

Town of Hinesburg
Development Review Board
July 1st, 2014
Approved July 15th

Members Present: Dennis Place, Greg Waples, Kate Myhre, Zoe Wainer. Dick Jordan arrived at 7:50pm. Andrea Bayer arrived at 8:36pm.

Members Absent: Sarah Murphy, Ted Bloomhardt.

Also present: Alex Weinhagen (Director of Planning & Zoning), Peter Erb (Zoning Administrator) and Freeda Powers (Recording Secretary). Representing Applications: Ben Avery, Mike Buschard, Michelle Allen, David Carse, Douglas Gardner, Gayle Erdman.

Public Present: Jeff French, Carrie Fenn, Judy & Jim Thibault, Tom Barden, Andrea Morgante, Geoffrey Gevault, Nancy Baker, Susan Johnson, Bob Thiefels, Jeff Glassbery, Johanna White, Merrily Lovell, David Fenn, John & Jean Keidaisch, George Dameron, Craig Chevrier, Chuck Reiss.

Zoe W. chaired the meeting, which was called to order at 7:33 pm.

Minutes from 5/20/14 , 6/3/14, 6/17/14:

There was not a quorum to review minutes at the start of the meeting.

Allen: Conditional Use/ Expansion of a non-complying structure –Proposal to replace an existing shed in the back yard with a barn/garage type structure. Property located at 847 Pond Brook Rd.

Michelle Allen presented her application to the Board by detailing the proposal to replace an existing structure in the back yard of her property with a small 2-story barn/garage style structure. The new structure, at 512 sq. ft. (16X16) and 18' high, will be used for non-commercial office space and exercise room in the upstairs and standard garage/storage space downstairs.

Zoe W. asked the applicant about the existing structure. The applicant said the existing structure is located right on the property line and will be completely removed. The new structure will be placed one foot away from the property line. The Board viewed a photo of the existing shed. Zoe W. noted that the project report indicates that this type of outbuilding appears to be common in the area. The applicant said yes, and noted that many of the existing outbuildings in the area are larger than the one she is proposing.

Zoe W. acknowledged a rendering provided to the Board by the applicant which depicts a likeness of the type of structure she would like to build featuring a gabled area above a garage space.

Greg W. asked if the applicant was committing to the height of 18' for the new structure. The applicant said yes. Greg W. said as height of structures is an issue of concern, is the applicant content with a Condition of approval which limits the final height of the new structure to no more than 18'. The applicant agreed with this condition.

Zoe W. asked if there were any comments or questions from the public. There were none. Zoe W. made a **motion to close the public hearing and approve the draft approval as amended**. Greg W. **seconded the motion**. The Board voted **4-0**.

Carse: Subdivision Preliminary Plat –4-Lot Subdivision/Preliminary Plat Review. The applicant is seeking preliminary plat approval for a 4-lot subdivision on a 181-acre parcel. The property is located on the south and east side of the Charlotte Road and the east side of Baldwin Road in the Agricultural Zoning District. The applicant got sketch plan approval in December, 2013.

David Carse presented this application to the Board by outlining the previously approved 4 lot subdivision Sketch Plan (dated 12/2013), which resulted in two larger acre lots and the two smaller lots which are the focus of this proposal. The two large lots have no immediate development plans and the applicant said there are no changes to the lots since the Sketch approval in 2013. The two lots off Baldwin Road which are the focus of this application, now have proposed building envelopes and new surveys have been done for accurate acreage: Lot 3 at 21.58A and Lot 4 at 20.02A. The Applicant has tried to avoid sensitive areas (i.e., steep slopes, waterways, etc) when determining the building envelopes.

The applicant said his main concern is to accomplish subdivision in a way that breaks the farm up in a way that encourages continued agricultural use of the land. He added that he has philosophical differences with the building envelope requirement. However small a farm is going to be, he said, it will need the facilities to accommodate that use beyond just the house structure. With that, he said, he is providing the proposed building envelopes with protest, asking the Board to allow for agriculturally related outbuildings in areas outside of the envelope to facilitate agricultural use of the land. Greg W. explained to the applicant that this board is in no position to regulate agricultural uses/buildings. This is the purview of the State, not handled at the local level. Peter Erb did caution the applicant that most small scale farms do not qualify for that State exemption. He added that if the Board wants to make an exception, this needs to be clearly stated in the decision.

