

Town of Hinesburg
Development Review Board
November 5th, 2013
Approved 11/19

Members Present: Zoe Wainer, Dennis Place, Kate Myhre, Greg Waples, Ted Bloomhardt, Dick Jordan, Bill Moller.

Members Absent: Sarah Murphy.

Also present: Peter Erb (Zoning Administrator), Alex Weinhagen (Director of Planning & Zoning) and Freeda Powers (Recording Secretary). Representing Applications: David Burke, Terry Krinsky, Steve & Matt Giroux.

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

Minutes from 10/15/13:

Zoe W. **made a motion to approve as amended** the minutes from 10/15/13. Dick J. **seconded the motion**. Ted B. and Greg W. abstained as they were not present at the 10/15 meeting. The motion was approved **5-0**.

Steve & Kathy Giroux: (2-lot Subdivision Final Plat) – The applicants are requesting final plat review for the purpose of subdividing their property at 238 Place Road West to create an additional 3.8 acre lot for their son to build a house on. The subject parcel is approximately 10 acres and located at 238 Place Road West in the Rural Residential 1 Zoning District.

Dennis P. recused himself from this application as he is an abutting landowner. The Board reviewed via projector the building envelope as described by the applicant, which will follow setbacks from the existing stream and follow the extended property line identified as S02, 37'40"W, 129.98 northward to the pin immediately in that direction. The final plat will show a more simplified envelope as the stream is difficult to accurately survey. The property will drain runoff to the south, away from the main road.

Dick J. inquired on the well shields in relation to the septic system as shown on the parcel map given in the Board packets. The applicant said this is of no concern as there is an existing sloping topography in that area which prevents contaminating runoff towards those well shields. The applicant said there has been an application submitted for a Waste Water permit from the State; they have not yet received that permit but feel confident based on talks with them. This application, in large part, will come down to that State permit decision.

Zoe W. noted that in Findings of Facts (#8) regarding Curb Cut, it is stated that no pull-off is required, and that should be mentioned in the Conclusion. Alex W. suggested a brief conclusion to tie up Findings of Facts #7 per the building envelope (minimum impact on ag. soils, etc.)

Ted B. made a **motion to approve draft approval as amended and to close the public hearing.** Dick J. **seconded the motion.** The Board voted **6-0.**

Alan & Nancy Norris: (Preliminary Plat Review for a 24-unit Planned Unit Development) – The applicants are requesting preliminary plat approval for a 24-unit Planned Unit Development. The 24 units will be comprised of three 4-unit and one 6-unit and one 7-unit multi-family dwellings. The proposed development is on a 23.96 acre parcel, located at the southern edge of the village area on the west side of VT Route 116, across from New South Farm Road and Buck Hill Road West. This parcel is split between the Rural Residential 2 and Agricultural Zoning Districts.

Dennis P. rejoined the Board for this application.

David Burke (engineer) and Terry Krinsky (landscape architect) joined the applicants for presenting this application. The current proposal incorporates some of the suggested changes from the sketch plan review. Since a full survey showed slightly less acreage in total as well as in the residential area, the project now consists of 24 dwelling units in a total of five buildings. Three of these buildings will front on VT Rte. 116, the other two to the west, both south of the stream. David Burke told the Board that likely, unit #5 will likely be eliminated with the remaining plans to remain the same. Shared parking will serve all units. The entire property would be owned and managed by a Homeowners Association. Connection is proposed to the existing village sidewalks as well.

The applicants felt that the staff report was fairly negative and asked to go over some of the points of concern in that report and get feedback and guidance from the Board in anticipation of this application being continued. Ted B. asked if the units are to be rentals or condos to be sold. The applicants are unsure at this time.

To the staff report, the applicants replied that there will be no garages facing the front property line. Greg W. asked for side elevations, which the applicant did not have available at tonight's meeting. The applicant described proposed garages as jutting out about 20' from the front of the units (facing away from 116 frontages).

In response to concern #2 in the staff report, regarding Wetland Buffer impacts, the applicants said they have met three times with state wetlands officials and feedback thus far has been entirely positive. They are still awaiting final approval from the state. The applicant also noted that Hinesburg regulations do not require this prior to approval.

