

**TOWN OF THETFORD
DEVELOPMENT REVIEW BOARD**

MEETING MINUTES

02/15/14

Members Present:

Bill Bridge	Jesse Anderson	Don Longwell	Sean Mullen (Chair)	Tim Taylor (Vice-Chair)	Mary Ellen Parkman (ZA)
Absent	X	X	X	X	X

Recorder: Mary Ellen Parkman

Attendees: Ruth Dwyer, Melissa Perry, Patrick Perry, Catherine Harwood, Brent Cadwell, Sam Van Dam, Matthias Senger, Diane Osgood, Matthew Brown

Sean Mullen called the meeting to order at 7:15 PM and moved directly to Agenda Item #1.

Agenda Item #1:

1). Warned Hearing on Application (TSD #658) for Minor Subdivision by Matthew W. Brown to divide one parcel into two parcels. This property is located in the Rural Residential district on Clay Road, North Thetford, VT

Mr. Mullen asked the applicant to join the DRB at the table and explain their draft plat plan and proposal. Matthew Brown was in attendance and explained that he bought a parcel from Diane Osgood that at one point had an application in for subdivision review and was approved. The mylar expired making the previous subdivision null and void but that he now wanted to subdivide his property to match the previous plan.

A draft plat plan by Byron Kidder, dated 2/6/15, was presented that split the parcel into Lot 1 - 3.37 acres and Lot 2 – 3.67 acres.

Previous soils investigations did show that both parcels perc and can support a mound system. Mr. Brown is working with Common Sense Septic Design to monitor groundwater levels to potentially site an in-ground system on Lot 1. The designer is currently preparing plans for submission for a state wastewater permit for Lot 2 for a mound system.

A driveway permit application has been submitted for a shared driveway 12' wide and 24' long to be located off Clay Road. There will be a 50'x50' non-exclusive right of way for siting this driveway.

Lot 2 has a buried utility lines easement

The DRB reviewed the draft plat and found it in compliance with the specifications and contents as required by Sections 4.01 and 4.02 of Thetford's Subdivision Regulations.

The lots as proposed meet the Town's minimum size requirements and the lot and site layout requirements in Section 4.04 of Thetford's Subdivision Regulations.

Section 4.05 prevents the creation of lots intended for sewage disposal where the land will not support individual sewage disposal systems. The DRB commented that the draft plat has the language "wastewater permit pending" for Lot 2 and this should be replaced with appropriate language or the wastewater permit number once the permit has been issued. The location of the proposed wastewater system or pertinent test pit locations should be shown on the final plat.

Catherine Harwood spoke up and indicated that she was representing Guardian Farms and that she was an abutter and had no objections to the project.

Mr. Mullen made the motion to approve the minor subdivision with the condition that once issued the wastewater permit be forwarded to the Zoning Administrator's office, the location of the final septic system location be shown on the final plat and that the mylar contain appropriate language for both Lot 2 in place of "wastewater permit pending" and deferral language for Lot 1.

The vote carried unanimously.

Bill Bridge	Jesse Anderson	Don Longwell	Sean Mullen (Chair)	Tim Taylor (Vice-Chair)
Absent	X	X	X	X

Mr. Mullen moved to agenda item #2.

2). Warned Hearing on Application (TSD #659) for Minor Subdivision by Woodchucks, LLC to divide one parcel into two parcels. This property is located in the Rural Residential district on 136 Cross Street, Post Mills, VT

Mr. Mullen asked the applicant to join the DRB at the table and explain their draft plat plan and proposal. Brent Cadwell was in attendance for Woodchucks LLC and joined the DRB.

He explained that his entity has purchased the property at 136 Cross Street with the hopes of subdividing it. Review of the property by the ZA last year revealed that in 1998 Martin and Tammy Parker applied for a subdivision permit from the State of Vermont including wastewater approval for this 1.7 acre parcel to be subdivided into two lots; an exempt .85 acre lot that would contain the existing house and Lot #1, a .9 acre lot to be the site of a proposed mobile home and new septic system.

The Martin's never applied for a Subdivision Permit from the Town of Thetford so the parcel remains as one lot.

