

Town of Hinesburg
Development Review Board Meeting Minutes
October 4, 2022
Approved October 18, 2022

Members Present: Ted Bloomhardt, Dick Jordan (via Zoom), John Lyman, Branden Martin (via Zoom), Jonathan Slason, Mike Webb (via Zoom).

Members Absent: Dennis Place.

DRB Staff: Mitch Cypes (Development Review Coordinator).

Applicants:

- **Andrew Burton & Corrin Drosin:** Debbi Burton, John Burton (via Zoom), Andrew Burton (via Zoom) (Applicants).
- **Cutting Hill Beef:** None.
- **Hinesburg Center 2:** Brett Grabowski (Developer for Applicant) Michael Buscher (Landscape Architect for Applicant), Matt Murawski (River Engineer for Applicant), Roger Dickinson (Engineer/Surveyor for Applicant).

Public Present (in person): Kyle Bostwick, Dan Jacobs, Merrill Jacobs.

Public Present (via Zoom): Carol Bohlen, James Carroll, Barbara Forauer, Kate Kelly, Rebecca Pfeiffer (till 7:15PM), Greg Tomczyk.

Dick J. **called the meeting to order at approximately 7:06 PM.**

1. Agenda Changes: Mitch C. noted that the Cutting Hill Beef application has been withdrawn and that the Applicant will be pursuing an alternative route for approval of their farm business and signage.

2. Review minutes of the September 20, 2022 meeting:

John L. **made a motion, and Ted B. seconded, to approve the September 20, 2022 minutes as presented. The motion passed 4-0** (Jonathan S. **abstained**, Mike W. **absent for vote**).

3. Andrew Burton & Corrin Drosin – 14-21-13.000 – Conditional use for expansion of a non-conforming structure located at 180 Shadow Lane on a 0.18-acre property in the Shoreland Zoning District.

Debbi Burton, representing Andrew Burton, said that the general plan is to convert a gravel driveway into a carport on the property. He added that this would not increase any impervious surface, since the carport would cover an existing driveway and that they propose to remove a portion of the existing driveway to compensate for the addition width of the carport. He added that they plan to add a solar installation on the carport in future.

Dick J. asked if there would be a roof covering on the carport, since the latest design looks like it has a pergola-style configuration. He asked if the intent is to install solar panels as the roof covering. Andrew Burton speaking on Zoom replied that they will construct the carport with asphalt shingles and then install solar panels on top of that.

Dick J. asked if this would take a non-conforming structure and make it a further non-conforming structure. He asked why this would be permitted if it's creating more non-conformance. Mitch C. replied

that there is in the regulations an allowance of the expansion of non-conforming structures. He explained how the small right-of-way and lots with limited depth create a situation where almost the entire property is in either the front or rear yard setbacks. He said that there is a conforming side-yard setback, but that this proposed configuration would encroach slightly further onto the side yard. He said that the Applicant is asking whether they can have this configuration or whether they would need to reduce it.

Jonathan S. expressed support for this proposal, saying that it will have very little relative impact on the neighbors. John L. agreed.

Dick J. said that the change seems to be unobtrusive and that current neighbors are generally supportive, but the next neighbor who lives there may not like it. Mitch C. replied that where the change is being proposed, the only affected adjacent property is a garage (not a residence). He also noted that the Applicant will be removing a portion of the driveway so that the total lot coverage will not increase.

Jonathan S. said that according to the regulations, this would be a practical amendment. He said that it doesn't have adverse effects on the adjoining property, it seems compatible with the surrounding character, and doesn't change the size of the upper floor. He said he would be comfortable with approving this.

Ted B. said that it seems that the Applicant is proposing to expand as little as possible and isn't infringing upon the front and rear setbacks, though they are expanding a bit on the side yard setback. He said that this generally conforms to regulations around non-conforming properties.

Dick J. asked how many feet the carport would encroach into the side yard. Mitch C. replied that it would encroach around 7.5 feet. Dick J. asked how many feet the side yard setback would be, and Mitch C. replied that because the carport is attached and would be an expansion structure, they are allowed a 20-foot setback. Dick J. asked if the Planning Commission has thought specifically about roads like Shadow Lane, which are narrow and have exceedingly small lots, and whether setbacks should be changed so that the road doesn't create such an impediment on property usage. Mitch C. replied that the Planning Commission has been examining the Rural Residential 1 District and have been contemplating adjustments to setbacks (though not specifically for Shadow Lane).

Branden M. said that he is supportive of this application.

Dick J. opened the discussion up to the public.

