

TOWN OF HIGHGATE

Development Review Board

July 14, 2016 @ 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, noting there is a quorum present.

Present at this meeting:

- **DRB members:** Rick Trombley, Chair; Woody Rouse; Scott Martin; Julie Rice; *absent – Tim Reynolds*
- **Staff:** Wendi Dusablon- Planning & DRB Clerk; Heidi Britch-Valenta – Zoning Administrator
- **Public / Other:** Cindy Guyette; Larry Hetrich; Roger Wright; Roy Hango; Dan Brosseau; Debbie Spears; Shawn Spears; Paul Thibault; Charles Christolini; Luke Willey; Jesse Danner

II. PUBLIC HEARINGS

- *Guyette, Paul & Cynthia*
Conditional Use – Waiver of Setback
3954 Rollo Road
Forest Reserve District

Cindy Guyette was present for this hearing. Rick swore her in and it was noted that no one on the board needed to recuse themselves. Mr. & Mrs. Guyette want to put a garage on the side of their home but cannot meet the setback distance of 65' from the center of the road. The reason for the placement choice is because the back is a steep embankment, the other side has lots of trees and the front area is where their septic and leech field are located. Cindy supplied pictures in advance, which were part of the DRB packet for them to see in advance. The size of the garage will be 24' x 28', and the setback proposed is 59'. Scott asked if the area from the proposed garage to the road is flat – yes, it is. There were no other questions from the board. Rick read aloud through the criteria from the development regulations. The hearing was closed @ 6:09pm. Mr. & Mrs. Guyette will hear from the board with a written decision within 45 days and that decision can be appealed through environmental court if they are not satisfied with the decision of the DRB.

- *Brosseau, Daniel & Lise*
Final Plan Review – 6 Lot Subdivision
off Morey Road & Darlene Drive (Maple Lane)
Medium Density Residential District

Everyone present had been previously sworn in. Mr. Brosseau and Mr. Hango came to the table and were reminded that them being sworn in previously is still in effect. Scott Martin recused himself and took a seat in the audience. Mr. Hango said the drawings have changed very slightly. Tax id and deed references have been added at the town's request. The status with the wetlands permit is that there is no need to have a modification to the permit. What they have is sufficient because it does not exceed 150 square feet. They have also received approval from the fire department and the road alignment was approved by the public works director. Mr. Hango believes they are in full compliance with all rules and regulations and does not see why the project cannot be approved. Heidi noted that in the DRB packets are some emails from the wetlands program and also from Alex Hango. Mr. Hango presented a summary of events on this project which can be seen below and Rick read aloud for the record.

- Dan Brosseau DRB Meeting – July 2016 Summary
- State Water/Wastewater Permit WW-6-2025-3
 - Status = Obtained 12/7/2015
 - State Wetland Permit #E116-0405
 - Status = Obtained
 - Rev 2 – (See attached email from State)
 - Temporary – 2438 SF – Increase of 98 SF
 - Permanent – 2553 SF – Decrease of 93 SF
 - Total Buffer Zone Impact (a+b) = 4991 SF
 - Increase of 5 SF to this hereGon and a total increase of 111 SF from Original Permit.
 - These changes are still under the 150 threshold and do not require a new wetlands permit.
 - State Stormwater Low Risk Construction Permit #F541-5020
 - Status = Obtained
 - Disturbed Area = 1.36 Acres
 - Changes to Project Since Last DRB Review (Other than Noted Above)
 - Additional Tax ID & Open references to UNB per Town Request
 - Town Approvals
 - Town Fire Dept – Approved by Letter dated 11/12/2014
 - Road Alignment – Approved by Town Director of Public Works
 - Preliminary Plat Approval in June 2016 DRB (Project Moved to Final Plat Review)

