

Chelsea, Vermont Development Review Board
Draft Meeting Minutes June 6, 2018

The Public Hearing on applications by the Orange County Courthouse (#ZP18-11), and by Frank Keene (#ZP 18-12)

Anne Carroll opened the hearing at 6:30 pm. The hearing began with a reading of the Notice as posted and published. No conflicts of interest or ex officio conversations were disclosed. Applicants for the Orange County Courthouse application said that another co-applicant for the project would be about 15 minutes late so all agreed to reverse the order of the application agenda.

Members Present: Anne Carroll (Chair), Debra Melvin (Vice Chair), Johanna Welch

Members Absent: Jonathan Vermette and Larry Allen

Others Present: Frank Keene, Terry Carty, Joyce McKeeman, Victoria Weiss, Joe Torro, Mike Kuban, Russell Noel, Rosemary Roberts, and Timothy McCormick (AO and Clerk)

#ZP 18-12: Public Hearing on an application by Frank Keene to repair an embankment within a floodway. (Parcel ID # 044-002.000)

The hearing on the first application began at 6:40 pm. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 VSA Subsection 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. Frank Keene and Terry Carty were granted interested party status as applicants Michael Kuban, Select Board Chair, was granted interested party status representing a municipality with plan bylaw at issue and because Town is an abutter to the subject property, Russell Noel and Rosemary Roberts were granted interested party status as abutters to the subject property. All interested Parties were sworn in.

Anne asked Frank to describe his project. He said that during January of this year, there was an ice jam at the Maple Avenue Bridge and that the ice backed up the river causing erosion of the river bank along his property. He contacted the State of Vermont Watershed Management Division, and was issued a permit to repair the damage by Patrick Ross, the State River Management Engineer. The permit entitled: *Authorization to Conduct Next Flood Measures*, dated 4/30/18 and signed by Patrick Ross was part of the application package. Frank stated that a copy of the permit was sent to the Town, and that Tim told him that he also needed to get a Town permit.

Frank's plan is to stabilize the river bank with rip rap in a 6 foot x 60 foot area as shown in sketches and pictures provided to the DRB. He stressed that time is of the essence. Frank said that he obviously

could not work on the project in January when the damage occurred but that he needs to begin now while the weather favors vegetation growth.

Anne asked Frank if he sought any relief from the Town terms of fees or application assistance. Mike spoke up for the Town saying that the Town backs Frank's efforts to quickly repair the bank and requested that the DRB act quickly on this project. Mike mentioned that much of the Town is located in floodplains and FEMA buy-outs are resulting in properties being lost from the Town.

Russell Noel wanted to know where the project was located in relation to his property. Tim showed him the sketch included in the application package. Mr. Noel was assured that none of the bank restoration for this project had any impact on his property.

Tim entered an e-mail into the record from Ned Swanberg, the State of Vermont, Watershed Management Division, Central Vermont Floodplain Manager. After reviewing the application materials, Mr. Swanberg wrote that a Conditional Use Approval is required by the Chelsea Flood Hazard Area Regulations (Regulations). According to Section IV. D1 of the regulations, new fill material is prohibited in floodway areas "unless a hydrologic and hydraulic analysis has confirmed no rise in flood levels". However, Ned pointed out that if that if the project is implemented as described in the permit issued by Patrick Ross, the DRB should be able to approve the project without a hydrologic and hydraulic analysis (since it will only match previous physical conditions). Mr. Swanberg notes that the restoration of the bank will not "increase any risk to the surrounding properties, facilities, or structures from erosion or flooding". (Section VII.A.1).

Frank also wanted to mention for the record that even though his property is in the floodway, and he is taxed an amount that may be high for such properties, he has always paid his taxes over the years. After a brief discussion about the appeals process and notification procedures, the hearing was closed at 7:00pm.

ZP#18-11: Public Hearing on an application by The Orange County Courthouse for a waiver or a variance to install an emergency generator on a cement slab within the property line setback of the Village District. (Parcel ID#046-003.000)

The Hearing on the second application was opened at 7:00pm. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 VSA Subsection 4465(b) to demonstrate that the criteria set forth in that

statute could be met. A record of the name and address of persons wishing status as an interested person, a summary of their evidence with regard to the criteria, and a record of their participation at the hearing is attached hereto. The applicants, Joyce McKeeman, Victoria Weiss and Joe Torro were the only “interested parties” present for this hearing.

