

MARSHFIELD DEVELOPMENT REVIEW BOARD

Meeting Minutes • Thursday, January 12, 2012 • 7:00 p.m., Old School House Common

DRB members present: Paul Brierre, Bruce Hayden, Dina Bookmyer-Baker, and Vince Feeney. DRB member absent: Sandra Paritz.

Also present: Bob Light (Zoning Administrator), Barbara Burkhalter (Recording Secretary), Bill Goss, Parker Nichols, and Will Walters, reporting for *The Hardwick Gazette* (did not participate in the hearing).

At 7:13 p.m., with a quorum present, DRB Chair Paul Brierre opened the meeting.

Bill Goss, preliminary hearing for subdivision

Bill Goss would like to sell part of his land is planning to apply for a subdivision permit. He has already sat down with the Zoning Administrator and gone over the plan with him. Mr. Goss presented a survey with the proposed subdivision penciled in. Per the regulations, the sub-divided piece would have 350' of road frontage.

The DRB told him that everything looked to be in order and to go ahead and file his application with the Town Clerk.

Appeal by Parker Nichols, of Vermont Wildwoods, of Notice of Violation issued by the Zoning Administrator for construction of a loading dock on the side of the building that faces Route 2. The property is located adjacent to 4212 US Route 2.

At 7:25 p.m., DRB Chair Paul Brierre opened the hearing on the appeal of the Zoning Administrator Notice of Violation and swore in Parker Nichols, Appellant, and Bob Light, Zoning Administrator.

Parker Nichols, representative of VT Wildwoods, confirmed that he notified the neighbors about the meeting by sending a letter by certified mail and by placing a poster on the property.

Zoning Administrator Bob Light:

- Notice of Violation was issued because a loading dock was built which was not on the plans submitted to the DRB.
- VT Wildwoods had been granted a conditional use site-plan permit by the Marshfield DRB, dated July 24, 2010, approving proposed storage shed, parking lot and loading facilities.
- Parker Nichols sent Bob Light two copies of a letter dated August 2, 2011, stating that because of the sprinkler system and State of Vermont fire codes, the one building needed to be separated into two buildings and that the actual structures would be smaller than the original proposed structure (a 20' x 40' section was taken out of the middle, thereby decreasing the square footage).
- Bob found no problem with that, signed both letters and mailed one back to Parker.
- If Parker had requested to increase the square footage of the proposed building Bob would have referred him back to the DRB.
- Driving past the construction site, Bob noticed that a loading dock had been installed on the front of the building. He checked his application files, which show the parking and loading facilities on the back side of the building.
- Bob met with the Selectboard on November 18, 2011, and notified them of the situation. The Selectboard requested a copy of the DRB decision and told Bob he had no choice but to notify Parker that he was in violation of his conditional use permit.
- He placed a call to Parker, but Parker was away at the time. Parker then wrote him a letter dated November 14, 2011, acknowledging that he had been out of the state.
- Bob issued a Notice of Violation on December 8, 2011.

Appellant Parker Nichols:

- The decision to put the loading dock in was an error of process. The whole construction process was happening very quickly, there were many decisions to be made and he didn't think it through. Strictly an error on his part.
- Even though it is an industrial building he did not want it to look like a storage building, that the side facing away from the road is where the everyday activity is going to happen and that he wanted to keep the side facing the road clean looking with respect to protecting the rural character of the town.
- Initially was not going to be able to afford to put in a loading dock, but then decided to try to redirect the day to day operations by installing one.
- There will be one to two trucks arriving per week to load freight from inside the building and that it will take them about 10 minutes to do so, during business hours and never on weekends.
- Would like to keep the loading dock there, but will abide by what the DRB decides.

Paul advised Parker of the \$100.00/day violation fine. Bob stated that as Parker had appealed the violation there is no accrued fine or penalty.

Vince stated that large trucks will be very visible from the road, and perhaps cedar trees could be planted from Route 2 all the way up the driveway. Vince asked how many feet long are the trucks and Parker replied that they are about 75' +/-.

