

# TOWN OF HIGHGATE

## Development Review Board

November 13, 2014 @ 6pm

### Approved Minutes

*NOTE: All actions taken are unanimous unless otherwise stated.*

#### I. CALL TO ORDER

The meeting was called to order by chairman, Rick Trombley at 6:00pm.

Present at this meeting:

- **DRB members:** Rick Trombley, Chairman; Tim Reynolds, Vice-Chairman; Woody Rouse; Julie Rice; Pauline Decarreau
- **Staff:** Heidi Britch-Valenta, Planning & Zoning Administrator;; Wendi Dusablon- Planning & Zoning Clerk
- **Applicants:** Dan Brosseau, Richard Deso, Donna Stevens
- **Public:** Roy Hango (engineer for Brosseau), Brad Ruderman (engineer for Deso), Greg Foster, Dick Souza, Chris Yates, Chris Kinnick, Debbie Spears, Gene Corliss, Paul Thibault and Travis Thibault

#### II. PUBLIC HEARINGS

- **DANIEL & LISE BROSSEAU**  
Preliminary Plan Review for a Major Subdivision  
Medium Density Residential District  
Morey Road / Darlene Drive

Rick Trombley verified that everyone had signed in and explained why it was important that it was documented who is present at any hearing. Rick explained the difference between an abutting property and an interested person, and that one person can speak on behalf of a group of interested persons. He also reminded everyone that all questions and comments should be directed to the board. Rick then swore everyone in and Mr. Hango and Mr. Brosseau came forward. The fire department had submitted a document regarding any potential concerns with this subdivision. Mr. Hango reported that a few changes had been made. They have applied for a wetland permit for the small wetland area. Rick asked about the proposed entrance to the development and if it is encroaching on the wetland. To which Mr. Hango replied that there is a very small portion on the buffer zone, none actually in the wetland. Mr. Hango does not see any difficulty getting the wetland permit. Mr. Brosseau received a letter on Oct. 31<sup>st</sup> advising that unless they found any reason not to issue the permit, that he would be receiving the permit within 30 days.

There will be a split rail wooden fence along the buffer zone, which was noted on the new paperwork submitted for the file. There will be some planting along the left side going into the development also. Tim asked how many trees will be planted, Mr. Hango is not sure yet, but they will plant what they are mandated to plant once they are given a directive. Lot dimensions have also been added and the title block has been changed. As soon as they get the green light, they will bring a surveyor on board and get a survey plat. Mr. Hango is an engineer, not a surveyor. Rick asked about existing wells of

adjoining properties. Mr. Hango said that the wells for Mrs. Spears and Mr. Thibault are noted and they will not be going within 100+’ from any existing wells. Rick asked about storm water proposals. Mr. Hango stated that it is under 1 acre of impervious area that is flat and drains well, there are no drainage issues and no permit is required. Rick read aloud from the fire department letter which stated they have no immediate concerns at this time. Heidi entered the concerns from a recent petition into the record. Rick read aloud from the petition which was signed by 44 residents of Charles Circle, Darlene Drive and Morey Road. Some are homeowners, and some are renters, but all live in the development. The petition reads as follows:

*We, the citizens of the Town of Highgate, including, but not limited to the renters and property owners of said Charles Circle, Darlene Drive and Morey Road, petition the town to deny the proposed construction of the road to access the 6 lot subdivision medium density residential district (now owned by Daniel and Lise Brosseau) behind Shaun and Debbie Spears’ backyard on Darlene Drive in Highgate Vermont. The current subdivision is a place that the homeowners envisioned would provide them privacy and a peaceful neighborhood and the new road would destroy the character of the subdivision. The development of the new road would contribute to traffic build up on the Morey Road, Charles Circle and Darlene Drive and would be dangerous for children, grandchildren and pets of renters and property owners. There would be a definite visibility issue between the new road and the curved Darlene Drive road. In addition, the traffic build up would be detrimental to the migration pattern of the Canadian geese and snow geese on said Morey Road. The geese have landed on the field directly neighboring said Charles Circle for over 32 years. There are alternative accesses available to the proposed Brosseau’s subdivision. A deterioration of the peace and order condition inside the current subdivision would be inevitable. Construction will result in the Spears’ residence being surrounded by three roadways. Criminal elements would take advantage of the opening of the road in question. This costs both residents and the authorities a great deal of time and money. In addition, if approved, it would permanently diminish the property value of the Spears’ home and surrounding residences. I (we) strongly recommend that the Development Review Board and the Planning and Zoning Commission deny the proposed construction of the road to access the Brosseau 6 lot subdivision medium density residential district on said Darlene Drive behind Shaun and Debbie Spears’ backyard.*

