

Hardwick Development Review Board
Major Subdivision Review conducted over Zoom
Gravel Construction Company Inc.
2138 VT Route 15 West, Hardwick, VT
Application #2020-056
December 2, 2020

To consider a Major Subdivision Request by Gravel Construction Company Inc. to subdivide 52.11 acres into two lots – Lot #1 has 5.94 acres and a deeded ROW access over Lot #2 and Lot #2 has 46.17 acres and 1748 feet of road frontage. Property is located in the Rural Residential Zoning District and has an address of 2138 VT Route 15 West, Hardwick.

The application requires a Major Subdivision Review under the following sections of the Hardwick Unified Development Bylaws: 2.6 Rural Residential District; 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 Tuesday, November 17, 2020 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: Joey & Darlene Devenger; Roger Demar; Peggy Nichols and Russell Luce; Cheryl and Russell McAllister; All Metals Recycling Inc.; Cecile Leriche; Town of Hardwick; and Laurie Ann and Edmund Mason on November 17, 2020. It was also published in the Hardwick Gazette on Wednesday, November 18, 2020.

Development Review Board members present: Helm Nottermann; Kate Brooke; John Mandeville, Chair; and Ruth Gaillard.

Development Review Board members absent: Ed Keene

Others present: Dana Gravel, applicant; Kristen Leahy, Zoning Administrator; and Brenda Gravel, family member.

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

None submitted.

Summary of Discussion

Chair John Mandeville began the hearing at 7:02 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 Dana Gravel to present his Major Subdivision proposal.

Mr. Gravel testified that the Gravel Construction Company Inc owns approximately 52 acres and they wish to subdivide approximately 6 acres (5.94 acres) from the parcel. The Gravel Construction Company Inc. will retain the residual 46.17 acres and will continue to operate their commercial development on site. The 5.94 acre parcel has a potential buyer who wishes to utilize the parcel for agricultural use. The buyer will be accountable for obtaining all pertinent and necessary permits to develop the new parcel.

Lot #1 would be accessed by a deeded 50 foot ROW which enters the parcel through the existing curb cut on Route 15.

The proposed shape is due to the topographic realities of the parcel.

Mr. Gravel requested a waiver from the requirement to install underground utilities to the new parcel. The request was due to the fact that the buyer will be responsible for the installation of the utilities. Currently, the potential buyer intends to install underground utilities but the waiver will allow for any unforeseen circumstances with the installation.

The hearing ended at 7:28 pm. Helm Nottermann made the motion to enter deliberative session. Ruth Gaillard seconded the motion. All members were in favor.

Findings of Fact:

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

2.6 Rural Residential District – (minimum lot size 3 acres, minimum frontage 200') – all lots and proposed uses for the lots will be in keeping with the stated purpose of the Rural Residential District.

3.3 Access & Frontage Requirements – (needs permanent easement, right-of-way or fee simple ownership of at least 50 feet in width and an access permit from State of Vermont). Access is pre-existing off of Vermont Route 15 West. Letter of Intent from the State of Vermont establishes conditions for receiving an access permit. Conveyance of Lots #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 Rural Residential district which specifically promotes agriculture, forestry and low to moderate density residential development. Intent of the subdivision is Agriculture/Agricultural and Forest Processing, with the exception of the pre-existing Contractors Yard/Extraction of Earth Resources on Lot #2.

(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 proposed lots are significantly larger than required by the zoning density of the Rural Residential District.

(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. Applicant testified that the lot shape was due to topographic aspects of the parcel.

(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 Sunwise Surveying 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 are not on the plat. Location will be dictated by the placement of the wastewater and potable water on the newly created lot.

(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 3.15); 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 an access point to the new 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;** No steep slopes were identified on this parcel.
- (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. No concerns were identified.
- (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 will not negatively impact energy conservation.

Section 6.6 Transportation Facilities & Infrastructure

Access will be from Vermont Route 15 West. Primary function of the proposed subdivision will be commercial. State of Vermont has issued a Letter of Intent regarding the proposal.

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 owner of proposed lot. State approval will need to be obtained.

(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 will be provided by the owner of proposed lot. State approval will need to be obtained.

(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 may be underground, as per testimony of the applicant. However, a waiver from this requirement was requested due to the fact that the buyer will be responsible for the installation of the utilities to the new parcel.

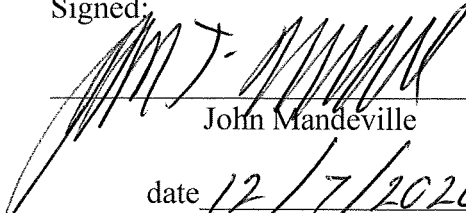
Decision and Conditions

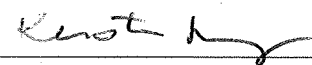
Based upon these findings, the Development Review Board voted 4 to 0 to approve the application as presented with the following conditions.

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 Lot #1 will be at least fifty (50) feet in width.
3. A waiver has been granted for the underground utility requirement.
4. 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.

Signed:


 _____, Chair
 John Mandeville
 date 12/7/2020


 _____, acting clerk
 Kristen Leahy
 date 12/7/2020

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.