

**Town of Hinesburg
Development Review Board
July 16, 2019**

Approved August 6, 2019

Members Present: Dennis Place, Greg Waples, Bryan Currier (alternate), John Lyman, Ted Bloomhardt, Dick Jordan; Sarah Murphy entered the meeting a few minutes late

Members Absent: Jonathan Slason

Applicants: Steve Knowlden, Steve Clark, Jonathan Brathwaite, Becky Alford, Robert Frost, Anne Frost, Jason Barnard, Jim Donovan

Public Present: Andrea Morgante, John Hagman, Wendy Bakker, Kathy LaRose, Carl Bohlen, Elizabeth Beresford, Kendall Frost, Brendan Keenan, Kelly Leary, Michael Sone, Robert Hedden, Tom O'Rourke, Lenore Budd, Robert Hyams, Robert Barrows

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

Dennis P. called the meeting to order at 7:34 PM.

Agenda Changes: None.

Review minutes of the June 18, 2019 meeting:

Greg W. **made a motion to approve the minutes of June 18, 2019 as written.** John L. **seconded the motion.** The Board **voted 6-0.**

Wind NRG Partners: Revision of a previous Conditional Use approval for the erection of a 260-foot wind test tower (with flashing red lights at the top) on a +9.81-acre property south of Riggs Road in the Village Northeast Zoning District. The applicant is requesting that the tower can remain erected for a period not to exceed 60 days. This use will discontinue after 2019.

Steve Knowlden, representing Wind NRG, discussed the tower south of the Riggs Rd. entrance. It currently has a limit of 120 hours – they'd like to extend this to a two-month period, to do some long-term studies. After the studies are complete, the tower will be taken down and dismantled.

Greg W. asked why they are asking for the additional time. Steve Clark, with Wind NRG, said they need to measure vibration response on the tower, and they need a healthy wind to do that. They can likely get that wind within a month, but 2 months max. Test will start late August, and be finished by the end of the year. Greg W. asked if they would definitely take it down in 2020. They agreed they would not request to put it back up in 2020. Dick J. asked, and Steve Clark answered, that they would likely leave it up for the full 120 days to obtain data. The smaller tower (under 200 feet) that is used on the 31.98 acre property north of Riggs Road would continue to be used after 2019.

Andrea Morgante asked if they would need an additional site. Steve Clark replied they have one in Texas; they would like one in Hinesburg, but would have to obtain a permit for that.

Dennis P. **made a motion to close the public hearing and approve the draft decision as written.** Greg W. **seconded the motion.** The Board **voted 6-0.**

Sarah M. entered the meeting.

Jonathan Brathwaite: Conditional Use review for an accessory apartment on a +2.90-acre property located at 1115 Lewis Creek Road in the Agricultural Zoning District. The applicant is proposing to construct a 1-bedroom apartment in an accessory structure separate from the existing residence.

Jonathan Brathwaite introduced himself and his wife Becky Alford. They plan to build a mother-in-law suite for his mother-in-law with medical conditions. They've worked with Civil Engineer Associates to put in a separate septic for her. Her house will be 40-50 feet from their house. They've had it surveyed, and filed with state for permitting for septic. Becky Alford said the structure is ~600 sq. ft.

Dick J. asked if there is currently a building there; there was a chicken coop. Greg W. suggested cutting commentary from the draft decision about the state of the driveway. The Board agreed, and Mitchel C. made the requested amendments.

Andrea Morgante agreed, but reiterated that driveways erode and that this is a contributor to poor water quality. Regrading, water bars, broad based dips, improved culverts all help; anything we can do is a good thing and will save money in the future.

