



DEVELOPMENT REVIEW BOARD MINUTES

WEDNESDAY, APRIL 3, 2024 @ 6:00 PM
RUTLAND CITY HALL, ALDERMAN'S CHAMBERS

ATTENDANCE

DRB MEMBERS PRESENT:

Stephanie Lorentz, Acting Chair
Al Paul
Jim Pell
Steve Wilk

STAFF PRESENT:

Andrew Strniste, Zoning Administrator
Luke Alexander, Asst. Zoning Administrator
Megan LaChance, Attorney*

OTHER CITY OFFICIALS:

Mary Markowski, Treasurer
Ed Bove, Executive Director of Rutland
Redevelopment Authority
Joe Barbagallo, Rutland City Alderman
(80Edgerton St)
Sharon Davis, Alderwoman (99 Baxter St)
Jacob Pluta, Planning Commission (59 Elm St)

82 E WASHINGTON ST HEARING:

Frederick C. Watkins (82 E Washington St,
Landowner)
Timothy Fair, Esq. (94 Zephyr Rd, Williston,
VT)

INDIVIDUAL APPELLANT(S):

Susan Kelley (8 Butterfly Avenue)
Thomas Bixby, Esq. (24 Catherine Dr)
Anne Roy (81A Killington Avenue)
Victor Regimbald (18 Ronaldo Court)
Susan Regimbald (18 Ronaldo Court)

JOINT APPELLANTS:

Richard Smyrski, Sr (1 Butterfly Avenue)
Merideth Drude (2 Butterfly Avenue)
Richard Smyrski, Jr (3 Butterfly Avenue)
Suzanne Smyrski (3 Butterfly Avenue)
Marion Layn (5 Butterfly Avenue)
Daniel Daly (23 Butterfly Avenue)
Alicia Daly (23 Butterfly Avenue)
Harold Brookman (66 East Washington St)
Jayme Cables (81 Killington Avenue)
Michelle Cables (81 Killington Avenue)
Joseph Roy (81A Killington Avenue)

OTHERS IN ATTENDANCE:

Jamie Watkins (82 E Washington St)
David Allaire (57 Church St)
Ron H. Cassell (Address not given)
Billy G. (Address not given)
Andrea Flood (4 Butterfly Ave)
Sarah Allen (79 E Washington St)
Patrick M Riordan (64 E Washington St)
Mason F. (Castleton)
Nanny Manning (1 Ronaldo Ct)

MEMBERS OF MEDIA PRESENT:

Gordan Dritschilo (Rutland Herald)
Connor Ullathorne (48 Killington Ave)

* Denotes that the attendee joined via phone

- Members of the Rutland City Development Review Board and the public convened in the Aldermen's Chambers at Rutland City Hall, 52 Washington Street, around 5:50 PM.
- No general public was in attendance to provide public comment before the evening's hearings.

PUBLIC HEARING – APPEAL (HOME OCCUPATION) (82 EAST WASHINGTON ST)

6:05 PM

APPELLANT:

LANDOWNER: FREDERICK C. WATKINS

ZONING DISTRICT: SINGLE FAMILY RESIDENTIAL DISTRICT (SFR)

[6:07] Acting Chair S. Lorentz called the hearing to order and provided an overview of the hearing procedures. The subject of the evening's hearing related to the appeal of the issuance a Home Occupation Permit for the purposes of conducting a cannabis grow operation.

[6:08] Acting Chair S. Lorentz then swore in all those who were in attendance wishing to provide testimony during the evening's public hearing. Landowner, Frederick C. Watkins, and legal representative, Timothy Fair Esq., were before the Board to provide an overview of the proposed home occupation.

[6:09] Landowner Frederick Watkins informed the Board of the specifics of the project. F. Watkins advised that his operation was classified as a *Tier 1 Indoor Cultivation* endeavor, which would be conducted in a controlled environment with no windows and no air ventilation. He informed the board that there will be three doors before entering the flower room and the air system would be HVAC.

Acting Board Chair S. Lorentz asked the landowner to explain how the HVAC air system will function.

Landowner F. Watkins informed the Board that the HVAC system involves heating, air-conditioning, and humidification. Landowner Watkins then explained that the HVAC system brings air in and takes air out, and that the air taken out is then expelled outside. F. Watkins advised the Board that the HVAC system has no smell and will be equipped with carbon filters.

Acting Board Chair S. Lorentz asked F. Watkins to clarify the amount of cultivation involved with the home business, as well as specifics about his cultivation process.

Landowner F. Watkins informed the Board that there will be 1,000 sq. ft. of cultivation, and then explained that the plants will be harvested every sixty (60) days, then replaced with new plants after cleaning. F. Watkins advised that he would dry the plants on the second-floor of the structure.

Acting Board Chair S. Lorentz asked the landowner to clarify the sale procedure relating to the proposed home occupation.

Landowner F. Watkins informed the Board that he will deliver his product to dispensaries.

