

TOWN OF MONTGOMERY, VERMONT

MONTGOMERY DEVELOPMENT REVIEW BOARD UNAPPROVED MINUTES

Thursday, January 28, 2021

Members present: Parma Jewett: Chair, Lynda Cluba: Clerk, Suzanne Wilson, Wendy Howard, Merle VanGieson

Applicant: Donald M Jr and Sandra C Crocker

Zoning Administrator: Ellen Fox

Visitors: Interested parties, Adjoining property owners: Richard Charnov, Ted Jacobs, Sarita Kahn, Sonia Candrian, Jason Haddick, and Consulting Engineer for the project: Roy Hango

DRB Hearing - The hearing was held by Zoom. Meeting ID# 81918590198, Passcode 367839 and called to order at 6:42pm. Parma explained the process of how the meeting will be conducted. The hearing is recorded and all who speak must first state their name and be recognized by the Chair. She gave the oath to all present at the hearing. All confirmed.

The **Application for Conditional Use Permit is for a Planned Unit Development (PUD) of 3 residential lots: with the remaining land open space. Applicants also request Approval of lots accessed via Right-of-Way of record in order to maximize conservation of, and minimize human footprint on the 160 acres.**

The property is identified as Parcel # 242.043X in the Rural Residential Zoning District located at 242 and the Cote Rd as written in the Town of Montgomery Zoning Regulations; Amended and updated November 2018. She asked if any board member felt they had a conflict of interest. No response. **Evidence submitted by the Zoning Administrator noted as A1 includes:** Application to DRB received on 12/28/20, copy of an email to the ZA dated 8/5/20 explaining their plan for the property, notice of hearing posted in 4 places, including the town website, on January 7, 2021 and printed in the St. Albans Messenger on January 8 or 11, 2021 and a copy of the Consulting Engineer's project map dated 12/13/2020.

Applicants originally wished to create (2) 4 acre lots and (1) 2 acre lot for a homestead, conserving the remaining acres. They wish to preserve the lots for their grandchildren to build in the future. To preserve as much land as possible they thought a PUD would be the best as they could have smaller lots and would be able to conserve more land. The project map shows 4 lots; (3) 2 plus acre lots and a 4th lot of 151.94 acres which they wish to put into conservation easement. Also included in the map is the location of the R.O.W., driveways, dwellings, septic systems and wells. They would like to do what is in line with Zoning requirements and are looking for recommendations from the Board as to the best way to proceed in order to conserve as much land as possible. The reason they would like the smaller lots is to only develop the hay field and not encroach on the wooded areas. They explained that in order to have 4 acre lots they would have to use more land and develop some of the surrounding wooded areas. All lots would be in the first hay field. They stated they do not wish to have the lots share a well or septic. Applicants also stated they have spoken with Charlie Hancock (Northwoods Forestry) and are working on a forestry plan for the Current Use program.

Parma asked if any Board members had questions.

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Merle asked if they would have a problem with (3) 4 acre lots having done a forestry plan for approval of the land put in Current Use? He feels there is not enough information to comply with regulations for a PUD. He would like to see them complete a DRB Project Application form. They stated they would like to have the smaller lots in order to not have to develop any of the wooded areas surrounding the hay field.

Parma asked if the PUD would have a name and would there be a homeowner's association? Also, would there be a common land for the 3 lots? The applicants stated Lot 1&2 would go to their 2 daughters and Lot 3 and the additional acreage would go to their other daughter who currently resides in Montgomery. The additional acreage would be part of her lot. Parma also inquired as to how will they make sure this land remains in conservation? Have they contacted Vermont Land Trust for information and who will be responsible for taxes? Applicants stated they would wish to do a conservation easement and have not completed that process. Also, the property would not pass to the grandchildren until they are gone so they would be responsible for taxes.

Parma asks if any of the visitors have questions regarding the Application.

Ted Jacobs states he is an abutter on the western side and has no issues with the project.

Richard Charnov asks what do they mean by putting land in conservation? How will they make sure it stays in conservation? He would like to see a perpetual conservation easement with Vermont Land Trust. He asked the Board would their decision be based on whether the land remains in conservation for perpetuity? Applicants stated they want to have the land remain in conservation and have not completed that process yet. They are currently working with the forester for Current Use. The Board is not clear if their decision could put conditions on approving whether the land provides a conservation easement.

