

Approved _____, 2017

Cornwall Development Review Board (DRB)

Hearing Minutes • Cornwall Town Hall

November 1, 2017 • 7:00—9:28pm

MEMBERS PRESENT: Barbara Greenwood, Joe Severy, Gary Barnett [by phone];**ALTERNATES PRESENT:** Shari Johnson Alt., [Cheryl Cesario Alt.—recused]**ALSO PRESENT:** Matt Bonner, Benj Deppman, Mary Dodge, Jim Duclos, Bethany Menkart, Cheryl Cesario, Magna Dodge, Holmes Jacobs, Andrew Marks, Katharine Branch, Mike Sunderland**1. CALL TO ORDER:** 7:00pm. Barbara, as Vice-Chair, opened the meeting.**2. QUORUM:** Established.**3. AGENDA:** Joe MOVED / Shari SECONDED to approve the Agenda. *Motion passed* (4 in favor, 0 opposed, 1 recused.)**4 MINUTES: October 4, 2017**—Shari MOVED/Gary SECONDED to approve the October 4 Minutes. *Motion passed* (4 in favor, 0 opposed, 1 recused).**5. West Street Properties HEARING Resumption—7:10pm**—Barbara resumed the hearing by noting that Board Alternate, Cheryl Cesario, had recused herself, and Matt Bonner had resigned from the DRB and was present only as the applicant.. Shari Johnson, Board Alternate, resumed her appointed role as a Board member for this hearing.

Barbara then explained the procedure for hearing the testimonies regarding the application before the Board, and assured all attending that the Hearing would be conducted in a fair and impartial manner.

Ex parte Communications, Conflicts of Interest—Barbara requested disclosure of any ex parte communications or conflicts of interest on the part of DRB members. On her part, Barbara disclosed she had met with Matt and the Cornwall Road Foreman, Mike Sunderland, at the location of the proposed new drive on October 25 to assess the safety considerations noted at the previous hearing and to note what clearing at the access onto West Street might be necessary.Barbara then reviewed the history of the proceedings to date. The application before the Board is for approval to modify a recorded Plat by adding a proposed new driveway. The approved Plat contemplated lots 3, 4, and 5 sharing a driveway. The proposed new drive will serve lots 4 and 5. This would result in an additional 300' of driveway. The original 5-lot subdivision was approved by the CPC in 2015. *Section 282* of the subdivision regulations require any changes to a filed subdivision plat to come before the DRB. The initial warned hearing was held September 6 and was adjourned to October 4 at 7:00pm at the Town Hall. At the initial hearing *Exhibits A–I* were accepted into evidence and marked. At the second hearing, the Board accepted into evidence additional documents marked as *Exhibits J–M* plus O, and assigned placeholder designations for documents requested (*Exhibits M, P, Q*).**Interested Persons**—Barbara then read the statutory definition of “Interested Person,” inviting any who claimed that status to be sure they signed the sign-in sheet. Matt and those claiming Interested Person status were then duly sworn in. Those wishing to give testimony were advised that only those who had not testified already, or who had new, pertinent comments would be heard, with a time limit for each person of three minutes.

- Board members officiating at the Hearing: Gary Barnett [by phone], Barbara Greenwood, Joe Severy, Shari Johnson
- The DRB reviewed the application under the *Town of Cornwall Subdivision Regulations*, dated February 26, 2008.

- *Article II, §282* of the *Regulations* requires any changes/amendments to a filed subdivision Plat be brought before the DRB.
- *Article II, §242* of the *Regulations* provides requirements for warning and holding a hearing.