Acting Board Chair S. Lorentz asked the landowner if his business has a separate water and sewer connection, as well as additional clarifying questions regarding the proposed home business.

Landowner F. Watkins informed the Board that his business has a separate water and sewer connection and that the business itself is called Big Man Cannabis LLC. F. Watkins then stated that he would be the only person involved in the business.

Board Member A. Paul asked landowner F. Watkins his hours of operation and if he will be running the business alone.

Landowner F. Watkins confirmed that he will be operating alone, and then explained that his hours of operation at the beginning of the grow process would be 8-10 hours a day, but when the growing begins, the grow lights will be on a cycle of 12 hours on/12 hours off.

Board Member A. Paul asked for clarification regarding the three doors leading into the flower room, previously mentioned by the landowner.

Landowner F. Watkins explained that there will be three doors between rooms, starting with a breezeway, then a control room, ending with the flower room. He informed the Board that this is to maintain a controlled environment.

Board Member A. Paul inquired about lighting associated with the home business.

Landowner F. Watkins advised that he would have motion censored lighting, as well as cameras for security purposes.

Board Member S. Wilk informed all hearing participants and the public that he is the landlord for 7 West Street, which has a cannabis affiliated business within it. He asked if anyone objected to his participation in the hearing. No objection from any Board Members, the landowner, the appellants, or the public were displayed.

Board Member S. Wilk asked the landowner about the frequency of traffic that will be associated with the home business and sought to clarify if F. Watkins planned to have employees.

Landowner F. Watkins advised that he currently goes to and from his house about six times a day; he will not have any employees at this time, but proposed having one additional employee at most.

Acting Chair S. Lorentz asked for clarification regarding outside investors relating to the home business.

Landowner F. Watkins informed the Board that there are no outside investors involved with the home occupation.

Acting Chair S. Lorentz asked for information regarding the licensing of the cannabis cultivation.

Council of the landowner, Timothy Fair, advised that the cannabis cultivation license is on hold until a decision is made regarding the home business, thus allowing the local cannabis commission to approve the local license.

[6:17] Acting Chair S. Lorentz asked for clarification on how the delivery of seeds will impact traffic to and from the property.

Landowner F. Watkins explained the plant cloning process, thereby not requiring the delivery of any seeds.

Board Member S. Wilk asked for information relating to the 25% square footage requirement for home occupations under the City's *Land Use Development Regulations*.

T. Fair, esq. explained how the square footage of the home business adheres to the City's regulations.

Zoning Administrator Strniste entered into record and distributed to the Board the property card for 82 East Washington Street.

Acting Chair S. Lorentz asked if additional structures will be used for the cannabis grow.

Landowner F. Watkins advised that they will not.

Board member S. Wilk inquired about the air filtration system.

Landowner F. Watkins provided more insight about the carbon filtration system, and advised that there will be no odor.

T. Fair, esq. explained that carbon filters are regulated and that a Tier 1 cultivation license is the smallest licensed cannabis grow offered by the cannabis control board.

Acting Chair S. Lorentz requested additional information regarding the air filtration.

T. Fair, esq. advised that additional information will be submitted into the record after the hearing.

Board Member A. Paul inquired about waste production and disposal.

Landowner F. Watkins advised that all waste is biodegradable.

[6:24] Acting Chair S. Lorentz opened the meeting up for public comment.

Thomas Bixby, legal counsel of appellant Susan Kelley, opened by questioning Staff's motivations regarding the zoning process with the proposed home occupation, and specifically mentioned a recently filed lawsuit involving Mayor Mike Doenges and a cannabis endeavor.

Landowner F. Watkins explained that the lawsuit involved a previous cannabis business that has since folded. The Landowner questioned how the testimony pertained to the home business permit appeal at hand.

Acting Chair S. Lorentz, Landowner F. Watkins, and Attorney T. Bixby discussed details relating to the lawsuit and if it pertained to the specific home business subject to the appeal.

Attorney T. Bixby argued that the Zoning Staff had outside influence from the Mayor regarding approval of this permit.

Acting Chair S. Lorentz stated that the presented argument appeared to be conjecture and that a Development Review Board hearing was the wrong platform to make the argument.

Attorney T. Bixby argued that the property under discussion is two lots, making the structure itself not accessory to a primary building and the home occupation not an accessory use to a primary use.

T. Fair, esq. advised that 82 East Washington Street was purchased as one lot.

Attorney T. Bixby stated that the square footage limitation for home businesses has been exceeded with the addition of a deck onto the accessory structure, and requested a reassessment of the accessory structure's square footage. Attorney T. Bixby continued by stating that Landowner F. Watkins had not been entirely truthful on the Zoning Permit application, and then questioned the interpretation of character of the neighborhood and stated that the home occupation should be considered warehousing. Attorney T. Bixby proceeded to describe the timeline of events regarding the home occupation permit, as well as opined that the odors resulting from the grow endeavor will reverberate throughout the neighborhood. T. Fair, esq. argued that Attorney T. Bixby's testimony was based on speculation. T. Bixby continued his argument citing the criteria of an Environmental Board Decision involving the Quechee Lakes corporation.

