

Marshfield Development Review Board
Minutes
Thursday, December 8, 2016, 7:00 p.m.
Old Schoolhouse Common, Town of Marshfield, VT

Present

DRB Members: James Arisman, Les Snow, and Gary Leach
Zoning Administrator: Bob Light
Acting Board Clerk: Seth Donlon

Specially Assigned Alternate: Faeterri Silver

Recused for the Lloyd/Burkhalter Matter: Michael Schumacher

Not Present: Jenny Warshow

Witnesses/Attendees: Regarding Lloyd/Burkhalter Matter: Darrell Burkhalter; Peter Lloyd; Jessica Lloyd; Lincoln Earle-Centers; Jessica Lloyd; Terri Lloyd; Jonathan Lloyd; Robert Dutil; Rick Lloyd; Danielle Mulligan; Jacob Gouge.

Witnesses/Attendees: Regarding Hollister Hill Matter: Don Marsh; Jeffrey Kantor; Tim Palmer; George Harris.

At 7:03 p.m., James Arisman, presiding for the DRB, called the meeting to order for the purpose of conducting hearings on applications. Witnesses were sworn in.

Hearing #1: Conditional Use and Site Plan Review: Darrell and Adair Burkhalter re Converting Accessory Building to Commercial Use, with Peter Lloyd of Lloyd Plumbing and Heating

Peter Lloyd, Applicant, referring to stimulating economic activity and creating a safe and efficient transportation system, testified that he shares these goals and has a plan to mitigate the traffic effects due to the increased economic activity of his business. Mr. Lloyd explained that his plan is for vehicles coming up Church Street to always have the right of way over vehicles coming down the hill, and that vehicles going down should stop at the crest of the hill in order to observe oncoming traffic before continuing.

Mr. Lloyd testified that several details of traffic activity on Church Street cited by the Earle-Centers were not related to activity of Lloyd Plumbing, Heating & Gas Service, LLC. Mr. Lloyd explained that his business has 9 company vehicles, and several of those are driven home by his employees each evening, so "9 or 10" total employee vehicles come and go from the site each day. DRB member James Arisman asked how many personal vehicles employees drive to the site, Mr. Lloyd responded, "potentially 3". Mr. Lloyd

testified that traffic frequents Mr. Burkhalter's property which is not related to his business, including UPS deliveries for other residences on Church Street. There are three dumpsters on the property, but one of them is Jacob Gouge's, per an arrangement with Mr. Burkhalter.

Robert Dutil, a Church Street resident, testified that the chain saw which had been reported running on Church Street belonged to him, not to Mr. Lloyd's business.

Rick Lloyd, testified that the following businesses exist on Church Street: Sullivan's Tree Service, the Gouge's Onion River Spring and Well, Gouge Excavating, and Gouge Electric. There are five residences on Church Street and each of them has their own business. Darrell Burkhalter, Applicant, added that "the character of the village was based on commerce, not on residences", and that he supports efforts to increase commerce in the village of Marshfield.

DRB member Gary Leach asked Peter Lloyd for a description of the activity of his business. Mr. Lloyd responded that there is usually no more than 1 delivery made to his business per day, but on a busy day there may be 3. When UPS or FedEx deliveries are made, normally a truck is "already there" for the purpose of delivering packages for other Church Street residences. Customers come to the site very rarely. Regarding employee traffic: 9-10 vehicles arrive between 6:30 a.m. and 7:00 a.m., by 8:00 a.m. the employees have departed except for 3 office staff who remain (one of whom walks to work). 3-4 vehicles remain in the parking lot during the day because most employees drive company vehicles to and from work, and home at night. Company vehicles may drop off parts or paperwork in the evening between 4:00 p.m. and 5:00 p.m. but then go home again. 2-3 vehicles remain in the parking lot on a continuous basis. An average of 2 company vehicles per day stop by in the middle of the day.

DRB member Leach asked Mr. Lloyd to clarify the "traffic plan", and how it would be enforced. Mr. Lloyd replied that the neighborhood already follows the plan he outlined and it should simply be a combined neighborhood effort. Mr. Burkhalter testified that the narrowness of Church Street is a problem, and if the town widened the street to the limit as "deeded and claimed by the town", the issue would be eliminated.

