

Hardwick Development Review Board
Major Subdivision Review
Joan and Larry Eldred
2707 West Hill Road
Application #2022-064
December 7, 2022

To consider a Major Subdivision Request by Joan and Larry Eldred to subdivide 10.38 acres into 2 lots – Lot #5 has 7.29 acres and Lot #5A has 3.09 acres. A ROW access over adjoining lot (Wiesen) is requested for Lot #5A. Property is located in the Rural Residential Zoning District and has an address of 2707 West Hill Road in Hardwick.

The application requires a Major Subdivision Review under the following sections of the Hardwick Unified Development Bylaws: 2.6 Rural Residential [RR] 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 November 15, 2022 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: Marina-Celine Cole and Peter Steen; Diana and Joseph Kowalsky; Juliette and George Anderson; Jess Canty and Maia Corduan; Patricia Brenes; Norma and Ronald Wiesen; Stephen Fortmann; Deborah and Bruce Aschenbach; and Ericka Bellavance on November 16, 2022. It was published in the News and Citizen on Thursday, November 17, 2022 and in the Hardwick Gazette on Wednesday, November 16, 2022.

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

Development Review Board members absent: None

Others present: Kristen Leahy, Zoning Administrator; Diane and Marcel Sholan; William Chidsey; Larry Elder and Joan Elder, Applicants; Janet Bellavance; and Ron and Norma Wiesen.

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

1. Easement Deed from Ronald and Norma Wiesen to Joan and Larry Eldred – 50 feet right of way conveyance.

Summary of Discussion

Chair John Mandeville began the hearing at 7:00 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 the applicants to present their Major Subdivision proposal.

Larry and Joan Eldred testified that they are seeking to develop a 2 lot subdivision with a 50 feet ROW to one lot. The 3.09 acre lot would be accessed by a 50' ROW which has been conveyed from Norma and Ronald Wiesen to the Eldreds (See Exhibit #1). The Eldreds initially identified a different portion of the property for subdivision, but discovered that wetlands and other natural resources would be impacted by development. This subdivision is the best use of the land without negatively affecting the natural resources.

The subdivision would be residential with a Single Family Dwelling proposed for the site.

The hearing ended at 7:20 pm. Helm Nottermann made the motion to enter deliberative session after the following hearings. Kole 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 feet) – all lots and proposed uses for the lots (Residential) will be in keeping with the stated purpose of the Rural Residential District. Lot #5A will be accessed by a ROW and does not have the 200 feet minimum frontage on a public road.

3.3 Access & Frontage Requirements – (needs permanent easement, right-of-way or fee simple ownership of at least 50 feet in width). Access is pre-existing ROW from Bunker Hill Road over Norma and Ronald Wiesen property. Conveyance of Lot #5A will have a deeded 50 foot right-of-way. (See Exhibit #1).

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 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. 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.

(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 Carroll Peters 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 envelope will be dictated by the water and sewer permits. 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 an access to Lot #5A.
- (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; N/A
- (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. N/A
- (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.**

N/A

Section 6.6 Transportation Facilities & Infrastructure

Access will be from Bunker Hill Road and West Hill 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 private wells. State permit has been received – WW-7-6029.

(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 private septic systems. State permit has been received – WW-7-6029.

(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 5-0 to approve the Eldred application as presented with the following conditions.

Conditions:

1. All necessary permits will be obtained prior to the conveyance of each lot.
2. 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 12/12/22


_____, acting clerk

Kristen Leahy

date 12/12/22

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.

EASEMENT DEED

(11/4/22)

NOW ALL BY THESE PRESENTS that we, Ronald T. Wiesen and Norma S. Wiesen, of Hardwick, County of Caledonia and State of Vermont, Grantors, in consideration of Ten Dollars and other valuable consideration, paid to my full satisfaction by Joan M. Eldred and Larry Eldred of Hardwick, County of Caledonia and State of Vermont, Grantees, by these presents do freely GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the said Grantees, Joan M. Eldred and Larry Eldred, Wife and Husband, as Tenants by the Entirety, and their heirs and assigns forever, a certain easement over our land in Hardwick, County of Caledonia and State of Vermont described as follows, viz:

Being a 50' wide right of way conveyed to herein Grantees, their heirs and assigns, for ingress and egress to Lot 5A owned by herein Grantees, consisting of 3.09± acres as depicted on the Survey dated August 26, 2022 by Carroll A. Peters entitled "TOTAL STATION SUBDIVISION SURVEY LARRY AND JOAN ELDRÉD PROPERTY HARDWICK VT" and runs from Bunker Hill Road over a portion of our existing driveway and on to Lot 5A as depicted on said Survey which is recorded in Slider , Map # of the Hardwick Land Records.

Lot 5A is part of the same land and premises conveyed to Joan M. Eldred and Larry Eldred by Warranty Deed of Joan M. Eldred, dated June 17, 2014 and recorded in Book 144, Pages 338-339 of the Hardwick Land Records.

The conveyed right of way runs over the land and premises conveyed to Ronald Wiesen and Norma S. Wiesen by Warranty Deed of Seymour Chalfin and Francoise M Chalfin dated August 13, 1991 and recorded in Book 86, Pages 303 of the Hardwick Land Records.

This conveyance is made subject to and with the benefit of any utility easements, spring rights, easements for ingress and egress and rights incident to each of the same as may appear more particularly of record, provided that this or the prior paragraph shall not reinstate any such encumbrance previously extinguished by the Marketable Record Title Act, Subchapter 7, Title 27, Vermont Statutes Annotated.

Reference is hereby made to the above mentioned deeds, to the references and descriptions contained therein, and to the Hardwick Land Records for a more particular description of the land and premises herein conveyed.

TO HAVE AND TO HOLD said granted premises with all the privileges and appurtenances thereof, to the Grantees, Joan M. Eldred and Larry Eldred, Wife and Husband, as Tenants by the Entirety, and their heirs and assigns, to their own use and behoof forever; and we, the said Grantors, for ourselves and our successors and assigns do covenant with the said Grantees and their heirs and assigns that until the ensembling of these presents we are the sole owners of the premises and have good right and title to convey the same in manner aforesaid, that they are FREE FROM ENCUMBRANCE, except as aforesaid, and we hereby engage to Warrant and Defend the same against all lawful claims whatever, except as aforesaid.

IN WITNESS WHEREOF we hereunto set our hands and seals this 3rd day of November, 2022.

Ronald T. Wiesen LS
Ronald T. Wiesen

Norma S. Wiesen LS
Norma S. Wiesen

STATE OF VERMONT))
CALEDONIA COUNTY))

At Hardwick, this 3rd day of November, 2022, Ronald T. Wiesen and Norma S. Wiesen personally appeared and they acknowledged this instrument by them subscribed and sealed to be their free act and deed.

Before me: *T. Christopher Greene*
NOTARY PUBLIC

Printed Name: T. Christopher Greene
Notary Public State of Vermont
Commission Expires: 1/31/2023
Commission #: 0000092

SEAL