• ***Exhibits recorded:***

1. *Exhibit A*—the current application dated August 10, 2017
2. *Exhibit B*—project narrative
3. *Exhibit C*—partial copy of 2015 CPC subdivision approval
4. *Exhibit D*—road access permit, dated May 11, 2017
5. *Exhibit E*—color-coded map showing layout of old vs proposed drive
6. *Exhibit F*—statement of conformance with Town Plan
7. *Exhibit G*—list of original adjoining property owners
8. *Exhibit H*—copies of maps
9. *Exhibit I*—updated list of property abutters with proof of notification mailing
10. *Exhibit J*—email correspondence between Matt Bonner and Barbara Greenwood, dated September 15, 2017, and October 4, 2017
11. *Exhibit K*—full copy of the March 6, 2015, CPC decision
12. *Exhibit L*—copy of warranty deed to Anna Rebecca Kinkead, owner of lot 3.
13. *Exhibit M*—Plat dated May 14, 2014, revised March 20, 2015, signed by Holly Noordsy and Jim Duclos (CPC), April 22, 2015
14. **Exhibit N*—[held for excerpts from correspondence between Matt Bonner and potential purchaser of lots 4 and 5 *see II B 1, below*]
15. ** *Exhibit O*—[held for letter from Kinkead [*see II B 2 below*]]
16. *Exhibit P*—Cornwall Conservation Committee recommendations
17. ** *Exhibit Q*—[held for letter from Fire Chief]
18. **Exhibit R*—Photo taken October 25, 2017 of trees at entrance of proposed drive onto West Street
19. * *Exhibit S*—Copy of *Cornwall Road Access Policy*, adopted April 2, 2012 by the Selectboard
20. * *Exhibit T*—Copy of the State's standards and guidance for roads and driveways (include *Standard B-71*)
21. * *Exhibit U*—Revised site map showing BLAs
22. * *Exhibit V*—Revised site map showing parcels boundaries after the boundary line adjustments are made.
23. * *Exhibit W*—Revised plan (2 pages) depicting the shared drive as it crosses lots 4 and 5, on page 2.

* marks new exhibits at this Hearing

** marks exhibit # held for document to be received

Testimony

I. Cornwall Road Foreman—Mike Sunderland was invited to the table to discuss his findings regarding the curb-cut for the proposed new drive. He noted that a couple of trees on the north side of the driveway at the access point would be removed, as well as—possibly—some brush that the crew would cut when they did other work on the road. He noted that in his opinion the driveway had no safety issues, that his concerns were more that the drive be properly constructed.

- Barbara produced a photo she had taken of the drive/West Street access area and noted that 4 trees had been marked as A, B, C, and D. She asked if Mike would confirm that trees A and B were the ones to be removed. Mike conformed this. He was then asked to identify trees C and D, which he did, noting that they were dead and would also be taken down. The photo was accepted into evidence and marked as *Exhibit R*.

- Mike was then requested to identify two documents. The document he identified as the *Cornwall Road Access Policy*—approved by the Selectboard April 2, 2012—was accepted into evidence and marked as *Exhibit S*. Mike then identified the second document as the State's guidance standards for roads and drives (includes VAOT Standard B-71 for driveways). This too was accepted into evidence and marked as *Exhibit T*.

II. Applicant

- A. Matt noted that the potential purchaser of lots 4 and 5 had dropped out, and that talks with the Rheumes and Cesarios had resumed, with one BLA under contract and the other pending.
- B. Related to the above, Matt presented 8 copies of two new maps, one indicating the BLAs as originally presented on the CPC approved Plat and the other showing the new bounds once the BLAs are confirmed. These were accepted into evidence and marked as *Exhibits U* and *V* respectively. Matt noted that the BLAs will be done regardless of the outcome of this driveway application. He has been in touch with the ZA, Jim Duclos, already. Jim confirmed.
- C. Matt commented that of the 67 curb-cuts already on West Street, it is his opinion that this proposed drive will be one of the safest on the street.
- D. Matt was asked to confirm that the depiction on, page 2 of the revised plan, of the proposed shared drive across lots 4 and 5 was accurate. He did so and the plan was accepted into evidence as *Exhibit W*, with a note that the depicted drive is on page 2.