Jacob Gouge testified that "over the years" traffic on Church Street has greatly increased due to new residences, including 3 by the Gouge family, and 1 by Tim Booth. The town did improve the street in response to these developments including some widening and paving near the bottom.

Mr. Light asked Mr. Lloyd what will happen if his business needs to expand. Mr. Lloyd responded that he does not plan to remain at the current location permanently. Mr. Lloyd explained that he will move when his business exceeds the scale of the barn and parking on Mr. Burkhalter's property, arguing that his business is not making a "drastic change" to the neighborhood as long as it fits within the scale of the existing property.

DRB member Leach asked Mr. Lloyd why he is committed to this particular Church Street location. Mr. Lloyd replied that he wanted to keep his business "local", and it is a

good temporary solution which fits his particular needs.

DRB member Les Snow asked for clarification about the temporary nature of Mr. Lloyd's plan. Mr. Lloyd responded, "I can see this as being a 3-5 year plan", and if things go well he will move out in 3 years.

Mr. Arisman asked Mr. Lloyd when he first did work on the barn in anticipation of using it for his business, and when he moved in. Mr. Lloyd testified that he started working on the barn at the end of July. He re-shingled the front of the building and did the interior work in the office which the DRB viewed during the site visit, but made no changes to the down stairs other than putting up 1 internal wall. The bathroom was already there. They moved into the office space first, in late August, before moving into the shop.

Mr. Arisman asked Mr. Light to review his involvement in the Lloyd/Burkhalter Matter. Mr. Light explained that he has had no contact with Mr. Burkhalter, only with Mr. Lloyd and with Lincoln and Liza Earle-Centers. His involvement began when Liza Earle-Centers called him to ask if zoning regulations allowed Lloyd Plumbing, Heating & Gas Service, LLC, to operate out of Mr. Burkhalter's property. Within a couple days, on approximately the 10th of September, Mr. Lloyd called Mr. Light to discuss the situation. Mr. Light explained to Mr. Lloyd that his business required a conditional use site plan review permit. Mr. Lloyd completed an application dated 13 September, and Mr. Light dealt with it on 15 September, then forwarded it to the DRB. Mr. Earle-Centers subsequently called Mr. Light to express his irritation that Mr. Lloyd's business continued to operate at Mr. Burkhalter's property.

Mr. Arisman asked Mr. Light to clarify if the building in question was in commercial use at the time of Mr. Lloyd's application in mid-September. Mr. Light responded that he was not fully aware of the building's commercial use at that time because Mr. Lloyd had explained to him that he was "in the process of changing part of that building into office space" and using the downstairs as warehouse space. Mr. Lloyd corroborated this account. Mr. Light added that he had told Mr. Lloyd he could not operate a business out of that space until he had received a conditional use permit from the DRB. Mr. Lloyd pointed out that at that time he was already functioning as a business at that location. Mr. Arisman asked Mr. Light if he ever told Mr. Lloyd that he must stop operating as a business at that location because he did not yet have a permit. Both Mr. Light and Mr. Lloyd stated that he had not. Mr. Light reiterated that he was unaware that Mr. Lloyd was operating a business at the location at that time.

Lincoln Earle-Centers testified that his family bought their house on Church Street in July 2010. They have three kids, aged 4, 10 and 12. Apologizing to Mr. Lloyd for any details in the list of Church Street activity which might have been misleading, Mr. Earle-Centers explained that the goal was merely to illustrate that there has been a significant increase in neighborhood traffic and activity on Church Street as a result of Mr. Lloyd's business. Mr. Earle-Centers explained that he doesn't want to argue about details, or has any issue with how the interior space is being used. However, there is a "scale issue", and his family does not want that much new traffic directly across the street that is being generated by the Lloyd Plumbing business activity. Mr. Earle-Centers indicated that his

family has discussed if there are some conditions they could request to mitigate the effects of the traffic, and they decided there were none and that the traffic volume of Mr. Lloyd's business would have an impact regardless.

Mr. Earle-Centers asked Mr. Lloyd if Mr. Lloyd's purchase of his father's business caused him to outgrow his previous space. Mr. Lloyd replied that he outgrew the space before the two businesses combined.

