

**TOWN OF CORNWALL**  
2629 Route 30, Cornwall, VT 05753

**Development Review Board**  
**FINDINGS AND DECISION**

**In re: 5 Trillium Partners, LLC**

**Hearing Application No.: drb#21-002**

**I. INTRODUCTION AND PROCEDURAL HISTORY:**

1. This proceeding involves review under the *Town of Cornwall Subdivision Regulations* of an Application for minor subdivision submitted by Adam L. Powers, Esq., seeking approval of a previously approved Final Plat for property owned by 5 Trillium Partners, LLC. Because the Final Plat was not recorded within 180 days after approval as required by *Cornwall Subdivision Regulations* §280, the DRB's previous approval expired.
2. The Application and previously approved and recorded plat were received by the Development Review Board (DRB) on April 2, 2021. A copy of the Application and Plat are available at the Cornwall Town Clerk's Office.
3. On April 8, 2021, notice of a public hearing on May 5, 2021, for review of the Application was published in the *Addison Independent*.
4. Notice of a public hearing for review of the Application was posted at the following places:
  - a. The Town Clerk's Office.
  - b. The Town Garage
  - c. The Town website
  - d. The property in question
5. The Application was considered by the DRB at a public hearing held virtually on May 5, 2021. The hearing was closed May 5, 2021. The DRB reviewed the Application under the *Town of Cornwall Subdivision Regulations*, dated February 26, 2008.
6. Present at the hearing(s) were the following members of the DRB:
  - Barbara Greenwood (DRB Chair)
  - David Anderson (Vice-Chair)
  - Shari Johnson
  - Magna Dodge
  - Ross Gregory
7. At the outset of the hearing, the DRB Chair read aloud the Hearing Notice as published. The Chair then read aloud the statutory definition of "interested person," and afforded those attendees wishing to claim status as an interested person an opportunity under *24 V.S.A. §4465(b)* to sign in and to provide a USPS mailing address at which to receive materials. A record of the name and address of persons claiming status as an interested person and a record of their participation at the hearing is available at the Town Clerk's Office. Those persons wishing to participate were duly sworn in.

## II. EVIDENCE AND RELEVANT TESTIMONIES:

During the hearing the following Exhibits were submitted to the DRB, accepted into evidence, and marked as shown:

- **Exhibit 1**—Warning (which was posted in a timely fashion at the Town Hall and Town Garage, on the Town website, and at the property);
- **Exhibit 2**—Warning as published in the *Addison Independent*, April 8, 2021;
- **Exhibit 3**—Proof of service—Letter from Adam Powers, dated April 29, 2021, with certified mail receipts for abutters dated April 12 and 16, 2021;
- **Exhibit 4**—Letter dated April 2, 2021 from Adam Powers to the DRB, forwarding the application and providing background;
- **Exhibit 5**—Application as filed on April 2, 2021, consisting of:
  - **Ex 5A**—2021 application form;
  - **Ex 5B**—application filed in 2017 and related materials [application form, September 22, 2016 letter from Adam Powers to the DRB, sketch of proposed subdivision, March 16, 2016 letter from Lincoln Applied Geology re: soil evaluation, attaching soil profile descriptions, warning from 2017, preliminary survey, certified mail receipts for service on abutters, Wastewater System and Potable Water Permit WW-9-2440];
  - **Ex 5C**—final minutes of the March 1, 2017 meeting of the DRB;
  - **Ex 5D**—March 28, 2017 email from the Town Road Foreman to Adam Powers re: curb cut;
  - **Ex 5E**—March 21, 2021, email from the Town Attorney Jim Carroll to Adam Powers re requirement for a warned hearing;
  - **Ex 5F**—the Applicant’s proposed verbal approval for the DRB’s consideration;
  - **Ex 5G**—list of current record owners of adjacent parcels;
  - **Ex 5H**—May 4, 2017 survey plat of the Proposed Subdivision, Portion of Lands of 5 Trillium Partners, LLC, signed by Timothy L. Short of Short Surveying, Inc., recorded as Map #285;
- **Exhibit 6**—Site development plan showing the proposed subdivision with water and wastewater systems, WW-9-2440 (printed from the website of the Vermont Department of Environmental Conservation);
- **Exhibit 7**—Cornwall Conservation Commission’s review of application, dated April 17, 2021;
- **Exhibit 8**—Wastewater Plan as revised in 2018;
- **Exhibit 9**—Explanatory email, dated May 3, 2021, from Adam Powers regarding the 2018 Wastewater Plan;
- **Exhibit 10**—Email exchange, April 30, 2021, between Magna Dodge and Road Foreman Mike Sunderland related to the curb cut on Cider Mill Road.

