

# Town of Danville Development Review Board Hearing Minutes

7/3/2019 Final

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## Attendance:

**Present DRB Members:** Mike Smith (Chair), Brian Henderson, Doug Lamothe, John McClung

**Absent DRB Members:** Theresa Pelletier, Rob Balivet,

**Zoning Administrator:** Linda Leone

**Public:** Robert Magro, Kristin Barany, Martin Bertolini, Nicholas Flanders, Melissa Deppish, Denise Briggs, Chad Hickey

The hearing was called to order by Chair Mike Smith at 7:00 pm. A quorum was established.

## Announcements:

Permit #2019-28, requesting a setback variance to build a “sugar shack” was withdrawn by the applicant on June 24 2019 prior to a scheduled site visit.

A DRB working meeting, in the public, has been scheduled for 10 July 2019 at 7PM in the Town Hall to complete the site plan review for Permit #2019-23 for Spectrum Services, LLC at 71 Hill Street, Village Core District. The applicant, Melissa Deppisch, has been invited to participate.

This afternoon, July 3, 2019 ~2:30PM, Melsissa Deppish asked to be placed on the agenda of this meeting to discuss the conditions placed on Permit #2019-23.

## Permit Hearings:

### Permit #2019-35

*Applicant:* Pope Memorial Library Community Center, represented by Martin Bertolini and Nicholas Flanders from the Pope Library Board.

*Application date:* June 10, 2019

*Site:* 41 Route 2 East; TH 094-001.000, Bk 88, page 105.

*Zoning:* Village Core District

*Project:* Construct fire escape from 2<sup>nd</sup> floor at rear of community center building and an ADA compliant walkway from rear of building to parking lot. Walkway is asphalt with a guardrail and has three lampposts with lights. Walkway starts at rear of building and ends, via a right-of-way, in a parking lot owned the Passumpsic Bank.

*Relevant Bylaws:*

Village Core District, Section 205.6, page 5.

Permitted Use, Section 206, page 21

*Bylaw Application:* Permit application requested a Variance which requires a hearing.

*Discussion:*

1. Project has been completed.
2. The library and bank have an agreed right of way for the walkway.
3. The permit application requests 3 setbacks, 1 for the fire escape and 2 for the walkway without specifying a setback length.
4. By examining the site plan, the applicant supplied the 3 setback lengths and each of the 3 setback lengths exceeded the district minimum. The setbacks were the basis for the variance. The applicant withdrew the request for a variance.

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5. No comments from interested parties have been received.

## *Findings/Conditions:*

1. Project is a Permitted Use.
2. The project ADA compliant.

## *Decisions:*

1. Brian moved; John seconded a motion to approve Permit #2019-35 for a Permitted Use project to:
  - a. Construct a second story fire escape at the rear of the community center
  - b. Construct an ADA compliant walkway from the rear of the community center to the Passumpsic bank parking lot
  - c. Install three lampposts and a guard rail along the walkway
2. There is a 30 day appeal period before this permit can take effect. Refer to Danville Bylaw Sections 808, 811 and 804.8 for details.

## **Permit #2019-34**

*Applicant:* Robert Magro and Margaret Keefe.

*Application date:* June 6, 2019

*Site:* 776 Morrill Road; TH 022-009.000, Bk 71, page 112.                      *Zoning:* LDR

*Project:* Construct a 8' x 16' wood storage crib with a metal roof. Sides and rear are wood slats with open space for air circulation. A variance from the district front setback of 50' resulting in a 35' setback is requested for the crib site.

## *Relevant Bylaws:*

Low Density Residential District, Section 205.6(205.8), page 19

Permitted Use, Section 206, page 21

Variance, Section 809, page 50

*Bylaw Application:* Permit application requested a Variance which requires a hearing.

## *Discussion:*

1. It was noted that the requested Variance does not appear to meet the requirements of facts (a), (b) and (c) of Section #809.1 (page 50).
2. After some discussion with the Board, the applicant requested the permit be withdrawn.

## *Decision:*

Permit #2019-34 was withdrawn by Mr. Magro.

## ***Public Matters Before the Board:***

Bert Frye has asked to speak to the DRB. He informed the ZA that he was unable to attend tonight's meeting and indicated that he would attend the next scheduled meeting (17 July 2019).

