

Montpelier Development Review Board
January 3, 2011
City Council Chambers, City Hall

Approved

Present: Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman, Daniel Richardson, Jack Lindley, Roger Cranse and Sabina Haskell.
Staff: Clancy DeSmet, Planning & Zoning Administrator.

Call to Order:

The meeting was called to order by Philip Zalinger, Chair, at 7:00 P.M.

Review and Approval of December 6th & 20th Minutes:

Upon motion by Mr. Blakeman and Mr. Lindley the Minutes of the December 6, 2010 DRB meeting were approved on a vote of 5 to 0.

Upon motion by Mr. Cranse and Ms. Haskell the Minutes of the December 20, 2010 DRB meeting were approved on a vote of 4 to 0.

I. 100 – State Street (CB-I/DCD)

Owner: Capitol Plaza Corp.

Applicant: Northfield Savings Bank

Design Review for an Exterior ATM

Mr. Zalinger explained the Design Review Committee's advisory role to the Development Review Board. They appeared before the Design Review Committee on November 23rd and December 14th. The DRC reviewed the application and recommended approval with a slight adjustment to the scope, that the ATM color surround will be Musket Gray. The applicant agreed with the DRC's recommendation.

Mr. Blakeman inquired if there were going to be two ATMs at the bank.

The applicant replied there would be two. They are outdoor ATMs. Some may not feel comfortable and may want to use the vestibule but the ATM Company makes ATMs for outside. They do have the option of waiting to go inside if they prefer more privacy.

Mr. Lindley asked what panel the flying pig will be placed on?

The applicant responded by saying there won't be a flying pig on the panel. It will just be a solid gray color.

Mr. O'Connell said he was curious as to what drives the addition of the additional ATM. He has never noticed it being that crowded.

The applicant said there is mostly a line on the evenings. This is the busiest ATM the Northfield Savings Bank has so they decided to put in another so folks won't have to wait.

Mr. Richardson moved for design review approval for the project at 100 State Street with the adjustment to the scope of the application as recommended by the DRC. Mr. Blakeman seconded the motion. The application was approved on a vote of 7 to 0.

II. 18 Leap Frog Hollow (LDR)

Owner/Applicant: Dejung Gewissler

Sketch Plan Review for a 7 Unit PUD

The scope of the DRB's jurisdiction and the scope of their investigation are called sketch plan review. He read the provisions provided by the zoning ordinance:

The intent of sketch plan review is to provide the applicant an opportunity to consult with and to obtain feedback from the Development Review Board to save time and expense in the preparation of plans and final review. For larger complex subdivision projects the applicant is urged to meet informally with appropriate municipal representatives to discuss the project prior to submitting a request for sketch plan review. These representatives may include the Director of Public Works, the Director of Planning and Community Development, the Zoning Administrator, representatives from the Design Review Committee, Conservation Commission and the Tree Warden, Police and Fire Departments, and other municipal agencies as appropriate.

The applicant is also urged to notify neighboring property owners to identify issues that may arise in subsequent public hearings and to seek resolution of any such issues.

This is the direct authority that the DRB has.

Following review of the materials submitted at the sketch plan review the DRB shall make recommendations to guide the applicant in preparation of plans for preliminary plan review. The Board's recommendation shall be recorded in the minutes of the meeting and shall be provided to the applicant. Action by the Board on a sketch plan review does not constitute approval of a subdivision plat but is merely authorization to proceed to the next step of review. The applicant may proceed to preliminary plan review within one year following sketch plan review by the DRB.

The DRB shall determine if preliminary and final hearings may be combined for the proposed subdivision or planned development.

It is really the applicants seeking input from the DRB and from others where it would be a public hearing where folks could be heard if they wished. They aren't taking evidence under oath. No witnesses will be sworn in. This is not part of the formal proceeding. After a sketch plan review it is incumbent upon the applicant to fashion or design the final project as they want to proceed with. Then, there are still two more stages. There is preliminary plan review and final review. These proceedings can take place over several months or even longer as the statute indicates. This is intended to be, and the language in the ordinance is clear, an informal and preliminary proceeding.

