Approved October 2, 2019

Cornwall Development Review Board *(DRB)*
MINUTES • September 4, 2019 • 7:00–9:45pm
Cornwall Town Hall

MEMBERS PRESENT: **Barbara Greenwood, Joe Severy, Gary Barnett, Magna Dodge, David Anderson, Shari Johnson**

ALTERNATES PRESENT: Cheryl Cesario (recused)

ATTENDEES: **Churchill Franklin, Matt Bonner (applicants) and Attorney Benj Deppman; 16 other persons**

1. CALL TO ORDER: 7:05pm**.** Barbara opened the meeting.

2. QUORUM*:* Established.

3. AGENDA: Magna MOVED/David SECONDED, to approve the Agenda as presented. ***Motion passed***

4. BEAVER BROOK PROPERTIES, LLC—PRELIMINARY SUBDIVISION HEARING

• **Barbara** began with introductions, an explanation of the purpose of the Hearing (to continue to hear a preliminary subdivision application proposing to subdivide the property on the corner of North Bingham Street and Route 74, owned by Beaver Brook Properties LLC).

Barbara then announced that the Board will conduct a site visit on Monday, September 9, at 5 pm at the property. The purpose of the Board's site visit is for the applicants to walk the property with the Board, to show the Board the proposed location of the various lots, the dwelling units, and other infrastructure. The visit is open to the public, but there will be no testimony or discussion of the substance or the merits of the application. Accordingly, during the site visit, no questions will be permitted.

The first order of business was to mark the proof of service for the notification of this hearing and the site-visit as *Exhibit S.*

The Hearing was then opened with the reading of the Warning, as published in the *Addison Independent* on August 19, 2019. The tear-sheet for the warning of the Hearing and the warning of the site-visit was then marked as *Exhibit T.*

Barbara then explained the procedures to be followed this evening, following Board questions each person wishing to speak would have three (3) minutes, and that written comments would be welcomed. She then asked David to administer the oath to those present who planned to participate. DRB members were requested to come forth with any ex parté communications or conflicts of interest. Cheryl indicated that she is recused due to a potential conflict of interest. Barbara and Magna had visited the property on August 29, prior to which time Barbara had spoken with Matt about marking sites and locations so the Board, during the site-visit, could clearly identify where things were planned to be. Barbara said that an issue had come up about whether the applicants would seek approval for specific house locations, or for bigger building envelopes, which issue will be addressed at the hearing this evening. David and Shari indicated they had walked the property September 3. There were no ex parté communications. Barbara then reminded those present, after reading aloud the Interested Person definition from 24 VSA 4465(b), that anyone desiring to claim that status should include their contact information on the sign-in sheet.

The following items, received since the first hearing, were accepted into evidence and marked as exhibits:

- Confirmed that at the February meeting these documents were marked as shown:
  - *Exhibit Q,* DRB requests for information and materials dated January 17, 2019
  - *Exhibit R*, comments from William and Janet Warren; dated January 31, 2019
- *Exhibit U*—Barbara's email to the applicants forwarding excerpts from a pamphlet provided by Sue Johnson, called "*The Historic Architecture of Addison County,*" addressing historic structures located on this property and listed in the state register, including the house, the church, and the barns and sheds; dated February 27, 2019
- *Exhibit V*—Email from Beth Karnes Keefe attaching the form nominating the Walker Bingham House for listing in the State Register; dated March 7, 2019
- *Exhibit W*—Comments from Elizabeth Napier, Mary Jane Broughton, Elizabeth Karnes, Keefe, Thomas F. Keefe, Adam Pelkey, Sarah Pelkey, and Allison Quinttus; dated March 11, 2019

Materials filed May 9, 2019:

- *Exhibit X*—West Cornwall Presentation; dated June 3, 2019
- *Exhibit Y*—Steven Revell revised Hydrogeology report; dated April 6, 2019
- *Exhibit Z*—Traffic Evaluation Report, prepared by Green Mountain Engineering; May 7, 2019
- *Exhibit AA*— Draft HOA Declaration (replaced by *Exhibit NN*)
- *Exhibit BB*—Letter from Amey Ryan at IPJ Real Estate commenting on the Cornwall real estate market; dated April 27, 2019
- *Exhibit CC*—Article by Halsten Willis entitled *Downsizing the American Dream: the new trend toward 'missing middle housing*'; Feb 14 (no year specified)
- *Exhibit* DD—Draft survey prepared by Ronald L Larose, revised May 8,2019
- *Exhibit EE*—Drawing #1—Cover sheet prepared by Green Mountain Engineering; dated May 2019
- *Exhibit FF*—Drawing #2—Existing Conditions Site Plan; dated May 2019
- *Exhibit GG*—Drawing #3—Proposed Conditions Site Plan; dated May 2019

