

**Town of Hinesburg**  
**Development Review Board Meeting Minutes**  
**January 17, 2023**  
*Approved February 7, 2023*

**Members Present:** Dennis Place, Jon Slason, Ted Bloomhardt, John Lyman, Dick Jordan (via Zoom), Branden Martin (via Zoom, after minutes), and Mike Webb (via Zoom, after minutes).

**Members Absent:** Jeff Daugherty (alternate).

**DRB Staff:** Mitch Cypes (Development Review Coordinator).

**Applicants:**

- **Allen & Andrea Lavalette:** Andrea and Allen Lavalette, in-person.
- **Jeremy Hester:** Jeremy Hester, in-person
- **Hinesburg Center 2 (all in person):** Brett Grabowski (Developer for Applicant), Mike Buscher (Landscape Architect for the Applicant), Roger Dickinson (Engineer/Surveyor for Applicant).

**Public Present (in person):** Bob Linck and Anne Hunt.

**Public Present (via Zoom):** Leanne Link, Andrea Morgante, Merrily Lovell, Joyce Boyer, Jen Hunter, Margret McNurlan, Michael & Doreen Patterson, Kyle Bostwick and Dan Jacobs.

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

**1. Agenda Changes:** Mitch C. said that the Ross & Cornish decision wasn't ready and will be on the next meeting agenda.

**2. Review minutes of the January 3, 2023 meeting**

John L. **made a motion, and Jon S. seconded, to approve the January 3, 2023 minutes as drafted. The motion passed 5-0.**

**3. Allen & Andrea Lavalette – 06-01-44.000:** Conditional use review for a Home Occupation commercial cordwood operation, on a 10.1-acre property located at 126 Beaver Pond Road in the Rural Residential 2 zoning district. *Continued from DRB Meeting on December 20, 2022.*

Mitch C. stated for public record there was a site visit to the Lavalette's property on Beaver Pond Road on the morning of January 14, 2023, and in attendance were the applicants Allen and Andrea Lavalette; DRB Members Dennis Place, Dick Jordan, Jon Slason, Ted Bloomhardt, John Lyman, Jeff Daugherty; Neighbors: Bob Linck, and Michael Patterson; and himself (M. Cypes). Mitch noted that the DRB made observations and asked questions, but rendered no opinions. The applicants demonstrated their proposed home occupation use with the saw equipment, loader and flatbed truck. The DRB observed the proposed use on the applicant's property, and from the Patterson's deck. The applicants explained how what they're proposing now is different from when they first cut the cord wood on the property.

Teb B. shared his observations from the site visit. They met at the property at the new location for the operation at the top up-hill end of the property. The machine was running, and split some wood. It was

conveyed into the 1-ton (pickup truck). The group travelled to some adjoining properties to hear the effects of the machines and noted the sound was noticeable.

John L. shared his observations from the site visit. They looked at the potential run-off, and didn't see any issue there. He agreed the sounds from the machine could be heard, but they were not excessive.

Jon S. shared his observations from the site visit. He noted that he arrived 15 minutes or so late to the visit, and that machine was running when he arrived. He said he was able to hear the sounds from the lower elevations, as well as when he walked to the adjoining property up hill. He observed the current screening used for the operation is inadequate for the neighboring property uphill. He found the noise not aligned in keeping with the neighborhood characteristic, noting this for the property line and at the house, but thought that the applicants could find a way to address that. He reiterated that the noise and vibration were evident from the house.

