

**TOWN OF CHESTER**  
**DEVELOPMENT REVIEW BOARD**  
**MINUTES**

*November 12, 2018*

**BOARD MEMBERS PRESENT:** Carla Westine, Larry Semones, Phil Perlah and Harry Goodell.

**STAFF PRESENT:** Michael Normyle, Zoning Administrator, Cathy Hasbrouck, Recording Secretary.

**CITIZENS PRESENT:** Jeff Baldwin, Kelly Arrison, and Jay Church.

**Call to Order**

The meeting was called to order at 6:00 PM by Chair Carla Westine. She read the meeting's agenda and introduced the members of the Development Review Board and staff to the audience. Everyone joined in reciting the pledge of allegiance.

**Agenda Item 1 Review draft minutes from the September 24, 2018 meeting**

No changes were proposed to the minutes. Phil Perlah moved to accept the minutes as submitted. Larry Semones seconded the motion. A vote was taken and the motion passed.

**Agenda Item 2 Citizen Comments**

There were no citizen comments on issues not on the agenda.

**Agenda Item 3 Final Plat Review for Jeff Baldwin Minor Sub-Division**

Carla Westine swore Jeff Baldwin in to give testimony. She asked the Board members if they had had any ex-parte communication about the hearing or if they have any conflicts of interest. No one did.

Four documents were submitted as evidence. The first document was an application for sub-division, Final Plat Phase. Carla Westine read the following portions of the application aloud: the applicant name is Jeff Baldwin, the location of the property is 3215 Trebo Road, the zoning district is R-120, the total acreage is 27.4, the number of lots after sub-division is 2, lot #1 will have 5+- acres and lot #2 will have 22+- acres, the fee has been paid. Harry Goodell moved to accept the application as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The second document was a Notice of Public Hearing Before the Development Review Board. Carla Westine read the following portions of the Notice aloud: the purpose is a Final Plat Review of a Minor Sub-Division application, #529, the property owner and applicant is Jeff Baldwin, the location is 3215 Trebo Road, the action requested is subdivide 1 lot into 2 lots. The Notice is signed by Michael Normyle, Zoning Administrator. Phil Perlah moved to accept the notice as Exhibit B. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The third document was a State of Vermont Department of Environmental Conservation Wastewater System and Potable Water Supply Permit, two sheets of paper covering 3 sides.

Carla Westine read the following portions of the permit aloud. The permit covers one existing lot that is proposed to become 2 lots. The permit number is WW-2-5701. The landowner is Jeff Baldwin. The revision date is 9/10/18, the gallons per day for both water supply and wastewater disposal are 490. Harry Goodell moved to accept the permit as Exhibit C. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The last document presented was a revised Plat for the sub-division plan of land of Jeffrey A. Baldwin. Carla Westine read the following items from the plat aloud: the revision date is 10/13/18. Note 8 documents the Wastewater permit number WW-2-5701. Phil Perlah moved to accept the Plat as Exhibit D. Harry Goodell seconded the motion. A vote was taken and the motion passed.

Carla Westine noted that the only item missing on the Preliminary Plat was the Wastewater Permit number. That now being supplied in Note 8, the application was complete. Harry Goodell moved to close the hearing. Phil Perlah seconded the motion. A vote was taken and the motion passed. The Final Plat hearing for application #529 was closed.

#### **Agenda Item 4 Final Plat Review for Kelly Arrison Minor Sub-Division**

Carla Westine began by reviewing the documents presented as Exhibits. The first document was a Town of Chester Development Review Board Application for Sub-Division, Final Plat Phase. Carla Westine read the following portions of the application aloud: the applicant names are Kelly and Cheryl Arrison, the location of the property is 3441 Vermont Route 10, the Zoning district is R-120, the total acreage before division is 38, new acreage by parcel after the division is one at 25 acres, one at 10 acres and one at 3 acres. The application is signed by Kelly and Cheryl Arrison and Michael Normyle. Harry Goodell moved to accept the application as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The second document presented was a Town of Chester Notice of Public Hearing before the Development Review Board. Carla Westine read the following portions of the Notice aloud: the date is October 16, 2018, the property owners and applicants are Kelly and Cheryl Arrison, the location is 3441 VT Route 10, the district is Residential 120, the action requested is re-subdivide 3 lots into 4 lots. The document is signed by Zoning Administrator Michael Normyle.

