

DRAFT

**Town of West Rutland Development Review Board (DRB) Meeting and Public Hearing Minutes
November 18, 2020- 7:00 pm - at Town Offices, 35 Marble St.**

DRB Members present: Mike Moser, James Mumford , Tim Ponto, Debra Higgins (via Zoom conference)

DRB Member Absent: Denis Lincoln

Also Present: Jeffrey Biasuzzi (Zoning Administrator, Recorder), Mary Ann Goulette (Town Manager, Zoom Host)

In Attendance via Zoom video: David Stewart (dba Premier Homes), Brian Harrington (abutting Owner); and by Zoom Audio (only) E. Moser and S. Elliott.

Chairman M. Moser called the Meeting to order at 7:01 pm, and led the reciting of the Pledge of Allegiance. Members for the Town were introduced. The Hearing was tape recorded, and saved via Zoom.

Agenda: M. Moser asked for a Motion to approve the draft Agenda. J. Mumford so moved, all approved, Motion passed.

Public Hearing: :

Chairman M. Moser opened the **Public Hearing on Application 20-27** by David Stewart, dba Premier Homes of VT. This Application request amendments to certain conditions of approval for Site Plan/permit #04-69, issued to Premier Homes as Owner and Developer, for a five Lot subdivision (aka "Mountain View Estates") of Parcel #22-0120370, located along Durgy Hill and Old Town Farm Roads.

The Zoning Administrator (ZA) presented the merits of Application 20-27. After a review of the 2004 Site Plan/ Subdivision approval (#04-69) certain approval conditions still appeared incomplete or no longer applied. Upon advice of Town attorney, a Public Hearing appeared to be the most appropriate approach in which to address these outstanding permit issues. Note that the Planning Commission's duties after 2004 changed when a Development Review Board was appointed to address conditional use permits, appeals, and variances. Application 20-27 requests the DRB to address:

- a. A revision to Conditions #5 & 10: Applicant's payment for Drainage Swale construction owed West Rutland and totaling \$17,294.00. The request is to pay the total in five (5) installments, each of a minimum of \$3458.80, due on or before the sale of a parcel in the subdivision project.
- b. Condition #8 required installing a concrete headwall on the discharge end of two culverts near the intersection of Durgy Hill & Old Town Farm Roads. In the years following Town upgrades to their roads removed the two culverts, replacing with a single culvert without a concrete headwall. The Applicant requests that condition #8 be eliminated.
- c. Conditions #9 & 10 require certification by Premier Homes design engineer, that the Drainage Swale construction completed complies with the design approved in Site Plan/Permit 04-69. The Applicant has submitted Select Board Minutes from its meeting of 9/14/2009. These Minutes refer to review comments from the Applicant's design engineer, and the Town's consulting engineer, which state that, "the changes (to the drainage swale) were completed according to the Overall Site Plan". These repairs were also accepted by the Town Highway Foreman. The Minutes reflect acceptance of engineer's information by the Select Board. The Applicant requests the DRB to determine that Conditions #9 & 10 have been satisfied.
- d. Condition #11 requires that a "pedestrian walkway" be indicated and labeled on the approved Site Plan. At time of Application this walk way's purpose and location was unknown. Subsequently, 2004 Planning Commission meeting Minutes were located, and a reference to, "any future sidewalk to be installed on this side (of Mountain View Drive, the subdivision access road to be constructed by the developer) was observed on the approved Site Plan. The Applicant request the DRB remove Condition #11.

Chairman Moser asked any parties that intended to testify at the Hearing be identified. Mr. Stewart stated that he did not plan to testify at the Hearing, noting he was satisfied with the ZA's presentation on the merits.

M. Moser then swore in B. Harrington, MA Goulette, and J. Biasuzzi; who intended to submit testimony.

The Town Manager then explained that the entire length of Durgy Hill Road had undergone a number of drainage improvements; and that the \$17, 294.00 fee was allocated to Premiere Homes under Conditions #5 & 10 as their portion of this past expense. One result of this road work was that the two culverts in existence and shown on the approved Site Plan in 2005 were replaced with a single culvert. The Fee payment in installments was satisfactory to the Town.

Brian Harrington testified that his concerns included:

- a. He had no objection to amendment request "a", regarding payment installments.
- b. He was concerned that even the existing single culvert should have a concrete headwall. He stated that the riprap at the culvert's discharge end is on only one side, and that the other side appears to be eroding. He recommended having a professional engineer review the current installation to determine if a concrete headwall is necessary.
- c. He questioned if the Drainage Swale System was ever certified by the design engineer. The ZA read into testimony the applicable portion of the Select Board Minutes of 9/14/2009. At the time there appears that the two wall culvert system was still in place. B. Harrington questioned the part of Condition #10 requiring that the drainage system be certified complete, and stated his opinion that the drainage system is still incomplete because the tree planting required has not been accomplished. He stated tree planting was in the Site Plan, and stipulated to in a 10/13/2006 VT Environmental Court agreement that discussed planting details. He also referenced a VT E-Court Decision and Judgement Order by Justice M. Wright; citing the last paragraph of this three (3) page document, "Based on the foregoing, it is hereby Ordered and Adjudged that the subdivision as shown on Exhibit 2 is hereby approved, incorporating the terms of the settlement document which are also hereby approved, concluding this appeal."

M. Moser asked if there were any questions by the DRB for the Town Manager, Zoning Administrator, or public participants. Hearing none, M. Moser asked if there was any additional testimony to be entered by any party sworn in. Hearing none; the Public Hearing concluded and the Meeting proceed to other Agenda Items.

Public Concerns & Input; None submitted

Miscellaneous & Other Business:

- a. There was no repost on PC upgrades to Zoning submitted.
- b. There was no RRPC representative report. The ZA noted that Leona Minard had offered to serve as town representative in lieu of D. Lincoln, but had not been receiving any Meeting information from the RRPC.
- c. No new fiscal year budget requests discussed.

Minutes: M. Moser asked for a Motion to approve the DRB Minutes of 5/20/2020. D. Higgins so moved, all approved, Motion passed.

Schedule next Meeting: The next regular Meeting was scheduled for 7:00 pm Wednesday December 16, 2020; at Town Office; providing there was business for the Board.

DELIBERATIVE SESSION:

M. Moser requested a Motion to enter Deliberative Session to discuss Application 20-27, and asked the ZA and Town Manager to stay to offer zoning or Town related details as requested. J. Mumford so Moved. All approved and Motion passed at 7:34 pm.

Following deliberations, T. Ponto Moved to exit Deliberative Session. All Approved and the Meeting resumed at 8:45 pm. The ZA was to instructed to draft a Decision and forward to the DRB Members for review and editing. Members are then to contact the Chairman (individually) of any further input or approval. The Chairman will then instruct the ZA in preparing a final version for approval.

ADJOURNMENT:

T. Ponto Moved to close the Meeting. All approved, MOTION passed and Meeting adjourned at 8:48 pm.

Respectfully submitted by *J.M. Biasuzzi*
Jeffrey M. Biasuzzi, recorder

Approved by the DRB on _____, by _____
Chairperson