

1 **Village of North Bennington**
2 **Development Review Board Meeting**
3 **Tuesday, July 19, 2022**
4 **North Bennington Train Station**
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8 **DRB Members Present:** Jim Sullivan, (DRB Chair), Tara Lowary, (DRB Vice-Chair),
9 Chris Damon and Kim Hall

10
11 **Absent:** Hugh Crawl

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13 **Zoning Administrator Present:** Billy Rogers

14
15 **Others Present:** Albert J Kolar III, (Property Owner), Kirsten Kolar, (Property Owner),
16 Alisa Del Tufo, (Abutter), Joe Chirchirillo, (Abutter), Steve Lenox, (Abutter), Michelle
17 Samour, (Abutter), Leon Johnson, (Abutter), Jamaica Kincaid, (Abutter), Adam Bush,
18 Jamie Johnson and Mary Rogers.
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20
21 **Recorder:** Heather N. Bullock
22

23 *** Denotes out of order agenda items**
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27 **1) Call Meeting to Order.**
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29 ***Mr. Sullivan called the meeting to order at 7:02PM and made introductions of DRB***
30 ***members.***
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34 **2) Approve Recorded Minutes from previous meeting held May 17, 2022.**
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36 ***Mr. Sullivan asked if there were any questions regarding the May 17, 2022***
37 ***meeting minutes and asked if someone would like to make a motion to approve***
38 ***the DRB Meeting Minutes from that meeting.***
39 ***(Damen/Lowary), Unanimous. No further discussion).***
40

1
2 **3) New Business.**
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4 **A) Extension of existing Zoning Permit #21VC40-10 (attached) as issued**
5 **on 07/22/2021 for an “Accessory Building-Barn” located at 201**
6 **Honeysuckle Lane.**
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9 Mr. Sullivan explained that the property owner in the above matter, Albert Kolar, is
10 requesting an extension of an existing permit previously issued July 22, 2021. Mr.
11 Sullivan cited Section 13.3 C1 and C2 that state that permits shall remain in effect for
12 one year from the date of issuance unless otherwise specified and that if work has not
13 been completed within the allotted time the Development Review Board may grant an
14 extension of the issued permit for a time of one year from the date of expiration of the
15 original permit. He explained that applications must be made in writing and include the
16 specific circumstances and reasons for justifying an extension and submitted to the
17 Administrative Officer prior to the expiration of the original permit. Mr. Sullivan stated
18 that Mr. Kolar had submitted his request prior to the expiration.
19

20 Mr. Sullivan noted that the state legislature and governor had recently signed into law a
21 provision that states that any zoning permits do not have an expiration of less than two
22 years. However, because the permit before the DRB was an administrative permit, the
23 new regulations did not appear to apply. He further added that there is presently not a
24 lot of guidance as to how to proceed on this as there are no amendments or standards
25 in effect and that the same rules that applied one year ago when the permit was issued,
26 also apply now. He stated that since there is no change in the by-law, there is no
27 change in what is needed for approval of this extension.
28

29 Mr. Rogers referenced the Village of North Bennington Bylaw 13.3 and explained the
30 process for zoning applications and approvals. He added there is a 15 day grace period
31 after the issuance of a permit before construction can start to allow for any appeals of
32 the permit. He further stated that the bylaws require a new request for an extension to
33 be submitted prior to the expiration of the original permit.
34

35 Mr. Hall queried if the application for an extension needed to be submitted with
36 justification for why an extension is required to which Mr. Rogers replied that it was
37 required and that Mr. Kolar had stated his reasons for the delay and need for the
38 extension on his extension application permit.
39

40 Mr. Damon and Mr. Sullivan both asked for specifics regarding the delay in building.

1 Mr. Kolar stated that regarding the building of a barn on his property, Covid and a spike
2 in building material costs significantly delayed the start to this project. He stated that he
3 hoped that the cost of building materials would come down. He stated that the zoning
4 administrator, Billy Rogers, recommended that under the circumstances that he apply
5 for an extension.