Citing staff report concern #3 regarding Density Bonuses, the applicant said units 20-25 are directly South facing, units 16-19 are nearly directly south facing, and the remaining buildings are where the applicant was told they were desired to be. He feels that the project does maximize solar gain and they are willing to do green building standards if the Board feels that is necessary for achieving the density bonus.

To Staff concern #4 in the staff report regarding Water Supply to the project, the applicant said he has been in communication with Rocky (Facilities manager) who has indicated that this may or may

not be an issue. The applicant suggested making the State Permit on this a part of Conditions for the final building permit or final approval.

Per staff reports concern #5, Accessing VT Rte. 116/VTRANS coordination, the applicant agrees, VTrans will need to be part of the discussion and their approval will be needed. The applicants have spoken with Alex W. and have decided they would like feedback from the Board regarding placement of a sidewalk prior to bringing VTrans into the discussion.

Staff concerns #6, #7 & #10 all regard to some degree, landscaping plans, which will be addressed by the landscape architect present with the applicant at tonight's meeting. The applicants are not opposed to comments made by staff in the report, but feel that the project is already exceeding the requirements.

Concern #8 in the Staff Report regarding Open Space Delineation & Purpose, the applicants said that 92.9% of the project is open space (PUD requirement of only 10%). They feel there is a fundamental difference here in what staff is considering "open space" and feel they already far exceed the requirement on this issue.

In regards to Staff Report concern #9, Sidewalk Connectivity, the applicant said this was discussed in the sketch review, and they have discussed it with Alex W. The proposal is a sidewalk from the interior of the project to the 4-way, then towards the village, crossing over VT Rte. 116 to join the existing village sidewalk system. The applicant assured the Board that this sidewalk *will* happen; they are awaiting further feedback and guidance as to the best placement (which side of the road) and ideal crossing place at VT Rte. 116. They propose that the sidewalk be built based on phases of the project development.

Staff Report concern #11 regarding Utility Connection, the applicant says, is something not required by Hinesburg regulations and is something that the applicant does not decide, but rather the electric company. The applicant did assure the Board that within the projects interior layout, utilities will be underground.

The applicant addressed staff concern #12 regarding Erosion & Storm Water Control, saying the existing ditch was dug many years ago by local farmers and per conversations with Allen Quackenbush (VT State Wetlands), no changes will be proposed for that area. The culvert in question in the staff report can be lowered, but the applicant feels that will not be necessary, noting the existing bank as a restricting feature.

Addressing further concerns noted in the Staff Report, the applicant said in regards to Regulation 5.1.4 (Open Space & Recreation), the area is defined as wetlands, but is technically no more than a "wet meadow" which would be very suitable for winter time recreation as well.

Per regulation 5.1.6, the applicant noted that our regulations have no trigger point for requiring traffic study and went on to add that VTRANS will dictate whether or not this specific project will require one. The applicant has agreed to provide am/pm peak #s.

Per regulation 5.1.11, regarding access to all units for fire safety, the applicant noted that the front buildings will have access via front and back, but that our regulations do not mention a requirement for rear access to all units. An existing fire hydrant on the south side of Friendship Lane will mean a total of 4 hydrants accessible from the project, closer than the 500' requirement. They feel the project will have excellent fire protection and thus far they have not received anything in writing of concern from the police.

Per regulation 5.1.12, the applicant feels that the project will get maximum solar gain, which is within the context of the overall regulations to comply. The regs also require a compact development, which we have. The engineer (David Burke) is green certified. Ted B. asked if the project will meet Green Home certification. The applicant said homes themselves will have solar gain but the project will not be built to Green Certification standards.

Per regulation 6.1.10, the applicant said that based on previous feedback, the road have been narrowed to 18'. Parking is available in the front of the proposed units and the overall project meets or exceeds parking requirements for visitors as well. Parking as proposed for this project was deemed adequate at sketch review and the applicant feels that it remains so, but have agreed to make changes to increase parking spaces if the Board feels that is necessary. Per a written request from the Trails Committee, the applicants have agreed to offer a 20' wide pedestrian easement (exact location to be determined) to interconnect public pedestrian pathways.

To regulation 6.2.3, the applicant says lighting is proposed for the project; 4 units will have standard residential fixtures. The applicant feels that a lighting plan is useless on the street scape, citing no requirement within the regulations. The applicant offered adding ellipses if the Board suggests it.

