regulations, and that the application form should be updated accordingly. The Board decided to deliberate in Public. The hearing was closed. Opening the deliberative session, Glenn suggested that a list of permit conditions be prepared. The DRB discussed and agreed on the following conditions: a Project Review Sheet from the Agency of Natural Resources, a response letter from Rebecca Pfeiffer, a Potable Water Supply and Wastewater Disposal permit prior to construction, the submission of an "as-built" elevation certification prior to the issuance of a Certificate of Occupancy, no construction or storage of any materials within the Floodplain, adequate erosion control around the construction area, and a 50' undisturbed stream buffer. Shannon asked if the approval should be conditioned on the applicant's representation that there will be no additional driveway. Martha said the existing access was approved as a house site access. A comment by Anne Marie was allowed. Anne Marie said the Board should be concerned about the brook, as well as the floodplain. Shannon noted that the Zoning Regulations require that a 50' stream buffer be maintained. Genevieve stated that the list was getting long. Martha stated that Class II wetlands are located north of the barn and not in the area of the construction. Pete questioned item #2 of the Flack letter regarding the exact location of the house. Glenn said he thinks the Flacks would

like some assurance that the house will be located where it is shown on the Site Plan. Hal stated that sometimes applicants do not observe setbacks, which doesn't appear to be the case here. Anne Marie stated that the Flacks have major concerns, as neighboring property owners, that the project be finished once started. Martha stated that the Flacks may have thought that the shed being built south of the proposed house site was the actual house site and that may be one of their concerns. Hal stated that there are many trees between the two properties to buffer the building site. It was stated that a 50-foot buffer of trees must be kept. **Hal made a motion to approve application #2381 subject to the conditions stated above. Pete seconded the motion.** Martha asked if the Board would like Rebecca's comments to be incorporated into their decision. Shannon and Glenn thought that, since the Engineer has stated that the house site is outside of the floodplain, Rebecca's comments should be taken under advisement only and not incorporated into any conditions of approval. **All voted in favor of the motion, none opposed.**

4. Other Business - Home Occupation and Home Business Standards: A concerned neighbor to a Contractor has a concern about heavy equipment traffic early in the morning and late at night every day of the week. Glenn said the question is whether contractors need a Home Business or Home Occupation permit. Glenn said he has spoken with both parties and asked that they come to a mutual agreement to work out the concerns, so that their problem does not bring about a town-wide need to get a permit. Glenn suggested that Board members be aware that, once one contractor is required to get a permit, we will need to ask many others to follow. The DRB read and discussed the standards for Home Businesses and Home Occupations and agreed to suggest that the Planning Commission review the standards and review the zoning regulations with regard to Performance Standards. There was discussion about whether there should be specific standards for contractors. Martha looked at some other rural towns regarding contractors. Hal warned of the slippery slope of regulations and said that we should be careful. Brownsville Service Station: The Brownsville Service Station was raised as a Notice of Violation was sent by Martha. It was noted that the current tenant has made an effort to reduce the number of cars. The uses of sales and service were discussed. The board decided that, if the applicant is maintaining the number of cars at 12 or under, it is not necessary to monitor which cars are being serviced and which are being sold. A license to sell cars is required if eleven or more cars are sold in a given year. The Board has jurisdiction over the aesthetics of the property and can raise a concern if they see fit at anytime. A follow up letter from Martha will be sent to the applicant to reflect the board's awareness of the reduction in the number of cars and to encourage the property owner to maintain the number of cars at 12 or fewer to eliminate the Notice of Violation. Brown Subdivision Map: The Board looked at the updated subdivision map for Dennis and Nancy Brown. Martha noted that the requested wetland had not been identified and the note about underground utility lines had not been added. Martha said she gave the Browns a list of Wetland Specialists from the State. Martha said she asked Dennis why the wetland was not delineated and he said he would defer that to the buyer of the lot. The Board members agreed that they had requested that the wetland be added to the map as a condition of the Sketch Plan approval. A Building Envelope definition was discussed. The Board decided that the Browns need to provide the requested Class III wetland delineation to be surveyed and put on the map as well as a note regarding underground utilities to be provided to the new lot. Martha agreed to inform the Browns.
5. Minutes: November 10, 2009 (site visits) – **Hal made a motion to approve the minutes of the November 10, 2009 site visits. Genevieve seconded the motion, which passed with Pete abstaining.** November 10, 2009 (hearing) – **Hal made a motion to approve the minutes of the November 10, 2009 meeting. Shannon seconded the motion, which passed with Pete abstaining.**
6. Adjourn – **Shannon made a motion to adjourn at 8:45 PM, which passed unanimously.**

Respectfully submitted,
Shannon Harrington