

DRAFT Minutes

Approved on: Nov. 17, 2021

Planning Commission

Town of Ferrisburgh, VT

Minutes for meeting of October 20, 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, Walter Reed II, Bessie Sessions, Michael Quinn, Al Chamberlain **Members absent:** Arabella Holzapfel, Kristin DeBellis

Town official present: Clark Hinsdale, Selectboard Liaison, Bonnie Barnes, Zoning Administrator, Robyn King, Minute Taker, Craig Heindel, Conservation Commission

Participants present: Melinda Kinzie, Jean Richardson, Joshua Moritz, Jeffrey Goulette, Kristen Goulette, Doug Goulette, Steve and Alicia XXXX, Sonny Francis, Cheryl DeVos, Betsy Etchells, Tim Etchells, Daniel White, Scott Hawkins, Kurt Plank, Chad Skrandz, Stuart MacCurtigh, Joe Fortune,

Approval of the September Meeting Minutes.

Bob Beach called the meeting to order at 7:03 pm and asked if there were any questions on the minutes. Michael Quinn pointed out there was an extra word in one of the paragraphs. It was determined that there was not a quorum for the minutes approval and this would need to be deferred until the next meeting.

Application #21-152 for final plat review of 3-lot PUD; 440 Old Hollow Road; applicants Jeffrey & Kristen Goulette; North Ferrisburgh Village (NFVIL) and Rural Agricultural (RA-5) Districts; tax map id no. 18/20/61

Doug Goulette was present to speak to the application and Bob Beach noted that there were comments submitted on the matter and wanted to ensure that there were copies distributed. Doug Goulette noted there were not a lot of changes from the last submission and pointed to the comments submitted by the Conservation Commission in relation to the no cut zone and slight edits to wording that could be submitted with the final plan. Doug Goulette explained that there was a discussion with John Bull who was satisfied with the existing driveway plans including a shared driveway to the two lots.

Walter Reed II asked about the portrayal of building envelopes, and Doug Goulette noted that there were no formal building envelopes, but the building envelopes are established via the required setbacks which are shown on the maps. Michael Quinn pointed out the importance of having an understanding of where the homes would be built. Doug Goulette pointed out the areas on map that could be interpreted as building envelopes with shaded areas and noted that there were some prospective locations of the houses given the site limitations. Gail Blasius

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noted that in some subdivisions there are depictions of vegetative buffers for noise and the viewshed. Walter Reed II asked if there was a need to see more formal building envelopes.

Doug Goulette noted that there are some depictions of building envelopes that are on a revised plan that was recently submitted, and Gail Blasius advised that there be landscaping noted on those plans.

Clark Hinsdale explained that he was present to speak to the application as a Selectboard member and also someone who is in the neighborhood. Clark Hinsdale pointed to the letter that was submitted as part of the record and explained the importance of pedestrian easement on a proposal such as this so there was trail connectivity to the Lewis Creek which may come up in future discussions with the newly minted Trails Committee. Clark Hinsdale explained that there were a few key areas that may deserve attention at upcoming hearings if the Planning Commission deems additional hearings necessary for this application.

Clark Hinsdale noted that in the new zoning regulations the words waiver and modifications are similar but not the same and the regulations made it challenging to understand what applications like this might be subject to. Clark Hinsdale noted that in a waiver, the applicants need to answer a series of questions and that with modifications there should be a statement of the modifications in a motion of approval on the plat. Clark Hinsdale noted that with planned unit developments in the past, there would need to be a provision for open space and an allowance for a review to determine the significance of the open space. Clark Hinsdale noted that the applicants would need to submit legal documentation to ensure open spaces were preserved in perpetuity and would want this to be submitted with the final application, which Bonnie Barnes confirmed this was a part of the application.

Clark Hinsdale explained that pedestrian access was not currently noted in the plan. Clark Hinsdale noted that in the sketch plan and preliminary plat approval, the Planning Commission was approving concepts but that this did not constitute a final subdivision approval and there may be additional changes requested. Clark Hinsdale noted that there may be need to show landscaping, screening, and building envelopes as had been requested. Clark Hinsdale explained that the new regulations spoke to a four-part test, and that given the extra density with this application it may be appropriate to have a 50 foot buffer around the perimeter of the new lots. Clark Hinsdale concluded thanking those who worked on the new zoning regulations and expressing a desire to see the first planned unit development go through in the spirit of the regulations.