The projects' Landscape Architect, Terry Krinsky, addressed the concerns raised in the Staff Report as they relate to the overall landscape plans. In staff report concern #6, PUD organizing spaces, he noted the proposal for Community Garden space as well as some plantings of pear trees (non-fruit producing), a small gazebo shelter and a small patio with picnic area which will abut a playground area for children.

Regarding staff concern #7, VT Rte. 116 Streetscape, Terry K. noted this is not so simple; topography must be considered as well as existing overhead utilities. They do not have an answer for this tonight and are open to feedback from the Board. Greg W. asked how far the front units' back door to Rte. 116 is. The applicant said units 1-8 are 52' and units 9-15 are 65' from porch to pavement. Zoe W. inquired on the trees listed on the proposal. Terry K. said those plans should be revised as they no longer match up with the revised landscaping plans. There was some discussion around the species of trees available for the landscaping of the project. Regarding staff concern #10, again, the Landscaping Plan, Terry K. said they can accommodate some staff suggestions, i.e., vegetative dividing areas between drives, but said they cannot agree to change flowering tress (as proposed) with larger trees (as suggested) due to soil volume requirements and potential damage

to the structures from larger trees. The applicant feels that the Autumn Blaze Maples are right for this site.

Zoe W. asked for feedback from staff and the Board. Peter E. suggested getting issues addressed that may require any type of redesign to the plans come final approval. Zoe W. said in regards to the density bonus due to the streetscape and solar gains, does the applicant feel they've accomplished this? The applicant said yes. Alex W. clarified the means of that density bonus, noting that passive solar gain does *not* count. He went on to note that Green Certification is achievable in this project and *does* count. Dick J. asked if the sidewalk proposed would fulfill the Public Infrastructure requirement in the density bonus formula. Alex W. said that is a good point which had not yet been considered. The applicant added that they have agreed to the 20' trail easement asked for by the Trails Committee.

In regards to concerns raised in writing by Nancy Lee Ross, the posted speed limits on VT Rte. 116 will have to be addressed via the Select Board petitioning VTRANS.

Zoe W. said in regards to the staff comments to the Open Space requirements, the project is clearly well above the required 10% of Open Space, but that staff was seeking clarification in its purpose.

There were no public comments or questions in regards to this application. Zoe W. made a **motion to continue the application to 11/19** when the Board will deliberate and **to have the applicant return on 12/17/13 with modifications and additional info.** Greg W. **seconded the motion.** The Board voted **6-0.**

Hinesburg Center LLC: (Subdivision Revision) - The applicant is requesting a revision to the Hinesburg Center subdivision to account for differences between actual versus approved building setbacks from property lines. This represents an after-the-fact application as the buildings in question have already been built. Side yard setbacks of as little as two feet were approved in some cases, but certain buildings were constructed with setbacks of less than one foot from interior property lines. The subdivision was originally approved on 9/7/2010, and was last revised on 6/18/2013. The Hinesburg Center subdivision includes 9 lots and 9 buildings (6 of which have been built) including commercial (e.g., Kinney Drugs), mixed-use (e.g., Bristol Bakery and apartments), and residential buildings. The developed portion is located on approximately 4 acres at the intersection of VT Route 116 and Farmall Drive in the Village Zoning District.

Bill M. recused himself from this application discussion. Greg Rabideau (Architect) and Brett Grabowski (Developer) were present for this application.

Greg W. said according to his packet material dated 2012, site plans showed 9' separation between interior buildings (#45, 46, &47). April 2012 engineering notes mentioned adjusted grading but made no mention of reduced spacing. Also, he noted, windows were on the architectural drawings but the buildings were built with no windows (facing interior, to neighboring units). Brett G. said they could not have built those interior structures with windows facing one another as it would have been a fire code violation (even if the spacing had stayed at 9').

Alex W. noted that buildings #41 and #47 also no longer meet their side yard setbacks. Ted B. said with professionals working on this project, *how* does something like this happen? Greg R. (architect) said that is a good question, but they do not have a good answer. He said “we don’t build the buildings” and that those workers are now long gone.

