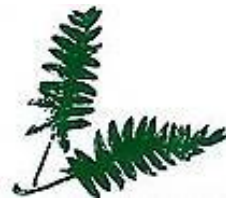


Town of Dorset, Vermont



Dorset Town Offices:
PO Box 715
112 Mad Tom Road
East Dorset, VT 05253

Dorset Town Manager's Office:
Phone: 802-362-4571 x 3
Fax: 802-362-5156
Email: townmanager@gmail.com
Website: www.dorsetvt.org

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Regular Meeting of the Dorset Zoning Board of Adjustment August 17, 2020 (Via Zoom Call)

Present: John LaVecchia, Kevin O'Toole, Tuck Rawls, David Wilson,
Ruth Stewart, Ed Tanenhaus, Bill Bridges, Martha Merwin,
Patrick McGuire

Absent:

Also, present: Tyler Yandow, Ryan Downey, Rob Gaiotti, Bfthompson, Kim
Hoard, Vickie Haskins, Chris Ponessi, 615-500-3755, Galaxy
Tab.

David Wilson, Vice Chairperson, called the meeting to order at 7:06 p.m.

1805 Route 30 Vermont County Store c/o Ryan Downey: application for conditional use of museum and change of a pre-existing non-conforming use per 10.1.1.1 of Dorset Bylaw:

R. Gaiotti noted the previous meeting had reviewed the site plan and discussed the application at length. The ZBA has requested that the applicant get a letter from the Vermont Agency of Transportation with regard to the installation of a crosswalk in front of the property. T. Yandow noted that this was warned as a new hearing because the date certain from the past meeting was not decided, and it required re-warning.

R. Downey presented the letter received from Theresa Gillman of VTrans on July 24th. He explained that under Vermont law and highway engineering programs there are nine (9) types of crosswalks. This particular crossing was considered an "unmarked crossing" by VTrans. VTrans suggested the first step would be to bracket the area with pedestrian crossing signs, as done elsewhere in Town. The letter noted that the crossing needed to meet certain benchmarks to warrant a striped crossing or to use rapid flashing signage. B. Bridges asked about what "warrants" meant in the letter, and R. Downey explained that the State requires certain conditions to be present before certain types of crosswalks are used per the VTrans crosswalk guidance policy. He noted that in this case the bracketed pedestrian crossing signs were recommended and not the painted crosswalk, as the situation did not meet that benchmark according to VTrans. He also stated

that VTrans would likely require other accessibility features like sidewalks and access to property to be included prior to the approval of a striped crosswalk on the road. R. Downey noted that those items were out of his control. Discussion ensued about this crossing vs. other crossings in Dorset and the differences between them. R. Downey noted that VTrans has worked with the Town over the years to try and improve safety and access around the Quarry and he had no reason to believe this wouldn't continue. It was also noted that the Town would have to be the applicant for the crosswalk permit.

R. Downey inquired about possibly amending the application to move the restrooms included in the project to the east side of Route 30, as this would lower the volume of foot traffic across the road. E. Tanenhaus inquired about who had the burden of proof for illustrating the crossing was safe and inquired about the possible liability with the crossings and the Quarry as an attractive nuisance. K. O' Toole noted that Vermont law does not recognize attractive nuisances, and allows recreational access to private land to be liability free for the property owners. K. O' Toole further noted that the overview of the application should be whether or not the use is more objectionable in character than the previous use, citing section 10.1.1.1 of the bylaw. He noted that the apartments were a permitted use, the museum and restrooms were a conditional use, and the ice cream parlor was considered a change to the pre-existing non-conforming use and needed to be "not more objectionable" than the previous use. The zoning district is A&RR and ice cream parlor is not a permitted use in that zone. R. Stewart agreed that the crosswalk discussion and the use discussion were two different things. She noted that the ZBA can't control the crosswalk timing and installation. She also inquired about whether board members would view the use differently if the Quarry wasn't across the street and crossings were not involved.