In examining the document, Carla Westine and other Board members saw that the number of lots in the proposed sub-division on the application accepted as Exhibit A did not match the number of lots listed on the Notice of Public Hearing. The Notice had the correct number of lots, which was four. The board proposed to amend the application to show four lots with their labels and acreage as marked on the Plat. Lot 1A would have 2.69 acres, lot 2A would have 2.0 acres., lot 3A would have 10.27 acres, and lot 4A would have 25.62 acres. Phil Perlah moved to reaccept Exhibit A with those changes. Larry Semones seconded the motion. A vote was taken and Exhibit A was reaccepted.

Harry Goodell moved to accept the Notice of Public Hearing as Exhibit B. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The third document considered was an e-mail from Terry Shearer, Regional Engineer at the Vermont Agency of Natural Resources to the applicant, Kelly Arrison at Heads Up Motorsports. The e-mail discusses what would be required to exempt any of the new lots from the normally required wastewater permit. Specifically, it quotes the language that must be included in the deed for the new lot or in the land records associated with the sub-division that created the new lot. Carla Westine read the e-mail aloud.

Carla Westine asked Kelly Arrison if Terry Shearer did not want to give him (Kelly Arrison) a wastewater permit similar to the permit given Jeff Baldwin at the earlier hearing. Kelly Arrison said he had not applied for a permit because he did not want to develop any of the parcels created by the proposed sub-division. Larry Semones asked if Kelly Arrison was sub-dividing in order to sell the lots. Kelly Arrison said he was not. Harry Goodell verified with Kelly Arrison that he already had a wastewater permit for lots 1A and 2A. Kelly Arrison said that was correct.

Carla Westine said the DRB did not usually approve a sub-division without a wastewater permit from the state. She said that, in the past, the town of Chester would issue a permit to waive development rights for a parcel of land so a wastewater permit would not be required. More recently that process has been taken over by the state of Vermont. Carla Westine said for this hearing she expected to have the existing wastewater permit for the property (WW-2-1867) modified to reflect the proposed four-lot sub-division and presented as an exhibit, as Jeff Baldwin had done in the earlier hearing.

Michael Normyle said that Jeff Baldwin intended to sell the lots he created with his sub-division, where Kelly Arrison did not intend to sell the lots he was creating. Harry Goodell said it was clear no development was intended as a result of the Arrison sub-division, but Jeff Baldwin did intend to develop his lots. Carla Westine said the e-mail from Terry Shearer required specific language in the deed that the DRB could not enforce. Michael Normyle said he had discussed this with the applicant and the applicant understands the requirement.

Jay Church said note 8 on the plat addressed this issue. Carla Westine said that no actual waiver of development had been issued by the Agency of Natural Resources and the DRB could not issue a waiver of development. Kelly Arrison said he had explained what he intended to do with the land to Terry Shearer several months before. Terry Shearer had told him then no wastewater permit was required. Harry Goodell said the Agency of Natural Resources should have issued a form saying the development rights were being waived and the wastewater permit is not required. Carla Westine said that she was concerned that by authorizing the sub-division without the form from the Agency of Natural Resources stating that development rights have been waived for the two back lots, the DRB will allow two parcels to be created that will not be ready for sale or development.

Phil Perlah said that note 8 on the Mylar will alert people in the future to the fact that a wastewater permit will be required before development of the two parcels is possible. The Board agreed that it would be better if a permit had been obtained, that the note on the Mylar will suffice as a warning to any future developer about the lack of permit, and that, in the future, a

formal statement of the waiver of development rights and the associated waiver for a wastewater permit will be required for a sub-division.

Phil Perlah moved to accept the e-mail as Exhibit C. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The last exhibit was a Plat of the property in question. The title of the plat is Plan showing proposed re-configuration of Previously approved lots 1 & 2 (now 1A and 2A) and a proposed subdivision of New lots 3A & 4A of Property of Kelly and Cheryl Arrison, and it is dated July 9, 2018. Harry Goodell moved to accept the Plat as Exhibit D. Phil Perlah seconded the motion. A vote was taken and the motion passed.

