

Hardwick Development Review Board
Major Subdivision Review
Ron and Diane Sanville
Route 15, Hardwick, VT
Application #2016-024
June 22, 2016

To consider a Major Subdivision Request by Ron and Diane Sanville to subdivide 14.3 acres into two lots – Lot #1 has 5.2 acres and Lot #2 has 9.1 acres. A ROW access over Lot #2 is requested for Lot #1. Property is located in the Village Neighborhood Zoning District and has an address of VT Route 15 in Hardwick.

The application requires a Major Subdivision Review under the following sections of the Hardwick Unified Development Bylaws: 2.2 Village Neighborhood Table; 3.3 Access and Frontage Requirements; 6.3 Major Subdivision Review; 6.4 Application of Subdivision Standards; 6.5 General Standards (applicable to all Major Subdivisions); 6.6 Transportation Facilities & Infrastructure; and 6.7 Facilities and Utilities.

Warnings were posted on June 1, 2016 at the Hardwick Memorial Building, the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Kelly Jerome and Kathy Fair; Jesse Demers; Town of Hardwick; Gail LeBlanc and Elaine Farr; Bertha Johnson; and Kelley and Dean Mercier on June 1, 2016. It was also published in the Hardwick Gazette on Wednesday, June 1, 2016.

Development Review Board members present: Cheryl Michaels, Chair; Edward Keene; John Mandeville; Dan Bandit; Helm Nottermann; and John Page.

Development Review Board members absent: Ruth Gaillard

Others present: Ron Sanville, applicant and Kristen Leahy, Zoning Administrator.

During the course of the hearing the following exhibits were submitted:

None

Summary of Discussion

Chair Cheryl Michaels began the hearing at 7:10 PM. She noted the hearing was quasi-judicial, explained the procedure for the hearing, and swore in all those who wished to speak at the hearing. Mrs. Michaels then asked Mr. Sanville to present his Major Subdivision proposal.

Mr. Sanville testified that he purchased the 14.3 acre lot with the intent to subdivide the parcel into multiple lots. The wastewater test pits, however, indicated only 2 potential lots in the subdivision. The subdivision is intended to be a residential development (two homes are indicated in the wastewater/ potable water permit from the State of Vermont). Mr. Sanville hired a surveyor, Michael Hemond, to perform the necessary permitting work on the proposed subdivision. Mr. Hemond recorded a paper version of the survey with the Town of Hardwick in 2012 but a correlating zoning permit was not sought. The two parcels would be accessed by a ROW from Route 15. The State of Vermont has granted an access permit for the existing ROW. Mr. Sanville is currently in conversation with the State about the safety of this access and the access may potentially be altered to improve the safety.

Proposed Lot #1 is 5.2 acres and proposed Lot #2 is 9.1 acres. Both lots would be accessed from the same ROW access from Route 15. Lot #1 will need to receive a deeded ROW over Lot #2. The subdivision may need an Act 250 permit but that is still being researched by the applicant.

The hearing ended at 7:37 pm. Ed Keene made the motion to enter deliberative session. John Mandeville seconded the motion. The Board went into deliberative session at 7:37 pm.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings:

2.2 Village Neighborhood District – Both lots will be substantially larger than the minimum lot size of 7500 sf. Lot #1 will be 5.2 acres and Lot #2 will be 9.1 acres. Both lots have substantially more frontage than the minimum frontage of 70'. Lot #1 will have 925 feet and Lot #2 will have 432 feet.

3.3 Access & Frontage Requirements – The proposed subdivision has an access permit from the State of Vermont which allowed for the construction of a residential driveway. The conveyance of Lot #1 will need a deeded 50 foot right-of-way. See Conditions.

6.3 Major Subdivision Review

6.5 General Standards shall include:

(A) **Development Suitability.** All land to be subdivided shall be suitable for the intended use and proposed density of development, and not result in undue adverse impacts to public health and safety, natural resources identified in the Hardwick Town Plan, or the character of the surrounding neighborhood in which it is located. Proposed subdivision is in the Village Neighborhood district which specifically permits residential structures. Intent of the subdivision is residential.

(B) **Hardwick Town Plan & Regulations.** Subdivisions shall conform to the *Hardwick Town Plan*, other provisions of these regulations, capital budget and programs, and all other municipal bylaws, ordinances and regulations in effect at the time of application. Proposal conforms or is not applicable.

(C) **District Settlement Patterns.** A subdivision shall be designed to achieve the purpose, objectives and desired settlement patterns of the zoning district(s) in which it is located, as defined in Article 2. Proximity near Hardwick Village Center conforms to the desired settlement patterns of the Village Neighborhood District.