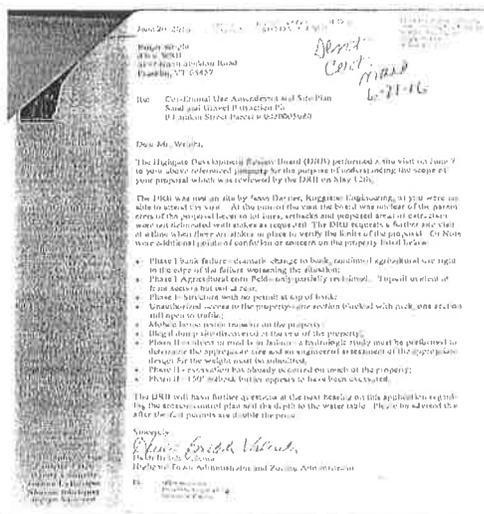
*Submitted
7-14-16 @
Hearing*

Rick read aloud through the criteria for final plan review from the development regulations, and will take questions from the board and the public afterwards. Heidi noted that on the subdivision plat the title reads “preliminary” and should read “final”. Heidi also added that revision dates should be added each time. All plats should read “final” and all plats should list the revision dates. The lot of remaining lands (lot #1) should have an approximate acreage listed. Rick then read into the record a letter of notice of appeal dated 07-11-2016 from the VT Superior Court Environmental Division. The appellants are Debbie and Shawn Spears and Paul Thibault and their attorney Katelyn Ellerman, Esq. Dan Brosseau stated that his attorney, Brian Hehir, has already responded to this appeal to Heidi via email and also stated that he feels this is a bogus appeal and should have been done after everything has been finalized, not at the preliminary stage. Heidi has been on vacation and came in just for this meeting so has not seen any email from Mr. Hehir. Debbie Spears spoke, noting the appeal that had just been read. Shawn and Debbie Spears and Paul Thibault felt it was necessary to appeal the DRBs decision to approve the preliminary plan review of Mr. Brosseau’s 6 lot subdivision based on the applicable case law and the subdivision regulations and it was necessary to protect their objections to the plan to date. The appeal was filed on 7-11-2016 with the environmental division. It is up to the applicant on how they wish to proceed with regard to the appeal, but Mr. & Mrs. Spears and Mr. Thibault will participate in the DRB proceedings in any event. They are also very concerned about the path of the road around their property and the loss of aesthetics, privacy, vegetation, pedestrian safety and increased traffic. They want to specifically point out sections 700.2 preservation of existing features and 700.7 compatibility with surrounding properties in the development regulations. She asked questions about drainage and setbacks, specifically that Mr. Brosseau and Mr. Hango be required to demonstrate that their existing structures on their property meet setbacks if a road is constructed behind their home. She asked the board to incorporate a condition regarding access for future development. Mrs. Spears said they did not have an opportunity to review the final plans prior to this meeting because the maps sent via email to her by the town were blurred. They encourage the DRB to make sure that it satisfies all the submission requirements of section 6.10. Debbie also noted the names of property owners on Morey Road are not correct. The home previously owned by Costas & Angela Pandis, is now owned by Jordan & Brooke Cota. She asked that this be corrected. Debbie also expressed concern for the class II wetland area that was beautiful before the path was cut. Their engineers findings are included in the packet with regard to the wetlands as well as questions about the road acceptance policy, the existing power pole

and the area cleared for the buffer zone. Debbie also reiterated her husband's concerns over the last few meetings regarding their leech field. She wants to make sure that their concerns are all addressed. They are also asking the board to make sure Mr. Brosseau fixes the things they are concerned about. Rick noted her concerns with regard to sections 6.2, 6.7 and 6.10. Charlie Christolini had questions and concerns, first asking about the culvert on Darlene Drive. He took pictures today after the rain we had and the culvert was 3/4 full with just that small amount of rain. He wants his pictures on record because adding this road and homes will have an impact. Rick clarified that a hydraulic study has been requested from the state to determine the appropriate size culvert. This culvert is not part of the Brosseau project, and the DRB won't hold up a project because of this. Charlie would have liked the study to be done ahead of time. He owns several houses in this development and is concerned. The issue is where will that water go, noting that any decision by the state will be after the DRB decision and will become a town issue, he wanted the board to be aware. Heidi noted that the DRB relies on the information submitted by the applicant. Woody challenged Mr. Christolini's statement that we got just a small amount of rain today, it rained hard and came down fast. For someone to challenge the information submitted is their right, but an independent assessment would be needed based on fact. Charlie also asked about conditions if this project is approved, such as time frames for building (early in the morning, late at night, etc), dust control and noise. Charlie also asked about how the asphalt sidewalks will be sloped for the sidewalks and also about landscaping, he would like this project to be shielded from the properties on Charles Circle. Charlie came to the table to point out some areas on the maps, he and Mr. Brosseau began to banter, to which Rick asked them to stop. There are sections near the proposed lots 5 & 6 that Charlie would like to see some screening. Mrs. Spears asked about the relocation of the power pole. The wetlands area is right there and she is concerned. The proposed location for the pole is on the plans and it is not in the wetlands area. The final decision will be up to the power company. Rick closed this hearing at 6:56pm. Mr. Brosseau will receive a written decision letter with conditions within 45 days.