These exhibits are available at the Town Clerk’s Office. Also at the Town Office are the Hearing Minutes with details of the full testimonies heard (Ref: *DRB Minutes May 5, 2021*). Only those testimonies relevant to the specific subject of the application before the DRB are shown below:

1. Adam explained that this is the same project that had been before the Board in 2017. The decision contained several conditions, among which were the following, all have been complied with:
  - The *mylar*: revise to show the setbacks for each lot. Done—dated May 4, 2017

- Confirmation of the **curb cut approval** by the Road Foreman. Received
- **Wastewater Approval:** Received.

**Boundary Plan:** Adam noted that the Wastewater Boundary Plan was amended in 2018 (see Exhibit 8) to match the survey plat. Well and septic locations were the same on both the boundary plan and the survey. However, the plan's boundaries needed to match the plat's boundaries.

**Revell emails:** Adam referred to correspondence with Jeremy Revell of Lincoln Applied Geology regarding the boundaries and whether the State would require a boundary line adjustment permit (See Exhibit 9). Revell stated that if there was no change greater than 2% in the sizes of the involved lots, the adjustment was exempt.

2. **Adam:** There have been no changes to the existing mylar, but he will have a new mylar printed with a DRB signature stamp citing the Board's decision and date of its issuance.
3. **Magna:** Cited wording recommended by Town Attorney to be added as a reference note to the new mylar and would send the wording to Adam Powers.
4. **Magna:** In an email exchange (Exhibit 10), asked the Cornwall Road Foreman, Mike Sunderland, if there had been any replacement of the curb cut culvert or if any was planned. This was in reference to a condition in the 2017 Board decision, indicating that if the curb cut culvert were to be replaced it would need to be with a larger culvert and the Road Foreman would need to be consulted. Sunderland said no replacement had been done nor was planned.
5. **Barbara:** Noted that the original decision required the septic systems (plural) be shown on the mylar, but the Lot 1 septic systems are not depicted on the existing mylar. She would like to see them on the new, revised mylar. Adam agreed to do so.
6. **Adam:** Suggested that rather than having the decision in the Minutes, as he had originally proposed, a written decision signed by the Board would be the best way to go.
7. **Adam:** In response to a question about survey requirements mentioned by a potential purchaser's attorney, said the attorney had not sent him any proposals and was more focused on noting a plat filing date anomaly to ensure that it would not be over-looked and would be remedied. The potential buyers subsequently rescinded their offer, so the issue was no longer pertinent to the sale.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

Based on the Application, the Exhibits, and the testimony presented at the public hearing held on this Application, the DRB hereby finds, concludes and orders as follows:

#### ***FINDINGS OF FACT:***

##### ***1. Applicant***

The Applicant is Adam L. Powers, Esquire, on behalf of 5 Trillium Partners, LLC, current owner of Lot #2 and, in 2017, owner of the parcel located at 1011 Route 125 and Cider Mill Road.

##### ***2. Parcel***

The parcel is located on the South Side of Route 125 and the West Side of Cider Mill Road and is further described in a warranty deed recorded in the Cornwall Land Records in Book

80 page 247. In March 2017 the DRB approved an application for minor subdivision, dividing the original parcel into a 2-lot subdivision. Because the Final Plat (Exhibit 5H) was not recorded in a timely fashion, the DRB's approval expired.

