



Town of Jericho  
Development Review Board  
Jericho Town Hall  
Thursday, May 14, 2015

### Minutes

Members Present: Barry King, Stephanie Hamilton, Christopher West, Joe Flynn  
Members Absent: None  
Guests: Michelle Patrick (Zoning Administrator), Katherine Sonnick (Planning & Development Coordinator)  
Public: Barbara Walsh, Brad Holden, Bert Lindholm, Chris Haggerty, Randy Clark, Doug Goulette

#### MEETING AGENDA

- A request by Grant Allendorf for a major subdivision review, boundary line adjustment, conditional use review for a proposed adaptive reuse of a historic barn, and dimensional waiver to construct a sign. The parcel is located at 3 Browns Trace Road in the Rural Residential Zoning District.
- A request by Bert Lindholm for a minor subdivision review. The parcel is located at 9 Walsh Terrace in the Village Center Zoning District.
- Minutes from April 23, 2015.

Mr. West called the public meeting to order at 7:00 p.m. He read the warning. He asked the members to disclose any conflicts of interest. There was none. Mr. West read the Interested Persons Law. The public was sworn in at 7:05 p.m.

- 1. A request by Grant Allendorf for a major subdivision review, boundary line adjustment, conditional use review for a proposed adaptive reuse of a historic barn, and dimensional waiver to construct a sign. The parcel is located at 3 Browns Trace Road in the Rural Residential Zoning District.**

#### Applicant's Presentation

Mr. West suggested following the staff notes, beginning with the conditional use review. Mr. Allendorf said the use was approved for 180 days, but they are past that point. He stated they are requesting an extension to continue. He asked whether that needed to be voted on. Mr. West said they would take a look at the staff notes and go straight to questions. He clarified the applicant is reapplying for an already approved but expired conditional use review for the adaptive reuse.

Mr. Allendorf said there was a minor change, noting they changed one handicapped spot. He said on the original plan it was approved on the right, indicating where it was moved on the plan. He stated he e-mailed that to Ms. Patrick and it was updated on the maps. Mr. Allendorf said other than that, the subdivision is a change, but that doesn't seem to have any bearing on this proposal. He asked if it is approved, do they have another 180 days. Mr. West answered yes, it would restart the clock.

## Board Questions

Mr. West said there was one question that came up about the State Fire Marshall asking for a pond due to lack of water. He said it was discussed at initial review, but he wanted to bring that up again. Mr. Allendorf stated they have a letter he thought they had submitted from the State Fire Marshall that said because it is fewer than 200 people, they don't have to have sprinklers. He said the Fire Marshall has given them a sprinkler variance that they have to include with their State Building Permits. He stated that has been addressed. Ms. Patrick noted that she reached out to the State Fire Marshall and Mr. Schoppmann at the Underhill-Jericho Fire Department (UJFD) to let them know there was an application for re-approval. She said they reiterated what they had said previously. Mr. West clarified there was no change in the status based on the original. Ms. Patrick agreed.

Mr. West asked the applicant to discuss the boundary line adjustment. Mr. Holden referred to the plan titled Two Lot Subdivision Boundary Line Adjustment. He said there is the parent parcel that was Lot 1 of the Angelino subdivision that was a 6 acre lot and the triangular portion green that was a parcel Mr. Allendorf acquired from Gary Irish. He stated they are proposing taking two separate portions of the triangle and merging them with two subdivided lots, 1A and 1B. Mr. Holden said on the portion of Lot 1B, that is the portion that there is an existing wastewater system with a permit that was approved by the State. He said the other portion is to go with Lot 1A. Ms. Patrick clarified in the staff report regarding the transfer of the 0.36 acres is not included in the description of the project, but it doesn't make a whole lot of difference.

Mr. West asked if they are somehow dissolving that lot now; whether that lot will cease to exist. Mr. Holden stated they will extinguish the line in the common boundary between the triangle and the parent parcel, Lot 1. He said in a way it is a boundary adjustment and two lot subdivision, all at the same time. He stated the end result will be that Lot 1A and Lot 1B, each of which will have a portion of the triangle. Mr. West clarified that the triangle ceases to exist as a separate parcel. Mr. Holden agreed. Mr. West said right now in the staff notes BT01 is the triangle. Mr. Holden said it probably was last time because Mr. Allendorf hadn't purchased it, but now it is in his name.

