

Town of Sharon, Vermont
Development Review Board Special Meeting Minutes
January 24, 2023
(As approved on 2/14/2023)

The meeting was publicly warned in conformance with the January 2022 amendments to the Vermont Open Meeting law requirements for remote and/or telephonic meetings.

Future Meeting Dates – Mark Your Calendars

- Tuesday, February 14th at 7:00 PM –Regular SPC/DRB meeting

Attending: Ira Clark, Sue Sellew, John Roe, Lee Simak (via Zoom), Andrea Morgan (SPC/DRB Clerk, taking notes),

Visitors: Walter Radicioni, Geo Honigford, AO, John Broker-Campbell (Agency of Natural Resources via Zoom)

7:28PM Ira Clark called the DRB meeting to order and opened the continued **Radicioni Flood Hazard Hearing** and explained that this is the second hearing on the same topic- the reconstruction of a pole barn at the 2911 Rt. 14 site owned by the applicant Walter Radicioni. The DRB’s previous 2022 decision was appealed to the VT Environmental Court and at the request of the Town’s counsel the matter was remanded back to the DRB to consider the applicant’s assertion that he has evidence of continued use of the structure. On 12/20/2022 the DRB held a hearing on this Flood Hazard application and the hearing was continued until 1/10/2023 to assess additional information provided by the applicant from Pathways Consulting, LLC. On January 9th the DRB learned that Mr. Radicioni would be unable to attend the continued hearing and continued it to January 24th so that Mr. Radicioni could participate.

Ira reviewed the topics covered at the 12/20/2022 hearing which included the timeline of the applicant’s use of the property between 2017 and the present, Flood Zone mapping, the Town’s Flood Hazard Bylaw and opinions regarding Flood Hazard mapping from Pathways Consulting. During the 12/20 hearing it was determined that more time was needed to review the Pathways Consulting letters and to again demonstrate that the footprint of the incomplete structure falls within the Flood Hazard Area Bylaw’s (FHAB) Fluvial Erosion Hazard Zone (FEH).

Ira requested that the hearing address the issue of whether the pole barn is within the FEH. Geo showed a map to the meeting participants that he had already provided to the applicant. Geo consistently uses the link to TRORC from the Town website to obtain flood hazard maps. The map shows the applicant’s structure is located within the FEH. Route 14 is the boundary of the FEH at this section of the White River. Walter asked if this is an arbitrary boundary. Ira stated that Pathways Consulting also referred to Rt. 14 as an “arbitrary boundary”. Walter said that John Broker-Campbell had also said that.

John Broker-Campbell disagreed and said that was not an accurate representation of his conversation with Walter.

Walter asked who determines the FEH. John Broker-Campbell explained that all of this information comes from the geomorphic assessment that was completed for the White River and was adopted by the Town of Sharon. The geomorphic assessment is done according to strict protocols set by the State Agency of Natural Resources by contracted scientists. John Broker-Campbell said he had previously suggested that Walter refer to the geomorphic assessment. Walter showed John Broker-Campbell the map he got from Geo and John Broker-Campbell clarified that the map had been created by TRORC for the Town to implement the Flood Hazard Bylaw. The geomorphic assessment was completed, and the Town implemented the Bylaws and adopted the FEH. TRORC created the map which is the link that Geo references from the Town website. The map represents the data, in visual form, that the Town used to implement the Bylaw.

Walter commented that he wanted his property to be out of the FEH and that he found the Flood Hazard Bylaw to be confusing and overly strict.

Ira said that it was his understanding that the DRB is not empowered to change flood zone classifications and John Broker-Campbell agreed. The Flood Hazard Bylaw was adopted by the Selectboard and relies on the assessment and mapping that was done previously.

Walter commented that the FEH is extremely wide in its distance from the river over the area of his property. John Broker-Campbell clarified that Walter has two flood hazard zones on his property: Zone A, the one hundred year flood zone and the Fluvial Erosion Hazard Area. The pole barn is not within Zone A but the entire property is within the FEH. John Roe explained that flooding is based on elevation and erosion is determined by the soil and rock composition of the land and the meandering path of the river. The FEH will be wider over flat, sandy areas than in areas with bedrock outcroppings.

Geo reminded the DRB that it does not have authority to change flood zones or change the Flood Hazard Bylaw and asked John Broker-Campbell what next steps Walter would need to take to have the classification changed. John Broker-Campbell said that Walter needs to work with a qualified engineer to provide ANR with data showing the FEH is mapped incorrectly, through soil studies and borings to bedrock. The ANR would then make a determination based on that information.

John Broker-Campbell said that the information that Walter provided from Pathways Consulting at the 12/20 meeting had not changed his opinion that Walter's property is in the FEH.

Ira summarized that the property is in the FEH and the DRB does not have authority to change flood zone classification or the Bylaw. An additional issue is one that John Broker-Campbell brought up at the 12/20 hearing regarding whether the pole barn meets the definition of a structure under the Flood Hazard Bylaw. That definition requires a structure to have walls and a roof. John Broker-Campbell believes that the partially

rebuilt structure does not meet that definition and that the Sharon Flood Hazard Bylaw has clear abandonment language that should be considered by the DRB.

John Roe noted that issues similar to the ones raised at this meeting were addressed when Walter appealed a 2018 Sharon DRB decision denying an application for a conditional use permit for the construction of a new duplex on the same property. In that matter, the Vermont Superior Court found that the property is within the FEH, that the ANR is responsible for designating flood hazard areas and maps and that the DRB does not have the authority to change FEH boundaries (Entry Regarding Motion, Docket No. 139-12-18, June 30, 2020).

At 7:56PM Ira asked if there were any further questions or comments from participants.

Sue Sellew made a motion to close the Radicioni hearing, Lee Simak seconded and all approved. John Broker-Campbell and Walter Radicioni left the meeting and at 7:58 PM the DRB entered deliberative session.

Following the deliberative session, the minutes from the 12/13, 12/20 and 1/10 meetings were reviewed.

Sue Sellew made a motion to approve the 12/13 minutes with one change, John seconded and all approved.

John Roe made a motion to accept the 1/10 minutes, Sue seconded and all approved.

At 9 PM John Roe made a motion to adjourn the meeting, Sue seconded and all approved.