

Cornwall Development Review Board (DRB)
MINUTES • May 5, 2021 • 7:00–8:14 pm
Meeting • Virtual via ZOOM

MEMBERS PRESENT: Barbara Greenwood, Shari Johnson, David Anderson, Magna Dodge,
 Ross Gregory

ALTERNATES PRESENT:

ATTENDEES: Adam Powers [attorney for applicant], Jason Robart

1. **CALL TO ORDER:** at 7:02pm by Barbara, DRB Chair
2. **ESTABLISHMENT OF QUORUM**—Established
3. **APPROVAL OF AGENDA**—David MOVED, Magna SECONDED, to approve the Agenda as proposed. *Motion passed.*
4. **APPROVAL OF MINUTES:**
 - *April 7, 2021* (hearing)—Shari MOVED, Ross SECONDED, to approve the **April 7 Minutes** as amended. *Motion passed.*
5. **PUBLIC MEETING ATTENDEE SIGN-IN:**
 - **Interested Persons** —Barbara explained why “interested person” is relevant, according to 24 V.S.A 4465(b). Pursuant to 24 V.S.A. 4471, only an interested person who has participated in this proceeding may make an appeal of any decision issued in this proceeding.
 - **Introductions & Housekeeping**—
 - This was followed by an introduction of the Board members. Barbara noted that she would be chairing the meeting, and David Anderson would be handling the Zoom aspects. She introduced the DRB members in attendance in addition to herself: David Anderson, Magna Dodge, Shari Johnson, and Ross Gregory. Also present were Board secretary, Robin Conway, and the Applicant’s representative, Adam Powers.
 - Barbara ended this portion of the introduction by noting that the hearing would be conducted in an orderly manner and in accordance with DRB rules of procedure. As there would be no screen sharing during the hearing, Barbara requested that anyone referring to a particular document be very specific about which document, and which portion of it, was the item under discussion. She then handed the meeting over to David for the sign-in and oath-taking portions.
 - David asked for attendee’s name, address, and whether he is claiming interested person status in the hearing on Trillium Subdivision matter. Once signed in, David administered the oath for the swearing in.
6. **HEARING: 5 Trillium Partners, LLC, Final Subdivision**
 - **The Hearing’s Procedure**—
 - As set out in the warning that was posted, published in the paper, and mailed to abutters, this is an application for final subdivision approval brought by 5 Trillium Partners, LLC. The Applicant seeks approval for a minor subdivision, into two lots, of the property located at 1011 Route 125 at the corner of Route 125 and Cider Mill Road, Cornwall, Vermont. (The DRB previously approved the proposed subdivision on March 1, 2017. That approval, however, had expired due to late filing of the final subdivision plat.)
 - Barbara explained that after some housekeeping matters, the Applicant would be asked to present the application, to be followed by Board questions, and then an opportunity for any public comment. The Applicant would have an opportunity to respond to any comments or

questions posed by the Board or the public. She noted that the Board may have further questions. Following the public comment period the Board would then either close the hearing or adjourn it, to be resumed at a specified date and time.

