

CORNWALL DEVELOPMENT REVIEW BOARD (DRB)
MINUTES • April 5, 2023 • 7:00–9:00 pm
Meeting • In-Person (Town Hall) and Virtual via ZOOM

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

ALTERNATES PRESENT: Joan Lynch

GUESTS PRESENT: Brian Kemp, Sue Johnson (Cornwall Capital Committee, the Applicant); Ben Marks, John Roberts, Tanya Byker, Don Burns (Cornwall Selectboard); Steve Rheume (Road Foreman); Chet Van Dellen; Molly Daly; Sean Stearns

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

2. ESTABLISHMENT OF QUORUM—Established. Barbara noted that Board Alternate Joan Lynch had recused herself as, being an abutter to the property under review, she is an Interested Person.

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

4. ORGANIZATION

- *Chair*—Douglas NOMINATED Barbara for DRB Chair, Shari SECONDED. *Motion passed.*
- *Vice-Chair*—Barbara NOMINATED Shari for Vice-Chair, Douglas SECONDED. *Motion passed.*
- *Regular Meetings*—Barbara MOVED, Douglas SECONDED, that the DRB regular meetings be scheduled for the first Wednesday of the month at the Town Hall at 7:00pm, in-person and via Zoom. *Motion passed.*
- *Newspaper of Record*—Ellen MOVED, Douglas SECONDED, that the *Addison Independent* be recognized as the newspaper of record. *Motion passed.*

5. APPROVAL OF MINUTES

- *March 1, 2023*—Shari MOVED, Joan SECONDED, to approve the **March 1 Minutes** as amended. *Motion passed.*

6. HEARING SIGN-INS—Attendees' were reminded to sign the hearing sign-in sheet. Douglas then administered the oath to those who planned to speak. The recording of the meeting was begun.

- *Sue Johnson*—Capital Committee, 2964 Rte 30, Cornwall, 05753 (Town Clerk and Treasurer)
- *Brian Kemp*—Capital Committee, 2964 Rte 30,, Cornwall, VT 05753 (Road Commissioner, Selectboard)
- *Ben Marks*—Selectboard
- *John Roberts*—Selectboard
- *Tanya Byker*—Selectboard Chair
- *Steve Rheume*—Road Foreman
- *Don Burns*—Selectboard, Cornwall Conservation Committee
- *Joan Lynch*—South Bingham Street, Cornwall, VT 05753
- *Sean Stearns*—Cornwall, VT 05753

- *Molly Daly*—Cornwall, VT 05753
- *Chet Van Dellen*—Cornwall, VT 05753

7. HEARING: Site Plan Review & Coverage Waiver for Proposed Town Salt & Sand Shed

A. Introduction—Barbara gave a short review of the process to be used for this Application Hearing: after some housekeeping matters, Sue Johnson and Brian Kemp, representing the Cornwall Capital Committee (the Applicant on behalf of the Town of Cornwall), will present the Application for the proposed salt and sand shed waiver, followed by Board questions, and an opportunity for the Applicant to respond. An opportunity for public comment follows Board questions, then Applicant's 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 review of a requested waiver of LDR lot coverage requirement for the 2.1-acre parcel at 1469 South Bingham Street, Cornwall (Parcel ID 11-01-35). The parcel is owned by the Town and is the site of the Town Highway Department office, garage, and salt/sand shed. In addition to the waiver, a Site Plan Review will be included because, pursuant to the *Cornwall Zoning Regulations* (CZR), the use of the property by the Town, although exempt and 'by right,' nonetheless requires that proper development within the property bounds be reviewed to ensure its compliance with Town regulations and the Town Plan. The issue of appropriate use is not open for discussion, §411. This hearing was warned and posted as required. The review will be under the specific applicable requirements of the: §380 *Waivers*, §390 *Site Plan Review*.

