

## WEST WINDSOR DEVELOPMENT REVIEW BOARD

Minutes

September 22, 2009

Present: Shannon Harrington, Hal Pyke, Phil Arvidson, Pete Ladd, John McNamara, Martha Harrison, Steve Plaustainer, John Plaustainer, Glenn Seward, Shelley Seward

Absent: Genevieve Lemire

1. Call to Order: Vice Chair Shannon Harrington called the meeting to order at 7:00 PM.
2. Changes or Additions: Brownsville Garage – Martha said she sent a letter to the Brownsville Garage regarding the need for a change of use and has not had a reply. Martha said the primary use of the property was as a used car lot and servicing cars was a secondary, accessory use so if they are not selling cars, what is the secondary use accessory to? Phil said it seems like the number of cars on the property has increased in the past few weeks.
3. Informal Review – Reconfigured Subdivision (continued from August 11, 2009 & August 29, 2009): Snowdance LLC, d/b/a Ascutney Mountain Resort (Parcel #3-51, 3-53, 3-102, 3-103, 3-104, 3-105, 3-106, 3-107, 3-108, 3-109, 3-110, 3-111, 3-113, 3-208, 3-216) – As an abutting property owner, Glenn Seward did not participate in the discussion. Shannon asked Steve if there is anything else that he wants to say. Steve said all the lots being discussed fall under an exemption to Act 250 or any other wastewater requirements. Steve presented a letter to that effect, dated June 30, 1970, from the Agency of Environmental Conservation, along with related maps. Steve presented an additional change that he would like to make to the subdivision, increasing the frontage of Lot #T-6 (parcel #3-53) and adjusting the boundary between Lot #T-6 and Lot #T-8 (parcel #3-102). Steve said all the lots are going to be able to hook onto the Resort's sewer system. Shannon said she doesn't think the DRB needs the letter and maps tonight since this is a non-binding informal review; Steve should present those when he actually applies. Steve said the question for him is can this be done as lot line adjustments. Shannon suggested that the board look at the criteria for lot line adjustments. Shannon read the definition of a boundary line adjustment and said the board can't determine whether the application meets the definition until they see it. Phil asked if Steve would submit the map showing the additional change tonight. Steve said yes. Shannon read the other criteria for a boundary line adjustment. Shannon suggested that Steve get a letter from the state regarding the wastewater issue. Steve said John Springer assured him that he doesn't need anything on that. Phil said his understanding is that these lots would either be served by septic or connected to the sewer system. Steve said yes. Steve said there is sufficient land there for septic but he anticipates that the lots will be served by the sewer line. Martha said it is her understanding that boundary line adjustments have to be sent in to the state wastewater folks. Shannon said she recalls reading that also. John asked about the location of the sewer line. Steve showed the location of the sewer lines on the map. Shannon said when the state wrote new wastewater regulations in 2007, they included 14 pages of exemptions. Shannon said the regulations do include exemptions for boundary line adjustments as long as they meet one or more of the standards, however a diagram does need to be submitted to the state showing the existing and revised boundaries. Steve said what he is looking for is town approval. Shannon said the fourth criterion for town approval of a boundary line adjustment is that the applicant needs to either apply for a wastewater permit or demonstrate that a permit is not necessary. Shannon suggested that Steve consult with John Springer. Phil asked Shannon for clarification. Shannon said the existing lots may be exempt but, because Steve is modifying them, our rules say that he has to either apply for a wastewater permit or show that a permit is not necessary by going for an exemption. Phil said his understanding of what the board is doing tonight is determining whether there is any major reason why Steve shouldn't apply for this and he does not see any reason. Shannon agreed. Pete asked if changing the configuration makes everything murky. Shannon said she doesn't think so after walking the property. Hal said he

