

**A P P R O V E D R I C H M O N D D E V E L O P M E N T**  
**R E V I E W B O A R D M E E T I N G**  
**May 11, 2016 MINUTES**

Members Present: David Sunshine (Chair), Mathew Dyer, Ian Bender, Roger Pedersen, Cara LaBounty

Others Present: Abby and Scott O’Neil; Gwen Frisbie; Jon Milazzo; Pam and Tim Pickering; Linda Wurth; Rachel DiGiammarino; Ben Emmons; Ken Jensen; Cathleen Gent; Heidi Bormann; Melissa and Bret Hamilton; Michael Sipe; Niels Rinehart, Staff Member; Ruth Miller was present from MMCTV to tape the meeting.

David Sunshine called the meeting to order at 7:00 PM.

**Abigail and Scott O’Neil** - Application #16-024 for Site Plan Review by the DRB to enlarge the building envelope at 140 Wolf Lane (parcel WF140). The O’Neils own the parcel at 140 Wolf Lane within the Agricultural/Residential District.

Sunshine swore in Abigail and Scott O’Neil

Mr. O’Neil introduced the case. The O’Neils are asking for the front of their building envelope to be moved to a distance of 65 feet from their front lot line. On the right side of their building envelope, they’re asking that the line be moved to 30 feet from the right lot line.

Sunshine asked Niels Rinehart why the O’Neils would need to change their Wastewater Permit and Rinehart explained that Jeff McMahon of the DEC told him that the O’Neils would need to amend the existing Wastewater Permit. Cara LaBounty said that request didn’t make sense and the builder hired by the O’Neils said that they would clarify what was required prior to building to make sure that they are in compliance. Sunshine confirmed that the O’Neils were not planning on moving the Wastewater system and said that the O’Neils should follow-up with Jeff McMahon.

Ken Jensen said that he was a neighbor and that he understood that the lots were developed to have 100-foot setbacks from the road and 50 feet of separation between the lots. Jensen expressed concern about how close the O’Neils would be to the road and asked if there was some way to create greater separation from the road with trees. Ms. O’Neil explained that the building would sit down slope a little bit and that there were already some trees in place. In addition, she emphasized that they want to move the envelope in part so that they can spend more time in the backyard, behind the house. Mr. O’Neil added that they would be happy to work with Mr. Jensen.

Ian Bender and Sunshine asked if there was language in the covenants that dictated the setbacks. LaBounty said that the covenants explain that anyone who wants to change the building envelope has to go through the proper permitting process, including both local and State, and that nothing was said about maintaining a 50-foot setback.

LaBounty made the motion to approve Application #16-024 for Abigail and Scott O’Neil for the relocation of the building envelope based on the proposed plan, and that the O’Neils follow State and local permitting as required. Bender seconded the motion and the motion passed 5-0.

**Ben Emmons** – Application #16-027 for Conditional Use Review by the DRB for outdoor storage of vehicles and to rezone retail space to office space/retail space at 3465 East Main Street (parcel EM3465). Mr. Emmons owns the parcel within a Commercial District.

Sunshine swore in Ben Emmons.

1 Emmons explained that he is applying for permission to park and store vehicles behind the building  
2 as well as to re-zone the retail part of the building to an office use as well as retail.  
3

4 Sunshine asked if Emmons was planning on any screening in the back around the vehicles. Emmons  
5 said that he would likely do so in the future but not at this time, using either a fence or vegetation.  
6 Emmons said he wouldn't have more than 15 vehicles with an average of 10. Sunshine expressed  
7 concern that the backyard area would become a junkyard. Emmons said cars shouldn't be there too  
8 long since most of the storage is for customers and there isn't much room in the front. He keeps the  
9 vehicles out back while they wait for parts or for customers to pick them up.  
10

