

**Town of Hinesburg**  
**Development Review Board**  
**April 4, 2017**  
Approved May 2, 2017

Members Present: Greg Waples, John Lyman, Sarah Murphy, Dennis Place, Jonathan Slason (Alternate Member), Rolf Kielman, Dick Jordan arrived at 7:33 pm

Members Absent: Ted Bloomhardt

Representing Applications: David Marshall, David Newton, Kathleen Newton

Public Present: Michael Bissonette

Also Present: Dawn Morgan (Recording Secretary), Mitchel Cypes (DRB Coordinator & Zoning Administrator)

Dennis P. chaired the meeting, which was called to order at 7:30 pm.

**Agenda Changes:** None.

**Public Comments for Non-Agenda Items:** None.

**Minutes of 03/07/17:** Dennis P. made a **motion to approve the 03/07/17 minutes as amended.** Sarah M. **seconded the motion.** The Board voted **6-0.**

**Haystack Crossing, LLC: Request for a second extension of sketch plan approval for an 80-lot subdivision and PUD. The 84-acre property is located on the west side of Rte 116 north of Patrick Brook and south of Shelburne Falls Road in the Village Northwest and Agricultural Zoning Districts. VT Environmental Court granted sketch plan approval on 4/21/16. At the applicant's request this approval was extended on 10/18/16.**

Rolf K. recused himself from the discussion.

The Applicant said that they are currently working with the Town on locating an additional water source and are requesting an extension to allow time for the infrastructure issues to be addressed. Mitchel C. confirmed that the Applicant has been working with the Town.

There were no public comments.

Greg W. made a **motion to approve the extension.** Dennis P. **seconded the motion.** The Board **voted 6-0.**

**David & Kathleen Newton: Conditional Use Review for a cottage industry on a 0.57-acre property located at 9303 VT Rte 116 in the Rural Residential 1 Zoning District. The applicants are proposing to expand the existing building by adding a one-story 12' x 55' shed to create additional interior workspace. The business had previously been categorized as a contractor's yard.**

Dennis P. recused himself and Dick J. led the hearing. Greg W. said that he did not receive his packet of meeting materials in the mail and therefore has not had an opportunity to review this item.

Mitchel C. mentioned two edits to the Staff Report. He said that the legal opinion received stated that since a contractor's yard and a cottage industry are so close in terms of the regulations, the variance does not carry over to the new use. Greg W. said that the legal opinion is not binding unless the Board has had an opportunity to review and assess the opinion.

Dick J. noted that this is a new site plan application and asked if all previously approved variances were reviewable again by the Board. Mitchel C. replied that it would depend on whether the variance was part of the conditional use approval versus the site plan approval. Mitchel C. went on to say that he believed the variances are based on the conditional use approval, as it was the use of the contractor's yard that would have required the variances back in 1997.

Dick J. said that he would have expected physical setback variances to be related to the site plan. Greg W. said that variances don't have to attach to either site plan or conditional use, and that they can stand by themselves. Mitchel C. said that this application previously required four variances due to its contractor's yard use. Mitchel C. went on to say that under a cottage industry use only one variance for the 3-acre requirement would be needed, and that it would be the Board's prerogative to decide if it carried over. Greg W. said variances are rare if the State statutes are critically applied, and that this is something that will need to be addressed rigorously next time.

Mitchel C. said that the Applicant is allowed to have seven employees, not five as is currently in the report. He then corrected Section 5.1.4, saying that the uses are transferrable.

The Applicant (David Newton) said that they are requesting an addition to their existing building. He said that he is a mason contractor and also cuts stone for walls, lintels, capstones, etc. He said that he was previously primarily engaged in masonry for fireplaces and chimneys. He has since adapted his business for stone work, as there are fewer fireplaces or chimneys being installed now. The Applicant said that his machinery consists of a water saw and stone cutting saws.

Greg W. remarked that he has not heard machinery noise when driving by and the Applicant said that the machines are quiet and located inside the building. Greg W. asked if the business required much water. The Applicant confirmed that he uses town water, and said that the water is drained into a concrete pit inside the building where it is then recycled for approximately eight months when P&P Septic pumps out the slurry. Greg W. asked if there were applicable State or Federal water regulations and the Applicant replied that there were not. The Applicant said that he uses town water, and showed a picture of the grated floor with the pit for reference.