Greg W. said the Board has dealt with a similar scenario with the Boutin Subdivision several years ago. He said the issue is that a structure that starts as an approved ag-use structure can subsequently be used for a non-ag related purpose. Also, he said, he is not assured that the future buyers of these two lots off Baldwin Road will be dedicated to such agricultural uses.

Zoe W. said in her view, the question is the scale of what is allowed.

The applicant said he disagrees with Greg W.'s assertion that the land will not likely be used in some aspect of agriculture. He said the Baldwin Road area houses many small scale farms. Greg W. countered that the topography on those sites is different than what you find on these lots.

The applicant reiterated his desire to the Board that they allow enlargement of the proposed building envelopes to include agricultural use buildings or inclusion of language that exempts restrictions on buildings used for agriculture. Greg W. said the future owners of these lots may wish to build outside of the proposed building envelope regardless of their planned use of the land.

In that case, he said, those parties would be required to come before the DRB any way and such a discussion could take place at that time. Peter E. added that we do not always require all buildings to be inside the proposed building envelope. He cautioned against labeling explicitly as ag-use as that may tie the structure to a use not committed to. The applicant said he sees the building envelope as prejudice to build where that envelope dictates. He feels it discourages other options towards ag-use.

Zoe W. said there are a myriad of ways to address the applicant's concern. The fact that the parcels are in the Agricultural Zoning District validates the applicant's desire to encourage agricultural use there. She feels the Board does need to discuss the issue further. The applicant asked that the Board take up the issue in further deliberation, saying adamantly that he does not wish to create what he refers to as suburban lots, but rather wants to create the opportunity for continued farming in the rural area which supports it. Zoe W. assured the applicant that she feels the Board and he are all on the same page on this issue and asked to discuss other aspects of the application.

The applicant described the open fields (60+ acres) and woodland (90+ acres) and said those areas will be kept as is. The remainder of the development potential from these lots will go to the remaining larger lots.

Greg W. asked if access to Lot 3 & Lot 4 would be from Baldwin Road, on the south side of the rise. The applicant said yes and demonstrated on a map of the area via projector for the Board to see the proposed access sites. Greg W. asked about the sight distance. The applicant said he has spoken with the road foreman, Mike Anthony, and has received curb cut approval for both driveways. Peter E. concurred there is very adequate sight distance at the proposed driveway sites.

Greg W. acknowledged a written submission from Tom Barden, adjoining landowner. Tom B.'s written submission requests that the proposal not allow development within the view from his home. Greg W. said the DRB cannot regulate that. Tom B. said the issue has been resolved.

Andrea Morgante spoke from the audience, saying she would like to see the survey corrected to reflect the feedback offered from Tom Barden, indicating the survey is incorrect.

The applicant noted that traffic on the Charlotte Road has increased significantly over the past several years both in volume and speed. The applicant proposes to deed a 20' wide bike path easement to the Town of Hinesburg to address this. Peter E. said he does not believe the easement offered will require a permit.

Dick J. asked the applicant why the leach field is so far from the house site on Lot 3. The applicant said the engineers on this project indicated that location was the best site for the leach field for that parcel. The required pump is due to the distance from the house site.

Zoe W. made a **motion to close the public hearing and take up in deliberative session.** Dennis P. **seconded the motion.** The Board voted **5-0.**

Gardner: Revision to Final Plat via boundary line adjustment. Property located at 2385 Shelburne Falls Road in the Agricultural Zoning District.

Douglas Gardner presented this application to the Board. He said an adjoining landowner has plans to construct a horse arena in the area which will house approximately 6 horses. The transfer of approximately 5 acres will be to accommodate those animals with pasture land.

The applicant said they have qualified for exemptions from the state for the required water permits and submitted to the Board a letter from the state evidencing this.

Greg W. asked the applicant if the transfer of land includes the transfer of the covenants to restrict the use of the land. The applicant said yes, adding that the new owners would have to buy into the covenants unless they receive a waiver.

Andrea M. asked if the indoor riding arena coming in constitutes an ag-use structure, therefore not requiring any permitting. Peter E. said yes.

Dick J. asked if this proposal is creating a separate lot or merging the 5 acres with the existing Lot 3. The applicant said it is merging the land in with that of Lot 3.

Greg W. asked if, by acquiring this additional 5 acres of property, Lot 3 gains any further subdivision potential. Alex W. said no, Lot 3 currently has no further subdivision potential and will not gain any subdivision potential from this transfer of land.

Zoe W. acknowledged that the Board had a draft decision in front of them. Greg W. said he has no issues with the draft decision. Kate M. asked if will be access to these 5 acres via Crow Hill Road? Greg W. said that the land will be governed by the covenants.

