

TOWN OF LYNDON
DEVELOPMENT REVIEW BOARD
September 2, 2021
Minutes

Members

Brandon Carpenter
Kevin McKeon
Curtis Carpenter
Kevin Cole
Jeremiah Aiken
David Keenan
Craig Weston

Public Officials

Nicole Gratton
Chief Jack Harris

Press

Paul Hayes (Cal-Rec)
Quintin Peer (NVU)

Public

Carol Boucher
Tammy Dupuis
Sharon Ryan
Kirsty Hill
Peter Kostruba
Paul Bengtson
Travis Glodgett
Amanda Addeo
Kaela Tavares
Dennis LaBounty
Cynthia Johnson
Carolyn Elliott
Steve Elliott
Keith Johnson
Pat Jauch
Robert Jauch
Mariko Raymond
John Raymond
Larry Willey
Todd Wellington
Denis House
Jennifer Adams
Kelly Coons
Lindsay Carpenter

Brandon Carpenter chaired the hearing which was brought to order at 6:04 pm.

Mr. B. Carpenter asks for agenda changes. No changes.

Review of August 19th, 2021 minutes. Mr. Keenan made the motion to approve. Mr. Cole made the second. All in favor. Motion carried.

Public Comment on Non-Agenda Items: No public comment.

Mr. B. Carpenter provides an explanation of “interested persons’ and their ability to appeal a decision issued by the Board. Mr. B. Carpenter then swore in anyone wishing to provide testimony.

Mr. B. Carpenter gives a brief explanation of the development review process; each item will be opened and then there will be disclosures of conflict of interest. The Board hears presentations by the applicant(s), asks questions of the applicant(s), and then opens the floor to public comment or written comment. Once the Board has received all

relevant information the public hearing is closed, and the Board has up to 45 days to deliberate prior to issuing a written decision on an application. Applicants and all interested persons are notified of the decision by the Zoning Administrator and all decisions by the Board are subject to a 30-day appeal period.

(MINUTES 0:07- 1:14) Mr. B. Carpenter opened the public hearing on **2021-076**: Northeast Kingdom Human Services is seeking a change of use permit for the property located at 133 Cornerstone Lane. The application requires conditional use approval for any use substantially, materially, and outwardly similar to those set for the Rural Residential district [3.1.2.20] under section 4.2 of the Bylaws.

Mr. Paul Bengtson, interim executive director for NKHS, shares that the intention of 133 is to provide a 2-bed IDDS (Individuals with Developmental Disabilities Services) crisis home, for individuals who are experiencing difficulty with self-regulation within their current living situation. They will receive support in an alternative safe environment at 133 Cornerstone Lane provided by trained staff, so that they can return to their homes or community placement as soon as clinically indicated. The goal is to provide this service while also being focused on the safety of the community.

Ms. Sharon Ryan explains the mission and purpose of IDDS at 133 Cornerstone Lane. The plan is to provide a home setting in a community for individuals already enrolled in the IDDS program. The crisis home provides a space for the individuals to de-escalate, re-regulate, or meet the individual needs of that person at that time. After a short stay, the individual would return to their home. The building at 133 Cornerstone Lane would also have a separate 1-bedroom apartment and NKHS intends for the apartment to be rented out to anyone in the community, not necessarily to someone within the NKHS network.

Mr. C. Carpenter asks for clarification about the capacity of the IDDS 2-bed crisis home. Ms. Ryan shares that if there are more than 2 individuals in the facility, NKHS would need to seek licensure to be a therapeutic community residence. Ms. Ryan notes that NKHS only wants 2 clients at a time to ensure successfulness of the program. Mr. C. Carpenter asks if there are regulations that guide the IDDS 2-bed crisis home if it is under the threshold of requiring licensing. Mr. Peter Kostruba, shares that the nature of this facility should stay small, and per the Lyndon Bylaws, NKHS could not have 2 licensed facilities in such close proximity. For serving persons in active crisis, it is not preferred to have more than 2 individuals.

