

1 **DEVELOPMENT REVIEW BOARD**
2 **MEETING MINUTES**
3 **Tuesday, August 14, 2007**

4 **I. CALL TO ORDER:** Brian Shupe, Chair, called the meeting to order at 7:05 p.m. at the
5 Waitsfield Town Office.

6 **MEMBERS PRESENT:** Eleanor D'Aponte, Jamey Fidel, Michael Kingsbury, Brian Shupe
7 (Chair), Hallie Tamez. A quorum was present.

8 **MEMBERS ABSENT:** Gib Geiger, Jr., Mark Sinclair.

9 **STAFF PRESENT:** Blaine Laskowski, interim Planning and Zoning Administrator.

10 **OTHERS PRESENT:** Gunnar McCain, Gordon Marcelle, Kay Marcelle, Janet Smith, Ray
11 Smith, Delbert Palmer, Cecil Bakalor, Ann Van Zyl, Bert Lindsay, Mark Peal.

12 **II. DISCUSSION PHASE**

13 **A. #SUB-07-05, Gordon Marcelle, Continuation of Sketch Plan Review** for a 3-lot
14 subdivision which consists of approximately 33.6 acres. The property is identified as Parcel
15 #03028.000 at 1622 North Road in the (AR) Agricultural-Residential District (§2.07). The three
16 lots will consist of Lot 1 – 7.9+/- acres; Lot 2 – 10.5+/- acres; and Lot 3 – 14.6+/- acres.

17 *Site visit:* Brian S. summarized the site visit on July 31. Jamey F., Brian S., and Hallie T. were
18 accompanied by Mr. Marcelle and Mr. McCain. (Mike K. visited on his own at a later date.)
19 From the car, they viewed the shared driveway to the intersection with the Smith driveway, and
20 the driveway to the Marcelle parking area.

21 They walked through the woods to the top site and looked at the septic area. They looked toward
22 the area to be maintained as deer yard up above. They walked back down through the woods to
23 the second lot, and drove down to check the driveway location and the bottom of the driveway.
24 It was generally, but not entirely, clear where the deer yard is located. Board members asked
25 about the grade of the driveway near the intersection with the Smith driveway. They noted that it
26 is steep for a short stretch and there is some erosion below the intersection.

27 There is a proposed buffer along the Smith property. Some clearing had been done in front of
28 the existing house, and there would likely be some view clearing in front of the new houses.

29 *Process:* Brian S. described the sketch plan phase as a less formal part of the process, with an
30 opportunity to identify possible issues with compliance with regulations and to classify the
31 application as a major or minor subdivision. He said the definition of major or minor depends
32 largely on the number of lots, but can also be influenced by the length of roads and driveways. If
33 there is a road greater than 800 feet long or a combination of roads and driveways cumulatively
34 greater than 2000 feet long, it may be classified as major. Such a condition may raise issues such
35 as engineering, water quality, and emergency vehicle access that may need preliminary review
36 before going to the hearing phase of the process.

37 Brian S. said that the sketch plan phase is also a time to include recommendations for proposed
38 changes to the sketch plan and ask for additional information that might result in conditions.

1 *Roads and driveways:* Mr. McCain said that the width of the road varies from 12 feet to 16 feet.
2 The new driveways are proposed to be 12 feet wide.

3 Brian S. said that road maintenance and road construction standards, brought up at the last
4 meeting, are issued that the Board will want have addressed. The long driveways and steep
5 grades raise issues of access and turnaround space for emergency vehicles. Mr. Palmer said that
6 roads need to be 16 feet wide for access in snow, and there should be space to turn around in
7 driveways. Steep grades aren't usually a problem, because the emergency vehicles have chains.
8 Turnouts are good, except on hills.

9 Brian S. noted that the old subdivision regulations reference the state A-76 standard. The new
10 regulations have design standards that say that for a road serving fewer than 50 trips a day (fewer
11 than five houses), the minimum width of a traveled lane is eight feet with no shoulders. The
12 standards require a 50-foot right of way, but there is allowance for some discretion in road
13 standards for private roads. Mike K. asked if the existing shared driveway would be covered
14 under the old standards and allow a 25-foot right of way. Brian S. said that by increasing the
15 number of houses, the status upgrades from driveway to road. Above the Smith intersection, it
16 becomes a shared driveway.

