

Cornwall Development Review Board (DRB)
MINUTES • October 2, 2019 • 7:00–9:15pm
Hearing • Cornwall Town Hall

MEMBERS PRESENT: Barbara Greenwood, Joe Severy, Shari Johnson, David Anderson

ALTERNATES PRESENT:

ATTENDEES: Jim Gill, members of the public (7)

1. CALL TO ORDER: 7:02pm. Barbara opened the meeting.

2. QUORUM: Established.

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

4. MINUTES:

- **September 4, 2019**—Joe MOVED/David SECONDED to approve the September 4 Minutes as amended. **Motion passed.**
- **September 9, 2019**—David MOVED/Shari SECONDED to approve the September 9 Minutes as presented. **Motion passed.**

5. HEARING—James Gill Application for Variance on Property at 2394 Rte. 30 for Construction of 60' x 175' Storage Structure

- Barbara opened the Hearing with Board introductions and introduced the following as the first exhibit:
 - *Exhibit A*—Proof of Service of Notice to Abutters (the Hearing Warning, signed receipts of delivery to each)
 - The Warning of the Hearing as published in the *Addison Independent*, September 5th, was then read aloud and subsequently marked along with the relevant page from the *Independent*, as *Exhibit B*.

Barbara explained how the hearing will proceed: after hearing from the applicant, the DRB will ask questions. Then attendees will have an opportunity to speak, each person having three minutes to do so, and noting that—if expecting to claim Interested Person status—each should be sure to sign in on the form being circulated in the room. The Applicant will have an opportunity to respond, and the DRB to ask any final questions. Barbara then asked David to administer the oath to those who planned to speak.

- **HOUSEKEEPING—Ex parte Communications, Conflicts of Interest, Visits to the Site**—Barbara asked the Board to disclose any *ex parte* communications, conflicts, or site visits noting that she had visited the property on September 28 and met John Richmond who showed her where the storage building would be located. Joe had visited the site October 1, separately. David and Shari had also visited the property on September 30.
- **Interested Person:** Barbara read the relevant portions of the Statute (24 VSA 4465(b)) regarding requirements for Interested Person status, explaining that only those who qualified as Interested Persons and participate in the proceedings can appeal the DRB decision. Those present who felt they met the requirements were reminded once again about the sign-in sheet.

- ***Additional Exhibits—***

- *Exhibit C*—the Application for a Variance, originally filed as a waiver application, but withdrawn on advice of the ZA and refiled as a variance request; dated August 27, 2019.
- *Exhibit D*—Received Additional Material, September 24, 2019, requested by Barbara.
- *Exhibit E*—Email from Barbara to Jim Gill with explanations of what additional material had been requested and why, dated September 11, 2019.
- *Exhibit F*—Cornwall Conservation Committee Report indicating they have no issues with the proposed variance, dated September 4, 2019.
- *Exhibit G*—Email from Terry Purcell, Department of Environmental Conservation, regarding impervious surfaces, dated September 30, 2019.

- **APPLICANT'S PRESENTATION**

- *Jim Gill* presented the reasons for his variance request. He proposed construction of a 10,500 square foot storage building to use for winter storage of boats at his business Champlain Valley Motorsports on Route 30. The building would be a simple pole barn structure with just the crushed stone of the existing driveway and parking area as a floor. No water, no lights or power. His original permit application was denied by the ZA on the basis of an excess of lot coverage for the existing, plus new, structures. He originally submitted a hearing application requesting a waiver, then on advice of the ZA, withdrew it and resubmitted an application requesting a variance.

- **DRB QUESTIONS**

- *Shari: What flooring will be used? Jim:* The driveway and parking area's crushed stone. He noted that the crushed stone had never been properly installed, lacking appropriate under layment, and consisted of a thin layer of crushed stone that was permeable.
- *Barbara: Explained what had engendered her email request for more information: Upon receiving the Variance Application she had contacted Town Counsel who suggested that the Board might wish to consider the application under the Conditional Use and Site Plan Review provisions of the town's Zoning Regulations. Hence her email to Jim Gill (Exhibit E). To clarify portions of the application:*
 - *The total area of the existing buildings and the concrete pad is 7.47%, and the crushed stone drive/parking area equals roughly 48% of the lot's area, for a total lot coverage of 55.47%. The new structure will add 8.47% to that. Jim:* Yes.
 - *The showroom has been there since the mid-60's - to mid-70's, the pad (1994) and the current storage building (60' x 100') and parking area since about 1996? All in excess of 15 years. Jim:* Yes.
 - *And the 2 parcels comprising the property consist of Lot 1 with a rental dwelling on it (about 25,000-plus square feet), and Lot 2 where the business is located and which is the subject of this application (about 3 acres)? Jim:* The parcels lack exact dimensions, he feels Lot 2 is closer to 2.87 acres.
- *David: What is the height of the proposed building? Jim:* 14' at the eaves, about 22' at the peak. *Jim Duclos:* The measurement used by the ZA is about halfway between the peak and the eaves.
- *Barbara: Why so large a building? Jim:* Feels there are fewer boats among younger folks, but he still needs to store more boats every year so expects the building to be full. Storing more boats on site means his trips to off-site storage facilities will be reduced, possibly eliminated.