Mr. DeSmet said this property used to be a larger parcel of approximately 20 or so acres. It was known as 133 Towne Hill Road. There is a large single family dwelling at the end of the road. There is also another dwelling that was built within the last two years. Subsequently, there has been a 3-lot subdivision last year. Mr. Nagle went through a three step process to make a 3-lot subdivision over there. Subsequently the road was changed to Leap Frog Hollow and now there is a new owner of Lot 2. That new owner is proposing a 7-unit planned unit development on Lot 2. They did have a technical review meeting with representatives of Public Works, the Parks Department and Glenn Moore was not able to meet but they have met informally with the applicant and his engineer.

Mr. Marsh said this portion of Towne Hill Road is now called Leap Frog Hollow. It is now a driveway currently shared by three lot owners. As part of the project the driveway will be upgraded to a street by widening it to an 18 foot travel lane with 2 foot shoulders per the DPW standards.

Mr. Zalinger asked why they call it Leap Frog Hollow. It's a private driveway, isn't it?

Mr. Marsh said he understands the Planning Department assigned the name to it.

Mr. DeSmet said the police department actually had that jurisdiction. Once it was subdivided into three lots that is the E-911 address.

Mr. Zalinger asked if he could identify on the large plan where the 7 acres are.

Mr. Marsh said the 7 acres are all to the east. The common road comes down and currently ends here and the 7 acres is all to the east of that with a small amount of frontage along Towne Hill with the majority of the frontage is along Leap Frog Hollow. It is wooded mostly around the lower southern parts of the property. The project proposes one 4-unit multi-family building up close to Towne Hill where the density is greater. That would be served off a driveway that would come off the common road and that would have municipal water and sewer. Then, there would be three single family homes located throughout the subdivision and each of those would also use municipal sewer but on-site drilled wells. Parking for each would be in their driveway and a garage.

Mr. Lindley asked why he thinks drilled well will sustain sprinkler systems in the houses.

Mr. Marsh said it depends upon the yield of the well and if the yield is high then you can pump directly into the sprinkler system with a residential system. If the yield is not sufficient then you would have to put a storage tank in the basement and boost for both domestic and fire.

Mr. Lindley asked why he wouldn't use the city water.

Mr. Marsh replied because of the cost. DPW's ordinance requires that you connect to sewer but it doesn't require that for municipal water. In some cases it is a taste issue as well as cost.

They tried to show a little bit of detail on the proposed site plan with a multi family unit. The multi family unit would be two levels with entrance on the upper side on the uphill. It gives better ADA accessibility. Then there would be a lower level for the units as well. They have provided seven proposed parking spaces in a parking area that would be depressed relative to Towne Hill Road and ultimately landscaped to diminish the impact on that. The required parking would be four spaces for a multi family unit. They felt for guests it made sense to provide more parking.

One issue they would ultimately ask the DRB for a waiver from is the ordinance that requires 75 feet for a driveway from an intersection, and that would push the house quite a ways down and use a lot of land that the applicant would like to use for agricultural purposes. They have had preliminary discussions with Tom McCardle at DPW and have changed their plan to come down 50 feet below Towne Hill Road for the intersection. That works well with the site. Tentatively Tom has said that subject to some final plans he would consider that. One comment from the Technical Review Committee is that the road itself needs to be upgraded to provide for standards for the intersection which is to have them more level at the intersection because now it is relatively steep.

In terms of common land there would be some land that would be used in common. Also some portions of the land that would be used for common trails for the various residents. Dejung's overall goal is to provide both agricultural crops and fruit trees to use all of the available common land. There is an existing pond 300 feet or so back from Towne Hill Road and there would be some common use of that pond for all of the residents.

Other than that one issue relative to the driveway there are no waivers that are requested. They meet the density of one acre per unit and they meet DPW standards for water and sewer and driveway.

Mr. O'Connell asked Clancy if there was a need for a variance for the 4-unit along Towne Hill. He is asking about the setback for the structure.

Mr. DeSmet said it meets the requirement.

Mr. Marsh said it 30 feet on the rear and 20 feet on the front and side. It is 30 feet on the eastern side and 20 front and side along Leap Frog Hollow.

Mr. O'Connell asked him what other options had he considered with regards to the multi unit.

Mr. Marsh said there are several configurations here but this seems to be the logical place to put it. It's closer to Towne Hill Road which makes access easier. There is a public sidewalk which is along the south side of Towne Hill Road so it is accessible to that. The overall density is similar to buildings down Towne Hill Road toward Main and it makes sense to have the higher density in that portion of the site, and it frankly has little less impact on the agricultural uses elsewhere on the site.

Mr. Zalinger asked Mr. Marsh to walk them through what he envisions the associations being after all of the units are sold.

