



DEVELOPMENT REVIEW BOARD

Meeting Type:.....Regular Meeting
Date:.....Thursday, November 10, 2016
Time:.....7:00 p.m.
Place:.....Municipal Building Community Room
Address:.....43 Bombardier Road Milton, VT 05468
Contact:.....(802) 893-1186
Website:.....www.miltonvt.org

MEETING MINUTES

1 **1. CALL TO ORDER**

2 The Chair called the meeting to order at 7:24 p.m.
3

4 **2. ATTENDANCE**

5 **Members Present:** Bruce Jenkins, Chair; Henry Bonges, Clerk; Bob Brisson.

6 **Members Absent:** David Conley, Vice-Chair; Julie Rutz.

7 **Staff Present:** Jeff Castle, Town Planner; Amanda Pitts, Zoning Administrator.

8 **Public Present:** Hubert W. McCormick; Michael McCormick; Sharon Flaherty; Bonnie A. Pease; Nikki
9 Criscolo; Pete Garceau; James Harrison.

10
11 **3. AGENDA REVIEW**

12 Castle advised that the Zoning Administrator's Report would be added to the Agenda under Item 7,
13 "Other Business/Planning Staff Report."
14

15 **4. PUBLIC FORUM**

16 None.
17

18 **5. OLD HEARINGS/BUSINESS**

19 **5(A). Bylaw Review & Goals**

20 Unanimously TABLED until the full board is present.
21

22 **6. NEW HEARINGS/BUSINESS**

23 **6(A). Boundary Line Adjustment - 568 Westford Road - James & Janet Harrison & Perry Flaherty**
24 **Trust c/o Leonard Perry & Sharon Flaherty, Owners/Applicants.**
25

26 The Chair read the following summary to open the hearing:
27

28 **James & Janet Harrison and Perry Flaherty Family Trust c/o Leonard Perry & Sharon Flaherty,**
29 **Owners/Applicants** request **Boundary Line Adjustment** approval to adjust the property boundary
30 between two lots located at **568 Westford Road**, described as Tax Map 16, Parcels 36 and 37, and SPAN
31 12774 and 12349, respectively. The proposal would result in a total transfer of 0.20 acres from Parcel 36 to
32 Parcel 37. The subject properties contain a total of approximately 334.2 acres and are located within the
33 Agricultural/Rural Residential (R5), Flood Hazard (FH) and Forestry/Conservation (FC) Zoning Districts,
34 and the East Milton Planning Area.
35

36 The Chair administered the Oath to Interested Persons. Representing the Applicant(s) were Peter Garceau
37 of Cross Consulting and James Harrison, hereafter referred to as "applicant(s)."
38

1 In response to the following numbered items within the Staff Report:

- 2 1. The applicant agreed that the Final Plat shall include the address of the owner of record and
3 applicant, the name, license number and seal of a licensed land surveyor per SR610.1.
- 4 2. The applicant agreed that the Final Plat shall indicate the location of existing water and
5 wastewater service in order to ensure there is no conflict between the proposed boundary line
6 adjustment.
- 7 3. The applicant agreed that, if they wish to record only one Final Plat to finalize the proposed
8 boundary line adjustment as well as the related proposed subdivision on the Harrison property,
9 the boundary line adjustment and subdivision plat may not be recorded until both have been
10 approved by the DRB and all conditions of approval have been met. Additionally, the applicant
11 agreed that, if the Boundary Line Adjustment is to be finalized prior to Final Subdivision
12 approval, the Final Plat shall not show the proposed subdivision of the Harrison Property.
- 13 4. The applicant agreed to submit \$500 to cover the legal review of the revised deeds and any
14 other required legal instruments by the Town Attorney (any funds not expended on the legal
15 review will be refunded to the applicant).
- 16 5. The applicant agreed to submit deeds and any other associated legal instruments for all
17 impacted lots for review and approval by the Town Attorney, that all requested revisions must
18 be complete before the Plat may be recorded, and that only instruments approved by the Town
19 may be recorded in the Town of Milton Land Records.
- 20 6. The applicant agreed to submit one paper or electronic .PDF version of the revised final Plat
21 (and any associated plans) for review and approval by Staff prior to submitting the mylar. The
22 applicant agreed to submit one full-sized (to scale) paper Final Plat and one 11x17 paper plat
23 depicting the requested changes, to be maintained in the Planning Office's application file.
- 24 7. The applicant agreed that the final Plat shall be submitted on mylar (18" x 24"), signed by the
25 licensed surveyor and the Chair of the DRB, and recorded in the Town Clerk's Office within 180
26 days of the date of the DRB's Final Approval Decision. The applicant understands that Final
27 approval expires if not filed within 180 days unless extended by the Zoning Administrator for
28 pending local or state approvals, and that, in the event a subdivision plat is recorded without
29 complying with this requirement, the plat shall be considered null and void.
- 30 8. The applicant agreed that no changes, erasures, modifications, or revisions, other than those
31 required by this Decision, shall be made on the Plat after approval unless a revised Plat is first
32 submitted to the Department of Planning and Economic Development, and that, in the event the
33 subdivision plat is recorded without complying with this requirement, the Plat shall be considered
34 null and void.
- 35 9. The applicant agreed to obtain a copy of the Project Review Sheet from the Permit Specialist in
36 the District 4 Regional Office of the Agency of Natural Resources, provide a copy to the Town,
37 and obtain all required State permits and approvals.

