

Chelsea, Vermont, Development Review Board
Meeting Minutes of January 8, 2014

Members Present: Anne Carroll (Chair), Debra Melvin, Arthur Goodrich, Blaine Conner, Richard Allen, Cynthia Masterman

Members Absent: Lawrence Allen

Others Present: Russell (Rusty) Simpson, Thomas Mullen, Charlotte Mullen, David Farnham, Beth Farnham, Michael Kuban, Edward Kuban, Linda Kuban, Heidi Allen Goodrich, Emily Newman, Preston Bristow (AO and Clerk)

Chair Anne Carroll opened the meeting at 6:35 pm.

The **public hearing on application by Kinney Drugs, Inc. (#ZP13-32)** to place an additional 28.5 inch by 60 inch sign panel on the existing Chelsea Health Center signposts and extend the height of the signposts by 30 inches at 356 VT Route 110 (Parcel #110-092) was opened at 6:40 pm with the reading of the Public Hearing Notice as posted and published. No DRB member disclosed an ex parte conversation or conflict of interest. Charlotte Mullen requested status as an interested person. Rusty Simpson for Kinney Drugs was sworn in.

Rusty Simpson, New Store Development Manager for Kinney Drugs, Inc., presented the application. Kinney Drugs is seeking a roadside sign on the existing signpost structure at 356 VT Route 110 on which the Chelsea Health Center, Gifford Health Center and Clara Martin Center signs are located. With the addition of the 28.5 inch by 30 inch Kinney Drug sign panel the signpost structure, including the cap bar, will be increased 30 inches in height. The resulting signpost structure will stand 9'11" off the ground.

The area of the signs on the roadside signpost structure will increase from 22 square feet to 34 square feet. The area of the signs on the Chelsea Health Center building is currently 38 square feet. The cumulative total of all signs at the Health Center, with this addition, will be 72 square feet (not 60 square feet as stated in the application). This is still well under the required maximum of 150 square feet as defined in section 4.6.1(8) of the bylaw.

The only lighting of the signpost structure will continue to be from the single down-pointing light on the cap bar which is powered by a solar panel. The new sign panel will be made of high-grade plywood painted on both sides. The sign will have letters and a logo on the front and be plain without letters or logo on the back.

Anne Carroll asked if the Kinney Drug sign could have a green background rather than a white background to match the other signs on the existing signpost. She noted that the Kinney Drug sign on the Chelsea Health Center building has a green background that matches the other signs. Rusty Simpson stated that the application was for a sign with a white background but that he would accept a condition that the sign have a green background.

Linda Kuban stated that Chelsea has a sizeable elderly population and that having an easily accessible drug store in town was important to them.

Art Goodrich repeated his contention that the current Chelsea Health Center signpost structure is not "located on the same premises as the activity to which it relates" as required in section 4.6.1(1) of the

bylaw and therefore in violation. Preston Bristow provided a copy of an "Easement Deed" for the sign dated May 30, 2012 and recorded at Book 74, Page 154 of the Chelsea land records and Rusty Simpson presented a letter dated December 10, 2013 from Sheriff Bill Bohnyak of the Orange County Sheriff's Department, the conveyor of the Easement Deed and owner of the land the sign is on. Following discussion, Art stated he would accept a determination from the state as to whether this sign was "on-premises" or "off-premises" under the state sign law (Vermont's so-called no billboard law) as applying to Chelsea's bylaw as well.

Charlotte Mullen was asked on what basis she requested status as an interested person. She replied as a business owner in town.

The hearing was closed at 7:00 pm.

The **public hearing on application by Thomas and Charlotte Mullen (#ZP13-33)** to convert an existing barn to Commercial use at 140 VT Route 110 (Parcel #110-013.001) was opened at 7:05 pm with the reading of the Public Hearing Notice as posted and published. No DRB member disclosed an ex parte conversation or conflict of interest. Heidi Allen Goodrich, David Farnham, Beth Farnham, Michael Kuban, Ed Kuban and Linda Kuban requested status as interested persons. Those intending to offer testimony were sworn in.

Tom Mullen presented the application, which is to change the use of an existing agricultural barn (known as the Kuban barn) to commercial use for retail sales. The intended use is to sell shoes and apparel, but the Mullens do not wish to commit themselves to selling only shoes and apparel.