11 Matt Dyer said that the property was very well maintained and organized, with materials neatly  
12 arranged. Roger Pedersen asked if the permission to store vehicles would follow with the property  
13 and Sunshine said that the DRB could limit the permission to Emmons and his business. Dyer said  
14 that the regulations limit this type of parking to automotive repair. LaBounty asked if the previous  
15 automotive shop had a permit for outdoor storage of vehicles associated with the business. She also  
16 said that the building next door was an office before it was commercial retail, and so why did Emmons  
17 have to come back? Emmons clarified that the impounding of cars is possibly the only addition to the  
18 services that were provided at this location in the past. Rinehart explained that there is no permitting  
19 on file for the property for outdoor storage or office use. Pedersen asked if the vehicles were licensed  
20 or un-licensed and Emmons said that both are held by his business and that he gets impounded  
21 vehicles from the police. Emmons said that he has to hold the cars for 30 days before he can do  
22 anything and then he has to apply for an Abandonment Title through the State, which takes about  
23 another 30 days. He said that he moves the vehicles along and that once he gets a title, he wants to  
24 sell them. If he scraps them, then he sends them as a whole vehicle. If there is anything leaking,  
25 Emmons said that he emplaces a catch-pan with some speedy-dry and absorbent materials. He said  
26 that the fluids get drained inside during repairs. The surface is gravel and grass and he would like to  
27 eventually grade it to level it off and put in some gravel.  
28

29 Emmons said that access to the back is through where the four parking spaces are today. Pedersen  
30 expressed concern that cars in place for a long period risk negatively impacting the environmental  
31 conditions of the neighboring areas. He was concerned that if the DRB granted this use, could  
32 somebody in the future use the permitted outdoor storage and have a negative impact? Emmons said  
33 that if somebody wanted to use it as a junkyard that they would have to go through the State for  
34 additional approval. LaBounty said that if the DRB limits the number of cars, then they prohibit  
35 junkyard status since it's the number of vehicles that qualifies a location as a junkyard. Pedersen  
36 asked Emmons for a workable number of impounded vehicles for his business and Emmons said that  
37 he processed cars within 90 to 100 days at the most. He emphasized that it was in his interest to  
38 move the vehicles out of the lot.  
39

40 Thomas Pickering said that he was an abutter and that they've had no problems with Emmons and  
41 that they are supportive of his business. He asked if it would be possible to have some sort of  
42 screening put in place such as a stockade fence. He said that they don't want the place to turn into a  
43 junkyard. Pam Pickering thought fencing would be good if emplaced along Stage Road. LaBounty  
44 said that screening along Stage Road would not be permissible given the slope and the location of  
45 the right-of-way. The Pickerings said that they don't have a preference for either fencing or  
46 vegetation. Sunshine asked if the Pickerings disagreed with the property line as illustrated on the map  
47 on file and they did not.  
48

49 Linda Wurth said that she sees the property every day and that she thinks it has become worse and  
50 worse. She believes that it is becoming a junkyard and that there is junk climbing up the slope to  
51 Stage Road. She said that she wants to see some screening and she indicated where she wanted the  
52 screening to be placed.  
53

54 LaBounty made a motion to close hearing 16-027 and to move it to deliberative session. Bender  
55 seconded the motion and the motion passed 5-0.

1 **Stone Corral Brewery** – Application #16-025 for Site Plan Review by the DRB for a restaurant and  
2 the construction of a porch for seasonal, outdoor seating at the Stone Corral Brewery at 83  
3 Huntington Road (parcel HU0083). Heidi and Peter Bormann own the parcel and Bret and Melissa  
4 Hamilton own and run the Stone Corral Brewery within a Commercial District.

5  
6 Dyer recused himself from the hearing.

7  
8 Sunshine swore in Brett and Melissa Hamilton and Heidi Bormann.

9  
10 Mr. Hamilton introduced the proposed project. He explained that they want to build a porch along the  
11 west side of the building that would measure about 10 feet in width and 40 feet in length. Sunshine  
12 saw the property. Ms. Hamilton said that the porch would be open. LaBounty cited the  
13 announcement, explaining that the front porch is already built [facing Huntington Road] and that they  
14 want to use the existing porch for access to the proposed porch. Ms. Hamilton said that they received  
15 permitting from the State for outside seating and that they have all the necessary permitting with the  
16 State. Rinehart, LaBounty, and Hamilton confirmed that they need permitting to open a restaurant  
17 within a Commercial District. Sunshine confirmed that none of the proposed construction will take up  
18 any existing parking spaces.