Mr. Cadwell provided the original sketch that was submitted for the State Subdivision Permit and indicated that they were proposing the same split but would likely apply for a Town Driveway Permit to build a second driveway for the back lot (Lot #1) to be located north of the existing house near the north property line. The survey would also show an easement.

The DRB reviewed the sketch and noted that it was interesting that the State of Vermont had previously approved the project and issued an exemption for the septic system on the lot with the existing home and issued a permit. Mr. Cadwell was urged to contact the regional office to verify that this exemption is still valid.

Mr. Mullen asked if there were any interested parties in attendance that would like to participate. There were none.

The DRB asked Mr. Cadwell when he may be ready to bring a draft final plat for their review. A continuation date of April 14th was selected. Mr. Cadwell indicated that his schedule depended on the availability of his surveyor.

Mr. Mullen made a motion to continue the hearing for this minor subdivision to April 14th, 2015.

The vote carried unanimously.

Bill Bridge	Jesse Anderson	Don Longwell	Sean Mullen (Chair)	Tim Taylor (Vice-Chair)
Absent	X	X	X	X

Mr. Mullen then moved to Agenda Item #3.

3). Warned Hearing on Application ((#4055) for Conditional Use by Matthias W. Senger (Landowner) and Sam Van Dam (Applicant) for replacement of an existing lawful non-conforming building. This property is located in the Rural Residential district at 52 Old Strong Road, Thetford, VT.

Mr. Mullen asked the applicant to join the DRB at the table and explain their application. Matthias Senger and his architect Sam Van Dam were in attendance and joined the DRB.

Mr. Taylor explained that the application would undergo conditional use review in accordance with Section 4.05(B) of the Zoning Bylaw which allows existing structures that are non-conforming with respect to yard setbacks to be replaced or added to subject to provisions of Section 6.06 and the following requirements:

- The proposed replacement can not reasonable be located outside the setback area; and
- The expansion in any setback shall be the least intrusive that it can reasonable be.

Mr. Van Dam explained the Mr. Senger's house has two primary structures. The original structure was built in maybe the 1950's and an addition was built in the early 1990's. The addition is in great condition and is architectural pleasing but the original building is in poor condition with an unreliable foundation.

The application is for approval of the footprint area within the setback and once the design is finalized a zoning permit application for the building will be submitted.

Mr. Van Dam explained that as shown on the site plan included with the application, the existing house that is proposed to be demolished to within 28 feet of the Center Line of Old Strong Road. He and Mr. Senger are seeking approval to build a new structure in place of the old in a location that will not be any more intrusive and will remain outside of this 28 foot setback from the centerline of Old Strong Road.

Mr. Taylor asked if there was another reasonable location that this addition to the building could be located?

Mr. Senger explained that his lot was very narrow and there is a pond almost directly behind the house and topography that allows the site to drain away from the house. The well is located to the east of the house, and the pond to the back leaving only the west for an addition. The topography of the site and existing drainage patterns really leaves only the existing location.

The DRB asked whether the number of bedrooms is increasing as a result of the project. Mr. Senger indicated that the number will stay the same but they are exploring septic system options.

Mr. Mullen asked if there were any interested parties in attendance that would like to participate. There were none.

The proposed building will be similar in design to the portion of the home that will remain and will not change the character of the property except to improve the geometry of the home replacing the older portion of the house with a more traditional rectangular shaped structure.

The DRB found that the project meets the applicable standards for Conditional Use and Site Plan Review and all unnecessary application items were waived.

Mr. Taylor made a motion to approve the conditional use resulting in waiving 12' of the Town's 40' setback to allow for rebuilding of a portion of Mr. Senger's house at 32 Old Strong Road.

The vote carried unanimously.

Bill Bridge	Jesse Anderson	Don Longwell	Sean Mullen (Chair)	Tim Taylor (Vice-Chair)
Absent	X	X	X	X

Mr. Mullen then moved to Agenda Item #4.