Mr. Marsh said the multi family would be rental units owned by Dejung. Then there would be descriptions of those uses which would be common and those which would be private, but they haven't gotten to that language yet. There obviously would be a sharing of the maintenance of the road because there is already a three way sharing of the road. One third of that would be shared amongst these users as well under a prorated basis.

Mr. Gewissler said the intention here is not to build a bunch of houses and sell them off as a development per se. This is a kind of phased approach where he is coming with a plan that ultimately he would like to keep the land the way it is in that it isn't developed with a bunch of houses but keep the houses spread out and use the land in a mixed use scenario and have the density of units up towards Towne Hill. That would be a rental situation and the rest of the houses would remain in his or his family's ownership. It would be a family affair.

Mr. Zalinger said planning a development generally contemplates that folks who are owners have an ownership interest in the common ownership community. He is suggesting there won't be individual sales of interests in the PUD. He said the multi family is rental units. Title and fee ownership of the 7 acres is going to remain in his name or remain in the name of an association and there are applicable statutes that require the kind of bylaws and association organizational matters that have to be instituted if it is a common ownership community.

Mr. Gewissler said the details of that haven't been worked out but he was envisioning that he would maintain the ownership of the whole lot and there would be some sort of association that is set up to give representation for the individual owners, wherever they may be, and their representation for the common good.

Mr. Zalinger asked what it they would buy is.

Mr. Gewissler said his limited understanding of a condominium association is that the land is owned by an owner and then they have the rights to build and use their building area, and that would be recorded in the town.

Mr. Zalinger said that is the fundamental difference between subdividing property and planning a development. The parcel remains a whole and folks acquire designated percentage interest in the scheme or plan, and it is the right to build house A, B or C, and they have the proportionate percentage ownership interest in the whole 7 acres. You have to clearly delineate what the rights and responsibilities and the obligations of each percentage owner are in and to the whole. It is important to distinguish this because this is a project that wouldn't qualify if he were going to subdivide this parcel and sell lots individually.

Mr. Marsh said they think it could, but in this particular case it is a way of Dejung controlling the majority interest for agricultural purposes while still sharing some of those with the other two private family landowners.

Mr. Zalinger said what they don't appreciate is that over the last two to three years this property has been before the Board a number of times with some subdivision plans that didn't fly and one final one that did. It was last year's subdivision that created three lots.

Mr. DeSmet said it only didn't fly because he didn't come back.

Mr. Zalinger said there is Lot 3 which is 3 acres, Lot 2 which is 7 acres and Lot 1 about 3 acres.

Mr. Marsh said there is one lot way down at the bottom in the southwest corner. That is Lot 1.

Mr. Richardson said the Chair's comments about the association, especially because there is a particular use they are proposing for the common area, and while they don't regulate agriculture as a zoning board the homeowners' association is going to outlive him as the owner. What they are concerned about in looking at this is that it has some sort of agreement that goes beyond simply the short term plan to let family members live there to when the property starts to be transferred beyond his control and ownership. What kind of an association is created that affects the nature, the beauty and the grass?

Mr. Gewissler said that could be indicated in some sort of mission statement of the homeowners' association.

Mr. Richardson said there are certain statutes that are applicable to any kind of beauty and homeowners' association. They should speak with an attorney that would guide him to craft that in what the state requires so it would be a finalized product. What they are ultimately looking for is that it is beyond simply one owner because the changes he is seeking to make on this land will go beyond his tenure or ownership. You are putting up buildings and applying a specific use that will have ramifications and repercussions for the length of this property for the foreseeable future. The homeowners' association that guides has to have a document that looks to that as well.

Mr. Blakeman asked if any of this land was Zorzi land.

Mr. Marsh replied no that it is all owned by Dejung. It is all his sole ownership.

Mr. Blakeman said with the multi units how he envisions them. Are they going to be two or three bedroom?

Mr. Gewissler said two of the units would be three bedrooms and two would be one bedroom. He is working with an architect to make it as aesthetically pleasing as possible and also trying to take into consideration the screening and vegetation and dropping the parking down so it has as low an impact as possible to the neighbors. He has a preliminary hand sketch of what he thinks the building is going to look like. Essentially, there are going to be two three-bedroom units and two one-bedroom units.

Mr. Lindley asked why he wouldn't have the parking on the south side of the building.