Melinda Kinzie asked why there was not a 25 foot buffer on the east side of the property, and Doug Goulette explained that the no cut buffer did not apply to this section and there was an understanding of the 25 foot side yard setback. Ms. Kinzie noted she also was curious about the difference between a waiver and modifications given the different protections afforded to neighbors with each option. Ms. Kinzie quoted Article 10 of the land use regulations that speaks to the differences in waivers and modifications. It was explained by Bob Beach and Gail Blasius that the application was for a planned unit development, not a waiver. Bonnie Barnes

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clarified that the ask may be to apply waiver analysis to the planned unit development to limit the impacts to the neighbors.

Ms. Kinzie noted that she was concerned about the overshadowing of her well, especially given the state of the water access in the Hollow neighborhood. Ms. Kinzie pointed out that there may be other locations that would not cause this overshadowing and it may be an issue if she ever needed to move her well which would then impact water access of her neighbors. Ms. Kinzie also explained that the 50 foot buffer seemed reasonable and like it could limit impact on neighbors and that it was included in the planned unit development language in the land use regulations. Ms. Kinzie noted that she explained her situation at the last meeting, but she was concerned about the level of noise given that she runs a business out of her home where she sees clients and her work focuses on sound. Ms. Kinzie explained that if there's heavy machinery around, she may not be able to do work during that time period. Ms. Kinzie noted that her viewshed will be impacted by the proposal as well as her ability to walk in the forest and along trails and asked that her viewshed not be of two new homes as that would be a disruption.

Doug Goulette explained that the Town of Ferrisburgh did not have jurisdiction over water and sewer and so this was a state matter. Doug Goulette explained the configuration of the well and septic and pointed to the well shield on Lot 2 encroaching on the Kinzie property in a way that would prohibit, from the state's perspective, the siting of a septic system. Doug Goulette noted a few other scenarios of siting the well and septic systems that may have more impact, and explained that the state requirement is that all abutters are notified, which has already taken place. Michael Quinn asked about this process, and Doug Goulette explained that the notification was a form letter by the state that would need to go out to affected land owners. Doug Goulette asked about the 50 foot buffer requirement and it was explained that this might be part of the former set of land regulations. Ms. Kinzie explained that she had sent a certified letter back to the state office with a request of moving the proposed well site and was concerned that it was not received.

Doug Goulette explained that the applicants would need to comply with the sound regulations which is not to exceed 70 decibels. Upon request for clarification, Bob Beach noted that the guideline is for noise not to exceed a certain level, but this is hard to measure and is usually complied with upon cooperation from neighbors. Ms. Kinzie stated that she would be unable to work if there was excessive noise given her at-home profession of being a sound healer.

Clark Hinsdale noted that in revisiting the language around waivers and modifications it was important to understand that the applicants are asking for something that varies from the underlying land use regulations. Clark Hinsdale noted that in other circumstances, an 8.2 acre parcel would not be something that could be subdivided in this way, but that in this circumstance, the applicants were asking for an additional lot. Clark Hinsdale explained that as a result, the application would need to minimize impacts on neighbors. Clark Hinsdale noted that the Town and Planning Commission had the right to review this application carefully and

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come up with a mutually agreeable solution for there to be three lots that would minimize impacts.

Sonny Francis, an abutting neighbor, explained that the process was having a major impact on the neighbors and that it would greatly impact his mother, Melinda Kinzie, in that it could affect her livelihood.

Doug Goulette noted that while there have been statements regarding waivers, this is the fourth meeting that they have appeared at and that the applicants have done everything that has been asked of them and also that the 8 acres is reasonable to accommodate three lots. Doug Goulette explained that the application meets all applicable regulations as it pertains to planned unit developments and explained that there was not a lot of language on the waiver or variance process as it pertained to applications such as these.

Ms. Kinzie asked for a clarification on the word waiver and modification and explained there was some background given on the change from variance to waiver in correspondence. Bob Beach explained that variances were part of the Zoning Board of Adjustment process and there were four criteria that needed to be met, but that these were rarely ever met by applicants. Bob Beach noted that a waiver was agreed upon in lieu of a variance so that there were more allowances that could be made if there were special circumstances and that this is a new development in the land use regulations. Ms. Kinzie pointed out that there are some standards that need to be met with a waiver that aren't included with the terminology around modifications and that it was understood that this may be the first application with the new regulations where there is a difference. Gail Blasius noted that this may be something the Commission needs to discuss further.

Ms. Kinzie noted that as a member of the community, she had not had an understanding of these regulations until this point and that she was appreciative of learning about the process. Ms. Kinzie explained that she would not want future developers to not have to follow requirements if they are not specified in the language in the regulations and that it's crucial to give protections to the Town in regards to future development. Anne Cohn explained that even with some differences between a waiver, a variance, and modifications the Commission is consistently trying to consider neighbor impacts and it's the purpose of the Commission to keep residents protected, so the small differences in language may not be all that substantial. Ms. Kinzie stated concern for when the Commission is not involved in reviewing an application, and Anne Cohn explained that the Commission does have the final word in these kinds of matters.

Doug Goulette noted that there was a clarification in that an attorney had drafted a warranty deed that includes wording in regards to the protection of open space which he had hoped to submit earlier, but was submitted at the time of the current meeting. Doug Goulette mentioned that there were some building envelopes proposed in addition to this deed restriction for the protection of open space.

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After discussion of the map, Bob Beach asked if there were any further comments ahead of closing the hearing. Ms. Kinzie noted that after reviewing the building envelope, she realized the building on lot 2 could be 25 feet from the boundary which would be too close to her land. Mr. Francis noted that the entire process was really affecting their family and their community and this application seems to be a deviation from the way that things normally have gone. Jean Richardson noted that this was the first time she had looked at the conservation easement and it may be prudent to check in with the Conservation Commission to ensure that it meets basic standards and that the screening suggested may make sense. Clark Hinsdale noted that when there are this many questions, it may be sensible to continue a hearing so that differences could be resolved. Clark Hinsdale pointed out that the Selectboard would need to review any open space conservation documentation and it seemed unfair to neighbors to hand in a document at the time of the meeting and not to give extra time for review. Clark Hinsdale expressed that there could be a way to find solutions for this proposal and that a continuance of the meeting may be helpful to move this forward.

Doug Goulette apologized for providing the deed late, and mentioned that it was ready the day of the hearing and felt that it was better to provide it than not providing it. Doug Goulette explained that he did not think the building envelopes were an issue as they were not discussed at the preliminary review and thought they were being defined by the allowable setbacks. Doug Goulette noted that the landscaping had not been voiced as a concern so they did not propose any during the past four hearings.

After Bob Beach asked if there were any other comments, Ms. Kinzie noted that it had taken her time to fully understand the rules and regulations between the first meeting and now and thought it should not matter that certain concerns were not fully expressed at the first meeting.

Bessie Sessions made a motion to close the hearing and to give 45 days for the Planning Commission to issue a decision on the matter, which was seconded by Walter Reed II and the motion passed unanimously. The hearing closed at 8:05 pm.

Application #21-143 for sketch plan review; 523 Ashley Road; applicants Cheryl and John DeVos; Rural Agricultural (RA-5) and Conservation (CONS-25) Districts; tax map id no. 04/01/15.11

Cheryl DeVos was present to speak to the application and Gail Blasius noted that as a neighbor, she would recuse herself from decision-making. Ms. DeVos explained that she was trying to sell part of the farm on Ashlee Road to pay off some farm debts and that the sketch plan had been made up two years ago. Ms. DeVos explained that their current renters may be interested in buying the property, which was 5 acres including the house and in order to make this happen they would need to separate the lot from the existing lot. Ms. DeVos noted that there is another portion to the entire property on the south side of Lewis Creek and this would be sold to the Vermont Department of Fish and Wildlife as well as the north side being sold to the Vermont Department of Fish and Wildlife and the remainder would be a 70 acre parcel.

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Gail Blasius asked if the proposal would be a building lot that would be sold off and if the Lewis Creek area would be sold and conveyed to the Vermont Department of Fish and Wildlife. Michael Quinn clarified his understanding that this would be farm land on the other side of Lewis Creek. Ms. DeVos explained she was not sure how much sellable acreage there was in this location and that it may be 80 acres and this would likely remain farm land. Ms. DeVos noted that lot 1 has already been separated and Bob Beach explained that on the drawing, the five acre parcel with the red lettering is what is being proposed to be subdivided. Michael Quinn asked for clarification on what had been proposed previously and Ms. DeVos noted that there are currently three lots instead of the two that were being reviewed now. Ms. DeVos explained that they did not realize that roughly 15 acres were in conservation, and that there may be another subdivision once the Department of Fish and Wildlife is ready to purchase. Michael Quinn asked if parts of the property were in a land trust, and Ms. DeVos noted that all along the border of Lewis Creek would be owned by Vermont Department of Fish and Wildlife and this would be roughly 251 acres.

Clark Hinsdale noted that he was appreciative of the DeVoses conserving so much of their land and land within the Town of Ferrisburgh. Clark Hinsdale noted that the DeVoses were an important part of the neighborhood and he was grateful that they have voluntarily conserved everything that they could on their property.

There being no further questions, ***Bessie Sessions made a motion to approve the sketch plan with Anne Cohn seconding. The motion passed unanimously, with Gail Blasius abstaining, and it was agreed that there would be one additional hearing.***

There was clarification of the next steps in the process for Ms. DeVos.

Application #21-144 for sketch plan review; 96 Westin Road; applicant Daniel White; Rural Agricultural (RA-5) District; tax map id no. 05/01/82.12

Daniel White explained that he is looking to subdivide the land in the northern part of his property which would be ten acres and this is north of Westin Road. Mr. White noted that the first lot has a house on the north end and there would be square lots. Mr. White noted that with the second lot, the house would be on the western side in the south of the parcel and that there would be five acres. Mr. White explained that there would be placement of septic systems with an easement and there was already a conversation with the state on the location of the septic system. Michael Quinn asked for clarification on the septic placement, and Mr. White explained that the septic would need to be located in a specific area due to the soil samples collected. Mr. White noted he had discussed the proposal with the neighbors which were all agreeable.

Bonnie Barnes explained that some of the conversation around north and south or east and west splits is due to the fact that there's not quite enough room on Westin Road and there are trade offs with development costs. Mr. White noted that there was a road put in for the neighbors and that there is agreement on road maintenance with no significant issues.

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Bessie Sessions asked about road frontage and there was discussion of the location of the road and where frontage may be located. Bonnie Barnes explained that they may need a waiver and Gail Blasius noted that this was not a Town road. Bonnie Barnes explained it would be a good idea to check in with the Fire Department before the subdivision moves further and Mr. White noted this would not be an issue.

With there being no further questions or comments from the public, ***Michael Quinn made a motion to accept the sketch plan for a two-lot subdivision that would require one public hearing and Bob Beach seconded. The motion passed unanimously.***

Bonnie Barnes confirmed the next hearing date as being November 17th.

Application #21-153 for sketch plan review; 62 Hawkins Bay Lane; applicant Betsy Etchells; Rural Agricultural (RA-5) District; tax map id no. 04/01/27.3

Bonnie Barnes noted that she got a call from one of the neighbors adjoining the property and it was noted there was no opposition but the neighbor was concerned about adequate notice given she had received the mailing that day. Betsy Etchells explained they were trying to subdivide the 115 plus acre parcel to conserve the acreage. Ms. Etchells explained that they were proposing what was submitted in the plan. Bob Beach clarified that they would be cutting off roughly 12 acres with the current house site being off of the larger parcel, which was confirmed. Ms. Etchells noted that they would be continuing to use the driveway off of Hawkins Bay Lane and there was no change to access but that they wanted to divide the house and conserve the rest of the land. Michael Quinn asked if this was being sold to the Vermont Department of Fish and Wildlife and Ms. Etchells confirmed it would be part of the Vermont Land Trust.

Scott Hawkins, noted that he owned the land across the road and he was curious as to what the proposal was but he did not have any concerns. Gail Blasius asked if this was farmland, which was confirmed and it was noted that this would likely still be farmed

There being no further questions, ***Gail Blasius made a motion to accept the sketch plan which was seconded by Walter Reed II and the motion passed unanimously. It was agreed that there would be one additional hearing at next month's meeting.***

Ms. Etchells noted that there was an email from Craig Heindel of the Conservation Commission and she appreciated the thoughtfulness and the time taken to draft the email and that the Conservation Commission was supportive.

Deliberative Session and Adjournment

The Planning Commission entered into Deliberative Session at 8:33 pm and came out at 9:10 pm with no action taken. **The meeting was adjourned by consensus at 9:10 pm.**