Mr. Hango and Mrs. Brosseau asked for a copy of this petition as well as the letter from the fire department. Tim commented that he was unaware that traffic bothered geese. Debbie Spears lives at 164 Charles Circle. She is the one who circulated the petition. She has been in contact with Collin Philbrook from the State of Vermont, and on August 5, 2014 he supplied her with 2012 daily traffic data for Morey Road, which was 420 vehicles in 2012. Debbie was also in contact with a traffic research manager from the State of Vermont (last name Gupta) who on November 3, 2014 supplied Debbie with trip totals. This new proposed development would add 57 trips per day to the neighborhood (this is based at the rate for single family homes). Adding in what is already there for Charles Circle (152 trips per day) and Darlene Drive (180 trips per day) that would bring the neighborhood to a total of 389 vehicle trips per day if these homes are added. The board asked to clarify, the new subdivision would add 57 trips per day, not 389. 389 would be the total estimated trips per day including all the current homes on Darlene Drive and Charles Circle – yes. Debbie also asked, she had attended the Selectboard meeting on August 21<sup>st</sup> and there was discussion about the culvert on Darlene Drive. She checks daily on the Town of Highgate website and reads minutes, and she has seen no updates on this. The Darlene Drive culvert issue came up as part of the site visit that the DRB did, and it was suggested at that time to have Steve Ploof look at the culvert. Heidi noted that the culvert issue is separate from what we are talking about now, and the upkeep of the culvert would be standard road maintenance, as Darlene Drive is a town road. Gene Corliss lives @ 106 Darlene Drive. He added that the total vehicle trips that Mrs. Spears was referring to would include all UPS, Fed Ex, buses, garbage pickup, etc. Chris Kimmick lives @ 91 Darlene Drive. He asked for clarification on the impervious surface being less than 1 acre, thus no storm water permit is required. He asked if there is any documentation to support this. .92 acres is very close to being 1 acre, noting there is room for error, and a permit might be required after all. Mr. Hango noted that there has not been a professional survey done, but Harvey Chaffee did come in and pick up all the

boundary lines and test kits. He will come in and do a formal mylar. Mr. Kinnick feels that there could be a grave margin of error on the storm water estimation. Mr. Hango does not feel it's a big deal if they need to file for a permit, if they find it does become necessary. The maps presented tonight are a site plan. Mr. Hango turns these over to the surveyor to finalize the boundaries. Rick noted there are some things missing from this plan, such as; subdivision name, development name, any plans for a sidewalk, necessary culvert locations and plans for landscaping the lots. Dan Brosseau said there is no plan for a sidewalk right now, and if they installed one, where would it go to? The board has included sidewalks in all the most recent subdivision applications put before them. They also need to indicate tax map and deed references for each abutting land owner. Dan noted the lots will be open lots. The development is surrounded by trees, so there is no need to add more trees. If people want trees, they can plant them on their own. Rick asked about the entrance, which is creating a lot of discussion. Mr. Brosseau stated that the other right of way that could be used will not work. There is a brook in there and he does not see how they could ever get through there. There are also some steep grades that would need to be dealt with. There are two properties that the entrance would need to go between and there is a good sized gully there and a lot of wetland issues to deal with. Mr. Hango would like to come back before the DRB when they have their wetlands permit. They can also address the other issues that were brought up tonight. Rick would also like to see a letter from the school district with regard to this proposal. Motion by Woody Rouse to continue this as a preliminary plan review. Motion was seconded by Tim Reynolds – **APPROVED**. This will be continued until the December DRB meeting. Heidi noted it can be warned for site plan, preliminary review, plat review and conditional use review. They will need to go through all these for a PUD, so it can be done all at once. Woody noted that this does not need to be warned as a PUD. These are proposed one acre lots with no common area. This meets the regular criteria as a major subdivision. They shared this information with Mr. Hango before he left.