17 Brian S. said that, since the lower part is a road up to the Smith driveway, it would be
18 appropriate for that part to be under a one maintenance agreement, and for the shared driveway
19 above to be under a separate agreement. Mr. McCain noted that the deeds to the Smith and
20 Marcelle properties already have road maintenance language, where each have a share. The
21 upper three lots will have their own agreement, with the new lots sharing the maintenance of the
22 upper part, and having three shares to the Smiths' one share for the lower part. He
23 acknowledged that the applicants have no authority to require that the Smiths be a party to the
24 new agreement.

25 Mr. McCain said that the plan shows a proposed 50-foot right of way, increased from 25 feet, up
26 to the line of the Smith property, and beyond the Smiths' line. There is a 25-foot right of way
27 across the Smith property for access to the Marcelle property. The actual driveway predates the
28 deed and the location of the driveway differs from the right of way indicated on the deed. He
29 said that the steepest part of the access is across the Smiths' land, and the plan indicates pullout
30 areas, 40 feet long and 20 feet wide, at the base and the top of the slope to allow large vehicles to
31 pass. He said the sight line is clear between the top and bottom. He said the Marcelles will
32 agree to widening everything not on the Smith property to 16 feet.

33 Mrs. Smith said that the steepest part of the road is the area to get to the Marcelle property.
34 Families living in the new lots will incur more maintenance on that slope as they get to their
35 properties. She said the problem area is below the intersection with her driveway, where the
36 bulk of the maintenance is, and that just above that intersection becomes a let-off point where
37 cars get stuck. She said that there had been discussion of reconstructing to ease the grade of the
38 slope, but negotiations had not been successful.

39 Mr. McCain said that the slope just before the Smith driveway is in the 15%-17% range, and the
40 slope exceeds 12% for 50 to 80 feet.

41 *Water flow and erosion control:* Mr. McCain provided an erosion prevention and sediment
42 control plan that indicates the location and specifications for culverts. A concern is the grade of
43 the driveway in Lot 1, which will require a significant amount of earth work at the curb cut.

1 There will be a low point at the intersection to shed water. The length of the entire driveway has
2 a grade of less than 10%.

3 Mr. McCain was asked whether there was another place on Lot 1 to site the house in order to
4 reduce the length of the driveway and the fragmentation of the forested parcel. He said that the
5 flat area designated for the house site is far preferable to the 20% sloped area. He said that the
6 plan has a 75-foot vegetative buffer between the Smith and Marcelle houses. Brian S. cited
7 regrettable past experience with steep slopes cleared for pasture and was concerned with what
8 might happen below the driveway. He said it appeared that the house site is back far enough that
9 clearing for distance view should not create short views to the valley. Mike K. suggested that a
10 buffer of 100 or 125 feet would be beneficial. Mr. McCain said that it would be a managed
11 vegetative buffer, not untouched. There would be clearing for the driveway, leach field, and
12 house site, and clearing for views would occur with that. He said he was willing to discuss
13 limited clearing areas. Mike K. suggested that the driveway to Lot 1 have a wider turning radius
14 or a turnout.

15 Asked whether the development would have any visual impacts, Mr. McCain said that they
16 would be no more than from the Marcelle house now. Brian S. said that how the forest is
17 managed beyond the buffer and a broader buffer below the driveway and leachfield would
18 address it.