(D) **Lot Layout.** Lot layouts shall:

- (1) **be consistent with the suitability of land for development, as defined under Subsection (A);** Subdivision has only two lots in response to this aspect and due to the constraints found under Wastewater/Potable Water rules.
- (2) **conform to desired district settlement patterns, as required under Subsection (C);** Accomplished.
- (3) **meet zoning district minimum lot size and density requirements under Article 2, except as modified for planned residential developments under Article 5.4;** Lots meet all requirements.
- (4) **conform to lot and yard requirements under Section 3.8; and** Lots meet all requirements.
- (5) **avoid irregularly shaped lots (e.g., with curves, jogs, dog-legs, etc.), unless warranted due to topographic constraints, or to minimize the fragmentation of natural, scenic or cultural features.** Lot configurations do not have any unwarranted irregularity in shape as per survey.

(E) **Survey Monuments.** The locations of all proposed permanent surveying monuments and corner markers, as required under the Rules of the Board of Land Surveyors, shall be identified on the final subdivision plat. Monuments noted on the Michael Hemond map. Applicant testified that markers are on site and in place.

(F) Building Envelopes. The DRB may require the designation of building envelopes to limit the location of structures, parking areas, and associated site improvements to one or more portions of a lot. Both building envelopes were dictated by the wastewater/potable water permit.

(G) Natural, Scenic & Historic Resource Protection. Subdivision boundaries, lot lines, and building envelopes shall be located and configured to avoid adverse impacts to significant natural, historic and scenic features identified in the *Hardwick Town Plan* or through site investigation. For purposes of these regulations, these shall include wetlands, surface waters, and associated buffer areas (Section 3.12); flood hazard areas (Section 5.3); prominent ridgelines and hilltops, rock outcroppings, and slopes in excess of 25% (Section 3.14); critical wildlife habitat areas; and historic sites, structures and features (e.g., buildings, cellar holes, stone walls). Accordingly:

- (1) lot lines shall be configured to avoid the fragmentation of significant natural or cultural features, including designated buffer areas;
- (2) building envelopes shall be located and sized to exclude such features;
- (3) roads, driveways and utility corridors, to the extent feasible, shall be shared, located to follow existing linear features (e.g., farm roads, stone walls, tree and fence lines), and to avoid significant natural and cultural features;
- (4) lot lines and building envelopes shall be located to ensure that no buildings are placed on steep slopes, or extend above the height of land (highest point) of any prominent ridgeline or hilltop;
- (5) historic sites and structures shall be incorporated in subdivision design and layout;
- (6) subdividers may be required to incorporate buffers, landscaping or screening in subdivision design, and/or submit management plans to protect significant natural, scenic and historic resources.

Proposed Subdivision is not located within the Flood Hazard area. Only two lots are being proposed due to the sloping nature of the parcel.

(H) Stormwater Management & Erosion Control. Subdivisions shall incorporate temporary and permanent stormwater management and erosion control practices appropriate for the type and density of proposed development. Accordingly:

- (1) All stormwater management systems shall be designed to:
 - a. use natural drainage systems to the extent feasible, and minimize the need for maintenance,
 - b. maximize on-site infiltration and treatment of stormwater, and minimize surface runoff,
 - c. accommodate anticipated storm events,
 - d. provide storage areas and treatment to manage flow and protect water quality, and
 - e. avoid damage to adjoining or downstream properties.

These aspects were addressed in the access permit and the wastewater/potable water permits which were received from the State of Vermont. The driveway has already been constructed.
- (2) The DRB may require the submission of stormwater management and erosion control plans, prepared by a licensed professional. Such plans shall incorporate acceptable stormwater treatment practices and sizing criteria set forth in the *Vermont Stormwater Management Manual* as most recently amended. The DRB did not elect to require this submission.
- (3) The DRB also may require an evaluation of the effect of the subdivision on existing downstream drainage capacity outside the area of subdivision. Where the DRB finds that increased runoff from the subdivision will exceed the capacity of downstream storage, drainage or treatment systems, it may request that the subdivider delay construction until such capacity exists, or to install necessary off-site improvements as needed to increase capacity. The DRB did not make this determination nor require this evaluation in this particular subdivision review.

(I) Landscaping & Screening. The preservation, planting and maintenance of trees, ground cover, or other vegetation, of a size and type deemed appropriate by the DRB, may be required to:

- (1) preserve existing trees, tree lines, wooded areas of particular natural or aesthetic value to the site, or critical wildlife habitat areas;
- (2) provide an undisturbed vegetated buffer between developed and undeveloped portions of the site to protect water quality, or other natural or scenic features.
- (3) provide screening to increase privacy, reduce noise or glare, or establish a barrier between incompatible land uses; and/or to
- (4) establish a tree canopy along roads or pedestrian walkways where the Planning Commission deems it appropriate.

