



# Village of Manchester, Vermont

## Minutes of a Regular Meeting of the Development Review Board Held on the 15<sup>th</sup> day of August, 2019

**Members Present:** Chair Craig Powers, Vice Chair Orland Campbell, Donald Brodie, Renee Waller, Gordon McClellan, Richard Moore

**Member(s) Absent:** Dana McCloskey, Bill Mariano

**Others Present:** Connie Blatchford, Eric Scott, Administrative Officer

Chair Powers called the meeting to order at 10:01 A.M.

### **Minutes:**

Approve the draft minutes of the July 17<sup>th</sup> meeting.

Member Moore moved to approve the minutes of the July 17<sup>th</sup> meeting. Member Brodie seconded the motion and it passed unanimously.

### **Applications:**

19-27, SVAC, 1940 SVAC Dr, Signs (one permeant and one temporary)

Ms. Blatchford presented two signs (permanent and special event). The permanent sign will replace the current sign, only the color is different. The Special Event sign will be placed no sooner than 24 hours prior to the event and removed when the event has concluded. Member Moore, DAC Chair reported that the DAC felt the signs met the sign dimensions criteria and recommended the DRB approve the application.

Member Campbell moved to approve the application and Member Moore seconded the motion. The motion passed unanimously.

19-31, Ralph & Joannie Crowley Jr., 297 West Union St, Addition

The representative for the applicant was not present. The Chair tabled the application.

### **Other Business:**

Bylaw Review of SECTION 9 - SPECIAL REGULATIONS

The Board reviewed Section 9. The changes are attached.

There being no further business to come before the Board, the meeting was adjourned at 11:05 A.M.

## **SECTION 9 - SPECIAL REGULATIONS**

### **9.1 NONCONFORMING USES AND NONCOMPLYING STRUCTURES**

#### **9.1.1 GENERAL REQUIREMENTS**

Any nonconforming use of a structure or premises, and/or any nonconforming use of any structure or premises which lawfully existed at the time of adoption of this bylaw, or any pertinent amendment thereto, may continue. Any changes to the nonconforming structure or in the nonconforming use are subject to the following regulations:

- a. No nonconforming use may be changed, except to a conforming use.
- b. No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.
- c. No nonconforming use shall be extended or expanded.
- d. No nonconforming use, which has been discontinued for a period of one year shall be resumed thereafter, regardless of evidence of intent to resume such use.
- e. No non-complying structure shall be enlarged or substantially altered, unless such enlarged or altered portion conforms to the regulations, including use regulations, applying to the district in which it is located.

#### **9.1.2 RECONSTRUCTION AFTER DAMAGE**

Structures damaged by fire, explosion, accident or the public enemy, which are restored or reconstructed within one year, do not need a permit if the restoration or reconstruction is identical in external appearance and location. Any restoration or reconstruction resulting in external changes to the structure must have a permit.

#### **9.1.3 EXISTING SMALL LOTS**

Any lot in individual and separate non-affiliated ownership from surrounding properties in existence on the effective date of this bylaw, or any previous regulation of the Village of Manchester, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum size requirements, if such lot is not less than one-eighth acre in area, with a minimum width or depth dimension of forty feet. If the proposed development of a pre-existing small lot meeting the requirements of this section cannot meet the dimensional requirements (other than lot size), a variance is required.

#### **9.1.4 MERGER OF NON-CONFORMING AND UNDERSIZED PARCELS**

If a pre-existing small lot comes under common or affiliated ownership with one or more contiguous lots, the non-conforming lot shall be deemed merged with the contiguous lot. Once merged, such lots may not thereafter be divided into undersized lots.

However, a non-conforming lot shall not be deemed merged, and may be separately conveyed if all of the following apply:

- a. The lots are conveyed in their pre-existing, non-conforming configuration.
- b. On the effective date of this bylaw, each lot was developed with a water supply and wastewater disposal system constructed in accordance with all existing state and municipal requirements and regulations.
- c. At the time of the transfer, each water supply and wastewater system is properly functioning.
- d. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a filed system or supply as defined in 120 V.S.A. Chapter 24, or as hereafter amended.