The Applicant said that space in the building is limited and showed a picture of a rail saw that is used on large stones. He gave an example of a stone cutting job that required  $\frac{1}{4}$  of the building's space, and went on to say that water from the process often sprays and they need to cover the shop in plastic for protection. The Applicant said that they would like to build the addition so that the machine can be moved there and contained to one area.

Greg W. asked when the business was originally developed. The Applicant (Kathleen Newton) said that her father built the building approximately 60 years ago. Greg W. noted that would have been prior to the creation of town zoning regulations, and inquired as to whether it had always been a similar business. The Applicant said that it was a contracting business in earlier years and has grown since then. Greg W. said that the yard always looks neat to him, and the Applicant said that he makes a point of maintaining the property.

Greg W. asked the Applicant to expand on what they are trying to accomplish with this application. The Applicant (David Newton) said that according to regulations he cannot expand if the use continues to be classified as a contractor's yard. He said that if he changes to a cottage industry then he will be allowed to expand his shop. Mitchel C. confirmed that contractor's yards are limited to 2,000 square feet of area per building which, under contractor's use would call for a variance for this building. Mitchel C. went on to say that under a cottage industry use the application would not require a variance for building size, and that the only variance needed would be for the 3-acre zoning requirement.

Mitchel C. and the Applicant reviewed the property lines on screen for the Board's reference. Rolf K. asked about the actual size of the lot, and Mitchel C. said that there was a boundary adjustment in 2002 increasing the size from 0.33 acres to 0.57 acres. The Applicant (Kathleen Newton) explained that they also own the adjacent lot to the north of the property, but it is separated by what is now Place Road. The Applicant (David Newton) went on to say that years ago his father-in-law donated land to the town and it was then converted to what is the new Place Road. He said that the old Place Road is no longer maintained by the town and is now used as a driveway. Mitchel C. said that the Town is still investigating whether the Applicant owns all of the old Place Road.

Greg W. said that there is supreme court case law dealing with variances saying that if there is enough land there is not a need for a variance. However, he went on to say that he is not aware of cases that have roads separating the land. Greg W. said that the Board will have to consider that in terms of variance analysis.

Dick J. asked if the two lots are separate parcels or if they would qualify as one irregularly shaped lot. The Applicant said that the land the roads are/were on was simply switched, and that they have always assumed that the old Place Road is now incorporated into their property and they pay taxes on it. The Applicant said that it used to be a class 4 road that the town plowed it. The Applicants now plow the portion they own as well as the remaining portion that is used as a driveway by the neighbors.

Rolf K. asked if people can access the new Place Road from Rte 116 via the old Place Road and the Applicant confirmed, but said people are not supposed to since it is used as a farm road and driveway. Greg W. asked if there is an easement for the portion used by the neighbors. The Applicants said that there was no easement as they do not believe they own that portion of the land. Discussion followed about ownership of the remaining portion of the property. Dick J. noted that if it is determined that the Applicants own that section then there should be an easement for the neighbors.

The Applicant said that they found the paperwork associated with the land donation a few years ago and realized that it was never recorded with the town. The Applicant said they have since filed it, and Mitchel C. said the town is still researching the paperwork.

Greg W. and Dick J. indicated that a few matters still need to be assessed such as the legal opinion, variance considerations and boundary lines. Mitchel C. said that the Board could warn a hearing for the variance application, and if it is determined that a variance is not required then the Board could dismiss that aspect.

Jonathan S. asked what the hours of operation are and the Applicant indicated they are open weekdays. Jonathan S. then asked if there was septic or wastewater on the premises for an employee restroom and the Applicant said there is not. The Applicant said that employees use the restroom in their home. Dick J. agreed that if the use is transferrable then the business would operate as a stand-alone business and would probably need a restroom on the premises. Greg W. said that the Board could conceivably craft a condition that would require access to the house or a suitable replacement.

John L. asked if the property could be accessible via the new Place Road if necessary. The Applicant said there would not be reason to do so, particularly because that is the neighbor's driveway. There was continued discussion about the current use of the old Place Road.

Jonathan S. noted that at the site plan review the Board could address exterior lighting and questions regarding site access for the operation. He then asked if big trucks would be accessing the property from the southern driveway on Rte 116 and the Applicant said they would not.