Jamie Carroll, a neighboring landowner, said that he supports this project. He said he has also submitted comments to the Planning Commission regarding the Shoreline District, noting that only a very small percentage of the lots are conforming in that district. He said that regulations that better fit the district would be beneficial. He also noted that if this project were characterized as a solar installation that is used as a carport (rather than a carport with solar), it would be exempt from local zoning. Mitch C. noted that there has been some legal review on that, and that the solar panels are exempt but the structure that supports them would not be, if they have another use.

Jonathan S. made a motion, seconded by Branden M., to close the public hearing, accept the application, and direct staff to draft conditions of approval, with the provision that the applicant reduce the driveway length to maintain current lot coverage. The motion passed 6-0.

- 4. Cutting Hill Beef – 04-01-23.000** – Conditional Use for a Farm Market and sign application to be located in a barn at 2408 Shelburne Falls Road on the 87.8-acre Tap Root Farm property (*continued from 9/6/22 meeting*).

Mitch C. noted that Cutting Hill Beef is withdrawing both of their applications, and that they will try to proceed as an Agriculturally Exempt business by meeting the following criteria: raising cattle on Tap Root Farm and having more than 50% of the products they sell be from the farm. He said that a freestanding sign would be more difficult than placing than a wall sign, which the Zoning Administrator to approve.

Jonathan S. **made a motion, and John L. seconded, to approve the withdrawal. The motion passed 6-0.**

- 5. Hinesburg Center 2 (HC2) – 08-01-06.320** – For a mixed-use development on a 46.2-acre property located to the west of Kinney Drugs and south of Patrick Brook and north of the Creekside development in the Village and Agricultural Zoning Districts. Proposed are 22 lots, 73 dwelling units, 12,000 square feet of Office/Commercial space and 2,500 square feet of light industrial space. This first meeting will focus on the conditional use applications for development in a floodplain and stream setback for this final plat subdivision review.

John L. and Jonathan S. recused themselves from this hearing.

Mitch C. noted that there were concerns from the State's Floodplain Management staff. He specifically noted that the application was not clear what the existing and proposed conditions would be.

Brett Grabowski said that there has already been fill placed in the floodplain from Hinesburg Center 1 development as well as the Town sewer and water main crossings. He said that the main areas of concern from the State is the space between those. He said that the specific elevations of the buildings, roads, and crossings are multiple feet above what the 100-year floodplain would be. He said that the State's issue is less about the elevation and more about the impact on the 100-year flood level. He said that what they are proposing should show that there is minimal to zero impact to the 100-year flood level. He said that they have analyzed the entire river corridor and show the existing condition and what the condition would be at buildout and can demonstrate minimal to zero impact.

Matt Murawski noted that the fill is outside of the river corridor setbacks. He noted that the cross-section of analysis showed the greatest impact to the 100-year flood level at buildout was a small area with an increase of 2.64 inches (or 0.22 feet) just beyond the proposed culvert, which tapers to zero quickly downstream. He showed an area just before the proposed culvert where the water elevation decreased. He explained that this is typical hydrodynamics of a culvert. He said that national flood insurance program standards allow for a rise of 1.0 feet, and they are well within that limit. He said that previously, they showed that the fill in the floodway meets the State's *de minimis* standard as well. Brett Grabowski noted that what was originally proposed showed the specific impact of adding the bridge to the HC2 project, but that the State was also looking for the comparison of the impact of adding the HC2

project (and bridge) to the floodplain versus the current conditions. He noted that they have not yet submitted this new analysis to the State.

Matt Murawski spoke about other items in the staff report that pertained to State comments. He noted that Staff said that the cross-section scale and vertical exaggeration made it difficult to determine differences, so he presented a reworked visual representation of that cross-section.

Ted B. noted that they haven't seen detailed plans for the crossing. He asked what the lead-ins are for the 20-foot culvert. Mitch C. showed details for the road culvert. Ted B. asked if part of the fill is extending over to the culvert and building the road. Mike Buscher replied in the affirmative. Roger Dickinson said that the culvert is about 20 feet wide, which is about the maximum width for a concrete box culvert. Ted B. asked if there are concerns about channelizing the Patrick Brook in that area or forcing the water to stay in the channel. Roger Dickinson replied that that is an unavoidable consequence of having a road crossing of Patrick Brook, and that it is not a current point of contention with the State. Brett Grabowski replied that they have received preliminary approval from the wetland group, for the wetland and the sidewalk crossings. Roger Dickinson said that the culvert will be set into the channel's natural stream bottom (a positive for aquatics) and that the State has been supportive of this layout.