The DRB did not require any screening or planting for this particular subdivision review.

(J) Energy Conservation. Subdivision design and layout, to the extent feasible, will encourage energy efficiency through:

- (1) the siting and orientation of development (e.g., building envelopes), to take advantage of southern exposures and natural vegetative or topographic buffers;
- (2) the clustering of development (e.g., lots, building envelopes) to minimize road and utility line extensions and reduce travel distances; and
- (3) the effective use of landscaping to provide wind barriers and shading, and to reduce heat loss.

Subdivision is located within walking distance of the Hardwick Village Center and will hopefully reduce travel distances for potential future homeowners.

Section 6.6 Transportation Facilities & Infrastructure

Mr. Sanville is working with the State of Vermont to improve and modify the existing access permit.

Section 6.7 Facilities and Utilities

(A) Public Facilities. The DRB shall find that the proposed subdivision does not create an undue burden on existing and planned public facilities. The DRB may consult with appropriate municipal and school officials to determine whether adequate capacity exists to serve the subdivision. The DRB finds that this proposed subdivision will not create an undue burden on existing and planned public facilities.

(B) Fire Protection. The Development Review Board, in consultation with the Hardwick Fire Department, may require that the subdivider provide adequate water storage and distribution facilities for fire protection. The subdivider shall install fire hydrants, dry hydrants, or fire ponds as required by the DRB. No specific fire protection requirements were imposed by the DRB in this particular subdivision review.

(C) Water Systems. The subdivider shall demonstrate to the satisfaction of the DRB that adequate potable water supplies exist on and/or off site to serve the subdivision. In addition:

- (1) On-site systems, including individual or community water supply systems, shall be designed in accordance with all applicable state and municipal regulations. The DRB may require that all water sources be identified on the final subdivision plat.
- (2) The location of structures and in-ground wastewater disposal systems will be reviewed to ensure such locations do not encroach upon existing water supply isolation distances, as defined by applicable state regulations.

Wastewater System and Potable Water Supply Permit #WW-7-3653 was issued by the State of Vermont and addresses this component.

(D) Wastewater Systems. All other on-site systems, including individual and community (clustered) systems, shall be designed in accordance with applicable state and municipal regulations. The DRB may

require that sewage disposal areas be identified on the final plat. Wastewater System and Potable Water Supply Permit #WW-7-3653 was issued by the State of Vermont and addresses this component.

(E) Utilities. All existing and proposed utilities, including but not limited to electric, telephone, and cable television utilities, shall be shown on the final plat. In addition:

- (1) All utilities within the subdivision shall be located underground, unless the DRB determines that burial is not necessary to preserve the scenic character of the area, or that it is prohibitively expensive.
- (2) The subdivider shall coordinate subdivision design with utility companies, including the Hardwick Electric Company, to ensure that suitable areas are available for above ground or underground installation, within and adjacent to the proposed subdivision. Utility easements of sufficient width shall be provided to serve both the proposed subdivision, and future service extensions to adjoining properties. Such easements shall be identified on the final plat.
- (3) Utility corridors shall be shared with other utility and/or transportation corridors where feasible, and be located to minimize site disturbance, adverse impacts to significant natural, cultural and scenic features, and to public health.

The DRB waives the requirement to bury the utilities underground. This requirement would be prohibitively expensive.

Decision and Conditions

Based upon these findings, the Development Review Board voted 6 to 0 to approve the application as presented with the following conditions and waivers.

Conditions:

- 1. All necessary permits will be obtained from the State of Vermont prior to the conveyance of either lot.
- 2. The Development Review Board waives the mylar requirement for the final plat in the land records due to the fact that this subdivision plat was recorded in 2012 in a paper version and the surveyor, Michael Hemond is no longer available to create a new mylar.
- 3. The Development Review Board waives the requirement for underground utilities due to the prohibitive cost of this requirement.
- 4. The deeded right-of-way to Lot #1 over Lot #2 will be at least fifty (50) feet in width.
- 5. The Development Review Board acknowledges that the final plat will not need to be recorded within 180 days of receipt of final subdivision approval as it has already been filed.

Signed:

D. BANDIT

Daniel Bandit

, vice-chair

date 6/23/2016

Kristen Leahy

Kristen Leahy

, acting clerk

date 6/23/16

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.