6
7 Mr. Sullivan referred to the architectural drawing, or “plot plan,” which recorded all of the
8 major features and structures on the applicant’s property.

9
10 Mr. Damon asked if it was possible for a second extension to be granted if the applicant
11 was unable to complete the project within the extension year to which Mr. Sullivan
12 replied most likely not. He stated that the legislature was pretty clear on that matter and
13 that the permit process may need to begin all over again if not completed by the end of
14 the extension date.

15
16 Mr. Sullivan stated that the DRB’s role in that matter was to apply the by-laws as they
17 are written. Mr. Rogers added that it would be the Planning Commission's job to make
18 any adjustment to the by-laws.

19
20 Ms. Lowary asked if a change in the legislature would enact the new 2 year timeframe
21 on permits. Mr. Sullivan stated that if it was not in effect, no site plan review or DRB
22 approval would be needed for this permit.

23
24 Mr. Kolar stated that this project is mostly a DIY project and he wondered if there were
25 any provisions to extend the length of the permit for those property owners who are
26 acting as their own contractors.

27
28 Mr. Damon stated that there may be a possibility of having a permit “individualized” for
29 DIY permits. Mr. Sullivan added that the bylaws should be addressed to cover various
30 circumstances.

31
32 Mr. Sullivan asked if the attending public had any questions related to the extension of
33 this building permit.

34
35 Mr. J. Johnson stated that he felt Mr. Kolar was being bullied. He stated that when he
36 built a home on McCullough Road that he had to put up with opposition from the DRB
37 and the Village. He stated that the laws are the laws and that he did not feel it was right
38 for Mr.Kolar to have to hire an attorney.

39
40 Mr. Sullivan stated that this was not the point of this hearing.

1
2 Mr. J Johnson referred to other meeting attendees regarding their bullying of Mr. Kolar
3 and complained about some of their building projects.

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5 Mr. Lenox stated that he did not attend the hearing with any predisposed thoughts on
6 the agenda item. However he did state that he wanted to have an awareness of what
7 was going on since he resided in the neighborhood and wanted to ensure that
8 everything being permitted was above board. He further queried more clarification on
9 the meaning of the permit being deemed agricultural.

10
11 Mr. Sullivan stated that the permit was considered an “accessory to a residential
12 property.”

13
14 Ms. Del Tufo stated that she had two questions.

- 15 1) She asked for clarification that residents would have the right to appeal the
16 extension permit to which Mr. Sullivan replied that residents had 15 days to
17 appeal to the zoning administrator and 30 days to appeal to the DRB.
18 2) Ms. Del Tufo then asked if there was a ratio limit in terms of the new building
19 structure in relation to the property.

20
21 Mr. Rogers stated that the maximum coverage of buildings to lot size could not exceed
22 10% and Ms. Lowary added that the by-law is 5% within a conservation district.

23
24 Ms. Del Tufo stated that it was her understanding that in the original permit that access
25 to the proposed barn must be from the current driveway to the house only.

26
27 Mr. Damon asked for clarification on who owns Honeysuckle Lane to which Ms. Del
28 Tufo replied that each homeowner owned their section of the property. Mr. Damon
29 further stated that on a street there can only be one access to the property so there will
30 not be a second egress from Honeysuckle.

31
32 Ms. Lowary asked if Mr. Kolar could show board members where the current driveway
33 is on the plot plan which he did. Mr. Sullivan then mentioned that Mr. Kolar’s driveway
34 is an extension of Honeysuckle Lane.

35
36 Ms. Del Tufo then asked if Mr. Kolar had received permission for the curb cut on
37 College Road to which Mr. Rogers stated that a curb cut permit had been issued for 416
38 College Road and further stated that the curb cut was put in place whilst the barn was
39 being built.

