

**Town of St. Albans  
Development Review Board Meeting Minutes  
Thursday, August 10<sup>th</sup>, 2023  
6:30 p.m.**

On Thursday August 10<sup>th</sup>, 2023 at 6:30 p.m., the Town of St. Albans Development Review Board met at Town Hall for the following hearings.

**Present:** Chair, Brent Brigham, Vice President, Arthur Omartian (via Zoom), Clerk, Mike McKennerney, Ellen Baker, Bruce Thompson, Tom Stanhope, Director of Community Development, Megan Sherlund & Administrative Assistant, Kimberly Kissinger

**Absent:** Allison Hickey, Zoning Administrator, AJ Johnson

Chair, B. Brigham, called the Development Review Board hearing to order at 6:30 p.m.

**New Business**

**Application of Timothy Hurlbut requesting Sketch Plan, Final and 2 Frontage Waivers for a 5-Lot Subdivision in accordance to Sections 2.7, 4.3, 4.4, and 8.2 of the St. Albans Town Unified Development Bylaws. The property is located at 137 Hillcrest Heights in the Conservation and Rural Districts and is owned by the Applicant.**

The Application was represented by Timothy Hurlbut. There were no Interested Parties.

The Applicant was sworn in by Clerk, M. McKennerney.

T. Hurlbut began with discussing his conservation objectives and the creation of an Operating Agreement to Hurlbut Heights Common Land Association, LRC; including the conservation of residential uses and restrictive covenants. Referring to Exhibit 4, he stated that all of the green area (including the 9.36 acres) on the map would be conveyed to the Operating Agreement and the other areas that are portions of Lots 4, 7, 8, and 9 by easement would be subjected to the Operating Agreement conservation recreation area. Conservation objectives would prohibit subdivisions, any development other than structures that aid conservation with a member's recreational use of the land, structures visible from the interstate or to the west of the property, and timber extraction without a timber harvest plan. He mentioned the idea of having a membership for current and future Lot owners for use of the neighborhood and common land areas. He continued by stating the white portions on the map are where the development areas are located and the plateaued area is a good location for houses.

T. Hurlbut discussed the potential need to pave the road to the lots, as the Town ordinance could be interpreted to deem it necessary, which was also discussed at the last Select Board meeting. The current road is gravel and stone. He stated that he can explain to the Board why he thinks the Board can interpret the Bylaws and A76 standards to allow him to not have to pave. B. Brigham questioned the effect this could have on the ability to sell lots if the Fire Chief does not support the road. T. Hurlbut would disclose this information to potential buyers and believes it could impact selling the lots.

B. Brigham asked if the building envelope is on a plateau. T. Hurlbut answered yes and that it is mostly ledge but enough soil to support septic systems. B. Brigham questioned if lots 4,7,8,9 are all on the easement shown on the map handout and if the wastewater easement to lots 7-9 include Lot 4. T. Hurlbut confirmed that it is included since it is located on the lot. B. Brigham questioned if the two red boundary lines on the map handout were the boundaries moved through administrative adjustment. T. Hurlbut replied yes, as there was a small piece of land protruding on the north side that will be combined with his lot. This land will also buffer the road from his house and will provide space for the proposed road, as it was not accounted for when it was initially subdivided. B. Brigham asked if the road from the cul-de-sac, the new proposed road, will be steep. T. Hurlbut believed it could be a 12-degree slope. B. Thompson asked if there was a contour drawing available to confirm the steepness of the land. T. Hurlbut answered that he did not have a contour map and expected it would be expensive. B. Thompson questioned the steepness of the road as a contributing concern of the Fire Chief. T. Hurlbut stated how the Fire Chief's letter did not directly target his proposed road, but that the letter might have been referring more to the Radar Road and its inaccessibility to a house during a previous fire.

A. Omartian asked if there will be Deed restriction documents prohibiting the installation of solar panels. T. Hurlbut said no prohibition and that solar would be welcome. B. Brigham asked if ground solar panels would be allowable. T. Hurlbut commented that while there is no prohibition from putting solar panels on a house roof, he would not advocate a solar farm.

B. Thompson asked if \$75,000 was an accurate cost to build the proposed road. T. Hurlbut stated he wants to do most of the road work himself and that \$75,000 might have been a low-cost estimate but it is dependent on who actually constructs the road. B. Thompson questioned if the road needed to be paved

per current ordinance. M. Sherlund answered that it does, as technically the road standards ordinance does call for roads to be paved. A. Johnson met with the Select Board recently and it was agreed that the road ordinance does not make sense for that area, but that a variance to the ordinance would need to come directly from the Select Board. B. Thompson questioned if any subdivision that the Board approves requires the road to be paved. M. Sherlund stated only if the new road is accessing six or more homes. The ordinance is not clear and needs clarification. The Applicant has four new homes, but there's already four there. The way the ordinance reads currently with a total of eight homes, the new part of the road would require paving. B. Brigham commented that is not how he reads it and if that was the rule, then the road would have to be paved to the cul-de-sac, taking two or three homes off the total which would bring the road within the ordinance. T. Hurlbut stated he does not agree with the Select Board's interpretation and said that legally the Board cannot enforce it. M. Sherlund explained that conversation would need to be between the Applicant and the Select Board, as the DRB does not have the authority. T. Hurlbut explained how the ordinance could be interpreted to be acceptable in a Court of Law. The road was approved in 1998 and was built in 1999. It is the Applicant's opinion that retroactive can only be applied if the law is written to be retroactive. Applicant referred to State law A76 standards and compared it to the Town's road ordinances definitions for road and paving requirements. The original road has been in place for 20 years and Applicant is proposing to extend that road about 80' to accommodate the 4 new lots. M. Sherlund concurred that it is a valid point. B. Thompson clarified that interpretation to say that only the Applicant's 4 new lots need paving and not the existing road. M. Sherlund explained that is correct since the road portion proposing approval will access 4 houses and not six. T. Hurlbut explained the current ordinance does not apply since he will not be accessing 6 new lots with the proposed road. The existing road is grandfathered.

There were no additional questions.

**Application of Lionel and Karen Dubrofsky requesting Conditional Use Review to add fill in the Flood Hazard Overlay to construct a garage in accordance with Section 4.9 of the St. Albans Town Unified Development Bylaws. The property is located at 15 Dubrofsky Drive in the Lakeshore District within a Flood Hazard Overlay and is owned by the Applicant.**

The Applicant was sworn in by Clerk, M. McKennerney.

The Application was represented by Peter Garceau, Engineer, on behalf of the property owner Lionel and Karen Dubrofsky.

P. Garceau began with the proposed build of a 32'x40' garage located on an existing ground elevation of approximately 101.5'; requiring approximately 195 cubic yards of fill to elevate the ground to a total of 102.5' to meet Town guidelines. B. Brigham asked if the garage will be a replacement for the existing garage. P. Garceau answered yes and confirmed the application is for the land fill.

M. McKennerney asked if the garage will be moved closer to the cul-de-sac. P. Garceau answered that was correct and that it was not by choice. The wetlands on the map have been re-delineated and are similar to what they were when the Applicants built the house, but the garage will be staying outside of the buffer. The existing garage is within the buffer but is grandfathered. The Applicant needs to stay outside of the buffer otherwise it would require a wetland permit in order to build the proposed new garage. B. Thompson asked if there are neighbors near the location of the proposed new garage. P. Garceau said yes on the lake side. B. Thompson questioned the neighbor's elevation. P. Garceau believed the neighbor to be higher. The Applicant's house is above 104'. B. Brigham assumed the general slope of the area would be toward the wetland. P. Garceau said yes and the garage would be at least 75' from the lake. B. Brigham asked if there would be a concrete or paved apron in front of the garage. P. Garceau answered yes.

There were no additional questions.

#### **Other Business**

None.

#### **Deliberative Session**

**MOTION: M. McKennerney made a motion to enter deliberative session at 7:16 p.m.**  
**T. Stanhope seconded. All in favor, none opposed, motion carried.**

**MOTION: M. McKennerney made a motion to come out of deliberative session at 7:45 p.m.**  
**T. Stanhope seconded. All in favor, none opposed, motion carried.**

Application of Timothy Hurlbut requesting Sketch Plan, Final and 2 Frontage Waivers for a 5-Lot Subdivision.

*MOTION: B. Thompson made a motion to approve the Application of Timothy Hurlbut requesting Sketch Plan, Final and 2 Frontage Waivers for a 5-Lot Subdivision in accordance to Sections 2.7, 4.3, 4.4, and 8.2 of the St. Albans Town Unified Development Bylaws. The property is located at 137 Hillcrest Heights in the Conservation and Rural Districts and is owned by the Applicant, with the following conditions: 1.) Road must be built to VTRANS A76 standards; 2.) Houses to be built in non-conservation areas only; 3.) Upon completion of the project and prior to the final issuance of any Certificate of Compliance, the Applicant shall provide certification by a registered engineer that the project has been completed as approved by the DRB; 4.) All State and/or Federal Permits are the Applicants responsibility and a copy shall be provided to the Zoning Administrator for the file; 5.) The Board accepts the amended findings of facts and conclusions of law as provided in the Zoning Administrator's staff report dated August 2<sup>nd</sup>, 2023; 6.) The Applicant shall agree to and comply with all findings of fact and conclusions of law listed in this decision as well as all conditions of approval; and 7.) All previous conditions not amended by this decision shall remain in effect. Seconded by T. Stanhope. All in favor, none opposed, motion carried.*

Application of Lionel and Karen Dubrofsky requesting Conditional Use Review to add fill in the Flood Hazard Overlay to construct a garage.

*MOTION: M. McKennerney made a motion to approve the Application of Lionel and Karen Dubrofsky requesting Conditional Use Review to add fill in the Flood Hazard Overlay to construct a garage in accordance with Section 4.9 of the St. Albans Town Unified Development Bylaws. The property is located at 15 Dubrofsky Drive in the Lakeshore District within a Flood Hazard Overlay and is owned by the Applicant, with the following conditions: 1.) A Certificate of Elevation by a registered engineer is to be presented to the ZA upon completion of the project; 2.) Any damage done to Lakeshore Road as a result of this construction shall be repaired to original condition at Applicant's expense; 3.) Upon completion of the project and/or prior to the issuance of a Certificate of Compliance, the Applicant shall provide certification by a registered engineer that the project has been completed as approved by the DRB; 4.) All State and/or Federal Permits are the Applicants responsibility and a copy shall be provided to the Zoning Administrator for the file; 5.) The Board accepts the amended findings of facts and conclusions of law as provided in the Zoning Administrator's staff report dated August 2<sup>nd</sup>, 2023; 6.) The Applicant shall agree to and comply with all findings of fact and conclusions of law listed in this decision as well as all conditions of approval; and 7.) All previous conditions not amended by this decision shall remain in effect. Seconded by E. Baker. All in favor, none opposed, motion carried.*

Minutes

None.

Next Meeting

August 24<sup>th</sup>, 2023 at 6:30 p.m.

Adjournment

*MOTION: M. McKennerney made a motion to adjourn the DRB meeting at 8:09 p.m. Seconded by T. Stanhope. All in favor, none opposed, motion carried.*

Respectfully Submitted,

Kimberly Kissinger  
Administrative Assistant