

Town of Hinesburg
Development Review Board
November 5, 2019
Approved November 19, 2019

Members Present: Dennis Place, Greg Waples, Ted Bloomhardt, Jonathan Slason and John Lyman. Sarah Murphy and Dick Jordan entered the meeting a few minutes late.

Members Absent: Bryan Currier (alternate)

Applicants: Jeremy Dean, Benjamin D. Heath, Lisa Daggett

Public Present: David Bertrand and one other

Also Present: Alex Weinhagen (Director of Planning & Zoning) and Kate Kelly (Recording Secretary)

Dennis P. called the meeting to order at 7:30 PM.

Agenda Changes: None.

Review minutes of the October 15, 2019 meeting:

John L. **made a motion to approve the minutes of October 15, 2019 as written.** Greg W. **seconded the motion.** The Board **voted 4-0**; Jon S. abstained.

Roger & Lisa Daggett:

Ben Heath, Vice President of Hamlin Consulting Engineers, representing Roger & Lisa Daggett, introduced himself. Ben H. showed the plans for the subdivision on the screen.

Sarah M. entered the meeting.

Ben H. showed the original alignment of Dynamite Hill Rd. as proposed by the applicant. They'd like to subdivide lot 4 to create a 4-bedroom single family home. He pointed out that the alignment of the road isn't as shown on the plan, and the approved road terminates between lots 3 and 4. This is a private road.

Greg W. pointed out that this was a 1988 subdivision 2-lot subdivision, and asked if anything was built then. In 2000, it was subdivided again to a 4-lot subdivision. Lisa Daggett said the original 4 lots, when they purchased them, were a 53-acre parcel, and there was an additional 10-acre lot east of lots 3 and 4.

Ben H. provided an ortho photo, showing all of lot 4. He explained that the owners of lot 4 would provide an easement so the new owners could access the new lot. They have completed a survey, test pit and perc analysis, results of which said this site would support a 4-bedroom single family home. Undevelopable lands are cross-hatched (excessively steep). There is a town requirement for a 100 foot buffer from back property line. There is an existing UTV trail to access back area, and Lisa D. said they didn't want to interrupt boundaries in the back with neighbors. Ben H. continued that there is already cleared land there, a site for a wind turbine.

Dick J. entered the meeting. Ben H. discussed the staff comments.

1) access for emergency vehicles: the fire department said when it is icy, they can't guarantee emergency services. He read that the applicants were supposed to address this in 2002. Then, he displayed a memo to Hinesburg Planning Commission from Public Works Director Rocky Martin: conditions were applied. The he displayed a subsequent letter stating that conditions 1, 3, and 4 were met, and condition 2 was waived. The Board argued that the condition was not waived, as the Public Works Director does not have this capability; the situation was accepted as a temporary solution, but they needed to come back to move the road to the north by 2001, and the developer did not do this. Ted B. said at the time, they (Planning Commission) were told the flat spot near Pond Rd. would occur and there wouldn't be grades greater than 15%, these the flat spot wasn't developed, and there were grades greater than 15%.

Greg W. said he'd like to see how the proposal will deal with these issues, to move forward.

Lisa D. replied they felt Rocky Martin was approving it based on his position in the town.

Jon S. mentioned in the staff comments that discussion of the application with fire chief occurred. Alex W. explained that these discussions were with staff, and that the road foreman didn't express any comments.

Ben H. said they aren't proposing to make any improvements to the road, only to do lot 4. Greg W. said this would not get his vote. Greg W. said what happened 20 years ago has nothing to do with this current application, because they have to meet today's standards. Ben H. said the road was approved.

Lisa D. asked if this type of requirement to improve roads happens frequently with subdivisions; the Board answered yes. Alex W. said roads often get widened with subsequent subdivision reviews. The question here is of an additional lot, and that the prior road details that weren't dealt with.