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1 Ms. Del Tufo stated that she would like guidance and understanding of what the actual
2 plan was. Mr. Rogers stated that it was his assumption that the DRB would approve the
3 extension. He stated that the curb cut and stone in place at the curb cut was for trucks
4 to utilize during the building of the barn to minimize any damage to Honeysuckle Lane.
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6 Mr. Sullivan stated that the DRB was being asked to extend the permit but that they
7 could clarify that temporary construction access could continue with the permit
8 extension.
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10 Ms. Del Tufo asked what the height of the barn structure would be.

11 Mr. Damon stated that the maximum height allowed would be 27 feet.
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13 Mr. Chirchirillo stated that they are abutters to Mr. Kolar's property and share a 500 foot
14 property line with the petitioner. He stated that they are concerned with the size of the
15 proposed building. He added that Mr. Kolar has a lot of heavy equipment. He stated
16 that if the Kolar's move, there will still be an 8,000 square foot building that could be
17 used for anything, industrial or otherwise. He stated that it was his opinion that the
18 building size would be excessive. He added that they had missed the original deadline
19 to appeal the first permit because they were not notified.
20

21 Mr. Sullivan stated that regarding the size of the building, the Planning Commission
22 would be the appropriate entity to raise their concerns. He stated that he understood
23 how the use of the building was of concern but that it was not the position of the DRB to
24 speculate.
25

26 Mr. L Johnson stated that he is an abutting landowner with three connecting points to
27 Mr. Kolar's property. Mr. Kolar clarified that it was one connecting point. Mr. L.
28 Johnson stated that Mr. Kolar had stated that he owned land that he didn't own. He
29 further stated that his own property was "downstream", at least six feet below the
30 elevation of the proposed barn. Mr. L. Johnson stated that because he was a "down-
31 streamer", water from the wetlands and drainage runs off onto his land and that he can
32 provide photographs. He added that when Mr. Kolar cleared the land of trees, coloured
33 soil ran into his property and also onto Jamaica Kincaid's property. Mr. L. Johnson
34 stated that if the barn was listed for agricultural use and Mr. Kolar had farm animals, the
35 additional runoff would also breach his property.
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37 Mr. L. Johnson went on to state that Mr. Kolar had a metal tree stand taken down by the
38 game warden because it was on the property line. He added that the stand is now on
39 the ground and has not been removed. Mr. L. Johnson then showed pictures from his
40 phone to DRB members of the property line he shares with Mr. Kolar.

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Mr. Kolar stated that property in question belongs to Mr. Kolar's father-in-law.

Mr. Chirchirillo stated that he felt that Mr. Kolar is of the mindset that he can do whatever he wants on his property no matter how abutting property owners are affected. Mr. L. Johnson added that he had attempted to buy the wetland property from Mr. Kolar but that Mr. Kolar declined the offer and as a result, Mr. L. Johnson now has runoff onto his property.

Mr. Rogers read the DRB and participants excerpts from the village bylaws section 12.1. Ms. Lowary added that section 12.1 subsection D may be especially pertinent to concerns regarding runoff. Mr. Rogers clarified that the physical construct of the barn had not yet begun, but that the tree removal in the area had.

Mr. Kolar stated that he was only there because of his application regarding his extension permit. Mr. Rogers added that Mr. Kolar had been very forthcoming and thorough in his submission of the extension application.

Ms. Kincaid stated that this was a residential neighborhood and that she felt people do not mind building projects but that what was going on regarding this project has changed the character of the neighborhood. She further felt that Mr. Kolar had no consideration for anyone else regarding his project. Ms. Kincaid stated that there is also all sorts of wildlife in the area that had been negatively affected by what Mr. Kolar has done.

A brief argument ensued amongst meeting participants.