Mr. Flynn asked about the legal documents, saying the DRB typically likes to review those. He asked if they are far behind. Mr. Holden said he didn't know and he is a little unclear whether this is a preliminary or final review. Mr. Flynn agreed, saying they typically would see draft easements, maintenance agreements, shared access. He stated they haven't seen any of that and asked Mr. Allendorf if those will be coming soon. Mr. Allendorf said he would have to defer that to Mr. Goulette. He stated he knows the easements are on our main map everything is on that as specified. Mr. Goulette said not yet. He said Mr. Allendorf understands that an attorney will need to draft the documents, but everything is depicted on the plans. He said as a condition of approval Mr. Allendorf would need to submit those documents for staff review and to the Town attorney for their review. Mr. Flynn stated that is what he is getting at. Mr. Goulette said that is after they have what is on the plan; then the attorney changes the deed and writes this stuff up.

Mr. Holden stated draft deeds are usually in conjunction with the final plat approval. He said there are all kinds of road agreements with this 50' right of way that accesses what now will be four lots. He said that is a question, whether four lots would make it a private road. Mr. West stated that is covered under the subdivision standards, which is part of this. He said we have talked about the adaptive use and we have talked about the boundary adjustment, suggesting they move on to the subdivision and those standards. He said that is where we come to the question of the private road and the maintenance of the lines of sight and so on.

Mr. Goulette said it started out with a 6 acre parcel, and then Mr. Allendorf purchased the 0.36 acre Irish parcel, so the full encompassing subdivision is 6.36 acres. He said that is being re-subdivided into two parcels: Lot 1B is 3 acres; and Lot 1A is 3.36 acres. He stated they meet the minimum required zoning in this area of 3 acres. Mr. Goulette stated there is also a minimum frontage requirement of 200' and they each have in excess of that. He said Lot 1B has 253' along Browns Trace Road and at the intersection. He said Lot 1A has almost 600' of frontage along Route 15 and additional frontage along Browns Trace Road as well.

Mr. Goulette stated the lots are somewhat irregular in shape, noting that is driven by the infrastructure that is underground. He said the sewage disposal system for the banquet barn, which is on Lot 1B, is located near the intersection of Browns Trace Road and Route 15. He said they thought it would be reasonable that the banquet barn lot had its septic system on the same lot, without an easement. Mr. Goulette stated the house lot has a wastewater replacement system on the barn lot, which was approved years ago. He said that is really why the lots are configured the way they are, to get the wastewater system for the barn on the barn property. He stated the driveway is proposed to be in the same location as the existing driveway.

Mr. Goulette said that for the first approximately 50' the road serves four lots, the two lots being proposed tonight and two previously subdivided lots to the east, it meets the criteria for a road. He stated there are notes in the plans saying it will be built to Town road standards; they are showing a 22' wide road. He said the depth of gravel and such would be done according to the public works specifications. Mr. Goulette said past the first 50' where the driveway to the existing house veers off, it becomes a driveway because it only serves three lots, so at that point it doesn't need to meet those higher standards that the first 50' does. He said that is depicted on the plan. He noted that similarly there is a 50' right of way that will cross Lot 1B, continuing access to the two previously developed lots, so they have a right to continue to use that existing driveway.

Mr. Goulette stated there is an easement that crosses the house lot, on the north side of the house, for a force main and access to that. He said that leads to the wastewater system. He stated there is a drilled well that is proposed to serve both the house and the barn. Mr. Goulette said because the well is located on Lot 1A, there is an easement shown to the well for Lot 1B, so Lot 1B would have access if maintenance was needed for either the well or the water line. Mr. King asked about the easements that are shown. He said the well looks like it is on Lot 1A, right on the border, right by the road. Mr. Goulette said that is correct.