- **Conflicts of Interest**—Board members were asked to disclose any conflict of interest, ex parte communications, or visits to the property:
 - ***Barbara***—Visited the property on May 4th, without contact with anyone.
 - ***Ross, Shari, and Magna*** had each driven by, separately, during the past week.
- **Exhibits**—Barbara then read the list of materials that had been marked as exhibits. This includes all the materials filed by the applicant as part of the application as well as some additional material received prior to the hearing.
 - ***Exhibit 1***—Warning (which was posted in a timely fashion at the Town Hall and Town Garage, and on the Town website; the property was also posted)
 - ***Exhibit 2***—Warning as published in the *Addison Independent*, April 8, 2021
 - ***Exhibit 3***—Proof of service –Letter from Adam Powell, 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 Highway 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 of the Proposed Subdivision —*Portion of Lands of 5 Trillium Partners, LLC, signed by Timothy L. Short* —recorded as Map #285;
 - ***Exhibit 6***—Site development plan showing the proposed subdivision with water and wastewater systems, WW-9-2440_Plan 001 (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 and Road Foreman Mike Sunderland related to the curb-cut of the lot that is the subject of his hearing.
- **Applicant’s Presentation**—Adam asked if the exhibits were a part of the record or if they needed to be gone over in more detail. Barbara replied that, from the Board’s point of view, the exhibits were on the record, but he is free to explain further if he wishes. Adam then 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, 2017
- Confirmation of the **curb-cut approval** by the Road Commissioner.—received.
- **WasteWater Approval**—received.
- **Boundary plan**—amended in 2018 to match survey. Well and septic locations were the same on both the boundary plan and the survey. However the plan’s boundaries needed to be brought in sync with the survey’s boundaries.
- **Revell emails**—Correspondence with Jeremy Revell regarding the boundaries and whether or not it was necessary to make any submissions to the State. He was told that as long as there was no change greater than 2% in the sizes of the involved lots, the adjustment was exempt.
- **Lot 1 sold**—Sold in 2017 to Keith and Lois Ellery. The boundaries matched those on the existing mylar (Map #285).
- **Board Questions for Applicants**
 - **Ross**—No issues with the substance of the application, just a couple of comments. He thinks a revised plat should be recorded and has spoken with Jim Carroll regarding updating the existing mylar and re-recording it or printing a new, revised plat and recording it. Carroll indicated that a new revised and recorded plat would be best, and should not be a problem to have the mylar reprinted with the DRB signature stamp so they can sign it. **Adam:** *There have been no changes to the existing mylar, but a new revised mylar makes sense and he will have the surveyor print a new one with the DRB stamp. He has some concern regarding the effect on the Ellery’s lot as the Chain of Title references the existing (Map #285) mylar. However, he feels it can probably be dealt with by a reworded deed.*
 - **Magna**—Noted Carroll had also suggested, in a memo that morning, that there be a reference on the new mylar citing the current DRB’s written decision and date of same. **Adam:** *He will see that this is also on the new mylar.*
 - **Magna**—In the original decision it had been stated that if the curb-cut culvert needed to be replaced, the town would have to replace it with a larger culvert and the Road Foreman would be involved. In an email exchange with the Road Foreman, she had asked if the culvert had been replaced, or was planned for replacement. She was told “No” to both.
 - **Barbara**—Noted that the original decision required that septic systems (plural) be shown on the mylar, but they are not depicted on the existing mylar. They are on the plan, well locations are on both plan and mylar, but the existing and replacement septic locations for Lot 1 are not on the mylar. She would like to see them on the new, revised mylar. **Adam:** *Agreed and will have them on the new mylar.*
- **Public Comment**—None
- **Final Board Questions**—
 - **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. **Magna:** *Agreed.*
 - **Ross**—Asked if there was any clarification regarding the survey requirements referred to by proposed (Lot 2) purchaser’s attorney? **Adam:** *Benj apparently had never prepared any final particulars, and as the proposed buyer has rescinded their offer, the point is moot now.*
 - **Ross**—Understands that there is supposed to be a stamp area on the mylar for DRB signatures and citing of the Board’s decision. He had not found it on the original mylar and asked for a description of the DRB mylar stamp. **Adam:** *Confirmed it is not on the existing mylar, he will be sure it is added to this new one.* **Barbara:** *She has a copy and can send it to Ross.*
 - **Ross**—Asked if there was a State repository for plats. **Adam:** *He is not aware of any.*
- **Applicant Response**—
 - **Adam**—Had hoped a verbal decision in the Minutes, as he’d originally proposed, would

suffice, but now feels a written decision would be better.

• ***Wrap Up***—

- After short discussion, the Board felt it had sufficient information for deliberation. Barbara closed the hearing at 7:44.
- The Board then resumed its business meeting and proceeded with the Agenda.

7. **AVAILABILITY FOR NEXT MEETINGS**—

- June 2, 2021—All expect to be available.
- July 7, 2021—All expect to be available.

8. **FORM REVISIONS**—

- Barbara indicated she felt there was a need for further revision to the general application form. Board had a short discussion about several items. No decision was made as to the changes, but Barbara will send out a proposed application for review.

9. **OTHER BUSINESS**—

- *Old*—None
- *New*—None

10. **DELIBERATIVE SESSION**—Short discussion.

ADJOURNMENT—Magna MOVED, Ross **SECONDED**, to adjourn at 8:14. *Motion passed.*

Respectfully Submitted,
Robin Conway, DRB Secretary