

Shaftsbury Development Review Board

Wednesday June 7, 2023

In person at Cole Hall and remotely via Zoom

1) Call to order

The meeting came to order at 6 p.m. Present were board members Mike Day (chair), Sarah Costin, Tedd Habberfield, Denny Browe, and Zoe Contros Kearn (who arrived at 6:05). Also present was zoning administrator Shelly Stiles.

2) Conflict of interest

No one expressed a conflict of interest with any item on the agenda.

3) Sign in sheet

Sign in sheets were passed around to those in attendance.

4) Approval of minutes

Mr. Habberfield moved to approve the May 15 minutes. Mr. Browe seconded the motion, which passed 3-0-1 (Ms. Contros Kearn hadn't yet arrived.)

5) Application 23-00040, parcel 11 02 43.6, 3189 East Road, zone R200, owners Eugen Guertin and Delora Derosia, request for a variance to site yard setback for 40' x 32' garage.

Eugene Guertin spoke. He said they'd thought the sideyard setback was 25'. They have already poured the concrete pad and built a retaining wall for the garage.

Engineer Chris Ponessi, representing the applicants, spoke. He said the property was surveyed years ago by David Mance and that a stone wall is the northern property line. The existing house site and paved driveway and environs are the only high and dry locations on the property, which slopes from east to west to wetlands and a utility easement. The proposed garage is sited a reasonable distance from the house. All other homes in the area are zoned R40. The new retaining wall was constructed to manage the slope in the area. The applicants request a variance to reduce the setback from the required 100' from the property line to 47' from the property line. As an aside, he noted the house doesn't quite meet the setback requirement either. The nearest neighboring home is out of sight at about 700'-800' away on a parcel wrapped about by a separate parcel now in farmland.

The applicants said it was their mistake not confirming the setback requirements but instead trusting neighbor reports.

Mr. Guertin shared a statement attesting he'd mailed the hearing warning to the abutters in a timely fashion.

The applicants said their driveways were paved two to three years ago. The house was built around 2004.

Mr. Ponessi addressed the requirements of zoning bylaw 9.8.

- Unique physical circumstances: He shared a one-foot contour slope map, which showed that the only relatively flat site is near the house. The land slopes off to wetland and a utility easement.
- Such conditions: A garage sited elsewhere without slope, wetland, or utility easement encumbrances would be unreasonably far away, that is more than 30', from the house.

- Not created by applicant: The applicants bought the house in 2017. The house and driveways were already in place. The property had been sold a number of times. (The land was rezoned in 1980.)
 - Alter character of neighborhood: The garage is set back well from the road. The front yard setback is readily met. There is not one neighbor in sight.
 - Minimum that will provide relief: The proposed setback is the least possible without taking out the driveway and is similar to setbacks in R40 and R80 zones.
- Mr. Guertin said no other buildings are planned.

Mr. Habberfield moved to close the hearing Ms. Costin seconded the motion, which passed 5-0-0. Mr. Ponessi, who served on the Development Review Board (DRB) for more than twelve years, volunteered to share next steps with the applicants privately so the DRB could move on to the next application.

6) Application 23-0041, parcel 09 20 42, owners Landview Holdings LLC, 12 Tunic Road. Request for a variance to lot width requirement and request for a subdivision permit.

Surveyor David Spurr represented the applicant. Roland Walker, owner of Landview Holdings LLC, was also present.

Mr. Spurr said a state subdivision permit 80660 was issued in 2003 as part of a wastewater permit. The owners never appropriately pursued it before the town and a subdivision permit from the town was never sought nor issued.

The 1± house lot parcel proposed for separation by subdivision from the remaining 90± farm parcel is defined as an “excluded parcel” in a conservation easement on the entire parcel held by the Vermont Land Trust (VLT). Mr. Spurr read portions of the easement document which can be found in the land records **book 117, page 485**. Mr. Spurr noted that the VLT sketch described a 1± acre lot 17’ shorter east by west than that proposed by Mr. Spurr. The most recent proposal takes into account an addition to the milking barn, which is located inside the excluded parcel.