Greg W. addressed another issue, that of occupants currently living in units prior to CO’s being issued. Brett G. confirmed this, saying leases take a long time and that those people had other units to vacate and would have been homeless if they had not moved in prior to the CO’s being issued. Greg W. suggested to Mr. Grabowski that he exercise his power as the owner and developer of this project to avoid this. Peter E. noted that structures #44 & #47 both need CO’s.

Zoe W. opened the discussion up to public comments or questions.

Laura Atkins spoke from the audience, asking with some frustration, what are the repercussions of breaking or violating the regulations. Zoe W. said that is a valid question, and explained that the plan they were working from was approved but the Board is not in agreement that they did approve specifically such things as the spacing changes. Alex W. added that there were additional waivers granted per the spacing issue, but that the developer *is* currently in violations without CO’s. He went on to say that the Select Board has discussed this issue and that fines can be imposed. Laura A. voiced her concerns regarding future development.

Kyle Bostwick spoke from the audience. He is a homeowner at Creekside. He voiced his dismay at the track record of this particular developer. The concerns being raised in regards to this developer’s projects directly impact the individual homeowners. Those impacts are likely to increase if the future build out continues and includes proposed roads through the Creekside neighborhood. Flooding concerns and traffic issues remain his top worries. He encouraged the Board to *not reward bad behavior* on the part of developers. He said in his opinion, this developer has no record of integrity.

Bill M. said the DRB is not the body to address enforcement issues. In his view, deconstruction *does* remain a viable option. He said in his experience, you measure twice, cut once. He finds this failure extraordinarily egregious for a developer.

Alyssa Lasher spoke from the audience, also a homeowner at Creekside. She is frustrated at the “slap on the wrist” approach with this developer. She has lost any trust with this developer and is very frustrated at the problems being created and not being fully addressed. She said in her view, it is not only *not* okay for these problems to be allowed to continue unabated but that it is ultimately disrespectful to the town, the neighborhood and the children living there. She feels that the regulations must be enforced, that she and other tax payers pay for that and expect it.

Frank Koss (police Chief), spoke from the audience, saying the appropriate solution for the tenants in regards to the CO’s would be to put those people up in hotels and put their belongings into temporary storage. That is the responsibility of the tenants and/or the developer to work out, but that putting people in structures without CO’s is simply not a sensible option. He went on to say that he had been in contact with the Fire Chief, who said that there is no fire code preventing the developer from putting in windows that were on the original architectural renderings.

Erin Hopper spoke from the audience, saying given the track record of this developer, she would hope that the Board would be more focused on checking his future submissions. Zoe W. said it is safe to say that yes, they will do so.

Greg R. (architect) said he shares in the public's disappointment, saying this development was a creative endeavor, not a 'typical' development. He said the Drug Store and the Bakery have both proven to be positive additions to the community. These plans were approved for a dense village core, and he feels it would be a shame if this arrangement loses sight of this fact. The execution of the plans has been sloppy, yes, but nonetheless, he said, the project is still good. He added that the developer had nothing to gain by this.

Greg W. inquired on storm water run-off on the site. Greg R. said gutters will need to be installed and are currently on order. The runoff will then be collected in yard drains.

Dick J. said in his view, he can't say at what point he would have noticed the change in spacing, or not. He said we (DRB) did not measure, that is on them. It was built as drawn. Ted B. replied that admittedly, removal of the lot lines made things a bit "fuzzy" but that plans should be specific in changes, no matter how small those changes may be. He requested a complete list of deviations in regards to this project. Brett G. said he has provided one to staff.

Dan Jacobs spoke from the audience, also a homeowner at Creekside, asking if interested parties can appeal the final DRB decision if they chose. The Board said yes, within 45 days of the decision. Alex W. clarified that is within 30 days and the interested party must voice an opinion in order to appeal any decision. Dan J. then voiced his issues with the non-compliance of this project.

Zoe W. made a **motion to continue the public hearing to 11/19 in order to acquire a list of waivers and to allow the Board time to deliberate.** Dennis P. **seconded the motion.** The Board voted **5-0.**

Zoe W. made a **motion to go into deliberative session to discuss the Laberge and Hinesburg Center, LLC applications.** Ted B. **seconded the motion.** The Board voted **5-0 and went into deliberative session at 10:45pm.**

Other Business:

The meeting adjourned at *** pm.

Respectfully Submitted,
Freedra Powers---Recording Secretary