Michael Source, next door neighbor, has graded their driveway. He is not opposed at all to what they are doing. However, he brought up the future – Air BnB, under the table rental. Lewis Creek Rd. is small, and the hill with driveway is dangerous. They deal frequently with traffic issues. Greg W. replied they couldn't use it commercially without a permit from DRB. Mitch C. clarified that you can have an accessory apartment and use it for short term rentals. Michael Source said there are two AirBnB's and a Bed and Breakfast around the corner from them, and this is a problem. Michael S. asked who will regulate under-the-table rentals in the future? This was done before in this location. Ted B. said the regulations encourage this, as housing is at a premium. Greg W. said this is permissible under current regulations, and he'd encourage the Planning Commission to review this in the future. Dick J. pointed out that the property owner must be resident in one of the two buildings.

Carl Bohlen for the Affordable Housing Committee: accessory apartments are important. He asked if there are accessory apartments that have become AirBnB's? Or longer-term rentals? Mitchel C. replied that you can make an accessory apartment into an AirBnB, but can't make an inn or a Bed & Breakfast into an accessory apartment. Also that a property is limited to having only one accessory apartment and that the landowner is required to live in either the principal residence or the accessory structure. Carl B. said he is in favor of accessory apartments.

Betsy Beresford (resident on Lewis Creek Rd.): they have a rental, and that can increase traffic. They are careful with how many cars they allow. She does notice an increase in traffic with B&B or AirBnB. She felt it is important to keep track of what's going on, and this needs to be considered.

Greg W. **made a motion to close the public hearing and approve the draft decision as amended.** Ted B. **seconded the motion.** The Board **voted 7-0.**

Robert Frost: Sketch Plan review for a four-lot subdivision involving two properties in the Agricultural Zoning District. The first is a +27-acre property located at 588 O'Neil Road, and the second is a +89-acre property located at 236 Boutin Road. The applicant is proposing to subdivide the +27-acre parcel to create

two new lots: a +4.94-acre lot for a single-family residence, and a +2.32-acre lot for a single-family residence. The remaining +1.13 acres will include an existing single-family residence. The fourth lot, an adjoining +89-acre property owned by the applicant and containing an existing single-family residence and outbuildings, will increase in size by +19 acres to +108 acres.

Rob & Ann Frost were present, and turned the discussion over to Jason Barnard. This was part of the O'Neil farm, and was purchased 1.5 years ago. O'Neil Road subdivision was made 5 years ago. Jason B. described on the map the 1.13 acres for the existing farmhouse (lot 6), and the new proposed lots (1, 7). Small wetland area in the center of the lot 1 property, that the state ecologist said is not contiguous with any other wetlands on the property, likely could be removed after a process. They have a replacement well site located for lot 6. Significant slopes in this area, and over 10,000 sq. ft. limit will require stormwater and erosion control permitting. Access points to lots may change.

Greg W. asked about the cemetery; Mitch C. replied that there is a portion of the existing property that is proposed to be part of lot 1, which doesn't have a 100-foot depth. This wouldn't be allowed to be created on a new lot. The Board should consider this a pre-existing non-conforming feature. It was recommended that this area be donated to the adjacent Town cemetery, but this may not be possible because it is the location of a Telecom substation.

The proposal to access lot 1 is off O'Neil Rd. (old field/woods road up to level plateau). Lot 7 access is proposed off Town Highway 13/Boutin Rd.

Dick J. asked about the turn of the driveway in lot 1; it is steep. Rob F. mentioned another proposed access near the cemetery, and said he could avoid the spring in the area if he accessed from the route near the cemetery, and this would be flatter. They could also potentially access off lot 7.

Greg W. asked about fire department; it hadn't been discussed. Jason B. said driveways haven't been designed. Greg W. summarized what he heard: that they are willing to work with the DRB on grade, etc. The Applicants agreed.

Dick J. asked about using the access off lot 7, and the existing class 4 road. Rob F. replied there is one house there already; Mitchel C. said the standards change when you jump from one to two houses. Mitch C. described that Boutin Road is a class 3 road north of Frost property line, then class 4 road south to O'Neil Rd. Robert Hedden confirmed it has been 15 years since the change to class 4 road.