Dick J. asked if fill will be put in the floodplain in the northwest area of HC2. Matt Murawski replied that fill is allowed in much of the floodplain and floodplain fringe, but is not allowed in the floodway (except for roadway crossings), as long as it does not raise the flood level by more than 1.0 feet.

Brett Grabowski noted that the State also had questions related to the divergent structure. He noted that they have run an analysis on it and that requirements have been met.

Dick J. opened the discussion up to the public.

John Lyman asked what impact the development and the bridge have on the floodplain. Matt Murawski replied that the fill for the HC2 development has a 0.22-foot impact on that increase and that the bridge's impact is negligible.

Kyle Bostwick said that there is water that is currently flooding into the fill area (in the Creekside development). He asked whether that is coming from Patrick Brook or if it is based on runoff from existing development. He said that he does not want any additional fill impacting existing houses. Mitch C. said that this project may alleviate some of the Creekside area flooding. Matt Murawski said that if water gets out of Patrick Brook, it will pool near the Creekside area, but won't be able to do that once the development of HC2 goes in. He said that HC2 would be protective, in that instance.

Jonathan Slason noted that part of the ponding is coming from VTrans and the State Highway. He said that the water that is ponding may go to the Creekside stormwater system. He expressed concern for this in terms of water management. He asked for confirmation that the elevation/rise that is being predicted will not increase the elevation of the floodplain. Matt Murawski confirmed that the floodplain will not rise from Patrick Brook due to the fill from HC2. Roger Dickinson said that they have been

working with the State to refine stormwater design and that they will discuss that in more detail when they discuss the overall stormwater management plan for this application.

Barbara Forauer asked who is liable for flooding and flood damage, if neighborhoods are adversely affected as a result of this development. Mitch C. replied that this development's stormwater system will have to have adequately-sized pipes to accommodate that kind of flow. Barbara Forauer noted that Lot 30 is consistently wet and said she hopes that engineering will help alleviate that.

Ted B. stated that he would like to receive feedback from the State for these new submittals. Mitch C. noted that there are a handful of applications associated with this development. The Board discussed when to continue the hearing.

Ted B. made a motion, seconded by Mike W., to continue the hearing to the November 1, 2022 meeting. The motion passed 4-0.

6. Extension Requests

- **Donald Russ & Karen Cornish – 09-02-38.800** – Sketch plan application approved on 5/17/22 and will expire on 11/17/22.

Mitch C. noted that this is the first extension request for this application. He said that there are a number of factors related to the ecology of that subdivision application.

Ted B. made a motion, second by Mike W., to extend the sketch plan application approval for 6 months. The motion passed 5-0.

7. Decision Deliberation

- **Town Wastewater Treatment Facility – 08-01-05.000** – Site plan and conditional use for development in a floodplain on a 26.05-acre parcel located on Lagoon Road.

The decision for development in a floodplain was first reviewed. Dick J. asked if the State will reevaluate the flood plain in that area once the lagoons are opened back up. Ted B. said that FEMA evaluates that. Mitch C. said that they presented it with the current base flood elevation. He reminded that Board that the Applicant testified that the cost to obtain a LOMA was too great and not obtained. He said that flows are now channelized by the berms. He said that removing the berms should result in a reduced base flood elevation, but the Applicant was not sure whether this change would be reevaluated.

Ted B. made a motion, seconded by John L., to approve the decision as written. The motion passed 5-0.

Then the Site plan decision was reviewed.

Dick J. asked if there is any landscaping proposed around the building. Mitch C. replied that they had said they were considering doing some landscaping, but not much. Ted B. noted that they requested a waiver from the cost calculation for landscaping.

Language was added to Finding of Fact #11 and to Conclusion #6 to note a waiver of landscaping and screening cost calculation requirements and not of the requirement to place landscaping.

Dick J. **made a motion, seconded by John L., to approve the decision as amended. The motion passed 5-0.**

- **Haystack Crossing, Black Rock Construction – 16-20-56.500** – Subdivision final review 60 lots, 176 dwelling units, 27,000 square feet of non-residential space (commercial, light industrial), and greenspace. Haystack Road, 76-acre parcel.

Mitch C. noted that this is not a full decision but a restatement of conditions, findings, and draft conclusions for the DRB's review. He asked for DRB members' feedback on the draft prior to writing a final decision.

8. News/Announcements/Correspondence

Mitch C. noted that at the next meeting there will be a subdivision revision to transfer land within a shared right-of-way from one property to another, in addition to two sketch plan applications. Ted B. recommended a review of the history of one of these.

The meeting adjourned at 9:11 PM.

Respectfully submitted,
Amy Coonradt, Recording Secretary