

# TOWN OF HIGHGATE

## Development Review Board

### Minutes

January 16, 2014

#### I. CALL TO ORDER

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

Present at meeting:

- **DRB Members:** Rick Trombley – Chairman, Tim Reynolds – Vice Chairman, Woody Rouse, Julie Rice, and Pauline Decarreau
- **Staff:** Heidi Britch-Valenta – Planning and Zoning Administrator, and Samantha Rice – Planning and Zoning Clerk
- **Applicants:** Richard Deso, Robert Dufresne, Brad Ruderman – Engineer, Reg Beliveau – Swanton Village Representative and Wanda Sloan – Swanton Village Representative
- **General Public:** Chris Yates, Alfred Real, Joyce Real

Mr. Trombley explained to the public that this meeting was the first official Development Review Board meeting; the members of the Board were appointed by the Select Board. Before the public hearings began, Mrs. Britch-Valenta explained to the Board and the public that the meeting being held tonight wasn't warned appropriately because the notice wasn't published in the newspaper 15 days before the meeting. However the adjoining landowners were noticed appropriately and the Public Notice was posted around the Town. When discussing this issue with the Regional Planning Commission they advised that the applicants should know if there is an appeal on their application it could make them vulnerable. Mrs. Britch-Valenta asked each applicant if they would like to proceed in tonight's hearing or wait until the next meeting that is warned appropriately. Each applicant was willing to proceed with the current hearing. Then Mr. Yates asked how the hearing could proceed without it being warned appropriately. Mrs. Britch-Valenta explained to Mr. Yates that there are provisions in the State Statute to allow for minor flaws in the procedure without negating the whole meeting. She added that one applicant is on for sketch plan review which does not require legal notice and there will be additional hearings where anyone who was not notified will have opportunity to hear the application. Another applicant was in for final review and they had completed sketch plan review without any interested parties participating in the hearing.

Mr. Trombley explained that since tonight is the first meeting as a Development Review Board the members have to elect officers. Mr. Trombley opened the floor for

nominations for chair. Mr. Reynolds nominated Mr. Trombley as chairman of the Development Review Board. Mrs. Rice seconded the nomination. There were no other nominations made for chairman. Mr. Trombley was voted as chairman unanimously. Mr. Trombley opened the floor for nominations for a vice chair. Mrs. Rice nominated Mr. Reynolds as vice chair of the Developmental Review Board. Mr. Rouse seconded the nomination. There were no other nominations made for vice chairman. Mr. Reynolds was voted as vice chairman unanimously.

## II. PUBLIC HEARINGS

### a) Swanton Village - Waiver of Setback

Mr. Trombley swore in the Swanton Village representatives.

The purpose of the permit was to put a 9 x 4 foot addition off the front of the building to be used as a break area. The area that the employees have their lunches in now isn't a desired area so this addition would make a more safe and comfortable place for the employees to take their break. The addition will be on stilts and will not have a foundation; this is so the building can still access the septic. This addition will not be extending beyond the existing substation therefore it will lie within the footprint and not encroach into the roadway. The exact design hasn't been generated yet.

Mr. Trombley asked how the addition would be accessed. There will be a door on the substation side or the power plant side. If the door is opposite of the substation there would be a regular door and then a double door if they ever need to remove transformers or heavy equipment.

Mr. Reynolds asked if the applicants knew the approximate height of the addition from the ground. The addition is expected to be between 3.5 and 4 feet from the ground. This distance would give Drumac the ability to still open the sewer hole and vacate the septic system

Mr. Trombley asked if there would be an increase in employees after this addition. The applicants said there won't be any additional employees hired. Instead this addition is going to offer the Power Plant the ability to locate its upgraded software in a more appropriate space. Due to the design of the Power Plant, it currently has electrical panels in the center; so part of the computer systems are at one end of the building and the other part of the computer systems are at the other end of the building. While the employees are working on the computers they have to go back and forth between the two and it makes the area compact. This addition is going to make extra room to move around and provide a safer work area because the employees currently take breaks in this work area.