Materials filed June 11, 2019:

- *Exhibit HH*—Barbara's email to applicants identifying missing materials; dated May 17, 2019
- *Exhibit II*—Cover letter from Benj Deppman; dated June 5, 2019
- *Exhibit JJ*—2019 Annual Report for Beaver Brook Properties LLC filed with the Vermont Secretary of State
- *Exhibit KK*—Letter from Jamie Simpson at Green Mountain Engineering re wetland considerations; dated June 4, 2019
- *Exhibit LL*—Barbara's email to Benj Deppman; dated June 18, 2019

New materials filed August 6, 2019:

- *Exhibit MM*—Cover letter from Benj Deppman; dated August 5, 2019
- *Exhibit NN*—Draft By-laws of West Cornwall Village Homeowners Association, Inc.(replaces *Exhibit AA*)
- *Exhibit OO*—Draft Declaration of Covenants, Restrictions and Easements of West Cornwall Village
- *Exhibit PP*—Draft Warranty Deed
- *Exhibit QQ*—Barbara's email to Benj Deppman; dated August 8, 2019
- *Exhibit RR*—Email from Matt Bonner forwarding communications from Zapata Courage, Vermont State Wetlands Ecologist; dated August 27, 2019
- *Exhibit SS*—Email from Mary Dodge, Chair of the Cornwall Conservation Committee, with the CCC's follow up questions on wetlands; dated August 30, 2019
- *Exhibit TT*—Comments from Bethany Hill; dated August 25, 2019
- *Exhibit UU*—Barbara's email to the applicants; dated January 17, 2019
- *Exhibit VV*—Email from Jamie Simpson to Matt Bonner; dated September 3,2019

- *Exhibit WW*—Letter from Elizabeth Napier et al; dated September 4, 2019

- **Applicant Testimony—Matt Bonner** gave an overall summarization of the project focusing on changes since the last presentation:
  - About ¾ of the property is or will be under conservation easements
  - Lot 10 will remain undeveloped
  - 8 new structures to be added, 7 around the driveway off North Bingham
  - All lots will be at least 1 acre
  - Lot C3—septic
  - Lot C2—under a no-build easement
  - Lot 5—adjacent to the wetlands
  - Lot 9—a stand-alone lot and not part of the Association
  - The "Common" area is intended to be the nucleus of the Association, a center for activities for those who live there
  - Clustering of homes in the nucleus area is a way to save the working-landscape
  - ***Water issues***—Revell's revised report reiterates that there will be no water problems
  - ***Traffic***—The updated traffic report shows that in 5 years of VTRANS high-crash listings for the area there were only two (2) accidents, with no personal injuries, despite traffic of over 3 million cars. The anticipated increase in traffic from the project amounts to 4%.
  - ***Schedule—***We are in the preliminary subdivision proceedings, to be followed by the Final Hearing. Then the Act 250 proceedings begin with an expected time to final determination of 60–90 days.
  - ***Wetland discrepancies***—When Zapata's drawings are superimposed on the project drawings, they match very well. Zapata had indicated that she would need to return in order to obtain sufficient information to allow her to make a definitive determination as to the Class II or Class III status. Beaver Brook has decided to treat the wetlands as if they are Class II, with the larger buffer areas. The southern edge of the wetlands is defined.
  - ***Septic***—on Lot C3
  - ***Historic Structures***—All structures on the property are considered to be historic and will be treated as such.

- **Board Questions/Comments**
  - **Shari**—*Has Zapata returned for a second visit?* **Matt:** No. The wetlands will be treated as being Class II.
  - **Barbara**—*Zapata indicated that the wetlands could be larger than shown, extending into Lot 9. What is the effect on Lot 9?* **Matt**—The house-site is on the north end of Lot 9 and the wetland area would be to the south, so there should be no effect on the house location.