Dick J. shared his observations from the site visit. He noted that he heard the machines from the road and from the neighbor's property above the applicants. He agreed that it was not a piercing noise, like a leaf blower or chainsaw, but it was a constant sound and clearly noticeable from the neighbors. He said that he imagined if the sound went on for several weeks, 40 hours a week, it could be irritating. He said he didn't notice any diesel exhaust, but also didn't remember which way the wind was blowing that morning. In his opinion, the exhaust fumes could be a concern for close neighbors. He noted the road was a steep, shared private road, that could lead to trucks causing damage to the road. He said he was concerned about the impacts on the closest neighbor. He mentioned being concerned whether they could work out an agreement for driveway maintenance with all the neighbors. He noted the deed wording, specifically proportional requirements for road maintenance, and that the applicant's driveway for their home is close to the bottom of the road, therefore, their proportional cost would be lower. However, their use of the road past their driveway, further up BPR, would create more use beyond what the deed language covered. He noted that a noise baffle, i.e., a tall wall or enclosed building to the contain the noise, would be necessary for him to approve the application. He said he was concerned for the uphill neighbors' use of their property based on where they are currently cutting wood.

Dennis P. shared his observations from the site visit. He noted the group met at bottom of road, and walked up. He commented that BPR was in great shape. Ted B. commented that BPR was very steep, he thought more so than Texas Hill. Dennis P. added that he knows that log trucks have to travel roads in worse condition to get their wood. Dennis P. noted that they been told there would be about 80-100 hours of cutting. Andrea L. (applicant) commented about two weeks, of 80 hours, for 100 cords of wood. She added that she cannot guarantee she'll have 100 cords, it could be 50 cords, she won't know. Dennis P. asked if a log truck carried in 7-8 cords per load, how long would it take to cut. Andrea L. stated she could cut 7-8 cords in a day and a half by herself. Dennis P. stated he wasn't concerned with the noise level he heard, which in his opinion was nowhere close to the sound of a chainsaw. He said he thought there could be a compromise so that this small business is supported.

Ted B. asked Mitch C. to display the HZR's (Hinesburg Zoning Regulation) Performance Standards found on page 52. Ted B. cited Section 5.1.3 (3) of the HZR, Exterior Impacts, and read a specific section regarding any disturbance to surrounding occupants. Ted B. added that the bar is high regarding home occupations and the impact on neighbors. He stated that many neighbors are saying they are disturbed, so he is unsure of how this could move forward. He went on to state that if it was only one neighbor, who was being unreasonable, it would be different. There are many neighbors who state they are being impacted, and he can't get past that fact. Dennis P. asked Ted B. how he felt at the site visit, and Ted B.

replied that he didn't know why a visit occurred, other than to try to determine if the neighbors were being unreasonable. Ted B. then questioned how the board could permit something under conditional use with a performance standard that says you can't disturb the neighbors when you are disturbing the neighbors. Andrea L. added that regardless of whether they get an approval, they will still need to run a processor for their own wood, resulting in the same issue. Ted B. stated that would be self-limiting, by only having 10-acres of wood to cut, and not processing 100 cords. Andrea L. said she would still be trucking in wood, and Ted B. noted that it would be fewer truck loads. Dick J. added that it would be fewer truck loads.

Mitch C. asked whether the neighbors' concerns were about where the Lavalette's were previously processing the wood, and Andrea L. confirmed that was the main concern. Jon S. added that based on the earlier testimony, he was convinced there would be a problem and he would deny the application in its current form, but thinks the applicant can reimagine their site plan so that it can comply. Jon S. said that noise proofing, exterior storage of the equipment, pallets, and accessories, etc. were all several issues that would lead him to say no at this point. The driveway and complexity of managing the road maintenance is also another issue. He stated there is clearly an impact, based on where this is happening on their property. Andrea L. noted that her cutting times could be varied, and wouldn't have to be consecutive days or weeks, in an effort to work with the board. Jon S. stated that the sound really carries, especially uphill, and the board has to make sure the neighbors are protected.

John L. said he can't disagree with the regulations, but asked whether there was any wiggle room to work through this issue. He asked if they could make a proposal so that the neighbors are happy. Ted B. added that it's a home occupation, which is not a permitted use. It would be a conditional use that must meet the performance standards (specifically not disturbing the neighbors). Ted B. also commented that it is not the boards place to negotiate with the neighbors. Dick J. reiterated his concern regarding the shared road, the potential damage caused by the trucks, and the impact on the neighbors. Dick J. also commented that the only way he can see the noise being contained so that it doesn't impact the neighbors would be to construct a building over the site to deaden the sound.

