

**Starksboro Development Review Board  
Hearing/meeting minutes**

**3/09/2017**

Dan opened meeting at 7:30 PM

DRB Members present-Dan Nugent, Chair, Ben Campbell, Marjorie Dickstein, Jon Fenner, and Rich Warren.

Others: Penny Bennett, David Brown, Jason Barnard, Cecilia Elwert, Alex Davis and Dave Wetmore (ZA)

**I. Review of Minutes:**

9/22/2016- Ben moved as corrected, Marjorie 2nds, approved 5-yes, 0-no. Dave will make corrections and Dan will sign

**II. Adjustments- none**

**III. Visitor Business- none**

**IV. Scheduled public hearing/ DRB Business**

**David Brown and Mabel Rondelli-Brown, application #2016DRB-04-SD, 2 lot subdivision w/ 2 boundary line adjustments to neighboring parcels, parcel # B394S.1**

Dan opened the hearing at 7:45 PM. All parties introduced themselves. Dave recorded and took written minutes.

Dan read the warning notice and administered the oath to Penny, Dave B. Jason B. and Dave W. Dan asked Jason to explain the proposed subdivision.

Jason- began by stating that they had met to review the subdivision with the DRB in July 2016. As proposed the Browns own 74+ acres and this subdivision creates 2-lots on parcel # B394S.1. Additionally, the Browns are proposing to boundary adjust (BLA) approx. 45 acres in the FCD to Mark Whitcomb (lot #4) and 4.5+/- acres to Thompson and Davis (original lot #1). Both parcels being boundary adjusted will be added to the existing property of both Whitcomb and Thompson/Davis respectively. The Thompson/Davis BLA seeks to correct a setback error that was made when an accessory building was built on the property line and will eliminate the septic easement on Brown property. The subdivision of parcel # B394S.1 will create lots #2 and #3. Lot #2 will be 10.08 acres all of which is in the Low Density Residential and Commercial District (LDRC) and lot #3 will be 14.14 acres in the LDRC and Forest Conservation district (FCD). Both parcels being boundary adjusted will merge with the respective abutting property of either Davis/Thompson or Whitcomb and are not considered stand alone parcels. No access is being established for either of the boundary adjusted parcels. Lots 2 and 3 have complying approved wastewater systems, #WW-9-0690-1. As proposed, lots 2 and 3 can be developed in conformance to the minimum setback requirements. The boundary between Bennett and Whitcomb has been flagged.

Dan- asked if there are other questions before the DRB begins review.

Penny- stated that the Browns did not notify them when they flagged the boundary as they had requested. She does not feel the flagged boundary represents the boundary and needs to be corrected. Penny presented another survey. Rich asked if Penny’s concerns are germane to the Boards review? Dan agrees that it is not likely to be germane because this line does not have a bearing on the proposed subdivision but that the DRB should here Penny’s comments. Penny showed Jason the disputed area and Jason and Dave B. indicated they will discuss Penny’s concern outside of the meeting. Jason noted that he had not surveyed the line that Penny is describing but rather it was based on an existing survey.

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Review of Section 426. E-

Board noted that the narrative responses to the criteria had been submitted under the former Regulations. Marjorie expressed that she felt the application should not have been deemed complete without a new revised narrative. Dan stated that this was the Boards 1<sup>st</sup> application review pursuant to the former and new Regulations and felt we should begin review. Board agreed that the hearing will remain open until all information is provided. Applicant agreed to provide a new response narrative to section 426.E. Dave also shared that the survey should show the building envelopes and driveway accesses as well. Applicants agreed to provide. The Plat shows a density table that is new. Dave expressed that the density table is a work in progress.

426.E(1) "Siting and suitability"- Applicants stated that new homes are located in existing open areas. There is not any open land with agricultural potential. Sites are north facing and ledge outcroppings are numerous. As proposed the subdivision complies with section 211 (density and dimensional standards) including minimum acres, frontage and setbacks.

Dave- affirmed that the building envelopes need to be located on the plat. Additionally, the driveway accesses need to comply with sections 310, 311 and 351.E. All future land development is anticipated to be on slopes less than 15% and less than 10,000 sq.ft. impervious area. Merger language for the BLA is on the proposed plat for land adjusted to Thompson/Davis and Whitcomb.