Mrs. Britch-Valenta pointed out that the Power Plant is currently on a private road that Swanton Village maintains therefore Highgate's Highway Department doesn't have any concerns with their new plans.

Then Mrs. Britch-Valenta stated that there is an issue as far as the provisions in the waiver of setbacks; right now the waiver allows setbacks to be reduced down to 10 feet from the center of the road but the Village of Swanton is requesting a setback of 9.7 feet. The Swanton representative explained that the addition was proposed that way in order to make it even with the substation. Currently the substation sits 9.7 feet from the center of the road but that is not a problem because it was grandfathered. In order to abide by the waiver of setback provisions the applicants proposed to reduce the addition by one foot, making it lie 10.7 feet from the center of the road.

The applicants pointed out that the only use for the location of the addition right now is parking for the operator.

Mr. Trombley then asked if there were any other questions from the Board or the Swanton Village representatives. There were no other questions or comments from either parties.

Mr. Trombley closed the hearing.

### **b) Robert and Tracy Dufresne - Subdivision Final Plat, Conditional use for a residence in the Commercial district and Conditional use for Commercial Use**

Mrs. Britch-Valenta explained that Mr. Dufresne is currently before the Board for Final Plat Approval for a 2-lot Subdivision, Conditional Use approval to create a new residence in the Industrial District and Conditional Use Approval for Commercial Use.

Mr. Trombley swore in Mr. Dufresne and Mr. Brad Ruderman, his engineer. Mr. Trombley then asked if anyone on the Board needed to recuse themselves. Mr. Rice and Mr. Reynolds offered to recuse themselves but Mr. Dufresne declined this offer.

Mr. Ruderman began his presentation by explaining that currently in front of the Board is a proposed 2-lot subdivision. The applicant is proposing two separate lots with three buildings between the two lots. Currently there is a single family dwelling and a vacant building on lot #1. There is an existing access off from Route 78 that is shared with the Velco Substation. A residence is proposed for lot #2. The residence would have a private driveway coming off from Route 78. The applicant just received a Letter of Intent from the Agency of Transportation for a curb cut. The letter of intent from the Agency of Transportation specifies that the shared access with Velco needs to be paved 30 feet from the white line. There is an existing well that is going to be on lot #1 but will serve the

buildings on lot #2. Currently this well serves the single family dwelling on lot #1 and will be hooked up for the commercial building. A new drilled well is proposed to serve the residence on lot #2. The waste water is going to be within a shared easement which straddles both lots. The residence on lot #2 and the commercial building on lot #1 are going to share an in ground conventional system and there is an area for a replacement system for the existing home which currently has an onsite septic system.

Mr. Rouse then asked who would be paving the access road shared with Velco. Mr. Dufresne said that he is going to talk to Velco about paving it because he believes that since they use his road that they should have to pave it. Mr. Dufresne is taking care of the road now by maintaining the gravel. Velco was supposed to blacktop the road years ago but it never happened.

Mr. Reynolds asked how far the driveway is going to be from the well. Mr. Ruderman said that the driveway right now is proposed as 23 feet from the well and in the Bylaws there is only 10 foot minimum. The driveway will be looping around the residence in order to avoid any well interference.

Mr. Trombley asked about the screening on lot #2. Mr. Ruderman said he had only noted the Sugar Maples in the general notes on the map but the locations are not currently shown on the map. Mr. Trombley asked if that meant the trees would be close to Route 78. Mr. Ruderman said no because he would propose putting them behind the well. Mr. Dufresne stated there is already an oak tree behind the well and then asked what the purpose of the trees was. Mr. Ruderman explained to him that the trees would provide landscaping and screening from the traffic. Mr. Trombley explained that if the trees are going to be located along the driveway then that needs to be shown on the map.

Next Mr. Trombley asked about the lighting proposed for the residence and the business. Mr. Dufresne replied by saying there are floodlights on the outside of the retail building; the power is off right now since he doesn't need it. He is proposing to put a floodlight on the residence on lot #2, pointing towards the driveway.

Mr. Trombley asked if the Board had any other questions on the subdivision.

