

Town of Hinesburg
Development Review Board
January 15, 2019
Approved February 5, 2019

Members Present: Dennis Place, John Lyman, Ted Bloomhardt, Jonathan Slason, Greg Waples, and Dick Jordan

Members Absent: Sarah Murphy

Applicants: Jessica Louisos, Andrea Morgante, Kiesha Richardson and Alan Norris

Public Present: Holly Cota

Also Present: Mitchel Cypes (Development Review Coordinator) and Kate Kelly (Recording Secretary)

Dennis P. called the meeting to order at 7:31 PM.

Agenda Changes: Mitchel C. congratulated Jonathan Slason who is now a full member of the Board, and Dennis P. for agreeing to be on the Board for another three years. He made a pitch to the VCAM viewers encouraging people to apply for the two open alternate openings on the board.

Review minutes of the December 18, 2018 meeting:

John L. **made a motion to approve the minutes of December 18, 2018 as written.** Ted B. **seconded the motion.** The Board **voted 4-0;** Greg W. abstained.

Town of Hinesburg: Conditional use review for development in a fluvial erosion hazard area at 907 Beecher Hill Road (Town Highway Garage property) in the Rural Residential 1 Zoning District. The applicant is proposing to do stream restoration work along a portion of Beecher Brook located near the Town Garage.

Dick J. entered the meeting. Jessica Louisos, Milone & MacBroom, introduced herself; she reviewed the project, and the completed floodplain restoration design. She showed the updated site conditions plan (post-construction at the Town Garage). As part of Town Garage project, they preserved riverside space for floodplain restoration. They wanted this work to be part of the original project, but had to wait for grant money to complete this portion of the project. Greg W. asked has the stream always been that way. Jessica L. said no and explained how the stream was confined historically by the road and the highway garage site, which included fill being placed decades ago to the edge of the stream. Beecher Hill Brook flows faster through this area and eroded down. Without any change, she stated, they would expect this erosion to continue.

Greg W. asked about the area (how large) and what difference this project will make without upstream or downstream changes. Jessica L. replied it will be 700-800 feet of the brook, and the downstream area has a fairly good connection to the floodplain, but is affected by upstream erosion. This project will reduce the erosion by trapping sediment to protect downstream infrastructure (culverts) from being filled in or blocked. This will also reduce the upstream erosion as well, because you're slowing the flow

of the water. John L. asked if it is damming upstream. Jessica L. said it is; they are proposing adding diversity to the stream to naturally raise the stream bed and provide fish habitat. There is a bedrock control upstream, so there is some certainty there, which is why this is a good location for this project.

Greg W. asked about opportunities upstream and downstream for stormwater projects, and would they depend on landowner. Jessica L. said there are opportunities identified by the Lewis Creek Association. Andrea M. said there are opportunities; up Hayden Hill Rd. (where Beecher Brook originates) there has been some dam activity, but it has been difficult to work only within the town right-of-way. When and if a development is proposed within a watershed, Lewis Creek Association has plenty of information on the area, and these could be provided to the DRB. Jessica L. said they've worked with Mike Anthony in crossing and ditching locations.

Jon S. commented that he liked the creativity and would like to have more information like these treatments proposed or available for other locations elsewhere in the town.

Jessica L. said they are looking for local approval before completing the permit. The only thing they're changing from the site plan application is changing from ash to yellow birch in their planting schedule (a recommendation by state regulators that has already been accepted). Jessica L. stated that yellow birch are a good tree for both wet and dry conditions. She brought up the landscape cost requirement: there wasn't enough money put in the planting site plan at that time to meet that requirement; now they have a total landscape cost that is above the requirement. Greg W. asked if planting in floodplain would count towards landscaping; Jessica L. replied it would. Mitchel C. stated that they have added landscaping to a previously approved site plan in compliance with the regulation. Jon S. said it is fairly steep today at northern entrance to site, and asked if there are any maintenance issues to be aware of. Jessica L. replied she didn't think there were. She mentioned that the Army Corps of Engineers and state biologists have mentioned they will put a time restriction on cutting of trees (during winter, when bats aren't roosting). Also, work within stream only between July 1 and Sept. 1. Because of these restrictions, this project will likely take place over at least two years.