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 and Shari visited the site on March 13, and spoke with Steve Rheame and Ken Manchester. Steve indicated what they would do with the calcium chloride tanks but no other mention was made of issues before the Board. Barbara noted she had spoken with Sue (Applicant) requesting that a drawing be included with the pending application that showed proposed setbacks, driveways, buildings, etc. On March 29, she asked Sue if she and Stu had received a list the Town Attorney had submitted to the ZA of additional materials that would be helpful to the DRB.
 - Douglas visited the site on March 18.
 - Shari advised that she is married to the Town Health Officer who conducts the salt tests at the shed site on a quarterly basis, noting that that should have no effect on her hearing the issue currently before the Board.

- **Exhibits**—The following documents had been filed and were marked as exhibits for this review:

Exhibit 1—Warning (posted in a timely fashion at the Town Hall and Town Garage, on the Town website, and on the property)

Exhibit 2—Certified mail receipts for warnings sent to abutting property owners.

Application materials filed February 28, 2023:

Exhibit 3—Check for application fee

Exhibit 4—February 21, 2023 letter from James Duclos to the Town of Cornwall concerning the application for waiver and enclosed excerpts from regulations

- Exhibit 5***—Completed Hearing application form
- Exhibit 6***—Document setting out dimensions and capacity of current facility and of 3 options for proposed facility
- Exhibit 7***—List of abutting neighbors
- Exhibit 8***—Deed from Herman Hoops and Genevieve Hoops to the Town of Cornwall, dated October 24, 1973
- Exhibit 9***—Elaine D. Farrell license to sell the property of Joseph A. Drolette, deceased, dated January 23, 1967
- Exhibit 10***—Warranty deed from Elaine D. Farrell, Administratrix, Estate of Joseph A. Drolette to Frank X., Sr., and Dorothy Lussier dated January 23, 1967
- Exhibit 11***—Warranty deed from Frank X. Lussier, Sr. and Dorothy Lussier to Herman R. Hoops and Genevieve E. Hoops, dated January 30, 1967
- Exhibit 12***—Warranty deed from Herman R. Hoops and Genevieve Hoops given to Frank X. Lussier, Sr., and Dorothy D. Lussier for the purpose of correcting an error in the January 30, 1967 deed
- Exhibit 13***—Purchase and Sale Agreement between Herman and Genevieve Hoops and the Town of Cornwall, dated October 3, 1973
- Exhibit 14***—Tax map showing the Town’s garage property and the abutting property owners
- Exhibit 15***—Aerial image of the existing property, marked and showing details including existing structures, proposed new structure, and abutters.
- Exhibit 16***—Aerial image of the existing property marked to show location of proposed new shed
- Exhibit 17***—Aerial image of the existing property marking current traffic pattern and ledge outcroppings
- Exhibit 18***—Document with two side by side aerial images of the existing property
- Exhibit 19***—Aerial image of existing property marking proposed new structure
- Exhibit 20***—Scaled drawing showing existing property, dated 11-15-2021
- Exhibit 21***—Copy of *Exhibit 20*, scaled drawing showing existing property, but with proposed new building drawn in, and a key added to identify what is on the property, including buildings, shipping container, well, grader, loader, outside storage, and parking.
- Exhibit 22***—Plan of land owned by Herman R. and Genevieve E Hoops dated January 26, 1978, marking the Town of Cornwall property
- Exhibit 23***—Map showing Lot 4 of the Mike Connor subdivision, showing edge of abutting Town of Cornwall property
- Exhibit 24***—Map showing Lots 2 and 3 of the Mike Connor subdivision, showing edge of abutting Town of Cornwall property
- Exhibit 25***—Large copy of Aerial image showing the property and marking on it the proposed new shed
- Exhibit 26***—Large copy of scaled drawing marked as *Exhibit 21* showing existing property, with proposed new building drawn in, and a key added to identify what is on the property, including buildings, shipping container, well, grader, loader, outside storage, and parking.
- Exhibit 27***—Large copy of aerial image of the existing property marked as *Exhibit 17* identifying current traffic pattern and ledge outcroppings
- Exhibit 28***—Copy of Application for Zoning Permit filed January 25, 2023
- Exhibit 29***—Comments from the Cornwall Conservation Commission dated March 1, 2023 indicating no concerns with the application

Exhibit 30—Copy of part of *Exhibit 26*, with mock up of proposed shed at a more accurate size depiction by Barbara Greenwood, submitted and marked at the hearing April 5.