- Barbara: Will adding this building to the property require a State stormwater permit? Jim: Yes. The structure will be built along the west edge of the parking area covering that portion of the crushed stone. This part of the lot has not had the same traffic load as the other parts and has grass coming up through the stone. There is a swale to the west, beyond the proposed location, and the mound system is west yet of the swale. He has checked, and a permit will be required.
- David: Regarding the term “impervious,” he quoted an email from Terry Purcell, Environmental Analyst, DEC Watershed Mgt. Division, Stormwater Program, indicating that the State generally includes gravel and stone surfaces in their definition of impervious/impermeable surfaces unless the applicant can prove, by specified types of testing, that it is permeable. Jim: He believes the crushed stone to be permeable, and feels he proved it by dumping a bucket of water on his parking area, then another bucket on the Town Office paved parking lot. The water on his lot disappeared almost immediately, while the Town Office water was still there the next morning. Gravel, however, tends to be more impermeable due to its higher degree of fines and greater packing ability.
The Terry Purcell email, dated September 30, 2019, was entered into evidence as Exhibit G.

• **PUBLIC COMMENT**

- E. Peet: The ZA was incorrect in denying the permit based on the inclusion of the parking area in his determination of the amount of impervious coverage of the lot. Peet stated that gravel/crushed stone on the parking area is a permeable material, and the permit should have been issued.
- J. Duclos: The parking area did not constitute any part of his determination regarding the lot coverage. The lot coverage for that property, based solely on old (at 7.47%) and new (at 8.47%) buildings, would have exceeded the maximum allowance of 15%. Additionally, because he did not feel he was well-able to judge the permeability of the parking area, and the DRB which has more latitude than does he in making such determinations, he felt that the matter and the public would be better served by the public consideration provided by a hearing.
- J. Noordsy: Wondered if a building of this size would encourage larger commercial structures in the future by setting a precedent for such a large building now. David: Noted that under Village Center (page 95 in the Town Plan) larger buildings not in keeping with the character of the Village, such as might be found in big-box stores or highway strip development, should not be allowed. Also, §230 of the Regulations gave the maximum building size for a retail/commercial building as being equal or under 2,500 square feet. Anything larger requires a Conditional Use review and hearing.
- H. Noordsy: Noted that §351 of the Zoning Regulations indicates the ZA shall not issue a permit until the DRB approves a Conditional Use application. She expressed concern that the inclusion of Conditional Use issues at this hearing—which was warned for a Variance not a Conditional Use—precludes the public's availability of information about this hearing and questions that might be brought up. Barbara: She had discussed that question with Town Counsel who agreed that there was sufficient information in the Variance Warning to provide what the public might need, and where to find additional material for review (at the Town Office). Therefore, in this instance, the Variance Warning would suffice and a re-warning not be necessary.

- *J. McKenna*: Concerned about stormwater runoff. They receive significant water runoff already and worry about getting more. *Jim G*: Assured him that no runoff would come their way from his property as the drains carry water away from both their properties.
- *Barbara*: The drains that were mentioned—in which direction do they carry water, and is the water from the parking area as well as roofs? *Jim G*: Water from the roofs and direct fall is carried to the north by the drains. In a heavy rainstorm, water will run off the driveway and the drains take care of that.
- *H. Noordsy*: Asked if the Board's decision would be written just for the Variance, or if it would include any of the Conditional Use issues? *Barbara*: The decision will include some comments related to, per Town Counsel's suggestion, the Conditional Use /Site Plan review issues that were brought up.
- No further public questions.
- **FINAL BOARD QUESTIONS/APPLICANT COMMENTS—**
 - *Barbara*: Asked the applicant if he was satisfied letting the application stand or if he wished to indicate that a smaller building would be acceptable if the Board were to decide it could not approve the big building proposed? *Jim G*: No, he is happy with letting it stand as submitted.
 - No additional applicant or Board comments or questions.
- **HEARING CLOSED—**DRB found they had sufficient information to close the hearing and begin deliberations. Therefore, at 8:10, Barbara closed the hearing and the DRB entered into its deliberative phase.

6. CORRESPONDENCE

- VLCT—Notice received of the Fall Planning and Zoning Forum scheduled for the end of October.
- Barbara has been in touch with Waite Heindel, the independent water analysis company. They are working on the report and the Board expects to have a response and report before the next Beaver Brook hearing.
- Joe reported that he has had a message from Nigel Cheetam inquiring about moving the date of his next hearing session as he is having some sort of visa issues and fears bumping up against his 6-month deadline. Board noted that it is his filing deadline not a hearing that is looming and that it is not necessary that he be here only that his materials be here at the deadline time (January 9) which remains several months out.

7. UPCOMING MEETINGS—

- *November 6*: all expect to be available.
- *December 4*: all expect to be available.

8. DELIBERATIVE SESSION—

NEXT MEETING: November 6 at 7:00 pm, Town Hall

ADJOURNMENT—Meeting adjourned at 9:10pm.

Respectfully Submitted,
Robin Conway, DRB Secretary