Mr. C. Carpenter asks if NKHS is familiar with the program in Upper Valley Services, VT Crisis Intervention Network. *(VT Crisis Intervention Network is the statewide developmental disabilities service system crisis network. VCIN offers training to agency staff, on-site consultation to agency teams, and manages two statewide crisis beds for individuals experiencing a psychiatric, emotional, or behavioral crisis. Each bed provides individualized time-limited (generally not to exceed 14 days) 24-hour supervision and support in a safe and calm environment).* He asks if this program is the same thing. Ms. Ryan notes that the VT Crisis Intervention Network is a statewide network. The facility at 133 is only open to individuals served in the three counties of the NEK that are served by NKHS.

Mr. McKeon asks what the typical stay is for an individual using this facility. Ms. Ryan shares that it is dependent on the individual.

Mr. Kostruba notes that NKHS recognizes the rural character of the area and says that the organization would leave a bed open if the person seeking a room was too escalated or difficult to manage and would pose a risk to the community and would not be a good fit for the facility.

Mr. Keenan asks how someone is determined to be a good fit for the facility. Mr. Kostruba says that NKHS looks at all the details to determine what level of care an individual might need. Location is part of the assessment at intake.

Mr. B. Carpenter asks about the capacity of community services, including police services which are spread very thin. Would this facility strain an already busy police department? Mr. Bengtson shares that so far the only building open is 142 Cornerstone Lane. So far, the police have not had to be called. That does not mean that there was not an incident/behavior.

Chief Harris notes that just because the police force does not respond does not mean the department has not been called. The department was called in regard to the incident being referenced.

Mr. B. Carpenter notes that the Use and Safety Plan submitted by NKHS makes several references to utilizing the local police force and wants to be sure that the police department would not be over extended. Mr. Kostruba thinks that this location can actually consolidate resources and not put strain on the police department.

Mr. C. Carpenter asks the applicant which of the conditional uses listed in the Rural Residential zoning district they feel the use of 133 Cornerstone Lane is the most similar to. Mr. Kostruba responds with “multi-family” or “guest home” but acknowledges that it does not fall neatly into any of the categories listed. Mr. C. Carpenter reads the guest home definition and shares that this not something that is similar to what is listed. Mr. Kostruba asks if there is a time limit (a limit to the duration of a stay) on multi-family dwellings. Mr. C. Carpenter reads the definition. Mr. Kostruba notes that if the apartment were rented and the 2-beds were utilized, the building would be most similar to a multi-family dwelling. Mr. Kostruba notes that maybe the catchall of 3.1.2.20 is to provide for unique situations such as this.

Mr. Craig Weston asks about the training for staff and what is involved and asks about medication location and safety. Ms. Ryan shares that medication is locked up and staff is trained to restrain in cases of self-harm or harm to another person, but staff primarily uses de-escalation techniques. Mr. B. Carpenter asks if medication is dispensed from 1 location or several. Mr. Kostruba shares that each building is its own program and medication will stay in the building in which the client is being served.

Mr. Keenan asks if there is a quantity of clients that would be using this location/service. Mr. Kostruba says that each case is individual and that numbers flex. Ms. Ryan shares that every individual has several staff members assigned to their case. Ms. Ryan shares that they have 350 clients at this time. Paul Bengtson shares that those 350 clients are throughout the three Northeast Kingdom counties.

Mr. B. Carpenter asks if there is any pressure within the organization to accommodate more individuals than specified in the Use and Safety Plan if an emergency bed is needed. Mr. Kostruba shares that there is always pressure, but each program and the licensing cannot be put at risk.

Travis Glodgett asks about the protocols for calling the police. Past police reports note that the staff of NKHS shared that they felt repercussions for calling the police in the past. Mr. Kostruba shares that that is not the case, but when it is a situation that staff can safely manage at the site, they want the staff to do so, to reduce the strain on local police forces. Mr. Bengtson notes that previous leadership at NKHS may have caused the feeling that is shared in those past police reports. Mr. Glodgett shares that the reason that most people are in attendance tonight is because of safety. He shares the incident recently of a woman throwing rocks at cars. Mr. Glodgett is concerned that if there are repercussions for calling the police, then how can the agency ensure safety in those most urgent of situations. Mr. Kostruba and Ms. Ryan ask Mr. Glodgett for copies of the police reports for reference.

