

Town of Plainfield, Vermont
Development Review Board Meeting
May 12, 2021
Approved Minutes

PRESENT: Janice Walrafen (DRB Chair), Sarah Albert (DRB Clerk), Alice Sky (DRB Member), Karen Storey (Zoning Administrator), Cindy Wyckoff (Minutes Recorder), Sean Lee (Tamera Ferro Hearing), Ben Davis-Noe (Tamera Ferro Hearing), Mary Trerice (Sargent Decision), Christine Ditmeyer (Sargent Decision), and Ryan Christiansen (Sargent Decision).

NOTE: Due to the ongoing COVID-19 pandemic, the DRB convened its meeting remotely via Zoom.

Janice Walrafen called the meeting to order at 7:07pm.

AGENDA

- Call Meeting to Order
- Review Agenda; Make any Adjustments
- Public Comments
- Review and Adopt Meeting Minutes of April 14, 2021
- Hearing: Tamera Ferro ZPA 2021-11 CU Section 2.8 and Section 3.7 Fences over 4 Feet within the Setback Area
- Review and Approve Decision on Melanie Sargent's Appeal of Zoning Administrator's Violation Letter Dated 2021-02-16 for Property Located at 79 Bean Road, Appeal of Violation of Town of Plainfield 2011 Zoning Regulations: Section 3.19 Recreation Vehicles #2, #3 and #4
- Other Business
- Adjourn

REVIEW AGENDA; MAKE ANY ADJUSTMENTS

- Zoning Administrator Karen Storey added several items to be discussed under Other Business.

REVIEW AND ADOPT MEETING MINUTES FROM APRIL 14, 2021

- **Alice Sky made a motion to approve the minutes from the 4/14/21 meeting as written. Sarah Albert seconded the motion. The motion was approved unanimously.**

PUBLIC COMMENTS

- Sky solicited for new members to join the DRB. Walrafen added that more volunteers are needed for many of the local boards and committees in Plainfield.

HEARING: TAMERA FERRO ZPA 2021-11 CU SECTION 2.8 AND SECTION 3.7 FENCES OVER 4 FEET WITHIN THE SETBACK AREA

- Walrafen administered an evidence affirmation oath, to which all public hearing participants affirmed.

- Sean Lee, spouse of Tamera Ferro, summarized their request to build a six-foot high, 178 foot long solid-panel cedar fence on the west side of their property that abuts Ben Davis-Noe's property. The fence would start at the corner of the mother-in-law apartment on the Ferro/Lee property up to about five feet before their upper property line. The proposed fence, which will be installed by Middlebury Fence, will be in the exact style of what is currently installed on the east side of the property between the Ferro/Lee house and the Town Hall Opera House. Walrafen read aloud the general standards from Zoning Regulations sections 2.8 and 3.7, and found the request for a conditional use permit to be in line with those provisions. Property abutter Ben Davis-Noe asked if a survey of the property line has been done, to which Lee responded not recently, but suggested that he and Davis-Noe could either walk the property line together and put stakes down where the lines are approximated or actually have a survey done. Davis-Noe request that a professional survey be done. Lee concurred, adding that the intention is not to place the fence exactly on the property line, but rather set back from the property line between six-to-twelve inches. It was decided that the written decision will include the fact that both Lee and Davis-Noe agreed to having a professional survey performed, making any official requirement of such unnecessary. Albert asked, and Lee confirmed, that the proposed fence posts will be set in a concrete base. Davis-Noe stated that he respects the style of the fence and the decision to install it as long as it is not on his property. **Albert made a motion that the DRB approve the application of Sean Lee to build a six-foot fence, which will be of the same construction as the fence that is between his property and the Town Hall, and set between six-and-twelve inches back from the property line to be determined by a survey.** A brief discussion ensued as to whether the survey that Lee and Davis-Noe agreed to tonight should be included in the motion, with Lee assuring that he will go with what the survey indicates and provide a copy of the survey to Davis-Noe via certified letter before the fence is placed. Lee also agreed to send a copy of the survey to the Town. **Sky seconded the motion.** Storey noted that the name on the permit application is Tamera Ferro, Lee's spouse. The motion was amended to read: **Albert made a motion that the DRB approve the application of Tamera Ferro to build a six-foot fence, which will be of the same construction as the fence that is between Ferro's property and the Town Hall, and set between six-and-twelve inches back from the property line to be determined by a survey. Sky seconded the amended motion. The motion was approved unanimously.** Once the decision is approved by the DRB at its 6/9/21 meeting, Storey will send it out to interested parties via certified mail. Lee noted that they will also be doing a dig-safe survey by the fence company to ensure that any underground pipes are avoided.

REVIEW AND APPROVE DECISION ON MELANIE SARGENT'S APPEAL OF ZONING ADMINISTRATOR'S VIOLATION LETTER DATED 2021-02-16 FOR PROPERTY LOCATED AT 79 BEAN ROAD, APPEAL OF VIOLATION OF TOWN OF PLAINFIELD 2011 ZONING REGULATIONS: SECTION 3.19 RECREATION VEHICLES #2, #3 AND #4

- Because the written decision resulting from the DRB's motion at the 4/14/21 hearing on Melanie Sargent's appeal was not yet approved, Walrafen screen-shared the draft document with the interested parties who were in attendance currently. Ryan Christiansen asked if the written decision was different from the decision made at the last meeting. Christine Ditmeyer noted that the decision made on 4/14/21 specified that the RV be removed within 30 days of the decision, which will be on 5/14/21, and asked if anyone had informed Sargent that she would have to remove the

