

Monkton Development Review Board
Meeting Minutes
Monkton Town Hall & via Zoom
December 23rd, 2024
(Approved: TBD)

Attendance:

DRB Members Present: Curtis Layn, Jaime Schulte, Stephen Pilcher, Chris Acker, Vicky Stern, Michael Brennan (alternate)

DRB Members Absent: Scott Gordon, Mark Boltz-Robinson

Others in Attendance: Andrew Peterson (Interim Zoning Administrator), Susan Gulrajani (incoming Zoning Administrator), Jeff Olesky (Catamount Consulting Engineers), Brooke King, Robert King, Katelynn Ayers, Casey Ayers, Emilie Paquette (Element Real Estate)

- **Monkton Call to order and determine quorum**
 - The meeting was called to order at 7:31 by C. Layn.
- **Public Comment (not related to agenda)**
 - Casey and Katelynn Ayers brought up a concern that their basement (at 944 Hardscrabble Rd. just north of the Pomarico subdivision we are discussing tonight) has flooded three times since the Pomarico project began. They are new to the neighborhood, but family members previously owned the property. Flooding has not happened in previous years. V. Stern had a comment and noted that she is speaking as an abutting landowner, not as a DRB member, and that abutters received a notice about an after-the-fact wetland permit for the project stating that the drainage on the property is different from what was originally approved. S. Pilcher asked if there is road ditching along Hardscrabble in that area. Jeff Olesky, Civil Engineer representing Steve Pomarico, described why the after-the-fact permit was needed - because the curtain drain inadvertently extended too far. The state wetlands ecologist approved the permit. C. Layn and J. Schulte noted that this issue of drainage potentially affecting a neighbor would not be in the DRB's scope. V. Stern agreed this is not related to the 2022 project approval/re-approval. A. Peterson will help put the Ayers in contact with a state resource at the Agency of Natural Resources who can give them guidance. J. Olesky does not think that drainage from the subdivision could be having an impact on 944 Hardscrabble due to the topography. Water drains to the northwest and southeast, not northeast. There was discussion of recent heavy rainfalls, the possibility of a plugged drain, etc.
 - V. Stern also mentioned that the wetland permit was justified on the basis of needing more affordable housing, but these units don't meet the definition of affordable. J. Olesky was not familiar with the affordability of the units. J. Schulte said that he also saw the justification of affordable housing in the wetland permit and agrees that these units do not meet those criteria, but that is for the state to review/approve not for the DRB to consider. This project did not use an affordable housing PUD density bonus, so is not required to meet that definition.
- **Old Business - None**

- **New Business**

- **Public Hearing: Final Plat Application #2021-04-MAJ of Steve Pomarico for a 5-lot subdivision located at Hardscrabble Road and Barnum Road (Parcel ID 08.230.010.010) in the RA-2 Zoning District.**

- J. Schulte noted that the DRB warned this as a Final Plat hearing, to be on the safe side, but we have gotten different guidance from our interim and incoming Zoning Administrators.
- A. Peterson discussed that 24 V.S.A § 4463 describes a 180-day period during which the Plat needs to be recorded or the board's approval expires. In this case it appears that the applicant provided the mylar in a timely way following the DRB's approval of the Final Plat on January 24th, 2022, but it was not then signed and recorded within 180 days. The town did not meet the requirement, although in Section 885 of our subdivision regulations it says that "the delivery of the mylar to the Clerk does not relieve the applicant of the duty to ensure the mylar is executed and recorded in the land records within 180 days of approval". So the ball was dropped and neither party picked it up. This situation has not arisen in the state before that we can determine, but there is a simple remedy. A. Peterson recommended there be a pro forma step to verify the Final Plat was approved, no changes are requested, no objections, we have the mylar recorded. It was signed and added to the land records in March of 2023. It was missing a stamp from the Clerk which was added today. A. Peterson recommends a motion to this effect and to issue a new decision letter, rather than opening a hearing to look at the application itself, since there are no changes/issues proposed. We should just correct this clerical error of the 180 days as 24 V.S.A § 4463 (b) describes.
- [24 V.S.A § 4463 \(b\)](#) states: "Plat; record. The approval of the appropriate municipal panel" ... "shall expire 180 days from that approval or certification unless, within that 180-day period, that plat shall have been duly filed or recorded in the office of the clerk of the municipality."
- C. Layn asked if anyone in attendance needed more clarification or had comments on A. Peterson's recommendation. J. Schulte noted that all process around the Final Plat has now been followed, even though some of it was not timely, except that no Final Plat decision letter was issued in 2022 (the decision becomes effective 45 days later regardless of a letter).
- J. Olesky mentioned that this came up in a title search for the fourth house to be sold in the development. He stated his professional testimony is that the recorded mylar represents exactly what has been implemented in the project and no changes are requested or proposed.
- **J. Schulte moved to re-approve Final Plat Application #2021-04-MAJ of Steve Pomarico for a 5-lot subdivision located at Hardscrabble Road and Barnum Road as approved on January 24th, 2022 and authorize the Chair to sign a Notice of Decision letter. S. Pilcher seconded.** There was no further discussion. **So moved (5-0-1).** V. Stern abstained, as an abutting landowner.

- J. Olesky said that the letter from the town is needed to support an upcoming sale. J. Schulte said the DRB did receive a communication from an attorney about that, who indicated only the letter is needed to resolve the title concern. A. Peterson clarified that in Vermont the meeting minutes are sufficient, but we will issue a letter as well.
 - J. Schulte will post the minutes by 12/24 (and the [meeting recording](#)). The letter would be available by approximately this Monday the 30th.
- **Regular Business**
 - **Meeting minutes**
 - **S. Pilcher moved to approve the minutes of 12/09/2024 as written and M. Brennan seconded. So moved (5-0-1)**, with V. Stern abstaining (not present on 12/9).
 - **Zoning Administrator Update**
 - S. Pilcher introduced Susan Gulrajani, our incoming Zoning Administrator, who has a background in real estate, is currently ZA in Bolton, and has been a lister in Huntington. Discussed the DRB Clerk role. Sue noted that she clerks for the DRB and Planning Commission in Bolton and can help us on the DRB in this capacity.
 - Discussed that Sue's approach is to work with applicants to have all of their materials in by the first of the month and everything is lined up to go before the DRB, so there isn't a last-minute scramble before hearings.
 - J. Schulte brought up that we should have an improved process after an approval to track follow-up steps, including the recording of decision letters, mylar, conditions to check for recording, that deed language reflects conditions/requirements of the DRB, etc. There was some discussion of how to manage the follow-up, especially related to deed language. The discussion ended with the correct mechanism being to put the requirements and required deed/covenant language into the final plat decision letter, which would be discoverable in title searches and should lead to correct deed language. We do need a way to track the major follow-up steps. Discussed that we could request that applicants bring final mylars to a DRB meeting to be signed.
 - There is an applicant interested in a Conditional Use for a storage container, which will be coming up soon.
 - It appears there would not be any hearings for our next meeting on January 13th. Considered whether to cancel that meeting. We have cancelled a number of meetings this year, but very little should come to the DRB without going through the ZA first. A. Peterson thinks it is OK to cancel meetings if there are no hearings.
 - 2024 Annual Report - J. Schulte will put in the missing numbers and send the report on to the Town Clerk.

Adjournment - S. Pilcher moved to adjourn the meeting at 8:27pm. So Voted (6-0-0).

Minutes taken by Jaime Schulte