38
39 Brisson inquired as to the purpose of the Boundary Line Adjustment. The applicant explained that it
40 benefits both property owners, giving the Harrison's some more room around a wetland and the
41 Perry's/Flaherty's more space for a solar project.

42
43 Hearing no further questions or comments, the Chair closed the hearing at 7:32 p.m.

44
45 **6(B). Minor Convention Subdivision Sketch Plan - Westford Road - James & Janet Harrison,**
46 **Owners/Applicants.**

1 The Chair read the following summary to open the hearing:
2

3 **James & Janet Harrison, Owners/Applicants** request **Sketch Plan** approval for a 3-lot **Minor**
4 **Conventional Subdivision** located on **Westford Road**, described as SPAN #12349, Tax Map 16, Parcel
5 37. The lots would be accessed from Westford Road and served by on-site water and wastewater. The
6 subject property contains a total of 316 acres and is located within the "Agricultural/Rural Residential"
7 (R5), "Forestry/Conservation" (FC), and "Flood Hazard" (FH) Zoning Districts and "East Milton"
8 Planning Area.
9

10 The Chair administered the Oath to Interested Persons. Representing the Applicant(s) were Peter Garceau
11 of Cross Consulting and James Harrison, hereafter referred to as "applicant(s)."
12

13 A Sketch plan for this subdivision was previously approved, but has since expired. The Chair asked if
14 anything had changed since the previous application. Garceau explained that there were some changes to
15 the proposal because they'd since learned that the cemetery that's located on the parcel is actually owned
16 by the Town of Milton; most of the changes relate to accessing this cemetery.
17

18 In response to the following numbered items within the Staff Report:

- 19 1. The applicant agreed that the DRB may require that the applicant schedule a site visit prior to
20 final plat hearing. Brisson stated he would like to conduct a site visit.
- 21 2. The applicant stated how they felt habitant and wildlife resources would be affected. The
22 applicant confirmed there is a stream bisecting the property and stated the bulk of development
23 would occur west of the stream. Brisson inquired about building envelopes; the applicant
24 stated they could be included if desired.
- 25 3. The applicant agreed that if any proposed easement is to be granted to the Town for access to
26 the cemetery currently under Town ownership, draft legal documents shall be submitted with
27 the Final Application for review by the Town Attorney. The applicant agreed that the Town
28 shall not be responsible for the maintenance of the private road, that Final plan approval by the
29 DRB shall not be deemed to constitute or be evidence of an acceptance by the Town of any
30 street or easement shown on the Final Plat, and that such acceptance may only be accomplished
31 by formal resolution of the Selectboard in accordance with SR960.
- 32 4. The applicant agreed that the Final Plat shall include the address of the owner of record and
33 applicant.
- 34 5. The applicant agreed that the Final Plan shall only include the proposed Boundary Line
35 Adjustment with the adjoining Perry - Flaherty property if it is approved by the DRB.
- 36 6. The applicant agreed to exclude the area of the proposed private right-of-way from the lot area
37 calculation for all lots and that all proposed lots must meet the Minimum Lot Area requirement of
38 400,000 square feet. Staff noted that the current application does include this area in the
39 calculations. The applicant confirmed the next application, for Final Plan, would reflect the
40 correctly calculated lot areas.
- 41 7. The applicant agreed that the private right-of-way easement is only required to be 60 feet in width
42 in order to meet the required frontage standard of ZR530.
- 43 8. The applicant agreed that the Final Plat and application shall demonstrate compliance with all
44 provisions of ZR592 by providing all required details for TAC to evaluate compliance.
- 45 9. The applicant asked if constructing a mound system would qualify as grading that would require
46 Site Plan approval. Staff stated it would not, and that this question pertains mostly to site work,

1 road construction, etc. The applicant did not state if any grading is proposed that would require
2 Site Plan approval according to ZR680.

