

CORNWALL DEVELOPMENT REVIEW BOARD (DRB)
MINUTES • December 7, 2022 • 7:00–8:45 pm
Meeting • In-Person (Town Hall) and Virtual via ZOOM

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

ALTERNATES PRESENT: Joan Lynch (sitting on the Board for this hearing)

GUESTS PRESENT: Ron LaRose (MacFadden Representative, LaRose Surveys, PC); Don Burns
(Cornwall Conservation Committee)

1. CALL TO ORDER: at 7:00pm by Barbara Greenwood, DRB Chair

2. ESTABLISHMENT OF QUORUM—Established.

3. APPROVAL OF AGENDA—Shari MOVED, Ellen SECONDED, to approve the Agenda as amended. *Motion passed.*

4. APPROVAL OF MINUTES

- *November 2, 2022*—Shari MOVED, Douglas SECONDED, to approve the **November 2 Minutes** as amended. *Motion passed.*

5. MEETING SIGN-INS—The only two Attendees were on record from the previous hearing regarding their names and postal addresses as recorded by the Board Secretary. Ellen then administered the oath to the Attendees.

- **Ron LaRose**—LaRose Surveys; named by Hartley MacFadden as her representative for this proceeding; 25 West Street, Bristol VT 05443
- **Don Burns**—Cornwall Conservation Committee; 2742 Rte 30, Cornwall, VT 05753

6. MACFADDEN HEARING—Proposed subdivision of property at 625 VT Rte 30, Cornwall:

A. Introduction—Barbara gave a short review of the process to be used for this hearing: after some housekeeping matters the Applicant, Ron LaRose, would present the application, followed by Board questions, and an opportunity for the Applicant to respond. An opportunity for public comment would follow Board questions, then an Applicant response, and a final opportunity for additional Board questions.

Barbara noted that the meeting would be conducted in an orderly manner and in accordance with the Board’s rules of procedure.

Barbara then explained that this is a continuation of the preliminary subdivision application hearing brought by Ron LaRose of LaRose Surveys on behalf of property owner the M. Hartley MacFadden Trust, Trustee Rose Torrey, to subdivide 17.33 acres located at 625 Vermont Route 30, in Cornwall, Vermont, into 3 lots. This hearing is a continuation of the November 2 hearing. Rose Torrey has submitted a letter confirming her authorization of Ron LaRose of LaRose Surveys to proceed with the subdivision application as representative of Ms Torrey, Trustee, and the M. Hartley MacFadden Trust. The Cornwall Development Review Board had classified this matter as a major subdivision on June 1, 2022.

