



TOWN OF MORRISTOWN DEVELOPMENT REVIEW BOARD
WARNED PUBLIC HEARING
COMMUNITY MEETING ROOM OF THE OLD TEGU THEATER
43 Portland Street in Morrisville, VT 05661
6:00 PM Wednesday, May 21, 2025

[Join Zoom Meeting](#) or by phone join via conference call (audio only): 1 (646) 558-8656 | Meeting ID: [810 342 4528](#) | Passcode 05661

The meeting will be live streamed on the Town of Morrystown's website:

<https://www.morrystownvt.gov/community/page/meetings-agendas-minutes>

I. CALL MEETING TO ORDER

II. APPROVE PRIOR MEETING MINUTES

1. Approve minutes 4-30-25

III. PUBLIC COMMENTS

IV. ACTION ITEMS TO BE CONSIDERED

1. Consideration of Rules of Procedure

V. HEARING OF APPEALS AND DEVELOPMENT APPLICATIONS

1. #2025-016 submitted by ~~Jane Barbour~~, Gary Nolan* on behalf of Little Fuel Company, LLC (Parcel 12-117, 12-177, 1 thru 8, along Dinky Ln, ~~Alexander Anderson~~* Ln, off Meadow Dr, 8 house lots and 1 open space lot) requesting the DRB consider a subdivision amendment to remove, modify or amend the terms and conditions of Subdivision Permit #2020-071, specifically Condition #15 (fire service Water supply) per Sections 612, 720.3 and 730.1 of the 2023 Morrystown Zoning and Subdivision Bylaw. The property is in the Low Density Residential (LDR) Zoning District.

*corrections made after hearing was warned

VI. OTHER BUSINESS

VII. ADJOURN



DEVELOPMENT REVIEW BOARD MEETING MINUTES OF APRIL 30, 2025

Members: Gary Nolan, Lenny Wing, Christy Snipp, Paul Trudell, Mary Ann Wilson, Donald Blake, Jr.,
Melissa LeBlanc

Absent: Suzanne Burnham

ADMINISTRATION and STAFF: Brent Raymond, Town Manager/Acting Zoning Administrator; Ron Rodjenski, Consultant; Kevin Petrochko, Acting Assistant Zoning Administrator

PARTICIPANTS/GUESTS: Johann Jaremczak, Victor & Norie Russell, Jerry Throne, Diane Cote, Marc Cote, Tyler Mumley, Evelyn Throne, Matthew Percy, James Quinn*, Matt Percy, Caroline Marhefke, Winford Small, Allene Small

CALL MEETING TO ORDER

Gary Nolan called the DRB Meeting to order at 6 PM at the Tegu Building.

AGENDA CHANGES OR ADDITIONS

None

APPROVE PRIOR MEETING MINUTES

1. Approve minutes 3-31-25

Motion made by Donnie Blake to approve the minutes of 3/31/25. Motion seconded by Paul Trudell.

Motion carried. (7/0)

PUBLIC COMMENTS

Gary Nolan announced that Tyler Machia has been named the new Morristown Zoning and Planning Administrator. Gary acknowledged Brent Raymond's and Kevin Petrochko's efforts for successfully performing the additional work of covering the position during this time.

ACTION ITEMS TO BE CONSIDERED

None

HEARING OF APPEALS AND DEVELOPMENT APPLICATIONS

1. #2025-021 submitted by Victor Russell, on behalf of Victor & Novia Russell (Parcel 12101-01, 274 Golf Course Rd., Morristown) requesting subdivision of 2.76-acre Parcel 12101-1 to be reduced to 1.38 acres and creation of 12107-7 of 1.38 acres, including a Waiver Request per Section 204.4 for reduction of dimensional requirements (minimum lot size) up to 25%. This application to be reviewed under the 2023 Morristown Morrisville Zoning and Subdivision Regulations. The administrative officer may review the minor subdivision concurrently with this application per Section 611.3 following the DRB's decision on the lot size waiver request.

Johann Jeremczuk, Tyler Mumley, Victor Russell, and Novia Russell were sworn in.

Combined application for Waiver of Numerical Values (Section 204.4 - Acreage) and Minor Subdivision Approval #2025-021 submitted by Victor and Novia Russell to subdivide an existing 2.76-acre lot developed with one single-family home into two lots of 1.38 acres each, one with the existing home and the second with a proposed single-family home, at 184 Golf Course Road. Tonight's DRB hearing is for consideration of the waiver to allow minor subdivision review by the administrative officer. Tyler Mumley was present and discussed the plans for the applicant. Johann Jeremczuk expressed concern that allowing small lots with duplexes is not in keeping with the settlement pattern along Golf Course Road and summarized his concern that none of the 204.4 goals were met, with at least two goals required to be met to grant the lot size waiver.