- 3 10. The applicant stated that no vegetative clearing is proposed within 25 feet of the fully carrying
4 spring flood waters of any surface waters. Pease doubted the feasibility of this, and noted on
5 the plan that the contour lines contradicted this statement. Garceau advised that the contour
6 lines shown on the plan do not include linear measurements, and cannot be used to determine
7 distance from the wetland. Pease stated she is worried about protection of the wetlands.
8 Brisson stated he'd like to see more clear plans with a building envelope delineated. There was
9 some back and forth over the requirements of a Sketch plan. The applicant stated again that a
10 building envelope will be shown on the Final plan, per the DRB's request.
- 11 11. The applicant agreed to submit, within six (6) months of classification by the DRB of the sketch
12 plan as a minor subdivision, a Final application for approval of a subdivision plat, that the
13 application shall contain those items set forth in Section 610 of these regulations, and shall
14 conform to the layout shown on the sketch plan plus any recommendations made by the DRB.
- 15 12. The applicant agreed that the final plat application shall include all items listed in Subdivision
16 Regulations 610, including a survey of all lots resulting from the proposed subdivision.
- 17 13. The applicant agreed that the Final application shall include Section 700 responses, submitted
18 by e-mail in Microsoft .DOC format to the Town Planner.
- 19 14. The applicant agreed to submit \$500 with the Final application to cover the legal review of the
20 deeds and any other required legal instruments by the Town Attorney (any funds not expended
21 on the legal review will be refunded to the applicant).
- 22 15. The applicant agreed to submit draft deeds and any other associated legal instruments for all
23 impacted lots for review and approval by the Town Attorney, that all requested revisions must
24 be complete before the Plat may be recorded, and that only instruments approved by the Town
25 may be recorded in the Town of Milton Land Records.
- 26 16. The applicant agreed to address all comments by the Development Review Board Technical
27 Advisory Committee (attached to the Staff report).

28
29 The Chair asked about the proposed road, noting that the Public Works specifications require a
30 hammerhead. The applicant stated they would construct to the required specifications, and do a
31 hammerhead rather than a cul-de-sac. The Chair asked about a parking area for the cemetery; the
32 applicant advised that's the Town's decision.

33
34 Sharon Flaherty asked what type of road would be built: gravel, dirt, or paved, and how wide? The
35 applicant stated it would be dirt. Flaherty also stated that a parking area was not desirable.

36
37 Brisson inquired about the type(s) of soils on the property; Staff and the applicant replied. Brisson
38 asked about the rest of the property, and the applicant's plans for this. The applicant advised that at
39 this time, all that is proposed is a conventional subdivision to put 10-acre residential lots along the road
40 frontage.

41
42 Hearing no further questions or comments, the Chair closed the hearing at 8:00 p.m.

43
44 **6(C). Appeal of a Decision of the Zoning Administrator - Racine Road - Hubert McCormick,**
45 **Owner/Appellant.**

46
47 The Chair read the following summary to open the hearing:

1
2 **Appeal of Zoning Permit Denial. Hubert McCormick, Owner & Appellant,** is appealing the denial of
3 Zoning Permit application # 2016-142 by the Zoning Administrator. The permit application is to construct
4 a single-family dwelling within a previously approved Planned Unit Development (PUD). The appellant
5 contests the stated reasons for the denial that: 1) the Interim Zoning Bylaws restrict the proposed use in the
6 site's zoning district per Article II, Section B(i) and 2) there are multiple conditions of the Development
7 Review Board's Final PUD Plan and Site Plan approval dated 9/24/10 that have not been met. The PUD's
8 subject property is described as SPAN #12284, Tax Map 7 and Parcel 15-2, contains 126.86 acres, and is
9 located within the "Checkerberry" (M4) Zoning District and Town Core Planning Area.

10
11 The Chair administered the Oath to Interested Persons. Representing the Appellant were Michael
12 McCormick and Hubert McCormick, hereafter referred to as "applicant(s)."

13
14 Amanda Pitts, Zoning Administrator (ZA), recapped the reasons for denial of the Zoning Permit. In
15 addition to the conditions of approval that have not been met, she noted that the appellants do not have a
16 highway access permit or wastewater permit in place (these are items that are typically required for the
17 approval of any Zoning Permit proposing a new residence).

