

CITY OF RUTLAND, VERMONT
Development Review Board Minutes
Wednesday, November 1, 2017

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, and Steve Wilk and Michael McClallen.

Members present: Lorentz, Paul, Pell, and Wilk. Also present, Zoning Administrator Tara Kelly. Michael McClallen was not present. He had notified the DRB that he needs to recuse himself from this hearing and decision.

At 6:04 PM Chair Lorentz called the hearing to order. The hearing was to consider an Appeal of a Zoning Permit issued for a Private Club with an Apartment at 86 Strongs Avenue. Ms. Lorentz explained the hearing process and then swore in all parties interested in providing testimony. Those sworn in are:

- Representatives for the applicants: Charles Nassau and Santiago Sanchez of Houlagans MC Corp. as well as Christopher Blanchard of Facey, Goss and McPhee.
- Appellant Jim Theodore of JTT Properties – owner of 78 Strongs Ave
- Appellant Elisabeth Kulas of the Housing Trust of Rutland County – owner of 22 Royce St
- Other members of the public in attendance:
 - Jill Loeber of Spring Lake Ranch occupants of 22 Royce St
 - Deb Dalton of JTT Properties
 - Arthur Johnson of 29 Hopkins St
 - Dale Dingle of 31 Hopkins St
 - Rebecca Woodard of 95 Curtis Brook Rd
 - Deb Carrara of 73 Killington Ave
 - Stan Patrick of Bomoseen VT

Chair Lorentz invited the applicants to present their proposed use of the property.

Mr. Blanchard introduced himself as the attorney representing Houlagans MC Corporation. He explained the applicants have a purchase and sale contract for the property which is currently vacant. He added that the property is currently financially under water and is at risk of being foreclosed upon if his clients' sale doesn't go through. Mr. Blanchard described his clients as a private club and nonprofit corporation which does a substantial amount of charity work in the community. Mr. Blanchard noted that the property is within the Gateway Business – South Main Street district and a Private Club is a permitted use in that district. He stated that the prior use of the property was a bar and noted that a bar is a conditional use in that district. He stated the applicants don't plan to change the footprint of the property or any structures. He stated that his clients intend to use the main floor as a meeting place and their office for the organization with the apartments upstairs will be used for residential apartments. There is no intent to open it to the public. Mr. Blanchard compared the private club as being similar to the Masons and the Shriners.

Mr. Blanchard spoke to the concerns raised in the appeals regarding noise and parking. He stated the site has substantial parking and the prior operation was a bar with live music. The new use would be different than that. Their charity work and events are primarily done off-site in other locations and often through charity motorcycle rides.

Mr. Nassau introduced himself and explained the club had started in Proctor a number of years ago before they moved. He detailed some of the fundraising efforts conducted by the club. Benefactors of the funds raised include raising funds for premature babies born to single moms and the Child First Advocacy Center.

DRB Member Paul asked how many members the Club has. Mr. Nassau said they have roughly 20 members in the Club.

Charity events might start or end from the location at 86 Strongs. Riders come together to raise funds. A recent ride had 60 riders. They put out flyers that encourage sign-ups for a meal and ride for a fee. All funds beyond expenses are then donated. Chair Lorentz asked if people would gather at the location for the meal. Mr. Nassau said yes, if space allowed. The fact that this property has a nice big kitchen and space to serve people was one of the draws. Chair Lorentz asked how many people could be in the building. The applicants was unsure. ZA Kelly offered that she had heard 90 people was the occupancy set by Division of Fire Safety. Mr. Blanchard confirmed that number. Mr. Nassau stated they don't imagine coming close to that number, though it would be nice.

Mr. Nassau continued describing other organizations their Club has donated funds such as the Homeless Prevention Center. Chair Lorentz asked how many fundraisers the Club does per year. Mr. Nassau stated they try to do 4 and then participate in other events organized by other clubs. They also organized a motorcycle swap meet at Spartan Arena annually.