Mr. Earle-Centers also testified that there has been a "sliding slope" regarding how Mr. Lloyd's plans have been presented to the Earle-Centers. Mr. Burkhalter originally informed them of the planned changes as "putting in some storage", with no mention of a business. Mr. Earle-Centers later asked DRB member Michael Schumacher (recused in this matter) why there was continuing activity at the Burkhalter residence. Mr. Lloyd approached Mr. Earle-Centers after this conversation to explain about his business and desire to "make it work". Mr. Earle-Centers testified that it "felt odd" to learn the details of the business plan and have that conversation with Mr. Lloyd only after having asked Mr. Schumacher about the activity. Furthermore, Mr. Lloyd originally told Mr. Earle-Centers his business would be there for only 2 years. Mr. Earle-Centers testified that 2 years does not feel "temporary" to him, and that it is a shock for Mr. Lloyd to now say 3-5 years. Mr. Earle-Centers testified that Mr. Lloyd's activity is not welcome, and it makes a "very big difference to our home".

Mr. Arisman asked Mr. Earle-Centers why he chose that particular house. Mr. Earle-Centers responded that his family was "very reserved" about buying that house on Route 2, but they could deal with that because the three other sides of their property felt "low-key". However, Mr. Lloyd's business is significantly different from the other family businesses in the area in scale, and it feels very different for this activity to be caused by an established business moving in, rather than being generated by existing residents pursuing home occupations.

Mr. Light asked Mr. Lloyd if he has been in touch with the State Labor and Industries and the Fire Marshal. Mr. Lloyd responded that he has spoken with Brad Sharon of Vermont Fire Safety, and he will apply for the building to "be coded" for commercial use after he has received the a conditional use permit from the town. Mr. Lloyd has not contacted Labor and Industries because his business is not large enough.

Mr. Leach asked Mr. Earle-Centers if there are any conditions or stipulations which the DRB could require of Mr. Lloyd to mitigate the negative effects for the Earle-Centers. Mr. Earle-Centers replied that there are none which he wants to ask for, the issue is the volume of traffic and activity caused by Mr. Lloyd's business.

At 8:04 p.m. Mr. Arisman notified those present that the DRB would provide a written decision in the Lloyd matter within 45 days, and closed the hearing on the matter.

Hearing #2: Conditional Use and Site Plan Review: The Housing Foundation, Inc. re Demolition of Existing Hollister Hill Apartments and Construction of New Replacement Multi-Family Housing Units and Related Infrastructure/Services

Don Marsh presented an exhibit to the DRB depicting an aerial view of the proposed site plan and surrounding areas. Mr. Marsh testified that the site's tree planting plan had been adjusted. The hardwood trees next to the project driveway and the log yard will be left in place and the 4 evergreen trees originally proposed for that location will be moved to a location Southwest of the project where they would reduce the visual impact of the project for residences on Hillside Drive. Additionally, 2 hardwood "Little Leaf Linden" trees will be added to a green space in the western side of the project. No other changes have been made to the site plan as submitted to the DRB.

Mr. Marsh addressed a letter from resident Marilyn Davis, whose residence is just northeast of Maplefields. A storm water treatment swale will be added to prevent water runoff from reaching her property as it does currently. This will redirect water west into an existing storm water runoff swale without changing the overall site water runoff characteristics. According to Mr. Marsh, Ms. Davis is satisfied with this change.

Mr. Arisman asked Mr. Marsh how many total trees will be put in and what the budget for landscaping is. Mr. Marsh explained that the plan has been increased by 2 trees. In total, the plan includes 10 deciduous trees and 9 evergreens. These include several distributed throughout the project and the 4 evergreens intended to screen the project visually from the Hillside Drive area. Mr. Marsh estimated the landscaping budget to be \$15,000, though it could be more if all general "greenscaping" is included in the calculation.

George Harris, a resident of Hillside Drive, thanked the project developers for moving those 4 trees into a screening location, but expressed his continuing concern about the possibility of the sumacs on the nearby knoll being cut at a later date. Mr. Harris testified that he can not tell with certainty if the proposed new structures will be visible from his residence, and expressed his concern about possible noise, lights and visibility of the structure. Mr. Harris stated that he would like there to be ample vegetation in place to alleviate those concerns.