In reference to the approved Permit #2019-23, Melissa Deppisch of Spectrum Services, LLC represented by Chad Hickey Esq, brought documents to the Board related to the site plan and the conditions specified for the permit. One document was a drawing of the proposed sign which was turned over to the ZA, for satisfying condition #1. For the record, the ZA previously has indicated that condition #2 regarding parking lot screening has been satisfied. The remaining documents were submitted to the board in order to complete the details in the site plan related to condition #3. It was

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agreed to start a “working session”, in the public, with Melissa, Chad and the DRB members jointly to review, explain and, if necessary, edit the documents.

## **Documentation, as specified in (24 V.S.A. § 1207), of ex parte communication initiated by Michael Smith with Melissa Deppisch regarding the approved Permit #2019-23.**

Some time (I do not remember the date) after the 5 June 2019 DRB hearing where Permit #2019-23 was approved with conditions, I (Michael Smith), was informed that Melissa (and others) did not understand the status of the permit, the process that would result in the issuance of the permit, and did not know what information was needed to complete the permit. I called Melissa to reassure her that her permit was on track for issuance and once the DRB, probably at the next DRB hearing, decided what information was needed, she would be informed. Melissa stated that if she had been informed of what information was needed to complete the permit application dated 15 May 2019, she would have gladly done all she could to make sure the permit application was complete. After this conversation, I, on my own, began to investigate the process and materials that other towns in Vermont had in place to support permit applicants requiring a site plan.

At the 19 June 2019 DRB hearing, the Board was unable to agree on the exact information that was needed to complete the site plan. Soon after (I do not remember the date) the 19 June hearing, I again was informed that Melissa (and others) were very concerned about the status of the permit. By this time, after perusal of online materials for site plans, the VSA's, Vermont Municipal support organizations and the Danville bylaws, I had developed a “straw” template for collecting information for a site plan for a project similar to Permit #2019-23. I also had used the application from Permit #2019-23 as a “sample” to fill out the “straw” template to get an idea of what information was needed. I called Melissa a second time to reassure her that the Permit was on track to be issued in early July. I also proposed that we meet at the project site to collect site information that was needed. Melissa agreed to meet at the site. On 29 June Melissa sent me an email canceling the meeting and expressed her desire to do things “by the book”. I responded, via email, that I understood and that I would continue to work to get her permit conditions satisfied as soon as possible.

On 3 July 2019 I received a call, on speakerphone, from Chad Hickey who informed me that he was representing Melissa, who was also on the speaker phone, in the matter of Permit #2019-23. Chad asked me “whats up” and I filled him in on my take of the status of the Permit. We discussed what was needed to complete the condition. I told Chad about the “straw” template that I had filled out and he asked that I email him a copy which I did. I mentioned the 3 July DRB meeting and Chad said he would get back to me. Later in the afternoon, Chad called and informed me that he and Melissa would be at the meeting. I agreed to put him on the agenda. This completes my documentation of the ex parte communication with Melissa and Chad relevant to this matter. I have had no further ex parte communication on this matter since the afternoon of July 3 2019.

## **Working Session Permit #2019-23:**

### *Background:*

Current status of Permit #2019-23 as of July 3 2019: On June 5 2019, at the DRB hearing, the Permit was approved by the DRB with conditions. One condition had to do with supplying missing information that should have been in the site plan. The intent, at the time, was for the DRB to specify the required information and notify the applicant so that the applicant could supply the information to the ZA in order to meet the condition. At the June 5 hearing the DRB felt that information could be

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specified by the DRB and be obtained by the applicant. To be clear, the DRB considered the site plan documentation submitted with the permit application at the hearing for Permit #2019-23 on June 5 2019 to be incomplete. The Board has communicated this to the applicant but the Board has been unable to specify the information needed from the applicant to make the site plan complete. As of July 3 there are no appeals on this permit and the 30 day appeal period ends on July 5 2019. The goal of the working session was to specify, determine and document the additional information needed for the site plan. These minutes document the working session.

The actual discussion during the working session was free ranging about the different items that were needed to complete the site plan as well as items and issues that were not needed to complete the site plan. The *Discussion* section below covers the discussions that were related to completion of the site plan.