Anne asked applicants to explain the project. to explain the project. Joyce explained the drawing that was attached to the application package. Joe Torro explained the details of the generator. He said that it has a self-contained, double-walled diesel fuel tank and will be placed on an 8 foot x 4 foot cement slab. Mr, Torro went on to explain why the proposed location is “realistically” the best place for the unit. He stated the location is relatively close to the utility pole along Court Street, and that there were other considerations such as: a). keeping the generator away from the parking lot and areas where the snow is plowed, b). locating the generator away areas where snow and ice could fall onto the unit from the Courthouse roof, and c). keeping the generator out of the grass swale located between the parking lot and the neighbor’s property line.

Johanna asked why the generator could not be placed near the air conditioning units. Victoria mentioned that the snow from the Courthouse roof would be an issue. Joe also mentioned concern about the historical value of the Courthouse building and that they wanted the location of the generator to be discreet. Joe said if the location was moved further to the east (toward the swing set) the generator would be more visible to the public. He is proposing to “terrace” the area where the cement slab will be located. The slab will be located approximately 3 feet away from the property line wall.

There was discussion about the amount of noise that would be created by the generator and Joe stated that the level would be about 70 dba as measured from 21 feet from the unit. He said that noise would only occur when the unit is running. He described it as the sound of vehicle traffic. Mr. Torre said that a “test run” would be conducted once a month for about 30 to 60 minutes (usually scheduled on a Monday). The discussion concerning noise brought up the issue that the nearest neighbor, Jeanne Norlander, cannot hear and the DRB wanted to be sure that she had been properly notified.

Anne asked if placing the generator near the neighbor’s stone wall would “muffle” the sound from the unit, and Mr. Torre confirmed that it would and was one of the reasons for selecting that area. Anne asked Tim, if the proposed project was located in a flood hazard area. He stated that it was not.

Joe stated that the conduit for the connection to the power pole had already been put in place. Deb asked when this was done and Joe said that it was done in the later part of May. After some additional discussion about keeping the unit free from excessive snow cover, Joe mentioned that the generator requires air circulation above the unit. If a protective cover is proposed over the unit, he said that the

cover would have to be approximately 12 feet high in order to allow proper air circulation. Tim asked if the unit could be hidden with fencing if it was placed in a different location. Joe said that it could be hidden. Anne mentioned that the issue in this case was not only aesthetics, but the fact that the proposed generator location is closer to the property line than the Village setback requirement allows. The discussion then moved to whether the generator could be located at least 10 feet from the property line. In which case a waiver would be possible as 10 feet is ½ the distance of the required setback (20 feet).

Anne mentioned that we should: a) communicate with the nearest neighbor to be sure that she was properly notified and b). conduct a site visit to the property. The DRB voted to recess the hearing and to conduct a site visit, and then to return to the Library to continue the hearing. The hearing was recessed at 7:45, Joyce McKeeman left the hearing and the DRB visited the site with Joe Torro and Victoria Weiss.

The hearing was reconvened at 8:10 pm after the site visit, and Anne asked if the generator could be moved closer to the swale. Joe said that it may be possible and mentioned that the proposed slab is 3 feet from the wall as measured from the “toe” of the wall. He suggested that the wall leans back towards the neighbor’s yard and that the actual property line may be closer to the top of the wall rather than the base of the wall. Anne replied that a property survey would be necessary before that determination could be made.

Joe said that in any case he thinks that he may be able to shift the generator location so that the concrete slab is located at least 10 feet from the base of the wall. The DRB voted to recess the hearing until 6:00pm on Wednesday, June 13, 2018 to allow Joe time for additional measurements to be brought before the Board. The hearing was recessed at 8: 25pm.

Findings and Decision:

#ZP 18-12: Application by Frank Keene to repair an embankment within a floodway. (Parcel ID # 044-002.000)

Based on the evidence provided in the testimony, the approval submitted by Patrick Ross, State River Management Engineer, and the Opinion of Ned Swanberg, Central Vermont Floodplain Manager, the DRB concluded that the proposed project will not *“increase any risk to the surrounding properties, facilities, or structures from erosion or flooding”*. (Section VII.A.1 – Chelsea Flood Hazard Regulations).

The Board finds that the proposed project complies with Town of Chelsea Flood Hazard Regulations and voted unanimously to approve the application as presented.

Submitted by,
Timothy McCormick, Administrative Officer and DRB Clerk