

Cornwall Development Review Board (DRB)

Hearing Minutes • Cornwall Town Hall

August 2, 2017 • 7:00—9:10pm

MEMBERS PRESENT: Matt Bonner, Barbara Greenwood, Joe Severy, Annie Wilson

ALTERNATES PRESENT: Gary Barnett, Alt., Cheryl Cesario, Alt., Shari Johnson Alt.

ALSO PRESENT: See attached Sign-in sheet

1. CALL TO ORDER: 7:00pm

2. QUORUM: Established.

3. AGENDA: After a request by Barbara to move the Deliberative Session to the end of the Agenda, Barbara MOVED / Shari SECONDED to approve the Agenda as amended. ***Motion passed*** (7 in favor, 0 opposed.)

4. MINUTES: July 5, 2017—Barbara MOVED / Joe SECONDED to approve the Minutes of July 5. ***Motion passed*** - (7 in favor, 0 opposed).

5. BRIGHTMAN WAIVER Hearing—7:10pm—Matt opened the hearing by reading aloud the hearing Warning as published in the Addison Independent on July 17.

- The DRB reviewed the application under the *Town of Cornwall Zoning Bylaws* (Bylaws), dated February 26, 2008.
- Board members officiating at the Hearing: Matt Bonner, Barbara Greenwood, Joe Severy, Annie Wilson
- Board members were queried as to any ex parte communications regarding the application. Shari and Barbara had made a site visit ten days prior to this Hearing, during which Adam Brightman showed them where the proposed addition would be built. Joe visited the site within the past few days, with no discussion with the Brightmans involving the application. Matt noted he and Adam had exchanged emails prior to the Hearing, but the application itself was not part of the content. These events were determined not to pose conflicts of interest nor any other reason for recusal.
- The DRB reviewed the application under the *Town of Cornwall Zoning Bylaws* (Bylaws), dated February 26, 2008. The Waiver request requires review under the following section(s) of the Bylaws:
 - *Article II, §260* of the *Town of Cornwall Zoning Bylaws* provides for a minimum front setback of 100'.
 - *Article III, §380 to §385* of the *Town of Cornwall Zoning Bylaws* provides requirements for applying for a Waiver
 - *Article IV §410* of the *Town of Cornwall Zoning Bylaws* provides regulations for non-conforming properties and uses.
- Persons in attendance for the Brightman Hearing were asked to identify themselves, sign the sign-in sheet, and were duly sworn in.
- The applicant seeks a set-back Waiver in order to seek a permit for construction of an addition on the NE corner of their existing dwelling. The subject property is a 5-acre parcel located at 1740 Delong Road in the Town of Cornwall
- Adam Ginsburg, architect, then stepped forward on behalf of the Brightmans to explain to the Board why the application should be approved and demonstrate how it met the requirements of §§380–385 of the Bylaws.

- The Board accepted the entire application as *Exhibit A*.
- A Plot Plan map was presented showing where the proposed addition would be constructed and its relation to the road. He explained why the particular placement had been selected:
- Applicants felt that it was necessary to retain a space between the addition and the connector portion leading to the barn in order to keep light and visual access to the back yard through the kitchen window. This required building the addition approximately 3' 4" into the set-back footage.
- This increases the non-conformity of the dwelling, as it was already in non-compliance with the front-yard set-back (being 55' rather than the required 100'). Ginsburg noted that the thick road-side growth should be sufficient to off-set the increased non-conformity.
- Adam Brightman explained that this layout best serves their goal of the safety and well-being of their children who will be using the back-yard for play.
- Alisa Breau noted that several layouts had been considered, but this one also had been selected as the most structurally stable

Board comments, questions:

- Matt noted that since one of the goals of zoning is to prevent or decrease non-conformity, the road-side growth had no bearing on the matter, the issue remains concerning the non-conformity of the proposed addition.
- Adam B—Moving the addition further South, removing the 3' 4" intrusion into the already too-short set-back from Parkhill Road, would increase the “tunnel” effect from the kitchen window by narrowing the gap between the addition and the connected barn, and would thus decrease the visibility of the back yard.
- Barbara questioned the actual usability of the view from the kitchen.
 - Adam G noted that they also did not want to lose any more light from the window than necessary (the kitchen has only this one window).
- Adam B explained that moving the footprint any further east would intrude on areas where the ground-water was increased. They did not wish to excavate in wet areas. Curtain and other drainage types have been advised but a spoon-drain or swale were deemed better choices. A swale would be too close to the east wall of the addition.
- Discussion ensued regarding the actual set-back of the proposed addition in light of the definition in the by-laws.
 - Several members of the Board commented that—given the angle of the road—it appeared that the corner of the proposed addition which is closest to the road may, in fact, be no closer to the road than the NW. Corner of the existing building.
 - Jim Duclos indicated that, when not totally parallel to a road, the set-back distance would be where the distance transects the portion of the building closest to the road.
 - A line drawn parallel to the road showed the NW corner of the existing building to be the point closest to the road, at a distance of approximately 55'.