K. O' Toole asked about the speed limit and whether or not that could be lowered at some point to make the crossings safer and that signs and other items could come later. J. LaVecchia stated that he needed more assurance about crosswalk being "controlled" in a manner that would be safe, and that the ice cream parlor use is of greater intensity. Discussion ensued about section 10.1.1.1 of the bylaw and the definition of what would be objectionable. R. Downey asked the board to outline other similar uses that they would not find objectionable. He also wanted to know what specifically about the ice cream parlor use was objectionable, not including the crosswalk because that was out of his control. He noted that it did not seem fair to make the zoning application review hinge on a highway crosswalk process that is not in the control of the applicant. R. Downey noted that his project was being impacted by the property across the street, he also stated that the proposed use would have a short season where the pedestrian crossings on Route 30 would actually happen. He further stated that for 3 months of the year the visitors at the Quarry already park on Route 30 and cross the road, and campers from the RV park walk and cross the road. K. O' Toole followed up stating that the A&RR zoning district did not allow the use so the review goes back to section 10.1.1.1, and that no change to a non-conforming

use can happen if it is more objectionable in character. Discussion ensued about the ice cream parlor use and whether or not it was more or less intense than the previous use. R. Downey restated that the safety concern would be 3 months a year, similar to the Farmer's Market crossing at HN Williams. D. Wilson asked for clarification on the relocation of the restrooms and whether that amendment would be considered. R. Downey followed up asking about the status of the review and what was considered objectionable and why. K. O' Toole stated that he hoped to hear from other Board members. T. Rawls noted that the apartment and museum use were good ideas, but for him the ice cream parlor was more intense a commercial use than Mountain Weavers. D. Wilson asked for clarification about the review process. J. LaVecchia gave an update about the status at this point in the meeting. He noted that the ZBA was previously reviewing the ice cream parlor use based on having a controlled crosswalk, and that without the crosswalk he was uncomfortable with the change not being more objectionable. R. Stewart restated that she thought the crosswalk was separate because it was out of the ZBA jurisdiction. R. Downey responded that the two should be separated. K. O' Toole responded that the ice cream parlor use was more objectionable. Discussion ensued about the ice cream parlor use, P. McGuire noted that he agreed with J. LaVecchia. M. Merwin stated that for her the use did not meet the bylaw because it was more objectionable in character than the previous use. D. Wilson agreed with M. Merwin. B. Bridges stated that he liked that application and the many positives it could have for the Town. He thought it was a good suggestion for redevelopment of the building. He also noted that it may be difficult to redevelop the building and that the Board should keep this in mind when reviewing. He followed up to say that he understood the argument about the ice cream parlor, but he didn't share the exact same concerns and that it was a good use of the building. He also noted that similar uses already exist in the area. T. Rawls restated his thoughts on the application.

K. O' Toole asked that applicant if the application was "all or nothing" or whether it could be amended. R. Downey asked for clarification for the issues about the ice cream parlor that were objectionable, other than the road crossing issue, which is out of the ZBA jurisdiction. He inquired about other uses that the board would think might be OK for the building. Discussion ensued about zoning. K. O' Toole noted that he was aware the Planning Commission was working on zoning changes but that does not impact the current application. T. Yandow noted that the area in question that included the campground, Haskins, mountain weavers etc. would be re-classified as rural mixed use, which would allow both residential and commercial uses. R. Downey noted that his purchase and sale agreement was limited and that he could not wait for hypothetical zone changes. He also noted that other buyers were interested in the property and if the Board didn't support the application, he would withdraw it rather than have it be denied. C. Ponessi gave his thoughts on the application stating that the restrooms and the ice cream use go hand in hand and the Board seemed OK with the restrooms. He also noted that the bracketed signs would be an improvement because the road crossings already occur, and the signs would

confine the crossings to one area making it safer for drivers. R. Downey restated his desire to have the Board instruct him as to what was objectionable and what other use might be similar but not objectionable and that any guidance would be appreciated. J. LaVecchia responded that Vermont Country Store should work with R. Downey because they will have the same difficulty if the use is changed, as it can not be more objectionable in character. R. Stewart asked about allowing a vote to be contingent upon zoning changes. Discussion ensued about alternatives. K. O' Toole restated that they had heard from entire Board and that section 10.1.1.1 review was the standard. K. O' Toole inquired as to whether there were other questions/ concerns that Board members might have.

Discussion ensued about the process for closing the hearing to get a sense of the Board decision and allowing it to be re-opened for the applicant to withdraw the application as requested.

D. Wilson moved and T. Rawls seconded to close the hearing, motion passed 9-0. K O' Toole moved and D. Wilson seconded to disapprove the permit application as presented because the ice cream parlor did not meet section 10.1.1.1 of the bylaw, seven members voted to yes and two members voted no. R. Stewart moved to re-open the hearing and B. Bridges seconded, motion passed 9-0.

R. Downey stated that he was withdrawing the application and thanked the Board for it's time and efforts.

D. Wilson moved and M. Merwin seconded to adjourn the meeting at 8:32pm.

Respectfully submitted,

Rob Gaiotti
Town Manager