

Town of Plainfield, Vermont
Development Review Board Meeting
April 14, 2021
Approved Minutes

PRESENT: Janice Walrafen (DRB Chair), Sarah Albert (DRB Clerk), Alice Sky (DRB Member), Jim Volz (DRB Member), Karen Storey (Zoning Administrator), Cindy Wyckoff (Minutes Recorder), Karl Bissex (Abutter to Appellant), Mary Trerice (Abutter to Appellant), Adam Hochschild (Abutter to Appellant), Catherine Hochschild (Abutter to Appellant), Christine Ditmeyer (Abutter to Appellant), Mike Nolan (Abutter to Appellant), Kim Nolan (Abutter to Appellant), Sean Ward (Abutter to Appellant), Mike Raymond (Abutter to Appellant), Sarah Pollica (Abutter to Appellant), Ryan Christiansen (Abutter to Appellant), Judy Cyprian (Abutter to Appellant), Tom Kelly (Abutter to Appellant), and Phoenix5 (Possibly Melanie Sargent, but as yet Unconfirmed).

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

Janice Walrafen called the meeting to order at 7:04pm.

AGENDA

- Call Meeting to Order
- Review Agenda; Make any Adjustments
- Public Comments
- Review and Adopt Meeting Minutes of March 10, 2021
- Hearing: 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 AND ADOPT MEETING MINUTES FROM MARCH 10, 2021

- **Jim Volz made a motion to approve the minutes from the 3/10/21 meeting as written. Sarah Albert seconded the motion. The motion was approved unanimously.**

REVIEW AGENDA; MAKE ANY ADJUSTMENTS

- There were no changes to the agenda. Walrafen suggested the possibility of the DRB meeting outdoors at the Recreation Field this summer, to which other DRB members agreed. The location of future meetings will be decided based on the needs of the DRB for any given meeting.
- Alice Sky noted that the DRB policy from 2019 states that the DRB should meet as a group with the Planning Commission at least one time per year to review and resolve any issues. Walrafen agreed, noting that the DRB has met with the Planning Commission in the past. Volz stated that the Select Board had approved the Town Plan at its meeting the previous evening. Zoning Administrator Karen

Storey, who also sits on the Planning Commission, noted that work on the new zoning regulations is still in progress. Walrafen stated that it would be good if the DRB could meet with the Planning Commission before the new Zoning Regulations are adopted since the new regulations are what the DRB will use to determine issues coming before it.

HEARING: 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

- Walrafen noted that the appellant, Melanie Sargent, seemed not to have joined the meeting as yet but stated that the hearing would proceed. Storey provided a review of the timeline regarding her interactions with Sargent, beginning in August of 2020 to the present, related to the violations. Albert noted that the abutters to Sargent's property had submitted a letter with a series of questions and suggested developing the inquiry from the issues presented there. Walrafen read aloud an evidence affirmation oath, to which all public hearing participants affirmed. Sky read aloud the first question posed in the abutters' letter:
 - 1) *Are any of the findings of violation in the Zoning Administrator's February 16, 2021 letter incorrect? If so, which particular findings are incorrect?* Sky also read aloud the first violation listed in Storey's letter, which was that the RV had been occupied on the property for more than 180 days within any given one-year period. Abutters Michael Raymond and Sean Moore stated that the RV was moved to the property right around the time that Sargent moved there in August 2020. It was determined that the specific violation stated in Storey's letter was correct.
 - 2) *What is the status of the owner's attempts to obtain approval of the existing septic system?* A brief discussion followed, concluding that no septic permit had been submitted to the Town to date. Walrafen noted that if the DRB hears from Sargent that she has in fact applied for one, it can be addressed then.
 - 3 & 4) *If the existing septic system hasn't been or can't be approved, has the owner made any efforts to install a new approved septic system? Has the owner provided documentation that any sewage generated since August 2020 has been disposed of in accordance with all applicable local and state regulations?* Walrafen stated that while pumping a septic system is a good thing to do, it is not a permit for a septic system. Sky noted that those were the three specific violations stated in Storey's letter and the DRB has not heard from Sargent regarding this issue.
 - 5) *Has the owner submitted a building permit for construction on the property?* Storey noted that an incomplete construction permit application from Sargent for a single-family home, without the required permit application fee, had been received at the Town Clerk's office this morning. Walrafen asked if a single-family home could be built on the lot and meet the setback requirements for the flood inundation plain and the neighboring property setbacks. Storey noted that it is an existing small lot that can be developed under Plainfield zoning regulations, and that if the setback requirements cannot be met, the property owner can go before the DRB and apply for a variance. Referring to a proposed construction map submitted by Sargent in the permit application, Sky noted the setback distances Sargent had written on it. Storey noted that the setback distance to the waterway appears to be within the flood inundation plain and thus would require a site visit from the State to determine if it was in or out of the actual flood 1% zone. Albert noted that nevertheless, the 35-foot distance from the brook is not in compliance with the zoning regulations, which require a 50-foot setback from a waterway. Albert also noted that it is