4). Continuation of Warned Hearing on Application (Permit #4054) for Conditional Use with Site Plan Review, by Ruth Dwyer, to obtain approval by the Development Review Board for a 24'x60' Fabric Screen Wall, which has already been constructed. This property is located in the Rural Residential District at 2604 Sawnee Bean Road, Thetford Center, VT

This hearing is a continuation of a site visit held at the above location at 4 pm today. Mr. Taylor asked to have his observations from the visit recorded in the minutes and asked any others that had testimony to share it so that it was recorded on the record.

Mr. Taylor indicated that at the earlier site visit he observed a classic rural residential area in New England which included big open fields, quite a few homes and a farm that was not secluded but sited amongst a number of residences. He entered the Perry home to view the wall from the living room picture window. The wall was in direct view. While standing in the barnyard at the Dwyer property the wall clearly blocks the Perry house. The view is not blocked from the Dwyer house location. Mr. Taylor indicated that the ugly side of the wall was on Ruth's side.

The other DRB members agreed with these general observations.

Ms. Parkman indicated that she had received three pieces of evidence through mail/email since the last hearing and presented them for the record. They included; a request by Patrick Perry to the listers to have his home value lowered, a letter from Virginia Davenport about her old home, and a letter from a realtor regarding the McElroy property.

Mr. Taylor noted that Section 1.02 of the Zoning Bylaw should be revisited. Section 1.02 is the stated purpose for the Zoning Bylaws and includes the following objective; property owners enjoy the unhampered use of their property provided that such use does not affect the health or safety of their neighbors, or unduly impair the value of neighboring properties.

The Conditional Use standard to be examined closely in this application is the character of the neighborhood. Case law seems to indicate that the neighborhood limits are subjective and to be determined by the DRB. The neighborhood could be considered the entire rural residential district and character determined by the district definition or a smaller area within the district that is directly impacted by the application. The DRB often looks at both scenarios in determining its decision.

Mr. Anderson indicated that he found it difficult to consider this standard as it is often a matter of opinion and that often evidence is a series of opinions. He also noted that opinions of the residents of the neighborhood about the character of the area that they live are important.

Mr. Taylor indicated that the only other wall of that size that he could think of was a drive in movie screen and the construction of one would not fit in to this neighborhood but perhaps in one with a more commercial nature.

Mr. Mullen indicated that he finds the scale inappropriate. If the wall was closer to the barnyard and reduced in size it would have been less intrusive and perhaps the scale would have been reduced. As built the scale of the wall is not in alignment with the character of the neighborhood.

Mr. Longwell indicated that he agreed with Mr. Mullen, the size and location as built result in a scale that is inappropriate.

Ms. Dwyer shared that because of mature trees on the property the wall could not be moved back.

Mr. Mullen asked if the interested parties in attendance had any new evidence or testimony. Nobody did.

Ms. Dwyer indicated that in her view, subdivision of property and farm land to build houses has a greater impact on the character of Vermont and a neighborhood than her wall that was built to protect her quality life and allow her to enjoy unhampered use of her property.

Mr. Taylor indicated that Town of Thetford's Zoning Bylaw considers building homes a permitted use while building a wall over 10' high is a conditional use. Conditional Use review requires review of the standards.

Mr. Taylor made a motion to deny the application for conditional use for a 24' x 60' wall as it unduly affects the character of the neighborhood.

The vote carried unanimously.

Bill Bridge	Jesse Anderson	Don Longwell	Sean Mullen (Chair)	Tim Taylor (Vice-Chair)
Absent	X	X	X	X

Interested parties asked about what comes next. Ms. Parkman indicated that she will prepare a decision based on the sequence of hearings and the vote for denial. The applicant has 30 days from the signature date on this decision to appeal to the Environmental Court.

Interested parties expressed concern over the length of time it could take for the wall to come down and asked that the town issue a violation accompanied by fines.

Ms. Parkman indicated that she will review the proceedings with the Town Attorney and Selectboard in the near future and would let them know how things will proceed.

Mr. Mullen adjourned the meeting at 9:15 PM.

Respectfully submitted,

Mary Ellen Parkman

Approved on the ____ day of _____, 2015.

Sean Mullen, Chair

DRAFT