

**CORNWALL DEVELOPMENT REVIEW BOARD (DRB)
MINUTES • May 4, 2022 • 7:00–8:35 pm
Meeting • In-Person (Town Hall) and Virtual via ZOOM**

MEMBERS PRESENT: Barbara Greenwood, Shari Johnson, Cheryl Cesario, Ellen Whelan-Wuest, Douglas Black

ALTERNATES PRESENT:

GUESTS PRESENT: Ron LaRose (Applicant's Representative, LaRose Surveys, PC); Gisela & Mike Palmer; Mary Dodge (Cornwall Conservation Committee), Don Burns (Cornwall Conservation Committee)

1. **CALL TO ORDER:** at 7:04pm by Barbara Greenwood, DRB Chair
2. **ESTABLISHMENT OF QUORUM**—Established
3. **APPROVAL OF AGENDA**—Shari MOVED, Douglas SECONDED, to approve the Agenda as presented. *Motion passed.*
4. **APPROVAL OF MINUTES**
 - *April 6, 2022*—Ellen MOVED, Douglas SECONDED, to approve the **April 6 Minutes** as amended. *Motion passed.*
5. **MEETING SIGN-INS**—Attendees gave names and postal addresses at which they wish to receive any related information, all of which were recorded by the Board Secretary. When the sign-ins were finished, Ellen administered the oath to which those who planned to speak swore.
 - **Ron LaRose**—LaRose Surveys; named by Hartley MacFadden as her representative for this proceeding (*Exhibit F*); PO Box 388, Bristol VT 05443
 - **Gisela and Michael Palmer**—627 Route 30, Cornwall, VT 05753
 - **Mary Dodge**—Cornwall Conservation Committee; 1712 Sperry Road, Cornwall, VT 05753
 - **Don Burns**—Cornwall Conservation Committee; 2742 Route 30, Cornwall, VT 05753

6. MCFADDEN SKETCH PLAN MEETING:

A. Introduction—This is a Sketch Plan Review for a parcel at 625 Route 30, Cornwall, owned by Hartley McFadden. Ms. MacFadden wishes to subdivide the parcel into 4 lots
A sketch plan meeting is an informal, unwarned agenda item at a regular DRB meeting. The purpose is to provide an opportunity for the applicant (or his/her representative) and Board to review the proposal, ask questions, and discuss the specific requirements of the subdivision regulations. The Board will use the information to determine whether the project will be a minor or a major subdivision.

Barbara explained the process and the things which may happen at this sketch plan review meeting:

- the Board will provide guidance about the need for further meetings and the advisability of proceeding
- the Board will classify the project as a major subdivision or as a minor subdivision
- the Board will specify the submission requirements for subsequent review
- the Board may make recommendations for changes
- the Board may require a technical review fee so as to require the applicant to bear the Town's costs for any professional reviews and inspections required in connection with the subdivision. Any such expenses are to be borne by the applicant pursuant to 24 VSA 4440(d) and *Cornwall Subdivision Regulations* §233.

B. Housekeeping—Before opening discussion on the review, Barbara explained the housekeeping issues to be dealt with.

- **Exhibits**—Barbara listed the following documents that have been filed to date and which have been marked as exhibits:
 - **Exhibit A**—Letter from Ronald L LaRose, dated April 4, 2022; filed April 7, 2022.
 - **Exhibit B**—8 × 11 copy of plat dated March 1, 2022; filed April 7, 2022.
 - **Exhibit C**—Tax map with list of adjacent landowners; filed April 7, 2022.
 - **Exhibit D**—Copy of business card of Roxanna Emilo; filed April 7, 2022.
 - **Exhibit E**—Full size copy of plat; filed at Chair’s request, April 22, 2022.
 - **Exhibit F**—Copy of letter from Hartley MacFadden, dated April 8, 2022; provided by Roxanna Emilo, April 29, 2022. *Chair would like to have the original letter on file.*
 - **Exhibit G**—Copy of the CCC’s preliminary comments, dated April 26, 2022.
- **Board Conflicts of Interest or Visits to the Site:**
 - **Conflicts**—None expressed.
 - **Barbara**—She and Douglas visited the site a week ago.
 - **Shari**—Visited the site April 30, she found the flagging confusing as the numbers did not match the numbers on the map.
 - **Ellen**—Visited the site May 2
 - **Cheryl**—Visited the site as well.
 - **Mary Dodge and Don Burns**—Visited on April 21.