Motion made by Melissa LeBlanc to approve the waiver with any conditions that were on the previous permit. Motion seconded by Paul Trudell. Motion carried (6/0/1). Lenny Wing abstained

2. **#2025-019 submitted by James Quinn, on behalf of Pack and Park Self Storage, LLC (Parcel 07328, 568 Laporte Rd., Morrisville), requesting an automated gate 24-feet wide by 6-feet high slide gate with keypad in/out per Sections 425.1 of the 2023 Morristown Morrisville Zoning and Subdivision Regulations which requires DRB review of all fences not otherwise exempt. The property is in the Commercial and High Density Residential Zoning Districts.**

James Quinn attended the hearing via zoom and was sworn in.

James reviewed the application for an automated gate on behalf of Pack and Park Self Storage, LLC located at 568 Laporte Rd. The project seeks to add a fence and gate to the entrance access drive to a previously approved storage facility. Fences that are not exempt under Section 425.2 require DRB review as conditional uses per 425.1. The proposed fence and gate were not depicted on prior town site plan approvals for this parcel. The portions of the fence that are located on the side property line are exempt from the 425.1 conditional use review. From those exempt posts, the "interior yard" fencing and gates are being requested for approval. The gate would be a 24 ft wide and 6 ft high, sliding gate with an internally lit keypad for in-and-out traffic. The gate will be about 250' from Laporte Road and James Quinn does not anticipate any traffic backing up to get in as this is a very low-usage facility. The fencing will be black iron and chain link.

Motion made by Mary Ann Wilson to approve the installation of the 6-foot, automated gate with the condition that cedar trees be planted as indicated on the plan. Motion seconded by Donny Blake. Motion carried (6/0/1). Lenny Wing abstained.

3. **#2025-020 submitted by Diane K. Cote, on behalf of Diane K. Cote Revocable Trust (Parcel 07009, 1126 Laporte Rd., Morristown), requesting to amend permit 2024-027 regarding the sidewalk requirement and the Morristown Sidewalk Policy approved by the Selectboard lastly in 12/19/2022. The request comes under Section 400 of the 2023 Morristown Morrisville Zoning and Subdivision Regulations requiring zoning permits for changes in use. The property is in the Low Density Residential Zoning District.**

Diane Cote and Marc Cote were sworn in.

The meeting focused on discussing the sidewalk policy and its application to specific properties. Diane Cote presented her property's situation, where a sidewalk was conditionally required due to a multifamily residential development. However, the property is in a low-density residential zone outside the sewer service management area, which is exempt from sidewalk requirements. Brent Raymond, Town Manager, discussed his interpretation of the sidewalk policy. The discussion revealed

inconsistencies in the interpretation of the sidewalk policy and the role of the Selectboard in accepting infrastructure. The conversation ended with a decision to approve the permit to amend, removing the sidewalk requirement condition. The attendees also discussed the responsibility of maintaining sidewalks and the potential for future sidewalk extensions.

Motion made by Mary Ann Wilson to approve the permit to amend the sidewalk and delete condition #5. Motion seconded by Melissa LeBlanc. Motion carried (5/2). Paul Trudell and Christy Snipp nay.

4. **#2025-011 submitted by Matthew Percy, on behalf of Dale E. Percy, Inc. (Parcel 16099-09, 0 Elizabeths Lane, Morristown), requesting to subdivide +/- 32.65-acre parcel 16099-9 into 6 new parcels: 16099-18 (0.50 ac), 16099-19 (0.68 ac), 16099-21 (0.82 ac), and 16099-23 (Open Space), 16099-30 (0.66 ac), 16099-09 becomes +/- 7.02 acres. Merge 16098 (4.34 ac) into new Parcel 16099-23 for 25.11 acres of Open Space. Parcel 16099-15 merges into 16099-14 to become 1.39 acres. This application is Phase 3 of a Planned Unit Development to be reviewed under Section 510 of the 2023 Morristown Morrisville Zoning and Subdivision Regulations. The property is in the Rural Residential Area Zoning District.**

Tyler Mumley, Matt Percy, Kevin Petrochko, Caroline Marhefke, Winford Small and Allene Small were sworn in.

Tyler Mumley outlined the Phase 3 changes to the development with a narrative of parcels added and merged. Discussion ensued regarding the role of the HOA in the solar field and the snowmobile trails. The DRB members discuss the pros and cons of reviewing HOA rules for this and future developments. Caroline Marhefke, a homeowner adjacent to the community leach field, questioned where it would be accessed from and expressed concerns about stormwater drainage. Matt Percy and Tyler Mumley addressed stormwater inspections and actions taken after Ron Rodjenski confirmed to Melissa LeBlanc that this is within the purview of DRB reviews. Winford and Allene Small addressed the DRB with fencing-related concerns. Additional discussion followed regarding open space delineation, trail systems, and conservation developments with questions about prior permit conditions. Meeting adjourned to Deliberative Session.