thinks the new configuration is a much cleaner and more direct use of that land with lots of approximately the same size and the elimination of a road that was proposed on the earlier plat. Shannon reminded everyone that this is a non-binding meeting so no one can appeal anything. Phil said he thinks there should be a recorded decision because, two years from now, someone is going to wonder what was said. Shannon agreed. **Hal made a motion that it is the consensus of the DRB that the redesign of those parcels appears to be consistent with our zoning and town bylaws. Phil seconded the motion.** Shannon said she thought the DRB was looking at the proposal under subdivision regulations, not zoning regulations. Hal said the zoning regulations are not inconsistent with the new subdivision regulations. Martha said she thought the question was whether the proposal should be considered as a boundary line adjustment or a subdivision. Phil said that's a second question. Shannon said she agrees that the board's purpose tonight is to provide Steve and John with some level of comfort that they can apply for a boundary line adjustment. Shannon asked Hal if he could reword his motion so that it doesn't sound as final. **Hal amended the motion to say that the redesign of the parcels is consistent with boundary line adjustments in accordance with the subdivision regulations. Phil seconded the amended motion.** John asked why we have to do this if the board's opinion is informal and non-binding. Hal said it is to give our approval at this stage of the game so they can go ahead with some confidence. Phil and Shannon disagreed with Hal's use of the word "approval." Phil said they have asked whether we see any major roadblocks and his answer to that is no, but that doesn't mean there aren't going to be any questions in the future. **Shannon amended the motion to include that the property owners will proceed with applying for a boundary line adjustment and this is just an opinion as to our preliminary non-binding review. Pete further amended the motion to specify that the DRB's opinion is based on the information at hand.** Hal accepted the amendments and agreed that the DRB's opinion is not, at this point, binding in any respect. Shannon asked Steve if he understands that. Steve said he understands that but it's not clear to him what happens next. Steve said he will submit an application for a boundary line adjustment to Martha and the state is totally separate. "That's my risk," Steve said, "I have to do that as well." Shannon suggested that Steve reread the fourth criterion for a boundary line adjustment. Hal said Martha has the right to approve boundary line adjustments but she may elect not to do that. Hal said once Martha determines that the application is complete, she can kick it back to the DRB for a formal hearing. Phil said he sees no problem with the boundary line adjustments; the biggest hurdles are the state's sewer and water requirements. Shannon asked Martha to recap the motion. Martha read the amended motion: **It is the consensus opinion of the DRB, based on current information, that the proposal by Snowdance LLC to redesign the subject parcels is consistent with boundary line adjustments in accordance with the subdivision regulations and the DRB recommends that Snowdance LLC proceed with applying for a boundary line adjustment. Phil seconded the motion.** John said he doesn't think a motion is necessary in an informal proceeding. John asked Steve if he has enough information to proceed. Steve said yes but it's nice that it's more formal from an applicant's standpoint. Shannon said this is for our record-keeping purposes. Phil said there have been a number of situations where we have tried to look back at what a board did and couldn't figure it out. **Shannon called for a vote on the motion, which passed with John opposed.** Shannon said that, although Shelley and Glenn are her sister and brother-in-law, she doesn't think she acted with any conflict of interest. Glenn said nobody has come out and said that an exemption from the state is required for the boundary line adjustment. Shannon read the fourth criterion for a boundary line adjustment. Phil said the applicant has to submit evidence of compliance with state water and sewer requirements and he doesn't care what form that takes as long as they get it. Steve said he will give the DRB a copy of the map showing the additional change.

4. Minutes: August 11, 2009 – **Hal made a motion to approve the minutes of August 11, 2009, as written. Shannon seconded the motion, which passed with John abstaining.**

5. Other Business – Alternate DRB members: Glenn said the Selectboard would like the DRB to review the list of possible alternates that he and Martha came up with and narrow it down to four or five. Glenn said he will email the list to the DRB and they can discuss it at their next meeting. Brownsville Garage: Martha said she was under the impression that the town wanted the property owner to make the service garage the primary use and the used car lot a secondary use. Phil said the former occupant was routinely violating the conditions of the permit with the number of vehicles over there. Phil added that he has serious questions as to whether the current operator is already in violation with regards to the number of vehicles. Glenn agreed that we need to nip it in the bud if they have too many cars on the property. John asked how many cars are allowed. Martha said they are allowed twelve, eight for sale and four for service, and she counted fifteen the other day. Phil said he is not concerned about primary and secondary uses, to him the question is how many vehicles are on the property. Martha said if the current operator is not licensed to sell vehicles, then he can't have eight vehicles for sale. Shannon asked Martha if she asked for a copy of his license. Martha said no. Phil said the Selectboard, through the town attorney, has had serious discussions about this issue with the property owner. Phil said he agrees with Glenn that we need to get tough on this situation. Shannon said she feels like she's not up to speed if there are things happening with the Selectboard that are the DRB's responsibility. **Phil made a motion to go into Executive Session. Glenn seconded the motion, which passed unanimously.** After discussion, **Phil made a motion to come out of Executive Session. Glenn seconded the motion, which passed unanimously. Phil then made a motion to issue a Notice of Violation to the operator of the Brownsville Garage and the owner of the property that they are in violation of the permit conditions in terms of the number of vehicles that are allowed on the property. Glenn seconded the motion, which passed unanimously.** Phil asked Martha to send a copy of the letter to Town Attorney Matt Birmingham. Phil suggested taking a photograph of the number of vehicles that were on the property on a given date. Shannon offered to take a photo. Phil said Martha should get a digital camera.
6. Adjourn – **Pete made a motion to adjourn at 8:01 PM. Hal seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison