

DRAFT Minutes

Approved on: 7-21-2021

Planning Commission
Town of Ferrisburgh, VT

Minutes for meeting of June 16, 2021

Note: This meeting was conducted both in-person and remotely. Some participants joined the meeting through a Zoom online meeting, while others were in-person.

Members present: Bob Beach, Jr. (Chair), Gail Blasius, Anne Cohn, Michael Quinn, Walter Reed II, Bessie Sessions, Arabella Holzapfel, Al Chamberlain, Kristin DeBellis **Members absent:** None

Town official present: Bonnie Barnes, Zoning Administrator, Craig Heindel, Chair of the Ferrisburgh Conservation Commission, Robyn King, Minute Taker

Participants present: Carl Cole, Amela Dulma, Haris Karabegovic, Dan Dolan, Katie Raycroft-Meyer (Addison County Regional Planning Commission)

Minutes Approval

Walter Reed II called the meeting to order at 7:03 pm, by request of Chair Bob Beach who was participating virtually. ***There being a quorum from that meeting, Anne Cohn made a motion to to accept the February 17th meeting minutes, which was seconded by Gail Blasius and the motion passed unanimously, with one abstention from Bessie Sessions.*** There being no questions or edits requested, ***Gail Blasius made a motion to accept the May 19th meeting minutes, which was seconded by Arabella Holzpfel and the motion passed unanimously.***

Application #21-069 for amendment to subdivision; Braeside Place; applicants Dulma and Karabegovic; Rural Agricultural (RA-5) District; tax map id no. 01/01/08.26

Walter Reed II introduced the application and noted there had been a site visit that evening, and that this was a matter related to the Rutherford subdivision where there was a request to alter the subdivision that was in place, relocating the building envelope that had originally been proposed but had been approved for the previous owner and also granting an exception for the height of the building. Walter Reed II explained that the height requirement related to the restriction is that the building be no more than 25 feet from the ground to the peak of the roof, and that the current proposal is for 30 feet, plus a two-foot extension from a chimney. Gail Blasius clarified that the chimney would not be considered as part of the height. Walter Reed II confirmed that this would be a 5 foot variance, from the 25 foot height allowable to 30 feet.

Walter Reed II asked about the specific verbiage in terms of where height is measured. Amela Dulma explained that the structure is 25 feet from the slab to the highest peak of the roofline. Ms. Dulma explained that the house generally is lower in terms of the height from what the original owners had proposed given the move of the building envelope and that the house would measure 100 feet by 100 feet, which is smaller than the originally proposed building envelope.

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Ms. Dulma noted that the design was less obstructing of views, given the design and placement of the building.

There was discussion and clarification by Commission members of the placement of the proposed house, and it was noted that the current design was placed in a way so that the building envelope would not be at the highest point of the lot. Anne Cohn asked if the restriction to 25 feet was determined when there was a building envelope proposed, and Walter Reed III noted that the height restriction was before a house was in the plans, and was for this lot specifically so that views were not obstructed.

Bob Beach noted that it was a process getting this subdivision approved and that at the time, the entire subdivision was an open area. Bob Beach continued that at the time, the applicant added a few more houses in lieu of giving a significant part of the parcel to the Town of Ferrisburgh, and that when the height restriction went into place there was no plotting of where the houses would be and the height restriction may not have matched with what could be developed. Bob Beach concluded that the intent was not to block the view, and if the view is unobstructed at 30 feet instead of 25 feet, he would be supportive and that this proposal likely would not impact the neighbor who raised concerns in the same way it did at the time of the subdivision approval.

Walter Reed II explained that it would be challenging to know what this would look like in the winter, and that while 5 feet did not seem substantial, a dimensional drawing would be helpful and there was a question of whether or not the contractor could lower the building into the ground. Gail Blasius explained that all other homes in the development are between 30 and 35 feet and that the original intent of the lower height was not to obstruct the viewshed for people above it. Walter Reed II explained that the approval of the subdivision was contingent on this lowered height for this parcel, which is now being asked to be changed. Ms. Dulma presented the building plans, and explained that the building was 30 feet tall at the highest point, and that if the building is lowered, there may be challenges with the walkout basement. It was clarified that the building height is measured from where the base of the structure starts and that if the base is on the downhill side, there would be marking from the downhill side to the peak. It was clarified that the structure would be 30 feet from the slab to the highest point in the roof peak.

Gail Blasius pointed out that the question at hand is with the approved subdivision conditions, if there is a change, what would this mean and also noted that it doesn't sound like there's large opposition but there are changing conditions from the original approval. Anne Cohn asked if in the conditions it states the reasoning behind the 25 feet restriction, and if it was the viewshed. It was pointed out that moving the building may not change this condition, given the definition of building height. There was clarification that the original subdivision approval occurred in 2008.

Bob Beach asked if it still made sense, given that the approval was roughly twenty years ago, that this restriction would still stand, given other buildings in the development were 35 feet in height. Bob Beach noted that as the applicant is looking to build a house and the approval was contingent upon a viewscape, there is a question of whether 5 feet would be significant or if it

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would be contemporary with what has changed over time. Kristin DeBellis explained that at that point, there were not as many concerns over climate change, and the need to mitigate climate change impacts through building science and that times had changed.

Bob Beach asked if there were audience members present who had objections, and Bonnie Barnes confirmed that there were no audience members present, and that there were no neighbors present at the site visit or any written comments. Anne Cohn noted that it was her opinion that for a 5 foot variance, she would like to see this move forward to welcome the family into the community.

There being no further comments and agreement that they could deliberate at the end of the meeting, ***Gail Blasius moved to close the public hearing, which was seconded by Bessie Sessions and the motion passed unanimously. The public hearing closed at 7:29 pm.***

Application #21-088 for a boundary adjustment; 6730 U.S. Route 7; applicants Kelsey Stavseth and Daniel Dolan; Highway Mixed Use (HMUD-2) District and Rural Agricultural (RA-5) Districts; tax map id nos. 18/20/74.1 & 18/20/64.2

Carl Cole noted he was present to represent the application and that the map being presented reflected what was discussed at the meeting two months' prior where there would be an approximately three acre parcel with a residential structure and there would be a boundary adjustment for the parcel between Stavseth and Dolan. Michael Quinn asked if there would be 5 acres conveyed to Dolan or if there was a separate lot, and Mr. Cole explained that this was added and there was an understanding that this is not a separate buildable lot and if there was a desire to do so, there would need to be an application put in front of the Commission. Michael Quinn asked if there was a new buildable lot, which Mr. Cole explained there was not. Michael Quinn asked if this was a boundary adjustment, and Gail Blasius explained there was a conveyance for one large lot and Dan Dolan explained this was a boundary adjustment.

Mr. Cole explained the background of this property, that when Mark Franceschetti owned this land, there was going to be a piece sold to the Marcotte's but this did not occur and he had changed the drawing in accordance with what was requested at the last appearance in front of the Commission.

There being no further questions, ***Gail Blasius moved to close the public hearing, which was seconded by Anne Cohn and the motion passed unanimously. The public hearing closed at 7:36 pm. There being no further comments, Bessie Sessions made a motion to approve the boundary adjustment as presented, which was seconded by Kristin DeBellis and the motion passed unanimously.***

Mr. Cole pointed out that there may need to be an amendment to the motion, given that there would need to be a waiver for the required size of the remaining lot. Mr. Cole pointed out that Arabella Holzapfel noticed in the sketch plan that the Stavseth parcel was three acres and that with the boundary adjustment, this did not meet the current zoning regulations although the density regulations put in place were an accident of the process. It was clarified that three acres

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were smaller than what the current regulations noted was the minimum needed for each housing unit, and it was clarified that there were three residential units on the parcel in question.

Bessie Sessions amended the previous motion to note that there was an approval of the waiving of the 2-acre per unit zoning requirements for this property in view of the fact that the density regulations that applied to this property were an accident of the zoning regulation update process. The amended motion was seconded by Kristin DeBellis and the motion passed unanimously.

Conservation Commission Presentation

Craig Heindel, Chair of the Conservation Commission made a presentation to share comments on the sections of the new land use regulations that refer to natural resources and that the Conservation Commission has offered suggestions and guidance on. Craig Heindel noted that this included five sections of the new land use regulations, and he had sent correspondence to Norm Smith, Bob Beach, and Bonnie Barnes on these regulations.

Craig Heindel started by noting that the first section with commentary was 5.9, Erosion Control, and that under Subsection B, there was reference to the Low Risk Site Handbook which is a State resource of which Bonnie Barnes has a copy.

Craig Heindel explained that the next section to note was 5.29 which had language on riparian buffers and that there are a few complications in this section. Craig Heindel pointed out that in terms of the buffer, it is important to measure this horizontally from the top of the bank and that while there was a schematic, it is good to be reminded on how to measure this. Craig Heindel continued to note that in Subsection A, there was a note about limited exceptions and that it might be sensible to clean up Subsection D to explain what the limited exceptions are. Craig Heindel went on to explain that in Subsection B, there is discussion of the fact that the riparian buffers refer to streams that are shown on the Vermont Natural Resources Atlas and that the intent is that these are shown as blue lines on the Atlas and it's helpful to have guidance on how to think about what this applies to.

Craig Heindel noted that in Subsection C, it has been noted that the provisions do not apply to land located on Lake Champlain and this could be confusing as it was understood that the intent is that the riparian buffer would not be measured from the shoreline. Craig Heindel explained that he conferred with Karen Petterson from the Conservation Commission and it was agreed that this section is unclear as there are streams that flow through riparian buffers and through the Shoreline Protection Zone and it was the intent to apply the riparian buffer to streams that pass through the Shoreland Protection Zone and head towards the lake. Craig Heindel noted that he had reached out to Laura D. from Shoreland Protection and it was acknowledged that Shoreland Protection Law does not apply to or provide for streams that pass through the Shoreland Protection Zone. Craig Heindel reiterated that the intent was for the buffer to apply to all streams, regardless of proximity to Lake Champlain and it was encouraged for the Planning Commission and Zoning Board of Adjustment to use this understanding and apply this logic for all streams that have blue lines on the Atlas. Arabella Holzapfel clarified with Craig Heindel that

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although Lake Champlain is not a river, there are streams designated as blue lines on the Atlas that deserve similar levels of protection as other streams in the Town.

Craig Heindel went on to note that the next Section for consideration is 5.31, Shoreland Protection, and that it is unclear as it notes applicants may be required to submit a Project Review Sheet and it is unclear in which situations “may” would be appropriate if this is a requirement. Bonnie Barnes clarified that it was her understanding that “may” would refer to both clauses and that this would be in situations that are outside of the purview of Shoreland Protection.

Craig Heindel noted that the next Section of note was 5.35 which refers to stormwater, and it was noted that under Subsection B, there is a reference to the Guide for Stormwater Management for which there is a digital copy which Bonnie is in receipt of.

Craig Heindel explained the last Section of note was 5.37 which pertained to Wetlands Protection and that the State Wetlands Program had created a screening tool where if someone had inputted a 911 address of the parcel or a SPAN, the screening tool would pull in various datasets noting soil, vegetation, slope, and hydrology amongst others. Craig Heindel explained the tool would then create a statement and map that explains if there might be wetlands on a parcel which helps Bonnie Barnes’ review process. It was explained that if wetlands are detected, or if there might be wetlands, it helps an applicant understand if they may need further analysis. Walter Reed II asked if SPAN would be used if there was not a 911 address, which Craig Heindel confirmed. Bonnie Barnes explained that she was excited about the usefulness of the tool, and found it very helpful as it includes a wealth of information in analysis.

Commission Members thanked Craig Heindel for his presentation, and it was noted that there would be a similar presentation to the Zoning Board of Adjustment.