- *WRB, LLC ~ Wright, Roger*
Conditional Use Amendment & Site Plan Review
Sand Pit – Lamkin Street
Village District & Medium Density Residential District

It was noted for the record that Scott Martin has rejoined the board for this hearing. Roger Wright was present as well as Jesse Danner and Luke Willey from Ruggiano Engineering. Rick Swore in Luke Willey, the others had previously been sworn in. There were site visits to this location on June 7th and June 23rd. Luke would like to go through the letter that Heidi sent dated June 20, 2016 and address each question along the way. Jesse prepared a narrative to follow along, both Heidi's letter and the Ruggiano Engineering narrative are below.



July 14, 2016

Town of Highgate Zoning Office
Heidi Britch-Valenta
P.O. Box 189
2996 Vermont Route 78
Highgate, Vermont 05459

Subject: Site Plan and Conditional Use Application Project# 15034
Roger Wright Sandpit Development,

Dear Heidi:

Ruggiano Engineering has prepared a narrative in response to the concerns that were identified in your June 21st letter, as well as a summary of existing permits on the Wright property.

Issues addressed in the June 20th letter from Highgate Zoning Administrator:

Issue #1 Bank Failure: The state has not given the owner permission to alter the bank. Any agricultural activity that is taking place near the site of the landslide will be abandoned and an appropriate buffer distance will be observed.

Issue #2 Agricultural Cornfield: Areas that require more topsoil will be reclaimed as soon as possible.

Issue #3 Structure with no permit: The unpermitted structure will be removed.

Issue #4 Unauthorized Access: owner will block off access to the section that is still open to traffic.

Issue #5 Mobile home frame: owner will remove and properly dispose of the mobile home frame.

Issue #6 Illegal Dump Site: owner will remove and properly dispose of the material of concern

Issue #7 Culvert under access road: Ruggiano Engineering has conducted a preliminary assessment of the culvert, and have found the following:

Hydrology:

The total contributing drainage area is about 0.22 square miles. There is an overall length of approximately 4,000 feet from the divide to the site, with an approximate 100 foot drop in elevation,

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giving an average overall channel slope of approximately 2.5%. The soils in the area are primarily hydrologic soil group A.

Existing Structure:

The existing culvert is a 4' diameter corrugated metal pipe, under approximately 9 feet of stone and dirt cover. The current structure provides a waterway opening of about 12.3 square feet. There does not appear to be evidence of scouring at the outlet. There appears to be minimal rust apparent on the bottom of the culvert. There does not appear to be sediment deposition within the culvert. There does not appear to be signs of failure, undermining or hydraulic overloading.

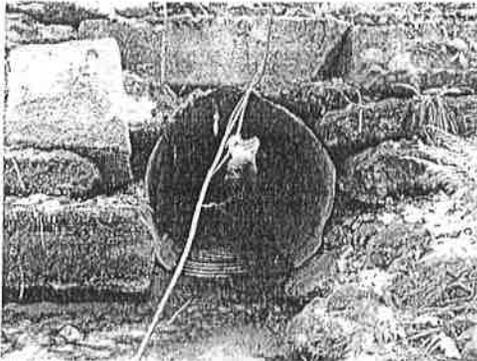


Figure 1: Culvert Inlet

At the road level, there are some erosion/roadbed stability issues apparent (please see Figure 2):

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Figure 2: Roadbed Erosion observed above culvert location.

History:

The culvert was existing when the owner acquired the property approximately 20 years ago. Early in his ownership of the property the owner built up the culvert headwalls so as to provide better cover over the pipe and to maintain a higher road elevation at the stream crossing. For the duration of his ownership of the property, the owner has not observed hydrologic overloading of the culvert during storm events, nor has he seen evidence of overloading after significant storm events.

Recommendations:

Based on existing conditions and past performance of the existing culvert, it appears that the culvert sizing is hydrologically adequate. Some maintenance of the roadbed should be performed by the owner to address the roadbed erosion pictured in figure 2.

Issue #8 Excavation has occurred on much of the property. In the process of obtaining Act 250 Land Use Permit #6F0176-1 in 2014, it was identified by the District Commissioner that Mr. Wright was was in violation of his original permit due to unpermitted excavation. To settle this matter with the state, a penalty was paid by the owner, reclamation conditions were included in the permit to address the unpermitted areas of extraction, and the permit amendment was granted. Please refer to the attached assurance of discontinuance letter.

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Issue #9 150' setback buffer appears to have been excavated: Please refer to the above response to Issue #8.