19  
20 Rachel DiGiammarino said that she lives at 79 Farr Road and that she can hear a hum of live music.  
21 Her concern is that the outdoor seating will create more people and therefore more noise, especially  
22 since the doors will be open. Bormann confirmed that there will be lighting on that side of the building  
23 and the Hamiltons said that they have no intention of playing music outdoors. Bormann explained that  
24 access would be from the porch [facing Huntington Road] and that there will be an added door that  
25 will be wheelchair accessible.

26  
27 Jon Milazzo said that the notice described a front porch but that it isn't and that he believes the  
28 abutters would have been more interested in the proposed construction if the notice had not been for  
29 a front porch. Milazzo presented a letter describing his position that he was concerned about the  
30 noise during the summer with outdoor seating. He said that residents have yet to experience summer  
31 hours at the Stone Corral and that they need to experience this level of operation before the Town  
32 approves the proposed construction. He also said that he finds the parking full on Stone Corral's  
33 busier nights and he is concerned how they will accommodate additional parking. He believes that the  
34 construction and the additional traffic and noise will decrease the quality of life for the neighboring  
35 home owners. He asked that the application be tabled until September 2016 so that all parties will  
36 have an opportunity to experience Stone Corral Brewery in all seasons.

37  
38 Mr. Hamilton said that they would be adding about 20 seats and that the current capacity is 24 seats.  
39 The State permit says 24. The Hamiltons explained that outdoor seating is only considered partial  
40 since it is seasonal. The fire marshal cap is at 99 but Mr. Hamilton said that they do not allow that  
41 number of people in, saying that then it is too busy. They also said that they have someone at the  
42 door with a counter.

43  
44 Cathleen Gent asked if the existing porch will have any seating in addition to the new deck. The  
45 Hamiltons said that there are two tables with maybe a total of six seats. Gent asked that the hearing  
46 reflect that there will be seating on the existing porch as well. Ms. Hamilton said that they have nearly  
47 double what they need in terms of parking.

48  
49 Milazzo said that he believed the notice as posted did not adequately reflect the proposed  
50 construction of the porch [facing Farr Road versus Huntington Road]. In addition, Milazzo said that  
51 since the proposed porch would face the residents along Farr Road, he believes that more abutters  
52 would have been present at the hearing had it been correctly announced.

53  
54 LaBounty made the motion that the hearing be delayed until the next meeting since it was improperly  
55 warned so that it may be properly warned, thereby preventing an instant appeal from the public that

1 would stop the Stone Corral from doing anything. Sunshine said that the hearing was not closed and  
2 that first the DRB members and the public should be allowed to speak.

3  
4 Bender asked if the zoning regulations said anything about noise levels. Sunshine explained that the  
5 town regulations give a permissible decibel limit at the lot line. DiGiammarino said that her concern  
6 with noise levels was not during the day time but rather during night time. She asked if the DRB could  
7 ask for a cut-off time for outdoor seating. LaBounty said that currently the Stone Corral has until 10  
8 o'clock for live music but that according to the existing permit, they can operate until 11 o'clock.  
9 DiGiammarino said she was concerned about the noise level not just from the music, but from the  
10 people outside. Sunshine said that the DRB could decide how long people can stay out on the deck.  
11 Bormann said that they understand the noise concerns but there are noise levels from the daycare  
12 and she loves that sound, as well as the sound of people walking around. She explained that these  
13 are the sounds of a vital downtown and that it's really beginning to come alive. She said the building  
14 has 12-inch walls.

15  
16 LaBounty made the motion to continue the hearing at the next DRB hearing on June 8<sup>th</sup> and that it be  
17 properly warned for that hearing. Bender seconded the motion. Sunshine said that the notice says  
18 front porch and that if the neighbors were concerned that they could have come down and reviewed  
19 the application. He therefore believes that it was adequately warned. LaBounty withdrew her motion.  
20 Pedersen and Sunshine voted against the motion, defeating the motion.

21  
22 Pedersen made the motion that the hearing for Application #16-025 be closed and that the DRB go  
23 into deliberative session. Bender seconded the motion and the motion passed 3-1 with Bender voting  
24 against the motion.