C. Town Salt & Sand Shed Waiver Hearing: Originally, the Applicant sought waivers from three dimensional requirements in the Low Density Residential District within which the site is located. The issues involved with building height and setback from South Bingham were resolved with the help of Acting ZA Jim Duclos. The remaining issue is in regard to lot coverage (a maximum of 3% in the LDR) which includes all impervious surfaces (buildings, driveways, parking areas, accessory structures, etc).

1. Applicant's Presentation —Brian Kemp, Sue Johnson on behalf of the Cornwall Capital Committee. At issue are:

- a. the coverage percentage criteria required for the LDR by the town zoning bylaws (3% maximum);
- b. delays in salt availability and delivery have occurred several times in the last few years and are expected to continue;
- c. the existing salt/sand shed is collapsing and presents a danger to personnel and visitors;
- d. insurance coverage is being denied.

e. Property and Use Issues

- (1) The property is a non-conforming parcel in the LDR, being only 2.1 acres rather than the required 4 acres.
- (2) The Committee has looked elsewhere for a new site, but the only other town land is next to the school which does not seem like a good idea. Barring that spot, the town would need to purchase a new parcel. To constrain costs, it was determined that the existing site on South Bingham is the best option available.
- (3) There is an environmental aspect to the salt storage facility. The current facility to provide cover for the town's salted sand supply was built in the early 80's because the surrounding water table had been contaminated by salt, attributed to uncovered storage of salted sand. Efforts to monitor and mitigate the contamination continue, and will do so for the foreseeable future.
- (4) Much of the parcel is unusable due to ledge outcroppings.
- (5) There is no landscaping or screening plan as the parcel is an existing site with no additional space for this type of planting. The site is quite well screened as it sits with a tree line to the north and south and ledge to the rear.
- (6) The typical hours of operation are Monday–Friday from 7AM–4PM. Additional hours of operation are on an as needed basis. For example, a major snow storm could see the highway department personnel working well in to the evening and overnight. This will be no different with the installation of the new sand and salt building.
- (7) Once the sand and salt building is replaced, the noise level will be no different than it is currently. The trucks and machinery need to operate at the location in order to perform the duties required. Generally speaking, the equipment will be used during the typical hours of operation and only as needed for storms and emergency situations.

f. Building Issues

- (1) The town's insurance provider will not insure the current structure against failure because of the complete failure of its back wall and the significant degradation of its side walls. This degradation of the concrete and the need to replace the structure was mentioned in the *Town Plan* on page 39 under *Community Facilities and Services / Town Garage*.

- (2) Due to weaknesses in the supply chain for timely salt deliveries, the conventional wisdom is to have at least half the town's salt supply on hand at the start of the season to provide a buffer for when deliveries are delayed. In order to do this, a larger storage area than presently exists is needed.

g. Proposed Structure

- (1) The town's Selectboard and Capital Committee have decided that replacing the entire structure with a fabric covered structure is the best option. The proposed structure is typical of several sand/salt storage and farm buildings in surrounding towns (Addison, Panton, Ferrisburgh, New Haven, Bristol, Starksboro, Brandon, Pittsford, Hinesburg, and Middlebury).
- (2) The intentions are:
 - to increase the onsite storage of sand and especially salt
 - to ensure the safety of personnel and visitors
 - to maintain the existing percentage of impervious coverage of the parcel. The new structure will be situated partly on the footprint of the existing structure and partly on the existing graveled area. No expansion of the existing graveled area is needed or planned, all structures sit on this area already.
- (3) The proposed structure's dimensions (70' x 80') will allow for the increased storage capacity and space for the anticipated addition to the garage, without encroachment on setbacks, as well as allowing enough room for equipment to load and deliver materials efficiently.
- (4) The structure frame will be on structural concrete blocks stacked 8' high though set into the ground one foot. This will provide the desired storage as well as the clearance for dump trucks and pushing sand up without damaging the structure itself.
- (5) The shed floor will be asphalted. There will be an asphalt apron in front of the building approximately 85' wide and 40' long.
- (6) The structure should decrease energy consumption due to the translucent nature of the fabric cover.
- (7) The need for power and lighting in the structure is not anticipated.