Mr. King said there is an easement shown to the house from the well, saying he doesn't understand what that easement is for. Mr. Goulette stated the water supply from the well goes through a pipe that goes through a house and then comes out of the northeast corner of the house and will go over to the barn. He said there will be a shared water system in the lower level of the house that will serve both. He said that easement from the front of the house to the well just gains access to that line if it were to break or whatever. Mr. Goulette said if the folks owning the house were on vacation, the folks owning the barn could get in there for maintenance.

Mr. King asked who is presently responsible for maintaining the access drive. Mr. Allendorf said right now they don't have a written agreement, not that at one of the initial meetings someone recommended that. He said they share the maintenance three ways with the two houses. Mr. King asked if that is what they anticipate will happen in the future. Mr. Allendorf stated that is a really good question because they will obviously be putting more traffic on that lower section. He said he

would assume he might be responsible for more of that, noting he has not talked with Kevin and Jeff about that yet. He said he thinks someone on the DRB recommended a written agreement. Mr. King agreed, saying that is fairly standard to require a written maintenance agreement that essentially says which owners of which lots are responsible for what part of the maintenance. He said sometimes it is more complex than that, but at least that.

Mr. West said we had discussed having that as a condition at the original hearing. Mr. King stated that is why he raised the issue, since we don't have any documents. He said he thought we would have a complete package of all of the easements and so on. He said normally when we try to lump everything into final, which he thinks is the way this is warned, there is a lot of that background information that really ought to be down. Mr. Holden said in the corrected warranty deed from John Angelino to Cole/Morrill parcel it spells out quite an extensive maintenance agreement, or at least some verbiage about which lots have what responsibility. He agreed now that the situation has changed it would need updating.

Mr. King clarified there is a maintenance agreement in place right now. Mr. Holden said it is not a separate document like you would typically see, but it is in the deed itself. He stated there is a lengthy paragraph that talks about the lots and which portion shall be utilized and shared in the cost of maintenance and upkeep. Mr. King said some of that has already been decided, it is just a question of getting it updated. Mr. Holden agreed. Mr. Flynn asked if the landscaping plan had been submitted previously. Mr. Goulette said it was submitted with site plan approval.

Mr. West explained the adaptive use of the barn is requesting re-authorization of the exact same conditions. Mr. Allendorf said he did read that any significant changes had to be brought to the DRB for approval. He said to him changing one handicapped space from one side of the road to the other doesn't seem that significant. Mr. West clarified they did not change the number of handicapped spots. Mr. Allendorf said they did not. He noted there will likely be a couple of other very minor changes down the road, as soon as they make those, they will let Ms. Patrick know.

Mr. West stated there was one question on the letter from the Fire Department about a weak, or soft, spot in the turnaround to the barn that they would like to see shored up because it needs to be able to carry the 40 ton, two-axle equipment, as part of the performance requirements. He said he wanted to make sure that was part of the condition to make sure that was addressed. Mr. Allendorf stated he doesn't recall that. He asked where specifically it was located. Mr. West said it was in the turnaround in front of the barn. Mr. King said it was in the letter from the Underhill-Jericho Fire Department (UJFD) letter and the Fire Marshall's letter refers to it, noting there are a couple of concerns that need to be dealt with. Mr. West read from the UJFD letter regarding the driveway. He said we don't want the Fire Department not to be able to get access if needed.

Mr. West said there was also one point raised in the staff notes about a condition, which he believes was also in the original decision, about keeping the bushes in the line of sight and going towards Jericho Center clear. He said that would be something that would need to continue, noting that would be a condition. Mr. Allendorf clarified that would be one of the things checked when they are issued a certificate of occupancy. He said he has spoken with the Town, the Road Commissioner, and Mr. Clark about that, agreeing they would be trimmed back to ensure visibility.

Mr. King said one other thing that is warned in this fairly complex thing is a dimensional waiver for a sign. Ms. Patrick noted that was not mentioned in the staff report. She stated Mr. Allendorf is

applying for a dimensional waiver for a sign he would to pursue with dimensions that are permissible in the Commercial District, which is a 32 square foot sign on the corner of Route 15 and Browns Trace Road. She said also an additional 16 square foot sign on Browns Trace Road. Ms. Hamilton asked for the request to be repeated. Mr. Allendorf said they are looking at the commercial sign regulations versus the residential which is 3' by 2'.

