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Town of Bristol
DEVELOPMENT REVIEW BOARD MEETING
Remote Public Meeting
Tuesday, May 30, 2023
Meeting Minutes

DRB Members Present in person and by remote: Kevin Brown, John Moyers, Brenda Tillberg, Tom Wells, Ted Desmond.

Absent: Josh Crandall

Others Present: Kris Perlee (Zoning Administrator), Peggy Connor (Recording Secretary), Applicants Nicholas and Elizabeth Guilbeault (Permit #23-400); James and Christine Whitcomb (Permit #23-401); Greg McKenney, Josh Masterson (Permit #23-301), Keith and Maya Schnell, Abigail Mendenhall, Edie Guilbeault, Bob Sanders, Helen Young, Matthew Davis, Beth Ekroos, Thomas Fox, Jeff Sturtevant, Eric Fifield, Jim and Christine Whitcomb, David King, Kerry Myers, Matt Bryan, Olivia Glascoe, Anaya Sheheen, Tom Funk.

1) Call to Order

Chair Kevin Brown called the meeting to order at 7:05 p.m.

2) Review agenda for addition, removal, or adjustment or any items per 1 V.S.A. §312(d)(3)(A)

None.

3) Old Business

a. Permit #23-400: Elizabeth and Nicholas Guilbeault of 127 Thomas Drive (Parcel #020128-1) are requesting a waiver for side yard setbacks per Bristol Unified development Regulations Article III, Section 380

Hearing continued from May 16, 2023. Kevin Brown noted that the revised survey shows the existing house is in conformance with the required setback. Neighbors Tom Wynn and Carol Johnson submitted a letter indicating they have no objection to the DRB granting a waiver to the required 25-foot setback to allow the applicants to build an addition 12.8 feet from their property line. Nicholas Guilbeault advised he has also agreed to build up the berm separating the two properties during construction for additional privacy. Kevin Brown moved to approve the waiver as depicted on the survey drafted by LaRose Surveys, P.C. dated April 3, 2023; Tom Wells seconded. **Motion carried 5-0** (K. Brown, B. Tillberg, T. Wells, J. Moyers, T. Desmond)

4) New Business

a. Sketch Plan Review Permit #23-401: James and Christine Whitcomb of 140 North St. (Parcel #060120) are requesting a 2-lot subdivision per Bristol Unified Development Regulations Article IX, Section 930

Kevin Brown noted that the proposed two-lot subdivision will create Lot 1 consisting of 2.01 +/- acres, and Lot 2 being 6 +/- acres located in the Village Residential zoning district. Applicants own the easement to Lot 2 off Hazel Drive, a 50'-wide private road, and town water serves Lot 1 with the existing house. Applicant Christine Whitcomb advised there are currently no plans for Lot 2. DRB members agreed that the proposed plan constitutes a minor subdivision. Kevin Brown suggested that the applicants submit a revised survey showing setbacks for the final hearing.

b. Permit #23-301: Masterson Development Properties, LLC of Lower Notch Road (Parcel #090227) is requesting a Conditional Use for a Business Yard per Bristol Unified Development Regulations Article III, Section 350

Greg McKenney, senior engineer for Murray & Masterson Environmental Services, LLC, provided the following specifics regarding the Conditional Use application for the use of a commercial contractor's

56
57 yard at 2600 Lower Notch Road located in the RA-5 zoning district:

- 58 ➤ The original 72.36-acre parcel is divided into three separate lots: Lot 1 consists of 57.19 acres;
- 59 Lot 2, 5.68 acres, and Lot 3, 9.49 acres.
- 60 ➤ Lot 1 contains a single family residence owned by Josh and Gretchen Masterson.
- 61 ➤ Lot 2 contains the main yard, with a smaller area extended onto Lot 1 which is used for
- 62 stockpiling soils.
- 63 ➤ Lot 3 remains undeveloped.
- 64 ➤ Contractor's yard owned by Masterson & Son Excavation to be used for equipment storage (i.e.,
- 65 excavators, dump trucks, work trucks, trailers, skid steers, plows, dumpsters, etc.), job material
- 66 storage (i.e., pipe, fabric, concrete structures, waste blocks, traffic cones, etc.), soil stockpiling
- 67 (gravel, stone, rip-rap, topsoil general fill).
- 68 ➤ There is no proposed sale of earth extracted from the site.
- 69 ➤ Access road, which also serves the residential house at the site, and gravel lay down yard has
- 70 already been constructed.
- 71 ➤ The yard will generate an estimated 100 truck trips/day, with 30 a.m. and p.m. peak-hour trips.
- 72 ➤ From Lot 1's yard area, the nearest house is approximately 350', and from the main contractor
- 73 yard on Lot 2, the nearest house is approximately 800'.
- 74 ➤ The edge of the contractor's yard lies within the 25' required property setbacks.
- 75 ➤ Lot coverage is 43% of the lot (2.45 acres of 5.68), and 4.47 acres of 72.36 or 6.2% are
- 76 impervious.
- 77 ➤ Dump trucks and tractor trailers hauling equipment access the site by taking Route 116, Notch
- 78 Road, and Lower Notch Road.
- 79 ➤ Traffic generated from the site should have little to no impact on existing traffic patterns.
- 80 ➤ Hours of operation: 6 a.m.-6 p.m. Monday-Friday, and 7 a.m.-5 p.m. Saturdays. During snow
- 81 removal season, pickup/1-ton-sized truck traffic may occur at any point in the day, depending on
- 82 weather conditions.
- 83 ➤ State stormwater permit received, but the infrastructure has yet to be installed.

84
85 ZA Kris Perlee advised that Josh Masterson approached him after purchasing the property in 2019
86 when he was constructing road access to the house on Lot 1, as well as two landing spots for storage
87 containers. Kris had advised that an Act 250 permit would be required for commercial activity on the
88 site at which time the State stepped in. Greg McKenney confirmed that the Mastersons received an Act
89 250 Notice of Violation which began the state permitting process. An Act 250 permit will require
90 Conditional Use approval from the Town of Bristol.

91
92 John Moyers asked about the current use of Lot 2, and the number of daily trucks trips in order to
93 establish a baseline for the number of trips anticipated in the future. Greg advised there is currently no
94 more than 30/day, with a maximum of 100 round trips per day being proposed. John also asked if
95 alternatives to common back-up alarms on construction vehicles had been considered, such as OSHA-
96 compliant white noise alarms. Josh noted that many of his vehicles do have white noise alarms (dump
97 trucks, skid steer, loader), but excavators and all CAT equipment are outfitted with standard back-up
98 beepers.

99
100 PUBLIC COMMENTS:

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102 Adjoining property owners Keith and Maya Schnell requested that the DRB reject Masterson's
103 application for a conditional use permit, citing #9 in Section 356: Site Specific Criteria for Review in the
104 Bristol Unified Development Regulations: "Noise should be regulated in accordance with Section 751 of
105 these Regulations." Section 751 states that, "No noise which is excessive at the property line,
106 represents a significant increase in noise levels in the vicinity of the development and is incompatible
107

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108 with the reasonable use of the surrounding area shall be permitted.” Mr. Schnell added that the
109 Mastersons have operated a non-permitted yard for over a year with hours of operation on some days
110 starting at 6 a.m. and as late as 9:30 p.m., including weekends. Maya Schnell added that she works
111 nights and is often awoken by the non-stop beeping and noise causing her home to vibrate.
112

113 David King, participating as an interested party, noted that without standard decibels established by the
114 town, there can be no violation; however, he is able to hear the noise inside his house located at 74
115 Many Waters Road as early as 6 a.m. Monday-Friday.
116

117 Eric Fifield, the closest neighbor to the proposed development, purchased his home on 2500 Lower
118 Notch Road 10 years ago, situated 150 +/- feet from the yard. He advised that the current use of the
119 contractor’s yard has created excessive noise over the last two years, mostly from backup beepers on
120 construction vehicles, which he believes also impacts property values. Mr. Fifield also pointed out that
121 the proposed increase in truck traffic from 30/day to 100/day will contribute to poor road conditions.
122