B. Housekeeping—Before opening discussion on the review, the following housekeeping issues were dealt with:

- *Conflicts of Interest, ex parte communications, or visits* to the property

- Barbara, in Sue Johnson’s absence, met Ron LaRose, on November 22 at the Town Hall to receive the additional materials he wished to file. Ron gave her an update on the branch trimming along Bardon Drive, the hammerhead turn-around installation plan, and the driveway maintenance agreement.
- **MacFadden Exhibits**—The following documents that had been filed and been marked as exhibits for the first hearing:
 - Exhibit 1**—Warning (which was posted in a timely fashion at the Town Hall and Town Garage, on the Town website, and on the property)
 - Exhibit 2**—Warning published in the *Addison Independent*, October 13, 2022
 - Exhibit 3**—Proof of service on abutting landowners—copies of letters which included a copy of the warning sent to the abutting landowners, and certified mail receipts for them.
 - Exhibit 4**—Application form, provided October 10, 2022
 - Exhibit 5**—Copy of May 12, 2022, letter from M. Hartley MacFadden authorizing LaRose Surveys, PC to represent her in this subdivision application [this was marked Exhibit 10 with the sketch plan review]
 - Exhibit 6**—*Materials filed October 6, 2022:*
 - 6A**—Index to DRB packet;
 - 6B**—September 30, 2022 letter from LaRose Surveys to Town of Cornwall, addressing provisions of §320 of the *Cornwall Subdivision Regulations*;
 - 6C**—August 11, 2022 letter from Stephen Revell of Lincoln Applied Geology, regarding water availability;
 - 6D**—Email Correspondence from July and August 2022 between Dori Barton of Arrowwood Environmental and Zapata Courage of the Vermont Department of Environmental Conservation, confirming the absence of wetland resources in and adjacent to the property proposed to be subdivided;
 - 6E**—Draft Easement and Road Maintenance Agreement between Rose Torrey, Trustee of the M. Hartley MacFadden Trust and Michael P. Palmer and Gisela Palmer;
 - 6F**—September 19, 2022 letter from LaRose Surveys to Chief Dave Berno of the Cornwall Fire Department, with October 5, 2022 email from Ron LaRose to Dave Berno, and also October 5, 2022 email response from Dave Berno;
 - 6G, 6H, 6I**—Draft deed descriptions for Lots 1, 2, and 3;
 - 6J**—Draft plat showing proposed subdivision of lands of M. Hartley MacFadden, dated March 1, 2022, with a revision date May 11, 2022, (clarified that it was corrected after the June meeting with details from that date);
 - Exhibit 7**—October 21, 2022 updated comments from the Cornwall Conservation Commission;
 - Exhibit 8**—Deed, dated August 25, 2022; Property at 625 Rte. 30 deeded to Rose Torrey, Trustee, M. Hartley MacFadden Trust.

Barbara added the following materials to the list of exhibits, marked as noted:

- Exhibit 9**—Email from Ron LaRose to Barbara listing the materials submitted with the email, and status updates; dated November 21, 2022.
- Exhibit 10**—Memorandum from Rose Torrey, Trustee of the M. Hartley MacFadden Trust, to Ron LaRose and the Cornwall DRB authorizing Ron LaRose and the DRB to proceed with this subdivision application hearing; dated November 5, 2022.

Exhibit 11—Letter from Ron LaRose to the Cornwall DRB updating earlier discussion (*Exhibit 6B*) of the §320 subdivision requirements in the *Cornwall Subdivision Regulations*; dated November 21, 2022.

Exhibit 12—Plat revised November 21, 2022 depicting proposed subdivision of lands of Rose Torrey, Trustee of the M. Hartley MacFadden Trust.

C. MacFadden Preliminary Plan Review:

1. Applicant's Presentation & Update—Ron LaRose

• Proposed Subdivision

- Map—Location of proposed wells and septic systems for Lots 2 and 3 (Lot 1, existing well and septic systems) added.
 - Lot 3—building envelope enlarged per requested waivers.
 - ROW for Andrus Pitch now depicted, Andrus Pitch centerline is the eastern boundary of the MacFadden parcel.
 - Driveway cuts for Lots 2 and 3 added; setbacks on all lots depicted.
 - Overhead utility line along Andrus Pitch depicted to the southern-most pole at which point the line runs underground to the MacFadden house.
- Ron and GMP representative met to discuss the utility path along Bardon Drive. It will follow Bardon's ROW, within its own 25' ROW, from power pole 9 along the east side of Bardon. Lots 2 and 3 will have ground transformers, then the line will be underground to the house sites. The line for Lot 3 will be drilled under Bardon Drive to the west side.
- Branches along Bardon, cut per Fire Department request, primarily from Lot 3 driveway to Palmers'. The emergency vehicle turn around has been installed, only brush was cut, no trees were removed.
- Letter from Rose Torrey per Board request, submitted with her authorization for hearing to proceed, Ron to continue representing the Trust.
- Road Maintenance Agreement—Ron gave attorney the percentages each lot owner would be responsible for (Lots 1, 2, 3, and the Palmers), has left it to the attorney to delineate the proposed agreement. No response from Palmers.

Ron had told MacFadden Attorney that DRB wanted the owners' payment obligation to commence upon the closing of the lot purchase, and the MacFadden attorney had questioned that. Barbara noted that the DRB had suggested the payment obligation should begin upon the commencement of construction, rather than upon its completion, but said it is up to the Applicant. She noted the Board would probably not interfere too much in details of the agreement, but may deal with any input it feels warranted when imposing conditions if the application is approved. Conditions may be constructed to bind lot owners but leave option to be amended, if Mr Palmer elects to participate. The Town Attorney will have to approve the agreement.

