

DRAFT Minutes

Approved on: May 19, 2021

Town of Ferrisburgh, VT

Approved - Minutes for meeting of April 21, 2021

Note: This meeting was conducted remotely. All participants joined the meeting through a Zoom online meeting.

Members present: Bob Beach, Jr. (Chair), Gail Blasius, Anne Cohn, Michael Quinn, Walter Reed II, Bessie Sessions, Arabella Holzapfel **Members absent:** Al Chamberlain, Kristin DeBellis,

Town official present: Bonnie Barnes, Zoning Administrator, Robyn King, Minute Taker

Participants present: Carl Cole, John Bull, Gerry Racette, Mary Anne Racette

Other business

Bob Beach called the meeting to order at 7:06 pm. Bob Beach invited Arabella Holzapfel to make some comments regarding the Visualizing Density grant. Arabella Holzapfel explained that they were close to bringing a draft visualization of density to the Planning Commission for review, and that after review by the Planning Commission, it would go to the Selectboard and then the public and that this would be accomplished in the next few weeks. Arabella Holzapfel clarified that the area selected was the Town Center, near Middlebrook Road and Route 7. Arabella Holzapfel explained that she was interested in stepping back from the role that she had played throughout the project and noted that others could step into her role.

Bob Beach expressed gratitude for Arabella Holzapfel's work, explaining that Arabella helped coordinate volunteers and that the zoning rewrite was a positive step forward. Bob Beach noted that he supported Arabella Holzapfel in stepping down, given that this was a challenging position and she carried the work forward. Bob Beach explained that he would be interested in knowing who might be interested in moving this work forward and that it would be great if there was a volunteer either at the current meeting or next month. Arabella Holzapfel explained that the grant needed to wrap up by September, and she was open to someone stepping in either at that time or earlier.

Application # 21-038 for sketch plan review of two-lot subdivision; 619 Dakin Road; applicant John W. Bull; Rural Agricultural (RA-5) District; tax map id no. 05.02.10.20

John Bull was present to speak to the application, and noted that this subdivision had been scoped out some time ago, given that there was a 5 acre field that was adjacent to his 31 acre property that overlooked Lake Champlain. Mr. Bull explained that he was moving forward with the subdivision as the adjacent neighbor was interested in purchasing it, and there were no development plans associated with this subdivision.

Bob Beach asked if the 5 acres was an attachment to the neighboring property, and Mr. Bull explained that the 5 acre lot was part of the original farm and that it is adjacent to his and his

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neighbor's property. Mr. Bull went on to explain that his parents subdivided the original property in the 1970's and that there would be no curb cut and this was a means to protect the view and create additional connections to trails that connect with the creek.

Michael Quinn asked if the subdivided lot was the meadow that is behind Gerry and Mary Anne's house, and Mr. Bull confirmed that the property line is in line with the fencing, as the pins are in the fence lines. Mr. Bull explained that this application was part of Act 250 and that they had received an administrative decision from the state and that the application had been approved.

Michael Quinn asked if the access to the new lot would be through Racette's current lot. Mr. Bull noted that there is no current right-of-way and that if they decided to develop the new lot separately, the Racettes would need to re-appear but from a Road Commissioner's point of view this could be feasible but that there is no need to consider this now as there is no desire to develop the new parcel.

Gerry Racette, owner of the adjacent property, noted that they had no plans to develop the newly created 5-acre parcel and were interested in preserving the view. There being no further questions from the public, Michael Quinn made a motion to accept the sketch plan as presented, but noted that as it was not a boundary adjustment, then it would be a landlocked parcel. Walter Reed II asked if this could be a boundary adjustment to avoid creating a new landlocked lot, and Michael Quinn noted that the Commission does usually require a 60 foot right of way.

Mr. Bull pointed out that as his property is involved with Act 250, they were interested in pursuing this as a subdivision so that the adjacent property is not affected by Act 250 which they would be if they absorbed this parcel. Mr. Bull explained he saw no issue with an approval where there was a condition of the sale of the parcel, and would ask that if there was a right-of-way that it be 25 feet, similar to other applications he's seen in the past where a 60 foot right of way would be excessive.

Walter Reed II and Michael Quinn discussed the siting of the right-of-way, and Bob Beach clarified that Mr. Bull suggested that there be a condition of the approval of the subdivision on the sale of the lot instead of requiring a right-of-way. Gerry Racette explained they were ok with a landlocked lot and that the right-of-way if needed would be across their property, but they are not interested in pursuing this at the time-being.

Mr. Bull noted that there could be a condition or acknowledgement that the sale is to people who could accommodate a right-of-way and are contiguous, and Mary Anne Racette explained that if this parcel was not subject to Act 250, there would be no issue in absorption.

Michael Quinn made a motion to approve the sketch plan as submitted with the acknowledgement that it is a landlocked lot, but adjoined by the owners therefore creating a lot without access at this time and if interested in development, there would need to be a review

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and approval of a right-of-way. Walter Reed II asked if there should be a condition that if this is not purchased by the Racettes then it would not be approved. Bob Beach explained that in order to obtain a building permit there would need to be a right-of-way. Michael Quinn noted that he interpreted that it was the Racette's hardship of owning a landlocked lot, and noted there are other landlocked lots in Town. Walter Reed II seconded the motion made by Michael Quinn.