Jon L. agreed with Ted B. that the bar is relatively high to meet the HZR standards, and he doesn't believe the application meets that bar.

**Ted B. made a motion, and Jon S. seconded, to close the public hearing and direct staff to write a denial of the application. The motion passed 5-1, with Dennis P. voting against the decision and Branden M. abstaining.**

Andrea L. asked how she can appeal the decision. Mitch C. explained that the decision will be provided to her, along with information on how she can appeal the decision in Environmental Court.

**4. Jeremy Hester – 14-21-04.00:** Conditional use review for expansion of a non-complying structure on a .28-acre property located at 77 Shadow Lane, in the Shoreline zoning district.

Jeremy Hester explained he would like to remove an existing small deck, and replace it with one that is the full length of the home, measuring roughly 37' x 16'. He noted that he had already removed some stair steps because of rotting wood and safety concerns.

Mitch C. showed a map of the property on Shadow Lane, and explained that the GIS program data showed skewed town and property boundary lines. Mitch C. said according to the deed, Hester's property is 0.28-acres. Mitch C. stated there were no issues with side yard setbacks, and with the deck addition, the property still appears to meet the lot coverage requirements.

Ted B. commented that if the new deck is added as Jeremy H. proposed, the lot does not become any more non-conforming than it currently is. Mitch C. confirmed that in terms of set-backs and lot coverage, there are no issues. Ted B. confirmed with Mitch C. that no new set-back issues were going to be created. Ted B. stated that if the board was able to review the conditions that required attention (as noted in the staff report), in his opinion the application is approvable. Dick J. noted that, based on the map provided, the parking area is not much bigger than the width of a car. Mitch C. noted that a portion of the driveway is in the Shadow Lane right-of-way.

Dennis P. asked if the board had any additional questions, or if there were any from members of the public. Anne Hunt was in attendance to show support for Jeremy Hester. Her property (located on Oak Hill) abuts Shadow Lane, and she is the owner of 99 Shadow Lane, which is a driveway that provides her lake access. Anne H. indicated that she and Jeremy H. have worked together to address her main concern of water run-off from the construction into their driveway at 99 Shadow Lane.

Dick J. asked Jeremy H. about the material being used to construct the deck, more specifically if it will be wood with slats, so that water can drain underneath the deck and not run off into Anne H.'s driveway. Jeremy H. confirmed that is his intention.

**Dennis P. made a motion, and Jon S. seconded, to close the public hearing and direct staff to write a decision of approval. The motion passed 7-0.**

**5. Hinesburg Center 2 – 08-01-06.320** – Final plat and site plan reviews for a mixed-use development on a 46.2-acre property located to the west of Kinney Drug and south of Patrick Brook and north of the Creekside development in the Village and Agricultural Zoning Districts. *Continued from DRB Meeting on January 3, 2023.*

John L. and Jon S. recused themselves for the HC2 application and participated as members of the Public.

Mitch C. stated that Mike Buscher emailed a document showing examples of the various lighting options for lots #52 and #70, and whether they conform with the regulations. Mitch C. said he reviewed the information, and noted there were down-casting features and the temperature and color rendition appeared to be fine. Mike B. stated that one of the issues is that some of the architectural elements are not fully developed yet, specifically what lights will be manually operated or those that stay on all the time. Mike B. said that lighting calculations cannot include lighting that is user controlled. He added that there are a few areas that will need safety lighting, for example on pathways in the village green, and in between buildings E and F with exterior entrances. Mike B. added that the proposed lighting will be kept at 1200 lumens or lower. Mike B. said that with their experience with bollard or canopy lighting, when you go above 1200 lumens you can get hotspots. He also referenced zoning ordinances in which 1200 lumens are a standard. Mike B. said that most of the down-cast lighting they use is 800 lumens, so even less than the standard 1200 lumens. Dennis P. asked if anyone had additional questions regarding lighting, and suggested they move onto storm water.