Two applications are required. The subdivision application depends on approval of the lot width variance. The lot width requirement for the RC zone in which the lot is located is 200’. The proposed width is about 131’ – the maximum securable by virtue of the location of Tunic Road on the north and an abutting property (the historic schoolhouse) on the south. The homestead has been in situ since at least the 1940s, said Mr. Spurr.

Mr. Spurr said he’d asked John Dupris of Trinity Engineering to check with the state’s wastewater division to confirm that the lengthening of the lot by 17’ would not impact the wastewater permit. They confirmed it would not, he reported.

Mr. Spurr said he checked with VLT to confirm they have no issues with the lengthening of the lot. They said they do not, he reported.

Mr. Spurr said he surveyed the lot width from the iron rod at the NW corner of the school lot to the center of the center line of Tudor Road and found it to be 156’.

Mr. Spurr explained how the parcel secures water from a piped spring.

Members of the public expressed concern over future business use of the new lot.

In discussion, the DRB refused to allow a proposed lot width extending to the center line of Tudor Road. It instead suggested that the northern property boundary be located at the southern edge of the Tudor Road right of way, resulting in a proposed width of about 25’ less than the 156’.

The board addressed the requirements of zoning bylaw 9.8. Mr. Spurr responded as follows.

- Unique physical circumstances: The lot's maximum width is constrained by Tudor Road on the north and the schoolhouse lot on the south. Mr. Spurr said he researched the parcel going back to at least the 1970s.
- Such conditions: "The lot can't be stretched."
- Not created by applicant: The homestead has been in situ for many years.
- Alter character of neighborhood: The variance will not alter the character of the neighborhood.
- Minimum that will provide relief: The proposed lot width is the most possible (that is, provides the minimum relief) given the location of Tudor Road and the schoolhouse lot.

Mr. Habberfield moved to close the hearing. Mr. Browe seconded the motion, which passed 5-0-0.

Mr. Day explained the DRB has 45 days in which to come to a decision or approval is automatic. He said following the decision, a 15 day appeals period allows any interested party to appeal the decision to the state's Environmental Court. The applicant will be notified in any case. The zoning administrator agreed to email notice of the decision to interested parties Bergman and Newell.

7) Other business

The DRB suggested changes to the Miller/Thurman hearing finding and approved and signed the final document.

Ms. Stiles reported an application for a home occupation permit for a short term rental is on the schedule for June 21.

Mr. Habberfield moved to enter deliberative session on application 23-0040. Ms. Contros Kearn seconded the motion, which passed 5-0-0. Mr. Habberfield moved to leave deliberative session on 23-0040. Ms. Contros Kearn seconded the motion, which passed 5-0-0. Ms. Costin moved to approve a variance of 55' with findings that all requirements of zoning bylaw 9.8 are satisfied. Mr. Habberfield seconded the motion, which passed 5-0-0. Ms. Stiles will draft a findings document for DRB review.

Mr. Habberfield moved to enter deliberative session on application 23-0041. Ms. Costin seconded the motion, which passed 5-0-0. Ms. Contros Kearn moved to leave deliberative session. Mr. Habberfield seconded the motion, which passed 5-0-0. THE FOLLOWING MOTION IS UNDER CONSIDERATION FOR REVISION. Ms. Contros Kearn moved to approve subdivision 23-0041 as illustrated on "Subdivision Drawing for Landview Holdings LLC, Corner of Tunic Road and Vermont 7A, Shaftsbury VT 05262." Ms. Costin seconded the motion, which passed 5-0-0. Ms. Contros Kearn moved to approve variance request 23-0041 for a lot width variance of 70' or allowing a total lot width of 131'. Ms. Costin seconded the motion, which passed 5-0-0.

The meeting adjourned by acclamation at 8:15 p.m.