

Town of Hinesburg
Development Review Board Meeting Minutes
March 15, 2022
Approved April 5, 2021

Members Present: Ted Bloomhardt (via Zoom), Dick Jordan (via Zoom), John Lyman, Branden Martin (via Zoom), Dennis Place, Greg Waples, Mike Webb (alternate – via Zoom).

Members Absent: Jonathan Slason (recused himself and participated as a member of the public for the duration of the meeting).

DRB Staff: Mitch Cypes (Development Review Coordinator); Amy Coonradt (Recording Secretary).

Applicants:

- **Anne & Robert Frost:** *in person:* Anne Frost/Robert Frost (Applicants), Jason Barnard (on behalf of Applicant), Kendall Frost; *via Zoom:* David Whitney (engineer)
- **Hinesburg Center II:** *via Zoom:* Brett Grabowski, Milot Real Estate (developer); Michael Buscher, T.J. Boyle & Associates (landscape architect); Nick Smith, Lamoureux & Dickinson Consulting Engineers (engineers/surveyor).
- **Robert Farrell:** *in person:* Bobby Farrell/Zoe Livingston (Applicants)

Public Present: *in person:* Kyle Bostwick, Daniel Jacobs, Doug Stewart

Public Present: *via Zoom:* Carl Bohlen, Barbara Forauer, Meg Handler, Robert Hedden, Jen Hunter, Kate Kelly, Wendy Koenig, Frank Koss, Alyssa Lasher, Merrily Lovell, Andrea Morgante, Jonathan Slason. Kate Webster, Dale Wernhoff.

Dennis P. **called the meeting to order at approximately 7:01 PM.**

1. Agenda Changes: None requested

2. February 15, 2022 Meeting Minutes:

Greg W. **made a motion, and John L. seconded, to approve the February 15, 2022 minutes as presented. The motion passed 5-0.**

Ted B. and Dick J. joined the meeting at this time.

3. Robert & Anne Frost – 04-01-39.100 – Four-lot Final Plat Subdivision application to create two new buildable lots, place an existing farm house on its own lot and to transfer about 19 acres to the Applicants' abutting residential lot. The Applicants' 27-acre property that would be subdivided is located at 588 O'Neil Road in the Agricultural Zoning District.

Jason Barnard began by noting that since the last hearing, there have been no significant changes to boundary lines, water, or wastewater. He said that the stormwater infrastructure for the shared driveway had been partially in the right-of-way, necessitating a stormwater collection system redesign. He noted the location of an easement for a stormwater pond, adding that the stormwater wet pond was moved further down the driveway and out of the right-of-way. He additionally noted that lot acreages have not changed and the building envelopes have not changed. He said that he and the Applicant are confident that they have addressed all staff comments except for several minor ones.

Greg W. asked about relationships with the Town and neighbor regarding this subdivision revision. Jason Barnard said that there is a road maintenance agreement in place and that they have attempted to reach out to the neighbor (Mr. Hedden), though Mr. Hedden did not express interest in joining the road maintenance agreement. Mitch C. said he had a conversation with Todd Odit (the Hinesburg Town Manager), and confirmed that the Applicant met with him on site and mutually agreed upon the location for the stormwater system. Jason Barnard noted that Lot 1 will need to be taken out of the road maintenance agreement.

The Planning Commission began walking through the staff comments. Mitch C. noted that there is a pipe that infringes into the building envelope in one corner of Lot #1 and asked that it be adjusted. Jason Barnard said that they could shift the envelope in that location slightly, if necessary. Mitch C. then stated that the flow arrows for discharge in Lot #7 should be pointing to the stormwater pond from the house. David Whitney said that they could remove the flow areas in the southwest corner of the house. Mitch C. confirmed that the stormwater discharge from the impervious surfaces on lot #7 must discharge to the proposed stormwater pond.

Mitch C. also noted a swale at a 12.% grade and said that it should be stone-line. David Whitney said that the swale is supposed to be a grass line swale, and if needed, they could put permanent erosion control netting rather than stone there. Mitch C. asked about installing something near the end of the pipe for the pond outlet to ensure minimal erosion. David Whitney replied that they could install a crash pad (which is stone). Branden M. said that a 12% swale without a stone lining is concerning for him. David Whitney said that he would need to double-check the velocity of the swale, but his preference for material would be to use VMax over stone. He said he could discuss with the Applicant about constructability, since the choice of material could come down to cost. He said it isn't a given that stone is appropriate just because of slope.