Mitch C. confirmed that the concerns raised about the underground stormwater storage system were addressed. Regarding the concern about drainage on lot #30 and Farmall Drive extension, Roger D. stated that the stormwater from lot #30 has already been treated, which is why the discharge pipe can be on the same side of the weir as the drainage manhole outlet. He added that lot #30 was part of Creekside.

Mitch C. confirmed that changes have been made to sheets #2 and #3 to show the outlet pipe from CB#5 has been increased in diameter from 24-inches to 30-inches.

Mike B. stated that in general the utilities are in the right of way or just adjacent to that ROW. Utilities are usually placed in the green space in the ROW because they don't want to be under the payment surface (i.e., under the sidewalk). In general, trees are always planted on top of sewer, stormwater, sanitary lines because those lines are deep, 5ft typically. There are sometimes conflicts with storm water pipes not being deep enough. Mike B. verified that electric and gas lines are buried at 3 ft, which is outside of the root zone for all of the trees they have specified. They are conscientious of the trees they pick, and their root structures. Mike B. stated that submitting a revised landscaping plan with all of the updated utilities would be a good idea as a condition, due to the changes to the civil base that have happened during this review process. This could also identify any locations where they are directly on top of a gas or electric line to get a little separation.

Mitch C. confirmed that comment #8, which a check in hand, has been satisfied.

Brett G. noted that there are questions about who maintains the road, the trees, etc. He stated that as the permittee, he acknowledges that he is responsible for all of that maintenance. The permit will designate who is responsible for what. Brett G. stated that In regards to the shared parking, the permit states that it's shared parking between lots #52, #51, #50, #53. There is no agreement at this time because they will all be owned by the same person, and he doesn't know what the uses will be. He noted that HC1 doesn't have an agreement between the buildings, and it's understood that all of the parking is shared. He stated it will be the same situation with HC2. He stated at some point there might need to be specifications regarding the parking lot, but at this point, the permit is going to say the parking lot is shared. The four identified buildings will share the parking lot, per the permit, and there is nothing more specific. Ted B. asked if all the parking for HC1 and HC2 will be shared. Dick J. asked about the private home owners and those in the multiplexes. Brett G. confirmed that the shared parking will be specifically for commercial and apartment users and will be well-defined.

Mitch C. asked for confirmation that the shared amenities will be maintained by the same group and if the residences will need to contribute to the shared maintenance. Brett G. confirmed that no individual homes will be responsible for any of the maintenance. Brett G. stated that Road D will be private, providing access to the condo buildings and carriage houses. Ted B. confirmed that Road D did not include any public parking, just access.

Dennis P. moved the discussion along to the trails. Brett G. explained there was an irrevocable offer for the trails, provided to Mitch earlier. He stated the trails are shown as they are on the plans. Dick J. referenced Lot #30, and asked if Brett G. was willing to maintain the stormwater infrastructure, but also sidewalks and trees. Brett G. stated that the permit required him to maintain the stormwater infrastructure, and as he will be planting the trees, he has no problem making sure they grow. Brett G. stated he will defer to Creekside about what they want Brett to do with the lot. Ted B. states that he thinks the permit would be written to require Brett to be responsible for X, Y, Z, and if that were to

change in the future, the permit would have to be modified. Brett suggested that the permit should state that the owner of record is responsible for the maintenance. Ted B. confirmed that in the event the lot ownership is split, the responsibility has to be reflected correctly.

Mitch C. noted that the option to modify the maintenance responsibility via a subdivision revision would be possible. Brett G. reiterated that they don't have a lot of specific details at this time regarding uses, time-tables. Mitch C. noted that they will be back for site plan reviews for lots #50, #51, and #53.