Ms. Amanda Addeo asks about whether the work of the program at 133 Cornerstone should be considered a medical facility seeing it primarily addresses behavioral and mental health. She asks if the funding is from a medical source. Ms. Ryan shares that NKHS is not a medical facility. Those individuals needing medical attention are served at a hospital. NKHS will not take on individuals with advanced medical needs. Mr. Kostruba notes that there may be behavioral needs. Mr. Kostruba shares that the funding is through Medicaid Waiver for Home and Community Based Services. This is not hospitalization or a skilled medical facility.

Mr. John Raymond notes that if there is a list of criteria that this facility must fit into and crisis-center is not on the list, then it should not be a permitted use in the district. According to Mr. Raymond, this is not a multi-family home. He thinks that this facility should be considered a medical facility. Ms. Kristy Hill, employee of NKHS shares that she's been with the organization for 6 years. She has never restrained. She uses the other skills that she has been trained in to help the individuals in need. Mr. John Raymond asks what happens if an individual runs away. Ms. Kristi will restrain if the situation calls for it.

Mr. Larry Willey brings up minutes from a 2020 NKHS board meeting minutes that the facility will be used for medical services. He notes that this is the 3rd or 4th iteration of how the facility will be used.

Mr. Keith Johnson wishes to address the definition of the buildings. With a nurse on duty the use of the building should be a medical facility. He also notes that NKHS is a business and if the permit is issued it may set precedent for other businesses to enter the rural residential zoning district.

Mr. Kostruba notes that there is a nurse who comes in occasionally for training and overseeing medical issues. If medication is the determining factor in the use determination, then schools and childcare facilities would be considered medical facilities as well.

Kelly Coons comments. She was involved with the incident of the woman throwing rocks in the roadway on Couture Flat Road. She notes that all the safety protocols that NKHS is sharing are already not prepared to handle the one resident at the site and wonders how the organization will handle safety when there are up to 8 clients on the site. Mr. Bengtson notes that things could have been done differently and been done better. The organization learned, shifted, and has new protocols in place. Mr. Bengtson notes that the site is great for many clients but not for all clients.

Ms. Kaela Tavares asks what is the size of the lot that 133 Cornerstone sits on. Ms. Gratton shares that the lot is 1.1 +/- acres. Ms. Tavares asks about the level and duration of training provided to staff. Ms. Tavares asks about how the organization will manage the limited supply and the increased demand on this crisis care home. Mr. Kostruba notes that a crisis care home is not a service that is currently offered by NKHS. Ms. Tavares asks about intervention when someone is in imminent danger, are there other scenarios that would require restraint or intervention such as trespassing? Mr. Kostruba shares that it would be determined on a case-by-case basis.

Mr. Todd Wellington addresses the Board that NKHS *"seems to have all the answers tonight, but... they were completely silent early on and into the project. They are only here with all the answers because this whole neighborhood made them come"*.

Steve Elliott asks if NKHS could further subdivide the land and put up additional buildings to meet the need the organization may have in the future. Mr. C. Carpenter notes that yes, the larger parcel where 142 Cornerstone Lane is could be further subdivided. Mr. Kostruba shares that he does not think it likely that the organization would seek to put up additional buildings for expansion of the facilities. The goal would be to spread the resources throughout the NEK.

Mr. Larry Willey asks about a property purchased in St. Johnsbury and why NKHS reached out the DRB preemptively and why they did not do that courtesy in the Town of Lyndon.

Motion to close 2021_076. Mr. Curtis Carpenter made the motion, seconded by Mr. Kevin Cole. All in favor. Motion carried.

(MINUTES 1:14 -1:42) Mr. B. Carpenter opened the public hearing on **2021-080**: Travis Glodgett and Vail Action Alliance are appealing the August 4, 2021 decision of the Zoning Administrator to grant permit 2021-075 to Northeast Kingdom Human Services for a change of use at 188 Cornerstone Lane as authorized by 24 V.S.A. § 4412. The appeal requires review by the DRB.

Mr. Glodgett shares that this is a multi-lot property developed for one purpose by one entity. Mr. Glodgett reads a portion of his appeal letter; the relief being requested and why this request is proper. Mr. Bengtson shares that NKHS sought a permit for each building because each building is its own program on its own lot. A single-family dwelling is a permitted use in the Rural Residential zoning district. By State statute the organization can be granted this permit.