19 Mr. McCain said that the driveway on Lot 3 has a particularly wide entrance for fire truck
20 turnaround. He said that peat filters were approved for wastewater pretreatment several years
21 ago. The upper right of Sheet 2 has a plot plan revised from the previous one, and it shows the
22 position of flags that Mr. Marcelle has placed to show the extent of the deer yard on the upper
23 portion of the property. The plan has a best-fit straight line that includes all the flags. Asked
24 how the deer yard was defined, Mr. Marcelle said that he snowshoes in the area. Jamey F.
25 acknowledged that it was gratifying to have an applicant as experienced with deer management
26 as Mr. Marcelle, and he asked if there were any discrepancies between the plan and the town
27 map and Arrowwood. Mr. McCain said that the entire Marcelle property is on the online map.
28 Brian S. suggested that it would help to have a wildlife biologist to look at the area to help with
29 delineation and management conditions. Mr. McCain said that the delineation on the plan
30 preserves 7.7 acres of deer yard and affects no others.

31 Asked about a culvert under the Smith driveway not being apparent on the plan, Mr. McCain
32 said that runoff would be addressed there.

33 *More on roads and driveways:* Brian S. pointed out that the shared road does not meet part of
34 town standards. While some discretion is allowed, the road needs to be brought up to standard.
35 Mr. McCain said that the 25-foot right of way on the Smith property limits what can be done.
36 The road could be widened, but the grade could not be addressed. The cut-off areas above and
37 below the slope are intended to mitigate the problem.

38 A plan discussed between the Marcelles and Smiths primarily addressed the Smith driveway and
39 its intersection with the shared road. Mr. McCain said that if the grade on the shared road was
40 shaved down, it would steepen the Smiths' access significantly. Mr. and Mrs. Smith said that
41 negotiations with the Marcelles broke down over road maintenance costs. The Smiths do not
42 want to share the cost for the upper part, and in fact want to be relieved of road maintenance
43 because it is done entirely for the benefit of the upper lots.

1 There was discussion of possible road maintenance arrangements, including proportional shares
2 and a distinction between year-round and winter maintenance. Brian S. said that the Board's
3 interest in maintenance agreements is in Section 3.6 (N)(2) of the subdivision regulations,
4 "Documentation and assurance shall be provided that all proposed roads and rights-of-way will
5 be adequately maintained either by the subdivider, a homeowners' association or through other
6 legal mechanisms." Mr. McCain said that there is an existing clause in the deed that requires
7 prorated maintenance of the shared portion of the road that both parties are currently using, and it
8 includes a right for one of the parties to create more houses on their property. Mr. Smith said
9 that an agreement had been drawn up last February with the Marcelles' attorney that granted a
10 50-foot right of way in exchange for the Smiths being written out of the road agreement, but the
11 agreement hadn't been finalized.

12 Mr. McCain acknowledged that the road does not meet town standards, but that mitigations are
13 in the applicants' plan. He said that whether or not the applicants and adjoining landowners can
14 come to terms, it should not impede the process of the application. Mrs. Smith emphasized that
15 the issue is the steepness of the road that does not meet town regulations. There was assent by
16 both parties to attempt to resolve the maintenance issue by the next meeting.

17 There was discussion of how the length of the roads and driveways applies to major and minor
18 subdivisions. The cumulative length of the road and driveways in the application exceeds 2000
19 feet, and new driveways exceed 800 feet. Eleanor D. pointed out that the Board is new to
20 subdivisions and setting precedents, and decisions should adhere to regulations.

21 Mike K. moved at 8:55 p.m.:

22 to classify the subdivision as major,
23 that a review of the wildlife delineation by an Agency of Natural Resources wildlife
24 biologist will be initiated by the town,
25 that the applicants propose a broader buffer area for Lot 1,
26 that the preliminary will have the stormwater and erosion control plan for the driveway
27 construction and upgrade,
28 that there will be a minimum 16-foot road and shared driveway,
29 that the applicants define the driveway and road maintenance agreements.

30 Eleanor D. seconded. There was no discussion. All members voted in favor.

31 The application will be taken up again at the meeting on September 25.

32 **III. PUBLIC HEARING**

33 **A. #3123-CU: Cecil Bakalor** – Application for conditional use approval per Sections 3.08.A
34 and 5.03 of the Zoning Bylaws for the expansion of a nonconforming structure to alter the roof,
35 and construct a 27' x 8' deck with a second story. Parcel #02014.000 at 516 North Fayston Road
36 in the Agricultural-Residential District.