## *Discussion:*

The relevant documents submitted to the Board were a one page "Site Plan Operation Description" edited by the applicant (in a format similar to the document emailed to Chad as described in the ex parte disclosure above) and copies of a number of aerial photographs showing the site prior to current development by Spectrum Services. The aerial photographs are annotated with diagrams and dimensions showing the current site buildings and proposed parking lot with driveway. The aerial photographs are from the Vermont Agency of Natural Resources ANR Atlas and are on 11x17 paper printed in black and white. The annotated aerial photograph was submitted as a "Site Diagram" in lieu of a site drawing.

During the working session Melissa was informed that a standard condition on any issued permit for businesses requires that any future enlargement or alteration of the use and/or site plan be reviewed by the ZA and/or DRB. See Section 807.4 (i) of the bylaws.

During the working session Melissa noted that if she had been informed of what information was needed to fill out the permit application, she would have gladly done all she could to make sure the permit application was complete.

During the working session Mike noted that in the case of this permit, the Board is asking for information at a level of detail, that in his experience, the DRB has never been required of a permit. A number of unsolicited similar comments from the public indicated a similar impression.

The *Discussion* topics that follow are ordered by topic and describe the items relevant or noted as not covered in the current site plan. The topic headers track the "Site Plan Operation Description". These topics try not to duplicate information that appears in the "Site Plan Operation Description".

## **Business Name**

See "Site Plan Operation Description"

Spectrum Services provides services to clients at a number of sites, such as home, school, or other appropriate sites as well as 71 Hill Street. Services are based on individual client needs and range from one client to one staff to multiple clients and one or more staff. The 71 Hill Street facility is designed to

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support a variety of client/staff space needs during the facilities operating hours. Concurrently with the 71 Hill Street site, Spectrum Services staff will be at other sites serving clients.

## Operating Schedule

The submitted "Site Plan Operation Description" has the operating hours for the 71 Hill Street site.

## Occupancy

See "Site Plan Operation Description"

The State Fire Marshall has set an occupancy limit of 50 people at the building at 71 Hill Street.

Melissa reiterated that they have no intention of approaching this limit.

## Delivery/Service

No food storage or preparation will occur on site. Clients are expected to bring lunch. Clients also may go out under the direct supervision of staff to local Village businesses for lunch and snacks.

Snow plowing and snow removal is to be contracted locally before this winter.

## Parking Usage

See "Site Plan Operation Description"

In regards to staff parking, Spectrum Services understands that parking is a problem in the Danville Village Core. Staff parking has been arranged with other Village Core businesses. The staff will be instructed on the parking arrangements.

## Site Parking Plan

See "Site Plan Operation Description" and "Site Diagrams" and permit application site drawings.

### Parking Lot Specifications-

Parking lot size: 76' x 47'      Parking Lot Surface: gravel base, Staymat surface

Parking Spaces: 8      Parking space size 9' x 18'

### Driveway:

Site entrance and driveway is pending final approval from Vermont State Fire Marshall for width sufficient for fire and emergency vehicle access.

### *Resolution:*

The 2 documents, "Site Plan Operation Description" and "Site Diagrams" were edited to the satisfaction of the applicant to include relevant information noted in the *Discussion* above.

The Board reviewed the revised "Site Plan Operation Description" and "Site Diagrams".

The Board voted 3 to 1 to give the 2 documents to the ZA in order to satisfy condition #3.

When all conditions and appeals are satisfied, the ZA will start the permit issuing process as per Sections 804.8, 9 & 10 of the Danville bylaws.

The working session was closed just in time for Chad to attend the fireworks on Joe's Pond.

## **Approval of 6/5/2019 and 6/19/2019 Hearing Minutes:**

Brian Henderson moved; John McClung seconded motion for approval of the draft minutes from the DRB hearing of 6/5/19 as currently posted on the Town website, without changes. Motion passed.

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Brian Henderson moved; John McClung seconded motion for approval of the draft minutes from the DRB hearing of 6/19/2019 as currently posted on the Town website, without changes. Motion passed.

## **Other Business:**

1. A discussion on the need for guidelines and templates to facilitate an applicant in providing a complete permit application with a complete site plan was started. It was agreed that discussion would be continued and that more than just the DRB should be involved.
2. Chair Mike Smith gave a brief status report on the Interim Bylaws: no new news.
3. The next DRB hearing is scheduled for 17 July 2019.

The hearing was adjourned at ~8:50.

Respectfully Submitted,  
Michael Smith, Acting Secretary