Next Mr. Trombley wanted to discuss the Conditional Use for the Business Permit. His concern is access to the commercial building; it is a new business and it should be accessible for the disabled. Mr. Ruderman said that they are proposing to install a ramp to the side; there are two entrance doors in the back so they can build the ramp off from either of those doors.

Mr. Trombley also asked what kind of storage would be used for the retail mobile home e parts sales outlet. Mr. Dufresne explained that the parts will stay inside unless they are on display but he doesn't want to have to fence in the area so is planning on keeping it all

inside. This way if someone wants to try to steal the parts then they would have to break into the building.

Mr. Trombley asked if there was going to be use of a sign outside of the Retail Business. Mr. Dufresne was thinking of putting a sign on the building but there isn't a good place to display it so he may put it in the front of the building but away from the road as much as possible. Mr. Rouse asked Mr. Dufresne how big he thought the sign was going to be. Mr. Dufresne said nothing too big and he would make sure the size abided by regulations. Mrs. Britch-Valenta read those regulations to Mr. Dufresne. Two signs are permitted for a business. The signs are not to extend above the roof of the business building and may not extend more than three feet from the face of the building. The height of a standing sign shall not exceed 20 feet. Also, it shall not be placed 30 feet from the center of the road.

Mr. Trombley also asked about the hours of operation. Mr. Dufresne is thinking that he will only be operating three days a week but he doesn't want to say that and have to come back in to change it if he needs more hours of operation so currently he is proposing 8:00am to 5:00pm six days a week.

The last item discussed was Conditional Use for a new residence; that would allow Mr. Dufresne to develop a four bedroom, single family dwelling in the Commercial District.

Mr. Trombley and the rest of the Developmental Review Board did not have any question for Mr. Dufresne about the Conditional Use for Residential Use.

Mr. Trombley closed the hearing.

### **c) Richard Deso - Sketch Plan for a 16-Unit Subdivision and Conditional Use for a P.U.D.**

Before Mr. Trombley started the hearing Mrs. Britch-Valenta informed the Board and the Public that any interested party that would like to participate in this hearing has an obligation to state their purpose and their interest/connecting to this hearing in order to protect their right to appeal.

Mr. Trombley asked if anyone had to recuse themselves. Mr. Reynolds then asked Mr. Deso if he had a problem with anyone on the board. All members of the Board were allowed to participate in the hearing.

Mr. Trombley swore in everyone that was testifying for the Deso hearing.

Mrs. Britch-Valenta informed the Board that Mr. Deso and his engineer, Brad Ruderman, had submitted a survey map as well as a detailed site plan, road and erosion control plans, and water and septic plans.

Mr. Ruderman began by explaining that Mr. Deso is proposing a 16-lot Planned Unit Development Subdivision. The lots are going to .5 acres with one of them being increased in size at .7 acres. There is going to be one shared access where the existing access off from Lamkin Street is located ending at a hammerhead turnaround. There is going to be three in ground conventional septic systems serving five lots each. There will also be on-site drilled wells for each of the lots. Mr. Deso has already submitted a waste water application to the State and it is currently under review. There hasn't been any review comments made by the State at this point. There will be a storm water discharge permit submitted but the applicant and his engineer haven't gone into that phase of their plan yet. They will be proposing a detention pond on either side of the development for storm water. The 15 lots are .5 acre residential lots and the 16<sup>th</sup> lot will be used as common land. There are 16 acres total in the parcel.

Mr. Rouse explained that the Town of Highgate is trying to do away with hammerheads because it doesn't allow enough room for the Fire Department to maneuver their vehicles so we would see a cul-de-sac in its place. Mr. Deso believed that there is enough room in that area for him to install a cul-de-sac with a grassy center.

Mr. Deso then asked the Board if he could sell five lots before he has to pave the access road because previously they have asked applicants to install pavement after two lots and it is hard to pave the roads when heavy equipment is still driving over the top of it while the remaining lots are being built.

