

**Cornwall Development Review Board (DRB)
MINUTES • January 9, 2020 • 7:00–9:30pm
Hearing • Cornwall Town Hall**

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

ALTERNATES PRESENT: Gary Barnett

ATTENDEES: Beaver Brook Properties LLC (Matt Bonner, Churchill Franklin), *Applicants*;
Benj Deppman, Joan Donahue, *Applicants' Legal Counsel*; Jamie Simpson,
Applicant's Land Engineer; **members of the public** (10)

1. CALL TO ORDER: 7:00pm. Barbara opened the meeting.

2. QUORUM: Established.

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

4. MINUTES: Magna MOVED, Shari SECONDED, to accept the **Minutes of December 4, 2019**, as presented. *Motion passed.*

5. HEARING—Beaver Brook Properties, LLC. Preliminary Beaver Brook Subdivision Application

- Barbara opened the Hearing with Board introductions and a brief explanation that this is a continuation of the hearing for a subdivision of a 166.8-acre parcel on the corner of Route 74 and North Bingham Street. The proposed project is to divide the 166.8-acre parcel into 11 smaller lots. The last hearing on this issue was held November 6, 2019.
- Barbara explained the process for this hearing: after some housekeeping by the Board, the Applicants would be invited to describe the revised and new documents filed since November 6, the Board will follow with questions, then the Conservation Committee will deliver their comments and the public comment period will come last, with each member of the public having three minutes to speak. The Applicants will have an opportunity to respond, the Board will wrap up the hearing with the last of their comments/questions and the hearing will either be closed or adjourned once more.
- David administered the oath to those who planned to participate.
- **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.
 - *Barbara*—Noted she had run into Matt Bonner in the Vermont Sun parking lot. Matt had asked if she was aware of anything in the Regulations requiring that a lot with frontage on North Bingham have access directly onto North Bingham to which she had replied that she was not aware of any such provision. She had suggested to him that the Applicants might want to consider combining the church lot with the lot immediately to its east.
 - Barbara noted that Cheryl Cesario was recused.
 - *Magna*—Indicated she had spoken with the Applicants about her concerns with the HOA regarding clarifications to correct inconsistencies in the narrative.
- **Barbara** then read the relevant portions of 24VSA §4465(b) describing the Interested Person status and noting that only those persons who were claiming that status and who

participated in the hearing could appeal the Board's decision. She then moved on to the exhibits.

- **Exhibits**—*Exhibits A–PPP* were accepted into evidence at the previous hearings. Barbara entered the following, filed December 13 (except as noted), into evidence at this Hearing and marked them as noted:
 - *Exhibit QQQ*—Updated language for Lot 10 Covenants
 - *Exhibit RRR*—A redline/'track changes' copy of Beaver Brook HOA By-Laws
 - *Exhibit SSS*—A clean/'final' copy of the Beaver Brook HOA By-Laws
 - *Exhibit TTT*—A redline/'track changes' copy of the Beaver Brook Subdivision Declaration of Covenants
 - *Exhibit UUU*—A clean/'final' copy of the Subdivision Declaration
 - *Exhibit VVV*—An email from Zapata Courage re vernal pool question; dated December 4, 2019
 - *Exhibit WWW*—A summary of estimated site improvement costs
 - *Exhibit XXX*—An updated 8-page plan from Green Mountain Engineering
 - Exhibit XXX -1: Drawing No 1 – Cover Sheet*
 - Exhibit XXX -2: Drawing No 2 – Existing Conditions Site Plan*
 - Exhibit XXX -3: Drawing No 3 – Proposed Lot Layout Site Plan*
 - Exhibit XXX -4: Drawing No 4 – Proposed Lot 9 Layout Site Plan*
 - Exhibit XXX -5: Drawing No 5 – Proposed Property Easements Site Plan*
 - Exhibit XXX -6: Drawing No 6 – Proposed Infrastructure Overall Site Plan*
 - Exhibit XXX -7: Drawing No 7 – Proposed Water & Wastewater Infrastructure Site Plan*
 - Exhibit XXX -8: Drawing No 8 – Proposed Stormwater Infrastructure Site Plan*
 - *Exhibit YYY*—An updated plat from LaRose Surveys, revised December 11, 2019
 - *Exhibit ZZZ*—A December 14, 2019 email from Matt Bonner listing the materials filed the previous day
 - *Exhibit AAAA*—Warranty Deed (draft) for a Lot purchased in the Beaver Brook Subdivision; filed December 13, 2019
 - *Exhibit BBBB*—Letter from E. Napier, January 9, 2020
- **APPLICANTS' PRESENTATION**
 - **Matt:** Noted that among the revisions made in the documents filed, the name of the project has been changed to “Beaver Brook Subdivision.” He ran through the revised documents in the order listed above, *Exhibits QQQ – AAAA*.
 - *QQQ*—Noted that the Lot 10 Covenant was revised to keep the parcel free from motorized uses.
 - *RRR*—**Benj:** Noted various corrections to the HOA By-Laws, made as requested: circular references to the Executive Board, terminology changes, 2 governance boards combined so only 1 board, lot descriptions changed from designated by housing type to designated by number of bedrooms. Owner can choose lot and dwelling according to number of bedrooms wanted, lot costs adjusted accordingly, septic share adjusted accordingly, HOA votes based on number of bedrooms. Lot 9 is not part of the Association although is part of this project. The church lot which was a common lot has been combined with Lot 2 and removed from the common lands; any changes to use of the church by Lot 2 owner requires review by the DRB. Noted that septic is controlled by the State. As such, State will grant an Association permit for total number of bedrooms allowed for the project, each dwelling will

