

Town of Hinesburg
Development Review Board Meeting Minutes
September 7, 2021
Approved September 21, 2021

Members Present: Ted Bloomhardt, Dick Jordan (via Zoom), John Lyman, Dennis Place, Jonathan Slason (via Zoom), Greg Waples.

Members Absent: Branden Martin, Brian Currier (Alternate).

DRB Staff: Alex Weinhausen (Director of Planning and Zoning), Amy Coonradt (Recording Secretary)

Applicants:

- Andrew & Kristin Miskavage: Andrew and Kristin Miskavage (Applicants)
- Renee & Ryan Mobbs: Renee Mobbs (Applicant)

Public Present: Henry Bemis^{CA1}, Denise Bouchard, Raymond Bouchard, Janet Francis, Terence Francis, Merrily Lovell (via Zoom), Robert Melo, Andrew Miskavage, Andrea Morgante (via Zoom), Liam Murphy (via Zoom), Priscilla Reidinger, Donna Rivers, Rodney Rivers,

Dennis P. **called the meeting to order at approximately 7:00 PM.**

1. Agenda Changes: None.

2. August 17, 2021 Meeting Minutes:

John L. **made a motion, and Greg W. seconded, to approve the minutes for August 17, 2021 as amended.**

The minutes were amended as follows:

- P.3, paragraph 5: In second sentence, replace “they entered into contract with a lot of precedents” with “there was a previous history and the project site was subject to previous zoning and land use regulations.”

3. Andrew & Kristin Miskavage: Subdivision revision to modify property boundaries between 47 Orchard Commons Road and an Orchard Commons Association common area in the Rural Residential 1 Zoning District.

Andrew M. said that his current garage is over the property’s lot line, which exists as a subdivision on common land and that he would like to remove boundaries so that garage is fully on lot and they can add a carport. He said that they would like to move lot line 16 feet, generally south. Greg W. confirmed that there is no net gain or loss to the house’s property area or the common area.

Greg W. **made a motion, and John L. seconded, to close the public hearing and approve the decision as amended. The motion passed 5-0.**

The decision was amended as follows:

Include in Order #2 that “the survey shall detail the waiver.”

Dick J. joined the meeting.

4. Renee & Ryab Mobbs: Subdivision revision to convert a conserved/differed 63-acre lot into a developable lot with one primary residence located on the west side of Observatory Road north of the Forest Edge development in the Rural Residential 1 Zoning District.

Renee M. began by noting that this lot was created by zoning review as opposed to DRB review and that it never went through DRB review when it was subdivided. She said that she is proposing to build a single-family home (northernmost structure) with an attached two-car garage and a 60x30' barn with a two-bedroom Accessory Dwelling Unit (ADU) above it. She said that the proposed access would be off of the existing road. She said that they have changed plans to keep the impermeable surface area to under 10,000 sq ft, and they are currently at 9,777 sq ft. She said that they have obtained state wastewater approval for a six-bedroom conventional septic system, noting that the soils on the property are very good for drainage. She said that they have slightly revised the building envelope to get out of the steep slopes. She said that the grade is relatively flat where they are proposing to build. She said the building envelope itself is on between 6-14% graded slopes, but within that they are proposing to build in the flatter end of that range. She said that the driveway area is also quite flat. She noted that one issue that arose in staff review was around stormwater mitigation. She said that they are proposing to have a ditch on the high side of the driveway with crushed stone to slow and filter any runoff from the steeper section, and then a culvert down at the bottom where the driveway meets the existing road base, and it would slope along with the slope. She added that it would not point directly at neighbors below them, but would flow to the southwest.