Motion made by Donnie Blake to convene the hearing. Motion seconded by Paul Trudell. Motion carried (7/0).

OTHER BUSINESS

1. Update on draft DRB Rules of Procedure

The DRB was asked to review the Rules of Procedure document for discussion at the next meeting.

Motion made by Christy Snipp to go into deliberative session to include Brent Raymond, Kevin Petrochko, and Ron Rodjenski. Motion seconded by Lenny Wing. Motion carried. (7/0)

Motion made by Christy Snipp to recess deliberative session. Motion seconded by Paul Trudell. Motion carried. (7/0)

ADJOURN

Motion made by Mary Ann Wilson to adjourn. Motion seconded by Paul Trudell. Motion carried. (7/0)

Meeting adjourned at 9:02 pm
Submitted and filed this 5/5/25.

Bonnie McDermott, Scribe

Please note all minutes are in Draft form and are subject to approval at the next Development Review Board meeting.

TOWN OF MORRISTOWN
DEVELOPMENT REVIEW BOARD
RULES OF PROCEDURE - DRAFT

I. ESTABLISHMENT OF RULES OF PROCEDURE

- A. Authority: The Development Review Board (Board or DRB) of the Town of Morristown shall be governed and have the powers accorded by the provisions of all applicable state statutes, specifically including 24 V.S.A. §36, Municipal Administrative Procedures Act, the Morristown Zoning and Subdivision Regulations and these Rules of Procedure as initially adopted by the Board on August 5, 2003. You may not want to follow MAPA unless the Town continue to apply Bylaw Section 660 – MAPA is strict on evidence, rejecting evidence, transcripts, and many other legal proceedings (like does the DRB follow and have handy a copy of Chapter 36 requirements and V.R.C.P. rules used in court settings). If this stays as written, the DRB hearing process needs advice of town counsel in order for the DRB decisions to have weight on appeal. Not many towns follow this, but it is an elevated form of governance, and I think the pros and cons of having it adopted for all hearings need more discussion with the town attorney before this adopted (once reviewed in detail, is there sufficient town staff to meet MAPA requirements).
- B. Adoption of These Rules: The Development Review Board Rules of Procedure shall be adopted by the Board in accordance with 24 VSA § 4461. Upon adoption of the rules, the Administrative Officer shall file a copy of these rules and all amendments with the Town Clerk as a public record and post a copy in one or more public places including the town website.
- C. Amendments: These rules may be amended at any regular meeting by an affirmative vote of a majority of the Board provided that such amendment has been presented in writing to each member of the Board at least 48 hours preceding the meeting at which the vote is taken.
- D. The Board shall follow Roberts Rules of Procedures (as amended) for small boards when not in conflict with these rules or state statutes.

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II. MEMBERS, OFFICERS AND DUTIES

- A. Members: The Board shall consist of seven (7) members and two (2) alternate members. Members shall inform the staff and/or Chair of any anticipated absences.
- B. Alternate Members: Alternate members will serve when there is a vacancy, absence, or conflict of interest of a regular member. Alternate members shall continue with an application for the duration of its review. The Zoning Administrator will notify the alternate members when their services are required. The first alternate member who responds that they are available will serve as the alternate for the regular member who is not available. Regular members will rejoin the Board after the Alternate member steps down following final action on that application.
- C. Election of Officers: The Board shall elect a Chair and a Vice Chair from among its regular (not alternate) members the first meeting after town meeting day. The terms of the Chair and Vice Chair are for one (1) year and an officer may serve more than one term. Should both the Chair and the Vice Chair be absent from a meeting, an Acting Vice Chair shall be elected by majority vote from those members attending and will serve just for that meeting. Rotating DRB members through the Chair and Vice-

Chair roles is encouraged but not required.