h. Construction Plan

- (1) Demolition of the current structure and removal of about half the existing concrete pad is planned. The proposed location of the new structure will be partially where the existing structure currently stands. The intention is to move the new structure north 25' and turn it slightly in order to provide access and a loading area. This will also accommodate plans, in the not distant future, to add another bay on the side of the existing town garage.
- (2) There are four stages involved:
 - demolition of the existing structure,
 - excavation and setting of the blocks to form walls approximately 8' high,
 - asphaltting the floor and apron,
 - installation of the fabric structure on the block walls.

i. Contracts

- (1) The contracts will allow work to start after May 1, 2023; ideally, to be completed by September 1, 2023.
- (2) A sales agreement and contract have been signed with Lussier Brothers for the purchase and installation of the new sand and salt building. The building has been ordered and it is expected that delivery will be at least 17 weeks out if not longer.
- (3) A contract is being negotiated with S&J Stearns for the demolition, excavation, paving, and setting of the blocks. This work is anticipated to begin in May 2023.

They are unclear what the exact duration of the work will be, but expect to know more when the contract has been presented and signed.

- j. Proposed Waiver—The existing coverage of the parcel exceeds the LDR coverage standard and has for many years. Although this proposal will not increase the existing lot coverage, the Committee seeks approval by the DRB to allow the coverage dimension waived.

2. Board Questions/Comments:

• Shari & Douglas:

- What does the impervious surface consist of? **Brian:** gravel and a concrete pad. The drive & parking areas are gravel, all structures sit on either the gravel or the pad. The structures, though being impervious themselves, do not add to the impervious coverage as they are sitting on top of an impervious surface. About 50% of the concrete pad will be removed when the existing building is demolished and will be replaced with gravel. The new structure's concrete block walls will be on the gravel. The 'floor' space within the walls, and the outside apron will be asphalted on top of the gravel.
- What about the chloride tanks? **Brian:** They will be temporarily stored south of the garage then, post construction, will likely be reset on the remaining portion of the existing pad on the south side of the new shed structure.
- What is the size of the impervious surface? **Brian:** Not certain of the square footage for the area.
- **Barbara:** On *Exhibit 21*, all the area encompassed by the dotted line, looks like roughly 40%, is impervious? **Brian:** Yes, 40% seems about right, and the gravel area is marked by that dotted line.
- **Shari:** How long have the structures been there? **John Roberts:** The gravel areas have been there since 1987.
 - What are the plans for drainage? **Brian:** the NE side will be built up a couple of feet to level the area for the building. The proposed apron areas will be the same as the existing pavement so not adding drainage problems. There is no current issue with drainage and no plans to add drainage pipes as the construction will not be adding drainage problems.
 - How tall will the proposed shed be? **Brian:** 42' at the peak. **Barbara:** Noted the bylaw provision related to determination of height. It is the average of the two measurements taken at the highest point and at the eaves. The proposed shed does not to exceed the allowable 35'.
- **Barbara:** Question regarding the accuracy of the site map (*Exhibit 26*). She felt it was inaccurate in its depiction of the size of the proposed shed, that—using the scale of 1" = 48'—the proposed shed was in fact about 56% larger than depicted. She made a copy with a revised shed roughly depicted. In the model Barbara prepared, the shed was still within the rear and front yard setbacks, but she wanted to make sure the town felt there was still enough room for truck turnarounds, etc. **Brian:** The proposed shed will be 72' x 82' measured to the outside of the concrete blocks. The fabric structure needs to be set on the blocks away from the outside edges and will actually be 70' x 80'. He and Stu had realized the size shown was not accurate. They will place the shed more or less as depicted on Barbara's drawing. Turning the building slightly prevents any setback encroachment and allows the needed traffic flow, so no setback waiver will be needed.