Chair Lorentz asked how often the Club meets. Mr. Nassau said once per week but people meet much more frequently on-site, similar to the Elks or the Legion. The site will be open continually for members. Alcohol will not be served, but alcohol can be brought onto the property for individual consumption. If a special event was held, a permit would be sought to serve alcohol. Chair Lorentz asked about hours of operation for the meeting house. Mr. Blanchard responded that meetings would be scheduled in advance, but beyond that members would be given an access code so they could enter at any time. Chair Lorentz asked if members would be allowed to bring others with them. Mr. Sanchez introduced himself and responded to the question by saying it would be similar to the Moose or the VFW in that guests would be allowed access in order to hang out, play darts, etc.

Member Paul asked if the Houlagans were similar to groups like the Rotary or Kiwanis where they are part of a larger network where fundraising is shared and people come from other clubs to share in activities etc. Mr. Sanchez confirmed they are not part of a larger network stating it was a bunch of guys who are from Rutland who live and work in the area.

Chair Lorentz asked if a copy of the 501(c)3 letter was submitted with the application. Mr. Blanchard said he had submitted a copy of the Articles of Incorporation filed with the Secretary of the State with the application. Chair Lorentz asked if a copy of the 501(c)3 letter was available. Mr. Blanchard said he does not have a copy of that letter. Chair Lorentz asked if

501(c)3 application had been submitted. Mr. Blanchard said it had been submitted by the Club's accountant.

Chair Lorentz noted that the application is for one apartment (in addition to the private club space) and asked for confirmation that this was accurate. Mr. Blanchard said there are actually two apartments on the 2nd floor. They intend to use one for rental income. The other they will either rent or use for members to spend the night.

Member Wilk asked how long the organization has been together. Mr. Sanchez said it has been 4 ½ to 5 years. Member Wilk asked if the group is just now pursuing 501(c)3 status. Mr. Nassau and Mr. Sanchez stated it has been a 501(c)3 organization since the beginning. Mr. Blanchard added that previous to working with him the paperwork filed with the VT Secretary of State was incorrect and needed correction which he has done on behalf of the group. Member Wilk asked if the group has a base of operations now. Mr. Nassau said they operate out of Clarendon. He said they started in Proctor and there were never any issues there.

Chair Lorentz asked the DRB members if they had any additional questions. Hearing none, she transitioned to the member of the public. She proceeded around the room starting with the folks to her right.

Elisabeth Kulas, Executive Director of the Housing Trust of Rutland County, identified herself and stated her organization owns property at 22 Royce Street which they lease to Spring Lake Ranch. Ms. Kulas asked how many parking spaces are on the property. Mr. Blanchard pointed out that it is currently a dirt drive and spaces are not marked out. Chair Lorentz asked how large the parking area is. The answer was not available. Ms. Kulas suggested it may be important to understand the capacity of the lot to understand if it can hold the number of motorcycles expected to be on-site. Ms. Kulas noted that the current clubhouse in Clarendon has posed some problems with a traffic lane being blocked by the number of motorcycles attempting to gather on-site. She also expressed concern about noise given the sensitivity of the people housed on her property. She mentioned there is an outdoor fireplace and other amenities which encourage outdoor gathering as well as increase the available space which could translate into an increase in the number of people allowed on-site. She expressed a concern about outdoor activities outside of normal business hours. Mr. Nassau stated the group does not have any plans to use the outdoor space. He stated the parking lot will hold 50-60 motorcycles with no problem – though it would be rare there would be that many except for when bikes are gathering for a ride.

Chair Lorentz asked if there were any restrictions on hours for when the club would be open. Mr. Blanchard indicated meeting and event times would end by 10pm or so and that most events are day events. But, there is no restriction on hours that members can be on-site. Mr. Sanchez added that some members work in construction or other jobs that may mean they'd like to stay there for the night in order to get to work in the morning so they don't need to drive an hour and a half to get home. Mr. Nassau added that members are working people with families and therefore won't be partying late into the night. Chair Lorentz expressed surprise that members would be allowed to spend the night. Mr. Nassau reinforced that this was the purpose for having a second apartment reserved for use by the members. Chair Lorentz indicated that is unusual for a private club to be open continuously and cited examples such as

the Legion and others which do not operate in this manner. Mr. Blanchard asserted that as a Mason he has the ability to enter the building at any hour.