III. Housekeeping

- The letter excerpt from the potential purchaser regarding the retention of open agriculture space was confirmed as such by Matt (though no longer pertinent) and was accepted by the Board as *Exhibit N*.
- The letter from Kinkead has not yet been received. Matt again indicated he would approach her. Barbara noted she had had considerable notice of these hearings and that she appears to have few concerns or interest in how the proceeding might affect her. The process will not be held up waiting for evidence from her.
- Matt was hoping to wait until the BLAs were settled before attempting to acquire the Fire Chief's letter of approval.
- *Exhibit U*—Matt confirmed that the proposed shared drive ROW and the buried utility line both lie outside the Rheume boundary line.

IV. DRB Questions/Comments—None

V. Public Questions/Comments

- A. 1. Bethany —Matt was supposed to obtain a letter from Rebecca Kinkead stating that a shared driveway was acceptable. Why was this not done? Barbara—to clarify: that was not exactly what the requested letter was to indicate. The letter was to make it clear that whatever the outcome, she understands the implication(s) for her. The question being—is she content that Matt and Benj are bringing this application.
 2. Is the shared drive noted in the deed to Kinkead? Barbara—this was covered in the previous hearings. Her deed does not mention a shared driveway. Bethany—So Kinkead thinks she has her own drive even though that is not what is shown on the mylar and one of the CPC's conditions has not been met.
 3. There have been many changes made to this plan between 2014 and now, and §282 says that any changes to an approved Plat have to go before the Board. Now another change is proposed, a new driveway. This means more traffic, it is not safe, the curb-cut—which she passes nearly every day—is not on a flat area it is on the crest of a hill. If the DRB approves this change, she fears a dangerous precedent will be set and that in the future, anyone, at any time, can make changes to a previously approved permit.
- B. 1. Holmes Jacobs—Owner of Lot 2, just to the north. He understands that the curb-cut meets all pertinent local and State regulations. He views the drive as being safe.

- C. 1. Matt—Refuted the notion of “many changes,” there is, in fact, only this one. As far as compliance with §282, this is the hearing for the only change sought.
- D. 1. Benj—Changes to previously approved permits of all sorts are not at all uncommon. Circumstances change, people change their minds; new construction gets added on, driveways change, buildings are removed, uses change. None set particular precedents. People are not to be penalized for changing plans that is why regulations provide a mechanism for making changes.

VI. Further DRB Questions/Comments—

- Gary—lacking the 2 letters (Fire Chief and Kinkead) , is the hearing to be closed without them?
- Barbara—The Fire Chief letter can be set as a condition, and the Kinkead letter, in her opinion, is not critical.
- All DRB members indicated they are ready to close the hearing. Joe MOVED, Shari SECONDED, that the West Street Properties LLC Hearing be closed. ***Motion passed*** (4 affirmative, 0 opposed)

VII. Hearing Closed—Barbara declared the Hearing closed at 7:44 pm. The Board immediately entered Deliberative Session and will make its decision, notifying as required, within 45 days.

6. DRB Applicants—At the close of the Hearing, Cheryl rejoined the Board as an Alternate. Gary remained on the phone. Andrea was called to speak to the Board via phone as well.

- The Board conducted introductions and interviews with three prospective new members, Andrea Landsberg, Magna Dodge, and Randy LaFramboise. There are currently 2 vacancies, with a third expected to open up in March.
- At the conclusion of the interviews, the Board discussed what they had been told and how they wished to proceed. It was decided to recommend that the Selectboard appoint Magna Dodge to the DRB as a regular member and Randy LaFramboise as an Alternate.

7. Other Business

- ***Application Submissions*** —There have been issues related to the number of days prior to a hearing by which applications are required to be submitted. After speaking with Sue, Barbara expressed her feeling, and what she had recommended to Sue, that 25 days would work best. The Board had no disagreements with this change. It will allow all to have more time to review applications.

8. Deliberative Session

- The Board embarked on a short deliberative session.

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

ADJOURNMENT—Shari MOVED, Joe SECONDED, to adjourn at 8:55PM. ***Motion passed*** (5 in favor, 0 opposed)

Respectfully Submitted,
Robin Conway, DRB Secretary

Barbara Greenwood, Vice-Chair, Cornwall Development Review Board