Comments, questions from the public:

- Douglas Black—owner of neighboring property indicated support for the proposed plan as he felt the view lines from the kitchen were in the best interest of the health and safety of the children. He had no negative concerns.

Additional Board comments, questions:

- Matt introduced the Cornwall Conservation Committee Review Form as *Exhibit B*.

- **Matt brought the public portion of this, the final, Brightman Hearing to a close at 7:35, moving the Board into its Deliberative Session. A decision will be made within 45 days.**

6. ROBART WAIVER Hearing—

- Matt referred to the previously read Warning as it included the Warning for this hearing as well. The Warning was published in the *Addison Independent* on July 17, and was posted in three locations within the Town.
- The DRB reviewed the application under the *Town of Cornwall Zoning Bylaws* (Bylaws), dated February 26, 2008. The Waiver request requires review under the following section(s) of the Bylaws:
 - *Article II, §260* of the *Town of Cornwall Zoning Bylaws* provides for a minimum front setback of 100'.
 - *Article III, §380 to §385* of the *Town of Cornwall Zoning Bylaws* provides requirements for applying for a Waiver.
 - *Article IV §410* of the *Town of Cornwall Zoning Bylaws* provides regulations for non-conforming properties and uses.
- Board members officiating at the Hearing: Matt Bonner, Barbara Greenwood, Joe Severy, Annie Wilson
- Board members were queried as to any ex parte communications regarding the application. Shari and Barbara had made a site visit ten days prior to this Hearing, Joe visited the site within the past few days, no discussion was held involving the Robart application. Matt noted he has many dealings with SEC, by whom Jared Moats is employed. He does not feel that this will hinder his ability to maintain a fair and unbiased attitude in either the Hearing or subsequent Deliberations. These events were determined not to pose conflicts of interest nor any other reason for recusal of any involved.
- The only person in attendance for the Robart Hearing was Jared Moats, SEC, Inc., who signed the sign-in sheet, and was duly sworn in.
- The applicant seeks a set-back Waiver in order to do restoration work on the interior of an existing dwelling. The subject property is a 52-acre parcel located at 339 Park Hill Road in the Town of Cornwall,
- Jared Moats, on behalf of the Robarts, read aloud his letter (describing the proposed plan and how it met the requirements of §§380–385 of the bylaws.) to the Board.
 - The project involves restoration of an existing non-conforming house. The non-conformity lies in the front-yard road set-back which measures 78' rather than the required 100'.
 - The house is to remain a single-family residence, a by-right use in the Low Density Residential District in which it lies.
 - The restoration includes the addition of a porch thus increasing the building's footprint.
 - The intent of the application for a waiver is to allow continued use of the building without changing the character of the surrounding area, without imposing any additional physical impacts on the land, and to honor the historical structure's location relative to the surrounding farm and buildings.
- The Board accepted the application as Exhibit A, and the Plot Map as Exhibit A.1.

Board comments, questions: none

- Matt queried the Board about whether or not they felt they had sufficient information to render an immediate decision or should discuss further in a Deliberative session. All four Board members felt they could make a decision on this application immediately. The Board found:
 - The use is a permitted use in the LDR

- There will be no location changes, the dwelling's footprint will be increased by the addition of a deck.
- There will be no post-construction impacts or potential impacts on the surrounding neighbors.
- There will be no increase in the non-conformity of the building despite the increased footprint, as the set-backs will remain as they are.

Based upon these Findings, the Development Review Board GRANTS the Waiver Application from Jason Robarts, dated July 5, 2017.

The Board allows the front-yard set-back at 339 Park Hill Road, to remain at its current 78'. This ruling does not diminish the degree of non-conformity of the building, nor does it supersede any requirement placed on the property under §410 Non-Conformities.

The Development Review Board does not attach any conditions.