Peter E. noted in the draft decision provided; Conclusion #2 & Order #4 are unnecessary and Finding Of Fact #7 needs to be revised. Zoe W. made a **motion to close the public hearing and directed staff to revise the draft approval decision.** Greg W. **seconded the motion.** The Board voted **5-0.**

Haystack Crossing/Blackrock Construction: The applicants are requesting subdivision sketch plan approval for an 84-acre undeveloped parcel owned by Haystack Crossing LLC (Bissonette Family), and located on the west side of Route 116 between Kinney Drugs and Shelburne Falls Road. A portion of the property is located in the Village Northwest Zoning District, and a portion is located in the Agricultural Zoning District. The developer (Blackrock Construction, based in Colchester) is proposing a subdivision of 90+ lots, 225 dwelling units, 50,000+ square feet of commercial space, as well as open/green space. Review continued from 3/18 6/3 & 6/17.

Kate M. recused herself from this application.

The applicant provided the Board with the newest revisions to their site plan based on feedback on 6/17. The applicant said the two options provided to the Board (Option A & Option B) attempt to address the following concerns raised: Rte. 116 frontage, interior disconnect between the Northern portion and the Southern portion of the project, increased green space within the internal portion of the project. The overall project has decreased proposed commercial space by 3,000 sq. ft. The proposed 10-unit buildings within the project now feature individual entrances (similar to the center building in the Hinesburg Center, LLC project on Farmall Drive).

Dick J. noted that parking spaces in the Northern section of the parcel was previously at 62 spaces, and is now down to 47. He asked what the cause of this reduction in parking spaces was. The applicant said the reduction in parking spaces is due in part to the reduction in building size and shared parking patterns. They are trying to balance the required parking and adequate internal green space. The applicant said the total parking spaces proposed at this time is 157, not counting on-street parking, and said the project has plenty of parking overall.

Greg W. said a larger issue is at hand here which has not been part of this discussion. This project, he said, represents a fundamental change to our town. The PUD regulations require incorporation of Subdivision Standards (5.1.5). These standards include, but are not limited to, consideration of compatibility with the surrounding area. He feels strongly that this project does not work to retain the rural character of Hinesburg.

The applicant cited development to the south of this parcel (Creekside neighborhood and Kinney Drug development area) which are only partially built-out with remaining phases yet to come. Ben A. said this project is not dissimilar to those projects as they relate to Rte. 116. Mike B. said this is the planned character of the area, according to our Zoning Regulations and Town Plan. He feels strongly that the intent of the zoning meets the vision of this proposal. He said this proposal offers a smart, urban, dense village core.

Jeff French spoke from the audience, on behalf of the Village Steering Committee. He had voiced concerns with the prior proposal with the large parking lot area as it related to pedestrians/residents. He encouraged the applicant and the Board to retain smart growth design by considering the future of the Busier lot and its potential future uses. Allow for flexibility and options, he encouraged. Consider the livability of the project. He feels the new proposal is a smarter plan.

Chuck Reiss spoke from the audience, providing the Board with written input from the Energy Committee. The main issues the committee wants to note are 1) Solar Orientation, 2) Density bonuses as relates to renewable energy—Total Use, to include thermal. He said in this respect, he does not know that this requirement will be met with this proposal. He urged caution and encouraged the Board to require the applicant to demonstrate how the proposal meets this standard. 3) Solar Field; the proposed solar array and its legal ownership are an important aspect of this proposal for the Board to consider and he strongly urged the Board to be clear on all aspects of this portion of the project. 4) Green Home Certification; LEED standards have not been demonstrated as of yet. The Energy Committee feels that this is a critical point.

George Dameron spoke from the audience, on behalf of the Trails Committee. He asked about trail access as it relates to this project. Ben A. said no changes have been made to the proposal in that aspect and the intent is to connect through the west side of the project to the brook to where the

solar array is proposed. George D. said the area is very wet. Zoe W. asked if that would connect via easements. The applicant said yes.

Johanna White spoke from the audience, as a former Planning Commissioner, she said it was never estimated that something like this project would happen within five years—the thought was that it would be over a much longer time frame, maybe more like 25 years, giving the town time to acclimate and absorb such a huge volume of development. Also, she said, Hinesburg needs a qualified engineering firm to review plans this large. She implored the Board to be responsible if they chose to approve this project, and encouraged them to do so at the expense of the developer, not the town.