18
19 The appellant gave an overview of the history of the project. The Development Review Board (DRB)
20 approved a mixed-use Planned Unit Development (PUD) for this property in 2010. However, no Site Plan
21 has been approved. Once ready to move forward with the residential aspect of the PUD, the appellants met
22 with members of the Planning Department staff and were told that the Interim Zoning bylaw that is
23 currently in effect prohibited the ZA from approving a Zoning Permit for a single family residence. The
24 appellants stated that they disagree, and thought the best way to get this question before the DRB was to
25 apply for a Zoning Permit, have it denied (which they expected), and then appeal.

26
27 Regarding the conditions of approval that Staff states have not been met, the appellant stated the following:

- 28 • Condition #24: a landscaping estimate is not required now because an infrastructure permit has not
29 been applied for;
- 30 • Condition #30: the water main has not yet been constructed so the surety and bill of sale are not
31 required now;
- 32 • Condition #35: the sewer has not been constructed so the surety and offer of dedication are not
33 required now;
- 34 • Condition #36: no public infrastructure has yet been built, so no Zoning Permit for said
35 infrastructure is required.

36
37 The appellants said they are aware that the infrastructure needs to be built, but they are hesitant to put any
38 money in to it while it's unclear if they can fully develop it.

39
40 The Chair asked if any changes were made to the approved PUD; the appellant stated no changes have been
41 made. The Chair asked about the easement for Clifford Drive; the appellant stated the easement had not
42 been obtained.

43
44 Staff reiterated their position, noting that in the PUD approval, it's clearly noted that once the actual
45 development of the parcel is proposed, it will be subject to the zoning regulation at that time. The Chair
46 noted that this was not a condition of approval, but that it was in the text of the decision.

1
2 The appellant then spoke about the intent of Interim Zoning, reading aloud from Planning Commission
3 minutes of March 4, 2015 (beginning at line 36), which discuss how many properties would be affected.
4 Much discussion followed; questions were asked and answered. Conceptual plans were reviewed and their
5 merit debated.

6
7 The appellant also mentioned the 3/11/15 edition of the Milton Independent, in which then-Town-Planner
8 Jacob Hemmerick was quoted – in an article on Interim Zoning -- as saying anything approved by the DRB
9 would be “grandfathered in.” The appellant felt that, if Hemmerick’s statement was inaccurate, the warning
10 was defective. The Chair said he would need to see the actual Warning, and quotes from the newspaper
11 were essentially irrelevant.

12
13 The appellant then discussed Selectboard intent, noting that the Selectboard did hold a Conditional Use
14 hearing for a different project that included residential units and that project was denied, in part because the
15 Selectboard was concerned with the number of approved, unbuilt residential units that could be built at any
16 time. The number they used included those units within this PUD, so the appellant felt that this made clear
17 that the Selectboard did not feel that Interim Zoning applies to this PUD.

18
19 The appellant then discussed the language of the Interim Zoning bylaw and the Zoning Regulations. The
20 appellant stated there was no language in the bylaw suggesting that approved housing units would be
21 prohibited. The appellant summarized their position: the Selectboard and Planning Commission did not
22 intend to restrict previously approved dwelling units, and if they did, the public warning was not sufficient.

23
24 The Chair noted that the full board was not present, and that the appellant has a right to be heard by the full
25 board. The Chair called a short Recess of approximately 10 minutes in order to provide the appellants a
26 moment to discuss. Upon return, the appellants stated they would not like to continue the hearing, and
27 would trust the decision to the 3 DRB members present.

28
29 Hearing no further questions or comments, the Chair closed the hearing at 8:57 p.m.

30
31 **7. OTHER BUSINESS/ PLANNING STAFF REPORT**

32 The Zoning Administrator (ZA) presented a memo detailing the number and type of Zoning Permits
33 issued year-to-date. The ZA summarized the findings, reviewed compliance issues, and went over
34 general news in permitting. The ZA advised that she aims to update the DRB at least twice annually,
35 and welcomes any feedback or specific update requests.

36
37 **8. MINUTES**

38 **8(A). Minutes of October 27, 2016**

39 Tabled by unanimously consent.

40
41 **9. ADJOURNED**

42 MOTION by Bonges to adjourn at 9:00 p.m.; SECOND by Brisson. Unanimously APPROVED.

43
44 **Minutes approved by the Commission this _____ day of _____, 2016.**

45
46
47 **Bruce Jenkins, Chair**

/kt

1
2
3
4

Draft filed with the Town Clerk this _____ day of _____, 2016.

Filed with the Town Clerk this _____ day of _____, 2016.