

Hardwick Development Review Board
Major Subdivision Review
Danny and Tamara Hale
143 Mackville Road, Hardwick, VT
Application #2017-016
June 21, 2017

To consider a Major Subdivision Request by Danny and Tamara Hale to subdivide 11.58 acres into five lots – Lot #1 has 1.1 acres, Lot #2 has 2.73 acres, Lot #3 has 2.33 acres, Lot #4 has 2.64 acres, and Lot #6 has 2.79 acres. A ROW access over Lot #2 is requested for Lots #1, #3, #4, & #5. Property is located in the Village Neighborhood Zoning District and has an address of 143 Mackville Road 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 6, 2017 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: James Neill; Lamoille Housing Partnership; Marie Sholan; John Appleby; Carla and Richard Allen; Beverly Thompson; Gary Richardson; and Brenda Bolieu on June 6, 2017. It was also published in the Hardwick Gazette on Wednesday, June 7, 2017.

Development Review Board members present: Edward Keene; John Mandeville, Acting Chair; Helm Nottermann; Ruth Gaillard; and John Page.

Development Review Board members absent: Cheryl Michaels, Chair and Dan Bandit, Vice-Chair.

Others present: Danny Hale, applicant; Kristen Leahy, Zoning Administrator; Jim Lovinsky; Marie Sholan; Christian Curschmann III; and Lesa Cathcart.

During the course of the hearing the following exhibits were submitted: None submitted.

Summary of Discussion

Acting Chair John Mandeville began the hearing at 7:15 PM. He noted the hearing was quasi-judicial, explained the procedure for the hearing, and swore in all those who wished to speak at the hearing. Mr. Mandeville then asked Mr. Hale to present his Major Subdivision proposal.

Mr. Hale presented his proposed 5-lot subdivision. He intends to give Lot #2 to his daughter; he currently lives on Lot #1; and he has his business operation on Lot #3. Lots #4 and #5 would be developed at a future time. The current intention is to have those lots available to other family members.

Mr. Hale testified that he has been working continually on this property since he obtained the piece.

The Development Review Board (DRB) asked Mr. Hale if an engineer has reviewed the improvements on the site. He responded in the negative. A general permit was received from the State of Vermont to move earth at the road site and the current contractor's yard (Lot #3). The subdivision does not propose to substantially change what is currently on the property. Acting Chair Mandeville suggested that an engineer could assist with the culvert sizes and run-off which was observed at the site visit. The applicant testified that although he is not an engineer, he does work with the storm water drainage and soil erosion issues through his work with VAST.

Mr. Hale clarified that the lots would be residential with the exception of the contractor's yard on Lot #3 (pre-existing).

The lots will have underground power and will be connected to town water and town sewer. The lines will travel along the ROW which starts on Mackville Road. No waiver is being sought for this aspect of the subdivision.

Acting Chair Mandeville inquired as to whether any wetlands, natural communities, etc exist on this property. Zoning Administrator, Kristen Leahy, testified that the State Natural Resources Atlas indicates that the site is clear for these aspect.

When discussion shifted to stormwater management and erosion control, immediate neighbor Marie Sholan testified that the work which has been accomplished on site has already resulted in silt on her property (witnessed by the DRB at the site visit). Marie Sholan informed the DRB that she has installed a sump-pump in her basement to remedy the run-off created by the work on the Hale property. She presented photos from the previous year which depicted the silt piles gathering under her stone wall.

Mr. Hale testified that he will be mitigating the run-off by creating drainage channels with crushed rock.

Ms. Cathcart, daughter to Marie Sholan, stated that the silt problem began when the work commenced on Mr. Hale's property. She suggested that an engineer might be necessary to create a better approach to the soil erosion.

Marie Sholan testified that the ATV trail work was the instigating factor in the current run-off issue.

Mr. Hale responded that he will follow the State's suggestions in the Low Risk Site Handbook (*not mentioned by name but a copy on the DRB table was indicated*). He felt that an engineer would be cost prohibitive. He has been actively handling the situation. He has and will stabilize the open areas. Mr. Hale reported that the State storm water division was in the area and they reviewed his property. He believes that there were no concerns at this time with his erosion controls because he has not been notified by the State of any adverse findings.

The road, once completed, will have a stone-lined ditch. The road surface will be gravel and will be crowned.

Mr. Lovinsky, represented the Lamoille Housing Partnership, stated that he has been working with Mr. Hale to improve the brook movement by Mackville Road. He expressed concern about the Evergreen Manor MHP culverts which are becoming impeded by sediment erosion. These culverts are in the Town ROW and, per Mr. Hale, have been identified as an issue by the State of Vermont. Mr. Hale stated that the addition of more impervious surfaces at his subdivision site may cause more run-off to accumulate, but he believes that if he follows the rules of good erosion prevention and sediment control, the brook will not be affected.