Greg W. said that there was a 9-lot subdivision approval on the property about 5 years ago, and he recalled walking the property. He said that there was a lot of neighborhood interest in that proposal, but that this is a much smaller scaled development. He asked if applicant has had communication with neighbors about the plan. He said it looks like the house will go right in the middle of the lot, which would constrain additional development, although there would be additional development potential. Renee M. replied that they bought the land in the name of an LLC and that they have plans to submit further subdivision plans in future on the east side of the property that abuts North Road, similar to what had been proposed previously. She noted that their intent is to keep the west side of the property undeveloped, and will own in their own names that 30-acre section that would go along with their homestead. She said that they have talked with the Melo/ Reidinger family, who are just south of the proposed house site. They had no objection to current plan as proposed. She added that they have also had communication with the Francises, who are next to the Melo/Reidinger family, and they have not expressed opposition to the proposed plan.

Dick J. asked about the old sketch plan. Renee M. replied that the plan had been abandoned after sketch plan approval.

Jonathan S. asked about the size of the building envelope. Renee M. replied that it's a little over an acre. Alex W. noted that there are resource areas that are called out in the regulations and that the Applicant has revised their proposed subdivision revision to ensure that development does not impact core wildlife and that it avoids steeper slopes.

Dennis P. opened the discussion up to the public.

Henry Benis expressed concern about the quality of the drinking water in that area. He noted that any well would have to be drilled to a depth of 600-1,000 feet and that the area is located near an old Town

landfill. Dennis P. asked the applicant one issue that needs to be addressed is drinking water. Drilling a well is around 600-1,000 feet. It's limestone and gravel. It's near an old landfill. Dennis P. asked if the Applicant has looked into the well drilling. Renee M. replied that they have looked into it, and that they are uphill of the landfill rather than downhill. She said that they plan to drill one well and monitor the water quality due to the proximity to the landfill. Dennis P. asked if the Town would have to monitor the water. Alex W. replied that for the 9-unit project in the area a number of years ago, the Department of Environmental Conservation sent a letter to the Town saying that they encourage an evaluation of the wells that are proposed and the surrounding area. Alex W. noted that Town regulations allow the DRB to require test results of a water sample as a condition of approval or conditional to the issuance of a zoning permit. He noted that a fair amount of testing has already been conducted on existing wells but additional monitoring by the Town will occur. He recommended compelling the Applicant to submit a water sample. Dennis P. asked about process and next steps if the well is contaminated from the landfill. Alex W. said that he doesn't know. He said that the landfill was properly capped decades ago, and isn't sure if there is additional liability on the Town at this point. Dennis P. asked if the applicant is planning on drilling the well first. Renee M. said that they will drill the well during the construction period.

Priscilla Reidinger, a neighbor, said that some of the neighbors in that area have had contamination problems. Renee M. replied that she had heard that several residences had recently had well water issues. She said that they feel less at risk due to the uphill location of the property.

Robert Melo, a neighbor, said he has had his water tested and it is fine, and is continuing to test at his own expense. He asked about liability if the well is drilled and the water is contaminated, since the culprit for the contamination would be the old Town landfill, and whether the liability would fall on the Applicant or the Town. Alex W. replied that it's not within DRB's purview to base their decision on whether liability exists or doesn't exist; however, it would be in everyone's best interest for this property to get tested. John L. asked if the Applicant could test without drilling the well. Greg W. noted that this is a 67-acre property and that there are many options to build wells in that area. Jonathan S. agreed with Greg, that they have a lot of land and can drill multiple wells if need be.

Terry Francis, a neighbor, noted that he has had his well tested but does not yet have the results, but that there have been no contaminants found during long-term testing. He noted other neighbors in the area that have had water testing conducted.

Jonathan S. said that while being uphill makes sense from surface water, it will be a dug well that goes down several hundred feet, and that the uphill gradient may not be relevant. He suggested figuring out whether they postpone this to deal with liability as a question, and expressed a preference for resolving this issue prior to construction. He advised the Applicant to drill the well prior to constructing any buildings. Dick J. asked if filtration systems could be used to purify the water, should the well be contaminated. Renee M. replied that it depends on the contaminants.