Mr. C. Carpenter shares that one problem is that the Lyndon Bylaws do not define Planned Unit Development well. The Vermont State Courts write that “a PUD is usually thought of as development of a large tract of land, usually large enough to constitute a new community”. The development on Cornerstone Lane does not seem to fit this category. If the Town were to put this development under the category of a PUD, it may put this development under a deeper level of scrutiny than other residential development is put to in the Town.

Mr. C. Carpenter notes that the state statute really takes the decision making on residential care homes out of the hands of local zoning regulation. The DRB cannot treat the residential care home as any different than a single-family dwelling in the district.

Mr. McKeon asks of NKHS why they purchased this property. Mr. Kostruba shared that NKHS was looking for a new location for an existing 16-year residential care home.

Mr. Weston asks what classification The Fold Ministries was under and if there were previous issues. Ms. Gratton shares that 188 and 133 Cornerstone were classified as “church” or “school”. 142 Cornerstone Lane has permit application documentation of the site being used as “offices” and “apartment”. Mr. Weston asks how long The Fold had been in existence. Mr. Glodgett shares that it was there since 1958.

Mr. Wellington shares that this is a big development to a small town and especially to a small neighborhood. He asks if it is ok to just base decision making on past precedent instead of looking at the current situation and suggests that maybe it’s time to do things differently.

Ms. Tavares asks if this was one purchase transaction. Mr. Bengtson says that yes, the three parcels were purchased together. Ms. Tavares asks if the organization was only going to use one building when they had bought three. Ms. Tavares says that it seems to be a coordinated effort to purchase many buildings and create a “campus” of sorts for the organization. Ms. Tavares asked why the organization did not look for a single dwelling on a single lot rather than at a three lot, three building complex.

Ms. Pat Jauch asks for clarification between lots and parcels. Mr. C. Carpenter clarifies that this is three different lots with a building on each. At any point the organization can subdivide the large lot, sell off a lot, or maintain them as three distinct lots.

Motion to close 2021_076. Mr. Kevin McKeon made the motion, seconded by Mr. Curtis Carpenter. All in favor. Motion carried.

(MINUTES 1:42- 1:48) Mr. B. Carpenter opened the public hearing on **2021-081**: Travis Glodgett and Vail Action Alliance are appealing the August 4th, 2021 decision of the Zoning Administrator regarding the use of the property located at 142 Cornerstone Lane as office and single-family dwelling. The appeal requires review by the DRB.

Mr. Glodgett reads a portion of the appeal letter. Mr. C. Carpenter asks Ms. Gratton what the use of 142 Cornerstone Lane has been recorded as in the Town of Lyndon records. Ms. Gratton shares that a 2002 permit for a deck notes the use of the structure at 142 as office and apartments. Additionally, a permit from 2017 notes the use of the structure at 142 as offices.

Mr. Glodgett refers to a 1988 use as a garage.

Mr. Larry Willey shares that from the deed the buildings are referred to as single-family dwelling, then it should be a change of use from single-family dwelling back to “offices and “apartment”.

Mr. Kostruba shares that the paperwork NKHS has refers to 142 as offices and an apartment. From a functional standpoint, a physical sign on the site points to the “office” and the physical layout of the building is as office space and one apartment.

Mr. Glodgett asks if the building was previously permitted as an office and apartment. Ms. Gratton says yes.

Motion to close 2021_076. Mr. Kevin Cole made the motion, seconded by Mr. Curtis Carpenter. All in favor. Motion carried.

Other Business:

Chief Harris shares safety protocols and plans that have been established between the Lyndonville Police Department and NKHS. Communication between the two entities has helped to make sure that both organizations are aware and understanding of the needs, responsibilities, and roles. Chief Harris notes that at a previous location in the Town there was a burden on the police department and should this place have a similar number of calls, then the police department would not be able to keep up with the demand placed upon their services.

Ms. Addeo, gives a thank you to the police department. She asks how quickly the department could respond to a call to Cornerstone at 3am. Chief Harris shares that when local police are not on duty, calls revert to the state police system and response time for them is an unknown.

Next meeting is scheduled for September 16th, 2021.

Mr. B. Carpenter seeks a motion to adjourn the meeting. First by Mr. Kevin McKeon, second by Mr. Kevin Cole. All in favor. Motion carried. Meeting adjourned 8:00pm.

Respectfully submitted by: NGRATTON