Mitch C. said that he would like confirmation that the peak discharge that will come out of the property in a ten-year storm event from the swale and the addition of the flow coming from the level spreader would be offset and would not cause peak discharge from the pond to increase. David Whitney confirmed this.

Mitch C. asked who is maintaining the stormwater system. Jason Barnard replied that Lot #6 and Lot #7 would be maintaining them.

Dick J. noted that the overflow pipe is 12 inches and that a pipe that large could lead to erosion at its outlet. David Whitney replied that they don't anticipate the pipe to be flowing full. Dick J. asked if these swales should meet Town standards for swales on other hill roads, in the event that the Town takes over maintenance of this road in future. Mitch C. asked if the swales have been set for the flows that have been proposed for this development in addition to what is coming down the hill at this point. David Whitney replied that yes, for everything that will contribute to the drainage path. Dick J. said that if there is washout being found, the approval can be conditioned to compel the Applicant to repair it. David Whitney noted that there is also now consistent slope along the road.

Dennis P. opened the discussion up to the public.

Robert Hedden said that when the road was identified for his residence in 1973, considerable blasting was required. He said that the road is currently stable, but reiterated that this is a significant challenge.

Kendall Frost asked several questions about the environmental report that Mr. Hedden submitted. Kendall F. said that many of the questions were items directed towards the Town. Greg W. asked if there is litigation pending in environmental court. Mitch C. said that it was dismissed with the recommendation that they try and mediate first, but that Mr. Hedden could bring it back if he chooses. Greg W. said that this doesn't sound like it pertains to this application. Mitch C. said that the staff report answers many of the questions she asked.

Greg W. said that there are still issues pertaining to road sharing agreements and asked how they move forward with this. Dennis P. said that he would be comfortable with approving with conditions. Mitch C. asked what a maintenance agreement would look like. Jason B. said that the road maintenance agreement was submitted and Lots #6 and #7 are responsible for maintaining that section of the road. Mr. Hedden noted that he is not part of the maintenance agreement.

Greg W. made a motion, and Ted B. seconded, to close the public hearing and direct staff to draft conditions of approval. The motion passed 7-0.

4. Hinesburg Center II – 08-01-06.320 – Sketch Plan application for the remaining 50 units of the overall 73-unit master plan for the subdivision. The Applicant with additional water and sewer allocation would like to obtain sketch plan approval for the remainder of the proposed development. The Applicant will be requesting a waiver for preliminary plat approval for the additional units, to be able to return to the DRB for a single combined final plat application that would include the full buildout of the property development.

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

Mitch C. began by stating that the Applicant went through a sketch plan and preliminary plat approval, that the review of this project has been of the master plan, but that only 23 units were proposed in phase 1. He explained that there was sufficient water/sewer allocation at that time for the first 23 units, but now there is sufficient allocation, which the Applicant has obtained, to allow the applicant to do the entire project. Since the master plan was reviewed in detail, the Applicant is returning to try and obtain sketch plan approval for the remaining units (for the entire development), and a request for a waiver of preliminary plat approval. He said that the goal of the applicant is sketch plan approval with a waiver of preliminary plat approval, and then to return for final plat application for the entire development.

Nick Smith said that the project is located off of Vermont Route 116, and is north of the existing Creekside development and west of Hinesburg Center 1. He noted that this is the second phase of the Hinesburg Center project, which was reduced by the State with a delineation of the river corridor. He said that the project proposes an extension of Farmall Drive and that the location is right over existing town water and sewer lines. He said they are currently proposing 9 single-family units along the west edge and 6 single-family units fronting on Road B, as well as 2 9-plex units. He noted that a third 9-plex was reduced to a 6-plex. He said that there is a small commercial light industrial building at Lot 54, and a multi-family unit. He noted that Lots #50 and #51 are commercial retail spaces. He noted a stormwater treatment facility on the west side. He noted significant changes in delineation of the river corridor—it was extended 10 feet after meeting with the State. He also noted that they have also been working with the State on floodplain mapping. He said that the Applicant is finalizing their floodplain analysis study currently. Greg W. asked if the changes that occurred at the state level were due to location of riparian

corridor. Nick Smith replied yes, and that the result of that was a loss of a single-family lot and the change of that 9-plex from 6-plex, which would entail a slight reduction in scope.