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26 **Michael Sipe, Jr.** – Application #16-026 kfor Site Plan Review by the DRB to subdivide the existing  
27 lot at 60 Wolf Lane (parcel WF0060). Mr. Sipe owns the parcel at 60 Wolf Lane within the  
28 Agricultural/Residential District.

29  
30 Sunshine swore in Michael Sipe.

31  
32 Sipe presented his case explaining that he wants to subdivide Lot 8, thereby producing two lots, one  
33 lot measuring 1.47 acres and the other, 13.3 acres. They would then use the existing building  
34 envelopes in the two lots.

35  
36 LaBounty asked that the DRB be given a clearer copy of the site plan, saying that the copy they were  
37 presented with was illegible. The Board expressed confusion over the development's chronology.  
38 LaBounty and Sipe discussed that the Sipes want to construct a residence on a property that has  
39 been restricted to agricultural use only. LaBounty said that the DRB needed to know if they were  
40 authorized to do that. Rinehart explained that the DRB cannot permit the Sipes to build a residence in  
41 the lot that they are proposing to create. According to Mark Sperry, the Sipes are required to go  
42 before the Selectboard and that the Selectboard can then amend the Environmental Court  
43 Judgement Order that restricts development on that property. LaBounty said that the Homeowner's  
44 Association should be involved. Sipe said that there was nothing in the covenants that requires a  
45 meeting of the Homeowner's Association. LaBounty agreed that further subdivisions are permitted.

46  
47 Sunshine asked that Sipe present a sketch plan and that he meets with the Selectboard. The DRB  
48 could then discuss this issue at the next meeting in June. Sunshine specified that in a sketch plan he  
49 wants to see the lot layouts and then deal with the easements, wastewater lines, etc. LaBounty said  
50 that she thinks Sipe has to consult with his lawyer as to whether or not he can subdivide without the  
51 approval of the Homeowner's Association. Sipe said that he has hired a surveyor and he has  
52 wastewater plan.

53  
54 Jensen expressed concern that the creation of additional lots would lead to the creation of additional  
55 homes. He is concerned that if this lot can be subdivided, that then any of the lots within the

1 development can be further subdivided. He was wondering if this subdivision would contradict what is  
2 in the covenants.

3  
4 LaBounty suggested that the route to take would be to go first to the Homeowner's Association and  
5 get their approval for any changes to the restrictions on the lot, and then go to the Selectboard.

6  
7 Sunshine summarized that first Sipe needs to go to the Selectboard. Then, Sipe should come to the  
8 DRB with a sketch plan showing the lots that Sipe is proposing. The sketch plan should include any  
9 easements and infrastructure. No seal is necessary. Thirdly, Sipe needs to present all three of the  
10 covenants. The DRB also suggests that he go to the Homeowner's Association as well.

11  
12 Sunshine made the motion to continue the hearing at the next meeting in June. Pedersen seconded  
13 the motion and the motion passed 5-0.

### 14 **Approve Meeting Minutes**

15 Rinehart produced an email from the VLCT in answer to a concern raised at the previous meeting  
16 that the meetings should include votes concerning any decisions made. The VLCT email stated that  
17 decisions should not be included in the minutes since the decisions are voted on after the closing of  
18 the hearing.

19  
20  
21 Dyer made the motion to approve the minutes from March 9, 2016, seconded by Pedersen. The  
22 motion passed 5-0.

23  
24 LaBounty recused herself from the review of the April 11, 2016 minutes.

25  
26 Sunshine made the motion to approve the minutes from April 11, 2016, Dyer seconded and the  
27 motion passed 4-0.

### 28 **Discussion of Proposed New Public Works Specs**

29 LaBounty said that the Planning Commission has reviewed the revised specs and has said that they  
30 believed the maintenance of storm water systems was not addressed sufficiently. Sunshine asked  
31 how come the Town Foreman was not being asked to review the revisions.

### 32 **Re-Organization of the Board**

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34 Dyer made the motion to nominate David Sunshine for the chair of the DRB and Cara LaBounty for  
35 vice-chair, Pedersen seconded the motion and the motion passed 3-2.

### 36 **Adjourn**

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38 Sunshine made a motion to go into deliberative session, Dyer seconded, and the motion passed 5-0.  
39  
40