Kelly Arrison explained that he recognized the inadequacies of the preliminary plat as soon as he saw it, which was minutes before the site visit. After the Preliminary Plat Review, he hired Don Stein's group to correct the problems. He said Dave Coleman had done the survey work for the Plat and Don Stein's group had put it on paper.

The Board decided to review all the requirements for a Plat, given the extensive changes made to the Preliminary Plat, as follows.

- a.** Proposed subdivision name or identifying title and the name of the Town.

The Board found this information in the lower right corner of the plat.

- b.** Name and address of record owner, subdivider, and designer of Plat.

The Board found this information in the lower right corner of the plat.

- c.** Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, water courses, and other essential existing physical features.

The Board found the total acreage before subdivision in Note 6. The property lines were visible. There is an existing septic easement on lot 2A for lot 1A. There is a 50-foot right of way that goes around the back of the shop building on Lot 2A and crosses the lot to parallel the eastern property line between lot 1A and lot 2A before turning east and paralleling the stone wall at the back of lot 1A. The right of way turns north at the corner between lots 1A, 3A and 4A and follows the boundary between lots 3A and 4A. Phil Perlah asked if there was an existing well on Lot 2A. Jay Church said Lot 2A shares the well on lot 1A.

Buildings shown are the shop, shed, 2 barns and a play house. A Y-shaped water coursed labeled BROOK NATURAL DRAINAGE was noted. A dam on the brook was noted as a physical feature.

- d.** The names of owners of record of adjacent acreage.

The names of nine owners of record of abutting lots are shown on the plat.

- e.** The provisions of the zoning standards applicable to the area to be subdivided and any zoning district boundaries affecting the tract.

The dimensional standards for the R-120 District are in the lower right quadrant.

- f.** The location and size of any existing sewer and water mains, culverts, and drains on the property to be subdivided.

There are no sewer or water mains involved. Three 15-inch culverts are seen at the ends of the driveways.

- g.** The width and location of any existing roads within the area to be subdivided and the width, location, grades, and road profiles of all roads or other public ways proposed by the Subdivider.

There are no proposed roads. There is a driveway for the house on lot 1A and two driveways and a parking area on lot 2A. A 50-foot right of way for lots 3A and 4A is drawn through 1A, 2A and 3A to 4A.

- h.** Contour lines at intervals of five (5) feet of existing grades and of proposed finished grades where change of existing ground elevation will be five (5) feet or more.

The plat shows contour lines at 20-foot intervals. The Board waived the 5-foot interval contour line requirement. This is stated in Note 7.

- i.** Date, true north point, and scale.

The true north point was found in the upper left corner of the plat. The date is in the lower right corner. The scale is in the top center.

- j.** Deed description and map of survey of tract boundary made and certified by a licensed land surveyor tied into established reference points, if available.

The deed descriptions are found in Notes 3, 4 and 5.

- k.** Location of connection with existing water supply or alternative means of providing water supply to the proposed subdivision.

The plat shows an existing well on lot 1A which also serves lot 2A. There are no proposed wells for lots 3A and 4A.

- l.** Location of connection with existing sanitary sewage system or alternative means of treatment and disposal proposed.

The plat shows existing septic for lot 1A and 2A. The septic for lot 1A is mostly on lot 2A, with a septic easement noted. Replacement septic areas for lots 1A and 2A area also shown. There is no intention of developing lots 3A and 4A.

- m.** Provisions for collecting and discharging storm drainage, in the form of drainage plan.

Three branches of a seasonal brook were drawn on the plat.

- n.** Preliminary designs of any bridges or culverts which may be required.

There are no bridges planned.

- o.** The proposed lots with surveyed dimensions, certified by a licensed land surveyor, numbered and showing suggested building locations.

The proposed lots with their dimensions are on the plat. Existing buildings are shown on the plat.

- p.** The location of temporary markers adequate to enable the Development Review Board to locate readily and appraise the basic layout of the field. Unless an existing road intersection is shown, the distance along a road from one corner of the property to the nearest existing road intersection shall be shown.

Ribbons marking the survey pins were visible at the site visit.

- q.** Locations of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.

Kelly Arrison said no land is being dedicated to public use.