Ms. Patrick said it is substantially smaller, noting there are some standards for a dimensional waiver in Section 10.11. She read from Section 10.11.1.1. Mr. King said this is dimensional waivers as far as lot lines, which is not really what we are talking about here. He stated there are specific rules about signs and what is available. He asked the applicants to explain how they meet the criteria. Mr. Allendorf said his primary argument is they were given a conditional use for a commercial type venture and that the signage should be equivalent to that use which they have already been given. He said it is not like it is in the center of a residential zone; it is on the fringe of the commercial zone. He stated he also understands sprawl and that the regulations are written for a reason.

Mr. Allendorf said they are also having the sign on Route 15 placed a considerable distance from Route 15, so the size of the sign is pretty important. He said if you have a 3' by 2' sign, it is probably going to be about 50' from the road; he doesn't know if anyone would be able to read it at that point. He stated they would like a small sign on Browns Trace Road as well. Mr. Allendorf noted it would be non-illuminated, post and beam sign, in fitting with the character of the barn. He asked if the Church by the Merchants Bank is in the commercial zone or the residential zone. Mr. West stated it is on the border, noting the boundary of the commercial and residential zone. Those present discussed the location of the Church.

Mr. King pointed out that if in fact they were granted a waiver, it is not a precedent. He stated they have to justify a waiver for their property. He said the burden is to say what the project is. Mr. Allendorf asked if the barn is in the commercial zone or the residential zone. Ms. Patrick said it looks like it is village. Mr. King stated that is not relevant. Mr. Allendorf said they looked at the other side at Mr. Villeneuve's signs, asking if those are in the residential zone. He said those are large, saying they are much larger than what is being proposed. He said he is trying to understand.

Ms. Patrick clarified the sign waiver would not be subject to Section 10.11. Mr. King stated that section is about lot dimensions and setbacks. Ms. Patrick asked where they are looking. Mr. King said they are looking at the sign rules. He asked what the square footage is of what is being proposed. He said he sees some pictures, but doesn't see any dimensions. Mr. Allendorf stated they didn't put any dimensions on the mock ups because they weren't sure what they would be approved. He said the sign on Route 15, they would like it to be 32 square feet; and the sign on Browns Trace Road, would be 16 square feet. He stated that is what is being proposed.

Mr. Allendorf said they also had a 3' letter sign on the barn itself, facing the Jolley's store. He said that was another depiction. Mr. King said that is a sign, as you are proposing to do that. He stated it fits under the definition of a sign and that also has the same square footage requirements. Mr. King said they could decide if they were granted a certain size sign to do it by painting it on the barn; that is up to them. He said they haven't made a clear proposal on exactly what they want the DRB to approve, so it is difficult to say yes or no if it isn't clear.

Mr. Allendorf said what he would like to propose then is a post and beam sign, Mansfield Barn, 32 square feet on Route 15; 16 square feet same sign on Browns Trace Road, which is the commercial

sign dimensions. Mr. West clarified which district the property is located in. Ms. Patrick and Mr. King stated it is the Rural Residential District. Mr. West said which in general you are not allowed to have any signs, except very small ones. Ms. Patrick stated no more than 6 square feet. She clarified Mr. Allendorf did present this to her, but she did not include it in the staff report. Mr. Flynn clarified he presented the dimensional sizes. Ms. Patrick agreed. Mr. King clarified that is in the application. Ms. Patrick said yes.

Mr. West asked what the basic outline was as to why we should consider a waiver, even if it is general guidelines from the dimensional waiver rules. He said he remembers very clearly from training that waivers are okay, but never do a variance. Mr. King said the DRB doesn't have the authority to arbitrarily waive a rule. He said many of the rules have a provision to grant waivers for extenuating circumstances. Mr. West said they are requesting a waiver from the dimensional standard. He said if you look at it literally, it would be from a 6 square foot sign to a 32 square foot sign because it is in the Rural Residential District.