Mr. Blanchard said he is unaware of any formal complaints made against the group related to their operations in Clarendon. Ms. Kulas, who lives in Clarendon, stated she was told the Town is pursuing legal assistance to address issues related to the group's operations. Mr. Blanchard pointed out that this was for a zoning issue. Ms. Kulas suggested it is pertinent and reinforced that it is important for the DRB to understand the issues and address those in the permit, should they agree to issue it. She then pointed out that the subject property is on Strongs Avenue which is a heavily traveled vehicle gateway with noticeable foot traffic along the sidewalk in front of the building. Mr. Sanchez said that when they are doing a ride, they provide notices to local law enforcement to request assistance with traffic control. Chair Lorentz asked if the group would agree to a condition in the permit that when events are being held with more than 25 motorcycles that a police officer be on-site to direct traffic. Mr. Blanchard stated there would be no issue with planned events. But, he felt that the restriction of 20-25 bikes gathered for a meeting would be too restrictive since the number is so close to their membership number. Chair Lorentz asked for clarification about whether or not the group sometimes gathers simply to take a ride together. Mr. Nassau said they do – though it is rare that the entire membership shows up for these rides. Mr. Sanchez provided reassurance that anytime a pack of them are riding together they look out for their own safety. Mr. Nassau shared the experience in Clarendon is that their clubhouse is on a bad corner on Cold Rive Road so they need to post people to control traffic while their members are gathered and/or starting a ride. They have never had a traffic-related incident. Ms. Kulas suggested the group could work with a nearby neighbor, such as the lot in front of the Howe Center, which is underutilized on the weekends as an alternative place to park since the driveway for this property is not very visible and crosses a busy sidewalk so could be an issue.

Ms. Kulas noted that testimony had been provided that the group has been in existence for 4-5 years. She noted that she was able to find documentation from public records that the group incorporated in early 2016. And, she noted the testimony from earlier indicated they are in the process of pursuing Federal nonprofit status. She then pointed out that the other clubs being used as a basis of comparison – are long-standing groups with affiliations beyond the area – that are part of the fabric of our society. She noted that if there were operational issues or any negative impacts on the neighborhood by one of the clubs, it would be addressed not only locally but also by the networks which are formalized and have rules, bylaws and other governance structures in place that help to ensure that the good name of the organization is protected. She asked if the Houlagans MC Corp is an independent entity not connected with any other entity at all. Mr. Nassau confirmed that the group is independent. He also indicated the members of his group have a high level of conduct required which is why they donate so much of their time. Ms. Kulas followed-up by asking how the group would deal with issues of a member's behavior causing an issue with neighbors. Mr. Nassau responded by saying they have never had an issue like that and doesn't expect they will have any going forward. Ms. Kulas recognized that the current members may have those personal ethics in place, but since this is a land use decision that will last beyond the current members and representatives at the hearing, she is hoping there will be some governance structure or formal regulations put into place to ensure there is no problem in the future for the surrounding neighbors. Chair Lorentz asked if there were any rules and regulations in place. Mr. Blanchard said there are officers in charge of making decisions for the organization and Conduct Policies or any other policies are

currently being drafted. He said prior documents were not done correctly and he is in the process of working with the organization's officers to create documents such as personal conduct policies and insurance – though they are not yet formalized. Chair Lorentz asked if the board of directors would be responsible for responding to any future complaints, such as noise. There was no audible response to this question.

Ms. Kulas asked if the group would be pursuing a liquor license at any point in the future. Mr. Nassau said they would not be.

Ms. Kulas asked if the property in Clarendon has a building on it. Mr. Nassau said yes. Asked if they are selling it, he said no. Ms. Kulas asked how the purchase of 86 Strongs Ave is being funded if there are only 20 members and most of the proceeds go to charitable donations. Mr. Blanchard said the group has been approved for financing partially based upon rental income that would be collected from the Clarendon property and the apartment at the new location.

