

Town of Hinesburg
Development Review Board Meeting Minutes
May 3, 2022
Approved May 17, 2022

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

Members Absent: Branden Martin, Mike Webb.

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

Applicants:

- **Donald Ross & Karen Cornish:** Donald Ross & Karen Cornish (Applicants), David & Helen Nagel (Owners), Jason Barnard (Designer), all in person.
- **Gail Erdman & Douglas Gardner:** Gaye Erdman & Doug Garner (Applicants), in person.

Public Present (in person): Jack Milbank and Mary Pat Palmer.

Public Present (via Zoom): Don Ross, Michael Siros, Debra Heitz, Catherine Gjessing (Vermont Agency of Natural Resources), Cindy Rouille, Aaron Miller, Tom Paron, Nicholas Aunchman, Barbara Forauer, Andrea Morgante, Rebecca Roman (Vermont Land Trust), Tanya Jones, Brad Brainard, Michelle Jordan, and Kate Kelly.

Dennis P. **called the meeting to order at approximately 7:02 PM.**

- 1. Agenda Changes: None**
- 2. April 19, 2022 Meeting Minutes:**

Greg W. **made a motion, and John L. seconded, to approve the April 19, 2022 minutes as presented. The motion passed 4-0 (Jonathan S. abstained, Dick J. absent for vote).**

Dick J. joined the meeting at this time.

- 3. Donald Ross & Karen Cornish – 09-02-38.800 –** Sketch plan application for a 4-lot subdivision of a 140-acre property, owned by David & Helen Nagel, located on the east side of Gilman Road between Birdy Drive and Hines Road in the Agricultural (AG) Zoning District.

Jason Barnard began the summary of the application. He said that the property is 140 acres situated on the easterly side of Gilman Road. He said that the property was previously part of a decision regarding a land trust. He said that as proposed, the Applicant is seeking to subdivide the property into 4 lots on the southerly and easterly portions of the parcel. Lot 1 would be 119 acres and would contain the land that the land trust requires to be preserved. Lots 2, 3, and 4 would be located on the north end of the property next to the LaPlatte and would range in size from 5.8 acres to 7.1 acres. He said that each parcel would contain a single-family home with an on-site drilled well and wastewater disposal system. He said that they conducted soil testing in the fall which supported a wastewater system. He noted that Lot 1 will have its own driveway that accesses Gilman Road to the southwest. He said that Lots 2, 3 and 4 would share a driveway access to Gilman Road on the north end of the property near the cemetery.

Jason B. said that in terms of designing the subdivision, they tried to tuck the houses out of the way in the lots. He said that access through the field is a relatively flat grade until a point near the house and that all of the grades appear to be less than 12%, though they have not yet conducted a boundary survey or topographic analysis. He said that he reviewed the staff report, which suggested moving the road to the south so that the intersection lines up. He noted that that does create a bit of a sight distance issue to the corner, though said that it is do-able. He said they will be coordinating with the Town Road Foreman. He also noted that the Applicant still needs to go through the fields to make sure that there are no wetlands.

Greg W. asked if this is the maximum build-out given the conservation conditions. Jason replied that yes, this is the maximum buildout and that it cannot be subdivided further. Greg W. asked what the soils are being used for currently. Jason B. replied that they are brush and the fields are overgrown. Jason B. noted that the property includes a patchwork of agricultural soils and they tried to keep the development to the sides of the property.

Jonathan S. asked where the sloping is occurring on the property. Jason B. said that it is flat as one comes off the road and then there is a ridgeline. He said that the topography tends to undulate. Jonathan S. asked if there is separate well and wastewater on each property. Jason B. replied that yes, each has its separate water and sewer systems.

Jonathan S. asked if there are trails proposed for public access. Jason B. replied that there is a pedestrian easement from the original agreement with the land trust. He said that it is downhill and that it would be a walking path. The Applicant said that they would encourage trails on their land. Jonathan S. asked where the easement would go. Jason B. replied that it is a dead end in the woods.

Greg W. asked if there is a vision for this trail going forward, since they are going to discuss whether it should or should not be required, and what might be expected of it. Karen Cornish replied that the public access runs within the first 15 feet of the south end of the lot line and it is accessed from the easterly side of the LaPlatte. Dick J. asked where the trail comes out, and was told that it comes out on Gilman Road. He asked if any other trails pick up from there. Karen C. said that there are other public trails that are close and can travel between

Ted B. said that this is part of the already-conveyed easement for trails. Jason B. replied that yes, the easement by the Vermont Department of Fish and Wildlife already exists.