C. Applicant’s Presentation—Ron LaRose

- **30 acres sold** about a year ago by Ms. MacFadden to her neighbor on the east, Peter Demong.
- **Proposed Subdivision**—To divide the remaining 17+ acres into four 4+-acre Lots. Lot 1 to be retained, with her home on it. The other 3 to be sold.
 - The septic systems for the 3 lots to be sold have been tentatively located by perc tests, and will have State permits applied for pending subdivision approval.
 - In response to question interjected about how the lots were determined, LaRose indicated that the lot bounds were determined after discussion between Ms. MacFadden and her realtor, Roxanna Emilo, on their saleability, available house sites, and the results of the septic perc tests. House sites are tentative and based on proximity to tentative septic areas. Lots also set up with sufficient space and vegetation to ensure privacy.

D. Board Questions:

- **Barbara**—We have a copy of the letter giving the LaRose firm permission to represent Ms. MacFadden at meetings. Want to clarify nature of permission. What is the relationship between Ron LaRose and Ms. MacFadden? Can Ron confirm the signature is Ms. MacFadden’s? What is Roxanna Emilo’s role? **LaRose:** MacFadden deals primarily with Emilo, who then relays information to LaRose. Emilo is the realtor. Ron cannot confirm that the signature is that of Ms. MacFadden.
- **Shari and Ellen:**
 - **Who is acting legally** on MacFadden’s behalf? **LaRose:** *He is, per letter from MacFadden to Emilo (Exhibit F). He will be explaining the DRB’s process and recapping this meeting to MacFadden.*
 - **Major subdivision requirements are fairly extensive** compared to minors. Is Ms. MacFadden aware of the distinction between major and minor subdivisions, have they been discussed with her? **LaRose:** *Not to his knowledge.*
 - **Lot 2** appears to be at least partially in the MDR.

- **Lot 4** appears to have possible wetland issues? **LaRose:** *Wetlands are defined by the vegetation not standing water. He did not find anything concerning on that front, had there been concerns he would have advised seeking a wetlands expert to define the existence of the wetlands and the necessary 50' buffers.*
- **Barbara**—To clarify the hearing/process distinctions: minors basically have one hearing, Majors at least 2. Minors have 6 mandated requirements, majors have 14 requirements, and sub-requirements. The Board can make certain adjustments and waive certain requirements, particularly with regard to minors, but majors are more time consuming and expensive than minors no matter how they proceed. Technically, in this case there may not be an alternative to determining this project as anything other than a major subdivision because two of the proposed lots are interior lots. The Board will consider whether or not they can reduce the project to minor, despite the 2 interiors, if the lots are reduced to 3. But with a three-lot subdivision, in this particular case the Board might be more inclined to waive several of the filing requirements otherwise applicable to majors.
 - All the lots, in terms of size, meet the minimum lot size of both the LDR and MDR districts. But it would help if the district boundaries were on the map.
 - **Lot 4:** What is the reason for its irregular shape? **LaRose:** *Basically, it was set according to whatever land was left after determining tentative bounds for Lots 1 through 3. Lot 3 has the wildlife corridor which has been noted as a concern. If the lots are reduced to 3 rather than 4, it is possible that Lot 4 could remain as it is, Lots 1 and 2 could be increased. This would alleviate wildlife corridor concerns in the Lot 3 area, to a degree, and perhaps allow the project to move forward as a minor subdivision.*
- **Barbara**—The issue with Lot 4 is its interior lot status and that it thus requires 100' setbacks on all sides. With Lot 4, this may present a problem with the house-site location. Regarding interior lots in Cornwall, the definitions state that subdivisions with 2 or more interior lots lacking public road frontage must be treated as majors. However, applicants may request that certain requirements be waived. **LaRose:** *The setback issue may be resolved by moving the tentative house site.*
- **Cheryl**—Pulling up the ANR maps and applying the wetland overlay does not show any wetland indication for Lot 4. She will print out and file the map for the record.
- **Barbara: Bardon Road**—Is there any maintenance agreement for this private road? **LaRose:** *Not to his knowledge. It is his practice, however, to advise clients to draw up agreements covering maintenance and other related issues with private roads,*