Ms. Kulas asked if private clubs are regulated in any way or if anything can be done in the building as long as the use does not exceed the occupancy approved - regardless of whether the people inside are members or not.

Ms. Kulas said she has a concern about the outside activities during late night hours. She hopes the City has a strong enough noise ordinance for outdoor activities to help mitigate any impacts. She suggested that if the rules of conduct for the club address both indoor and outdoor activities that would put her mind at ease.

Ms. Loeber introduced herself as the Assistant Director of Rutland Programs for Spring Lake Ranch. They operate a residential home at 22 Royce Street as a licensed, therapeutic community assisting people with mental health and substance abuse issues. They have been at that location for more than 15 years. Concerns about activities in their backyard that would trigger their clients.

Ms. Loeber asked if the members are all local, as was stated earlier, why would they need to spend the night at the club. Mr. Sanchez indicated that as the club is growing members from further away are joining. The space would not be staffed or monitored. Mr. Blanchard said how the building access will be controlled is part of what is being discussed with the regulations and policies being drafted. However, there will not be any monitoring – similar to other membership organizations. Chair Lorentz indicated often other clubs limit hours that the space is open. Given the close proximity to sensitive residential uses, she asked if the Houlagans would consider restricting hours of access. Mr. Blanchard said it has been discussed but not agreed upon. He then stated the prior use of the property as a bar allowed it to stay open until 2:30 AM.

Chair Lorentz asked ZA Kelly when the bar closed. ZA Kelly said her research only showed the use of the property listed as a café, not a bar. There is no record of a zoning permit being issue for a bar at that location. She is not sure when the use discontinued, though there is indication that the water service was discontinued a year ago. Mr. Nassua indicated he has been to the property when it was in operation numerous times and they had live music every week. The use was far more intense than they are planning. Ms. Loeber clarified that the live music was indoors and what they are concerned about is the outdoor noise, including from the

motorcycles. She indicated that having numerous motorcycles starting up at the same time can be a very jarring noise that would be disturbing to her clients who are in recovery. Mr. Sanchez felt this wasn't different than any bar.

Member Pell asked if any of the members of the group are minors. Mr. Nassau said they do not have any members under 21 – though kids of members are allowed to enter the club. But they would not have the access code. He also asserted that all of the bikes are all legal in terms of noise level and they would be respectful. Mr. Blanchard pointed out that given this is VT, motorcycles are only practical for part of the year.

Mr. Theodore introduced himself. He explained he and Ms. Dalton have ridden with the club and enjoy doing so. But, given the problem in Clarendon and the complaints about noise, he is surprised they want to locate in this building given its close proximity to residential. He is concerned for the tenants in his 8 apartments next door which is located 15 feet away from the subject property. He said that when 3 DDD's was open, he would get frequent noise complaints from his tenants. He acknowledged the bikes are legal, but he also knows personally that they are quite loud and would cause a commotion as they leave the parking lot. So, he has a concern about the hours when noise would be made. He also has a concern about parking availability on this block. He hopes that the parking lot would be sufficient to hold the numbers of people expected to use the space. He also noted that the changes to Strongs Avenue have made it so that all pedestrians must use the sidewalk in front of this building. He is concerned about traffic, noise and parking. He would not support a bar at that location in the future. It was not a compatible use of the property given the amount of residences around it. He noted that Strongs Ave is a busy street and holding up the traffic to allow the bikes to go out on a ride could be a problem.

Chair Lorentz noted that the DRB's decision cannot restrict use of on-street parking and the noise issue of bikes is not something they can directly control, they just need to consider it with respect to the use of the property. Ms. Dalton reinforced they are hoping there will be permit conditions that can be enforced so the disturbance to the neighbors can be managed. Mr. Sanchez reassured them that the members are respectful and it would be rare that more than 1-2 bikes would be taking off at the same time. Mr. Blanchard noted the group would be subject to the same rules and regulations regarding nuisance issues as anyone else in the city.