Jeffrey Kantor replied that Mr. Harris can be assured that the 4 screening trees will be planted because they are part of the landscaping plan. Mr. Kantor explained that, "as Mr. Williams said" [during the site visit] in the past the area containing the sumacs had been brush hogged, and may be again in the future. Mr. Harris replied that he has been there for nearly 20 years and does not remember the sumacs being brush hogged.

Mr. Leach asked if the sumacs will be disturbed by the activity being proposed in this application. Mr. Marsh replied no, "the limits of disturbance associated with the project do not include any impact on the sumacs". The only "off site" work will be the sewer line which will extend to the south just next to Maplefields.

Mr. Arisman asked if anything else can be done to increase the buffer. Mr. Marsh replied that the topography provides a better visual and sound barrier than the trees. Mr. Marsh pointed out the context of village density and existing neighboring infrastructure, and recognized Mr. Harris' concerns as valid but claimed that his concerns do not rise to a

level warranting specific attention with additional landscaping as a condition.

Mr. Harris testified that noise from the existing apartment complex does reach his residence, and with the southernmost proposed structure being further south than the existing structures, his concerns are valid, in his view.

Mr. Marsh testified that the application's lighting plan is an improvement over the existing project's lights, with shielded exterior lights pointed down and away from neighbors. He stated that the applicants are doing everything "reasonably and technically possible" to reduce impacts compared to what exists today.

Mr. Kantor testified that the proposed project has a reduced density, maintaining 16 units but decreasing the number of bedrooms from 40 to 32. The driveway is being split, so traffic for only 8 units will be on the side closer to Mr. Harris' residence.

Mr. Leach asked if the applicants have determined if the proposed structure will be visible from Hillside Drive. Mr. Marsh replied that that has not been determined.

Mr. Harris pointed out that the existing structure is visible from the roof of his residence, and reiterated his concerns regarding light and noise from the proposed, closer structure. Mr. Harris asked what the overall project budget is compared to the budget for green buffers. Mr. Kantor replied that there will be no exterior lights on the second floor of the structure as viewed from that direction, and that the solar panels on top of the building will not reflect or emit light. The total budget for the project is close to 4 million dollars, including site work and demolition of existing buildings.

Mr. Harris testified that he feels that \$15,000 for landscaping out of a 4 million total budget is insufficient for providing a suitable buffer for himself and the rest of the neighborhood. Mr. Kantor replied that the structure of concern includes only 8 units, with fewer people, and only "a little bit closer". Mr. Harris' residence is near Route 2, and noise is a part of that environment. Mr. Harris replied that he does not hear noise from Route 2 because there are houses and a buffer of trees, but he does hear noise from the apartments.

Mr. Marsh testified that he "has a hard time" understanding noise as a concern from the proposed development, comparing its noise impacts to the existing log yard next door. Mr. Harris replied that for some reason, he does not hear noise from the log yard, but does from the apartments.

Mr. Harris asked the applicants if 2 trees could be added to the landscaping plan, for a total of 6 to be placed on the southwest side of the development, and if the sumacs could be left untouched. Mr. Marsh replied that no guarantee can be made regarding the sumacs because that area "should be maintained as a field", and that it is the applicants' position that no additional plantings beyond those proposed should be made.

Tim Palmer asked Mr. Harris why the log yard does not generate more noise for him, given that there are fewer trees between it and Mr. Harris' residence than the apartments. Mr. Harris replied that there are tall log piles maintained around the log yard

which block noise.

Mr. Kantor testified that the height of the log piles is almost that of a 2 story building, and the yard includes unshielded lights.

Mr. Arisman notified those present that the DRB would provide a written decision on the Hollister Hill Apartments matter within 45 days.

The meeting was adjourned at 8:44 p.m.

Minutes By: Seth W. Donlon, Acting Board Clerk

The foregoing is a true copy of the Minutes of the December 8, 2016 Meeting of the Marshfield DRB

Attest, _____, Town Clerk