RV. Walrafen responded that she had informed Sargent by phone. Storey added that Sargent has 30 days from today during which time she can appeal the DRB's decision to the Environmental Court. Discussion ensued, including whether the 30-day period to remove the RV began on the date of the decision as stated in the motion, 4/14/21, or the date that the written decision was approved and issued, 5/12/21; the fines structure for noncompliance; and the appeals process. Christiansen noted efforts taken by neighbors to clean up the area, adding that they have looked into purchasing the property, but abandoned the idea because zoning requirements with regard to the characteristics of that property prevented them from doing anything with it. Now the property is being developed at odds with these same zoning laws. Christiansen stated that the fines are worth much more than the value of the property right now. Albert noted that the Select Board will have this on its agenda next week and decide how to proceed with the fines. Walrafen added that the Select Board needs the approved decision by the DRB in order to act on the fines. Sky asked the neighbors how important it was that the fines get enforced, noting that the fines seem punitive and that Sargent technically does not have the means to accomplish business, asking if Sargent removed the RV without having to pay the fines, would that satisfy the neighbors. Walrafen stated that she has spoken directly with Sargent and let her know that she needs a septic permit, a building permit, and that there needs to be appropriate setbacks, but feels that Sargent is convinced that she can build on the property because there was a residence there prior to her moving there. Christiansen asked at what point will it be made clear to Sargent that the fines are now three times the value of her property. Walrafen stated that Sargent is now going through all of the steps to get into compliance and it remains to be seen if she can get the necessary permits. Discussion then centered on the 180 consecutive days that an RV can be parked on a property and when those 180 days began in the case of Sargent. Sky asked if that Sargent came into compliance despite all of her technical challenges, would that be enough to satisfy the neighbors. Ditmeyer responded that if Sargent were in compliance with doing all that she wants to do with her property, the current issues the neighbors have would be moot. But, in response to Sky's suggestion of waiving the fines if Sargent comes into compliance, Ditmeyer noted that the fines are there as a motivating factor and that one cannot speculate if Sargent will come into compliance without that motivation. Walrafen added that the DRB does not have the authority to waive fines. Storey related a recent experience when she and the Ned Swanberg from the Vermont Department of Environmental Conservation (DEC) visited Sargent's property for a site visit. Sargent did not allow them to walk the property, but Sargent later called Swanberg to discuss how to resolve the flood plain issue and Swanberg suggested making an appointment with the zoning administrator. Storey stated that it is her responsibility as zoning administrator to help applicants accomplish what they need in order to develop their property, but feels that Sargent considers Storey to be one of the sources of her problems. Storey noted that Sargent could request a setback variance, which will be brought before the DRB. Albert questioned whether the DRB should consider granting Sargent a variance in light of the fact that Sargent is in violation of the zoning regulations and has not complied with the DRB's order to move her RV. **Walrafen made a motion to approve the findings/decision regarding Melanie Sargent's appeal of the zoning administrator's violation letter dated 2/16/21 for property located at 79 Bean Road. Sky seconded the motion. The motion was approved unanimously.** Mary Trerice stated that she wanted to make sure that it was clear that the neighbors are not contending that Sargent's property is an eyesore, that she is unsure whether a septic system can

happen on that property, and that she shares compassion regarding the fines, but also understands Christiansen's statements regarding them. Walrafen stated that Sargent said she will be calling the permit specialist for the State. Storey suggested that neighbors call Ryan McCall, environmental enforcement officer from the Vermont Department of Environmental Conservation, regarding the legality of Sargent's septic system. Christiansen clarified that it is not his goal to ensure that Sargent is charged with a huge amount of fines, but rather to understand the Town of Plainfield's fine structure, and that Sargent understand that structure as well, further stating that Sargent has done a lot of other projects on the property albeit without the proper permits to do so. Walrafen agreed to print out, sign, and take the approved decision to the Town Clerk's office.

OTHER BUSINESS

- Storey stated that Melanie Sargent had submitted a building permit application for a single-family residence at 79 Bean Road. Based on the setbacks in her application, Sargent would need a variance to build the home. Walrafen stated that Sargent should come into compliance with the current issues before the DRB moves forward with considering this new request. Albert noted that an application needs to be acted upon within a given number of days or it gets deemed approval, therefore suggested that the permit be denied because Sargent is not within the setbacks, a decision that Sargent can appeal to the DRB. Before denying the permit, Storey stated that she will talk to the permit specialist and Vermont League of Cities and Towns for advice on whether a building permit can be denied because of non-compliance on multiple other issues. Storey will need to act on the building permit by 5/29/21 or it will be automatically approved.
- Storey requested that a site visit and hearing be held, noting that Chad Morris, who lives on Lower Road, has requested a permit for an already-built structure on his property that does not meet the setbacks. Walrafen expressed hopes that neighbors would participate in the hearing to let their feelings be known. A site visit was scheduled at the Morris property for 6:00pm on 6/9/21 followed by an outdoor hearing at the shelter at the Recreation Field. Storey agreed to contact Dan Gadd to reserve the shelter.
- Storey reported that the Red Store property is on the market and the Plainfield Health Center would like to purchase it. The Health Center has two plans: keep it as a two-apartment building or modify it to an apartment upstairs and business offices downstairs. Referring to previous conditional use permits for the property, it was determined that any change of use would require an amendment to the 2016-04 conditional use permit. Albert recommended caution regarding setting precedents that will cause people to think they can circumvent zoning regulations by building first then coming in to request a variance.

ADJOURN

- **Albert made a motion to adjourn at 9:07pm. Walrafen seconded the motion. The motion was approved unanimously.**

Respectfully submitted by Cindy Wyckoff