123 Thomas Fox, participating as an interested party, whose home is located at 2271 Lower Notch Road,
124 advised that his greatest concern with the proposed site is the level of noise particularly from the dump
125 trucks. Mr. Fox contended that with gravel being trucked in and out, it is likely being sold. Greg
126 McKenney reiterated that there will be no sale of soil extracted from the site.
127

128 Matthew Davis, an adjoining property owner living on 2365 Lower Notch Road, asked if a business
129 yard, as defined in the Town’s bylaws is allowed in the zoning district. Kevin Brown noted the definition
130 for “Business Yard” as:
131

132 “A site used primarily to store and maintain construction, landscaping or similar heavy
133 equipment and other materials and facilities customarily required by a contractor in the building,
134 landscaping, or construction-related trades or similar businesses, and where the majority of
135 business activity takes place off-site. May include associated office space and/or enclosed area
136 for vehicle or equipment repair or maintenance. Does not include regular or ongoing sale of
137 equipment.”
138

139 Kevin added that a business yard is a conditional use in the RA-5 zoning district.
140

141 Mr. Davis operates a B&B where guests come to enjoy a peaceful environment; therefore, he is
142 concerned that the excessive noise from the yard may have a negative impact on his livelihood. Mr.
143 Davis noted that the noise levels appear to be amplified by the Bristol Cliffs. Citing Section 355 General
144 Criteria for Review for conditional use approval, he reminded the DRB that “A conditional use may not,
145 by its nature, scale, or conduct, cause an undue adverse change on the character of the area, as the
146 area would exist if fully developed in accordance with the Town Plan.” Mr. Davis invited DRB members
147 to his home for a site visit.
148

149 Beth Ekroos who lives on 2120 Lower Notch Road suggested that the DRB consider the different
150 requirements for obtaining a municipal and an Act 250 permit. She contended that the Masterson
151 construction vehicles are not in compliance with road weight requirements. Ms. Ekroos asked that a
152 standard for noise levels be established for the RA-5 zoning district, and also invited DRB members to
153 her home for a site visit during both operating and non-operating hours of the business yard.
154

155 Helen Young, an interested party who resides at 27 Many Waters Road, advised the expansion of the
156 business yard will affect many people in the area and significantly change its character. She cautioned
157 the DRB in setting a precedent by allowing an applicant to build first and apply for a permit later.
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Matt Bryan and Olivia Glascoe operate a blueberry farm on 1835 Lower Notch Road, and expressed concern with the considerable uptick in noise over recent months and the impact on their livelihood and quality of life. They also noted that the proposed increase in truck traffic will compromise safety on the roads.

Abigail Mendenhall of 1579 Lower Notch Road also testified about the constant back-up beeping, and worries about the increased traffic and excessive speed on the road.

Kerry Myers of 43 South Mountain Drive, north of the blueberry farm, testified that in addition to the slamming of gates on dump trucks, the condition of the road has deteriorated over the last two years, which takes its toll on personal vehicles.

DRB Discussion:

Following public comments, DRB Chair Kevin Brown asked if there might be technical solutions to the excessive noise created by banging gates and back-up beepers. Tom Wells suggested the applicant consider hiring a sound consultant to reduce sound at the source while considering other aspects such as design and analysis. Greg McKenney offered to research an acceptable decibel standard, and invited the DRB for a site visit. John Moyers asked for information on current numbers related to truck traffic to compare to the proposal, and requested an additional hearing. He added that the Masterson application should be held to a higher standard since the development went forward without a permit, and recommended a site visit, noise and traffic analysis. Kevin Brown advised the applicant to further research options to mitigate noise prior to the date the DRB will reconvene. He also suggested the DRB be given information on estimated average traffic flow during daily operation March-November.

The hearing was recessed and the DRB will reconvene the hearing on Tuesday, July 25, 2023.

5) Approve Meeting Minutes for April 25, 2023

Deferred.

6) Adjournment

Meeting adjourned at 10:00 p.m.

Respectfully submitted,
Peggy Connor, Recording Secretary