Michael Buscher said that this project is laid out to meet the intent of the Village Growth Area, and has incorporated buildings close to road, on-street parking, and a strong emphasis on pedestrian circulation. He noted that in Lot #30, they are working on expansion in that space that meets the public open space requirement. He noted a large green space that is shared with the Creekside area, and several draining, grading, and landscaping improvements associated with that. He also noted hardscape improvements, but that there is significant resistance from the Creekside neighborhood for some of that hardscaping. He said they are working with the Town Manager on working through that opposition. He said that they are continuing some of the existing commercial uses from Hinesburg Center 1. He said that the single-family lots will be very similar to those in the Creekside neighborhood.

Dennis P. asked if the culvert will be spanned with a pedestrian bridge. Nick Smith replied that yes, they are working to ensure that that will be part of this project.

Ted B. asked about elevation changes and fill in relationship to the floodplain delineation on the plan. Nick Smith replied that generally the site needs quite a bit of fill for these homes to be established above the floodplain level. He said that their analysis shows that with these increases in elevation, there are minor changes to the floodplain, but no major changes from the original proposal.

Dick J. noted Lot #56 and how it has been contentious due to elevation change, and an access way. Nick Smith replied that it is an intended building lot, but they will likely not be able to obtain State approval for building in that lot (though they are still seeking Town approval). He noted that there will be access to the west portion of the development through that lot. He reiterated that they will show a building envelope in that lot for final plat. He clarified that the problem is that the State classifying it as a wetland and that it has connectivity to the LaPlatte Brook, though the Applicant disagrees with this and federal classifications also disagree with the State's assessment. Brett Grabowski noted that they plan to maintain the lot by mowing it.

Michael Buscher noted that there will be Town path easements for pedestrian paths and access throughout the development. Brett Grabowski noted that they have received suggestions from the Trails Committee regarding paths, as well as a request from the Conservation Commission to place the entire river corridor in a permanent conservation easement.

The DRB then began to discuss the staff comments.

Mitch C. noted that in terms of municipal impact, the schools are evaluating the entire school district and they are factoring in development in Williston and other surrounding areas for impacts on CVU school enrollment. Brett Grabowski said that building multi-family units do not generate students. Mitch C. noted that the estimates calculated that the development would create 15 students (K-12), which is not a significant, increase compared to the 9 students (K-12) originally calculated for the earlier phase 1.

Michael Buscher discussed the setback on Kailey's Way. Brett Grabowski noted that what is being proposed for a setback for some of these buildings are similar to setbacks proposed and approved for Phase 1, and noted that the setback of concern is in a private parking lot. Dick J. said that he is comfortable with the setback being less than 10 feet because there do not seem to be sight issues for the road. Other DRB members were comfortable with that explanation.

Mitch C. noted that the next staff comment pertained to affordable units. Brett Grabowski replied that they had spoken with the Affordable Housing Committee and were in agreement with having four units proposed for Phase 1. He said he would still propose to have units in Phase 1 and how they would like those affordable units allocated among different unit types. Mitch C. said that they need a narrative about how the project meets Section 5.21.4. Dick J. said that if they convert an existing building to affordable housing, he doesn't want to see anyone losing their home since they make too much money and don't meet the affordability criteria. Brett Grabowski replied that they will avoid having that situation happen.

Mitch C. noted that the Patrick Brook connector is an important component of the project, and asked for the status of permitting with the State for this. Brett Grabowski replied that they are working with the State on permitting, though there is reluctance on the part of the Agency of Natural Resources (ANR) to approve it. He said that the Town will also have to step up and advocate that the connector is something they are pushing for. Dick J. asked about the State's objections. Nick Smith replied that the issue is that any fill within the floodway is not allowable, because it produces an increase of flood elevations at that cross-section. He said that realistically, the only way this would be feasible is a 250-foot full span bridge that would span the entire river corridor. Dick J. asked whether it could be a series of box culverts, and Nick Smith said that that would start opening up the channel. Brett Grabowski said that State statute under new guidelines is strict with a very minimal threshold for *de minimus* impact (0.04 feet), which has been a challenge.

In terms of traffic impact, Brett Grabowski said that they would be happy to provide a final analysis at final plat. Nick Smith said that the intersection of 116 and Farmall Drive can't really change, but there could be crossings of Patrick Brook but they need to conduct further analysis. He said that they will provide multiple scenarios. Dick J. asked whether they still plan to do regrading and drainage to fix the flooding problem around Lot #30. Michael Buscher replied that yes, they are still planning on conducting that work.