- **DESO LEDUC PROPERTIES**

Preliminary Plan Review for a Major Subdivision  
Medium Density Residential District  
Lamkin Street

Dick Deso and Brad Ruderman were present. All were sworn in at the last hearing. Mr. Ruderman stated that since the last meeting the school district issued the impact letter, and there are no issues. There are also no concerns from the fire department. Mr. Deso provided an affidavit regarding the supposed burying of stumps and trees along the edge of the bank. There have been no changes to the plan. Tim asked if there had been any activity at the site. The rare plant area has been flagged. Rick has concerns whether the trees and stumps were burned or buried. We have a picture of trees in a pile, but no pictures after it was all burned. David Desorcie (fire warden) confirmed that a burn permit was issued. Rick also has concerns about the planting of trees along the edge. Previous attempts were not successful and the trees did not survive. ACT250 will be looking at all these things. Rick also brought up the rare species of plant and who is going to protect that, because previously that was all mowed down and should not have been. Mr. Ruderman said the rare plant will be moved to the protected area where they have been asked to put it and protect it. Art Gilman will be doing all the transplanting. Rick also has concerns about the 4" of top soil on the lot. ACT250 will also be handling that. All these issues will be

dealt with through the ACT250 process. Tim noted that anywhere you walk out there it does not appear that top soil was brought in. Mr. Deso stated it was trucked in by Roger and it is "pit strippings". The course sand is all covered with 4" of pit strips. Rick asked what will happen if the bank erodes. Rick is not saying that anything was or was not buried there, but if it does erode Mr. Ruderman stated it would be fixed. Mr. Deso noted that there would be sink holes there already if anything had been buried. Geoff Green and an enforcement officer seemed pleased with the side slopes, according to Mr. Deso. Heidi added that ACT250 will not resolve issues for the town. If there are any unresolved issues the town needs to deal with them. ACT250 will not happen before the town ultimately makes a decision. Mr. Ruderman said a determination by ACT250 will be made prior to an application for subdivision. Deso stated they can't go through ACT250 unless they get local approval. Rick asked how does Griswold fit into all of this? Griswold is the former owner of the property. In the affidavit, it states that the reclamation was taking place under Mr. Deso's supervision. Deso stated that when the lots are sold, there will be a 5-6 year period that the state will require a letter of credit or a bond for certain criteria to be met. Mr. Deso feels that 2 lots per year will be sold. The side slopes will only be touched where the septic's will be going in. Heidi noted that many applicants apply simultaneously with the town and ACT250. Mr. Ruderman said he would never do that. His preference is to get local planning approval first and then move on to ACT250. Woody noted that the town could approve the preliminary plan phase and then if ACT250 says no, they can't move forward anyway. Mr. Deso is fine with moving to final plan review, contingent on ACT250, that would be ok with him. Chris Yates asked how far the town can go with a piece of property that is still in violation with ACT250? The property has not been reclaimed and not cleared by ACT250. Tim stated that normally, if it is in violation, you don't allow them to do anything. Chris asked why the town is even looking at a plan that is in violation, which is putting the cart before the horse. Mr. Yates feels we are all wasting a lot of time coming here every month. Mr. Yates voiced another concern / caution regarding known sink holes. We need to reach out to NRPC to find out if there are sensitive soils in that area. Chris would love an independent review of the bank. He is the one that took the photos, and he is 99% sure that you will find trees buried in the bank. Heidi noted that Chris makes a compelling argument. The reclamation was not complete and the information the board has appears to be inaccurate and not factual. Mr. Ruderman said that the swath through the middle of the property is not top soil. Pauline Decarreau stated that it looks to be sand. Tim agrees, noting that if it was 4" of top soil there should be a plush lawn there, and there is not. Pauline feels an independent review may be necessary. Heidi will need to inform herself on the process. She will find an independent consultant, not associated with this case, to do some borings and see if there is top soil in place and if there are trees buried in the bank. This would be at the applicant's expense. Chris asked if the independent review would be looking at ACT250 reclamation criteria or just what the town is asking for. Heidi said it would be at the board's discretion what to ask for. Mr. Deso stated that the board should just turn this down and we can go to court and let the court decide. He has been coming back before this board for 8-9 months now. And he feels that the board is listening to a neighbor (Yates) that had an independent study done and there are some contradictory statements regarding sink holes and the direction of flowing water. You wanted sidewalks, and they have accommodated that request. If ACT250 says no, that's the end of it. Heidi noted the board can make their decision in deliberative session. Motion by Julie Rice to continue the hearing to allow the applicant to hire an independent engineer. Motion was seconded by