Mr. Holden said you have first gone through a conditional use for this type of business in a Rural Residential. He stated what Mr. Allendorf is trying to say is that it goes along with that conditional use, it would be appropriate to ask for a waiver to match that use. Mr. West said we understand that. Mr. Holden referred to page 26 of the zoning regarding what is permitted and what is conditional, noting he wondered if there is a subsection for the sign. Mr. West clarified this is a conditional use, but it is also an adaptive use.

Ms. Patrick said when Mr. Allendorf proposed a waiver on the sign size, she immediately thought it was a variance, but it was recommended by another staff member that we look at a dimensional waiver. She stated it does reference structure, so she thought a sign would be included. Mr. King asked if we were to apply those conditions, how that applies. He stated he understands it is accessory use to the adaptive reuse, which is one argument. He said the other question is under what circumstances we would do a dimensional waiver for something like a setback or a building height. Mr. King said there are a set of rules for that, which he delineated before.

Mr. West agreed, noting that is Section 10.11, dimensional waivers. Mr. Flynn proposed that the applicant look over the regulations with staff to find cause or reason within the regulations to propose this, instead of trying to figure it out now. Mr. King pointed out that the sign permit is a separate procedure anyway, so there is an opportunity to settle that separately if they would like.

#### Public Comment

Mr. Clark said he is from Clark's Truck Center across the road. He asked if the DRB is asking Mr. Allendorf to apply again for a sign permit, that his request is not proper tonight. He said he realizes that times change and laws change, but in 1971 he built a car wash across from the Fanny Allen Hospital and he went through this same process. Mr. Clark said he forgot to put the sign in his original application and they took him over the coals when he went back to get the sign, going through almost the whole process again for the sign. He stated as a businessman this is a difficult thing to swallow. He said Mr. Allendorf has been approved for a business in a residential zone and he believes he should be able to have a business sign.

Mr. Clark said as it was mentioned earlier, he is not in the middle of it; he is on the fringe area of it. He stated it is 25' to the commercial zone, so it is not like he is in the middle of the village. He said that is an opinion he has. Mr. Clark stated he would like to see the Board somehow find a way to do this for

Mr. Allendorf; he is a very reputable man in Town. He said this is going to help the Town and this is going to bring people to this Town. He said he has a sign on his desk that says: "He who wants to find a way. He who doesn't find an excuse." Mr. Clark said he would like the Board to find a way to let this man have the sign that is 32 square feet.

Mr. West said the question is to the Board. Ms. Patrick said she included it in this application for the hearing because she associated the sign dimensions to a dimensional waiver, which requires DRB approval. She stated as per the discussion, it seems it is a separate issue to be resolved outside a DRB hearing. Mr. King clarified it is appropriate for the DRB to review the application for the sign and we can do it as part of this hearing, as we have done. He said the point is that it is just a different permit. He stated there are lots of different permits and one of them is the sign permit, so that is the difference. Mr. King said the applicant could have chosen not to do that tonight, but they chose to do it all at one time, which is allowed. Mr. West said we have had any number of sign applications after, noting they have made a number of decisions contingent upon a sign permit and it has not been a burden to get it done in the past.

Mr. Goulette clarified that procedurally the DRB will be voting independently on the four things on the table: boundary line adjustment, subdivision, conditional use re-approval, and the sign. He said theoretically the DRB could approve three and table the fourth, if needed. Mr. West said that would be something that would have to be decided before we close the hearing. Mr. King asked if they are requesting a continuance on some part of it. Mr. Goulette said no, saying it is not an all or nothing situation, right. Mr. King said the DRB has been asked to render a four part decision tonight. He said if we close the hearing tonight, we are going to render four decisions, procedurally that is how it works. He and Mr. West discussed possible outcomes. Mr. West closed the hearing.

