

Shaftsbury Development Review Board

January 18, 2023

In person at Cole Hall and remotely via Zoom

1. Call to Order – Recognition of Quorum

The meeting came to order at 5:45 p.m. Present were board members Mike Day (chair), Tedd Habberfield, Zoe Contros Kearl, and Sarah Costin. Also present was zoning administrator Shelly Stiles. Several citizens attended in person and via Zoom. Their names are captured on sign in sheets in the appropriate zoning files and included in these minutes by reference.

2. Conflict of Interest

No one reported a conflict of interest with any item on the agenda.

3. Sign in sheets

Sign in sheets and oaths of testimony were passed around and signed by those attending.

4. Re-opening of hearing, application #22-0099, parcel 12 01 04.3, 755 Cross Hill Road, owners Michaela Schneiderbauer and Ivette Guttmann, application for a single family residence within a revised building envelope created by permit 97-196S for Carol Blomquist, December 4, 1997 and

Mr. Day noted that the hearing was reopened because it was discovered after the closing of the hearing on January 4 that some wishing to speak were unable to be heard via Zoom.

Mr. Day noted the Mr. Swain had submitted a letter to the DRB. Mr. Swain said he stood by the letter (which expressed support for the application).
Mr. Day noted that the information promised by Mr. Carbin, an abutter and opponent of the project, on January 4 had been provided in a letter from his attorney. The letter cited the Stowe Club Highlands case from 1996 in which three criteria for permitting a building envelope to be moved were listed. Chris Ponessi, engineer for the applicant, said his client could not meet those criteria. Ms. Schneiderbauer said it wasn't their intent to enter upon a legal arms race. She asked the Carbins if they would have an objection should their new residence be built within the existing building envelope and they said "no." Mr. Day offered to recess the hearing should the applicant wish to think further about the letter from the Carbin's attorney.

Mr. Steven Trubitt testified.

Michael Tarrant, attorney for the Carbins, said the Stowe case outlined how the state's need for both finality and flexibility can be met.

Ms. Schneiderbauer wondered whether the deed language providing for modifications to the building envelope means nothing in the context of the Stowe case.

Mr. Ponessi said his clients were prepared to withdraw their application.

Mr. David Hetherington, an abutter, spoke.

Ms. Roberta Carroll spoke.

Mr. Habberfield moved to close the hearing. Ms. Costin seconded the motion, which passed 4-0-0.

5. Approval of Minutes – January 4, 2022

Ms. Contros Kearl moved to approve the minutes. Ms. Costin seconded the motion, which passed 4-0-0.

6. Application 22-0105, parcel 12 01 06.1, owners Bennett Taft and Michaela Levin, 21 Tinkham Road, for a combined indoor/outdoor cannabis cultivation operation.

Mr. Taft testified that his family hopes to build a state-licensed Tier 1 cannabis cultivation operation with up to 125 plants in 1008 s.f. in a renovated barn and up to 125 plants in a fenced in area outdoors sized 18' x 56'. There would be located two indoor hydroponic grow areas on either end of the barn and in the center a greenhouse. He handed out several accompanying documents illustrating the family's intentions which will be placed in the zoning file and are incorporated in these minutes by reference.

The renovated barn would have one secured entrance. There would be no light visible from outside except perhaps for a grow light in a seedling tent in the greenhouse. LEDs would be used. The grow rooms would be fully enclosed and ventilated. The fence would be 8' tall. It would be board and batten with perhaps a chain link fence on the inside. The state requires that plants be hidden from view from nearby roads.

Mr. Bennett described the state's intention that Tier 1 growers have the opportunity to replicate the successes of the microbrewery industry, and therefore requires that wholesalers buy at least 25% of their product from Tier 1 operations.

The cannabis permitting process requires a waste management system. Mr. Taft proposes using farm animals. He expects to capture carbon on site.

The outdoor plants would be pruned to shorter than 8'.

Mr. Taft described the locations of the four abutters. He said he hand delivered the warning to all. He said only abutter Moriarty can see the barn through a "keyhole" created by the Bennett/Levin driveway.

Mr. Taft noted the locations of class 2 wetlands on the property and a pond. He said the cultivation operation would meet all wetland setback requirements.

Mr. Taft noted that Tier 1 producers may not sell retail but only to retailers and wholesalers. He will enter into a contract with Vermont Cannabis, a wholesaler. He expects they might pick up product with a small truck five times a year or fewer.

Mr. Taft noted that the bylaw could allow either or both a home occupation or a farming operation. He said if he had to choose between indoor home occupation and outdoor farming operation he would choose the former. The only insurer in the region does not insure outdoor facilities. Ideally, he wished to do both indoor (home occupation) and outdoor (farming).

Abutter Ken Moriarty spoke. He thanked Mr. Taft for reaching out to him and his wife Jane. He says they are both open to Mr. Taft's suggestions. He said their major concern was lighting and that he wanted to be sure lights didn't shine through the greenhouse at night. He said he trusts Mr. Taft wants to run a small, quiet operation. He asked the DRB to keep in mind that the next owner might not maintain the same atmosphere. Mr. Taft said the cannabis permit does not run with the land but with the business. The next owner would have no cannabis cultivation rights.

Mr. Taft said the barn renovation would not be cannabis specific. He didn't think an approval for his application would set a precedent for elsewhere in the town.

Mr. Taft said he has no deadlines. He would hope to get started this year – in greenhouse by April (but without lights) and outdoors this summer. He would hope to have at least one grow room up and running by the end of 2023.

There was some discussion as to whether the Town has jurisdiction.

Ms. Contros Kearns acknowledged that Mr. Taft didn't have to come before the board.

Mr. Habberfield moved to close the hearing. Ms. Costin seconded the motion, which passed 4-0-0.

7. Other business

Ms. Costin will attend by Zoom on February 15.

The board will meet on February 1. On the agenda: review of Rules of Procedure, and deliberative session(s).

Ms. Kearl moved to adjourn at 7:08 p.m. Mr. Habberfield seconded the motion, which passed 4-0-0.

Notes by ZA Stiles