Penny- asked if Mason Hill North can support this development? Dave W.stated that Mason Hill is a class 3 road and the property is located in the Rural Planning Area where residential uses are expected.

426.E(2) "Natural features"- Applicants testified that the land has not been used for agricultural purposes for many years. The forestland being boundary adjusted to Whitcomb will continue to be enrolled in the Current Use Program. As proposed only two single-family homes are being proposed. Anything more will require further subdivision and wastewater approval. Rich asked if lots #2 and 3 could have been smaller. Applicants stated yes but that they wanted the lots as proposed and that they conform to many of the properties that surround them.

Dave noted that the applicants should provide evidence that they will comply with sections 330 and 331.

Ben- acknowledged that both lots 2 and 3 have further subdivision potential. Applicants stated that lot # 2 had been proposed as 27 acres. This has since been reduced in order to allow better access to Whitcomb's remaining lands.

426.E(3) "Character of the area and privacy"- Applicants stated that they are proposing to develop single-family homes on both lots #2 and #3. Both lots comply with the minimum standards in the LDRC district, section 210 and 353.C (lot layout).

Jon- why the shape of lot #3? Dave B. stated that he wants to build a new home on lot #3 and wanted it to be a minimum of 10 acres in the LDRC district.

426.E(4) "Energy conservation and access to renewable energy"- Both lots 2 and 3 are north facing. All heated or cooled structures will comply with VT's energy building codes.

426.E(5)- "Access and circulation"- Development is proposed on a class 3 road. Only 2 lots are being proposed and traffic should not increase significantly.

426.E(6)- "Infrastructure, Utilities, Facilities and Services"- Applicants reiterated that Mason Hill North is a lass #3 Town highway maintained by the Town. The Town also provides fire protection and first responder services.

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VT Cooperative provides electric service and Champlain Valley Telecom telephone and internet services. Applicants shared that electric and telephone service is roadside and both services will be buried from roadside to the homes.

426.E(7) "Lighting"- All lighting will be down shielded and light spillage will not extend beyond the property boundaries.. Dave shared that the applicants should look at section 314 for compliance.

426.E(8)- "Recreation access"- Applicants stated that the lot sizes are adequate for outside recreational purposes. Dave noted this is a very similar standard to one from the former Regulations. As such he felt that this standard is directed more toward larger subdivisions or much smaller lots.

Dave- summarized that the Regulations require that;

1. The Plat needs to show the building envelopes are compliant with setbacks.
2. Require access compliant with section 310 and 311.
3. Building rights table (because of lot configuration) needs to show two building rights each for lots 2 and 3 and one for lot 4 being adjusted to Whitcomb.
4. Two of the five building rights are being used (one each for lots 2 and 3).

Additionally, the applicants will provide the DRB responses to the criteria in section 426. E and should work to fix disagreement with the Penny Bennett. The Board acknowledged that approval of the subdivision is not likely dependent on settling the boundary dispute between Bennett and Brown.

Jon moved to continue the review of the Brown subdivision (2016DRB-04-SD) on March 23, 2017 at 7:45 PM. Ben 2nds. Motion carried 5-yes, 0-no. 8:45 PM. All persons except Cecilia left.

**Hearing #2- 8:45 PM- Cecilia Elwert, application for waiver #20176DRB-014-W, parcel # F417L1S**

Dan opened the hearing at 8:45 PM. Dave recorded and took written minutes.

Dan read the warning notice and administered the oath to Cecilia and Dave W. Dan asked Cecilia to explain the proposed waiver from setback request.

Cecilia- explained that her house was built very near to the setback. She is proposing to construct a single car garage and a mud room/living area at the rear of the garage which will provide a transition area to get into her home.

Dave acknowledged that the applications included a survey with the proposed addition, elevation and design drawings as well as a narrative that addresses the waiver criteria outlined in section 423.

Marjorie asked for clarification on the exact setback waiver requested. Cecilia stated that she is hoping the Board will grant her request to develop as close as 10-ft. from the common property line with Ryerbach. The application includes a statement from Ryersbach giving Cecilia the permission to build within the 20-ft setback of their boundary. Marjorie asked if the Ryerbach's understood how close to the boundary Cecilia wants to develop. Yes they know and don't have any plans to develop any structures near the boundary.

