

**Monkton Development Review Board  
Meeting Minutes  
January 22, 2013  
Approved: 2/12/2013**

**Attendance:**

DRB Members Present: Marsha Abramo, Chris Acker, Peter Close, Janet Dermody, Curtis Layn, Philip Russell, and John Winsor.

DRB Members Absent: None.

DRB Alternate Present: Thea Gaudette (voting)

Others in Attendance: Ken Wheeling, ZA, Liam Murphy, Damien Leonard, Mark Nolan, Michael Brisson, Allan Brisson, E. Ferris and David Shlansky.

Peter Close, Board Chair, called the meeting to order at 7:34pm.

**Administrative:**

1. Minutes from the January 8<sup>th</sup> meeting were reviewed and corrected.  
Chris Acker moved to accept the minutes as amended and Thea Gaudette seconded it.  
Vote: 5-0-1 with Curtis Layn abstaining. (Marsha Abramo had not yet arrived.)

2. Copies of new permits are organized and now available.

3. The Board discussed that the Select Board curb cut form is missing language required to reflect the new zoning regulations.

**Old Business**

4. Brisson Stone LLC/Burchfield Management Application #: 2012-02 – Change of Use Development of a gravel extraction operation.

At 8:00pm the Board continued the hearing on the Brisson Stone LLC/Burchfield Management's application.

The Board planned to open the hearing and vote on the application, but in the interim received over 20 correspondences about the application from interested parties with the majority from BS/BMC. Thus, the Board set aside time to address issues raised before voting on the project.

Peter Close reviewed the major issues raised about the application, which included ex parte communication, the Board's legal counsel's legal opinion about the application, and a question on the 45-day period after the hearing is closed from when a decision is due.

Janet Dermody read a letter she submitted to the Board stating why she was recusing herself from voting on this application. Her letter said she did not think she engaged in any ex parte communication, however, she thought it was in the Town's best interest for her to remove herself from the discussion. She left the meeting after delivering the letter.

David Shlansky was sworn in. He believes Liam Murphy's legal opinion should be considered as expert testimony. He would like to cross-examine Mr. Murphy's legal submissions.

Liam Murphy explained that the Board's communication with their legal counsel is a legal opinion and not expert testimony. The Board's legal counsel is not a party to the application.

There was a question of the 45-day period that the Board has to reach a final decision. The hearing was continued to a date certain, 1/22/2013, so the 45-day period has not started. It will start when the evidentiary hearing is closed.

David Shlansky said BS/BMC was not sure of tonight's agenda so he was not prepared to cross-examine the issues that are of concern. Liam Murphy explained that the hearing was set to a date certain so an additional agenda was not required.

During the discussion it became apparent that an ex parte communication occurred when David Shlansky called Peter Close to discuss the application and its progress. David Shlansky told the Board that Ken Wheeling had told him that he would have to contact the DRB chair, Peter Close—later he corrected himself it was actually John Phillips.

Mark Nolan was sworn in. He asked for clarification on the process.

Thea Gaudette moved that the Brisson Stone LLC/Burchfield Management application is not a permitted use under section 564 of the 1978 Monkton regulations as amended in 1986. Marsha Abamo seconded the motion. Vote: 5-0-0 with Chris Acker recusing himself.

Thea Gaudette moved to adjourn the hearing and Marsha Abramo seconded the motion. Vote: 5-0-0.

The Board will develop a written decision within 45 days.

### **New Business**

5. Two new applications were received:

- An 8 Lot Subdivision Application from Michael Hinsdale on Bennett Road
- Waiver Application from Marjorie Susman and Marian Pollack of Orb Weaver Farm on Lime Kiln Road.

### **Adjournment**

Thea Guadette moved to adjourn the meeting at 8:44pm. The motion was seconded by Chris Acker and passed 5-0-0.

Respectfully submitted,

Wendy Sue Harper  
Recording Secretary