The official flood maps show the floodplain (Zone A) touching the back side of the barn, but engineer Mark Bannon has determined that the barn is not in floodplain and he is preparing the date to submit a LOMA (Letter of Map Amendment) to FEMA to legally remove the barn from floodplain.

The Mullens are working with Kristen Driscoll of VTTrans to get an access from the state highway for a roughly 70 by 100 foot parking area to accommodate 12-15 cars. The parking area may be paved but will most likely start with a hardpack surface. Kristen Driscoll has said that the proposed access does meet required site distances on Vermont Route 110.

The Mullens anticipate having a sign mounted on the north and south ends of the barn to advertise their business and do not anticipate any free-standing signs on posts. In any case, signs outside of the design control district can be approved by the administrative officer.

The Mullens stated that it was their intent to preserve the aesthetics of the barn and to keep it looking like a barn.

The Mullens stated that they did not anticipate adding a lot of exterior lighting for the sign, the building or the parking lot.

The Mullens stated that it was their initial intent to limit their use to the first floor but that they did not want to rule out possible use of the second floor. The first floor has a floor area of 3,856 square feet.

David Farnham asked what could prevent the property from turning into a Dollar General. The DRB responded that the bylaw limited commercial use permits to 6000 square feet of floor area which was likely too small for a Dollar General.

Ed Kuban read the following statement from the Future Land Use section of the current (2008) town plan (page 48) regarding uses in the Rural Residential Area:

Non-residential uses, including service businesses, professional offices, and inns, are acceptable land uses for rural areas provided that such uses are planned as relatively small in size or scale. Major retail enterprises or service centers are not recommended for rural areas and are encouraged to locate within the Village Area or specific areas identified per this Plan.

Ed Kuban questioned whether this request for commercial use was “relatively small in size or scale.”

Linda Kuban, citing the Conditional Use criteria in section 5.8 of the bylaw, stated that a change of use of the barn from agricultural to commercial would adversely affect the character of the area and set a bad precedence.

Michael Kuban noted that both general stores in the village are for sale and that the requested commercial retail use would be more appropriate in either of those locations.

The DRB voted unanimously to recess the hearing until January 22, 2013 at 7:00 PM when more detailed flood data would be available. (The reconvened hearing was later postponed to February 12, 2013 at 6:30 PM with notice to the applicant and interested persons.)

The hearing was recessed at 8:00 PM.

The **reconvened hearing on application #ZP13-12 by Robert Button, Jr.** for conditional use approval to sell culverts and farm supplies as a home industry located within floodplain at 254 VT Route 110 (Parcel #110-029) was opened at 8:05 PM. This hearing was first opened on June 12, 2013 and recessed until September 25, 2013 to give the applicant time to secure base flood elevation data and other information to enable the DRB to make a decision. The September 25, 2013 date was postponed until October 16, 2013 when the hearing was reconvened and then recessed until November 13, 2013 to give the applicant more time. The November 13, 2013 date was postponed until today, January 8, 2014, when the hearing was reconvened.

Applicant Rob Button was not present but administrative officer Preston Bristow related his conversation with the applicant that afternoon. According to Preston, attorney Sheilagh Smith no longer represents Rob Button in this application, and Rob Button has called his engineer Thomas Otterman and Mr. Otterman still does not have flood elevation data on the site. Also according to Preston, Rob Button expressed a willingness to have the DRB approve the sale of culverts and farm supplies from within his existing outbuildings and he would deal separately with those items that cannot fit within his existing outbuildings.

The DRB closed the hearing, with four members voting to close and Rick Allen abstaining.

The hearing was closed at 8:15 PM. All guests left the room.

Findings and Decisions:

Application #ZP13-12 (Robert Button, Jr.) - Following deliberation, the DRB unanimously approved a change of use of Robert Button, Jr.'s existing outbuildings at 254 VT Route 110 (Parcel #110-029) to include Commercial as well as Residential and Agricultural uses. According to the Lister files, there are four existing outbuildings on Parcel #110-029 with the following dimensions: 16x22 feet, 20x30 feet, 39x44 feet, and 48x105 feet. The DRB unanimously denies any outside storage of any materials on Parcel #110-029 until such time as base flood elevation data and a plan for anchoring and securing those materials from floatation or displacement during a flood event are provided and approved through a new application.

Respectfully submitted,
Preston Bristow, Administrative Officer and Clerk