Mr. Dingler introduced himself. He noted that the group currently has 20 members, but wondered if there is any limit to the number they might grow to in the coming months and years. (no response) He would like to see hours of operation versus full access 24/7. He noted that the Private Club category seems to pose a problem for law enforcement as it would restrict their access compared to a public use such as the bar. Mr. Blanchard noted they could not enter a house without a search warrant. The same would apply here. He feels a liquor license should be required. Mr. Blanchard stated that because members would bring in their own alcohol, no permit is needed. Mr. Dingler stated he feels the fact the group is stating they are a private club and by doing so are creating a scenario where oversight and enforcement of rules on behavior and conduct are limited. Mr. Blanchard stated there will be no ability to stay on the first floor. They could only stay in the two bedroom apartment on the second floor according to the occupancy established. Mr. Dingler felt the rules were far too vague and not providing any reassurance for the neighbors. Mr. Blanchard said the rules for this property have not yet been developed because the purchase has not yet gone through.

Mr. Dingler asked about the rules from the City perspective. He wanted to understand the regulations that would be in place. Some discussion ensued about the occupancy and other aspects being under the State Division of Fire Safety. ZA Kelly explained that under City Zoning "club" is a use under which this permit was approved. However, the DRB is currently reviewing that decision here tonight as part of the appeal hearing.

Mr. Dingler asked again how the police would be allowed to access the building. Chair Lorentz stated it would be similar to a private home. The Police would request access. But, would need a search warrant to enter without permission. This resulted in some debate between Mr. Nassau, Mr. Sanchez, and Mr. Patrick who were offended by Mr. Dingler's questions.

Mr. Johnson introduced himself. He said the last owners managed the property well, but that was not true of previous owners. He has experienced a lot of problems. He said neighbors were intimidated by the operators and afraid to report problems. He said there were issues with demolition waste being dumped there and more. He stated he is no longer afraid and will report any and all issues. Chair Lorentz asked if there is a fence around the subject property. Mr. Johnson has a chain link fence on his own property line. There are some guard rails that were put in when the parking lot was extended. Mr. Blanchard said there had been a fence that was taken down. He stated his clients would be willing to put up a fence.

Ms. Woodard and Ms. Carrara declined to offer any testimony.

ZA Kelly informed the DRB that there is no record of a zoning permit being issued to change the garage on the property into an outdoor bar. Similarly, there is no building permit for the change to the structure which opened up the front to create an outdoor serving space. The 2008 DRB Site Plan decision and the 2010 Building Permit only identify the rear building as a garage and show photos of that garage having solid walls. So, this aspect of the property may be subject to Zoning and Building Violation should the new owners try to put it back into use.

Chair Lorentz asked if they had plans for the rear building. Mr. Nassau said they have no plans for its use and as far as they know it is a garage. ZA Kelly pointed out the photos of the "garage" show it is open air and used as an outdoor space.

Mr. Paul asked if they would be willing to limit the number of events they do at the location in a year. Mr. Nassau said they'd need to discuss that with their board.

Chair Lorentz asked if the members would meet at their club prior to going to another group's event. Mr. Nassau said yes, they very well may use it as a gathering point.

Ms. Loeber asked about financing of the property with only 20 members. Mr. Blanchard said they plan to have rental income from the apartment onsite and from their Clarendon location. Mr. Nassau said they also have member dues. Ms. Loeber asked how much the dues were. Mr. Nassau said that information is for their information only. They have enough support to purchase and maintain the property.

Member Wilk asked if the group would define the typical hours and days of operation. Mr. Sanchez said it would fluctuate. Some play cards on Tuesday nights and pool on Thursday nights – maybe up to 11:30PM but not likely to be later since they have to work in the morning.

Member Paul reiterated motorcycles are only typically used in the non-winter months.

Chair Lorentz explained the decision and appeal process to all present. Hearing no questions or additional comments, the hearing was adjourned at 7:21 PM.

Respectfully submitted,

Barbara Spaulding
for the Development Review Board Clerk

Note: Minutes were produced based upon a recording of the meeting and identification of participant's voices by ZA Kelly.