He and Stu are comfortable with the shed's placement and the room for traffic. **Sean Stearns**: Clarified that the proposed structure's dimensions are to be 70' wide x 80' long.

- **Barbara**: For the record, she marked her map as ***Exhibit 30***.
- **Barbara**: What impact will there be on neighbors? **Brian**: Once the construction is over there really shouldn't be any appreciable change in the existing impact, except perhaps some increase to the neighbor on the north.

3. *Public Questions/Comments*

- What is the height at the currently existing shed peak? **Brian**: About 32'.
- What will the building look like? **Brian**: The structure is a hoop structure. The 8' wall is concrete block, so gray. The upper portion set on the block wall is fabric in a hoop form so the roof is rounded and all the fabric is white.
- **Ben Marks** wanted to note that alternate structure types were close to a million dollars. The Selectboard believes this fabric structure is the most responsible use of public funds and minimizes the expense to town residents. The court case resulted in what technically amounts to a requirement that the salt be covered to prevent further contamination. This removes any option to simply allow the existing structure to fall down and not be replaced.
- What options are there for shading the yard light? **Brian**: There are a number of shading possibilities they can look into, or the light could be on a switch so on only when in use, not all the time.

4. *Board last questions or comments:*

- **Barbara**: Four times a year water samples are taken from a faucet for the court case's salt monitoring/ testing? Will there be any change? **Brian**: The samples are taken from the south side of the lot and there will be no change to that.

5. *Applicant last response:* Brian wanted to assure everyone that this building is the best currently available option they found in terms of cost, usability, reliability. They have been well proven over years of use by many towns and farms.

6. *Wrap Up*—Barbara noted that the Board has 45 days to issue its decision, though understanding the need, if approved, to get started on the project the Board will act expeditiously to render their decision. The hearing was closed at 8:14.

Business meeting Agenda resumed at 8:25. Recording ended.

8. CANDIDATE

- **Molly Daly**—Molly introduced herself to the Board. She and her family moved to Cornwall five years ago. Her kids are in elementary school and her interest in the community is increasing. She wants to be more involved and feels the DRB will be a good fit with her interests and her time.
- The DRB will recommend that the Selectboard appoint Molly to the DRB as a regular member.

9. OTHER BUSINESS

- **Old**—The MacFadden decision was mailed in a timely manner.
- **New**
 - ***VLCT presentation on the Open Law Meeting***—VLCT's presentation will be on April 19 at 10^{AM}. The Board decided to meet as a group in the Town Hall to watch the Zoom presentation. The meeting will be warned as a Special Meeting because there will be enough

DRB members to require such a notice. Barbara will make sure the PC is advised so they can also attend if interested.

- ***Martin Appeal***—The Board was reminded to pick up the application packet and other documents. This matter is complicated and needs particular attention especially as the Board has not previously dealt with an appeal.
- ***Contact List***—Barbara will be updating the contact list and requested anyone whose information has changed to send it to her.
- ***Resignation***—Ellen will be resigning due to her new elected position to the ACSD board. The DRB expressed their great appreciation for her time and effort on this Board.
- ***Masks***—The Board decided that it will no longer require masks to be worn at in-person meetings. Anyone desiring to wear a mask will be encouraged to do so.
- ***Question regarding the 45-day decision***—Chet Van Dellen, who had stayed for the rest of the Board's meeting, asked about waivers and the Board's 45-day decision period. Are these from Statute or local regulations? Barbara explained the details of each. Both are statutory as well as in the local regulations.

10. AVAILABILITY FOR NEXT MEETINGS

- ***May 3, 2023***—All available. Kymberly will be recused, as an abutter; Joan will take her place for that hearing.
- ***June 7, 2023***—All available.

11. Deliberations

- **Capital Committee Hearing**

ADJOURNMENT—The meeting adjourned at 9:00^{PM}.

Respectfully Submitted,

Robin Conway, DRB Secretary