Mitch C. noted that there was an overall reduction in terms of parking. Nick Smith said that from the previous submission, they decreased by 13 spaces. They reduced this to increase grass strips, plantings, and snow storage. Michael Buscher noted that the original submission included 192 spaces, which has been reduced to 178 spaces. He said that the parking analysis showed that they need around 170 spaces, so they believe they will have ample parking. Dennis P. asked if this addresses concerns from the highway department. Brett Grabowski replied that they addressed those concerns previously.

Mitch C. asked about the access strip between Lots #52 and #53. Brett Grabowski said that those two commercial plots will be developed more formally in a separate plan, and that the intent is to show that they are planning a sidewalk strip between the two. Nick Smith said that it is a minor adjustment and they could make it now.

Mitch C. noted that the lot numbers don't seem to be ordered correctly. Nick Smith replied that they will adjust the lot numbering to address gaps with the final submission.

Greg W. noted that the regulations require commercial components to be constructed prior to residential ones. Michael Buscher noted that Chittenden County has a housing problem, not a commercial space problem. Greg W. asked why this proposal should not be subject to the three-step approval phase.

In response to this, Dennis P. asked how the DRB feels about waiving preliminary plat approval. Dick J. said that this is a large project, though he agreed that they have discussed it extensively. He said that the final plat hearing will be lengthy, since the elements that are typically reviewed at preliminary plat would be pushed to final plat.

Ted B. said that his three issues are how to deal with funding the stream crossing between the two developers, green space infrastructure and working out details with the Creekside development, and some kind of phasing for the remaining commercial aspect of this. Brett Grabowski replied that he has no problem working out a line of credit to pay for the crossing down the road. He said he would be open to discussing some kind of commercial aspect. Ted B. said the Town may not have the resources to deal with the engineering components of the stream crossing, and that the developers should be involved. Ted B. said that he would be comfortable moving to final if some of these issues and details are worked out before it comes back to the DRB.

Mike W. said that it would be reasonable to grant a waiver to move this application to final plat.

Branden M. said he is comfortable seeing this move to final, saying that they've already conceptually approved of everything from the preliminary stage. He urged the DRB to consider the phasing of residential and commercial in this development, saying that the developers should not construct a building just for the sake of constructing it.

Mike W. asked what the plans are to meet subdivision regulations related to renewable energy and energy efficiency. Michael Buscher noted that this project would be specifically limited to the subdivision regulation (Mitch C. added that buildings must be set up to utilize solar and that for a density bonus, the development needs to utilize renewable energy in the development). Michael Buscher noted that 25% of energy demand in the development will be through renewable energy, and that there is also the option to have ground-mounted solar on the property. He also noted that the multi-family building would utilize efficient heat pumps. He additionally noted that the single-family homes will be built solar ready and electric-vehicle charging ready.

Dennis P. opened the discussion up to the public.

John L. said that with regards to the brook crossing, the Applicant should look at whether the crossing is needed for emergency access, which could help get Town backing.

Mitch C. noted that they received written feedback from Kate Kelly, Andrea Morgante, and Jonathan Slason.

Dan Jacobs, president of the Creekside homeowner's association, asked about Lot #30. He asked if that lot was used for bonuses for open space in the Creekside neighborhood. He said that it feels like it's being used to double-dip for this development, if that is the case. He also noted that the developer is proposing creating a slope that goes back to Creekside—he also suggested creating plantings that would provide screening between Creekside and the new development. He also noted that Creekside homeowner's association has been maintaining Lot #30, even though it does not belong to them. He asked that there be language stating that Road A be built first to keep all construction traffic from going through Creekside. He also suggested that someone from the Town (or an engineer on behalf of the Town) monitor the project to ensure that it's being built properly. He advised the DRB not to grant the

developer a waiver to move straight to final plat. Nick Smith agreed that water will generally follow the path that it currently follows, and that the developer will create a new outlet point that will release into the Creekside stormwater. Michael Buscher noted that they discussed plantings at preliminary plat and are having ongoing conversations about screening. Nick Smith noted that in terms of construction traffic, putting a road in to alleviate those to neighborhoods is one of the first steps.

Kate Kelly asked about the status of modeling regarding stormwater, flooding, and fill that will be put in. She said she was reviewing the 2012 study which looked at channel velocities and elevations, which pulled out several scenarios including the addition of the culvert crossing. She said that increases in velocities also increase erosion and sediment load in streams (which detrimentally affects water quality). She asked if additional modeling is being conducted. Nick Smith replied that they have a third-party engineer that is conducting the modeling for this, and that there is zero increase in flood velocity in the channel, though slight increases may occur in the floodplain or pocket areas (but their effects should be negligible). He said that this development is likely to reduce both phosphorous and soil transport. Kate Kelly recommended that the DRB consider potential backup plans, should the Patrick Brook crossing not pan out with the developer.