have a permit revision according to the chosen number of bedrooms on the lot; final layout of sewer lines may change. Driveway stubs are private to the lot owner.

- **TTT**—Reviewed changes to the Subdivision's Declaration of Covenants, Restrictions and Easements. Noted that the covenants, easements, and restrictions run with the land, do not apply to Lot 9 or 11.
- **VVV**—Referred to Zapata Courage's email where she confirmed her findings that there is no vernal pool on the property.
- **WWW**—Estimate of Site Improvement Costs includes road construction, share of septic, utilities, wells, miscellaneous for a total of \$185,000 to \$225,000.
- **XXX—Jamie**: Reviewed the packet of 8 revised drawings: Lot 1's north boundary was moved, change made to sewer line; Lot 2 combined with the church lot; Lots 4 – 8 unchanged. He noted the corrected set backs, and the color changes on XXX-3 to make the lot layout and boundaries easier to read. XXX-5 shows building envelopes in beige. XXX-7 show waste water disposal fields adjusted to equal sizes to accommodate bedroom allocations per lots as lot owners determine they are needed. Septic system is expected to receive a State permit for 25 bedrooms. The allocation for each lot will be decided by the Association based on the owner request to them. No change to the LaRose survey. **Barbara**: is there a document that specifies the number of bedrooms per lot? **Benj. Joan**: *the State permit will specify the total number for the system, the lot allocations will be determined on a case-by-case basis as they are sold and owners determine their needs. Potential purchaser will need to have number of bedrooms desired approved by Applicant. Septic allocation follows number of bedrooms.*

• DRB QUESTIONS

- **Shari**: Lot 2: what can owner do with the church? **Matt**: *Church will be permitted for owner's storage, and owner would continue that use, building a separate dwelling, or could apply for permit to turn church into a dwelling. Any use other than storage would likely require DRB approval (a Change of Use) as well as approval of the Association. Owner of Lot 2 will be responsible for the church's maintenance.*
- **Gary**: who is responsible for the maintenance of the church until Lot 2 sells? **Matt**: *The Association.*
- **Barbara**: Only part of the project is in the Village district, Lot 9 looks to be partly in LDR. Any lot in the LDR would have different setbacks, maps don't show this. **Matt**: *Believes LDR begins about 1,000' north of the corner, so bulk of project lies within Village area. There is a provision in the Regulations that says a lot in 2 districts can have the dimensions of one extend a percentage into the other; will have to look for that provision.*
- **Barbara**: Lot C1: why is the NW corner part of common land rather than part of Lot 3 or 4? **Matt, Jamie**: *Wanted to keep it undeveloped.*
- **Barbara**: Some of the dimensions on the map do not match those on the LaRose survey. When there is a discrepancy, which governs? **Jamie**: *The survey governs. He will check the two documents and make sure they match.*
- **Gary**: Is there access to lot 11 through Lot 10 and vice versa? **Matt**: *The Lot 11 owner would have to be part of that decision.*
- **Shari**: who is responsible for mosquito control. **Jamie**: *The HOA.*