questionable, looking at Sargent's proposed construction map, if it was possible to put in a septic with enough setback distance from the brook. After requesting that the proposed construction map be screen-shared with the hearing participants, property abutter Adam Hochschild stated that given the 24-foot double wide mobile home indicated for the site, there cannot be a 50-foot setback in the front and a 35-foot setback in the back as noted on the map. Hochschild also noted that the proposed septic would not be 50 feet from the brook.

- *Has the owner retained a contractor to build on the property? If so, which one, and are there written construction plans?* There was no discussion on this question.
- *What is the status of the owner's use of water on the property (from the adjacent brook or from a well)?* Hochschild stated that that he believed that Sargent was pulling water from the brook because it is unknown whether the existing well on the property is usable. Sean Moore noted the presence of a garden hose leading from what he presumed was a pump house down to the brook and one from the pump house to the camper. Albert stated that Sargent's letter states that she was pumping water from the brook.
- *Has the owner attempted to obtain any necessary permitting to install/use a potable water system at the property?* Walrafen stated that there is no evidence of that, to which Albert noted that she believes it would be part of the water/wastewater permit.
- *What is the status of the owner's attempts to install a well on the property?* Sky noted that Sargent had stated in her appeal letter that she had paid a well-drilling company and was on the waiting list for the work to be performed. Property abutter Mike Nolan, who is also the Plainfield Road Foreman, stated that Spafford & Sons Water Wells had contacted him about drilling a well on the site about three or four weeks ago, but Nolan would not allow them to begin work because the roads were too soft. Hochschild stated that in Sargent's letter, she notes that she would not have a well drilled until construction is completed. Kim Nolan stated that that was not the intent from Spafford when they contacted Road Foreman Nolan about drilling on the property.
- *Would it be possible to place a house on the property that could satisfy the setback requirements? If the RV stayed in place (as an apparent continuing zoning violation) during construction of a new house presumably next to or near the RV, would it be possible for both the RV and the new house to satisfy the setback requirements?* Albert noted that looking at the proposed construction map submitted by Sargent, one can see that there is no room for the construction and an RV, adding that Sargent's map does not satisfy the setbacks as shown.
- *Did the owner obtain a permit to install a driveway?* Road Foreman Nolan stated that he had not seen a permit for a curb cut. Volz, who is also a Select Board member, stated that no access permit had been issued by the Select Board. Property abutter Ryan Christiansen noted that while there may have been an existing curb cut, the current driveway is U-shaped and accesses the road at two points.
- *Other than the February 26, 2021 appeal letter, has the owner provided documentation relating to any of the above issues?* Walrafen stated, and Storey agreed, that the incomplete construction permit application has been the only documentation received from Sargent by the Town since the initial appeal was submitted.
- *What are the owner's intentions to pay the fines that have accrued and continue to accrue?* No discussion on this question took place at this time.