Alex W. said it is beyond the 15-year mark, so the town can't enforce the previous subdivision condition as a zoning regulation, but Greg W. pointed out that enforcement is a separate issue. Lisa D. said they added a 38 ft pull-off, and asked if that was adequate. Alex W. said this was the short-term solution, and the long-term solution was to move the road. Lisa D. said when they bought this 53 acres, the first 100 yards was a pre-existing road that was pre-approved. They've had no issues with the bottom of the road here despite many drivers up and down. Greg W. pointed out emergency vehicles can't get up there times of the year, and said that to get subdivision approval you have to prove that you can get emergency vehicles up there 12 months of the year. Lisa D. said they had a fire truck up there in January.

David B. asked if the bottom of road issue and access to the top are the issues? Alex W. said yes, but the fire chief didn't specify which sections are the problem. Lisa D. said they get trash removal up there year round. David B. pointed out that many roads in Hinesburg have this issue. Greg W. said the Board hasn't approved something that doesn't meet this requirement since the early 2000s.

Item 3: lack of drainage, 15% slopes. Ben H. said there are some places where it is very close to 15%, but doesn't exceed 15%. He believes roadway width meets the rules, and will verify. Alex W. said he visited, and felt drainage along sides is in need of work; there is a culvert next to pull-off near Pond Rd. that is coming out of ground. Lisa D. said they will have it repaired. Greg W. asked about water sheeting off road into Pond Rd. Alex W. said he went up on Friday, and there wasn't much erosion into town road, but there was runoff (due to the culvert issue). Alex W. felt ditchwork along sides needed improvement, as it is causing some runoff onto Dynamite Hill Rd. Culvert is plugged due to runoff from Dynamite Hill Rd.

Lisa D. said this has developed over a long time. David B. said it's reasonable to do maintenance to improve ditches.

Item 4: easement doesn't match what's shown on plans. Ben H. pointed out this is a floating easement, so that road doesn't exceed 15 degrees. Alex W. said that they've never had neighbor complaints, but someone with the state spoke with the neighbor to the south, and they commented they saw more erosion on their lawn after the road went in, but they weren't upset about it.

Item 5: water supply. This will require a state permit. They had a driller go to the site, Zoning Administrator was present. Applicant is more than willing to comply with any requests. Greg W. said Mitchel Cypes's report shows three nearby wells that have zero supply, and asked if these are dry. Alex W. replied they likely are. Alex W. commented that a similar project was when George Bedard proposed a subdivision on Texas Hill, and in response they required them to either drill the well first or come to the table with an innovative storage solution.

David B. met with Claude Chevalier, well driller. Claude felt locating it on top of the ridge would be better. David B. mentioned that he will be partnering on this project with money. They are willing to invest. Jon S. mentioned that our language requires that this not affect other wells and asked how this could be shown; Alex W. said it is not possible to prove this. David B. continued that Chevalier is willing to drill a well before a permit, and the Applicant would do this if the Board required it.

Item 6: Deer wintering area and core habitat: these are on parts of the lot not being developed and other adjoining properties. This location has already been cleared, so shouldn't affect deer wintering area. Dick J. said lot 4 looked like it had deer wintering area. Jon S. said it is both core and deer wintering. Dick J. said these change over time. Alex W. said they are published by VT Fish & Wildlife, and they are quite broad and old, but agreed that deer wouldn't be using the cleared area as a wintering area.

Items 7 & 8: building envelope: Ben H. said they are happy to shrink building area on the west side. Ben H. said there are steep slopes to west, these are unlikely to be deer wintering. Jon S. said the 2000 letter from Fish & Wildlife was pretty strongly worded, but they've dealt with this, and he'd be more concerned with developing lots 2 and 3.

Alex W. asked if this was an Act 250 issue. Ben H. said Act 250 jurisdiction was based on length of the road, and they plan to request clarification. Alex W. thought it would still be under Act 250. Ben H. said because they aren't requiring any changes to length of the road, it could be a minor revision to the permit.

Item 9: Utilities: utility lines were required to be underground. Ben H. said first 600-700 feet were underground, then they hit ledge, so were placed above ground until between lots 3 and 4. They would bring it back underground starting at lots 3 and 4 property line, to go to the new lot. Greg W. asked if this was consistent with the approval. Alex W. believed this was a waiver by the Planning Commission. David B. displayed where the utilities underground would go; they've already met with VELCO.

Item 11: roadway extension: this will not be an extension, just an easement.