Mr. Trombley asked Mrs. Britch-Valenta what the usual standard are. The Board agreed that after three lots are built they usually have the applicant pave the road. The Board suggested to Mr. Deso that in the past they have worked with the applicant to set aside a bank note for the total amount needed to pave the road and then when enough lots are built to allow the road to be paved the applicant would have that money available right off, but this is only one option.

Mr. Rouse stated that in the new Bylaws the Town of Highgate is going to mandate in Major Developments that the applicant is required to put in sidewalks. Mr. Ruderman asked how would that work now under the current regulations. Under the current regulations the Town can require sidewalks seen in 810.2 but isn't mandatory.

Mr. Trombley checked to make sure that everything required on the sketch map was present. He found everything required on the map minus a couple deed references that are missing for abutting neighbors.

Mr. Trombley asked if the utilities will be above ground or underground. Mr. Deso said that all utilities will be above ground by the road and then underground to the houses. One pole supplies four lots. Mr. Reynolds then asked if the utility polls will be located on

both side of the road. Mr. Deso said no they will be located only on one side of the road. All other lines will run under the road.

Mr. Deso is proposing to call the road Deso Drive. Mr. Rudderman stated that the applicant is in the process of applying. There was an application in 2010 but they have to reapply in order to amend that ACT 250 permit.

Mrs. Britch-Valenta then changed focus and stated for the record that one of the abutting land owners had objected in writing to the proposed waste water permit that overshadowed their property but the Board doesn't have the authority to deny an application based on wastewater design. Mr. Rudderman informed the Board that he has revised the waste water permit since the appeal was made and the current map before the Board has those revisions on it. Mr. Trombley asked if that would change the cul-de-sac since the waste water is at that end of the property. Mr. Rudderman said no because we have already changed that.

Adjoining landowner, Mrs. Joyce Real stated she was concerned about the waste water design. She was concerned with the impact it could potentially have on her and her husband's well. Mr. Rudderman said that there is adequate separation from Mr. Deso's wells and the Real's well and the application is compliant with States standards. Mr. Real asked what happens if he loses his water. If you drill a bunch of wells and I lose my water what happens then. Mr. Deso explained that most of the wells will average 400 feet so they will be below the Real's shallow well.

Mr. Real's biggest concern is with the proposed septic system because Mr. Deso is pumping five houses by his property line. Mr. Rudderman explained that there is a 25 foot minimum between sewer lines and with this requirement Mr. Deso will not affect Mr. Real's septic system. Other than that there are no other requirements. Mrs. Britch-Valenta explained further that this issue is regulated by the State and the Board doesn't have any authority to base their decision on this discussion.

Next Mr. Trombley wanted to discuss the Conditional Use application.

Mr. Reynolds asked who is going to take care of all the sewers. Mr. Deso said that it will be in the deed that all the maintenance will be done by a homeowners association. He is going to charge a monthly fee and then that covers year round maintenance.

Mrs. Britch-Valenta asked if the common land by the rail trail was wooded. Mr. Deso said yes, it is wooded because there was a 25 foot buffer required around the perimeter of the property by the previous ACT 250 permit.

The setback for a Planned Unit Development in the Medium Density District is 30 feet in the front and the side but currently the applicant has 15 foot setbacks proposed. Mr.

Rudderman asked if there is a waiver of setbacks they could apply for in order to keep their 15 foot setback. Mrs. Britch-Valenta said an existing residential unit could request a waiver of setback but in new construction there is adequate space to maintain setbacks and therefore would not use a waiver.

Mr. Reynolds asked what kind of landscaping was proposed. Mr. Rudderman said he showed the landscaping on map #2. He is proposing two hardwood trees and two shrubs per house and then sugar maples amongst the property.

Mrs. Britch-Valenta asked Mr. Rudderman to explain note #1 on the site plan about the rare plant that needs to be relocated. Mr. Rudderman explained that the State botanist reviewed the site and their GIS indicated that there may be rare plant species in the area. So the botanist went out and found some species of Segg Grass. His mitigation plan was to set aside some room in the common land in the back and have everything replanted out there.