Sarita Kahn asks what type of housing they would construct on the middle lot which they stated would be their homestead? How many square ft and would there be any restrictions on the other 2 lots? Applicants stated they plan on building log cabin, approximately 1200 Sq ft, with 2 bedrooms. There are not any restrictions on the other lots and the deed states that no mobile homes be placed on the property.

Jason Haddick and Sonia Candrian had no issues with the application.

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Parma explains the Board will now go into deliberations and are allowed 45 days to mail the decision. Ellen would be able to provide the applicants with information if the hearing is extended.

A motion was made by Lynda and seconded by Sue to go into deliberation at 7.35pm. So moved. 5-0

The Board exited deliberation at 7:49 pm. No decision was made. The Board has requested information from the Vermont League of Cities and Towns. Parma will contact them and get a response in writing.

Lynda made a motion and was seconded by Sue to recess the hearing at 7:55 pm and reconvene on February 4, 2021 at 6:30 pm. So moved. 5-0

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Continuance of Hearing from January 28, 2021 recessed at 7:55 pm. Hearing is held by Zoom. Meeting ID #81558333080, Passcode 863233.

Board members present: Parma Jewett, Lynda Cluba, Suzanne Wilson, Wendy Howard and Merle VanGieson

Applicants: Donald M Jr and Sandra Crocker

Zoning Administrator: Ellen Fox

The meeting reconvened and was called to order by the Chair at 6:34 pm.

Parma explained that Ellen had received additional materials submitted by the applicant. Parma acknowledged the materials submitted by the applicant which addressed (Section 5.2E) Review Standards. She read #7 which states "*DRB may require that a reasonable percentage of the land be utilized for open space, recreation areas or necessary town purposes and may establish conditions on the ownership, use and maintenance of said lands as it deems necessary to assure preservation of said lands for their intended purposes.*"

Parma also noted the Application Requirements: **Conditional Use and Variance Review on Table 5 (page 32) of Montgomery Zoning Regulations**. Stating that the applicants provided information for all the applicable points except for the *location of natural features such as watercourses, wetland, floodplains, rock outcroppings and stands of trees*. She asked about the height of the buildings; applicants stated the proposed height would be 23'. Parma also asked how far the project would be located from waterways and if there were any wetlands on the property? Applicants explained the Trout River is approximately ½ mile away on the northern side and the Hannah Clark Brook is ¼ mile away on the southern side and confirmed no expanse of wetlands on the property.

She asked the applicants if they would be offended if the Board put a condition in their decision? They stated they would not and have worked with USDA and also have been approved for Current Use with an 8 acre exclusion for the year 2021. They also stated they are not interested in turning the remaining property into public use and want to conserve it for the wildlife.

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Parma asks if board members had any questions.

Merle stated he is happy they wish to conserve the property but feels the application does not meet the requirements of a PUD. He cites Vermont Title 24, Section 4417 stating they could read the statute if they wish. He feels the application should be approached in a different way. He asks why the original application asks for (3) 4 acre lots? Applicants state that Ellen suggested they might apply for a PUD and ask for smaller lots so they could conserve more land. Their original intent was to conserve as much land as possible and still have 3 buildable lots. Wendy made a point that she looked at the VSA Title 24, Sect 4417 and the word "may" is used often and could give the board more authority to apply conditions.

Sue asked why they had excluded 8 acres? The response was the 8 acre exclusion only applied to Current Use.

Sue made a motion and was seconded by Lynda to enter deliberations at 6:54 pm. So moved 5-0. Lynda made a motion and was seconded by Sue to exit deliberations at 7:16 pm. So moved 5-0.

Sue made a motion and was seconded by Lynda to approve the application with the condition that 151.94 acres be put into conservation for perpetuity.

Roll call vote: Sue-yes, Wendy-yes, Lynda-yes, Parma-yes, Merle-no; his reason that the application does not meet the definition, purpose and intent of a PUD. Motion passed 4-1.

Sue made a motion and was seconded by Parma to adjourn at 7:22 pm. So moved 5-0.

Respectfully submitted:

Lynda Cluba, Clerk