Jeff Givault spoke from the audience, on behalf of the group Responsible Growth Hinesburg, saying they are not against development and that they embrace and support green building standards, the use of alternative and renewable energy sources and that they are very conscious of the reality that development is coming. They feel more detail is needed on this project prior to approval, saying that Sketch Review is a critical part of the process. He encouraged the Board to exercise control, make changes; this plan which reaches for maximum potential build-out assumes density bonuses. He said he agrees with Johanna White's comments regarding the time line of reaching maximum build-out for the village growth area. He agrees with the comment from George Dameron, that the site is wet. He said the developer is presenting their interpretation of the Town Visualization Project. He voiced his concern with the impact on schools, taxes, traffic, municipal infrastructure, etc. He encourages a lengthy phase-out of development, saying he does not understand what appears to be a rush through the Sketch Review process. This project will require water connections which are not currently available and the project will also require Act 250 approval from the State.

Nancy Baker spoke from the audience, citing the description of Hinesburg as stated on the town website. She said this proposal looks like a separate "small town" within our town.

A member of the public spoke from the audience, saying he personally moved to Hinesburg because of its rural character. He strongly encouraged the Board to consider what the residents of Hinesburg want, rather than what the developers want. He said in his view, the people of Hinesburg do not want suburbs.

Bob Thiefels spoke from the audience, saying the Deluca Study in Williston was done to find out if the tax base of that town was actually enhanced by large development projects. The resulting answer was No. Also, the study results showed that impact on municipal services was not noticed for 5 years or so post-development. He encouraged the Board to consider the results of this study and to address such concerns with this proposal, which is going for maximum density. Also, he added, the Board must consider the ability of the land itself to support what is being proposed. This has not yet been done. The town risks losing very valuable storm water treatment. He emphasized that these concerns are all connected and are all very important for serious consideration and must be addressed. He asked if the wetland delineation is accurate as depicted. He said the letter submitted by Responsible Growth Hinesburg is valuable and raises valid and important concerns.

Craig Chevrier spoke from the audience, saying he agrees with Greg W.'s comments. He said this project represents a huge suburban development which we as a town simply cannot afford. The commercial portion of this project should be built out first per the recommendations of both staff and the Planning Commission. The developer, he said, has made it clear that they plan to build the

residential portion first. There is no way the town can afford that. He asked if the solar array is on a separate parcel and if it is in the Agricultural Zoning District? Zoe W. said it is considered the same parcel, but yes it is in a different district than the rest of proposed project. Craig C. continued, saying the zoning regulations are clear on this development. He implored the Board to not base their approval on previous mistakes (i.e., the Creekside development which he says was a DRB & development execution mistake). He said we need an economic impact study for this project. He estimated 2-5 years before the local water system can accommodate further growth. He said this proposal, based on an ill-advised study, reflects the unwillingness of the applicant to work with Hinesburg. He said the time-based regulations result in the DRB appearing to feel cornered by developers into making decisions.

Susan Johnson spoke from the audience, saying she attended the first meeting on this proposed project. She reiterated her deep concern that a single landowner and a single developer can change so completely the character of the local village. She sees this proposal as being very similar to development patterns seen at Tafts Corners in Williston. She described the applicant's prior comparison of this project to that of recent development in Shelburne as an unfair comparison. She agrees with Johanna W's comments that a qualified engineer team should review this plan. She said the soils along Rte. 116 are not stable. She has concerns with the placement of the proposed senior housing portion of this project, saying it's location in the far SW corner of the parcel puts it as far from the proposed bus stop etc. as it could be, which she says is just poor planning on the part of the applicant. She agrees with Greg W.'s comments and said she hopes the town can retain its rural character.

John Kiedaisch spoke from the audience, saying he has attended the meetings and studied the plans for this proposal. He agrees with the objections raised at this meeting. The discussion has not yet been had whether or not it is the town's desire to see the population in the village grow, but the discussions we are having with this developer imply the answer is yes. The solar array portion of this proposal is located in a clay plain forest, which should not be the location for any development, including trails. He said we have jumped ahead in discussions—the site discussion comes first. That should include discussions about the existing conditions, natural resources, topography, etc. none of which has been discussed or shown.