E. Public Questions/Comments:

- **Don Burns (CCC)**—The CCC review was based on the submitted 4-lot sketch plan. Reducing that to 3 lots might change the issues reviewed. As far as Lot 3 is concerned, moving the house site to the North might benefit the wildlife corridor which runs through the lot from the Middlebury swamp on the East to Cobbs Corners on the West. **LaRose:** *Would the land owner require the town's permission if he/she wished to clear-cut the parcel?* **Don:** *Not sure. He explained that the CCC's goal is to raise awareness of the owner and the public to issues that affect or are affected by land use decisions and to mitigate negative impacts of those decisions.* **Barbara:** *Noted that the CCC's role is to advise the DRB. Additionally, in the CCC review, the word "likely" appears, to say the forest "likely" provides a travel corridor for wildlife. Does this still hold?* **Don:** *Probably would remain as "likely."*
- **Mary Dodge (CCC)**—The wildlife data used on the mapping sites comes from the ecological inventory information and the State's other mapping services and is just 'data' until confirmed by documentation. Consequently there is likely to be some discrepancy between data and actuality. Given this, although she finds the word "likely" to be a bit weak,

until the data has actually been confirmed “likely” remains the CCC’s word of choice for its recommendations.

- **Gisela Palmer**—Major wildlife activity is in the south area of Lot 4, adjacent to their property, where she is aware of 2 major tracks. Moving the house site to the Lot’s North would move it away from the wildlife corridor, moving it to the SE corner would put it in the middle of the area of traffic. There is a fairly constant wet area to the east of Lot 4, possibly a spring in that area. Consequently, Lot 4 tends toward wetness.
 - **Will adding 3 new houses** negatively impact neighbors’ water? **DRB:** *A hydrologist report is required [Subdivision Regulations §320(6)] for both major and minor subdivisions so that will be determined.*
- **Mike Palmer**—Road maintenance has been an ad hoc system since they moved there in 2000. For example: Ms MacFadden paid for plowing from Route 30 to her house, the Palmers paid for plowing from MacFadden’s to their house. He took care of mowing the sides of the drive. Is there a model private road maintenance agreement that would provide guidance? **LaRose:** *Such an agreement should be an attorney drawn document to which all parties would need to agree.*
- **Mary Dodge (CCC)**—The observations on wildlife traffic provided by Gisela might be helpful in redefining lot boundaries if the parcel is redesigned with fewer lots.

F. Fees—Barbara explained the possibility of requiring escrowed legal/technical fund. Setting such fees will depend on the determination of the major/minor status of the project and what professional assistance the Board may anticipate needing.

G. Wrap—Ron LaRose is going to meet with Ms. MacFadden and recommend that she proceed with a three-lot subdivision, rather than a four-lot subdivision. He plans to file revised drawings next week. He would like this matter to be on the Board’s agenda for its June meeting, if possible. The Board agreed that the discussion could resume at the June meeting. At that time, the Board can classify the project and specify the submission requirements.

- Along with the revised plat to be filed for the June meeting, Barbara would like a letter of authorization signed by Ms. MacFadden that explicitly authorizes Ron LaRose to proceed with this subdivision application on her behalf. The letter must make it clear that she is choosing to proceed and has the capacity to confer authority on Mr. LaRose to proceed on her behalf.
- Board would also like to see an application form, signed by Ms. MacFadden, submitted for the next meeting.

After a short discussion, the Board agreed to adjourn the Sketch Plan review meeting and to resume discussion at the June meeting. Barbara will add it to the agenda.

7. OTHER BUSINESS

- **Old**—none
- **New**—none

8. AVAILABILITY FOR NEXT MEETINGS

- **June 1, 2022**—Shari and Ellen may be away; others expect to be available. Chlodniki Hearing anticipated, Cheryl and Douglas to be leads.
- **July 6, 2022**—Ellen and Douglas may be away.

ADJOURNMENT—Meeting adjourned at 8:35 pm.

Respectfully Submitted,
Robin Conway, DRB Secretary