- Sky read aloud the final point made in the letter submitted by the abutters: *Answers to all of the above questions are relevant, but in any event if the DRB determines that any of the findings of violation in the Zoning Administrator's February 16, 2021 letter are correct, we ask the DRB to order the owner to remove the RV from the property within 30 days of the April 14, 2021 hearing.* Referring to Section 3.19 Recreational Vehicles in the Plainfield Zoning Regulations, Walrafen noted several points that supported Storey's violation findings as stated in her 2/16/21 letter to Sargent. Walrafen asked the DRB members to speak to both the violation letter and the appeal of the violation letter. Volz stated that having heard what was just heard and going through the violation letter, it appeared that the violations Storey imposed are correct and that the DRB should move forward with Storey's recommendations. Regarding the details on imposing fines, both Storey and Albert, the latter in her former position as Zoning Administrator, stated that they had never gone through the process. Albert added that the threat of fines had usually been enough for the property owner to clear up the violation, and suggested that the Select Board might contact the Vermont League of Cities and Towns to find out the process for imposing and collecting fines. Hochschild suggested that the process begin by notifying Sargent that the violations cited by Storey have been upheld by the DRB and order that the RV be removed within 30 days. If Sargent fails to do so, then the fines and how to remove the RV can be discussed. Discussion followed regarding different ways to move forward with the issue. Volz recommended that the DRB proceed, stating that the existing use of the property with the RV on site is a violation, that the DRB impose the applicable fines, that Sargent be advised that she needs to discontinue the violation within 30 days, and that enforcement be figured out later. Sky agreed, but stated that she was reluctant to order the removal of the RV because it is someone's home. Volz noted that Sargent was not being evicted from the RV, but rather she would be asked to move it to another location where it is legal to park an RV. Walrafen noted that there are several places in the area where Sargent can park the RV for the next six months while she obtains a septic permit. Abutter Christine Ditmeyer asked if was lawful for Sargent to take her water from the brook. Walrafen responded that the State, not the municipality, manages waterways. Noting the amount of money that Sargent stated that she has already put into the property, Albert requested that Sargent be told that she should not invest any additional money into the property until she obtains the needed water/wastewater permit. Walrafen also wanted to make note in the DRB decision that there was no permit obtained for the curb cut put in for the driveway. Kim Nolan asked if Sargent would be allowed to move her RV back to the property and occupy it for the allowed 180 days in a given year, to which Walrafen responded that Sargent would have to satisfy the wastewater requirements in order for her to legally return the RV to the property. Albert added that she would need a wastewater permit from the State, not just a note from Fowler Septic Service stating that the tank has been pumped. Sky stated that the other option would be to treat it as a six-month site and get a receipt from when the RV is pumped out similar to how temporary housing works. Walrafen noted that the issue is not only the wastewater, but securing potable water as well. Hochschild thanked Sky for reading the letter from the abutters, and wanted to note for the record the names of those who submitted the letter: Karl Bissex, Ryan Christiansen, Judy Cyprian, Christine Ditmeyer, Adam Hochschild, Catherine Hochschild, Tom Kelly, Kim Nolan, Mike Nolan, Sarah Pollica, Mike Raymond, Mary Trerice, and Sean Ward. Storey stated that all of the above named individuals now have the right to appeal the decision of the DRB because they are official interested parties. Kim Nolan asked if Sargent would have to obtain an

access permit for the driveway, to which Albert responded affirmatively. After a brief discussion regarding the wording of the motion, **Albert made a motion that the DRB denies the appeal of Melanie Sargent and upholds the violation letter sent by Zoning Administrator Karen Storey and orders the appellant to cease the violation by removing the RV from the property within 30 days, by 5/14/21, and before returning any RV to the premises, all state and local permits need to be obtained. Volz seconded the motion.** Sky stated that she wanted to express sympathy for the property owner for having to go through the process of obtaining all the permits needed. **The motion was approved unanimously.**

- Volz requested that the record show that during the virtual Zoom hearing, the Appellant Melanie Sargent apparently had tried to participate numerous times under the name Phoenix5, but was not successful in joining the meeting. Albert and Walrafen stated that that fact would be included in the written decision/findings.

OTHER BUSINESS

- Storey stated that there will be a hearing next month regarding the installation of a six-foot fence between 50 High Street and the abutter of the adjacent property. It was determined that the DRB did not need to schedule a second site visit.

ADJOURN

- **Volz made a motion to adjourn at 8:30pm. Walrafen seconded the motion. The motion was approved unanimously.**

Respectfully submitted by Cindy Wyckoff