    The email from Jamie Simpson to Matt Bonner, dated September 3, 2019, regarding Zapata Courage's Wetlands Report, and the report, were accepted into evidence and marked *Exhibit VV.*
  - **Mary Dodge**—*Concerned about the possible vernal pool location on the southern portion of Lot 9.* **Barbara**—Requested that Matt ask Zapata to make a return visit and finalize the mapping of the wetlands. **Matt** agreed.
  - **David**—*Was there a review of depths of neighboring wells? He did not see it.* **Matt:** Believes Revell did look into that, but he will ask if the State's database was checked.
  - **David**—*In the report, Revell states in one place (section 6) that there is "a low probability" of interference, but in another (section 7) he says "no possibility." There is a distinct difference in these two statements, why?* **Matt** will ask Revell about that

- **Barbara—***The Lot 1 well is actually to be on Lot 2?* **Matt:** Yes, Lot 1 will have an easement for the well on Lot 2.
- **Barbara—***Advised the applicants that the DRB is considering hiring an independent well/water expert and will vote later tonight; the hope would be to have a report before the next hearing.*
    - *Also, Revell recommended homes have water softeners that are "demand-initiated regeneration units"—how will this be implemented?* **Benj:** State waste water permits typically cover the majority of these types of issues. He will propose draft language for consideration.
- **Magna—***The plan at this time is just to subdivide and selloff the lots? Beaver Brook will construct the lot improvements prior to selling them (water supplies, septic systems, shared drives and drive stubs, power, etc)?* **Matt:** Correct. All the infrastructure will be in place when the lots are sold.
    - *What will the improvement costs be?* **Matt**: $150,000 to $200,000
    - *It would be appreciated if the applicants would review the Declarations and the HOA and make sure they are in sync.*
- **Barbara—***Would like to see "Adirondack," as a style , removed from the HOA document. What is the style approval process?* **Benj**: The Association's Architectural Review Board is the first step.
    - *If the board consists of owners, and only 1 or 2 lots have been sold, the board would be very small?* **Benj**: Will review.
- **Barbara—***There is no mention of the roofing/siding materials as were originally indicated.* **Benj**: Materials were felt to be covered by roofing and siding materials being commensurate with materials used on neighboring structures. Will revise the document to specify roofing and siding materials, with wiggle room.
- **Magna—***How many members would the Architectural Review Board have, and who would they be?*
    - W*hat size home would a $400,000–$450,000 house be?* **Matt, Benj**: The market will decide at the time of construction**.**
- **Barbara—***What is being considered in terms of the survey to be presented for approval: "house sites" or "building envelopes"? Board understood some of the houses were placed where they are shown in Exhibit GG very carefully (e.g. in Lot 3 to respond to Bethany Hill's concerns regarding her views)?* **Matt:** Yes, the houses are placed in specific locations for a reason. Beaver Brook is looking at building envelopes. Generally the envelopes encompass most of the available lot space after subtracting set-backs. For this project, however, they will be considering shrinking the envelopes to site the homes within specific areas of the lots.
    - *The building envelopes appear to have differing set-backs from those required by the Regulations section 501?* **Matt**: Will check the Regulations.
    - *Where will the Lot 9 drive be located?* **Matt:** Within a 200-foot strip, 100' on either side, or where is shown on *Exhibit GG*. Best location may be near the tree-line.
    - *Lots 7 and 8 do not appear to have proper frontages?* **Matt**: Suggests checking with Jim on requirements for interior lots.
- **David—***The house on Lot 3 is noted as having 1 bedroom, is this a typo?* **Matt***:* Yes. Should be 3 bedrooms.

- **Barbara—***Will home-owner uses on the 2 lots with the stormwater pool be restricted because of it?* **Benj**: The required State Stormwater Permit will include any restrictions, most likely the buffers will amount to restrictions.
    - *Why does the LaRose survey show wetland and buffer delineations as being by Eric Blair?* **Matt**: Those will be corrected, Eric is not a wetlands specialist.

• Public Questions/Comments

- **Beth Keefe—***Regarding speed limit through the village: if the area is a village, the speed limit should not be 50mph. This was brought to the Selectboard and Regional Planning a year ago and is working its way through the process.*
- **Sarah Pelkey**: *She is uncomfortable with the provisions related to design/architect review. She feels they are overly prescriptive and the design goals can be attained in a less prescriptive way.*
    - ***Traffic**—What qualifications does Green Mountain Engineering have for evaluating traffic flow in regard to safety? Were area businesses and deliveries included (Sunrise Orchards, Tata Harper, FedEx, UPS,...). The proposed project could add 35 people to those using the road for on-road recreation. There is no near-by off-road recreation available for them.*
- **Bill Warren—***Regarding Revell's water analysis: he would like to know the flows of the existing wells. Are existing low- and high-flow wells located near the new development?*
- **Allison Quinttus—***What is the conduit currently lying across a section of the property? The development plan was changed in response to Bethany Hill's view issues, but what about provisions for others' loss of view?* **Matt***:* The conduit is temporary, for the phone lines.
- **Elizabeth Napier—***Lots C2, 2, 3, 6, fail to conform to district depth and frontage dimensions.*
    - *Would like to see Lot C2 and Lot 2 combined to create a less crowded subdivision. This is especially important for Lot 2 given its proximity to the road and ridge-line.*
    - *Regulations call for adherence to existing neighborhood character. The developers propose superimposing a modern suburban style subdivision on an historic community.*
    - *Missing info in the HOA: who handles infractions, what if owner opts out paying?*
    - *Objects to the on-going incomplete status of the application. Section 2.41 of the Subdivision Regulations state the complete application must be submitted within 6 months of the major/minor classification. As the classification was determined in June, 2018, the applicants' complete application is now 9 months overdue.*

