

**Town of Hinesburg**  
**Development Review Board**  
**September 3rd, 2013**  
*Approved Sept.17<sup>th</sup>*

Members Present: Dennis Place, Andrea Bayer, Dick Jordan, Zoe Wainer , Sarah Murphy, Kate Mayher, Greg Waples.

Members Absent: Ted Bloomhardt.

Also present: Peter Erb (Zoning Administrator) Alex Weinhagen (Planning Administrator) and Freeda Powers (Recording Secretary). Representing Applications: Brett Grabowski (Developer)

Public Included: Rocky Harlow, Paul Lasher, Joshua Lucier, Ray Mainer, Frank Koss, Dan Jacobs, Matt Hopper, Rodman Cory, Carl Bohlen, Dave Wernhoff, Greg Tomczyk, Jen Hunter, Lara Atkins, Rocky Martin, Mary Beth Bowman, Nancy Wood, Steve Atkins, John Roos, Kyle Bostwick, Dorothy Blanck, Utte Talley.

Zoe W. chaired the meeting, which was called to order at 7:32pm.

**Minutes from 8/20/13:**

Dick J. **made a motion to approve as written** the minutes from 8/20/13. Dennis P. **seconded the motion**. Bill M. joined the board for this vote and Zoe W & Kate M. abstained from this vote. The board voted **6-0**.

**Hinesburg Center LLC: (Conditional Use-Fill in a Flood Plain & Subdivision Sketch Plan Review)** Cont'd from 8/20 – The applicant is seeking both sketch plan approval and conditional use approval for phase 2 of the Hinesburg Center project. The conditional use approval is for development in a flood hazard area - approximately 55,000 cubic yards of fill of which 17,000 cubic yards will be in the Patrick Brook flood plain. This development proposal includes completing most of the infrastructure (roads, sidewalks, storm water treatment) involved in the 46-acre Lyman property master plan as well as 21 units of affordable rental housing, 17 single family house lots and placeholders for 7 buildings (mixed use in nature) that may include retail/commercial, one and two bedroom apartments and congregate housing. This property is located on the west side of Route 116 and the north side of Farmall Drive in the Village Zoning District.

Based on feedback from both staff and the State, it is recommended that the board hold further hearings on this application at a later date. More information is needed before the entire proposal can be properly reviewed.

Namely, staff points to four items of interest; 1) the Malone & Mac Broom study needs to be updated with hydrological studies that will substantiate the applicant's claim that there are no undue adverse impacts per regulations section 6.12.1. 2) Analysis should include an assessment of the impact of a 50yr flood event on the proposed filled area of the floodplain. 3) Infrastructure being established for the development to the North in the Haystack Crossings project should be

taken into account in analysis. 4) Separate independent studies may be unnecessary if a firm doing the work were to be hired or chosen by the DRB, paid for by the applicant.

Review of this project by the State (for ACT 250 permitting purposes) has three major areas; 1) Decide if this area complies with the General Policy for development in Hazard areas. 2) Determine that the proposed development will comply with Section 6.12.1 Special Flood Hazard Area #5, demonstrating the project will have no undue adverse impact on the following; a) Upstream & Downstream Properties, b) Public & Private Infrastructure, c) Water Quality. And 3) Determine that the elevation of the proposed project will insure that the development is not at risk of flooding in major events.

Feedback thus far from the State is that the floodway that was delineated for Patrick Brook in that analysis does not address Section 6.12.1 (#5). A memo from Rebecca Pfeiffer documents the concerns of a loss of floodplain storage; *if less floodplain land is required to store the same volume of water, typically the water rises higher on the floodplain.* The memo also encouraged the applicant to understand how the anticipated VTRANS upgrade to the existing culvert for Patrick Brook may impact their project. Mrs. Pfeiffer suggested the Town consult with an attorney on what would constitute “undue adverse impacts” on neighboring properties and infrastructure. She also stated that *A mitigating step to reduce these impacts would be to discontinue the proposed development that occurs within the mapped flood hazard area, or to elevate proposed structures without the use of fill and by maintaining the conveyance and storage of flood waters beneath.*

Brett Grabowski, Developer for this project, told the board that both applications currently hinge on the revised hydrology study, which has the potential to change the general layout and may also result in conceptual changes. He said the affordable housing part could blend with the overall project better. He understands based on feedback from the board that the interface is not working as proposed and said he is working with staff to improve this. He said that despite the feedback thus far from the State, he does feel that the area is adequately able to accommodate the fill this project is proposing.