## **2. A request by Bert Lindholm for a minor subdivision review. The parcel is located at 9 Walsh Terrace in the Village Center Zoning District.**

### Applicant's Presentation

Mr. Lindholm said he would like to present a little history tonight because this lot goes back to an earlier age, and then go into the presentation. He stated the lot is located diagonally across from the Village Cup, with access along Lawrence Heights and then on Walsh Terrace. He said the driveway to the house is the very last of Walsh Terrace, indicating on the plan. Mr. Lindholm said originally the Douglass family approached Ray Lawrence who owned all of this territory back in 1960. He said for some reason they bought a triangular lot, a very small one, shown in dotted form, in 1965 and built a house.

Mr. Lindholm said this was before zoning, before planning, before anything in Jericho. He stated the fact is, if you look in the corner up here where it shows the whole development. He said he knew Ray Lawrence and his wife Helen, and most of this whole development was laid out on Ray's kitchen table with a ruler and a square. Mr. Lindholm said if you look at all of the lots going up in Lawrence Heights, they are different sizes and shapes; it has not been laid out by an engineer. He said the very last lot that was created on Route 15 by his son, next to mine, is almost like an octopus. He stated it goes well along Route 15, but it goes up and around, with frontage on Walsh Terrace.

Mr. Lindholm said it was whatever was leftover. He said the history of the area was before planning and zoning; it was literally go out, walk around, and put a stake in the ground. He stated to the best of his knowledge, the Douglass' bought this triangle and he assumes for financing and other reasons

they just built the house on a small lot in 1965. Mr. Lindholm said 13 years later, 1978, they purchased the balance of this down to Route 15 and it has remained that way. He said he bought the property in 1999 from Ruth Douglass. He stated his deed still has this as two separate lots.

Mr. Lindholm said the hearing is not really a subdivision, but it is really just a boundary adjustment. He said the only thing he is asking is instead of having a small triangular lot and one big lot; he is basically splitting the property in half and creating one a little larger than one acre and one a little smaller than one acre. He stated he is making two rectangular lots out of what he owns. Mr. Lindholm said from a planning point of view because this was done before planning and zoning, this is grandfathered as an existing lot and was an approved subdivision for the last 40 plus years. He said what he is proposing here also meets the regulations. He said he thinks at the present time this area is actually  $\frac{1}{4}$  acre zoning.

Mr. Lindholm stated his intention is to sell a bare lot and then a lot with a house. He said he is not looking to make any development of this property himself. He said that basically is the proposal, saying his Engineer Chris Haggerty is here. Mr. Lindholm said his Engineer did all the survey work, noting there was a fair amount of work to do. He said as you can see with all the lines, there are rights of ways along Route 15 for power; a water line that runs up one side of the property; and unfortunately four months ago the water to the house froze. He stated the Water Department doesn't have any drawings as to where his water supply is located.

Mr. Lindholm said Champlain Valley came out, spending a half day or more with wands and electronic devices, but they still couldn't find where his water came from. He said it finally came on 10 days ago, it unfroze. He said they are going to come back and try turning valves to locate the water. Mr. Lindholm stated there is a power line that feeds up Lawrence Heights that comes across the property and these rights of ways cut the lower lot parcel down, but there is still sufficient acreage in the center of this parcel that a structure could be built. He said the intention is not using Route 15 as an access to this lower lot; but to come off a setback up the hill a ways and create a new entrance onto that lower lot.

Mr. Lindholm referred to the second sketch, which shows you start on Lawrence Heights, come across, and create a driveway cutting into the bank. He said it would be sufficiently wide, 15' or more, to access and it would not be over the 10% grade to get onto this lot. He said in the drainage ditch that is there, it is proposed to put in a 36" diameter culvert. Mr. Lindholm said down at the corner here the Town of Jericho has a culvert that feeds all this water under Route 15, noting it is only 24". He said what is being proposed is at least 50% larger. He stated there is a lot of water that comes off this hill, saying it comes in and hits a brook that runs along Walsh Terrace, down Lawrence Heights, and goes through that culvert under Route 15.

Mr. Lindholm said he is not touching any of that surface water; there are no changes in elevation or changes in topography that would address water runoff. He said the water which has been going this way for 40 years, will continue going this way. He said that is what he is asking for; just a boundary line adjustment and the creation of two one acre lots.