Arabella Holzapfel asked if the motion was conditional upon purchase by the Racettes, and Michael Quinn clarified that there would be the creation of a lot that is landlocked and that if the Racettes do not purchase it, whoever does will be buying a landlocked lot. Bob Beach pointed out that as the lot does not have a right-of-way, someone will need to come in front of the Commission for right-of-way approval prior to development.

Gail Blasius noted that the upcoming review of a subdivision in the next application included a purchase contingency and that this application was being reviewed without a purchase contingency and the creation of a landlocked lot. Bonnie Barnes pointed out that the zoning regulations included language on not creating lots that have no right-of-way and explained that there may be issues with the zoning regulations if this was approved without a purchase condition.

Walter Reed II noted that they could create a right-of-way across the property and this would solve the issue of the landlocked lot. Gail Blasius noted that if the approval of the subdivision was contingent upon the Racette purchase, this would leave it up to the Racettes to move forward with a right-of-way. Mr. Bull explained that he was satisfied with this condition.

Michael Quinn made a motion to approve the subdivision sketch plan with the condition that the newly created lot is a landlocked lot, and that the approval is contingent upon the sale of the newly created 5-acre lot to the Racettes and that if the sale is not made, there would need to be a new application that includes a right-of-way.

Mary Anne Racette noted that Mr. Bull was subdividing the land only if the Racettes were interested in buying it and that they understood it was landlocked, and they could change the right-of-way across their property. Bob Beach clarified that there were two means to include a right-of-way and that the intent of the condition was to ensure that an additional purchaser would need to put in a right-of-way. Mr. Bull explained he was comfortable with the condition on the approval. Bob Beach explained that there was no means to move forward with an approval without a purchasing condition, or for the creation of a right-of-way by Mr. Bull or the Racettes. Ms. Racette asked how long the full approval would take, and Bonnie Barnes explained that there would be a final plat review at the next meeting.

There being no further questions, ***Arabella Holzapfel seconded the motion made by Michael Quinn to approve the sketch plan with conditions and the motion passed unanimously.***

Mr. Bull expressed gratitude, and thanked Arabella Holzapfel for her efforts with the zoning regulation rewrite.

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Application #21-047 for sketch plan review of two-lot subdivision; 6730 U.S. Route 7; applicant Kelsey Stavseth; Highway Mixed Use (HMUD-2) District; tax map id no. 18/20/74.1

Carl Cole explained that he was present to represent Kelsey Stavseth and that he had appeared at the March meeting to discuss the concept. Mr. Cole explained that in 2016, there was a permit to subdivide the property with the same lines as submitted and that there was a contingency that the subdivision would be predicated on the sale to the Marcotte's and that there was a 25 foot right-of-way included for the Marcotte property. Mr. Cole noted that the Marcottes did not purchase the property and therefore the mylar was not filed. Mr. Cole explained that Kelsey Stavseth bought property from Mark Franceschetti and that the Dolans who adjoin to the east of the parcel that is being discussed for the subdivision are trying to subdivide and that the situation is similar to the application just reviewed in that the Dolans can provide access to this lot. Mr. Cole explained that the conditions could vary and that the right-of-way access could be similar to that of the access across the Amblo property.

Mr. Cole went onto explain that the zoning regulations had changed since when the subdivision was first brought forth and that the acreage required per dwelling unit had been changed and that this was unintentional but that two districts had merged. Mr. Cole noted that north of Old Hollow Road, the requirement was two acres and that south was one acre, but that these changes were inadvertent.

Michael Quinn asked if there could be contours provided as it was his understanding that there was some steep terrain on the lot. Mr. Cole noted that the Dolans did not want to build on the lot, but that there is buildable property even though there is a slope, but noted he could add contour lines based on lidar. Michael Quinn asked about a narrow strip shown on the map alongside the warehouse building, and Mr. Cole explained it would remain part of the lot that Kelsey Stavseth was retaining. Michael Quinn asked about a small part of land shown behind the cemetery and Mr. Cole explained it contained wastewater systems as it had good soil.

There was discussion of the size of the lots shown on the subdivision map, and it was noted that the original parcel was 8.15 acres, with the parcel with the house being 2.21 acres, and the remainder being 5.94 acres and that the 5.94 acre parcel is rectangular. Mr. Cole clarified that the only difference between the map submitted and the original that had been approved is a change of names, and Michael Quinn explained that there would be more comfort in the review if there was a description, clear acreage, and contour lines. Gail Blasius explained it was challenging to identify the Dolan's parcel from what was submitted and that she was trying to identify the 60 foot right-of-way, and Mr. Cole explained he could make this clearer in the final plat review.

Michael Quinn noted an interest in clearly seeing the 2.21 acres with a colored outline and Mr. Cole explained he could submit a plan prepared by a surveyor for the final plat review given that the sketch plan is intended to be approximate, that there was no intent to build, and that he was open to any reviews needed including a site visit and an interpretation of the zoning regulations.