Zoe W. asked the applicant what is his position before the Board tonight? The applicant said that without the revised study, no decision will be made and he is in the process of getting that study done now. He said in his opinion, Mrs. Pfeiffer did not read the Malone & MacBroom study in its entirety but regardless feels the study does need to be revised. The applicant went on to say that in regards to concerns being raised around the drainage issues experienced in the Creek Side neighborhood; he feels those issues are related to runoff from recent development at the Ballard’s Corners area.

Kyle Bostwick spoke from the audience, as a resident of Creek Side. He asked the applicant about the existing water lines from the Ballard’s Corner development, saying if they were put in at too high of an elevation so as to require this fill in the floodplain, that should be addressed *now* before further development goes in. Brett G. replied that the water in those lines is forced and did not impact the floodplain. He said the fill is only to cover the lines adequately and their elevation was based on the need to gravity feed the sewer lines. He assured those present that he does not want to fill more than he has to. Brett G. also addressed the drainage concerns again by saying those issues can be addressed with catch-basins and better engineering. He said the grade at the site initially was difficult to drain and soil conditions there make drainage especially challenging. He agreed to explore more options to address this concern with more definitive plans.

Zoe W. asked the applicant what was his request this evening before the board. Brett G. said he would like the board to continue both applications until the revised study is available, by Oct. 1<sup>st</sup>. Alex W. suggested a later date to ensure all parties have access to the documents in advance of the hearing. The board was agreeable to this request.

Zoe W. opened the hearing to public comments or questions.

Rodman Cory spoke as a resident of Fredric Way, saying the developer and the board can not underestimate the impact on homeowners input and encouraged allowing this type of involvement in the process. Ray Mainer spoke, as a former member of the Planning Commission, he cautioned the applicant and the board to be cognizant of the cumulative impact both upstream and downstream of these large projects occurring in the floodplain. He said while there needs to remain some individual property rights to fill or not fill (to flood or not flood) on a given lot, consideration must also be given to the impact and liability beyond the site. He said that in his view, the Planning Commission made **fill a Conditional Use** to allow roads and driveways to access otherwise unusable lots; *not* to fill 17K QY in the floodplain. He said this project, if approved as proposed, *will* impact neighboring lot owners. Greg W. assured him that the DRB does take impact into consideration and added that State Standards apply thru ACT 250. He said the board will look for engineering studies to anticipate increased flooding events than older models apply. Ray M. reminded those present that Tropical Storm Irene demonstrated for all of us the increase of destruction without floodplain storage capacity.

Kyle B. spoke again, saying as a current board member of the Planning Commission, he advocates growth but advises the DRB to assure that growth is *smart growth!* He said this parcel will continue a domino-effect of VGA development. He encouraged the DRB to think about post-development and be aware of plan proposal changes (i.e., from commercial use to residential use). He also reminded the Board that the plans for the future West Side Road will be affected by this project and reiterated his previous concerns that the existing residential roads through the Creek Side development are not suitable for through traffic.

Andrea Morgante spoke from the audience. She said she believes this project is before the board at this time because of a local need for affordable housing. She said this is an opportunity for the DRB to look at the potential subdivision of a lot and allow the land to *speak for itself*. She strongly discourages the board from allowing development in the floodplain and questioned the logic and reckless planning that would allow housing in an area prone to and in jeopardy of flooding. She added that State Standards are, in her opinion, minimal and agreed that the board should consult with a lawyer to ensure proper allowance of permits. She asked the applicant if the Malone & MacBroom study had been done site specific to the Kinney project. Brett G. said yes, adding that the study had specifically looked at the LaPlatte and its floodway. The Kinney's project got approval based on that study.

Rodman C. asked about the language being used, "adverse impact" and more specifically asked if there have been any conversations among the board with more subjective discussions regarding property values. Zoe W. said no, that their discussions are bound by the rules. Greg W. said it is understood that flooding *will* affect property values.