#### Board Questions

Mr. Flynn clarified the intention is to make another lot that is more marketable. Mr. Lindholm stated that is correct. Mr. Flynn asked how he is addressing the septic, through a wastewater permit, or a deferral. Mr. Lindholm said he would leave that up to the new owner, when they propose a new

structure on that property. He said he knows there are good sandy soils there. He stated he has a septic system near his house and he sees no problem with a septic system on that lower lot. Mr. Flynn said his question is, even with a boundary line adjustment, wastewater has to be either reviewed or a covenant has to be written in the deed that it doesn't have wastewater capacity. He stated that is something we definitely look at. Mr. Lindholm said if you want a restriction that it has to be in the deed, he has no problem. Mr. Flynn said deferral language would be in the deed.

Mr. West said the only thing he saw in the staff notes was the question of the effect of adding that culvert on the Town culvert at the bottom. Mr. Lindholm said the one at the bottom doesn't change. Mr. West said he understands that. He said he is not someone who understands enough about it to know whether the testimony that putting in the 36" culvert will not affect how the water then moves down is accurate. He stated there is a staff note asking for a hydraulic evaluation to make sure that the proposed culvert over the new driveway would not affect the Town culvert.

Ms. Patrick said we did have the Town Engineer take a look at the culvert. She said he observed that the downstream culvert under Route 15 has the potential to be overwhelmed, so he suggested contacting vTrans to see if this culvert is undersized. She stated he did recommend making the hydraulic evaluation a requirement prior to issuing an access permit on that lot. Mr. Lindholm clarified prior to getting an access permit. Ms. Patrick said getting a hydraulic evaluation before anything else happens, noting that could be a condition of this.

Mr. Lindholm said if he had known ahead of time, he would have started that process, or even had an answer. He said his assumption is that the water going under Route 15 is not going to be any greater than what goes down there today. He stated he is leaving sufficient area in his pipe to take whatever comes down to him and just pass it through the way it goes today. Mr. Lindholm said he is not trying to damn it in any way, nor is he trying to add water to it.

Mr. King asked if Lawrence Heights is a Town road. Mr. Lindholm stated it is, as well as Walsh Terrace. He noted that both are plowed by the Town. Mr. Flynn clarified whether he understood that the proposal is a 24" culvert for the new access drive. Mr. Lindholm said no, 36". Mr. Flynn asked if that matches the same size that is out letting at the bottom. Mr. West said no, it is 24" at the bottom. Mr. Haggerty stated he measured 36" at the bottom. Mr. Lindholm clarified they are both 36". Mr. Flynn asked about the 24" noted on the plan. Mr. Lindholm stated that is an error. Mr. Haggerty clarified there is a 24" under Walsh Terrace.

Mr. King asked what the process is for an access permit; if that is a process the Town Engineer would go through. He said that is not something the DRB usually looks at. Ms. Patrick said no, but Andy recommended it as an option. She said it could be a condition of this approval. Mr. King and Ms. Patrick discussed the process and permits. Mr. King clarified the property is in the Village Center District and Ms. Patrick agreed. Mr. King said the minimum lot size there is ¼ acre. Ms. Patrick agreed. Mr. King said there is no question about conforming as far as lot size and dimensional standards.

Ms. Patrick asked what grade the slopes are at. Mr. Lindholm stated the driveway would be at 10%. He said hopefully it could go straight up, but if necessary it could curve around on the slope and still meet the access road requirement of 10% or less. Ms. Patrick stated we do have a regulation that recommends an Erosion Sediment Control Plan as a condition. Mr. King and Mr. West clarified that is usually a condition as part of construction. Mr. King said we are deferring building envelope and

such in this particular application, right. Mr. Flynn suggested a condition that if a building is put on the lot, that they have to come back. Mr. King said that is the normal way; sequenced for a subdivision. Mr. Haggerty and the DRB members discussed other customary subdivision conditions.

Mr. Lindholm said because of the slope of the land, the power lines are twice as high as a normal power line. He stated the pole is on the corner of his property on the hill, and then it drops right off and goes over to the other side of Lawrence Heights. He said he doesn't see where there is a clearance problem. Mr. Flynn said he doesn't either, but sometimes it is a legal issue how it is worded. Mr. West asked if he is seeing topographic lines on the plan. Mr. Haggerty said they are very faint; they are 2' ladder contours.