Jason B. mentioned dissolving the property line. Greg W. asked about any other development on 89 acres, including additional land. Rob F. said they wouldn't develop further, and could put that in writing. But they wanted to move their building rights (one remaining from original O'Neil subdivision) to the other/lower area.

Mitchel C. described how the Applicant is using both of their properties to obtain the development density required to create two new lots. He said that this could have been done with three applications; one subdivision revision and two subdivisions. This single major subdivision process would save the Applicant time and money and would allow the DRB to review the entire project together. He explained that the 27-acre former O'Neil property has the ability to create one additional dwelling unit and the Frost's 89-acre property on a class four right-of-way can have a total of five units, which includes their existing residence. Utilizing one of the four remaining units for this application would allow the Applicant to create three additional lots on his property. He explained that with a Planned Unit Development (PUD), which has a lot of requirements, the Applicant could create two additional units.

Greg W. said it sounds like staff and Applicant have made decisions; no other development options left. Sarah M. pointed out they would have three building rights left. Rob F. said they don't intend to do that; they would just like to keep old farmhouse, as one of their employees lives there and maintains it.

Ted B. asked how maintenance would work on the shared portion of the Boutin Road right-of-way; Mitchel C. said they'd need to put together a shared maintenance agreement, and town approvals for shared right-of-way. Dick J. mentioned requirements for width of road, gravel, etc. Mitchel C. said this would be a decision of the Selectboard, Town Highway Foreman, etc.

Dennis P. opened the discussion to the public.

Robert Hedden submitted a letter showing a core wildlife habitat area, surrounded by a block of wildlife habitat. This block is very small compared to others in Hinesburg; it is close to Burlington, and would be a tremendous loss. Robert Hedden displayed a photo of the road in the area where proposed lot 7 is. He pointed out you have to be aggressive in winter to get up, and yet you can't see what's below you or coming up. The steep ledge could cause a severe accident if roll-off occurs. Robert Hedden displayed the trenching he will repair at his own cost; every year when town maintained it with large equipment, they'd get large trenches. There is nowhere near a 12 inch top, which would be required for a shared road; total is about 9 inches. He mentioned wildlife habitat at top of hill. He pointed out that the grade is over 25%, and suggested the DRB do a site visit.

Greg W. pointed out that the DRB could require the applicant to upgrade and maintain the driveway.

Tom O'Rourke thanked the Board for trying to make Hinesburg a better community. He thanked the Frosts for being willing to conserve a large chunk of property. He lives on Bob Hedden's property. He appreciated that the Frosts and the DRB will respect the core wildlife area. He'd ask the DRB to check out the property. Because it is raised, it provides prime habitat for predatory birds. He has found DeKay's Brownsnake, Ring-necked Snake, and Spotted Salamander here. In core wildlife habitat and area next to it is a wetland that has never been dry. He has spent years going up there, but hasn't gone up since Frosts' purchase. This wetland is important. In addition, a UVM geologist showed up years ago and made it clear that this rise is limestone (porous). If you abut the property, water comes downhill from this area. He'd urge the DRB to consider water. Additionally, he wouldn't like Boutin Road/Town Highway 13 to become a class 3 road; it would become a cut-through.

Lenore Budd to represent a request from the Trails Committee, in regards to section 6.2 (curbs, accesses, of subdivision regulations). The town received a trails easement from Boutin subdivision in 2002, from Shelburne Falls Road along town line; this easement only comes into play when it can connect the trails easement to adjacent properties. The Trails Committee is interested in obtaining a 20 foot easement along the western edge of the 89-acre Frost property. Rob F. said they have allowed use by VAST. Rob F. said he'd like to see 10 feet on his side and 10 feet from property owners on west. He said part is open, part is wooded. Robert Hedden asked if this is related to existing sketch plan. Ted B. replied it is, as he is using density from 89 acres to pull in to this application. Rob F. is willing to have a discussion with the Trails Committee regarding this request.