Pauline Decarreau. By voice vote **4-Yes** (Rick, Julie, Pauline, Tim) to **1-No** (Woody) – motion was **APPROVED 4-1**.

Chris Yates had a question, unrelated to this case, about fencing. Other than the height of the fence and it being within boundary lines, the town does not regulate fencing or how it is installed.

- **DONNA STEVENS**

Waiver of Setback  
Medium Density Residential District  
Morey Road

Mrs. Stevens is present to request a waiver of setback for a 20' x 16' storage shed. The reason they have chosen to put it in this particular spot is because there is already a cement pad there from a previous dog kennel. All her abutting neighbors were noticed of this hearing. The shed will be 16' from the southern boundary and 31' from the western boundary. She is bordered by her brothers, David and Ron Machia, and none of them have concerns and were not present for this hearing. She just needs a waiver on the one side where she is closer than 30' to the boundary line. She is plenty far off the road, there are no concerns there. There were no other comments or concerns from the board. The board has 45 days to issue their decision, but it won't take that long. Mrs. Stevens is eager to get started right away on the project. She was notified of her right to appeal if she is not satisfied with the board's decision, upon receipt of the decision letter.

### III. APPROVAL OF MINUTES

Motion by Rick Trombley to approve the minutes from October 9, 2014 as written. Motion was seconded by Tim Reynolds – **APPROVED**.

### IV. OTHER BUSINESS

FYI for the DRB there was a land use permit amendment issued for WRB, LLC / Roger Wright. A copy was included in their packet.

### V. UPCOMING EVENTS

Nov. 18	6pm	Planning Commission Mtg.
Nov. 20	7pm	Selectboard Mtg.
Nov. 27 & 28		Offices closed for Thanksgiving holiday
Dec. 15	by 5pm	Property Tax payments due

### VI. DELIBERATIVE SESSION

Motion by Rick Trombley to enter into deliberative session to discuss Brosseau / Deso / Stevens and violation updates @ 7:25pm. Motion was seconded by Julie Rice – **APPROVED**.

Motion by Rick Trombley to exit deliberative session 7:52pm. Motion was seconded by Tim Reynolds – **APPROVED**.

### VII. ADJOURNMENT

Motion by Rick Trombley to adjourn the meeting @ 7:55pm. Motion was seconded by Woody Rouse – **APPROVED**.

Minutes respectfully submitted by:

\_\_\_\_\_, Planning & Zoning Clerk

Wendi Dusablon

\_\_\_\_\_  
Date

Minutes approved by:

\_\_\_\_\_, DRB, Chair

Richard Trombley

\_\_\_\_\_  
Date