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- D. Duties of the Chair: The Chair shall preside over all meetings and hearings of the Board, maintain order, and decide all questions of order and procedure subject to these rules. The Chair may administer oaths and compel attendance of witnesses and the production of material germane to any issue appealed. The Chair may designate an Alternate member to serve in case of the absence or disqualification of a regular member. The presiding officer shall cause the proceedings to be recorded.
- E. Vice Chair: The Vice Chair shall perform all of the duties of the Chair in the Chair's absence or when the Chair is not presiding.
- F. Acting Vice Chair: In the absence or disqualification of both the Chair and Vice Chair, the Acting Vice Chair shall perform the duties of the Chair.
- G. Secretary: A Secretary, who may or may not be a member of the Board, shall be appointed by a majority of the Board. The Secretary shall perform the following duties:
1. Keep the minutes of all Board actions and proceedings, showing the vote of each member upon every question, or if absent, disqualified, or failing to vote, shall so indicate; and shall include in the minutes the names and addresses of all witnesses, and a summary of the facts on which the decision is based and the decision rendered.
 2. Preserve and keep the records of the Board's examinations and other official actions by causing those to be given into the custody of the Administrative Officer;
 3. Cause to be filed all minutes and records of examination and other official actions with the Town Clerk as a public record. (The Secretary may use the Administrative Officer to transmit those minutes and records of examination and official actions to the Town Clerk.)
- H. Administrative Officer: The ~~Administrative~~Administrative Officer (a.k.a the Zoning Administrator), or their designee, who shall not be a member of the Board, shall provide ~~administrative support~~administrative support to the Development Review Board. In that role, the Administrative Officer shall be responsible for the orderly and efficient administrative processes concerning all aspects of the Board's function and shall have the following duties:
1. Conduct official correspondence subject to these rules and at the direction of the Board;
 2. Issue the proper forms and compile all information, maps, and records for the Board's review;
 3. Send and/or post all notices required by law and by these rules of procedure;
 4. Inform persons who are to come before the Board of these rules of procedure and the bylaws which pertain to that person's appearance before the Board;
 5. Receive all minutes and records of examination and other official actions from the Secretary of the Board and see they are properly filed with the Town Clerk; and
 6. Maintain copies of the minutes and records of examination and other official actions of the Board separate and apart from those filed with the Town Clerk.
 7. Provide an orientation to new Board members.
- I. Vacancies: The Administrative Officer or their designee shall give immediate notice of any vacancy on the Board to the Selectboard. If the office of Chair or Vice Chair becomes vacant, the DRB shall fill that office by election from amongst its

regular members for the unexpired term at their next regular meeting.

III. GENERAL RULES

~~A.~~ Submissions and Completeness Review: All applications, fees, site plans and other items for a complete application are required one month prior to the DRB hearing date. All application materials required by the Bylaw shall be accepted and Plans shall be

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deemed substantially complete by the Administrative Officer before the application will be scheduled and warned for a hearing, unless a "partial submittal" is requested by the applicant per these Rules (see below). A technical review meeting with the appropriate town staff shall be required in advance of the submittal cut off for all projects deemed to have an impact on town services. This shall include, but is not limited to, construction of new private or public roads, new connections to town utilities, or construction of utilities proposed to be accepted by the Town. Submittals shall include the items required by the applicable bylaws, unless waived by the Administrative Officer, upon a determination that such information is probably not necessary to determine if the project will comply with the Zoning and/or Subdivision Regulations including other town policies, rules, ordinances and municipal plan. A partially completed application may be submitted to the DRB for review when requested by the applicant in order to complete additional plan development after an initial DRB hearing. The applicant must, in writing, identify what sections of the appropriate regulations are not being requested to be initially reviewed. After the initial review, the DRB will recess the hearing to a date certain in order for the applicant to complete the additional materials for review. Partial submittals are only permitted for preparation of more detailed engineering plans such as stormwater management or final grading plans and other situations where the Administrative Officer determines that the applicant would benefit from attending a hearing before completing the final plans.

~~B.A.~~ Records: A file of all documents, physical evidence, public proceedings, and decisions showing the vote, absence, or failure to vote of each member upon each question shall be kept by the Administrative Officer as part of the records of the Development Review Board. All records of the Board shall be public records except for legal opinions from the Town Attorney, unless approved for release by the Town Attorney, or are otherwise deemed confidential under the Vermont Public Records Act 1 VSA 317, and draft decisions used in deliberation.

~~C.B.~~ Fees: The Selectboard shall determine such fees as may be necessary for the filing of notices and the processing of hearings, additional technical services fees per Bylaw Section 401.2 and other fees appropriate to the request that should be borne by the applicant action thereon.

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IV. MEETINGS

A. Regular Meetings: Regular meetings of the Development Review Board shall be held on the 2nd and 4th Wednesday in each calendar month as deemed necessary or as modified by the Chair.

