

1 **Village of North Bennington**  
2 **Development Review Board Meeting**  
3 **Tuesday, November 15, 2022**  
4 **North Bennington Train Station**

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7 **DRB Members Present:** Tara Lowary, (DRB Acting-Chair), Chris Damon, Kim Hall and  
8 Hugh Crawl

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10 **Acting Zoning Administrator Present:** Scott Creedy

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12 **Others Present:**

13 Mary Rogers,  
14 David Post, (Petitioner/11 Bank Street)  
15 Mailing Address -P.O. Box 102 North Bennington, VT 05257.) and  
16 James J. Williams, (Petitioner/12 Main Street)  
17 Mailing Address-514 Twitchell Hill Rd. Shaftesbury, VT02562

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19 **Recorder:** Heather N. Bullock

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\* Denotes out of order agenda items

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23 **1) Call Meeting to Order.**

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25 ***Ms. Lowary called the meeting to order at 7:00PM.***

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27 **2) Appoint New DRB Chair.**

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29 Mr. Hall nominated Chris Damon to become the new DRB Chair.  
30 (Hall/Crawl/Unanimous)

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32 **3) Prior Meeting Minutes for Approval**

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34 Mr. Damon stated that the meeting minutes from the July 19, 2022 DRB meeting  
35 needed to be approved.

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37 ***Ms. Lowary made a motion to approve the July 19, 2022 DRB Meeting Minutes.***  
38 ***(Lowary/Hall/Unanimous/1 Abstention/Crawl )***

1           **4) 11 Bank Street Application. Seeks Variance. 13.8 Variance-allowable**  
2 **accessory building-rear setback.**

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5 Mr. Damon reported that the petitioner, David Post, has applied for a variance to build a  
6 garage on his property at 11 Bank Street. Mr. Damon reported that he had received  
7 letters of support of this variance from both of Mr. Post's neighbors, United Counseling  
8 Services, (9 Bank Street,) and Kelly Donley, (13 Bank Street). The Donley Family  
9 added that the new garage would help to align an existing building on Mr. Post's  
10 property.

11  
12 Ms. Lowary asked why Mr. Post was seeking this variance to which Mr. Post explained  
13 that his property is long and narrow and that if he were required to build the garage  
14 without the variance, he would no longer be able to use his backyard and would leave a  
15 big, unusable space behind the garage.

16  
17 Ms. Rogers added that Mr. Post's property also abuts 40 Main Street in the back. She  
18 mentioned that that house is empty and that significant renovations would be required to  
19 make 40 Main Street into usable housing.

20  
21 Mr. Post reported that he likes to work on cars and needs a garage to work on his two  
22 vehicles.

23  
24 Mr. Hall queried if there is presently in place a curb cut that would allow him to leave his  
25 driveway to which Mr. Post replied that there was.

26  
27 Mr. Hall advised that setbacks are primarily established to minimize the danger of fire  
28 and the spread of fires to other buildings and questioned if the onus for this variance  
29 should be placed on the local fire department. He asked Mr. Post if he would be  
30 adverse to conditions attached to the variance that would minimize a fire hazard such  
31 as building the back wall of the garage with a particular safety rating.

32  
33 Mr. Post stated that he does have a limited budget but asked how he could accomplish  
34 his project to meet such conditions. Mr. Hall advised using specific building materials  
35 like 5/8 type X to obtain a one hour burn designation. He also stated that surrounding  
36 trees could also be a fire concern.

37  
38 Mr. Post stated that he would be using T-111 siding. Mr. Hall stated that the siding was  
39 not of concern, but that something like 2 layers of drywall separated by studs would

1 make the project safer. He added that they could reference a UL rating or a “one hour”  
2 fire rating for specific building requirements.

3

4 Mr. Post stated that he understood and wanted to make sure that fire would not spread.

5

6 Ms. Lowary observed on the map that the garage from 40 Main Street was closer to the  
7 proposed garage than the house. Mr. Hall stated that the 40 Main Street garage was  
8 old and is out of conformance, but “grandfathered” in. A discussion ensued regarding  
9 the various positions of surrounding buildings to the proposed garage.

10

11 Mr. Hall also stated that roofing material would need to be considered in terms of fire  
12 safety. Mr. Post replied that it was his intention to build the garage with a metal roof  
13 and would also be moving any nearby tree hazards.

14

15 Mr. Hall stated that the conditions being discussed would make him feel more  
16 comfortable in terms of what would be best for the fire department should a fire break  
17 out in the area.

18

19 Mr. Post stated that he would need to check into what would be involved in terms of  
20 meeting any imposed building conditions.

21

22 Mr. Crowl queried as to what district 11 Bank Street is in to which Mr. Damon replied  
23 District VR-10. He added that the neighboring garage is only ten feet from Mr. Post’s  
24 property line and that is where the fire danger may be.

25

26 Mr. Post stated that he took numerous measurements and exhausted several options  
27 before requesting this variance.

28

29 Mr. Damon asked how far the building at 40 Main Street was from Mr. Post’s property  
30 line to which Mr. Post replied that the property is at a 90 degree angle to the right. Mr.  
31 Damon noted that the building at 13 Bank Street was closer to Mr, Post’s property than  
32 the building at 40 Main Street. A discussion ensued and DRB members and Mr. Post  
33 reviewed the property map.