- r.** Names identifying roads and streets; locations of street name signs and description of design of street name signs.

There were no new roads in the sub-division. Vermont Route 10 is marked.

- s.** The Preliminary Plat shall be accompanied by:

1. A vicinity map drawn at the scale of not over four hundred (400) to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing roads, provided any part of such a road used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any boundary of the proposed subdivision.

The vicinity map is in the upper right corner of the plat and the distance to the nearest intersection (Route 10 and North Main Street) is in the lower right quadrant.

2. A list or verification of the applications for all required State permits applied for by the Sub-divider. Approval of the subdivision application by the Development Review Board may be conditioned upon receipt of these permits.

Note 8 explains that lots 3A and 4A will not be developed and are created with a waiver of development rights.

- t.** Endorsement. Every Plat filed with the Town Clerk shall carry the following endorsement:

"Approved by the Development Review Board of the Town of Chester, Vermont as per findings of fact, dated \_\_\_day of \_\_\_\_\_, \_\_\_ subject to all requirements and conditions of said findings.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by

\_\_\_\_\_

\_\_\_\_\_, Development Review Board"

This language is in the lower left corner of the plat.

Harry Goodell said he had never seen a survey stamped by someone other than the person who did the work. He wanted the record to show that Don Stein had stamped the survey. Jay Church said that Dave Coleman would stamp and sign the Mylar. Harry Goodell said the DRB had approved the work of Don Stein and he should be the one to stamp the Mylar. Carla Westine said the Mylar should look exactly like the Final Plat the DRB had just examined. Phil Perlah moved to close the hearing. Harry Goodell seconded the motion. A vote was taken and the hearing was closed.

#### **Agenda Item 5 Review of Property Transfer reports**

Michael Normyle said he was working with Wanda Purdy, one of the listers, on a problem where a piece of property had had a boundary line adjustment, the Mylar had been recorded but the deed was not changed to reflect the boundary line adjustment. Wanda suggested that a condition of the sub-division or boundary line adjustment be added to the Findings and Conclusions requiring that the deed be adjusted. Carla Westine said that this situation had been discussed at a Planning Commission meeting the previous Saturday. There is no requirement in the zoning bylaws that states the deed must be adjusted to reflect a sub-division or boundary adjustment when a mylar is filed. Brandy Saxton, the consultant working with the Planning Commission on the bylaws said she did not think the zoning bylaws was the place to put that requirement. She felt it belonged on the checklist the zoning administrator gives to each applicant when they apply for a boundary adjustment.

Phil Perlah said he could think of two reasons why someone would not change the deed after a sub-division or boundary adjustment. First, the deed would have to be modified by an attorney and the title insurance may need to be changed. Second, it was possible that two parcels of land could cost more in taxes than a single parcel of the same size. Harry Goodell said an attorney has told him the same thing, not to worry about doing changing the deed until you want to sell the property. Carla Westine said the failure to change the deed could jeopardize clear title to the land, particularly many years after the sub-division.

The idea of adding the deed change as a condition of a sub-division or boundary adjustment Findings and Conclusion was discussed. Phil Perlah said if changing a deed was a condition and the condition was not satisfied, it could technically invalidate the approval. Michael Normyle asked if that could have any impact on a project. Carla Westine said that someone who might want to prevent a project from going forward could perhaps use that failure as a way to invalidate a permit. Carla Westine said she hoped that there would soon be a way to electronically connect the filing of a Mylar to the lister's tax records. Michael Normyle said he

always gave the lister a copy of Findings and Conclusions and Final Plat Review documents when they were approved. No electronic assistance was required.

Carla Westine said the Board was willing to remind applicants that the deed should be changed when a Mylar is recorded. The Board discussed more aspects of Mylars and deeds. Michael Normyle said he would add the deed change to the applicant checklist.

**Agenda Item 6 Confirm next meeting dates**

The next meeting will be Monday November 26, 2018, when the Board will consider an application from Mike and Amy O'Neil for a major sub-division of their property in the commercial-industrial district. There are currently no plans for a meeting on December 10, 2018.

**Agenda Item 7 Deliberative session to review previous matters**

The Board went into Deliberative session. The meeting was adjourned at the end of the session.