Bruce asked about how the product gets to the site and Parker replied that the lumber comes from saw mills in Greensboro and that it is unloaded in the back of the building. Bruce also asked if he had any problem with planting rows of trees and Parker replied that he did not, and had already agreed to do so in the conditional use site-plan. Bruce asked about how the trucks back up to the loading dock and Parker answered that the trucks will drive up the existing driveway (the right-of-way which they share with another lot, a 50' easement) and back up about 150' (he will check to make sure how far it actually is). There are concerns with how long the trucks will be beeping while they are backing up.

Parker decided in June, perhaps early in July to add the loading dock. It was brought up that plans showing the two separate buildings and the loading dock, dated July 18, 2011, somehow appeared in the file. Parker stated that it was not he who placed them there, but that perhaps his office manager (who is in charge of filing) did.

Bob said that if this is to go forward that the new plans needed to be incorporated and used instead of the plans approved in 2010 (which no longer represent what has been built).

Parker stated that there is no safe way to load the product without a loading dock. The bundles of lumber weigh about 1 – 1 ½ tons and are strapped onto pallets on both ends by steel bands. He has been using a forklift to push the lumber into the trucks, but it is not easy and is very dangerous and a safety hazard.

Parker was asked that if he had to remove the loading dock, is there any way to put it somewhere else, and he replied that it would be financially impossible. He said that it would cost thousands of dollars to remove it.

Dina noted that the driveway has been changed from what was on the approved plan; it has been rounded and curved to accommodate the trucks backing up. She asked if he is going to purchase a tractor trailer and Parker said he is not. She asked if he was conducting business from the building and Parker said that it was only being used for storage. Bob said that Parker is not supposed to use the building until he receives a Certificate of Occupancy, and he is unable to issue one now because Parker is in violation of his permit because of the loading dock, because machinery that was originally planned on being installed is no longer going to be placed, and because he is already using the building.

Paul stated that the permit was issued by the Zoning Administrator (07/2011, good for one year) based upon the DRB decision issued in 2010 (good for three years). He asked if a contractor had been lined up prior to the permit being issued and Parker said that he had. Paul asked if he had given his contractor a copy of the DRB's decision and Parker said that he did not. Parker stated that he is the project manager and coordinating the different trades, but is not doing the work himself. Site work was started in August of 2011 and the building construction started in September 2011.

Bruce asked if the loading dock meets with all the regulations and Bob said that it does, but that a main concern is for the neighbors with the noise from the trucks and how long the trucks will be sitting there. Bob stated that he would not have approved the change had Parker contacted him about the loading dock, but would have referred him back to the DRB.

Concerns about future use of the buildings/property were voiced and it was discussed how to police this so that the rural character of the town stays the same in the future. Paul asked Parker if any neighbors had contacted him after he sent out the notice of hearing, and Parker said that no one came to him with questions or concerns.

It was decided that no site visit was needed, because Parker had brought photos and because Paul and Vince had already stopped by the property to take a look around themselves.

There being no further testimony or questions, at 9:25 p.m., Paul made a motion to close testimony and to move into private deliberative session, which was seconded by Vince. All were in favor, and the motion carried, 4-0. The DRB will issue a written decision within 45 days.

The DRB members reviewed and approved the minutes of the November 10, 2011, meeting.

DRB entered deliberative session to discuss the Nichols appeal at 9:30 p.m. and exited at 10:24 p.m. The DRB re-opened the hearing at 10:25 p.m. Paul made a motion to deny Mr. Nichols' appeal and draft a decision that the appeal is denied, but the Appellant is not barred from filing a new application for site plan and conditional use review for non-permitted structures and uses. Vince seconded the motion. All were in favor and the motion carried, 4-0.

Bruce made a motion to adjourn. Vince seconded the motion. All were in favor and the meeting was adjourned at 10:28 p.m.

Respectfully submitted,
Barbara S. Burkhalter