Rodman C. went on to say that while he understands that the town wants to focus growth in the Village but is concerned with the affect development has on the property values. He said at the time of their construction, the Creek Side homes were the only homes in that area and therefore their

values were high. As development around this neighborhood increases, the homes in the Creek side neighborhood are sure to decrease as a result of the elevation issues. Some forethought to development is needed; don't exacerbate existing known problems.

Greg W. responded that the Board wants to learn from mistakes and assured those in attendance that they will try to correct and avoid the issues seen at the Creek Side neighborhood.

Rodman C. asked the board why the affordable housing is being put all in one spot, and suggested it creates a "ghetto" in the middle of the development. Greg W. said they do not identify this project as a low-income housing project. Alex W. added that as a municipality we do not and cannot discriminate. Without income requirements, he said, this project would have been reviewed the same. It is an appropriate development proposal or not. The town has the need for more affordable housing. He went on to say that while he understands the concern, he does caution against generalizations or discriminatory language or thinking. He added that the regs do speak to affordable housing.

Rodman C. said there is value in mixed-use development. He said he does not want to see a "block" of residential housing, and suggested the mixed-use mindset be applied to this housing portion of the project as well. This may even improve the community feeling and lessen that "housing development" appearance.

Laura Atkins spoke as a resident of Creek Side. She said her concerns of the flooding at the Creek Side development increased as the development around Kinney's continued to expand. She agreed with others who have indicated elevation at the site is a major concern in relation to the homes at Creek Side. Any fill at all will worsen the existing problems.

Brett G. said the elevation at the Kinney site was established to accommodate parallel parking on Rte. 116.

Paul Lasher spoke, another resident of Creek Side. He asked the applicant about recent trucks he has witnessed dumping fill near the edge of the current construction site. He said this is coming from off-site. Brett G. divulged that this was fill coming from another development project up on Thistle Hill and said he was simply doing another developer a favor in relieving him of excess dirt from his site.

Dan Jacobs (Creekside resident) said he is "very frustrated" with this developer and implored the board and the Zoning Administrator to enforce conditions and standards with him. He said storm damage this year increased from what they experienced during Irene. He said water now comes up to their back yards and said increases in development result in increases in impact; this is undeniable.

\*\*\* asked what data will be used in the upcoming study. Brett G. said it will apply existing conditions, taking into consideration existing fill on site in the Kinney development area.

Frank Koss (police chief) spoke from the audience, saying while he understands the concerns being raised regarding ponding & flooding in the Creek Side area, his more pressing concern in a major storm event remains the dam at Sunset Lake which would result in massive flooding of a very large portion of the village.

Carl Bohlen spoke from the audience. He said the Affordable Housing Committee meets monthly and they will be discussing this issue. He added that neighboring towns have affordable housing and took umbrage with calling it a “ghetto,” saying working people need this option.

Chuck Reiss spoke from the audience, asking the applicant to consider renewable energy (orientation, etc.) in this project.

Zoe W. thanked the public for coming and for their input. Dennis P. made a **motion to continue the application to 10/15/13**. Greg W. **seconded the motion**. Zoe W. noted that Conditional Use will be the focus of the discussions at that meeting. The board voted **6-0**. (members voting included Greg W., Sarah M., Kate M., Zoe W., Dennis P., Dick J.)

### **Sketch Plan Approval: Extension Request**

Cynthia and Lawrence Caron are requesting the DRB grant a six month extension to the Sketch Plan approval issued on March 19<sup>th</sup>, 2013 for property located at 274 Richmond Road. Zoe W. made a **motion to approve** the request. Dennis P. **seconded the motion**. All in favor, the board voted **7-0** (Bill M. joined the board for this vote).

### **FAHC Sign Approval Draft Review:**

The board reviewed proposed approval for the FAHC Sign proposal reflecting changes in language for Conclusion #1 per board feedback. The board also suggested language to clarify planting requirements: “*there shall be plants installed in such a way as to completely obscure the light source.*” Dennis P. made a **motion to approve draft as amended**. Greg W. **seconded the motion**. All in favor, the board voted **6-0** (Zoe W. abstained as she was not present for the original application).

Zoe W. made a **motion to adjourn**. Dick J. **seconded the motion**. The meeting adjourned at 9:07pm.

Respectfully Submitted,  
Freedra Powers – Recording Secretary