Cecilia spoke about her desire to age in place and the need for a generator. The most practical location is between the garage and the boundary line which increase her need to develop within the setback. Jackman's explained to Cecilia that because the generator is on a concrete base it is considered real property.

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Ben asked about generators and noise associated with them. Dan advised about the cycle time. Cecilia states that this is a very quiet propane generator. Dave cited that the Regulations limit noise generation in the LDRC to 55 dB(A) averaged over 10 minutes. Several DRB members noted that the propane generators were very quiet and in this case only used during a power outage.

Cecilia- discussed that the big boulder is likely a glacial erratic but that remains to be seen. The ability to work around the rock will determine how much she needs to encroach into the setback.

Review of Waiver criteria outlined in section 423.E. The comments below are taken from the testimony and from the narrative submitted in support of the application.

- (1) The LDRC is a residential district which is a permitted use. The lot is not in the Flood Hazard Overlay District.

Rich clarified that a vote in the affirmative by the Board would allow Cecilia to build within 10-ft of the boundary? Yes that is correct.

Marjorie suggested that we need to be clear that if approved it is for this plan only, precisely to allow the generator garage and mudroom to be located in up to 10-ft. into the setback.

- (2) The area is already a residential area. The neighbors on the side where the waiver is requested support my request. Attached is a letter from them stating such. Further, they have said that if they were ever to subdivide, it would be near their easterly boundary, completely opposite from mine. On their side of our shared boundary is scrub brush and trees in a damp area for most of the length of the property line. They said they wouldn't build in this location (west of their house) which puts about 300 feet between their house and our common property line.

- (3) The waiver request doesn't change how my property can be accessed by fire and rescue services. It doesn't limit access to the creek and no new building will be within 50 ft. of the creek. The addition will be constructed in compliance with the front yard setback of 75 ft. from the center line of Rte. 17. The side yard setback is 20 ft.. I'm requesting a waiver to develop 10ft into the setback.

- (4) In 2007 I purchased the house which was built in 1995. It was sited on the northeast corner of the property and as such doesn't allow much room for compliance with setback. The location of the well to the south, Rte 17 to the north, the septic systems to the west, the stone wall property line to the east plus a massive boulder all limit expansion. Considering the layout of the house, it makes sense for the attached one car garage, entrance and combination mud/gear/sunroom to be tucked in front and beside (north and east) of my current entrance on the east side. This placement also serves to provide for additional privacy from Rte. 17 traffic and for a sheltered outdoor living deck space.

- (a) The garage roof is less high than the house roof. This minor addition of a one car garage and one room is an increase of 625 sq. ft. to the total 1,360 sq. ft. of the existing house.

- (b) The pitch of the roof and barn sash windows are some of the features characteristic of typical building styles in the area. 4 windows are located on the east facing the boundary.

- (c) There are no impacts or hazards to the neighboring property. 10 ft. is enough to maintain the addition and also to access and maintain the outside generator and LP gas tank.

- (d) Natural screening in the form of scrub brush and trees is already in place. We barely see each other's house in winter. No building is anticipated on the east side of neighbors property within their 20 ft. setback due to site limitations.

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The following exhibits were read into the record:

- Exhibit #1- Application and fee
- #2 Letter of support from Ryerbach
- #3 Elwert narrative submitted with application
- #4 Survey and site plan showing proposed addition
- #5 Existing and proposed floor plan
- #6 Existing and proposed elevation plan
- #7 Public notice requirements

Dan asked if the DRB had any further questions. Hearing none Dan asked for a motion to close the hearing.

Jon moved to close hearing on application 2017DRB-01-W at 9:30 PM, 2<sup>nd</sup> by Ben. Motion carries 5-yes and 0-no. Board asked Dave to prepare a draft decision for the 23<sup>th</sup>.

Other Business- none

**Adjournment**

**Ben moved to adjourn at 9:35 PM, Marjorie 2nds. So moved 5-yes, 0-no**

**Next meeting-** March 23, 2017- Continue Brown SD review and Elwert decision

Date:\_\_\_\_\_

Approved:\_\_\_\_\_