### **9.2 PROTECTION OF STREAMS AND DRAINAGE WAYS**

No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of ~~70~~50 feet from the normal bank of any stream or watercourse, shown on the Village Plan of Development as a drainage way, or within a distance of ~~70~~50 feet from the shoreline of any natural or artificial pond, lake or water body, except with the approval of the Development Review Board, as a conditional use. Application for such approval shall be submitted to the Development Review Board with such surveys, maps and other data as the Board may require in order to make its decision. Prior to granting such approval, the Board shall have found that the proposed construction, earth excavation, filling or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on the natural conditions, or on fish or wildlife habitat, nor interfere with the present or planned storm water drainage system of the Village. Indigenous vegetation shall be maintained within the buffer area. In addition, 10 VSA 1021 requires that persons planning to alter or modify the course of a stream with a drainage area greater than 10 square miles, by movement, fill or excavation of 10 cubic yards or more of material shall first obtain a stream alteration permit from the Agency of Environmental Conservation.

### 9.3 VARIANCES

A variance may be granted for any non-complying structure or use by the Development Review Board, if the following facts are found, and the finding is specified in its decision.

- a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
- b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that authorization of a variance is therefore necessary to enable the reasonable use of the property;
- c. That the "unnecessary hardship" has not been created by the appellant;
- d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy sources, nor be detrimental to the public welfare; and
- e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and the plan.
- f. In rendering a decision in favor of a variance, the Development Review Board may attach conditions as it may deem necessary and appropriate under the circumstances, to implement the purpose of this bylaw and the Village Plan, as duly adopted or amended, to safeguard the public welfare and to maintain property values in the Village.
- ~~g. On an application in which a variance from the provisions of this bylaw is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant a variance if all the following facts are found:~~
  - ~~i. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and~~
  - ~~ii. That the hardship was not created by the appellant; and~~
  - ~~iii. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property;~~

~~reduce access to renewable energy resources, nor be detrimental to the public welfare; and~~

- ~~iv. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and the plan.~~

#### 9.4 WAIVERS

A waiver allowing for the modification of the dimensional requirements set forth in this Zoning Bylaw may be granted by the Development Review Board if the waiver is determined to allow a specific project to better comply with the Village Plan, and is not counter to the underlying purpose of this Bylaw. For a waiver to be granted, it must address the plans and goals set forth in 24 V.S.A. §4302, this Bylaw and the Manchester Village Plan of Development.

Specifically, the Village of Manchester has made, and is continuing to make, through its Plan and Bylaw, an effort to identify, protect, and preserve its most important historic structures, sites and districts, and, as no Bylaw can be written so broadly as to cover all issues, a waiver may be granted to modify specific dimensional requirements, as provided below, to allow a project located in the Village to address an unanticipated issue in a manner that would bring the project more closely into alignment with the goals set out in the Village Plan, but full compliance with all other requirements will be required.

An application for a waiver must set out specifically: what dimensional requirements are requested to be waived; why the project cannot or should not be made to comply with the specific dimensional requirement of the Bylaw; and how the requested waiver will bring the project into line with a specific goal of the Plan or Bylaw.

A waiver may be granted for the following reasons:

- a. To improve access for disabled persons.
- b. To enhance fire safety.
- c. To provide for energy conservation.
- d. To permit the construction, reconstruction, restoration, alteration or replacement of, or an addition to, a structure or facility, the use and design of which conforms to the nature and character of the area for which it is proposed, but does not, for good cause shown, conform to the dimensional requirement of this Bylaw.

Any request for a waiver shall be warned, and a public hearing held, pursuant to Section 10.12 of this Bylaw.

The Development Review Board may impose conditions regarding the design, screening and other elements of the proposed development, to mitigate any adverse impacts on neighboring properties.

A written decision on any application for a waiver requested pursuant to this section shall be issued within 45 days of the adjournment of the public hearing, as required by 24 V.S.A. §4464(b)(1).

An interested party may appeal that decision to the Environmental Court, as provided for in 24 V.S.A. §4471 and §4472.

#### 9.5 EARTH PRODUCTS REMOVAL RESTRICTED

Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay or stone, except that, with the approval of the Development Review Board, surplus material resulting from a bona-fide construction, landscape or agricultural operation being executed on the premises may be removed, provided that no permanent damage is done to the landscape.

##### 9.5.1 PERMIT FOR REMOVAL OF EARTH PRODUCTS

The Development Review Board, after a public hearing, may grant a permit for the removal of earth, sand, gravel, clay or stone, under the following conditions:

- a. The applicant shall submit a plan showing existing grades in the area from which the above material is to be removed, together with the finished grades at the conclusion of the operation.
- b. The operator shall provide for proper drainage of the area of the operation during and after completion, and no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock. No removal shall take place within 20 feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place. Material lying above grade at property line may be removed.
- c. At the conclusion of the operation, or of any substantial portion thereof, the whole area where removal takes place shall be covered with not less than 4 inches of topsoil, and seeded with a suitable cover crop, except where ledge rock is exposed.