Mr. Gewissler said the lot actually slopes south and the intention he has for this structure and the other structures is that they are all passive solar designed. Their opening to the south with windows to the south so they are collecting as much heat from the sun reducing heating costs. If the parking is actually on the north side then it gains access to all four of the units equally. The access is a lot more complicated if they are parking lower down and then they would have to walk up to enter. They are also looking out on the preserved open space.

Mr. Lindley asked what he anticipated the height of the structure to be.

Mr. Gewissler replied two stories above ground.

Mr. Marsh said it will be closer to 30 feet high depending upon what the roof pitch ends up being. The limit is 45 so it is well below that.

Mr. Lindley said that will still block the view from the road.

Mr. Marsh said it will be about 6 feet from the road to the middle floor. The building would be split level so the parking lot is at the second floor level. One level would open out to the south. From the parking lot they would be 18 feet from grade to peak and that would put it 13 feet above the elevation of Towne Hill Road. It actually would be lower than the adjoining house directly up hill from it to the east because it is a split level.

Mr. Gewissler said the hill actually slopes on two plains. Along Towne Hill goes down the hill and then as the property goes south it goes south. It is sinking the building down as low as possible from Towne Hill so the view from Towne Hill is impaired only by about 15 feet.

Peter Goodell said he owns the blue house just to the east. He grew up in the neighborhood and has been there for 48 years now since his parents first built that house. He does have a couple of concerns that should be considered in the positioning, particularly with the 4-unit house. He takes no issue with the four units. He has been looking through the zoning regulations, particularly Article IV under § 401.b where the policy is stated. It says that land shall be subdivided or developed so that it can be used safely or without danger to the health or peril, fire or other menace. When he grew up there Towne Hill was largely local traffic. There were side roads but very few people came in from East Montpelier because the road was dirt and not well maintained and it wasn't a pleasant trip. Now they find a lot of commuters coming in and out of town at all hours and more so since the roundabout were developed. The other side of that coin of course is that U-32 has a lot of inbound and outbound traffic to U-32 during the school year. He assures them the traffic does travel quite rapidly up through there. They are used to traveling on an open highway and when they get into town they don't tend to slow down that much. There are cars that pass each other right in front of his driveway on occasion. He is on the north side and he is bounded in fairly short order by Towne Hill Road. On the west side there is a brook that comes under the road and a rather large drop from where the culvert sits to the level spot above to the west. On his side things are in pretty good order but he certainly can't certify that his back yard is childproof given that he has a tractor and implements out back. Frankly, as you turn the other way there is a short distance to a pond so he has significant concerns about whether or not that really are a safe environment for four different families, potentially with children and pets. The other thing he would like to cite from the policy section is that further down it states:

It results in an appropriate development pattern or form.

He thinks he does have to take issue with the statement that there are other properties in the area that are similar. There is an old farmhouse down on the corner. At one time that was attempted to be used as an apartment house. There was a lot of vacancy down there and it has been condominized now and individual ownership, and only since then has it been really stable. Other than that it is all single family residences all the way up through. Personally, he doesn't object to a four-unit property. There is enough land there and if it was at the south end of the site it might be more appropriate where there is less menacing items.

Geoff Beyer, Director of Parks, said it would be a great opportunity as part of the park impact to have some area along this land protected as a trail and it could be done with minimal or no impact with agriculture. The two could go along together. If there is room to work it out without undue stress it would be a great opportunity.

Mr. Richardson asked Mr. Beyer where the parking would be for the trail.

Mr. Beyer said parking would have a bit of impact. The type of thing they would like to do around town is not to create parking spaces so much for these trail access points but really provide neighborhood access to a wagon wheel of trails around town. They aren't really interested in parking places for this kind of trail. The city is interested in having the maximum number of access for people without having to get into your car to get to a trail.

Mr. Zalinger said the agriculture uses he contemplates, this acreage has been undisturbed for several thousand years. It was probably hayed at one time and might have been pasture at one time.

A member of the audience said it was a horse farm for many years.

Mr. Zalinger said he wonders what they contemplate might be an agricultural use he would suddenly introduce.

Mr. Gewissler said agriculture is more of an over arching term that is used. Permaculture is probably more accurate. It is more of an indigenous type of agriculture in that species of plants and trees that are native to the area are either encouraged to survive or proliferate. It is actually more of a holistic way of farming in that it is not a tractor and manure spreading operation but more the way the land used to be and without our impact but also living there and cultivating it with the least impact as possible yet using species that are native to the area. That is the direction he would like to go in with this and not have livestock. He would like fruit and nut trees that are manageable.