Per the request of the Zoning Administrator, a timeline has been prepared identifying existing permits on the Property. Please find copies of the identified permits and documents attached.

Act 250 LUP #6F0176 (1977)

Reclamation Plan (1977)

Mining Plan (1977)

Stormwater Pollution Prevention Plan (2007)

Stormwater Permit No. 4952-9003.R (2012)

Assurance of Discontinuance Letter (2014)

Act 250 LUP 6F0176-1 (2014)

DRB Findings Regarding Setback Violation (2014)

Sincerely,

Ruggiano Engineering, Inc.

Jesse Danner

•3 Lake Street •St. Albans, VT 05478 •Ph: 802.524.9300 •Fax: 802.524.9700

Jesse pointed out an incorrect statement in the 6/20/16 letter noting that they are in the process of obtaining the ACT250 permit. The violations were identified and the penalty was paid by the owner, but is currently still under review. He gave Heidi a complete booklet for the file which included all relative permits with regard to this site. Rick had some questions regarding item #9 and he is concerned about screening in the setback area. Roger noted the trees were taken down 18 years ago, and said that the property boundary pins are visible by the Bockus property, Locke property and Begnoche property. Julie asked about the buffer zone all the way around, which is 150'. It was noted that ATV use does a number on the reclamation process, and there is not a lot that can be done to limit ATV use, as there are several points they can enter. Luke commented on the depth of the water table and test pits have been done and there is no evidence of a seasonal high water table. Hours of operation will be 7am – 5:30pm during the week and 7am – noon on Saturday. Luke clarified that there are two areas of violation that need to be reclaimed. Some of that area overlaps with the proposed extraction they are here for now. If this is approved by the town, they go back to ACT250. If any of the areas don't comply with conditions they have set up, Roger won't get a permit until they are addressed. They are proposing to both the town and ACT250 that any overlap areas do not have to be reclaimed until afterwards. The entire area of violation within 150' is completely reclaimed, but not inside the 150' that is proposed for extraction. Rick asked if this is the only spot left to reclaim – yes. Heidi asked about the corn being grown up at the top portion and if that is the end product after reclamation. David Dragon has been growing corn there, noting that the procedure with the Agency of Agriculture is generally to reclaim the land to agricultural potential, so using it to grow corn represents that. The board was satisfied that they have enough information to make a decision. Rick closed the hearing @ 7:38pm. Mr. Wright will be notified of the decision in writing within 45 days. If he does not agree with the decision of the DRB, he can appeal the decision to environmental court.

III. APPROVAL OF MINUTES

- Motion by Rick Trombley to approve the DRB minutes from June 9, 2016, as corrected. The motion was seconded by Scott Martin – **APPROVED.**
- Motion by Rick Trombley to approve the DRB site visit minutes from June 7, 2016, as written. The motion was seconded by Julie Rice – **APPROVED.**
- Motion by Rick Trombley to approve the DRB site visit minutes from June 23, 2016, as written. The motion was seconded by Julie Rice – **APPROVED.**

IV. OTHER BUSINESS & UPDATES

- The board saw no issues with the decision letter for Michael Fontaine file # DRB-010-16 and Rick signed off on it. Wendi will hand deliver this to Mr. Fontaine tomorrow, as he has been waiting.

V. UPCOMING EVENTS

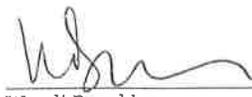
July 19	6pm	Planning Comm. Meeting – CANCELLED
Aug. 4	7pm	Selectboard Mtg.
Aug. 9	7am-7pm	State Primary Election @ Highgate Elem.
Sept. 20		Open House Event – info to follow

VI. DELIBERATIVE SESSION

Motion by Rick Trombley to enter into deliberative session @ 7:47pm. The motion was seconded by Woody Rouse – **APPROVED.**
 Motion by Rick Trombley to exit deliberative session @ 8:59pm. The motion was seconded by Woody Rouse – **APPROVED.**

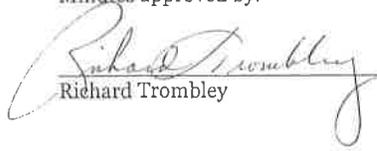
VII. ADJOURNMENT

Motion by Rick Trombley to adjourn the meeting @ 9:00pm. The motion was seconded by Woody Rouse – **APPROVED.**
 Minutes respectfully submitted by:


Wendi Dusablon, Planning & DRB Clerk

8/23/16
Date

Minutes approved by:


Richard Trombley, DRB, Chair

8-23-16
Date