37 Cecil Bakalor and Ann Van Zyl appeared as applicants. Mr. Bakalor said that there are two
38 pertinent zoning issues. One is the 50-foot setback from the brook for a grade of less than 8%.
39 The grade on the property is no more than 4%. The other issue is that the piece of the building
40 that is nonconforming, within the 50-foot setback, may be expanded up to 50%. They regard the
41 whole building to be nonconforming, and the proposed expansion adds less than 50% to the
42 whole building. Part of the plan is to add space. Bedrooms downstairs will become work rooms

1 with occasional guests. There will be a library workroom, a bedroom with bath behind, and a
2 porch. The expansion will be on the part of the building furthest from the brook. The bathroom
3 will replace a less well-equipped bath. The property is in the flood plain. The stream bank at the
4 property has been fortified with riprap. The building is on concrete footings up to 1½ feet.
5 There is a propane tank present.

6 The applicants would accept a condition prohibiting herbicides and pesticides within the
7 floodplain. The applicants described the existing stream buffer, including some pines, beech,
8 and hemlocks, with saplings in between. They do not intend to mow the buffer area.

9 The issue was raised of adding a bathroom, changing the number of bedrooms, and the capacity
10 of the septic system to accommodate them. A condition may be to provide documentation of a
11 decision on whether a new state wastewater permit is needed.

12 Jamey F. moved to adjourn the hearing at 9:15 p.m. Mike K. seconded. There was no
13 discussion. All members voted in favor.

14 **B. #3099-CU: Mad River Valley Health Center** – Application for conditional use per Sections
15 5.03 and 3.10 of the Zoning Bylaws to expand the entry porch, pave the parking area, and install
16 a screening fence. Parcel #99050.000 at 859 Old County Road in the Village-Residential District
17 and on the Route 100 Scenic R0ad.

18 Bert Lindsay appeared as the applicant. It was noted that the paving of the parking area is
19 already done. Mr. Lindsay said that the purpose of paving is to minimize tracking of dirt and to
20 keep the building clean. The intent of the porch expansion is to get visitors to the second floor
21 offices to use the second floor entrance.

22 Brian S. noted that the building is up against the 4000-square-foot footprint limit. He cited the
23 case of Evergreen Place, where the deck and unenclosed part were not considered part of the
24 footprint. It would need to be clarified that the porch extension does not affect the footprint.

25 Brian S. expressed concern about pavement and how runoff drains. Mr. Lindsay said that it
26 flows into a swale and percolates into the ground. He said that the pavement would remain as is,
27 and parking lines would not be added. Screening would be around compressors. It would be
28 fencing as indicated on the plan, painted white to match the building. Mr. Lindsay said that a
29 concrete patio would be added under the roof.

30 Jamey F. asked if more cars could be parked if lines were painted. Mr. Lindsay said that they
31 had watched it, and people already parked tightly without markings. It may become a condition
32 that the applicant may mark the spaces, or the Board may require it if there is a problem.

33 Mike K. moved to adjourn the hearing at 9:35 p.m. Eleanor D. seconded. There was no
34 discussion. All members voted in favor.

35 **IV. APPROVAL OF MINUTES**

36 The following correction was made to the minutes of July 10:
37 Page 3, line 1: The second sentence should begin, "*Janet Smith, an abutter . . .*"

38 Hallie T. moved to approve the minutes of the July 10 meeting as amended at 9:40 p.m. Mike K.
39 seconded. There was no discussion. All members voted in favor.

1 **V. OTHER BUSINESS**

2 The members discussed the coming vote on the new subdivision regulations and the importance
3 of public outreach and communication on the improvements in the new regulations, including
4 more flexibility for the Planning and Zoning Administrator and greater protection for agriculture
5 and wildlife habitat.

6 **VI. ADJOURNMENT**

7 Eleanor D. moved to adjourn at 10:00 p.m. Mike K. seconded. There was no discussion. All
8 members voted in favor.

9 The Board went into deliberative session.

10 Respectfully submitted,

11 Mark Peal
12 Minute Taker