Mr. Richardson asked if it had been identified as prime agricultural soil.

Mr. Gewissler replied he didn't know. He would say probably not because of the slopes that are involved.

Mr. Richardson said he may want to consult the Department of Agriculture on those issues.

Paul Giuliani said he lives across the street from the blue house and their property is across the road and kiddy corner to the subject property. It seems if he takes the 7.2 acres and carves out the footprints for the houses, driveways and lawns and associated area around the house he would be left with a relatively small piece of contiguous property that will be dedicated to agricultural use. He echoes what he heard earlier about just what type of agricultural use because he don't think a piece of property that size would support any kind of mechanized farming or anything of that nature. Planting apple and fruit trees, having lived across the street for 35 years, he can assure the Board that this is going to turn into one big salad bar for deer, turkeys and bears. The neighborhood is just full of these animals. He thinks anybody who has tried to

put a garden in that area understands what he is talking about. He is going to echo what Jack Lindley's comment about the water is. The city has a multi million dollar public water supply system that is excellent. There is the installation of the filtration plant and the construction of a 600,000 gallon tank on top of Towne Hill so there is more than adequate water. He questions the cost of running a service line from Towne Hill down to the furthest proposed house on the four lots as opposed to drilling. He understands the desire to have one's own water system, but if these properties are going to be sprinkled and there is a power failure all of the holding and storage tanks in the world is not going to be of much benefit. He has no problem of the notion of a four lot subdivision. He would like to raise a historical question or historical perspective that a number of years ago when a previous owner of this property tried to site two single family residences on a much larger piece of land out of which 7.2 acres have been carved there was a lot of resistance and discouragement from City Hall about so doing. Now we are looking at something that is a more intensive use of this 7.2 acres coupled with a component which is totally out of character with that Towne Hill area. There are no multiple family dwellings in that area from the corner of Towne Hill Road and Main Street. This is quite a significant departure from the existing character of the neighborhood. He has no implicit problem with multi family dwellings in that area but siting it right on Towne Hill Road is really inconsistent with the character of the neighborhood. He would encourage the applicant to think about resiting this subdivision further down in the field or closer to a property line on the westerly side, but right on the road itself doesn't seem to be consistent with the character of the neighborhood.

Mr. Gewissler said one of the concerns about the water issue is that generally he doesn't know very much about Montpelier's water system but public water supplies generally have fluorinated and chlorinated water and he has concerns with the health impacts of that. That is a personal choice. For the single family units which are family related that is the direction he would lean. The multi family unit is going to be on city water and sewer so he is trying to use facilities that are available where he can see they are appropriate. The reason for putting the multi family unit close to Towne Hill is that they can gain direct access to Towne Hill Road. There is not as much traffic then on the smaller road. The option to move the multi family somewhere else is going to be putting more permaculture directly in line with the houses where he thought staying with the consistency of the neighborhood it would be better if the house was there in line with the other houses as opposed to an open field with some sort of agriculture going on. He was trying to stay with the consistency of the view shed of Towne Hill, and that is the reason he sited it up there. Also, it is a lower construction cost for him in that bringing the utilities further down the lot is significantly going to increase the construction costs.

Mr. Lindley said he would like to return to the traffic issues. Most of us know the commute on Towne Hill well past his driveway entrance in the morning and evening traffic stops. He would be remiss if he didn't suggest that having 7 more structures with commensurate traffic from those structures wouldn't add to the degradation of the intersection of Towne Hill Road and Main Street. He would like him to look at those numbers to see what those trips would have on that intersection.

Mr. Marsh said they talked to Tom McCardle and he had no concern with that. From a planning purpose this is an infill development and this is what good planning says. You build your development as close to the town. You are in a growth area and what the growth area promotes, which is trying to put development within the density requirements as close as possible to the center of the city. That is exactly what they are doing. They are filling those goals of proper planning. Unfortunately, if they are going to have housing in Montpelier so people can afford to live here there will be traffic associated with it.

Mr. Zalinger said they should stick to the facts. They don't need to talk about overall policy and don't have to get into great detail of what is down the road. They understand there are traffic issues. The applicant understands there are traffic issues and they are going to have to be addressed. Simply because Tom McArdle determines he doesn't believe that Towne Hill Road can or cannot handle additional traffic is not determined by the DRB.