There are two lots in the subdivision. Lot #1 has an existing house on it. Lot #2 is a 5.75-acre +/- lot with a Cider Mill Road curb cut.

- a. Lot Layout: The property is in the Medium Density Residential (MDR) zoning district of Cornwall, as described on the Town of Cornwall Zoning Map on record at the Cornwall Town Clerk's office and in §250 of the *Cornwall Zoning Regulations* (CZR). The minimum lot size is 2 acres, with a minimum frontage of 250 feet; a minimum lot depth of 250 feet; a front yard minimum setback of 100 feet and rear yard and side yard minimum setbacks of 50 feet. All these requirements are met as depicted on the Subdivision Survey Plat dated May 4, 2017, marked as Exhibit 5H, prepared by Timothy Short of Short Surveying, Inc.
- b. Water Supply for Lot #2 is a to be drilled on-site potable water supply well. Lot #1 has an existing well.
- c. Wastewater for Lot #2 will be a mound-type wastewater disposal system designed to serve a new four-bedroom single-family residence. Lot #1 has an existing wastewater disposal system, and a designated replacement wastewater disposal area has been identified. Both the wells and wastewater systems are approved under a *Wastewater and Potable Water Supply Permit* (WW-9-2440) issued by the State of Vermont on August 3, 2017. (Exhibit 5B).
- d. Roads and Traffic: Lot #2 will be accessed by an existing curb cut on Cider Mill Road.
- e. Wildlife: The Cornwall Conservation Commission has no concerns with the project as proposed and opines that the application proposal is not likely to have a negative impact on natural resources of importance. Therefore, the Cornwall Conservation Commission has no objection to the approval of the application. (Exhibit 7)
- f. The Application has been duly noticed to the public and to adjoining landowners as a final hearing (Exhibits 1, 2, and 3).
- g. The project is in keeping with the character of the neighborhood and with the Town Plan.
- h. The Conditions of the 2017 approval have largely been met: namely the approval for the curb cut access to Cider Mill Road was confirmed; the locations of the well, wastewater system, and building envelopes for Lot 2 were added to the survey before recording.

## **CONCLUSIONS OF LAW:**

### **1. Authority**

The DRB has authority pursuant to State Statute and the Town's *Zoning Regulations* §331 to hear and approve or deny subdivision and related applications.

### **2. Application**

The Applicant has submitted a complete Application for a minor subdivision pursuant to Article II of the *Cornwall Subdivision Regulations* for consideration by the DRB.

### **3. Criteria for Review**

The DRB concludes that approval of this minor subdivision will not negatively impact the review criteria stipulated in the *Cornwall Subdivision Regulations* (Article IV Design Standards) in any major fashion.

#### **IV. DECISION:**

Based upon these Findings of Fact, Conclusions of Law, and the evidence presented in the form of exhibits and testimony at the hearing, the Development Review Board hereby grants approval of the subdivision plan and the Final Subdivision Plat (Exhibit 5H) as depicted in the Application (#*drb21-002*) submitted by Adam L. Powers, Esq. on behalf of 5 Trillium Partners, LLC, dated April 2, 2021, subject to all the Conditions hereinafter set forth.

#### **CONDITIONS:**

1. An "Amended Final Plat" shall be printed showing the existing and replacement septic locations for Lot 1.
2. An "Amended Final Plat", in addition to the DRB signature block indicating approval, will include a reference note citing the DRB's written decision herein and the date of this decision.

The approval by the DRB shall expire 180 days from the date of this decision, unless the approved Amended Final Plat is duly signed by 2 DRB members and recorded in the Cornwall land records in the office of the Town Clerk.

Dated at Cornwall, Vermont, this 4<sup>th</sup> day of June, 2021.

*Rubina Greenwood*  
Chair, DRB

**NOTICE:** 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 date of this decision, pursuant to 24 V.S.A. §4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.