- **David:** read a list of typos he had compiled from the By-laws, Warranty Deed documents, Applicants made notes on what/where they were located.
 - **Magna:** noted discrepancy with terminology regarding voting in sections 3.02 and 4.02: 3.02 indicates vote per owner versus 4.02 indicating vote per bedroom.
 - **Barbara:** has some issues with Lot 10: the Covenant should say it is the DRB not the HOA that will approve any modifications to the Covenant. *Benj: feels that language would be better to be stated by the DRB as a condition in the decision.* **Barbara:** are there any plans yet for the sale or transfer of Lot 10? *Matt: Not yet determined.*
 - **Barbara:** Re: water softeners---? *Benj: State permit will address that issue.*
 - **Barbara:** The lots used to identify which were intended to have duplexes. Now, how can the duplex lots be known? *Jamie: Since it is now left to the owners to determine their type of housing, based on number of bedrooms, one factor to identify which lots would be suitable for larger homes or duplexes is the size of the building envelop. Some lots might be too small for a multi-bedroom dwelling. The owner needs to choose a lot that accommodates the size of the dwelling desired.*
- **CORNWALL CONSERVATION COMMITTEE**
- **Mary Dodge:** what is the status of the sale of the 123-acre parcel (Lot 11) and for what price? *Matt: Preliminary approval was received from the Land Trust a year or more ago, finalization is anticipated this summer. Approval of the project (the Beaver Brook Subdivision) is not required for the conservation easement, but is required for the sale to the Cesarios. The sale price will be determined by the Land Trust.*
Regarding Lot 10, the CCC has concerns regarding language in the Covenant describing permitted and non-permitted activities. Concern is focused on the allowed uses as it is felt they could compete with and discourage use of the parcel by wildlife, particularly as a corridor of passage from one locale to another. The CCC feels the DRB should stipulate that Lot 10 is to be an undeveloped wildlife area devoid of warming huts, trail-head parking, and other human related construction. *Matt: The Land Trust allows all those uses mentioned in the Covenant, some exist there now.*
- **PUBLIC COMMENT**
- **B. Warren:** If the State says the parcel can support 30 bedrooms, can the DRB say it can have fewer? *Benj: yes. Jamie: each of the two mounds is designed for a specific number of gallons per day maximum. Fewer is fine.*
 - **A. Quinttus:** There has been a change in ownership of certain adjacent parcels since this began; has the new owner been notified of the hearings? *Matt: No subsequent notice has been sent since the first of the Preliminary hearings.*
 - **E. Napier:** Question regarding duplexes: is there a limit on the number allowed? Will they be lived in by owners or be rentals? Would the developers and the DRB consider making Lot 2, with the church, common land? Accurate 3D renderings and elevations of the houses, to ensure compliance with existing settlement patterns are requested. Eight issues from her/the DRB September 4 letter remain un-addressed: business plan, traffic study, market study, illustrations of housing, etc. She is concerned with the length of time this process has taken. Her written comments were handed to the Board (*Exhibit BBBB*).
 - **S. Pelky:** Noted that the Fire Department land is not indicated on the survey. Is “common land” common to property owners in the subdivision parcel or common to all

residents in the local community? ***Benj:*** *The common land is essentially private, for the use of the members of the Homeowners Association members.*

Pelky: Lot 2: it makes no sense the way the house is situated. From North Bingham the rear of the duplex will be viewed. What is the coverage of Lot 2 with the church and a dwelling?

- No further Public questions or comments.

• **FINAL BOARD QUESTIONS/APPLICANT COMMENTS—**

- No additional Board or Applicant comments or questions.
- **HEARING CLOSED—**At 8:36, Barbara, having confirmed with the Board that sufficient information had been supplied that they felt a decision could be made, closed the hearing.

6. CORRESPONDENCE: *None*

7. OLD BUSINESS: Discussion about recruiting new members.

8. NEW BUSINESS: Discussion about process for new applications while waiting for new ZA to be appointed.

9. OTHER BUSINESS: *None*

10. UPCOMING MEETINGS—

- **February 5, 2020:** All expect to be available.
- **March 4, 2020:** All expect to be available.

11. DELIBERATIVE SESSION: Beaver Brook, short.

NEXT MEETING: February 5, 2020, at 7:00 pm, Town Hall

ADJOURNMENT—Meeting adjourned at 9:30p.m.

Respectfully Submitted,
Robin Conway, DRB Secretary