Visualizing Density Grant Update

Katie Raycroft-Meyer presented a map of the Visualizing Density Study and gave some background on the effort, noting that this was a municipal planning grant and the task was to come up with a scenario of what density might look like in a certain area of the Town of Ferrisburgh. Ms. Raycroft-Meyer continued to note that the Ferrisburgh Town Center was chosen as the best fit for the study, and that next steps may include amending zoning language to include an overlay based on the findings. Ms. Raycroft Meyer noted her appreciation for the group working on this effort including Gail Blasius, Anne Cohn, Arabella Holzapfel, and Kristin DeBellis.

Ms. Raycroft-Meyer noted that the focus was to see what things may look like in the Town Center if there was a more dense pattern of development in the intersection of Route 7, Middlebrook, and Little Chicago Roads. Ms. Raycroft Meyer walked Commission Members through a map that was created as part of the grant and pointed out some ideas including a cluster of cottage-style houses with shared green spaces, affordable housing development, and mixed use buildings. It was noted by the group who helped develop this map that it would be

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desirable to have childcare, a bakery or diner, and a healthcare center or drug store in the Town Center to meet current and future needs. Ms. Raycroft-Meyer noted that the plan included sidewalks based on Green and Complete Streets principles so that sidewalks could accommodate pedestrians and cyclists and there could be opportunities for a multi-use path connecting the Recreation Area, Ice Rick, and School and continuing down from Little Chicago Road to Atkins Road. Ms. Raycroft-Meyer noted the importance of connections for walkability and bikeability. Ms. Raycroft-Meyer noted that she had also earmarked an area for community septic behind the Town Hall and that this may be of interest as there may be federal dollars that could be used for this work and that towns like Ferrisburgh should be ready for when this funding comes in. Ms. Raycroft-Meyer finished her presentation noting her appreciation for working with the Town and the group to help create this map.

Bob Beach asked if the potential septic location was available and who owned it. Ms. Raycroft-Meyer noted that the Town owned this land and it was clarified by Walter that it was behind the Town Hall adjacent to the solar panels. Bob Beach explained he would be interested to find out the potential of the septic area as it would likely have great support and would be impactful. There was discussion and it was noted that it would be important to understand what capacity a septic system of that size might have, and that it may be worth having the State involved with scoping, given possible funding. Ms. Raycroft-Meyer pointed out that it may take significant funds to understand if the site is suitable and for the build and the exploration of suitability could be right-sized for the resources available.

Walter Reed II noted he appreciated the visual build-out and asked if it might be possible to coordinate with Vergennes. Ms. Raycroft-Meyer noted that this would depend on the two municipalities vetting this idea together and there's an awareness that Vergennes needs an update to their system and Ferrisburgh needs a septic system so this could be a win-win. Ms. Raycroft-Meyer pointed out that towns who work together typically have priority in funding situations. Walter Reed II noted that they should make an effort to communicate with Vergennes and there was discussion of potential points of contact and how the two municipalities could collaborate.

There being no further questions, all thanked Ms. Raycroft-Meyer for her work on this effort.

Deliberations

There was discussion of the first proposal considered, #21-069, and the exact request. It was noted that while the original request was 35, the amended request was for the building to be 30 feet high, which is five feet greater than what's currently allowable. It was noted that although moving the building down-slope may ease the viewshed burden, it would not change the height of the building, which was in question.

Walter Reed II explained that it was a two-year process in order for the original subdivision to be approved and that the condition on this lot was what helped the development to move forward. Walter Reed II continued to note that those who purchased the property were aware of the restrictions and it was a matter of, if approving a development what is the length of time where a

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decision should stay in place. Walter Reed II also noted that part of the consideration was whether or not there was the means to come up with a developable residence that met the criteria, and he would be curious to see what the lot looked like in the winter instead of in the summer.

Kristin DeBellis asked if in the original agreement, if the Board reviewing the application helped to come up with the decision for the reduced height and if the parties involved would have come to this conclusion otherwise. Walter Reed II noted that the developer helped come to this agreement through a series of hearings that there was consensus on. Michael Quinn noted there was no definitive answer on where the building envelopes were placed, and Gail Blasius explained that the public opinion helped shape the final conclusion on the building lots, and that this lot was the only lot with this restriction. Walter Reed II explained that other lots were lower to begin with, and so the 35-40 foot height of the neighbors may not be as impactful. Gail Blasius explained there was one condition for the homes, that they all be of earth tone colors.