Greg W. congratulated the town on a thoughtful proposal. Mitchel C. commented that required notices were sent more than 30-days ago, to abutting towns as well as to the State Floodplain Manager, the State Stream Alteration Engineer and the Army Corps of Engineers. Besides the comments from the Army Corps, which Jessica L. described, no other comments have been received. They have met the notice requirement.

Greg W. **made a motion to close the public hearing and direct staff to write conditions of approval.** Dennis P. **seconded the motion.** The Board **voted 6-0.**

Frost Properties, LLC: Conditional use review for a change in non-conforming retail use at 14312 Route 116 (formerly Hinesburg General Store) in the Agricultural Zoning District. The applicant is proposing to sell products related to its well drilling business.

Kiesha Richardson is representing Rob & Ann Frost. She stated this was a non-conforming use as a general store/gas station. In order to continue it as a non-conforming use, they'd like to sell Vermont Well & Pump supplies out of the store, so as not to lose the option for the non-conforming use. The hours would be decreased.

Greg W. requested staff take them through the issue. Mitchel C. replied this store is in the agricultural district, and original use (non-conforming) was pre-existing prior to zoning. In 1983, 1988, and 1999 the use expanded.

Greg W. said a general store seems like a perfect use for the property, and perhaps this is something the Planning Commission should take up. He feels this is a flaw in our zoning regulation if a general store isn't a permitted or conditional use. Mitchel C. understood there was an attempt to make it part of I-1 across the street, but it didn't pass the voters; Ted B. didn't remember that.

Greg W. is concerned about precedents.

Dick J. asked about the house on the site; will it remain that way? Kiesha R. said it will remain a residence. Jon S. asked about the gas pumps; she replied they will remain, but VT Well & Pump doesn't plan to use them. The Board asked about the tanks and potential leaks; she replied she didn't know, but that the fuel company came out, but not sure what was done. Most felt the tanks were not taken out of the ground.

Dick J. stated in his opinion, there should be no opportunity for continuing to sell gas. Jon S. said they will need further information on the status and future of the tanks, also whether they should stay there given a reuse of the parcel.

Jon S. said they'd like to narrow the width down to a standard 40' width of driveway, and they'll probably need a section 1111 permit from VTrans because of work in the right-of-way. She replied there are some things blocking people from using driveway. Jon S. felt they should reduce the amount of pavement through that vicinity to narrow access to site. Dick J. is surprised VTrans doesn't have problems with things here. Given the reduced level of traffic demand to and from the site, it is appropriate to reduce the impervious surface and improve the stormwater situation. She replied that it is highly unlikely that all this will happen for a small change in use.

Greg W. said that there have been issues with Frost property on other side; do we need to get Frosts in here personally? John L. suggested the issues be brought forward. Greg W. replied they are trying to work with the family and regulations, and they need to deal with people who carry through with decisions they make.

Jon S. asked if they sell it and it becomes a new use, what happens? Mitchel C. said it would come back before the Board.

Dick J. asked about stormwater; Mitchel C. displayed the location of the swale. Kiesha R. replied she'd like to put a call in to VTrans. Jon S. stated in previous decisions, one from 1999 indicated there was discussion of using a mirror to make access safer, and that supports that access is a concern to this Board and potentially to VTrans since it is their highway.

The Board would like to see the applicant address entry control, gas pumps and tanks, and stormwater at a future meeting. Greg W. would like to know if opening a store for a couple hours a day is bending the regulations; Ted B. replied they are looking for a retail use. John L. said we could state if it changes in any way, you need to come back.

Ted B. **made a motion to continue the public meeting to the second meeting in February (Feb. 19), for the applicant to address entry control, gas pumps and tanks, and stormwater.**

Dennis P. opened the discussion to the public.

Holly Beth Cota (and husband Earl) have lived there nearly 20 years (property north of the store). Their biggest concern is the stormwater runoff, because they have a wetland south of their property that borders the store property. The ditch was set up to be the stormwater runoff from Clifford's Lumber. The sediment comes through that from Clifford's and sits, and the ditch doesn't ever get dug out. Holly Beth Cota stated that Rob & Ann Frost pushed back a lot of dirt and put fill in where it's supposed to run out (now it doesn't run); on the Cotas' property, trees are falling over. She stated that water is running into the store's parking lot, and that this has been happening for years. When the state put in a gathering hole behind their dumpsters, Rob tried to clean it out and he pushed dirt around.

