

Town of Hinesburg
Development Review Board
January 16, 2018
Approved February 6, 2018

Members Present: Greg Waples, John Lyman, Sarah Murphy (arrived at 8:00 pm), Dick Jordan (arrived at 7:37 pm), Rolf Kielman (arrived at 7:32 pm), Andy Greenberg (Alternate), Dennis Place

Members Absent: Ted Bloomhardt, Jonathan Slason (Alternate)

Applicant: Dawn Francis

Public Present: None

Also Present: Mitchel Cypes (Development Review Coordinator), Dawn Morgan (Recording Secretary)

Dennis P. called the meeting to order at 7:33 pm.

Agenda Changes: None.

Review minutes of the 12/16/17 meeting:

John L. **made a motion to approve the 12/16/17 meeting minutes as written.** Greg W. **seconded the motion.** The Board voted **4-0.**

The Board paused the meeting for approximately five minutes while waiting for additional members to arrive.

Kevin & Dawn Francis: Final plat review for a proposed 2-lot subdivision of a 12.70-acre property located at 251 Butternut Lane in the Rural Residential 2 Zoning District. Lot 1 would be 10.14 acres and include the existing house. Lot 2 would be 2.56 acres and include a proposed house. The application was heard and closed on 12/5/17. The DRB is re-opening the hearing at the applicants' request.

The Applicant, Dawn Francis, explained that their original lot layout proposed to the Planning and Zoning office was to create one new property line that bisected the property into two new lots. The Board had no recollection of such a proposal, but were willing to discuss this proposal. Greg W. and Dick J. noted that a simple bisecting property line would resolve the issue of non-conformance. She said that they were advised by staff to create a smaller parcel, which is what was proposed to the Board, and since they have now invested in surveying the property for the proposed lot configuration they would prefer to keep the proposal as it stands.

Dawn F. said that they are requesting a waiver per Section 7.4 of the subdivision regulations of the 100-foot minimum width requirement, saying that allowing lot 2 to front on the private road would be a more reasonable use of land than creating a narrow strip of unusable land. She said she believes that the existing private road and 50-foot right of way that also serves the houses beyond the property

should be the boundary and frontage of the newly created lot 2. She went on to say that allowing lot 2 to have direct frontage on the private road is preferable to creating the need for an easement.

The Board explained that the Section 7.4 provided the DRB the opportunity to waive application submittal requirements only and not zoning requirements. Dawn F. disagreed and cited several sections of the zoning and subdivision regulations that she believed also would support their request for a waiver. Mitchel C. explained the context of these regulations and how these did not apply to the application.

There was general discussion about staff's recommended property line modification of the proposal, and the potential impact for the property and the Applicants. Greg W. said that he understood the Applicants' objection to staff's proposed modifications, agreeing that in practice an owner of lot 2 would find it preferable to have frontage along the existing road. However, he said that he did not believe that the Board had the legal discretion to waive the 100-foot minimum width requirement and encouraged the Applicant to either agree to staff's modification proposal or to look for other creative alternative solutions.

Greg W. asked about the Applicants' proposal to bisect the lot, and discussion about the need for a right-of-way followed. Mitchel C. noted that there would be development on a private right-of-way in some configuration regardless of which lot layout was used. Dawn F. expressed concern that the owners of lot 2 would not be able to maintain the drainage system and vegetation by the driveway. Mitchel C. explained that the owners of lot 2 would be able to maintain the areas in the access easement for lot 2 over lot 1 the same way as on the Bitternut Lane right-of-way. He noted that the location of the access easement could be shifted slightly and that the deed could be written in such a way that the owners of lot 2 could maintain more than just the road and drainage systems in the access easement area.

Sarah M. said that the Board discourages irregularly shaped lots, and that for her the issue has less to do with the 100-foot minimum requirement and more to do with the fact that the lot is irregularly shaped. General discussion about irregular lots and ratios followed.

Dick J. noted that part of the Applicants' request for a waiver cited flexibility for features of land, and said that typically refers to physical topology that makes boundary placement difficult or impossible. He went on to say that he did not believe a man-made ditch or road would qualify.

Dennis P. asked if the Applicants' would like the Board to consult with legal counsel on their ability to waive the requirement, or if they would prefer to accept staff's proposal for conforming boundary lines. Dawn F. said that they will accept staff's proposed boundary lines.

The Board and the Applicant reviewed the draft decision. Dawn F., who reviewed the draft decision prior to the meeting, requested a change to the decision to clarify that the entire frontage of the existing property on Magee Hill Road would be located entirely on lot 1. Dawn F. asked how long the approval would be in effect and if there was a time requirement for development. Mitchel C. said they have up to six months to record the mylar and then the approval is effective in perpetuity.

There was no public present.

Dick J. **made a motion to close the public hearing and approve the draft decision as amended.** John L. **seconded the motion.** The Board voted **7-0.**

Other Business:

• **Board Organization**

Mitchel C. said that it is time for the annual vote for the positions of Chair, Vice Chair and Clerk.

John L. **made a motion for Board members remain in their current positions.** Rolf K. **seconded the motion.** The Board voted **7-0.**

• **News/Announcements/Correspondence**

Greg W. noted that two members of the Board are also members of the Planning Commission. He said his understanding was that the Commission had previously discussed, but never extended the 20,000-square foot cap on retail spaces to the Commercial District. He suggested that the Commission again explore whether the cap (as applicable for the rest of the zoning areas that allow retail space) should be extended to the Commercial District.

Dennis P. (a member of the Planning Commission) said that the Commission had voted at its last meeting to ask the Selectboard to consider interim zoning for the district. Dick J. noted that the use of interim zoning does not stop an application in progress, and Rolf K. said that based on what he has read the extension of the 20,000 square-foot cap to the Commercial district would not likely apply to a reapplication of the Hannaford project. Brief discussion of whether or not the cap extension or interim zoning would apply to a Hannaford reapplication followed.

Sarah M. noted that the Selectboard discussed the request from the Commission at their meeting last night, and asked for an update. Mitchel C. said that the Selectboard will be meeting with an attorney for guidance and that if they decide to move forward they will still need to draft legal language about interim zoning.

Dennis P. **moved to adjourn the meeting.** Greg W. **seconded the motion.** The Board voted **7-0.**

The meeting ended at 8:36 PM

Respectfully submitted,
Dawn Morgan, Recording Secretary