Dennis P. opened the discussion up to the public.

Rebecca Roman, on behalf of the Vermont Land Trust, said that she could answer questions about the easement and approval process if there are questions.

Andrea Morgante said that it is important to understand how the easement was written, and the intention was to allow for development of these 21 acres (lots 2, 3, and 4) to allow for up to 3 houses. She said that the DRB should consider that at the time the project was going through, there was 2-acre zoning. She said that the Vermont Land Trust, Hinesburg Land Trust, and others, felt like it was a suitable place for three house lots. She said that it is imperative for the DRB to consider the 12-acre density. She said that the development rights on the entire 140-acres would allow to meet the 12-acre density, but those development rights have been sold, though does allow for up to 3 houses on 21 acres. She said DRB should consider how they would frame why they are allowing three houses on an area that was

identified within the easement of 21 acres where there is a 12-acre density allowance. She said it is important to be consistent and not take into consideration that the other 119 acres count toward that density. She said that there should be some legal wording about how this decision is arrived at. Ted B. said that from a DRB standpoint, there are 11 development rights to the density, and the fact that there are restrictions on the other 7 or 8 is not under the purview of the DRB. He said that the fact that there are restrictions is separate from this application, and that this application would be using 4 of those development rights for 4 lots. Dick J. asked if development rights are relinquished once the property is conserved. Ted B. said that conservation entities own those rights. Jason B. said that the units are allowed in those areas. John L. asked what Andrea's concern is. Andrea said her concern is how the DRB writes the decision and asked whether there are 12 lots because it's 140 acres, or if there are 4 lots. She said that she is concerned about the precedent that this may set. She asked that the Town have some legal support in how it writes this decision. Greg W. said that he does not believe that there are legal issues.

Mitch C. said that in the 2007 decision, there was a finding of fact that stated that the remainder lot, consisting of 140 acres to be sold as a parcel, there will be restriction placed on this lot by the applicants limiting development with clear understanding that no reviews of these areas have been approved in this decision and any future development as defined in Hinesburg zoning regulations will be subject to a full subdivision review. He said that in summary, the DRB at that time was acknowledging these types of agreements, though the Town does not enforce those agreements and that this is not in the DRB's purview.

Jack Milbank, a neighbor to the south, asked about the separate driveway for Lot 1. He noted that Gilman Road is a 35 MPH speed limit zone and said that he does not think that the driveway will have adequate sight distance. Greg W. said that they will ask the road foreman for their opinion on that. He asked about alternative access to the property. Jason B. said that the suggested area is quite steep and it would be difficult to access. Jack M. generally expressed support for the concept.

Jonathan S. asked about the building envelopes and whether they are 1 acre or larger than 1 acre. Jason B. replied that they are a little larger, but that that could be dealt with in preliminary. He said that the others are smaller due to steep slopes and they still need to do a wetland review.

Barbara F. asked what will happen to the conserved land, how it will be used and handled, and whether it is in perpetuity. Karen Cornish replied that they intend to find a buyer for Lot 1 who will not only abide by what is written in conservation easement but will also be a good steward of that land. Ted B. said that the easement already exists and wouldn't be recreated. David Nagel added that it requires protecting areas and a lot of conditions that follow the property. He said that the buyer will have to continue to comply with the requirements of the easement. Barbara F. also asked if any of the building sites are on primary agricultural soils. Jason B. replied that Lot 3 to the North is on primary agricultural soils in a narrow strip. Mitch C. pointed out the agricultural soils, stream buffers, wildlife habitat, and wetlands. Barbara F. said that she is concerned about the impact to wetlands. Jason B. replied that the wetlands are internal to the property, and there might be some isolated wetlands. He said that they plan to review the property with a wetland specialist to determine where the wetlands would be in the development area.

Dennis P. made a motion, seconded by Greg W., to close the public hearing and draft a decision of approval. The motion passed 6-0.

4. Gail Erdman & Douglas Gardner – 04-01-21.480 – Sketch plan application for a 2-lot subdivision of a 15.03-acre property located at 2555 Shelburne Falls Road in the Agricultural (AG) Zoning District.