Andrea M. suggested contacting VTrans to get their suggestions (they are probably a strong contributor from 116). Greg W. asked what power we have with VTrans. Andrea M. suggested reaching out to VTrans to see if we could be partners. She mentioned that curb cut size is their purview. It is possible there are opportunities to address stormwater on the Frost property, and that VTrans could even contribute money to such a project. She mentioned that stream adjustment is happening here that is impacting the town's bridge at Tyler Bridge Rd.

Dick J. asked if the store is operating now. The Zoning Administrator has put them on warning.

John L. **seconded the motion** made by Ted B. The Board **voted 6-0.**

Meadow Mist, LLC: Sketch Plan review to revise a previously approved 22.3-acre Planned Unit Development (PUD) located at the southern edge of the Village on the west side of VT Route 116, across from New South Farm Road and Buck Hill Road West, in the Residential 2 and Agricultural Zoning Districts. The applicants are proposing to subdivide Meadow Mist so that each unit of the PUD will be located on its own footprint lot.

Alan Norris stated this is a financing issue; he had talked about doing footprint lots in prior application, but he had mixed messages from engineer and attorney at the time. He has now learned that with secondary financing, you have to have 75% of the houses spoken for or owned, or footprint lots. If you don't have that, bank loans are harder to get, require more money down and/or have a higher interest rate. Dick J. asked if these were going to be rental units. Alan N. confirmed that the units were not to be rental units.

Greg W. asked if legal documents would need to be changed (road and homeowner associations), and he recommended having a lawyer look at it. Alan N. replied that the attorney would need to write the deed differently, but didn't think other legal documents would need to change.

Alan N. stated in the prior hearings there was concern about his garages. Mitchel C. said there is a regulation that requires the garages to be setback further from the road, but the Board can provide a waiver to not require the 10 ft. recess of the garages on the front buildings. Mitchel C. explained that this will have to be at least a two-part process, because there are new lots being created. This hearing is for a sketch plan approval. Since this is technically a major subdivision, to have this be a two, instead of

a three part process, He recommended that the Board grant a waiver to allow a combined preliminary and final application. The Applicant will need to have a survey for final approval.

Mitchel C. asked if Alan N. would include anything outside the shape of the building itself; Alan N. replied that no, the area outside would be owned by the Association.

Alan N. commented that the Board had written in their 2015 approval an order requiring putting adornments on garage doors. He passed around copies of a picture of a garage as built. The Board discussed the requirement, and examined the photo. Alan N. requested removing the requirement for hardware elements on the doors. The Board agreed that was fine.

Ted B. asked if we now have 25-lot subdivision, and a modification to the PUD. Mitchel C. said this has to be looked upon as a new subdivision; this is sketch plan, and the Applicant will need to do a preliminary/final subdivision PUD. Ted B. felt we should make the changes as proposed.

Mitchel C. stated that the motion made should include: directing staff to draft conditions of approval for sketch plan, and that it would be appropriate to modify the PUD in final to take out hardware elements; in the decision, allow combined preliminary and final.

The Board supported the Applicant's change to footprint lots, and removal of hardware elements. Greg W. would like to see an Attorney's opinion that all legal documents have been analyzed or revised to reflect the change, and to take care of anything that would affect town decisions. He would like to have this done before final approval. Jon S. would like confirmation that the lots match the footprint of the building (as opposed to some rectangular shape).

Ted B. made a motion to close the public hearing and to direct staff to draft conditions of approval, with issues to be addressed as discussed, and to combine preliminary and final. Greg W. seconded the motion. The Board voted 6-0.

Other Business:

Mitchel C. stated it is time for board organization.

John L. **made a motion to maintain status quo (officers) on the Board. Jon S. seconded the motion. The Board voted 6-0.**

Mitchel C. mentioned that Andy G. thanked the Board for the time on the Board he had.

On Feb. 5th, the Board will address expansion of a non-conforming structure, and appeal of a Zoning Administrator decision whether something is a stream or not, which they may be required to continue to a later date to set up a snow free site visit.

Mitchel C. asked if the Board had any concerns with removing the 2017 files from Dropbox. The Board was fine with this. Planning & Zoning are trying to make things more public, so there may be a different location on the Dropbox set up for draft decisions. Prior meetings' draft decisions will be cleared out.

Mitchel C. reminded the viewing audience that there are two alternate DRB positions available.

The meeting adjourned at 8:58 PM.

Respectfully submitted,
Kate Kelly, Recording Secretary