Mitchel C. mentioned a letter of concern that came in late regarding the use of the well from Joe Donegan; would like a conversation with applicant. Rob F. said Joe D. is concerned with existing spring and septic. The spring doesn't meet the setback from the existing septic. Jason B. said it should be discussed if Joe D. has water rights.

Ted B. said he is concerned about grades on the class 4 road. It makes sense to do a site visit. Ted B. said he'd like to see curb cuts, house sites flagged. Jason B. replied they could flag. Mitchel C. suggested 6 PM on August 6.

Andrea M. reiterated the importance of the context of wildlife habitat there, and what it provides in terms of connectivity to adjacent lands and forest. She encouraged the DRB to read portions of town plan, or ask staff to better understand the relationship and value of that land (how it connects land to the north and west).

Tom O'Rourke emphasized that this is a passageway for animals crossing fields at Ketcham's.

Ted B. made a motion to continue the hearing to August 6, with a site visit prior. Dick J. seconded the motion. The Board voted 7-0.

Jim Donovan and Patricia O'Donnell: Sketch Plan review for a 31-unit, 6-lot major subdivision and Planned Unit Development located at 613 Mechanicsville Road in the Residential 1 and Rural Residential 1 Zoning Districts. The applicants are proposing a mix of single-family residential, multi-family residential, and open space. Lot 1 would be +2.75 acres for open space. Lot 2 would be +1.5 acres for 10 multi-family residential units. Lot 3 would be +2.25 acres for the three existing residential units. Lot 4 would be +12.0 acres for public open space. Lot 5 would be +9.5 acres for 10 single-family residential units. Lot 6 would be +2.0 acres for 8 multi-family residential units. All units to be served by town water and sewer.

Jim Donovan, landscape architect and property owner, gave an overview of the proposal. Patricia O'Donnell, his wife who is also an architect, couldn't make the meeting. They've been working with Lamoureux and Dickinson. He is showing the potential maximum development; they are not necessarily going ahead with this. They wanted to see what neighbors and other committees in town are saying. They did have the wetlands delineated, and these were displayed. He also displayed the steep hillside; heavily forested area is outlined in green. Also, there is a tree row along the edge. They highlighted steep slopes over 25%. These lines, except for steep slope, are highlighted on subdivision plan.

Ted B. asked about contour lines; they are two foot. There are no trails. Dennis P. asked if they had talked to the town about sewer. They have not; they wanted to talk to the DRB first. Mitchel C. mentioned that the director of utilities said they will need a pump station.

Greg W. said they are proposing a major access on CVU Road; traffic could be an issue. Jim D. said they looked at coming east across wetland, but this would be much more significant cost. Site distance works, but traffic could be an issue. Maybe they need to limit this to one or two houses, or do nothing here. Ted B. would like to see some data (traffic engineering). Jon L. asked about the distance from the four corners to the drive; they don't have exact number, but could provide it. Mitchel C. estimated it is about 400-450 feet.

Greg W. asked about the size of these single-family homes in reference to the traffic issue – Jim D. replied these would likely have families.

Mitchel C. described that the maximum in R-1 with density bonuses is 13 for the portion of the property along Mechanicsville Rd. The majority of property is in RR-1 (1-acre zoning), so you could theoretically have 28 units there with density bonuses if conditions would allow. The applicant has 18 units there; Jim D. said he thinks this is all it can carry.

Dennis P. asked Jim D. if the town said they only have allocation for 6 houses, would they phase it in or only put in 6 houses. Jim D. replied he didn't know for sure, but expected that the area along Mechanicsville would be phase 1, with other areas off CVU Road being phase 2 and 3. If they were only given 6 houses, they'd probably do 6 along Mechanicsville Rd. then stop.