Mr. Zalinger asked if the applicant had seen the staff comments. He would like to go through some of the comments and observations that have come from within the zoning office.

- *Siting of Parking & Loading Spaces §707:* Parking and loading spaces are intended to be accessory uses to the primary use of a lot. As such, they should not be allowed to visually dominate the appearance of a lot. Location of parking and loading areas behind buildings and away from public streets, avoidance of parking in front yards, and appropriate landscaping and screening can help to accomplish this purpose. Wherever possible, the DRB shall encourage location of parking and loading spaces in side and rear yards.

They understand he has a different design, but one of the corresponding responsibilities with a different design is to not disregard his obligation to provide landscaping and screening. From his view that would be critical.

Mr. Marsh said they fully intend to do that. They haven't developed a planting plan yet. He doesn't want them to think they neglected to do that. They said specifically they will do that but this isn't the time to do that now.

Mr. Zalinger said he understood that and he didn't want it to go unmentioned now. He is troubled by the reference to agricultural use. He thinks here in Vermont they think of agriculture on a bigger scale than what is left over after four homes are constructed on 7 acres. If he wants to call it open space or call it landscape space, no open field in Washington County is going to remain open for long if it isn't cut and mowed. If there is a plan for open space and the way it is going to be landscaped they ought to address it with more specificity than characterizing it as agricultural.

Mr. Gewissler asked if they would prefer he use open space.

Mr. Zalinger said is what it sounds like to him.

Mr. Marsh said he would point out that they will bring a number of Act 250 cases who have been rejected because they have used up 3 or 4 acres of agricultural land. The precedent in other cases is not to use very small parcels that it can be demonstrated to be very productive. It is a conflict with other statutes. He thinks to dismiss it because there may be only four acres of agriculture is not consistent with other bodies and inconsistent with what one being able to do economically. They are trying to promote local small accessible agriculture. To dismiss it and say just because he wants to do it, that he needs to grow up, is not giving him credit for trying to come in here with a commitment that is good planning and good land use. He doesn't think it should be dropped or dismissed to say we don't take care of it and it's not going to work.

Mr. Zalinger said 4 acres is a lot of zucchini.

Mr. Marsh said projects have been rejected for not using 4 acres of agricultural land so it can be used. Strawberries can make \$50,000 an acre. They will provide more detail to show it can be done.

Mr. Zalinger said all he is suggesting is that the pretense of calling it agricultural should be substantiated.

Mr. Marsh said there has been a lot of thought to this and it isn't just a way of saying this is another use for open land. The fact is that it is a commitment of the developer and it should be acknowledged.

Mr. Richardson said he thinks a lot of this may be clarified under the planned development section §713 which does require land shown as common open space shall be conveyed under one of the following options. That would cover a lot of how this is to be managed and flushing out all of the details. The way he understands the regulations the Zoning Board can't necessarily say you can't have agriculture or you can only have a certain type of agriculture but it does require as common space because it is a PUD to have some semblance of what is going to be done, how it is going to be run, and who will own it and tending it.

Mr. Gewissler said he thinks all of those are answerable right now. He is going to own it and whoever the subsequent buyer is going to be owning it. That will be established in the homeowners' association bylaws. The plan indicates how he plans to farm it. This is a sketch review. Instead of referring to it as agriculture would it be better to refer to a small scale farm? He fully intends to have proceeds come from this so from his intention that is considered a farm. If it doesn't meet a certain meet a certain dollar amount or acreage they can follow up on that.

Dick Kelly said he lives right across the street from the proposed unit. He is on a well. When his house was built Towne Hill didn't have very good water and you couldn't get fire insurance. Free wells, sprinklers and irrigation, are there anything he can do to protect his water supply? If he drains the aquifer then he is forced to hook on to the city at an extra expense.

Mr. Zalinger said it is nothing they have jurisdiction over.

Sam Higgins said he lives next door to Dick. He would like to reiterate the request to consider relocating the four apartment unit. He is directly across from it and will be looking at it. They stated the parking lot was going to be on the upper side so those residents wouldn't have to look over the parking lot but he will be looking at it constantly.

Cindy Larson said she is next door to the apartment complex. She agrees with everybody, but the noise and traffic is enormous. She is the closest one to the road. The dirt, the rain, when they drive by they are flooded every time, and to add more she doesn't think it can handle it. Just to pull out of Towne Hill – they all back in now because her husband had a fender bender. You can't back out any longer because they are bumper to bumper and fly by. They hear every car door that shuts. They can't open their windows in the summer because of the dirt and the noise. She can't imagine adding any more.