Andrea M. spoke from the audience again, saying she would like full disclosure to identify the natural and cultural significance of the site, which has also not been done. She feels this is a critical piece of the site which needs to be addressed. The Division of Historic Preservation needs to be in contact with the developer, in her opinion. She also strongly encouraged the Board to look at state maps and complete a true site analysis of the clay plain forest and wetlands. This is the first view coming into the town, she said, and the proposed access point should consider the existing open space experience in the context of the village. Soils also need to be considered, she said, noting that the majority of proposed impervious surface is located on some of the best infiltration areas of the site. She said she wants to see LID and green development practices in this development. In her view, the placement of the commercial portion of the project is also an issue. She agrees that the senior housing portion of the project is located too far from the commercial portion. A variety of uses next to one another is what Hinesburg looks like. She is concerned with one developer building all of these buildings, saying it results in a very homogenized project. She wants to see greater diversity in the mix.

Bill Moller spoke from the audience, saying not every resident is against this project.

Chuck Reiss spoke again from the audience, saying he feels the Sketch Plan Review process is not working. The developer has changed the plan very little because this is the business model that works for them. This project is their interpretation of our regulations. He encouraged the applicant and the Board to consider the intent of the Town Plan and Zoning Regulations' intent.

Jeff G. spoke again from the audience, saying he echoes what Chuck R. said. This isn't a discussion, it's a battle. The bottom line is money. This is an opportunity to preserve our community.

George D. spoke again from the audience. As a 26 year resident of the village, he said he is in favor and support of comments made by Greg W. regarding the compatibility of this project with the surrounding area. He said he supports development when done well; professionally and slowly. This proposal, he said, is incompatible with the sense and letter of the regulations. He is personally very concerned with traffic, and said the Village has limits within its infrastructure and we cannot continue to pour development in. He strongly encouraged the Board to consider future impacts and to be careful with this decision.

Ben A. responded to comments made by the public and boards/committees by restating his point that not everyone will be in favor of this project. Also, he said, comments made regarding the process itself are not to be directed at the developer or applicants, it is our process and he is simply trying to work within that process. He feels strongly that our zoning regulations brought this project in. He reiterated his stance that impact concerns will be further studied and addressed farther into the review process. He assured those present that this project will be phased in. Mike B. said they feel they have covered a lot of the topics at hand. He feels that the town needs more housing options and feels that innovation is in this proposal.

Zoe W. made a **motion to continue the public hearing to 7/15/14**. Greg W. **seconded the motion**. The Board voted **6-0**. (Andrea B., Greg W., Dennis P., Zoe W., Kate M., Dick J.)

Other Business:

The Board discussed the Hinesburg Center, LLC Site Plan Revision (approval) decision. Changes were made to reflect accurate dates on plans submitted and to establish specific species for planting in the landscaping plans for proper and adequate screening of the utility box and retaining walls. The Board agreed to Conclusion #7 which orders the removal of sidewalks built without approval and agreed to allow existing sidewalks in the approved locations to remain as is. The Board agreed on a final deadline to comply with the orders in the decision to be September 1st, 2014 (Order #4).

Zoe W. made a **motion to go into deliberative discussion to take up the following application decisions**: Wright, Enos, Gardner, Allen, Carse. Greg W. **seconded the motion**. The Board went into deliberative session at 10:31pm.

Zoe made a motion to approve the Allen conditional use expansion of a non-complying structure decision (approval) as amended. Dennis seconded the motion. The motion passed 4-0. Board members participating included Zoe, Dennis, Kate, Greg. Dick Jordan did not participate in this decision.

Zoe made a motion to approve the Gardner, Erdman subdivision revision final plat decision (approval) as amended. Dennis seconded the motion. The motion passed 5-0. Board members participating included Zoe, Dennis, Kate, Greg, Dick.

Zoe made a motion to approve the Among the Trees conditional use fluvial erosion conditional use decision (approval) as amended. Dick seconded the motion. The motion passed 4-0. Board members participating included Zoe, Kate, Greg, Dick.

Greg made a motion to approve the Among the Trees development on a private right of way decision (approval) as amended. Zoe seconded the motion. The motion passed 4-0. Board members participating included Zoe, Kate, Greg, Dick.

Greg made a motion to approve the Among the Trees conditional use expansion of a non-complying structure decision (approval) as amended. Zoe seconded the motion. The motion passed 4-0. Board members participating included Zoe, Kate, Greg, Dick.

Zoe made a motion to approve the Among the Trees conditional use camp conversion decision (approval) as amended. Greg seconded the motion. The motion passed 4-0. Board members participating included Zoe, Kate, Greg, Dick.

The meeting adjourned at 11:00pm.

Respectfully Submitted,
Freedra Powers---Recording Secretary