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B. Site Visits: The Board may convene at the site at the request of an interested party or if the Board feels a site visit will aid in their understanding of a proposed project. Site visits are intended to familiarize Board members and the public with the site on which a project or activity has been proposed. Members may visit a site individually or as a Board. In either case, the presiding officer shall make a record of any site visit observations for each application and those participating. Other Board members or parties shall be given the opportunity to supplement these observations. If a quorum of the Board is expected to be present, the site walk would be an open meeting and its date and time must be announced and/or posted in accordance with state law. If a member visits the site individually, he or she shall present that information at the appropriate hearing or meeting. Members of the public needing accommodations to participate in a DRB announced site visit (quorum or more) shall notify the town office at least 48 hours in advance so the Town can consider appropriate response to the request.

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C. Special Meetings: Special meetings of the Board may be called by the Chair or by a majority of the members of the Board provided that at least 24 hours written notice of the time, place, and business of such meeting shall be given each member of the

Board. Action items requiring public hearing notice shall conform to the notice requirements in 24 V.S.A. Section 4464 and will not be scheduled as part of a special meeting.

- D. Order of Business: The order of business at all regular meetings of the Board will generally be as follows, however, changes in the order of the agenda may occur:

1. Call to order and recognition of quorum. Review process for online participation.
- ~~1-2.~~ Public Comment – 3 mins per person, unless majority of DRB allows more time.
- ~~2-3.~~ Review and take action on recessed and warned applications. The agenda order of the applications shall be established by the Administrative Officer in conjunction with the Chair.
- ~~3-4.~~ Review, correct, and accept the minutes of the preceding meeting.
- ~~4-5.~~ Other business. New Business and Correspondence
- ~~5-6.~~ Adjournment

- E. Recess of Meeting or Hearing: The Board may recess a meeting or hearing if all the applications or appeals cannot be disposed of on the day set. No further public notice shall be necessary provided that the date, time, and place of the recessed meeting or hearing shall be announced before adjournment.

- F. Request for Recess: An applicant may request, in writing, a recess. Such a request will be reviewed by the Board and may be granted at the Board's discretion. The Board may grant a recess for the following reasons:

1. Change in schedules that do not allow the applicant or his representative(s) to attend the hearing.
- ~~1-2.~~ Provide time for a site visit.
- ~~2-3.~~ Request to make additional changes to the project plans after being heard at a hearing.
- ~~3-4.~~ Request to be heard when more than four Board members will be present.
- ~~4-5.~~ Any other reasons the Board finds reasonable.

- G. Failure to appear (except appeals of the Administrative Officer's Notice of Violations): If an applicant fails to appear for a scheduled hearing, such hearing will be rescheduled for the next available meeting. If the applicant fails to appear for the rescheduled hearing, the application will be considered with the available information and without testimony of the applicant.

- H. Failure to appear (Appeals of the Administrative Officer's Notice of Violations): An appellant's failure to appear for an appeal of a Notice of Violation hearing will result in the appeal being considered with the available information and without testimony of the applicant.

- I. Deliberations: All meetings of the Board and its committees shall be open to the public; however, the Board reserves the right to recess and enter into deliberate sessions during the public hearing. No minutes shall be taken during deliberations, nor shall such deliberations be recorded as part of the record. All decisions made during closed deliberations shall be put in writing and signed as prescribed in Section VIII below. (Town Attorney should advise if the DRB has an option to enter a closed deliberative session and not report out per Section VIII, just publish a signed decision with the votes of each member below the Chair's signature).

- J. Submissions: If an applicant has written submissions for the Board's consideration at a public hearing, there should be 9 copies provided included with the original application. Written submissions made at a hearing will likely result in the Board's recessing the hearing to a future date in order to read and consider the information presented. All other documents submitted with the

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application and prior to the hearing must be delivered to the Administrative Officer for distribution to the DRB members.

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V. CONFLICT OF INTEREST All members of the Development Review Board shall abide by the Town of Morristown Ethics & Fraud Policy for Public Officials (as amended). In addition, all members of the Board shall comply with these provisions of 12 V.S.A. § 61(a) and, including 24 V.S.A. § 1203 when they conduct hearings make findings:

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Local boards shall comply with the provisions of 12 V.S.A. § 61(a) when they conduct contested hearings and make findings under this chapter. For purposes of this section, prohibitions referring to those within the fourth degree of consanguinity or affinity shall refer to the person's spouse, as well as to the person's and the spouse's: parent, child, brother, sister, grandparent, or grandchild.

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✓ No disqualified member shall preside at the hearing or be counted by the Board in establishing the required quorum. If the Chair is disqualified, the Vice Chair shall preside. In the event the Vice-Chair is unable to preside, the Board shall elect an Acting Vice-Chair for the proceedings.