Marie Sholan voiced concerns about the road width. Currently, only 10 feet of road has been laid out. The road will eventually have a 20' road surface width for travel. There will be a deeded 50' ROW granted to each lot, which will include the 10' ROW on Marie Sholan's property. Marie Sholan disputed the assertion that all surveyor markers were in place. She is unable to locate the surveyor's pin on a corner which abuts the Hale property. Mr. Hale testified that all pins were in place and had been set by the surveyor, Truline Land Surveyors, Inc.

The hearing ended at 8:04 pm. Helm Nottermann made the motion to enter deliberative session. Ed Keene seconded the motion. The Board went into deliberative session at 8:08 pm.

Findings of Fact:

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

2.2 Village Neighborhood District – (minimum lot size 7500 sf, minimum frontage 70') – all lots and proposed uses for the lots will be in keeping with the stated purpose of the Village Neighborhood District.

3.3 Access & Frontage Requirements – (needs permanent easement, right-of-way or fee simple ownership of at least 50 feet in width) (access permit from Town). Access is pre-existing from Mackville Road. Conveyance of Lots #1, #3, #4, and #5 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, with the exception of the pre-existing Contractor's Yard on Lot #3.

(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. To the extent feasible, new subdivisions of land shall:

- (1) maintain and extend desired settlement patterns, including lot areas and configurations, building locations, and road networks;**
- (2) maintain contiguous tracts of open land with adjoining parcels; and**
- (3) connect and extend existing road, sidewalk, path, and utility corridors.**

The proposed subdivision does not have a deer overwintering community, nor is it host to a vulnerable habitat. The layout encourages the retention of the forested area on Lots #4 and #5. The proposed lots are significantly larger than required by the zoning density of the Village Neighborhood.

(D) Lot Layout. Lot layouts shall:

- (1) be consistent with the suitability of land for development, as defined under Subsection (A);** Accomplished.
- (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 Truline Land Surveyors, Inc. map. Applicant testified that markers are on site and in place.

(F) Building Envelopes. The Development Review Board 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. The size and shape of each building envelope shall be established in accordance with these regulations. The Board also may require the identification of specific building footprints if, in

its judgment, such information is needed to determine conformance with these regulations. The final building envelopes will be dictated by the town water and sewer lines. Estimated locations are on the plat.

(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; No natural or cultural features were identified on this parcel.
- (2) building envelopes shall be located and sized to exclude such features; N/A
- (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; Subdivision proposal includes a single 50' ROW with access points to each parcel.
- (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; Reduced number of lots (5) were requested to allow avoidance of the steep slopes on site.
- (5) historic sites and structures shall be incorporated in subdivision design and layout; No historic aspects were identified.
- (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 and does not have any wetlands or other natural vulnerable community on site.

(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.
- (2) The Development Review Board 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. Due to the concerns of the immediate neighbors of the proposed subdivision, this requirement was incorporated into the conditions. See condition #4.
- (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.

(I) Landscaping & Screening. The preservation, planting and maintenance of trees, ground cover, or other vegetation, of a size and type deemed appropriate by the Development Review Board, 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 Development Review Board deems it appropriate.**

No testimony was received to indicate the need of this requirement.

(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

Access will be from Mackville Road. Primary function of the proposed subdivision will be residential. No concerns were brought to the Development Review Board

Section 6.7 Facilities and Utilities

(A) Public Facilities. The Development Review Board shall find that the proposed subdivision does not create an undue burden on existing and planned public facilities. The Development Review Board 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 Development Review Board 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 Development Review Board 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.**

Water will be provided by the Town of Hardwick. Acceptance has been received from the Select Board and state approval is under review.

(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 Development Review Board may require that sewage disposal areas be identified on the final plat. Wastewater capacity will be provided by the Town of Hardwick. Acceptance has been received from the Select Board and state approval is under review.

(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 Development Review Board 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.

Utilities will be underground, as per testimony of the applicant.

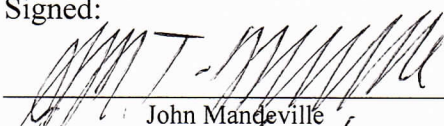
Decision and Conditions


Based upon these findings, the Development Review Board voted 5 to 0 to approve the application as presented with the following conditions.

Conditions:

1. All necessary permits will be obtained from the State of Vermont prior to the conveyance of each lot.
2. The deeded right-of-way to Lots #1, #3, #4, and #5 will be at least fifty (50) feet in width.
3. Within 180 days of receipt of final subdivision approval, the subdivider will file 3 copies of plan and final mylar plat for recording in the land records.
4. Applicant is required to submit stormwater management and erosion control plans, prepared by a licensed engineer, prior to any further construction work being undertaken on the proposed subdivision. Erosion mitigation can continue as needed. Implementation of said plans is mandatory.

Signed:


_____, acting chair
John Mandeville


_____, acting clerk
Kristen Leahy

date 6/26/17

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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.