Greg W. said that the issue before the board is whether the applicant can show that they can develop the lot in conformance with existing regulations. He said that they must prove that they have a reliable water source. He suggested that they could also seek an easement on a neighbor's property if needed. Henry B. asked if the State recognized the proximity to the landfill or included any testing requirements into the wastewater permit they issued to the Applicant. Renee M. replied that they did not put in any testing requirements to her knowledge.

Merrily Lovell expressed concern about the Town's liability should this well be contaminated. She said the Selectboard is currently looking into it. She said it could be possible to install a water purification and filtration system, but that it would be very expensive. She said that the Town is providing bottled water for the Town garage and the Turners, which isn't a viable long-term solution. Greg W. said that the Town can always condemn a property if it is unsafe.

Janet F. expressed concern about drilling disrupting her water supply or further reducing her water pressure or capacity.

Dick J. asked if the properties existed prior to the landfill. Alex W. replied that he isn't sure. Neighbors said that the development came in after the landfill was operating. He said he wants assurance that the Town isn't liable for drilling expenses should the first well be contaminated due to Town's landfill. Ted B. said that there is a certain amount of risk to building any house anywhere. Greg W. said he doesn't see a huge risk of liability to the Town in this situation.

Merrily L. said that companies are liable for contaminated water in other instances and that the pollutants that are coming out of the Town's capped landfill are the Town's responsibility.

Alex W. noted other staff report issues, including the lack of a stormwater control plan. He noted that the Applicant provided information about stormwater management, but suggested that the DRB condition any approval on preparation of an actual plan that shows where the stormwater will be collected and discharged and some level of narrative that explains how that would occur. He said that the Applicant does not need an engineering plan.

Alex W. also noted the proximity to the Vermont Astrological Society's Observatory, which has been around for a long time. He said that the regulations ensure that there isn't light pollution from development, but pointed out that the property is relatively close to the Observatory and asked the DRB whether they would contemplate limiting outdoor light brightness further. The Board felt that the current lighting requirements are adequate. [CA2]

Liam Murphy, an attorney representing Mr. Melo and Ms. Reidinger, requested that any stormwater runoff isn't directed downhill to their property and also requested that the septic system location be moved further up the hill away from their property.

Greg W. made a motion, and Ted B. seconded, to direct staff to draft conditions of approval. The motion passed 6-0.

5. Approval Extensions: Applications that were delayed by COVID and extended to 90 days after the end of the state of emergency, which now request an extension:

- **Haystack** – 6-month extension for a Preliminary Plat approval

Dennis P. made a motion, and Greg W. seconded to grant Haystack a 6-month extension for a Preliminary Plat approval and a 6-month extension for their Conditional Use approval. The motion passed 5-0 (Jonathan S. abstained).

- **Daggett** – 6-month extension for a Sketch Plan approval

Dennis P. **made a motion, and Jonathan S. seconded, to grant Daggett a 6-month extension for a Sketch Plan approval. The motion passed 6-0.**

- **Red Wagon Plants** – 1-year extension for a Conditional Use Farm Café approval

Dennis P. **made a motion, and Greg W. seconded, that Red Wagon Plants be granted a 1-year extension for a Conditional Use Farm Café approval. The motion passed 6-0.**

6. Other Business – Decision Deliberations:

- **Brad Stetler/Palmer Family Trust** – Final Plat review; hearing closed at August 3, 2021 meeting.

Ted B. **made a motion, and Greg W. seconded, to approve the decision as written. The motion passed 6-0.**

- **Robert & Anne Frost** – Preliminary Plat review; hearing closed at August 3, 2021 meeting.

The Board suggested replacing “redeveloped” with “reconstructed” in Conclusion #4 on Page 5. The Board also suggested replacing “which shows the area as a lower priority habitat” with “the area impacted is not the core wildlife area” in the eighteenth bullet of Finding #17 on Page 4.

Greg W. **made a motion, and Ted B. seconded, to approve the decision with the amendments discussed during this meeting. The motion passed 6-0.**

7. News/Announcements/Correspondence

No discussion.

The meeting adjourned at 8: 27 PM.

Respectfully submitted,
Amy Coonradt, Recording Secretary