Douglas G. said that they were the original owners of the Boutin Farmhouse in 2000 before they decided to subdivide the land. He said that in 2014 they bought Lot 8 and that they also owned Lot 3.

Greg W. asked why they are asking for this, given that their deed explicitly states that subdivision is not permitted. Douglas G. replied that they felt that it would be subject to review by the DRB. Greg W. said that the Applicant signed onto a deed that said no subdivision. Gail E. said that they knew about the covenants but did not know if it were a viable possibility. She said they consulted with Alex [Weinhagen, Director of Planning and Zoning for Hinesburg], who looked at the covenants and said that his interpretation of the covenants did not discourage this. Mitch C. said that there was an 8-lot subdivision with a condition on the approval that said no subdivision; however there is a provision that the Applicant could return to the DRB amend that. Greg asked what has changed and why the DRB should look at this differently now. He also pointed out that they need their neighbors' unanimous approval to waive the covenant. He said that however, if the Applicant obtained unanimous consent to subdivide from all neighbors, it would then allow for others of the subdivisions to further subdivide as well, would decimate what the DRB at that time was trying to accomplish with that subdivision.

Jonathan S. said that they should figure out the covenant issue prior to working through the technical issues.

Ted B. said that back when this was first subdivided, both applicants and DRB were interested in maintaining continuous primary agricultural soil areas. He said that they could consider changing that part of the final plat approval, but apart from that, there is a covenant that says they won't subdivide.

Jonathan S. said that the location where they proposed the new lot doesn't destroy the agricultural soils, but also is hesitant that this could set a precedent. He said that there are clearly some headwinds.

Greg W. advised that the Applicant speak to a real estate attorney. Ted B. said that they should withdraw the application until they have the covenant issue figured out.

Dennis P. opened the discussion up to the public.

Nicholas Aunchman, an owner of one of the other lots in this development, said that one of the reasons why they bought this property was because they wanted to move out of an urban setting and have more space, and wanted a space that wouldn't have more development.

Michael Sirois, a neighbor, stated his opposition to this subdivision. He said that the covenants are straightforward and they state that this can't be changed for the next 25 years. Debra Heitz, his wife, said that they bought their property because of the covenant. She said that the DRB did a great job of outlining the area and protecting it and that any changes would negate that intent.

Barbara F. asked if each home has their own private well/septic, which was confirmed. Barbara F. said that the water and septic should be considered if people start subdividing further.

The Applicant said that a lot has come to light since they submitted this application and that they are ready to withdraw the application at this time.

Greg W. **made a motion, and John L. seconded, to accept the Applicant's withdrawal. The motion passed 6-0.**

5. Decision Deliberation:

- **Kelley's Field Limited Partnership c/o Cathedral Square Corporation – 20-50-20.000 –** Preliminary plat application to expand their existing 24-unit senior affordable multifamily housing development with 24 new additional units on a 6.49-acre property located on Kelley's Field Road in the Village Zoning District.

Ted B. asked if they are actually working in the wetland buffer. Mitch C. replied that no, but there is one pipe end-section in the buffer in one corner of the stream buffer.

Jonathan S. asked if there is bicycle parking outside. Mitch C. replied that it is just barely inside and is covered bicycle parking. Jonathan S. said that they might want the parking inside for security.

The DRB suggested adding to Finding of Fact #11: "This sidewalk does not connect adequately to the sidewalk along VT Route 116."

The DRB suggested adding to Conclusion #12: "Since the sidewalk does not connect to the sidewalk along VT Route 116, the Applicant at final plat should provide a design for a better connection to the sidewalk adjacent to VT Route 116."

The DRB suggested adding to Order #6: "...and a connection to VT Route 116...as described in Finding of Fact #11."

The DRB suggested edits to Finding of Fact #23: Add "this residence" and add "...that has existing front yard parking for the existing units and that needs front parking access for emergency vehicles" and strike "at the end of a dead-end street."

Greg W. **made a motion, and Jonathan S. seconded, to approve the decision as amended. The motion passed 6-0.**

6. News/Announcements/Correspondence

Mitch C. noted that board members have a 3-month extension to their terms, which will end on April 1, 2023 (instead of January 1).

Mitch C. said that at the next meeting, they will discuss a development on a private right-of-way, the Quaglietta application, and the Laster application for preliminary plat.

The meeting adjourned at 8:42 PM.

Respectfully submitted,
Amy Coonradt, Recording Secretary