

Town of Sharon, Vermont
Planning Commission and Development Review Board Minutes
February 13, 2024
(As approved on 3/12/2024)

The meeting was publicly warned in conformance with the January 2022 amendments to the Vermont Open Meeting law requirements for remote and/or telephonic meetings.

Attending: John Roe, Sue Sellew, Dana Colson, Dee Gish, Paul Kristensen & Andrea Morgan (SPC/DRB Clerk, taking notes) in person.

Visitors: Robert and Myra Kebalka and Larry Swanson in person.

Future Meeting Dates – Mark Your Calendar

- Tuesday March 12th 7PM SPB/DRB regular meeting.

John Roe convened the Development Review Board meeting at 7:14 PM and opened the Final Public Hearing for the **Kebalka Subdivision**. Robert and Myra Kebalka submitted a subdivision application to request that one of the conditions of their 2021 subdivision permit which limits access to their adjacent land be changed. The property is located at 6326 Rt. 14 and consists of Lot A 1.63 acres and Lot B 43.9 acres. The Kebalkas now want to build a duplex on Lot B and would like to access the building site using a narrow right-of-way through Lot A. On Sunday February 11, 2024 the DRB conducted a site visit which was attended by the applicants Myra and Robert Kebalka, their surveyor Larry Swanson and DRB members John Roe, Sue Sellew, Paul Kristensen, Dee Gish and Dana Colson. No abutters attended the site visit or the Public Hearing.

John Roe asked Larry Swanson to address some of the questions that came up at the site visit. One question was about the status of a small stream that flows through the right-of-way. Larry read aloud the definition of a perennial stream from the Flood Hazard Bylaw. Under the Flood Hazard Bylaw, any development must be outside of a setback area 25 feet from the top of the stream's bank. Larry pointed out that this stream may be an intermittent stream and not a perennial stream. Robert said that he believes that the proposed building would be outside the setback area defined in the Flood Hazard Bylaw and that this stream is intermittent. It is fed by a pond and does not flow continuously.

Another question from the site visit was regarding the size of a culvert for this stream. Larry said it is a 24 inch metal pipe which discharges into a 24 inch plastic pipe under Rt. 14 which was replaced in 2015. Using a topographic map, Larry determined that the drainage area for this culvert is about 17 acres. Another culvert, closer to "Sandy's", was upgraded from 30 inches to 48 inches. Larry spoke with someone at VTRANS and confirmed that a hydrologic assessment is used to determine culvert size.

A third question that was raised at the site visit was how the Sharon Fire Department would access the proposed duplex on Lot B in the event of a fire. Robert spoke with Fire Chief Nathan Potter who told him that the plan for his site would be to shut down traffic on Rt. 14 and to use the White River as a water source. The Fire Department would not need to use the right-of-way to access the site.

John said that the applicants had addressed the issues brought up by the narrowness of the right-of-way but that their 2021 subdivision permit did not include any plans to build an additional residence on Lot B. Normally, mylars are required to show the house, septic and well locations. The mylar that is on file for the 2021 subdivision does not show any of that information. The DRB could decide whether to change the condition of the 2021 subdivision permit that limits the use of the narrow right-of-way and then the applicants could submit another subdivision application for the change of use of Lot B and show the required information on a new mylar. An additional consideration is whether the applicants want to create a separate subdivided lot for the new duplex. Paul explained that because the applicants did not plan to build an additional residence on Lot B when they filed their 2021 subdivision application, their current plan to build a duplex constitutes a change of use and they will be required to file an additional subdivision application even if they do not want to create a new lot. The new plat will have to show the house, septic, replacement septic and well locations. Robert said that they have a Wastewater Permit from the State and that the plan is to drill a well upslope of the proposed duplex. The Kebalkas are in the process of working with the State to determine if they could instead drill a new well closer to the proposed duplex. John explained that the mylar on file should show the actual location of the well to create an accurate record for the future. Robert agreed he should get a definitive answer from the State regarding the well location.

There was a general discussion about whether this should be a two-step process to decide on the change of condition regarding the right-of-way and then have the applicants submit a second subdivision application, or if it would be more efficient for the applicants to amend the most recent subdivision application to include the change of use for Lot B and potentially create a new lot. Robert said it may be to his advantage to create a new subdivided lot around the proposed duplex.

John said he hoped the applicants would consider paving the right-of-way to cut down on potential erosion. Robert said that that is their plan.

Dee pointed out that standard 1 of Sharon's Subdivision Regulations (Section 105), which cannot be waived, states that all subdivided lots have an approved access that is "no less than 50 feet in width". Larry pointed out that the main access to the Kebalka's property is 50 feet wide. He could revise the right-of-way to be 50 feet, but it might encroach on the shed and leach field. Dee also pointed out that Sharon's subdivision standards have a 100 foot setback from a perennial stream. Larry and Robert again stated that the stream is intermittent and dries out for several months in the summer. Members agreed that there needs to be consistency between the Town's Subdivision Regulations and Flood Hazard Bylaw.

The participants discussed how to best proceed with this unusual situation in the context of the current hearing. John asked the DRB members if they were comfortable with the right-of-way issue if it is amended to be 50 feet wide and given the information about the stream, culvert and Fire Department access. The DRB members agreed that they would be comfortable allowing access to Lot B through Lot A in the future. At approximately 8:11 PM the Kebalkas stated their wish to withdraw their current subdivision application with the intent to amend and re-submit it. The Kebalkas and Larry Swanson left the meeting at 8:15 PM.

Dee moved to close the DRB meeting, Sue seconded and all approved.

Sue moved to open the SPC meeting, Dee seconded and all approved.

Subdivision regulation update: Sue created an outline from the edits that Dee submitted in December. Members reviewed this outline as well as notes from the December meeting. All agreed that the regulations need to create a process for lot line adjustments and that paragraph 3 of Section 103 “Extent of Regulations” needs to be redrafted to remove public roads creating a legal division of land. Members will review Article 1 and 2 for the March meeting.

Meeting Minutes: Dee moved to approve the minutes from the 12/12/23 & 1/9/24 meetings, Sue seconded and all approved.

Paul moved to adjourn the SPC meeting, Dana seconded and all approved.