NOTES:

- 1. This decision is not final until approved, as part of the Minutes, at the next meeting of the DRB.**
- 2. The 30-day appeal period begins when the Decision is issued (i.e. mailed by certified mail) to the applicant**
- 3. No construction or use may begin until the 30-day Appeal Period has expired.**

Once issued, this decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the issuance of this decision, pursuant to 24 V.S.A. §4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

- **At 8:20, Matt brought the final Robarts Hearing to a close. The decision will be written as part of the Minutes of this Hearing, to be approved at the next DRB meeting along with the Minutes.**

Before opening the next item on the Agenda, Matt turned the Chair over to Barbara in order to recuse himself from the Board as he is the owner (through West Street Properties, LLC) of the property in question.

7. WEST STREET PROPERTIES Informal Discussion

- Barbara opened the Discussion by asking if there was anyone else who wished to make note of any conflict of interest in this discussion, or reason to recuse. Cheryl noted that she would also recuse herself on the grounds that she may become involved financially.
- Barbara appointed Gary to fill the vacant 4th seat on the Board.
- Matt reviewed the West Street Properties' background. He noted that he had originally come before the Planning Commission in 2015 seeking to create a 5-lot subdivision, with two lots served from one drive and three lots from a second drive. The subdivision was approved, and the plat filed. All in compliance with §242 (Notice Procedures) and §281 (Plat Recording).
- Recently, he has decided that he would like to add two additional drives so that each of the three lots currently served by one drive would have its own drive. There is already an approved curb-cut for one, and he would need to seek approval for a second curb-cut for the third drive.
- Matt's question is whether or not a Hearing will be required. He believes it will, but wishes the Board's opinion
- §282 of the Cornwall Subdivision Regulations mandate that no changes may be made to a final, approved, executed plat unless the [modified] plat is first submitted to the Board for approval of the modification(s).

- Discussion revolved around interpreting the relationships between original submissions, hearings, and re-submissions.
 - Jim Duclos asked if Matt anticipated engineering the drives as was done with the original drive (erosion mitigation). Matt indicated that one proposed drive was flat—and not an erosion threat—up to its intersection with the original drive (engineered from that point on). The second proposed drive was also fairly flat until it becomes “hillier” toward the top; engineering would be of benefit at that point.
 - Bethany Barry, Cornwall Conservation Committee, spoke to the concerns originally felt by the Conservation Committee, noting that any additional curb cuts on West Street could negatively impact wildlife.
 - Joe expressed the opinion that neighbors should be given the opportunity to weigh in.
 - Short discussion about the specific regulations and their application.
- Overall the Board agreed that a Hearing and attendant notices would be needed. Matt agreed and will consider what his next steps will be.
- Barbara thanked Gary for sitting in, and turned the Chair back over to Matt at 8:35.

8. DRB SUCCESSION: Discussion of New Vice-Chair and Regular Member Vacancy

- A short discussion about the role of the Vice-Chair, and options for selecting a new member to fill the vacant seat.
- The board agreed to recommend to the Selectboard that Gary be appointed to fill the vacancy.
- Joe nominated Barbara for the Vice-chairmanship, Shari seconded the nomination. Gary agreed to be on-call to assist Barbara when her workload was excessive. Barbara accepted and was voted in unanimously.
- Matt will take the Board’s recommendation to the SB.

9. OTHER BUSINESS—Matt brought up the possibility of providing some training. Board felt this to be an excellent suggestion, all feel the need to be more comfortable with the rules governing DRBs, decisions, and the entire process. Barbara gave Matt the contact information for a VLCT lawyer who has given excellent presentations on the Open Meeting Law. Matt will call.

10. AVAILABILITY FOR UPCOMING MEETING(S)—

- The next meeting will be on September 6. No one currently has plans to be away.

11. DELIBERATIVE SESSION—Brightman

- Draft decision to be sent to the DRB members officiating at this hearing for comment, changes, and finalizing within 45 days.

NEXT MEETING: September 6 at 7:00pm, Town Hall—all members present expect to be in attendance.

ADJOURNMENT: Joe MOVED / Matt SECONDED to adjourn the meeting at 9:10pm.. Motion passed (7 in favor, 0 opposed)

Respectfully Submitted,
Robin Conway, DRB Secretary

Matt Bonner, Chair, Cornwall Development Review Board

Barbara Greenwood, Vice-Chair, Cornwall Development Review Board