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Michael Quinn noted that given that there would be the creation of a new lot, he would be interested in knowing more specifics in the event of future building, and Bob Beach pointed out there was a pre-existing right-of-way to the new lot. Mr. Cole explained that he could show a right-of-way on the final plan but that he would suggest that the right-of-way not be wider than the current right-of-way from Hollow Road. Gail Blasius noted that the map noted a 60 foot right-of-way and that she was comparing the submitted map against what is in the zoning office and she saw an importance of being able to look at current maps and compare the submittal against current zoning.

Bob Beach asked about next steps, and Anne Cohn suggested the Commission could approve the sketch plan as presented given there will be more details submitted in the next review. Mr. Cole affirmed that this was a sketch plan review and he could furnish a survey at the next hearing but there was an interest in confirming that conceptually, there was consensus around supporting the plan given the unintended zoning regulation updates. Bonnie Barnes clarified the intent of the sketch plan review and noted that there should be careful consideration of whether or not the subdivision could continue, given the updated zoning regulations and whether there would be consensus on a waiver, with the specifics of the subdivision being reviewed at the next hearing.

Michael Quinn asked for Bonnie Barnes' interpretation and it was noted that the Highway Mixed Use District would likely be in 1-acre density in the next year or so, subject to the zoning regulation update committee. Bonnie Barnes continued to note that there was a decision that altering density was too large of an undertaking for this zoning regulation update and that this change in density was likely a temporary situation and that an exception here would not be as substantial as in other districts, such as RA-5 or RA-2. Mr. Cole confirmed that as a member of the subcommittee the intent was not to change any density and that there was an interest in not creating non-conforming issues but that this change in the zoning regulations slipped by unnoticed and is not consistent with the overall development intentions for the area.

Bob Beach clarified that the intent of the applicant was not to build, but that the decision up for discussion was whether to allow the lot with an existing building to be reduced. Michael Quinn asked what land Dolan owned, and Mr. Cole clarified that all-in-all it was somewhere around 17 acres. Bob Beach noted that this was not represented in the drawing as-presented.

Arabella Holzapfel asked how many units were on the Stavseth property, and Mr. Cole noted there were three units in the house. Arabella Holzapfel pointed out that even with 1-acre zoning that the subdivision would not be in compliance as the Stavseth parcel was being reduced from 8 acres down to a little more than 2. Mr. Cole noted that he presented the subdivision as was approved prior, which had 1-acre density requirements at the time and confirmed that in 2016, there were three units in existence on the property.

It was clarified that originally, this was a one-family building and that under the ownership of Mr. Franceschetti there were 2 apartments when bought, which was increased to three. Mr. Cole noted that given the previous approval, he had retained the conditions and Gail Blasius asked if

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this would be under the same conditions as Mr. Franceschetti's approval in that one unit would require one acre. Mr. Cole noted that was his interpretation would be, without the zoning change and Bonnie Barnes noted that each apartment had counted as a use.

There was discussion of elements on the map and clarification on the location of boundary lines in relation to Town districts. Gail Blasius asked if it was comfortable to increase the parcel to three acres, and also asked if there could be a boundary adjustment to the Dolan property, which Mr. Cole noted could be an option. Gail Blasius asked if there would be adequate access and if the three-acre proposal would be in compliance with the zoning regulations or if a waiver was needed. Mr. Cole noted that a waiver was still technically needed, given that the regulations required six acres as-written.

There being no further questions, ***Arabella Holzapfel made a motion to approve the sketch plan with the conditions that the Stavseth property be increased to three acres, that the conveyance to Dolan be drawn as a boundary adjustment, and that the current 2-acre per unit zoning requirements be waived for this property in view of the fact that these density regulations were an accident of the process. The motion was seconded by Anne Cohn and the motion passed unanimously.***

It was noted that the density regulations would be examined across Town, with specific attention paid to ensuring that the regulations left less room for debate on interpretations of uses and density. Bob Beach noted that Arabella Holzapfel was resigning her commitment of being a leader on the density project and asked Anne Cohn if she would like to step into the role, and Anne Cohn noted her interest in being involved, but not as a leader. Bob Beach noted that this could be an agenda item at the next meeting.

Minutes Approval

Bob Beach asked if the Commission Members had the opportunity to review the minutes, and it was noted that Walter Reed II had been marked as both absent and present in both the March and February meeting minutes, and that he was not present for the March 17 meeting.

It was noted by Michael Quinn that the minutes from the March 17 meeting indicated that Mr. Cole had noted that the Stavseth parcel was three acres and not the 2.21 acres that was presented, and it was agreed that the adjustment would be made for the next hearing but consistency was appreciated.

There being no further questions, ***Gail Blasius made a motion to accept the March 17 minutes with the correction that Walter Reed II was not present, which was seconded by Anne Cohn and the motion passed unanimously, with Arabella Holzapfel abstaining.***

Anne Cohn made a motion to accept the February minutes, which was seconded by Arabella Holzapfel and the motion passed unanimously.

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There being no further business, Arabella Holzapfel moved to adjourn the meeting, which was seconded by Walter Reed II and the motion passed unanimously. The meeting was adjourned at 8:19 pm.