  Elizabeth's written comments were submitted to the Board which accepted them into evidence and marked as *Exhibit WW.*
- **Katherine Branch—***Sections 5.0 and 5.1 in the HOA indicate that, with approval of the Association and in compliance with Town regulations, the existing historic structures, while indicated for storage, could be used for any other purpose. Given the feelings against event venues in rural areas, she requests DRB address the use of the church and/or other buildings being used for such a purpose and would like to see this in the decision.*
    - *Have the applicants consulted with any organization such as Habitat for Humanity regarding affordable housing? Do they have any plans for same?*
- **Mary Jane Broughton—**Has water issues *on South Bingham; their well failed.*

- **Bethany Hill—***Regarding Revell's report that there is "plenty of water"—where is it? Her well ran dry. Lives on North Bingham, right across from the project..*
- **Bethany Menkart—***Would like an explanation of a statement in the by-laws saying that the owners can change the project .*
- **Cheryl Cesario—***Just wanted others to be aware of how important the large parcel subject to the conservation easement is to her business and how difficult it is becoming to find such pieces. Connectivity is important.*
- **Barbara—**Requested that applicants supply the DRB with a list of all lots with dimensions (to include: frontages, boundaries, set-backs, size of lot, etc).

- **Applicant Responses/Comments**—Nothing further.

- **Additional Board Questions**
  - **Shari—***Will the first buyer /owner assume full responsibilities until other owners come in?* **Matt**: No. Beaver Brook will retain ownership/owner status on unsold lots until all lots are sold.
  - **Barbara—***Pointed out church setback as shown is insufficient. The original waiver requested was for the lot to be less than 1 acre, but that was withdrawn.* **Benj**: The plan is for all lots to meet classic setbacks. He agrees the set back looks insufficient, will have it redrawn correctly.
    - ***Lot 10—****What provision will be made to protect it from development?* **Benj**: Language to protect Lot 10 will be in the Agreement.
    - ***Conserved parcel—****What is the anticipated role of the Board in conserving Lot 11 (the parcel to be conveyed to VLT)? Does it require the Board's approval?* **Benj***:* No. The 123 acre parcel for VLT conservation can be an easement having no lot impact. He will propose language protecting the parcel for the Board's consideration.
    - *Will the Board receive 1 drawing that shows everything?* **Matt***:* Yes.

- **Wrap for the evening—**There being no further questions or comments at this time from the DRB or public, Barbara adjourned the Hearing **to resume on November 6 at 7:00PM at the Cornwall Town Hall.**

5. MINUTES:

- ***July 9, 2019—***Joe MOVED/Magna SECONDED to approve the July 9 Minutes. **Motion passed.**
- ***August 1, 2019—***Magna MOVED/Shari SECONDED to approve the August 1 Minutes. **Motion passed.**

6. Correspondence—

Letter from Stan and Kathy Grzyb objecting to establishment of event venues in rural areas.

7. Upcoming Meetings

- ***October 2—***Magna, Gary, and Cheryl unable to attend. Quorum expected.
- ***November 6—***All should be available.

8. Other Business

- Barbara requested that all members check email every day or every other day at a minimum.

9. Deliberative Session

- ***Hydrogeologist—***After a short discussion, Shari MOVED/Magna SECONDED, that the DRB hire Miles Waite, Senior Hydrogeologist at Waite Heindel in Burlington, to advise the Board on the Beaver Brook project parcel. ***Motion passed***.

NEXT MEETING: October 2 at 7:00 pm, Cornwall Town Hall

ADJOURNMENT—Gary MOVED/Magna SECONDED, to adjourn at 9:45PM. ***Motion passed***

Respectfully Submitted,
Robin Conway, DRB Secretary