Mrs. Britch-Valenta inquired how limits on garbage disposal use are going to be enforced. Mr. Rudderman said he will put it in the plans because they aren't good for septic systems. There is no way to regulate it but you still have to let the landowner know.

Mr. Reynolds asked if there is any lighting proposed. Mr. Deso said he was willing to do whatever the Board asked for but there is nothing proposed.

Mr. Trombley asked if there were any questions from the public.

Mrs. Real asked if the development is going to be constructed all at once or will Mr. Deso be limited to putting a certain number of houses in in a certain time period. Mr. Deso said he would do whatever the Board requested. But the Board is not limiting the number of houses Mr. Deso can build at once.

Mr. Trombley closed the hearing.

### III. **OTHER BUSINESS**

The Board reviewed the minutes from the last Zoning Board of Adjustment meeting on December 12, 2014. The corrections needed were provided to the Developmental Review Board Secretary. The Board also reviewed the minutes from the November meeting.

**MOTION:** Mr. Rouse motioned to approve the November and December minutes with corrections. Mrs. Decarreau seconded the motion. Motion carried unanimously at 7:59pm

The Board then talked about whether they wanted to use alternates on the Developmental Review Board. The job of an alternate is to attend every meeting so that they understand the applications that are being presented but they do not serve on the Board unless a

member cannot make a meeting or needs to recuse themselves from a hearing. An alternate is not allowed to vote during a public hearing unless they are filling in for a missing Board member.

#### **IV. DELIBERATIVE SESSION**

**MOTION:** Mr. Reynolds motioned to go to deliberative session. Mrs. Rice seconded the motion. Motion carried unanimously at 8:04pm.

**MOTION:** Mrs. Rice motioned to go into regular session. Mr. Rouse seconded the motion. Motion carried unanimously at 8:30pm.

**MOTION:** Mr. Trombley motioned to approve Mr. Dufresne's Final Plat for a 2-Lot Subdivision. Mr. Reynolds seconded the motion. Motion carried unanimously at 8:33pm.

**MOTION:** Mr. Trombley motioned to approve Mr. Dufresne's Conditional Use for Commercial Use with the following conditions

- No outside storage is allowed;
- No outside displays are allowed;
- Any future business sign will be compliant with Highgate Zoning Bylaws;
- A handicap accessible entrance must be installed on the north side of the building;
- Hours of operation are 8-5pm six days a week;
- The septic system must be permitted and certified by the engineer prior to opening;
- A minimum of 7 parking spaces must be provided;
- All aspects of the business must be ADA compliant

Mrs. Decarreau seconded the motion. Motion carried unanimously.

**MOTION:** Mr. Reynolds made a motion to approve Mr. Dufresne's Conditional Use for Residential Use in the Commercial District with the following conditions:

- Three Maple trees planted below the driveway compliant with state road setbacks;
- Although they have AOT permit they still need a town permit for a 911 number;
- A minimum of 2 parking spaces are required for a residence;
- The deed must state that residential use is not a primary function of the commercial district they are building in and occupants must anticipate commercial development

Mr. Trombley seconded the motion. Motion carried unanimously at 8:56pm.

**MOTION:** Mr. Trombley made a motion to approve Mr. Deso's Subdivision Sketch Application for 16 units with the following conditions:

- Sidewalk on one side of the street is required;
- Power poles shall be located on the opposite of the street the sidewalks are located;
- The proposed hammerhead is changed to a Cul-de-sac at the end of the road with a 100-foot diameter;
- The road must comply with A76 standard with blacktop;
- Street lighting
- Applicant receives Fire Department approval letter;
- Applicant receives Highgate School approval letter;
- Negotiate to secure funding for black toping the road

Mr. Rouse seconded the motion. Motion carried unanimously 9:23pm.

## V. **ADJOURNMENT**

**MOTION:** Mr. Trombley made the motion to adjourn the meeting. Mr. Reynolds seconded the motion. Motion carried at 9:35pm.

Respectfully Submitted,

Samantha Rice  
Planning & Zoning Clerk

Minutes approved by:

Rick Trombley  
Zoning Board of Adjustment Chair

Date