Kyle Bostwick, an abutting neighbor, said that enhancements to Lot #1 as opposed to Lot #30 don't conform with the Town Plan. He also said that Lot #30 fills up significantly with water when it rains, and that he is very concerned about flooding, should the elevation of Lot #30 be modified. He also expressed concern about development for Lot #56, since it is a connection to the brook and is where water currently flows. He asked the DRB not to approve building on Lot #56. Nick Smith replied that the lot to the north of him is at the same elevation as his property, which would create the ability to have water flow between the houses and direct it toward the LaPlatte. He also said that in terms of Lot #30, when they remove the cross-culvert, they will be reducing the amount of water on that lot significantly.

Frank Koss said that Lot #30 should continue to be open to the public. He asked if the Town is liable if this is developed and flooding occurs, since the homeowners in that location do not have flood insurance. Michael Buscher replied that the flood conditions will be improved by this development. Dick J. clarified that they will be grading a large swale into it to direct the flow over to a discharge point.

Jonathan Slason said that the lowest elevation is being kept identically to what is in place today. He said that there is a ditch that will remain wet. He said that that will eliminate part of the use of that open green space. He said he also submitted written comment. He urged conversations between the developer and Creekside Homeowner's Association on stormwater mitigation. Mitch C. noted that full stormwater information will be required prior to final.

Carl Bohlen from the Housing Committee requested meeting with the developer on affordable housing prior to final. Brett Grabowski agreed.

Barbara Forauer asked about the crossing and whether it would be a roadway. Michael Buscher replied that yes, it is a roadway as part of the official Town map and Town Plan. She suggested opening up Lot 30 to public gardening. She also said that they can't predict the number of students that would be added as a result of this development. She asked about hiring a third-party engineer, and Dick J. replied that it is possible for the Town to do that. She additionally said that she is supportive of moving to preliminary plat for the applicant, since the regulations stipulate a three-step process.

Ted B. made a motion, and Branden M. seconded, to close the public hearing and that the Development Review Board (DRB) modify the sketch plan review to reflect the removal of the phasing request and reiterate that there is preliminary plat approval for that. The motion passed 6-0.

5. Robert Farrell – 06-01-41.110 – Subdivision Revision to move the building envelope on a 38.7-acre property located at 1773 Texas Hill Road in the RR2 zoning district. *Continued from 2/15/22.*

Mitch C. noted the very late submission by the Applicant, that he had tried to match up the Applicant's property with the Town's GIS maps in order to place building envelopes and line up the grading, but he was not able to get an exact match. He noted that there are still steep slopes within some of the envelopes, and there are regulations against that. Robert Farrell disputed the steepness of the slopes within the envelope, and said that they make up a small area and will ultimately be filled in.

Greg W. suggested that the Applicant could have an engineer map out the steep slopes, and Mitch C. said that if the mapped slopes are in the wrong location, he would like to work with the Applicant to ensure that they have accurate mapping. Greg W. said that approving a building envelope that contains steep slopes would be setting a bad precedent.

Dennis P. said that the Applicant should work with Mitch C. to obtain more accurate slope mapping so that the DRB can approve a building envelope that doesn't contain steep slopes.

The DRB also discussed moving the building envelope so that it is not within the vicinity of the steep slopes.

Dennis P. made a motion, and Greg W. seconded, to continue the hearing to April 19, 2022. The motion passed 7-0.

6. Extension Request – Haystack – 16-20-56.500 – Preliminary Plat approval.

Mitch C. noted that they have a nearly-complete application from Haystack. He noted that they received a 6-month extension after their initial year of approval, but they need another 6-month extension

Ted B. made a motion, and Greg W. seconded, to grant the six-month extension to Haystack.

7. News/Announcements/Correspondence

Mitch C. noted that at the next meeting (April 5), they will have hearings from Kelly's Field and David Quaglietta. He also noted that for April 19, Rocky Martin will return for final approval, and there will be a conditional use home occupation for a non-agriculturally exempt commercial cultivation.

The meeting adjourned at 10:35 PM.

Respectfully submitted,
Amy Coonradt, Recording Secretary