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VI. CONDUCT OF HEARING OR REVIEW OF ALL APPLICATIONS

A. Order of Hearing or review of applications: Hearings and review of applications shall generally be conducted in accordance with the applicable rules as set forth in 3

V.S.A. §810:

§ 810. Rules of Evidence; official notice

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In contested cases:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(3) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(4) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

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–The order of proceedings shall be as follows, unless the DRB, in its discretion, determines otherwise:

1. Roll call.
2. Statement of the case and reading by the Chair or designated staff of the public notice for the hearing and of correspondence and reports concerning the appeal, application, or petition.
3. Presentation of his/her case by the applicant along with the witness in favor of the appeal if applicable.
4. Examination of applicant's witnesses by the Board.
5. Cross examination of applicant's witnesses by interested parties.
6. Presentation of a case by any interested party or parties.
7. Cross examination of opposition witnesses by the applicant.
8. Rebuttals.
9. Recess or adjournment of hearing or discussion of application.
10. Deliberation -Review criteria applicable to application, either open or closed session-
11. Development of Findings of Fact, Conclusions, and Conditions (See VIII).

B. Representation: Any interested party may appear in person or be represented by an agent or attorney.

C. Record of Proceedings: Proceedings at public hearings shall be recorded either electronically (including videotape) or by a court stenographer at the discretion of the Board. A transcript of the proceedings shall be made available at the request of any party upon payment of the reasonable costs thereof. The Administrative Officer shall be responsible for ensuring the recording is taken in good quality and maintained so that a full transcript can be created for up to the statutory time for such requests following the issuance of a DRB decision.

D. Presentation of Evidence: All evidence upon which the applicant or other party wishes to rely shall be presented at the hearing and made part of the hearing record.

1. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form, to expedite the presentation of direct testimony of a witness, provided that the witness is available for direct testimony and cross examination at the hearing on this evidence.

E. Oaths: All oral testimony by witnesses shall be given under oath or affirmation administered by the Chair, or designee, or, in the Chair's absence, the Vice Chair or the Acting Vice Chair, or their designee, if one is serving for this proceeding.

F. Examination: The Development Review Board members may examine witnesses. The Chair, or Vice Chair/Acting Vice Chair if presiding, shall rule on the relevance and may limit the scope of examination to ensure relevancy and expedite the business of the Board.

G. Rules of evidence: Rules of evidence as applied in civil cases in the superior courts of the state shall be followed. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to provide facts not reasonably susceptible to proof

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under those rules, evidence not ordinarily admissible and not precluded by statute may be admitted if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. All evidence reviewed and accepted by the DRB shall be marked with an Exhibit #, Dated Accepted, Who Submitted and the number of pages in the exhibit.

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H. Documentary Evidence: Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties may be given an opportunity to compare the copy with the original.

I. Rehearing: An application for rehearing may be made in the same manner as provided for in the original application. The Board may reject an application for rehearing without a hearing and render a decision thereon, which shall include findings of fact, within 10 days of the date of filing of the application if (a) the Board concludes the issues raised by the applicant in his or her application have been decided in an earlier appeal, and (b) there has been no substantial change in the evidence, facts, or circumstances of the case. The decision shall be rendered, or notice given, as in decisions under Section VIII of these Rules of Procedure.

J. Ex-parte Communications: While an application is pending (meaning from date published to issuance of a final permit), conversations between Board members and any person other than their legal counsel or staff regarding the substance of a particular hearing or application outside of the regular meeting are considered ex-parte contact and are inappropriate.

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1. A presiding officer shall not communicate, directly or indirectly, with any party, party's representative, party's counsel, or any person interested in the outcome of the proceeding, on any issue in the proceeding, while the proceeding is pending, without notice and opportunity for all parties to participate.
2. No other members of the board sitting in a contested hearing shall communicate on any issue in the proceeding, directly or indirectly, with any party, party's representative, party's counsel, or any person interested in the outcome of the proceeding, while the proceeding is pending.
3. A presiding officer who receives an ex parte communication on any issue relating to the proceeding and a member who receives any ex parte communication shall place on the record all written communications received, all written responses to those communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person making the ex parte communication.

4. No member shall have ex-parte communications with the ~~Zoning Administrator~~ Administrative Officer when there is an appeal of a notice of violation.

4.5. Municipal staff engaged with the project review shall inform the Chair about any substantial conversations they have

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VII. VOTING

A. Quorum: For the conduct of a meeting or hearing and the taking of any action a quorum shall be present. A quorum for the Development Review Board shall consist of four (4) members. If a quorum of the Board is present at a meeting, that quorum may transact all matters that may or are required to come before it.

B. Motions: Upon conclusion of the evidentiary portion of the hearing, the DRB may, by motion, direct the Administrative Officer to prepare draft Findings of Fact for the Board's consideration in its written decision. All motions require a second. The making or seconding of a motion does not, in all instances, imply support for the motion. A failure to obtain four affirmative votes shall be

considered a denial. An abstention shall not be treated as either a positive or negative vote.