Bob Beach noted there were two ways to look at this, and that while there is an outstanding set of facts that the times may have changed since this was last reviewed given development pressures. Bob Beach continued to explain that he was wondering if five feet was substantial in lieu of being able to welcome a new family into the community and that in this process there was a warned hearing and no comments were submitted by neighbors and that it may be good to review this objectively.

Walter Reed II asked if this would trigger any Act 250 review given the original subdivision process. Gail Blasius explained the acreage is the same, there is no septic and that this would go through today's standards of review for electricity and utilities. Michael Quinn explained it was his understanding this was originally a Planned Unit Development. Walter Reed II noted that it was not his opinion that this was limiting development, but asking that an applicant meet the development standards in place. Al Chamberlain noted that he felt they should stay with the current restrictions in place given that there are various buyers who may be interested in the lot and those who could meet these restrictions, and this would be a change to come into line with individual expectations.

Anne Cohn noted there was an allowance of the moving of the building, and asked if this something that was discussed years ago. Michael Quinn noted that the previous application was to build into the hill for a better viewshed, and did not impact the height of the building. Gail Blasius noted that times do change and that this building would be energy efficient and use technology available today and that she was unsure of the total impact. Michael Quinn noted that with the 30-foot request, if the building was lower than where it was originally, this might make the proposal easier to process. Walter Reed II explained this would be more in the direct line of sight of the neighbor, and that this was not the request they were considering.

It was clarified that a motion would need to consider two aspects, both the color scheme of a white house with a red barn and also the height. Kristin DeBellis asked if the consideration would need to be for 35 feet, given the original request, and it was clarified by Bonnie Barnes

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that there are occasions when the Planning Commission or Zoning Board of Adjustment have adjusted original proposals.

There being no further questions, **Bob Beach made a motion to accept the colors for the house and barn as the applicant indicated, as well as a 30 foot structure on the property, which was seconded by Arabella Holzapfel. During a roll-call vote, Arabella Holzapfel voted affirmatively, Anne Cohn voted affirmatively, Kristin DeBellis voted affirmatively, Bob Beach voted affirmatively, Gail Blasius abstained, Bessie Sessions voted against, Al Chamberlain voted against, Michael Quinn abstained, and Walter Reed II abstained. In all, there were four affirmative votes, three abstentions, and two votes against the proposal.**

It was discussed how the votes would be processed, given the abstentions and it was noted that this may not be sufficient approval to move the motion forward. There was also a discussion of whether or not parts of the proposal could be voted on separately. Walter Reed II noted there was a 45 day window in which the Commission could revisit the proposal and Gail Blasius explained that with the current building it may not be sensible to wait on the proposal in fairness to the applicant.

There was discussion of the votes, and Walter Reed II explained he would change his vote **against the proposal** given that it was his opinion that this was not limiting development and if the proposal changed to meet current regulations it would be welcomed. Gail Blasius changed her vote to **affirmative** given that when the subdivision was reviewed, the restriction was the best for that time but this is the only home that has a restriction and that under these considerations, there is less pressure to compromise.

After discussion, there were five affirmative votes from Arabella Holzapfel, Bob Beach, Kristin DeBellis, Anne Cohn, and Gail Blasius, and three against votes from Bessie Sessions, Al Chamberlain, and Walter Reed II, and one abstention from Michael Quinn.

There was a question of whether or not there would be a trigger of an Act 250 permit, and Bonnie Barnes noted she did not think this was the case. It was noted that this would be a low-impact building given it was oriented to the south to maximize solar gains and there would be systems with low use of fossil-fuel.

There was discussion of whether or not it was sensible to issue a written decision, with consensus that a written decision was not needed in this matter.

Bonnie Barnes asked about agreement on the changes to the fee structure, and there was consensus that the proposed changes seemed appropriate.

There being no further business, the meeting was adjourned by consensus of the Planning Commission Members at 9:07 pm.