Ms. Kincaid stated that she felt that the DRB had allowed Mr. Kolar to do all that he had done and to bully his neighbors and that the DRB was responsible. She further added that the DRB has not protected them and that they need the DRB to protect them now by not granting the permit extension to Mr. Kolar. She stated that abutting neighbors have had to spend thousands on attorneys. Ms. Kincaid then made a few slights against Mr. Kolar's character to which Mr. Kolar defended himself.

Mr. Kolar stated that his demeanor has been affected by the way he has been treated. He stated that the original contentious incident ensued after he cut down a row of trees on his own property. He stated that when he did that, Mr. Chirchirillo came over to his property yelling obscenities and threatening him. Mr. Chirchirillo stated that he was upset because there was no longer a hedgerow but that he did not threaten Mr. Kolar.

1 Another argument ensued regarding details of that interaction. Mr. Sullivan reminded
2 meeting participants to address their comments to the DRB board only and to make
3 them specific regarding the current agenda item of a permit extension.

4
5 Mr. Chirchirillo said that he was just trying to explain that the neighborhood has also had
6 to deal with Mr. Kolar's trucking company and that he was not alone in his feelings
7 regarding Mr. Kolar's actions.

8
9 Mr. Bush commented that the only notice he has ever seen regarding the barn permit
10 was the posted notice he viewed approximately one month ago. He added that a 9,000
11 square foot barn would be the largest structure in the area. He stated that he has also
12 experienced runoff onto his property behind Mr. Kolar's property and is concerned that
13 the addition of a barn with a 9,000 foot roof prohibiting the ground to absorb water will
14 exacerbate the current runoff issue. He stated that it is his opinion that the size of the
15 structure is excessive for the area.

16
17 Mr. Sullivan stated that he would have to concur with the concerns regarding the size of
18 the building, but that the current bylaws allow the project and permit extension and that
19 the DRB has no jurisdiction to change the bylaws.

20
21 Mr. Sullivan stated that regarding tree removal and runoff, Section 12 states that no site
22 review is required here and only would be pertinent if related to stormwater runoff. He
23 again stated that this issue is not currently before the DRB, however there are other
24 ways for residents to address their concerns. Regarding the application for the
25 extension of the current permit, Mr. Sullivan stated that it met all of the requirements of
26 the current bylaws.

27
28 Ms. Kincaid queried how it could meet the requirements if granting the original permit
29 was wrong in the first place. Mr. Sullivan replied that the DRB will make their decision
30 and that decision can be appealed.

31
32 Ms. Del Tufo asked how the appeal process works to which Mr. Sullivan stated that the
33 appeal would need to take place through the court system. Mr. Sullivan added that he
34 hears and understands everyone's concerns regarding Mr. Kolar's application but that
35 the DRB must follow the bylaws and cannot make up rules.

36
37 Ms. Kincaid commented that the only recourse then is to go to court because the DRB
38 has no power. Mr. Sullivan restated that the original permit could have been appealed.

39

1 Mr. Kolar asked how long before a decision on his application would be made to which
2 Mr. Sullivan replied that it was required to be made within 45 days but would probably
3 Be made within a week. Mr. Rogers added that any appeals had to be addressed within
4 30 days.

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7 **4) Public Comments:**

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9 No additional comments were heard.

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12 **5) Other Business/Correspondence:**

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14 No other business or correspondence was addressed.

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17 **6) Adjourn**

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19 Mr. Sullivan made a recommendation that the public hearing be closed and that the
20 DRB enter into a "Deliberative Session" to discuss Agenda Item #3. Mr. Sullivan stated
21 that the DRB would issue a decision after having a chance to deliberate.

22

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24 ***Mr. Sullivan closed the public hearing at 8:08 PM for the DRB to enter into a***
25 ***deliberative session.***

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28 *****After a deliberative session was held, the DRB decided to authorize the one year***
29 ***extension of the subject permit, consistent with the provisions of the zoning***
30 ***bylaw regarding such extensions. A formal written decision is forthcoming. *****

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