Jim D. displayed the lots and discussed them and the proposed open space. As far as the 10 homes, he wondered if the DRB would like to see individual lots, small flag lots, etc. Jim D. said they wouldn't want tiny footprint lots where you couldn't add a deck; they'd prefer a slightly larger home lot.

Jim D. mentioned that they took into account setbacks for the R-1 portion of the development. Fire Chief didn't have any concerns with slope/radii of the road for the RR-1 portion of the development. As far as sewer connection, they also have the possibility of going down to Mechanicsville (gravity feed).

Sarah M. asked if there is currently potential for water and sewer; Mitchel C. replied probably not at this point, but Applicant is pursuing a sketch plan approval so they can have this in place when water becomes available.

Jim Donovan said the traffic concerns he has heard are for CVU Road; would the DRB like to see a traffic study for Mechanicsville Rd. also? Greg W. said they are far away from that. Mitchel C. said road foreman's concern was for CVU Road; he will confirm with Town Highway Foreman if they had a concern about the access to Mechanicsville Road.

Jim Donovan said that in terms of obtaining a full density bonus in the R-1, they've been looking at solar hot water and solar; otherwise not a lot of potential. They are also investigating a donation of some large infrastructure for more bonus opportunity. They are looking at whether community garden (agriculture) would be allowed in wetland (wet meadow). They also looked at donating some as a park; with the Official Map update, they could extend the park to the Blomstrann property to the west, with a trail easement. Greg W. said this is something to be planned for by them and discussed with Selectboard.

They may be treating this as master plan; currently coming in as a PUD. Would they like to have everything staked out even if only a portion is completed? Sarah M. suggested showing curb cuts. Greg W. said he didn't need to see things that weren't pertinent. Mitchel C. suggested leaving RR-1 as separate lot for future development, and only staking out Mechanicsville lot. Jim D. described the Mechanicsville Rd. buildings: all would be 1,500 sq. ft. or less and two-story. They'd be made to look like a farmhouse, but have three units in them. They are proposing a little more than 2 parking spaces per residence. The proposed development will satisfy the setback requirement from the Canal.

Mitchel C. made a recommendation for the hearing to be continued before scheduling site visit. Greg W. suggested no site visit until Applicant gives a feeling for where they are going. Dick J. said they couldn't make any assessment of upper area (CVU Rd.) without a site visit. Ted B. mentioned if they want to line up for sewer and water they need an approved sketch plan. The Applicant will need to decide.

Dick J. raised a concern with stormwater. Mitchel C. said they will need stormwater and erosion control design. Dick J. was concerned with development of stormwater areas on hillside as well. Jim D. pointed out the potential for easements and dispersed runoff/treatment for Mechanicsville Rd. area. Off CVU Road, they propose a smaller treatment in the area of the roundabout (rain garden), and one downslope of houses. These would be dispersed locations; they may need to look at going into wetland buffer with consultation from ANR.

Dennis P. opened the discussion to the public.

Bob Hyams mentioned that, in the context of everything that is coming before the Board, there is a lot of proposed impervious surface that will generate stormwater and nutrient loading, which will impact the river system. How do we know how much impervious surface the LaPlatte/Patrick Brook can absorb? Dick J. said they try to treat on site. Mitchel C. pointed out that the state requires the developer to meet stormwater standards for 1 acre or more; Hinesburg requires them if more than 10,000 sq. ft. (1/4 acre) they have to meet state standards with Town review.

Robert Barrows, neighbor to the south, has 4-6 inches of water crossing his lawn with every big storm. There is a swale between his place and apartment buildings; the canal comes up the swale. The wet meadow (lot 1) is so wet that it would go over his shoes even now. It has eroded two big trees off the back of his yard. The big trees are falling, eating up ground off back of those lots. Big maples are dying because of excess water. He is concerned with water and canal. You couldn't grow much in that meadow, and there is 6-7' tall grass that takes over.