#### 9.5.2 EXISTING SAND AND GRAVEL OPERATIONS

Existing sand and gravel or other extractive operations must conform to this bylaw from its effective date with respect to any enlargement of the area on which operations are conducted.

#### 9.5.3 SURETY BONDS

Before a permit is granted under this Section, the applicant shall post a surety bond with the Treasurer of the Village in an amount and form approved by the Development Review Board as sufficient to guarantee conformity with the provisions of the permit issued hereunder.

### 9.6 OFF-STREET PARKING

#### 9.6.1 PARKING FACILITIES REQUIRED

Parking facilities shall be provided to serve any building erected, moved, altered, enlarged, extended, or any use changed, and all premises otherwise developed after the adoption of this bylaw. Such facilities shall be located outside the street or highway right-of-way, whether public or private, and shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting such building or premises at any one time.

#### 9.6.2 LOCATION OF REQUIRED PARKING FACILITIES

Required parking facilities shall be located on the same lot as the building or other use which they serve, except that upon approval of the Development Review Board, required parking facilities may be located elsewhere (including across a municipal boundary), or may be shared between two or more uses whose hours of operation are such that the requirements of 9.6.1 can be met individually for each use.

#### 9.6.3 REQUIRED AREA FOR PARKING FACILITIES

Unless otherwise specifically approved by the Development Review Board, required parking facilities shall contain not less than the minimum areas set forth below, exclusive of driveways, areas for turning vehicles and access ramps. Indoor parking may be included to the extent of one-half of the required area. No parking facilities shall be reduced in area to less than required herein, and no building or use of a building or premises shall be enlarged or extended, or any use changed, unless the parking facilities therefore shall comply with the requirements hereof.

- a. Residential - 2 spaces per dwelling unit.
- b. Offices - 1 space for each 125 square feet of enclosed floor area.
- c. Retail/service - 1 space per each 125 square feet of enclosed floor area.

- d. Industrial/warehouse - 1 space per business vehicle housed at the site plus 1 space per employee on the largest shift.
- e. Nursing home, residential care facility - 1 space for each patient plus 1 space for each employee normally employed at one time.
- f. Banks and other financial institutions - one space for each 125 square feet of enclosed floor area.
- g. Restaurants - 1 space per each 3 seats and one space per employee on the largest shift.
- h. Inns, guest houses, etc. - 1 space per guest room, plus 1 space per employee on the largest shift, and two spaces for the owner's residence if located on site.
- i. Hotels - 1 space for each guest room, plus one space for each employee on the largest shift.
- j. Schools - 1 space per 15 seats.
- k. Places of assembly, (churches, recreation facilities, etc.) - 1 space for each 3 seats or legal occupants, and 1 per employee on the largest shift/time of use.
- l. On any altered, enlarged, extended or changed use facility, parking facilities shall be in accordance with the requirements for the specific type of facility designated herein.

**9.6.4 SURFACING OF PARKING AREAS**

Parking facilities shall have adequate all weather surfacing, capable of allowing free and safe movement of all vehicles customarily using the facilities.

**9.6.5 TRUCK LOADING SPACE**

In the case of retail, wholesale and industrial buildings, space shall be provided for loading and unloading trucks at the rate of one space not less than 400 sq. ft. in area for each 15,000 sq. ft. of floor area or fraction thereof, or as otherwise approved by the Development Review Board. All loading activities shall occur on-site, and out of the street right-of-way. Loading areas shall be located away from residential areas wherever possible.

**9.6.6 DIMENSIONAL SPACE - PARKING**

Angles of:	Minimum Dimension for Parking				
	0°	45°	60°	90°	
Stall length, feet	24	25	22	18.5	
Stall width, feet	12	13	10	9	
Aisle width, feet	<hr/>				
	1 way	12	12	16	26
	2 way	24	26	26	26
Entrance/exit width, feet					
	one way traffic	14			
	two way traffic	24			

**9.6.7 LANDSCAPE AND LIGHTING FOR PARKING AREAS:**

Landscaping and lighting plans for parking lots and loading areas shall be required as part of applications. Such plans shall include a landscaped strip of not less than 10' in width adjacent to all streets, except at access points. Additional guidelines are available from the Administrative Officer. All lighting, except that necessary for safety and security, shall be extinguished no later than 10 PM. All commercial lighting shall be designed and located so that glare is directed away from residential uses and Residential Districts. 'Wash' type lighting is preferred.

