

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes
October 20, 2010

Present at site visit: Glenn Seward, Hal Pyke, Shannon Harrington, Martha Harrison, John Bieling

Present at Public Hearing: Glenn Seward, Hal Pyke, Genevieve Lemire, Shannon Harrington, Barbara Truex, Martha Harrison, John Bieling

1. Call to Order - At 6:05 PM, Chair Glenn Seward called the meeting to order and re-opened the public hearing on application #2421 by John Bieling for a variance of the wetland buffer and landfill requirements of Section 3.14 and 4.11 of the West Windsor Zoning Regulations to allow for the construction of a woodlot access at 2458 Rush Meadow Road (parcel #4-37). Construction of the access includes the placement of fill in a 12' x 70' section of wetland/wetland buffer. The application is subject to review under Section 2.3-3, 3.5, 3.13, 3.14, 4.11 and 6.8 of the West Windsor Zoning Regulations. Glenn noted that there are no interested parties present other than John Bieling. Glenn swore John in. Glenn asked the members of the DRB if they have engaged in any ex parte communication or if they have any conflicts of interest. All said no. Glenn noted the letter, dated September 27, 2010, sent to John Bieling by Martha Harrison on behalf of the DRB. Glenn said the DRB wanted more information about the driveway radius and whether it would work with the B-71 standard. Glenn said the DRB also wanted to look at the frontage because there is information on file at the town office from a previous application for another entrance that was approved some time ago. Glenn told John that the information on file will be considered by the DRB in making their decision. Glenn said the DRB wanted information on the type of fill being used and the information from the state wetlands ecologist. Glenn asked the DRB members if they want to go through all the criteria again or focus on the information that they felt they were lacking from the last hearing. The DRB members agreed to focus on the information that was lacking. Glenn asked John if he has a revised sketch showing the driveway radius. John presented Exhibit #1 and said the radius is a little different because he didn't understand exactly where he needed to take it from. John presented Exhibit #2 showing the perspective from the brook looking over toward the town highway and showing the slope. Finally, John presented Exhibit #3 which he called a profile view from down the road. John also presented a bird's eye view, not to scale, which was not submitted as an exhibit. The board looked at and discussed the maps presented. All agreed that Exhibit #1 does not show a 20' turning radius and would have to be moved further toward the brook to meet the B-71 standard. Barbara asked if John can meet the B-71 standard on the radius. Glenn said, in his opinion, John can meet the radius with a 2:1 slope off the back side. Shannon asked John who the abutting property owner to the south is. John said Muhlberg owns that property. Shannon asked John if he thinks he will encroach on the property line with the fill. John said he might encroach. Shannon asked John if he has talked to the Muhlbergs about the project. John said yes. Glenn said, as part of the variance, consideration has to be given to whether or not this could be moved to a different part of the property to make it better suited to the regulations. Glenn asked John to address why the access and right-of-way from years ago would not be suitable. John said it would impact his living area more than necessary and lower the value of the property. Glenn asked John if he wants to get this new access as far away from the house as he can. John said yes. Shannon asked where the previous access and right-of-way were located. Glenn said Martha has a map on file. Barbara asked John if he ever considered using the driveway into his house to serve the back lot. John said he was told that he couldn't do that because there would be too much traffic. Hal asked John if he is going to have to give up the driveway by his house with this other driveway because our regulations say that you can only have one highway access unless you get a waiver. John said this is access to a back lot that has already been sold and it's written into the deed. Barbara asked if the back lot is Dunne's lot. John said yes. Hal asked if Dunne has another access. John said no. Shannon asked if the deed makes reference to the map that John submitted with his application. John said yes. From the zoning files, Martha showed the DRB a map

of the access and right-of-way that were approved by the Selectboard and the Planning Commission in 1995. The map, entitled "Boundary Survey in West Windsor, Windsor County, Vermont for John Bieling" by Bruno Associates, is dated May 27, 1980 with revisions on 12/7/94 and 1/12/95 and shows a different access and right-of-way than the one attached to application #2421. The earlier approved access point is approximately in the middle of the property's frontage along Rush Meadow Road. Barbara asked why the earlier access was abandoned as a possibility. John said because it impacts the value of his property. Shannon asked John if the map attached to application #2421 is on record with the town. John said yes. Shannon asked about the date of the map that was attached to the application. Martha said we do have the map on file. Martha said there was an application for a subdivision in 2002 but it's very confusing because it says, "needs right-of-way to lot – see Selectmen" and it has Roger Russell's initials on it. Martha said the subdivision application also says "Date of inspection 10/4/02," which was the day after it was submitted and it's signed "Roger Russell/da," which stands for Dale Abramson, so Martha thinks Roger wasn't here at the time. Glenn asked Shannon if she wants to see a map like the one attached to the PC's February 15, 1995 decision. Shannon said John went on record saying that he gave up the original approved right-of-way because he wanted something further away from the house and she's wondering when the right-of-way shown on application #2421 came to fruition and if it is on the record. Martha said what she can glean from the permit file is that the right-of-way was approved as shown on the survey dated May 27, 1980 with revisions on 12/7/94 and 1/12/95, but there is no indication that the revised location, as shown on the map submitted with application #2421, was approved, although it was recorded. John said Roger Russell came out and looked at it and John told him it was going to be the access to the back property and Roger said, "Yeah, this looks good to me." Martha said there's no paper trail. John said it was lost. Shannon asked John if Roger gave him anything on paper. John said no. Hal asked if the right-of-way shown on the map attached to application #2421 is the one that was recorded for the 10.1 acre subdivided lot. John said yes. Hal said then it should be referenced in the deed for that lot. John said yes. Martha said the Mylar was recorded but there is no corresponding paperwork that indicates that the right-of-way shown on application #2421 was reviewed or approved. Martha said the last communication regarding the access was a letter from the Selectboard to the applicant in October of 2002, informing him that he needs a permit from the Agency of Natural Resources since his proposed access crosses Willow Brook. Hal said if it's recorded in the deed it's moot as to whether you have evidence of its being passed by the Planning Commission and the Selectboard, right? Shannon said she doesn't know. Glenn said he'd like to move on to the next two questions and then go into deliberative session and see if we can sort it out. Glenn asked John what type of fill he plans to use. John said he plans to use bank run gravel or shot rock. Glenn said the DRB members all have copies of the email from state wetland ecologist Rebecca Chalmers. John said Rebecca suggested that he call the Army Corps of Engineers, which he did, but they weren't interested because the project is less than 3,000 square feet. Shannon said the application is for an access for a woodlot but we just learned that it is going to be the right-of-way to the back lot. John said that was explained at the original hearing. Right now, John said, it's just an access to that little woodlot, but it happens to be in the right-of-way. Until there's a bridge, John said, it's just a woodlot. **Shannon made a motion to go into deliberative session. Hal seconded the motion, which passed unanimously.**

2. Review Sample Subdivision Application Forms – By consensus, the DRB agreed to table consideration of sample subdivision application forms.
3. Minutes – September 10, 2010: **Barbara made a motion to approve the minutes of September 10, 2010 as written. Genevieve seconded the motion, which passed unanimously.**
4. Adjourn – **Shannon made a motion to adjourn at 7:15 PM. Barbara seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison