

**TOWN OF KILLINGTON
DEVELOPMENT REVIEW BOARD
Meeting of October 8, 2020**

PRESENT: Ken Wonsor, Chair
Vito Rasenas, Vice Chair*
Roger Rivera*
Merisa Sherman
Jon Wysocki

START: 6:42 p.m.
END: 9:43 p.m.

Preston Bristow, Town Planner & Zoning Administrator
Lucrecia Wonsor, Recording Secretary

GUESTS: Rick Bowers*, Dorothy & Lawrence DeCota, Pauline & Mike Drayton*,
Andrew Gieda*, Charles Gunderson*, Jim Haff, Frank Hewitt,
Alexander Jukofski*, John Matheson*, Emmett & Laura O'Dwyer, Oleg/Aleh*,
Howard Smith

*via *Zoom* Video Conferencing

1. OPEN MEETING

Ken Wonsor, Chair opened the meeting at 6:42 p.m.

2. APPROVAL OF AGENDA

Rasenas moved to approve the Agenda as may be amended. Wysocki seconded. There being no amendments. Vote on Agenda as presented. All in Favor.

3. APPROVAL OF THE MINUTES

Rasenas moved to approve the Minutes of September 23, 2020 as may be amended. Wysocki seconded. There being no changes, vote on approving the minutes as written. All in Favor.

4. CITIZEN INPUT – None.

5. REQUEST FOR ADMINISTRATIVE APPROVAL

In response to the Notice of Violation for construction of additions without a permit, Elinko, LLC (Mountain Meadows Lodge) has submitted Application #20-052 with a request that the DRB determine that the additions are minor and exempt from Site Plan Review and can be approved administratively.

General Contractor, Frank Hewitt, was present representing the owner. He feels this situation is a misunderstanding between him and the previous Zoning Administrator, Dick Horner. When they started the remodeling of the 200 year old Lodge, they found a lot of rot,

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partial foundations, needed to replace the plumbing and electrical systems and needed to install a sprinkler system. The sprinkler system required the installation of two 6,000 gallon water tanks. He called Dick Horner to advise that there were going to be a number of changes and he claims Dick told him he would handle it in the end with as-built drawings because at the time we did not plan on making any additions – only remodeling and replacing existing spaces in the building. He went over the changes with the State and they indicated it did not require a State review because it was minimal. Due to the understanding he thought he had with Dick, they did not apply for additional permits from the Town. They have received their Certificate of Occupancy (CO) from the State Division of Fire Safety and are asking the DRB's approval of a building as it now exists. He did note that the piers for the Hot Tub deck are already in place and they would like to continue and complete that before it gets too cold and the snow starts. They are running out of time and would like the DRB to grant Administrative Approval for these additions, including the Hot Tub deck, and they will come back at a later time to open the restaurant to the general public and for review and approval for use as a wedding venue. There are also a couple of other out buildings they will be looking to refurbish and repurpose.

The floor was open to questions from the Board, during which the following points were made: i) Bristow provided the Board with an email from Dick Horner indicating that if they “put on an addition they would need site plan review approval” and he “would not tell anyone they could build an addition and give him plans later”. ii) Charles Gunderson, who also represents Elinko, LLC, said he applied for Liquor Licenses and did not coordinate with Mr. Hewitt, who maintained that he was going to approach the Town for a CO once he had the CO from the State. iii) The additional spaces built without a permit and are the subject of the violation comprise approximately 7.2% of the total square footage. iv) The Board expressed frustration that at the September 17th meeting they were advised that the Lodge was opening October 1st and already had bookings scheduled to come in only to find out that they are now being told guests are arriving the Columbus Holiday weekend.

After allowing the Board time to ask Mr. Hewitt questions, Chair, Wonsor, moved to go into Deliberative Session at the end of meeting. Rasenas seconded. All in Favor.

6. PUBLIC HEARINGS

a. Application 20-048 by New World Developments VT, Inc. (Summit Lodge) for Site Plan Review to convert an existing racquetball court into a 3-bedroom innkeepers house

Chair, Ken Wonsor, opening the hearing at 7:16 pm. Owner, Emmett O'Dwyer, advised the 52'x40' racquetball court was built in 1980 and abandoned in 1990. The building has flooded twice and is falling in disrepair. He is proposing to convert it into a 3 bedroom innkeepers house with a garage and storage so that he can move his family out of the Lodge. He is also looking to add a 16'x40' second floor deck on the south side of the building. Access will be by a driveway off of January Way (formerly Summit Path) and will have four parking spaces. He has a lease agreement with January Budzyna for that access. The building will be connected to the Summit Lodge sewer line and the property currently has 10 extra ERUs.

The Board expressed concern that the access is leased and not a deeded easement. Mr. O'Dwyer advised that he does have 2 other options for access should they be needed. There was also concern expressed that if this change of use is approved, at some later point in time it can be used as part of the Lodge and rented out. The applicant assured the DRB that is not his intent and there are restrictions in place with the Lodge that would prevent him from doing so.

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Abutting neighbors, Dotty and Lawrence DeCota, expressed concern over lighting and screening of the building from their property. Applicant advised there will not be any lighting on that side of the building and he plans to clean up the area and plant nicer trees.

The Hearing was closed at 7:45p. Wonsor moved to go into Deliberative Session at the end of the meeting. Wysocki seconded. All in Favor.

b. Application #20-053 by Simba, LLC (JAX Food & Games) to grant a waiver to reduce the front setback to permit covered outdoor dining under Site Plan Review

Chair, Ken Wonsor, opened the hearing at 7:46pm. Chris Karr, The Karr Group, is proposing to cover a portion of the concrete patio constructed earlier in the summer with a 20'x45' awning with side curtains. The awning would be supported by removable posts, it would be 50' from the Killington Road on the north end and 38' on the south end, and it would be removed in the spring and reassembled during the inclement months.

The Board expressed concern with the proximity of the structure to the road and snow plows pushing snow. It was noted that there is no guard rail in that area to which Karr indicated rocks could be placed on the edge of the road shoulder. The TV's in the entertainment box are a distraction to which Karr noted they have been removed. Selectboard member, Jim Haff, suggested the DRB pass this on to the Selectboard for approval. He noted that if this is something the businesses need to get through this winter with the COVID restrictions, they should come to the Selectboard, who could approve temporary structures for this winter for any business along the Killington Road that has capacity restrictions. Andrew Gieda again emphasized that whatever decision is made that it be applied equally to all business along the Killington Road.

The Hearing was closed at 8:22 pm. Wonsor moved to go into Deliberative Session at the end of the meeting. Wysocki seconded. All in Favor.

c. Application #20-054 by KNH Enterprises, Inc (Sushi Yoshi) to grant a waiver to reduce the front setback to permit covered outdoor dining under Site Plan Review

Chair, Ken Wonsor, opened the hearing at 8:23 pm. Owner, Howard Smith, would like to construct a 48'x16.5' post and beam structure with standing seam roof attached to the front of the building over the current walkway. Side curtains would be added to keep the snow out and offer protection from inclement weather. It would sit approximately 30' from the Killington Road on the north end and 22' on the south end and provide seating for approximately 24 diners. He would accept a temporary structure of the same dimensions if that is what the DRB required.

After some brief questions and discussion, Wonsor moved to go into Deliberative Session at the end of the meeting. Rasenas seconded. All in Favor.

7. OTHER BUSINESS

Wonsor advised that he brought up at the Selectboard meeting on October 6th the DRB's recommendation from its September 17th meeting that the Selectboard establish a fine structure or penalty for permit violations.

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8. DELIBERATIVE SESSION/ADJOURN

The Board moved into Deliberative Session at 8:40 pm to discuss the Mountain Meadows Lodge request for Administrative Approval and Applications for Site Plan Review #20-048 by New World Development VT, Inc, #20-053 by Simba, LLC and #20-054 by KNH Enterprises, Inc.

The Board moved out of Deliberative Session at 9:35 pm and took the following actions:

a. Rasenas moved that the request for Administrative Approval by Elinko, LLC (Mountain Meadows Lodge) is denied and Application #20-052 for Site Plan Review will move forward; all work in unpermitted areas is to cease; unpermitted areas, with the exception of the pump room are not to be used; and applicant must apply for a sign permit for but the words “The Kent – Bistro – Terrace – Bar” on the sign need to be covered or blocked because the restaurant and bar are not approved to be open to the public. Sherman seconded. All in Favor.

b. Rivera moved that Application #20-048 by New World Development VT, Inc (Summit Lodge) for Site Plan Review to convert a racquetball court into a 3-bedroom single family dwelling is approved with the following conditions – i) that all exterior lighting shall be designed to eliminate direct light or glare toward adjacent properties; ii) that screening buffer of natural plants or coniferous trees or shrubs at least 25’ wide be maintained long the boundary with the DeCotas; and iii) that the applicant apply for State Act 250 approval. Rasenas seconded. All in Favor.

c. Regarding Applications #20-053 by Simba, LLC (JAX Food & Games) and #20-054 by KNH Enterprises, Inc. (Sushi Yoshi), Wonsor moved the DRB make following resolution: The DRB resolves (1) that permanent waivers to front setbacks along Killington Road will not be considered for at least six months until the Killington Road Master Plan and a review of the Killington Zoning Bylaws is complete; (2) that the DRB lacks the authority to grant waivers or variances temporarily for temporary shelters; (3) that Applications #20-053 by Simba, LLC (JAX Food & Games) and #20-054 by KNH Enterprises, Inc. (Sushi Yoshi) are deemed to be withdrawn; and (4) that the applicants are referred to the Selectboard for a process to consider approval of temporary shelters. Rasenas seconded. All in Favor

Rasenas moved to adjourn the meeting at 9:43 p.m. Wysocki seconded. All in Favor.

Respectfully submitted,

Lucrecia Wonsor
Recording Secretary

NOTE: These minutes have not been approved by the Development Review Board and are, therefore, subject to change.