Dennis P. referenced the staff report, and confirmed they reviewed all of the questions on the staff report, and asked if the board had any other questions. Mitch C. reiterated that he created the staff reports, and tried to describe and explain what was discussed throughout the review process. Dick J. commented that a condition be added in the order, based on requests from Creekside, that no construction equipment can go through their streets.

Dennis P. opened the discussion up to the public. Andrea M. noted that she hopes that the DRB will consider a condition of approval for this project to be that lot #71/35.6-acres be permanently conserved, requiring that the lot be returned to serve its ecological functions as wetland and floodplain. A condition of the approval should say the area will not be mowed, and the VAST trail could remain as an unimproved trail. This area is important because it serves as the infrastructure to mitigate increased and more frequent flooding from the LaPlatte and Patrick Brook, as a result of high intensity storms and additional development of this parcel and others within the watershed. She thinks it's a great opportunity for the community to recognize the value of this land, and that it should not continue to be mowed. She suggested that the solar array not be part of this approval. Andrea M. referenced the flooding that has already occurred and will continue to occur in lot #30, due to climate change, will need to go somewhere. This development is happening at one foot above the base flood elevation, in compliance with regulations. She goes on to state that she doesn't think enough attention is being paid to what nature and history have shown us in terms of developing in a floodplain. She also mentioned that she has provided fact sheets created by the DEC on floodplain management, and she urged the DRB members to read through those as they are making their decision. She noted there are a lot of jurisdictions involved in this project, and she supports the need for housing, but also wants everyone to understand that floods will cause major impact on all citizens, Rt. 116, those on commerce streets.

Mitch C. read an email from Kyle Madesh, which was sent with the intention to reiterate the ANR rivers review of the floodplain impacts as proposed by HC2.

Jon S. from Fredric Way, said that he agrees with Dan Jacobs' comments regarding Creekside storm water uses. Additionally, he thinks that Andrea M.'s and Kyle M.'s comments should be seriously considered, and added that if there is anything that can be done now to provide greater certainty that his home or future homes built there will not be impacted by the increased flooding/storm potential, it seems a reasonable opportunity to do something in those undeveloped areas of the property. Both Kyle M. and Andrea M. made comments that highlight there are ways to do that, whether it's a conservation easement, or something else – the ability to prevent future flooding, should be considered.

Brett G. clarified that through recommendations from the ANR and discussions with Kyle M., the plans have been modified several times based upon the requirements and recommendations for the project. Brett G. believes they have minimized the adverse impact to the area. Mitch C. reiterated that the regulations do not mention climate change, and the board can only review what is in the regulations. Dennis P. asked about maintaining the trail, specifically for snow mobiles, some type of maintenance

needs to be done. Brett G. referred to the offer provided to the town for the trails. At this point, the trails are mowed and it will be up to the town to decide what they want to do with the trail system. Dennis P. asked if there were any additional comments from the public, and there were none.

Dennis P. **made a motion, and Ted B. seconded, to close the public hearing and enter into a deliberative session. The motion passed 5-0.**

**6. March 7, 2023 DRB meeting** – Mitch C. stated that the Town Clerk will need to use the first-floor conference room for the election since the Main Hall is unavailable. Dennis P. **made a motion, and Ted B. seconded, to cancel the March 7, 2023 DRB meeting. The motion passed 7-0.**

**7. CVSD Notice Regarding Subdivisions** – Champlain Valley School District (CVSD) confirmed there will be enough capacity in Hinesburg Community School (HCS) for Haystack and HC2, but they question whether there will be capacity for further subdivisions and new houses. According to CVSD, CVU has adequate capacity at this time. This capacity issue is based on physical space, rather than staffing issues. Additional clarification is forthcoming on how future CVSD might want the DRB to limit development going forward.

**8. New/Announcements** – The next meeting will mostly be a deliberative session, except for a possible continuance (Babbott/Chatoff application) and possible sign application.

**The meeting closed and the DRB entered into deliberative session at 8:21PM.**

Respectfully submitted,

Danielle Peterson  
Hinesburg Planning & Zoning Assistant