#### 9.6.8 PARKING AREAS

In the Business-1, Business-2, and Equinox Historic Districts:

- a. Parking areas shall be screened from adjacent roads and adjoining residential uses. Vegetation used for this purpose may include both conifers for winter screening and deciduous plants to provide summer shade and to create an overhead canopy. Screening may also include features such as berms, low walls or fences, where such features are incorporated into an overall landscape design. Screening may also be achieved by placing smaller buildings between the parking area and the road.
- b. It is not expected that screening will create an impenetrable visual barrier. Rather, the objectives of the screening are:
  - i. to create a pleasant streetscape.
  - ii. to create a visual edge for the public space along the street, and
  - iii. to prevent unobstructed views of the parking areas while allowing visual perception of the commercial uses beyond.
- c. At planting, conifers shall be at least five (5) feet tall and deciduous trees shall be at least 2.5 inches diameter at breast height (DBH).
- d. Parking areas shall be designed to include landscaped islands, which may serve to separate the ends of parking bays from circulation aisles, or which may be internal to parking bays.
  - i. Each landscaped island shall be large enough to ensure the healthy growth of at least one deciduous tree plus some smaller plantings and ground cover.
  - ii. Landscaped islands shall be distributed over the entire parking area so as to prevent the appearance of large expanses of unbroken pavement.
- e. Maintenance of landscaping and screening shall be the responsibility of the property owner. Dead, dying or diseased plants shall be promptly removed and replaced as soon as possible, consistent with good landscape planting practice. The applicant shall post a surety or performance bond, in a form acceptable to the Village, in the amount of twenty-five (25) percent of the total cost of all landscaping. Said bond shall be posted for a period expiring two years after planting of the landscaping. If the property owner fails to replace plants during the two years after planting, this bond shall be used to cover the cost of replacement plantings. At the end of the two-year period, any amount remaining of the bond may be claimed by the applicant.

#### 9.6.9 SNOW REMOVAL

Areas shall be provided for storage of snow removed from parking and loading areas. Such areas shall be designed so that run-off is collected and dispersed within the lot on which the parking is located, or drains directly along a public right-of-way to a storm drain. At no time shall such drainage cause ponding or flooding off-site. Snow storage shall not block line of vision from adjacent driveways or streets.

#### 9.6.10 APPLICABILITY

Repainting of an existing parking lot, as part of on-going maintenance, shall not be considered a new layout, and shall not be required to meet these standards. Changes in the location of existing striping, addition or reduction in spaces as part of repainting, expansions or changes of use, and all new uses, must meet these requirements. Site Plan Review by the Development Review Board is required.

#### 9.7 PONDS

A swimming pool or pond with a surface area not in excess of 40,000 square feet may be approved as a permitted use by the Development Review Board, provided the front, side, and rear setbacks applicable to the district in which the pond is located are satisfied.

A pond with a surface area in excess of 40,000 square feet may be approved as a conditional use by the Development Review Board after a public hearing, provided that there shall be no adverse effect upon the public health and safety, and surrounding use. No water areas shall be closer than 50 feet to any side or rear lot line, except as approved by the Development Review Board.

In reviewing such application, the Development Review Board shall require plans and specifications, and other information deemed necessary. Such information shall include:

- a. Map of entire property, showing location of the pond with respect to present structures, roads, and boundaries.
- b. The nearest building(s) on adjoining land.
- c. Specifications for the dam, if one is to be constructed.
- d. An estimate of the surface area of the pond, and volume of water.
- e. Natural or proposed drainage, and contours.
- f. Evaluation and recommendation by the Natural Resource Conservation Service.
- g. Evidence that the pond will not present an unreasonable hazard to neighboring persons or property.

## 9.8 DEMOLITION OF BUILDINGS

Before all or any portion of a building is permitted to be demolished or razed, a site development plan, and building plans for the structure proposed to replace the razed structure, must be submitted to the Development Review Board for approval, unless this requirement is formally totally or partially waived by that Board after consideration, for reasons that shall be set out in their decision. The applicant may also be required to submit a certification by a professional engineer, licensed architect, or other qualified professional, knowledgeable in historic preservation, that a structure proposed for demolition that has been determined to be historic, has deteriorated to the extent its condition constitutes a danger to the general public, and that the cost of restoration of the structure will exceed the replacement cost.