34

35 Mr. Damon asked if DRB members had a chance to review and consider the conditions  
36 for section 13.8 of the North Bennington Village bylaws regarding Variances. He then  
37 read and reviewed each section of 13.8 regarding variances (page 56 of the North  
38 Bennington Village bylaws). DRB members agreed that Mr. Post’s lot was narrow and  
39 that his request for the variance passed the five elements of the 13.8 bylaws and  
40 agreed that no further discussion was needed.

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Mr. Damon asked if a motion should be entertained.

Upon some hesitancy, Mr. Damon stated that the DRB could:

- 1) Make a motion and vote on the variance request in the open meeting.
- 2) Continue to gather evidence and close the discussion to make the decision in executive session.

***Ms. Lowary made a motion to close the discussion in open meeting and make a decision during the executive session notifying the applicant after that decision is made.***

***(Lowary/Hall/Unanimous)***

**5) 12 Main Street Application Seeks Change in Use**  
**3.3 Change in Use**  
**3.13 Conditional Uses 3.14 Site Plan**  
**5.1 Permitted Uses in VC District**  
**12. Financial Institution. Site Plan Review Required.**

Mr. Damon advised that Mr. Williams was seeking a “change of use” permit in the VC District. He stated that it was probable that Sections 5.1 and 5.2 could apply for consideration of the request.

Mr. Williams stated that he has recently purchased the brick house at 12 Main Street. He added that the house is divided into two sections. He stated that the main section of the house is older and that the back section of the house is a newer addition. He reported that he would like to make the back section of the home into a one bedroom unit and use the front main portion of the building to run a Wealth Management Business.

Both Mr. Hall and Ms. Lowary reported that many of the questions that they had previously regarding the project were answered via email prior to this meeting. Mr. Hall stated that approval would need to be conditional based on approval of the State’s building codes and the State fire marshal.

Ms. Rogers stated that she was pleased to learn that there will be at least one residence maintained on the property given the housing shortages in the area. She further added that industry is needed in the Village as long as the proposal does not create parking issues.

1 Ms. Lowary queried what type of signage would be utilized for the wealth management  
2 business. Mr. Williams replied that his proposed sign would be within code and  
3 probably a little smaller than what is allowed.

4  
5 Mr. Damon asked how many employees there would be and if there was enough  
6 parking. Mr. Williams replied that there would be three employees and that most  
7 employees would most likely park in the Village's municipal parking lot. He further  
8 added that there is a barn in the back of the property for two tenant spaces. He stated  
9 that the majority of his clients reside out of town in the North Shore/Boston area and  
10 that they expect to have only three to four meetings per week with clients who like to  
11 come into the Village.

12  
13 Ms. Lowary stated that in her opinion the petition was a reasonable change of use.

14  
15 Mr. Damon referred to Section 5.1 of the bylaws and stated that the request was a  
16 permitted use. He stated that he was unsure if a site review was needed. Mr. Williams  
17 cited that all of the construction work would be interior.

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19 Mr. Damon suggested that DRB members look through the definitions of conditional use  
20 in the bylaws to ensure that there are no issues to be addressed.

21  
22 Mr. Williams added that they would be replacing some bushes and fixing some lighting  
23 in the front of the main structure.

24  
25 Mr. Damon stated that pursuant to Section 5.2 regarding conditional uses, visual impact  
26 and other criteria should be considered. Mr. Damon stated that it was important for the  
27 DRB to go through each section of the pertinent bylaws to ensure that any approval of  
28 the project is properly justified.

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30 Mr. Hall stated that if the barn needed to be renovated or removed that a permit would  
31 be required.

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33 Mr. Crowl asked if a site plan was required as his interpretation of the bylaws were that  
34 a site plan was required.

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36 Mr. Damon referred to section 3.14 of the NB Village bylaws and stated that the 4-11  
37 sections refer to conditional uses and that the DRB "may" impose appropriate  
38 conditions. Ms. Lowary stated that there was no need for a site plan since all of the  
39 work was going to be interior.

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1 Mr. Crowl stated that he was just reviewing to make sure that the DRB had the  
2 discretion to move forward.

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4 Mr. Hall asked if a motion should be made to close the discussion.

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6 Mr. Creedy stated that he wanted to add that he is in support of the project at 12 Main  
7 Street and that he is an abutter to that property.

8

9 Ms. Rogers stated that she wanted to mention that some members of Sage City had  
10 voiced concerns regarding tonight's DRB meeting. However she stated that they were  
11 notified of this meeting on numerous occasions and did not send a representative.

12

13 ***Mr. Damon made a motion to close the discussion regarding 12 Main Street and***  
14 ***enter into executive session to discuss both matters before the DRB.***

15 ***(Damon/Lowary/Unanimous)***

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17 ***DRB entered executive session at 7:45PM***

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21 **Decision Submitted By DRB Chair, Chris Damon on November 16, 2022**

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23 **Executive Session Findings.**

24 **After a discussion, a motion was made to approve a variance under Bylaw**  
25 **Section 13.8 by the applicant for a building permit submitted by David Post to**  
26 **construct a garage with a reduced setback of 8 feet to the rear property line at 11**  
27 **Bank Street. The vote was 3 to 1.**

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29 **After a discussion, a motion was made to approve an allowable change in use at**  
30 **12 Main Street by the applicant for a building permit submitted by James and**  
31 **Kathy Williams from residential to mixed use with conditions pertaining to**  
32 **obtaining the proper state and fire marshal permits and following the electrical**  
33 **and plumbing codes. The vote was 4 to 0**

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