Mitchel C. said that there is a requirement for screening of any outdoor materials and equipment. He said that proposal is for stone walls and some landscaping. He noted that the Applicant may need to add additional landscaping to meet requirements. General discussion about screening and landscaping requirements followed.

Dick J. asked where the addition would be located and the Applicant said it would be on the west side and designed to look similar to the existing building, with windows installed on the west side of the building. The Applicant said it would have a shed roof, lower than the existing roofs. There was additional general discussion about landscaping, the old Place Road and access from Rte 116.

Dick J. inquired about stormwater runoff and the Applicant said that there are two catch basins for stormwater which discharge under Rte 116. Dick J. then said that it seemed as though there is a lot of impervious surface, and Mitchel C. acknowledged that it is beyond regulations but would qualify as a pre-existing non-conforming condition.

Dick J. opened discussion to the public, and the Applicant submitted a letter from neighbors stating that they have no objections to any improvements the Applicants would like to undertake.

Greg W. made a **motion to continue the public hearing until the May 2nd, 2017 meeting.** Jonathan S. **seconded the motion.** The Board **voted 6-0.** Dennis P. returned to the meeting.

**Other Business:**

**Kevin & Dawn Francis: Extension request - Sketch Plan Approval for a two-lot subdivision of an approximately 10-acre property located at 251 Butternut Lane. Decision dated 11/3/15. Previous six-month extensions were granted on 5/3/16 and 10/4/16.**

Mitchel C. explained that this is another of the 10-acre projects requesting an approval extension.

Dennis P. made a **motion to approve the extension request for 6 months and, absent extraordinary circumstances, the Board will not entertain any further applications for adjournments of the final application.** Dick J. **seconded the motion.** The Board **voted 7-0.**

Greg W. left the meeting at 8:25 pm

**Wind NRG Partners, LLC: Decision deliberation - Revisions to the Final Plat for a subdivision and PUD located on the east side of Route 116, north of Patrick Brook. Hearing closed on March 7, 2017**

John L. asked if the revision included mixed use development. Mitchel C. explained that this application was to amend the property lines in order for the developer to move forward in light of current water restrictions. Mitchel C. confirmed that the Applicant's intent for this section is for commercial development as there is not enough water allocation for more than a small amount of residential development on this parcel. There was general discussion about the master plan and the decision.

Dennis P. made a **motion to approve the decision as written.** Rolf K. **seconded the motion.** The Board **voted 7-0.**

**Theresa D. Giroux Revocable Trust: Decision deliberation -Sketch Plan approval for a 2-lot subdivision and PUD located at 429 Richmond Road. Hearing closed on March 7, 2017.**

Dick J. noted a grammatical correction. Jonathan S. asked for clarification as to whether the application was for one or two PUDs. Rolf K. confirmed that the application is for one PUD with two lots. There was general discussion about the Board's discomfort with the project overall, as discussed at previous meetings. Discussion points of concern included the application for two separate lots with access deeded to each other's common area, lack of innovation, excessive parking spaces and the general layout of the project.

The Board agreed to amend the order with stronger language addressing the Board's concerns regarding innovative configuration, integration of parking, unifying features to be installed prior to first occupancy, etc.

Dick J. made a **motion to approve the application approval as amended.** Rolf K. **seconded the motion.** The Board **voted 6-0.**

### News/Announcements/Correspondence

- Mitchel C. said the Select Board is creating a committee to review the current water and wastewater ordinance for fairness and comprehensiveness. He said the Board has requested that the DRB provide one member to the committee. Mitchel C. said that the committee plans to begin meeting at the end of this month and work for approximately 4-6 months. Sarah M. volunteered to join the committee.
- Mitchel C. reminded the Board that there is a seminar “Essentials of Land Use Regulations and DRB Summit” on May 31, 2017. Jonathan S. said he has volunteered to attend.
- Mitchel C. said that the tablets may be ready for training by the next meeting but he is not positive. He also said that there are no applications for review at this time and asked if the Board would like to cancel the next meeting. The Board agreed to cancel the meeting if the tablets are not ready and no applications for review come in by Monday morning.
- John L. said that he will be taking a leave of absence through June in order to concentrate on EMS recertification.

The meeting adjourned at 9:25 pm.

Respectfully submitted,  
Dawn Morgan, Recording Secretary