Dennis P. asked about comment 10; it was already addressed. Greg W. asked if this could instead be accomplished by easement. Lisa D. said they could, but they wanted to keep it at 3 acres. David B. mentioned that there are old logging roads there for mountain biking, and they've always allowed anyone to come bike.

12: turnaround: cul-de-sac is allowed, and in the interest of not cutting as many trees, they'd propose to meet this requirement by calculating it based on the fire department's truck size requirements. The Board commented this can be dealt with at final. Dick J. said the logical spot is lot 4's driveway.

Ben H. asked what improvements the town wants to see to move forward with subdivision? Dennis P. suggested talking to fire chief. Greg W. suggested discussing with Mitch C. who is an engineer. Ted B. said a flat entry off Pond Rd. would be required. Dennis P. asked about culvert under road – why has it not been fixed, and does it need to be bigger? Jon S. suggested a discussion with fire chief, could be bring up easy fixes. Dick J. suggested getting more specific comments regarding 15%, and where the issues are. Dick J. asked if at the end of the road, we sometimes make a requirement that a portion of that be paved. Greg W. said they required it be flat, not paved. Ted B. said in the prior decision they required it be flat, but if not, pavement may be a solution. Alex W. said Staff could go back into the files to help clarify the background of the grade issues.

David B. commented that they don't know if they have ability to build on other properties. He asked engineers to address possibilities. David B. requested the Board consider using common sense. Greg W. requested the road be moved to the north to be much flatter. Alex W. displayed an aerial photo, and explained that the current road is on the LaCroix property, and the easement is across this property. In 2004, LaCroix proposed subdividing. Any change to road location would require a discussion with LaCroix.

Ben H. asked what the definition is for a short term approval, and if there is a deadline. The Board and Alex W. replied deadline was June 1, 2001. Ted B. said they are now requesting another lot, which makes them now need to meet current criteria. Alex W. explained that the common sense reason for this is that if we have a deficient situation, we don't want to make it worse, so we have to think carefully about putting additional people at risk, and increasing the burden on our emergency services. David B. said if we use same common sense approach, we don't get extra tax base, and the four existing lots won't do anything to improve the road. Here, the Applicant will work with you (to widen the road, improve it). Greg W. said he's happy to work with them, but it has to be consistent with regulations. Greg W. said he'd suggest talking briefly to an attorney about the validity of the approvals from 2000, and legal issues surrounding this. He feels bound to apply current regulations to this application. David B. said he feels Vermonters have a sensibility about adding to tax base and improving roadway. Lisa D. asked about which regulations are in question; Alex W. replied it is the regulations cited in staff comment #1. The Applicant felt it was unfair to require them to move the roadway. Ted B. said they may have to move the road to do that, but the direction was to make it a flat intersection off Pond Rd. There may be other solutions. The Applicant questioned what our road standards are, Alex W. said our standard references state standard B-71, and we state that they should work with the Road Foreman. David B. asked if there are examples where they've asked a private subdivision to improve the roads. The Board had many examples, and stated it is common to request them to increase width or depth.

Dennis P. asked the Applicant when they would like to reschedule. The Applicant asked if they can satisfy the fire chief and road foreman, but can't meet interface at Pond Rd., could this application proceed. Greg W. said no. Jon S. said he'd like to know what generated the original concern in 2000. Alex W. said he can give history, and an engineer can decide if this meets road standards today. Dennis P. would like to see what they come up with. Greg W. suggested discussions with Mitch C. Dick J. suggested continuing to Dec. (3rd or 17th) then continuing again if necessary. The Applicant said they'd prefer the Dec. 3 meeting, and could continue if necessary.

Ted B. **made a motion to continue this sketch plan application to the Dec. 3 meeting**, and Greg W. **seconded the motion**. The Board **voted 7-0**.

Other Business:

Decision Deliberation:

Bucky's Pub, LLC/Tony & Ruchel St. Hilaire: Sign review for Bucky's located at 104 Ballard's Corner Road.

The Board reviewed, and Alex W. said that Tony & Ruchel St. Hilaire have been in to discuss.

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

News/Announcements/Correspondence

None.

The meeting adjourned at 9:01 PM.

Respectfully submitted,
Kate Kelly, Recording Secretary