Kathy LaRose commented that all four of the duplexes along CVU Road will affect her view and privacy. That is the only patch of woods that filters everything from CVU Road (noise, pollution). Would they build privacy fencing with trees, etc.? Jim D. made notes.

Robert Barrows asked about a fence or barrier to stop runoff from coming south from that area.

John Hagman just below the RR-1 portion of the property. He has a wet basement already. He has concerns over introduction of impervious surface.

Wendy Bakker, who lives next to John Hagman, said it has always been wet back there. You have to take away some material (clay), and then there is nothing to absorb water that comes off. Once you start stripping vegetation, everything will run downhill. Already, she runs a sump pump in her basement 24/7 year round.

Andrea Morgante submitted an email last night asking that the DRB consider reading a report that was done ("Management Alternatives for Hinesburg Village"), supported by Lewis Creek Association for the town, that lays out the principles of riparian management. She stated that our village is so defined by the hydrology here; channels were historically manipulated, and we are now paying the price. Straightening of streams made them go faster and not be able to deposit sediment slowly. Now, rivers are regaining their natural sinuosity, and streams will hopefully regain access to their floodplains. This will be good for the greater area, but will negatively impact buildings in floodplain/clay soils. She urged the DRB to consider the cumulative effects of incremental growth. She is happy that Hinesburg has more stringent stormwater regulations, but pointed out that these regulations did not consider the impacts of global warming; we now have more frequent and larger storms. We try to slow down water, spread it out, and sink it in. She applauds Jim's efforts, but in clay, this is hard to do. This area is wet enough to grow rice! As an alternative to a community agriculture area, we could allow the area to become a forested floodplain, which should be considered as a similar community benefit.

Robert Barrows agreed, and said he had someone come in and look at the problem; there aren't enough trees and protection from the canal to deal with the flow we had 10 years ago, and now we have three times that flow.

Carl Bohlen on behalf of Affordable Housing Committee encouraged Jim to come to one of their meetings to brainstorm and understand how this could meet some of the affordable housing needs.

Mitchel C. suggested continuing to August 20.

Ted B. made a motion to continue the hearing to August 20. Greg W. seconded the motion. The Board voted 7-0.

Other Business:

Decision Deliberations:

Justin Heininger: Conditional Use application for a home occupation located at 9271 Route 116.
Hearing closed 6/18/19.

Greg W. made a motion to approve the draft decision as written. Dick J. seconded the motion. The Board voted 7-0.

Gary & Rebecca Fournier: Sketch Plan application for a 2-lot subdivision located at 308 Pond Road.
Hearing closed 6/18/19.

Greg W. made a motion to approve the draft decision as written. Ted B. seconded the motion. The Board voted 6-0; Sarah M. abstained.

The Board moved news/announcements/correspondence up on the agenda.

News/Announcements/Correspondence:

Mitchel C. mentioned that the Board will hear a subdivision revision and an appeal of a Zoning Administrator's decision applications at the next meeting.

Greg W. recused himself and left the meeting. John L. was recused, but remained at the meeting.

Hinesburg Center II: Sketch Plan application for a major subdivision located north of the Creekside neighborhood and west of the Kinney Drug complex. Hearing closed 6/4/19.

Bryan Currier said he wasn't at last hearing, but he watched the video. He mentioned that his firm works frequently with Mike Buscher; the Board agreed that this wasn't a conflict of interest as long as Bryan C. could remain impartial.

Ted B. was happy with the track changes shown on the updated draft decision. The Board continued the deliberation.

Ted B. made a motion to approve the draft decision as written. Dick J. seconded the motion. The Board voted 5-0.

Mitchel C. said that regarding water for next year, Haystack and others have some water allocation, but it may be hard for Donovan – O'Donnell to get water in the near future. The Board discussed the logistics of water allocation and sketch plan approval continuances.

The meeting adjourned at 10:09 PM.

Respectfully submitted,
Kate Kelly, Recording Secretary