• Description of the land:

- No wetlands, streams, severe slopes, rock outcroppings, ridge lines found, per Arrowhead.
- Lots 2 and 3 both have open areas at their north ends with views.
- Land on the east side of the parcel rolls off toward Andrus Pitch, but does not amount to a substantial elevation change.

2. Board Questions:

- **Barbara**—Appreciates the well/septic additions, the 500' separation as noted by Revell are now clearer. Is there an easement for the GMP utility line that runs off Andrus, to the 2 poles, thence up to the MacFadden house? **Ron:** *There may be one, he can add that to the plat. He noted that when GMP runs a new power line along Bardon, it will have its own 25' ROW and a new easement will be made between GMP and the MacFadden Trust. The constructed power line will run from pole 9 along the easterly side of Bardon, then on the west after crossing under the road to Lot 3. Any such easement will be designated in the Lot deeds. On the plat, the easement will be noted as being "centered on" the Bardon Drive centerline, from pole 9 forward, but not depicted.*
 - The Palmers have not actively participated in the agreement discussions and their position is unknown. Conditions can be constructed that will bind lot owners, but leave an option for future changes, as noted.

3. **Public Questions/Comments, Applicant response:**

- **Don Burns, CCC**—Read a message from Mary Dodge who had planned to be at the hearing but was unable to do so. The message thanked the Applicants for their efforts in preserving the woodlands and keeping the wildlife's travel link from the Middlebury forests to Cobb's Corner and across Rte 30 connected. She expressed concern about the building envelope on Lot 3, that the owners could move the septic, well, and/or house site further into the woods, undoing the connectivity. She suggested that the envelope be changed to eliminated the triangular area pointing into the woods, somewhat squaring off the envelope in that area. **Ron:** *Noted that there are two issues here: the house site and the building envelope. The State is not interested in the building envelope, their concerns are with the house site. If an owner wants to move anything after the State issues its permit, the permit will need to be amended. The DRB and Town are concerned with the building envelope. The house site is movable within the envelope. The septic and well sites do not need to be within the envelope.*
- **Shari** asked Don about the language the DRB had requested from the CCC that might be incorporated into the DRB decision. **Don:** He had understood that the language was to be incorporated into the CCC's welcome letter. They typically send new owners a letter encouraging them to recognize the importance of the wildlife passages and to understand how best to protect their woodlands.

4. **Board last questions or comments:** None.

5. **Applicant last response:** Ron said he feels he could have done a better job at providing more detail in the beginning, but that the piece-meal approach that ensued has actually been beneficial as everyone has had ample opportunities to review the proposed subdivision /development and offer opinions.

6. **Wrap Up**—Board agreed it had sufficient material to close the hearing. Barbara explained the remaining steps: The Board would issue its decision, and conditions if approved, on the Preliminary Application within 45 days; the Applicant has 180 days within which to submit a Final Application with revisions as needed to the application and plat; the Final Application will require a new newspaper 15-day warning and a hearing.

- The hearing was closed at 8:22pm.

Business meeting Agenda resumed.

7. **DELIBERATIVE SESSION**—Short session ensued.

8. **OTHER BUSINESS**

- **Old**—None

- **New**

- A sketch plan review meeting for a proposed subdivision on Rte 30 will likely be scheduled for the January meeting.
- Short update on the CCC's role at hearings.

9. AVAILABILITY FOR NEXT MEETINGS

- **January 4, 2023**—Everyone present will be available.
- **February 1, 2023**—Shari probably will not be available, all others expect to be.

ADJOURNMENT—Ellen MOVED, Joan SECONDED, that the meeting be adjourned. ***Motion passed.***

Meeting adjourned at 8:45^{PM}.

Respectfully Submitted,

Robin Conway, DRB Secretary