Acting Chair S. Lorentz informed Attorney T. Bixby that the cited case pertained to aesthetics.

- [6:45] T. Bixby then argued that the cannabis cultivation business will affect the decision of families possibly looking to move into the neighborhood.

Acting Chair S. Lorentz asked T. Bixby to submit copies of the cases quoted in his testimony.

T. Fair, esq. objected to the characterization of the home occupation as warehousing and distribution and stated that warehousing and distribution is a different cultivation license; the proposed business endeavor was being reviewed as Tier 1 cultivation business. T. Fair, esq. then recited a state statute regarding cannabis establishments and municipal ordinances.

Acting Chair S. Lorentz requested a Vermont Cannabis Control Board definition of a Tier 1 Cannabis Cultivation License to be submitted, as well as inquired as to whether State statute defines a cannabis establishment.

Jamie Watkins (82 E Washington Street) opined about the aesthetics of the accessory structure and advised that it would look like a barn. J. Watkins then spoke about the possible tax revenue as a result of the home occupation.

Acting Chair S. Lorentz advised that the Board does not have the jurisdiction to consider the economic impact related to the home business.

- [6:50] Richard Smyrski Jr. (3 Butterfly Ave), representative of the joint appellants, called to attention the discrepancy of the original intention of the accessory structure. R. Smyrski Jr. then proceeded to provide updated calculations when including the second floor of the accessory structure, arguing that the square footage would now exceed the 25% allowance for a home occupation under the City's *Land Use Development Regulations*. R. Smyrski Jr. continued by alleging potential code violations regarding the construction of the accessory structure, stating that the structure does not conform to the State's energy standards.

Board Member S. Wilk asked for clarification regarding the State's approval for this cannabis cultivation.

Landowner F. Watkins clarified that there are three levels of approval required in order to obtain a license, as well as responded that he is unaware of any nonconformity to State regulations – mentioning that he is required to submit his building plans to the State.

Harold Brookman (66 E Washington Street) stated that he is concerned with odor and that more information should be gathered regarding how it will be controlled.

Mason F. (resident of Castleton) expanded upon the issue of odor, stating that an HVAC system recycles air within the structure.

Meredith Drude (2 Butterfly Ave) explained her concern with the Zoning Permitting process, stating she felt deceived. M. Drude continued to question the digging in a public road regarding the sewer and water connection to the accessory structure, and asked what holds the property owner to conforming to regulations regarding the home business.

Acting Chair S. Lorentz explained that the Board could impose conditions of approval and how they apply.

- [7:02] Zoning Administrator Strniste addressed some of the concerns raised in the hearing, explaining how perspective on a project and what regulations apply can change as the Department has more time to review the permit application. Additionally, he informed the

Board on how legal counsel's advised on how to treat cannabis as it relates to zoning when first enacted by the State and approved by the City's residents in 2022. Staff Member Strniste then responded to T. Bixby's influence claims, informing the Board that the Mayor had no influence in his decision regarding Landowner F. Watkin's home business permit application.

[7:05] Attorney T. Bixby asked if the Mayor had informed A. Strniste of involvement in the home business at 82 E Washington Street.

Zoning Administrator Strniste explained that the Mayor had informed him of business discussions with landowner F. Watkins prior to becoming mayor, however none involving 82 E Washington Street.

Former Mayor, David Allaire, stated for the record that he is in support of the appellants regarding this home business application.

[7:08] Acting Chair S. Lorentz suggested that a site visit to the property should be scheduled and explained how a site visit could help the analysis of the subject appeal.

J. Watkins voiced her concern for privacy regarding her property.

Acting Chair S. Lorentz explained that the Board has no jurisdiction regarding privacy concerns with other residents, and then proceeded to ask if J. Watkins had any direct involvement with the business.

J. Watkins advised that she did not.

[7:15] Joeseeph Roy (81A Killington Ave) opined about the safety and integrity of the neighborhood.

R. Smyrksi Jr. stated that if landowner F. Watkins's home business didn't involve marijuana, there would be no issue with the permit.

Acting Chair S. Lorentz responded that the Board has State Statutes that they are required to follow for public meetings. After further discussion, the site visit was scheduled for Monday, April 8, at 8:00 am, and was constrained to the Board, Landowner F. Watkins, Attorney Bixby and R. Smyrski Jr.

The Board agreed to continue hearing to the following time and date certain: May 1, 2024, at 6:00 PM in the Aldermen's Chambers.

[7:19] No additional comments or questions were provided or asked by members of the public, the Board, or the Appellants. Acting Chair S. Lorentz closed the hearing for the evening.

OTHER BUSINESS

7:20 PM

[7:20] The Board adjourned the evening's meeting.

Respectfully Submitted by Luke Alexander, Assistant Zoning Administrator