Mr. Lindley said in §704 it looks like they want to ask for a variance because it isn't 75 feet from the road. With all of the land he has he doesn't understand why they haven't figured that one out.

Mr. Gewissler said as he stated before he wants to preserve as much open space/farmland as possible by putting the buildings not towards the center of the property. 75 feet pushes that multi family down into the flattest part of the land that is designated there. The 50 feet they are proposing actually meets all of the requirements for parking very well. Adding the extra 25 feet he would not prefer because of his objective of retaining the land use.

Mr. Cranse said neighborhood compatibility was mentioned by several of the neighbors and it is part of the ordinance. It is §713(a) general standards. When they come back before the Board he needs to address that in detail. Regarding the farm or agricultural use, if the land is held in common by the several owners of the three houses, if it is held in common and also used to make a profit he doesn't know how to process that. Is this something we need to think about?

Mr. Zalinger replied he didn't believe so.

Mr. O'Connell said under the issue of parking under the site plan review criteria §707 parking and loading spaces are intended to be accessory uses for the primary use of a lot. As such they should not be allowed to visually dominate the appearance of a lot. Location of parking and loading areas behind buildings and away from public streets, avoidance of parking in front yards, and appropriate landscaping and screening can help to accomplish this purpose. Wherever possible, the DRB shall encourage locating of parking and loading spaces in side and rear yards. He has a real problem with the current plan as it is now proposed for the four units building. Perhaps a really ingenious landscaping plan to be proposed would satisfy the need of not creating basically a parking lot scenario on that section of Towne Hill Road. He doesn't see it here. This is sketch plan and as such they wouldn't necessarily have that developed at this point. He is skeptical.

Mr. Marsh said even with a robust planting he could hardly be convinced.

Mr. O'Connell said he is also reflecting what he is hearing from a number of the neighbors.

Mr. Richardson said with the parking lot they aren't counting Towne Hill Road as their frontage.

Mr. Marsh said it is a side yard. Leap Frog Hollow is actually the front from the setback point of view. To the east is the rear.

Mr. Richardson said this is what the neighbors have expressed and what Kevin was expressing is that for them this is the front yard. Clearly, there are some issues there that will have to be addressed up at the next meeting.

Mr. Marsh said from a zoning point he supposes it is in the side yard.

Mr. Lindley said another point that needs to be addressed is how they are going to control dust from the vehicles up and down the road on Leap Frog Hollow. Those neighbors deserve better than to have dust blowing in their windows.

Mr. Zalinger asked about siting this property for purposes of determining which the front yard is. Generally speaking they use the city street as the front yard. If a parcel has frontage on two city streets then they can have two front yards for setback purposes. In this instance Leap Frog Hollow is just a private driveway.

Mr. Marsh said Leap Frog Hollow is the front yard and it makes it a corner lot.

Mr. Richardson asked Clancy if there was a recent decision in the Environmental Court that talked about determining frontage side and back in Brattleboro. That might be worth looking at. The properties may have more than one front yard and also more than one side yard, especially when it is a unique circumstance like this.

Mr. Marsh said the building setback is something like 60 feet from Towne Hill but 20 feet from Leap Frog Hollow.

Mr. Zalinger said he isn't suggesting it changes the application of the dimensions to the project. He is just suggesting that it sounds more palatable to him to think that the front of this property, regardless of the access being from the west, the front of the property is to the north because that is the only frontage there is.

Mr. Marsh said they would review it again with Clancy because they had a different understanding.

Mr. Zalinger said lot frontage is the distance measured across the lot at the lot front line of abutting street. There are probably a dozen other references they could look at.

Mr. Marsh said from the DPW view and the ordinance the Leap Frog Hollow is now a street because they have to meet the street standard.

Mr. Lindley said it only has to be up to the standard that the city is requiring in order to get fire trucks down and back. It is still a private way. That is not a city street.

Mr. Zalinger said he thinks this constitutes feedback from the DRB.

Adjournment:

Upon a motion by Kevin O'Connell and Daniel Richardson the Development Review Board adjourned on a vote of 7 to 0.

Respectfully submitted,

Clancy DeSmet
Planning and Zoning Administrator

Transcribed by: Joan Clack