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- C. Qualification to vote: A board member shall not participate in the decision unless they have heard all of the testimony and reviewed all other evidence submitted for the Board's consideration. Members who have not attended every session of the hearing may participate in the decision if they have listened to the recording of the testimony they have missed (or read the transcripts of this testimony) and reviewed all exhibits and other evidence prior to deliberation.

VIII. DECISIONS MADE BY THE DEVELOPMENT REVIEW BOARD

- A. Majority Vote: The decision on any application or appeal to the Development Review Board shall be made after a motion, a second and the affirmative vote of the majority of the Board.
- B. Written Findings of Fact and Conclusions: The decision shall set forth the findings of fact and conclusions reached by the Board on that matter. This decision shall be reviewed and adopted by the Board and signed by the member of the Board who presided as Chair or Vice Chair at the hearing if it accurately reflects the findings of fact and conclusions, and any applicable conditions as determined by the Board.
1. A final decision of the Board shall be in writing and shall separately state the findings of fact and conclusions law.
 2. The findings shall explicitly and concisely restate the underlying facts that support the decision. They shall be based exclusively on evidence contained in the record of the hearing.
 3. Conclusions of law shall be based on the findings of fact.
 4. The final decision in any case involving local Act 250 review of municipal impacts shall include notice that it constitutes a rebuttable presumption under the provisions of 10 V.S.A. § 151 and notice that presumption may be overcome in proceedings under 10 V.S.A. § 151.
 5. The Administrative Officer shall cause copies of the decision to be delivered to each party.
 6. Transcriptions of the proceedings shall be made upon the request and upon the payment of the reasonable costs of transcription by any party.
- C. Conditions to Approvals: The Board may attach additional reasonable conditions, safeguards, and time limitations necessary and appropriate under the circumstances to implement the purposes of the Vermont Municipal and Regional Planning and Development Act and the municipality's plan and bylaws. An application for the amendment or removal of a condition from a previously granted approval shall require a new warned public hearing and will be subject to review by the Board under the bylaws then in effect and other applicable standards. Amendment requires are subject to an initial Stowe-Highlands Analysis, before the merits hearing, when advised by the town attorney.
- D. Stay of Enforcement: If a notice of appeal includes a request for a stay of enforcement, the board may, after a public hearing, grant or deny the stay.

Commented [DB21]: Where would I find initial Stowe-Highlands Analysis

IX. REFERRALS AND EVALUATION REQUESTS

- A. Referral to State Agencies: Any application subject to state agency review under Section 7 and 11 of the Morristown Zoning Regulations shall not be made final issued by the Board prior to the expiration of thirty days following submission by the Board of a report to the designated state agency describing the proposed use, the location requested, and an evaluation of the effect of

such proposed use on the municipal and regional plans.

- B. State Agency Report to the Board: The State Agency Report if provided to the applicant shall also be submitted to the Board ~~may be introduced and admitted~~ into the hearing record as evidence.
- C. Request for Other Official Evaluation: As relevant and necessary for the conduct of the hearing, the Board may request from an appropriate municipal department or official an evaluation of the impact a proposed development application will have on traffic, the environment, or community services and finances. This information or report may be presented as testimony at the public hearing and shall become part of the public record. The costs of such technical review may be borne by the applicant if so provided in the Selectboard Fee Policy.

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Commented [DB22]: Agreed

TOWN OF MORRISTOWN, VERMONT

CERTIFICATE OF SERVICE

I, Kevin Petrochko, certify that on May 2, 2025, I served a copy of the Morristown Development Review Board's Notice of Hearing, to be held 6:00 PM May 21, 2025 at THE COMMUNITY MEETING ROOM AT 43 Portland Street Morrisville, VT 05661, attached, regarding the below matter, to all parties by U.S. Mail (or via email as noted) to the following:

- DEAD RIVER COMPANY LLC 82 RUNNING HILL ROAD SOUTH PORTLAND, ME 04106
- ENCORE REDEVELOPMENT, LLC 110 MAIN STREET SUITE 2E BURLINGTON, VT 05401
- HENDON CHRISTOPHER B MANDIGO SAMANTHA L 114 MEADOW DRIVE MORRISVILLE, VT 05661
- HESS CHARLES JR & JEFFREY PILBIN DARLENE & CHARETTE 26 AVENUE C BURLINGTON, VT 05480
- LAROW BRUCE & CHRISTINE 112 MEADOW DR MORRISVILLE, VT 05661
- 2322 LAPORTE ROAD LLC 153 STAFFORD AVE MORRISVILLE, VT 05661
- ALLEN RUSSELL PO BOX 3021 STOWE, VT 05672
- BARRY JODY A & RICHARD J PO BOX 213 MORRISVILLE, VT 05661
- LITTLE FUEL COMPANY LLC 1836 ELMORE ROAD MORRISVILLE, VT 05661
- LITTLE FUEL COMPANY LLC PO BOX 549 MORRISVILLE, VT 05661-0547
- MACHIA TYLER E MACHIA CARLA Y 78 MEADOW DRIVE MORRISVILLE, VT 05661
- N A MANOSH INC 120 NORTHGATE PLAZA MORRISVILLE, VT 05661
- SWIERZ KARI A SWIERZ GREGORY 109 MEADOW DRIVE MORRISVILLE, VT 05661
- WILLIAMS STEPHANIE & HANSEN PARKER 60W 66TH ST APT 4F NEW YORK, NY 10023
- MCCARTHY JOSEPH & CARLINE, CHAPDELAINE AIDEN 39 RICHARD EGER DR HOLYOKE, MA 01040
- OSER ROBERT 1300 IRON GATE RD CAMBRIDGE, VT 05444

(CORRECTION: GARY NOLAN - Karp) (CORRECTION: ANDERSON LANE - Karp)
#2025-016 submitted by ~~Jane Barbour~~, on behalf of Little Fuel Company, LLC (Parcel 12-117, 12-117-1 through-08, along Dinky Ln, ~~Alexander Ln~~, off Meadow Dr, 8 house lots and 1 open space lot) requesting the DRB consider a subdivision amendment to remove, modify or amend the terms and conditions of Subdivision permit #2020-071, specifically Condition #15 (fire service water supply) per Sections 612, 720.3 and 730.1 of the 2023 Morristown Zoning and Subdivision Bylaw. The property is in the Low Density Residential (LDR) zoning district.

NOTICE OF RIGHT TO APPEAL

Per Title 24 V.S.A. §4471, Appeal of DRB Decision to Environmental Court: Only an interested person who participates in the DRB hearing may appeal a decision. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. Any interested party may appeal the Board's decision to the Environmental Court, in writing, within 30 days of the date of the decision. Failure to appeal this decision within that period may limit one's right to challenge this decision in the future. This decision is binding pursuant to 24 V.S.A. § 4472 (d) (exclusivity of remedy; finality)

Dated at Morristown, Vermont this 2nd day of May 2025.

By: 

Kevin Petrochko, Interim Assistant Zoning Administrator

Tax Map Number: 07039-01, 07037

2025-016

All questions must be completed in full or application will be Denied (Please print or type information)

Property Owner: Little Fuel Company, LLC

Applicant (if different from owner): G Nolan Consulting, LLC.

Telephone: Work: 802 793-0201 Home: Email: garynolanvt@gmail.com

Mailing Address: 46 Hutchins Street Morrisville, Vt. 05661

Fee: \$ _____ Paid: Y N

Description of Project: one 24x36 and six 11x17 copies of a site plan must be submitted with this application

Proposed use of property: **same**

Discussions with the Fire Chief says he can furnish fire protection from the hydrant at New Beginning Fellowship Church.

Also, he has not received permission from the State to install a dry hydrant at the proposed location.

Lot Frontage: _____ Parking Spaces: Required: _____ Planned: _____

Access Permit:	Y	N	Light Plan:	Y	N
Easements and Rights of Ways Shown:	Y	N	Interdepartmental Sign-Offs:	Y	N
Act 250 permit Required:	Y	N	Traffic Flow Plan:	Y	N
Landscaping Plan:	Y	N	Contour Map:	Y	N

The undersigned hereby request an appearance before the Development Review Board for the land development described above. Any permit issued as a result of this application shall be null and void in the event of misrepresentation or failure to undertake construction within one year from approval.

Signature of Applicant

4/18/2025

Date Submitted

All written decisions issued by the Development Review Board have 30 day appeal period. No construction may commence until the appeal period has expired.

Please note that this is a local permit only, state permits may be needed for your project. Please contact the Permit Specialist at the VT Agency of Natural Resources at (802) 476-0195.

[illegible]

Date Filled with Zoning Administrator: _____ Date of First Review by Development Review Board: _____

Notice of Hearing: _____ Notice to Surrounding Landowners: _____

Date of Hearing(s): _____

Date of Decision: _____ Approved: _____ Denied: _____ on the basis of the findings of facts and

conditions attached to the permit; see minutes of: _____

Zoning and Subdivision Bylaws are available for purchase from the Town Clerk's Office or the Zoning Office and can viewed on the town website at: www.morristownvt.org/zoning