#### Public Comment

Ms. Walsh said she owns the property across from this property, noting she is here basically to get information because she knows nothing about any of this stuff. She expressed concern about water, saying there is water there now. She stated the property she envisions he is talking about is full of water a good part of the season, saying there is a lot of water that comes down on the west side of her house and the east side of her house, noting she gets water in her lower yard. Ms. Walsh stated it gets flooded a lot and she is concerned about more flooding if we block up this property because there is water that runs right through there.

Ms. Patrick asked if she wants to point out on the map. Ms. Walsh said she isn't good at this stuff. She stated Walsh Terrace gets washed out a lot. Mr. West clarified where the water flows. Ms. Walsh said it flows on both sides of her house and right in through here. She said water runs almost constantly in the gully, except in the winter when it is frozen. She said there is a lot of water down in here all the time; her lower property cannot be mowed most of the time. Ms. Walsh stated she is concerned about more water coming onto her property. She added a concern about septic, saying her lower property didn't perk test. She said she put in a new septic system and it had to go way up in the back, which is not where she wanted it located.

Mr. Flynn stated that is under the State purview. Ms. Walsh agreed, saying septic systems are difficult in that area because there is a ledge that runs through there. She said she is here to get information and to say that we have a water problem. She said it washed out with the recent rain. Mr. Lindholm said along his side of Walsh Terrace there is a very deep ravine. He said the house is 15' to 20' above that brook, so all of the water goes into that brook. He stated Ms. Walsh is right, it does go out to Lawrence Heights and all that water is coming from further back up the hill; it is not anything coming off of his property.

Mr. Lindholm said there is nothing they are trying to do here to damn Lawrence Heights. He said they are putting in what they feel is a big enough culvert. He said if they get a hydraulic study that says it needs to be larger, he is sure they could put it in. Mr. Flynn said a lot of the size has to do with the grade and plane. Mr. Lindholm stated it also depends on what they want to build there.

Mr. Flynn asked if abutters are sent letters. Ms. Patrick said yes, noting she would like to submit written testimony from another neighbor who couldn't attend the hearing. She entered a letter from Gordon Bore into the record that contained similar concerns about water draining from the top of the hill into the lower portions of Lawrence Heights. Mr. Lindholm said in some ways that needs to be addressed with the Town road crew, as to what the present culverts are and maybe they should be upgraded by the Town.

Ms. Hamilton asked what the hydraulic study would look at; just his property, or further up. Mr. Haggerty said it would model the entire drainage area; what those flows would look like during certain peak rain events and size the culvert appropriately.

Ms. Patrick added that the deed that exists says there is no development allowed on that lower parcel; that would be discussed further down the road if it is not to be addressed here. Mr. West asked if there is any indication why the deed was precluding development of that. Ms. Patrick said no. Mr. Lindholm said he assumes that Helen and Ray Lawrence who lived in the big white house across the street were developing the hillside; they just didn't want houses across the street from them, or they didn't know how to put a house right on Route 15, up that bank. He said he spoke to a lawyer about it and there are ways to take care of that statement.

Ms. Patrick stated it is a covenant on the deed. Mr. Lindholm agreed, saying he may have someone who wants the property as is. Mr. Flynn clarified there is a covenant already place on this parcel. Mr. Lindholm stated there is a covenant in his deed that says the big section should have no construction on it, noting that was over 40 years ago. He said he spoke to one lawyer who said they don't look further than 40 years. He said there are other methods of taking care of that restriction, which has nothing to do with the subdivision activity; it has more to do with the deed itself. Mr. King said it affects whether he is able to deliver clear title to someone else. Mr. West stated that would be between him and the buyer. Mr. West closed the hearing.

### **3. Approval of meeting minutes from 04/23/2015.**

On a motion by Ms. Hamilton, seconded by Mr. King, the DRB unanimously approved the minutes from April 23, 2015 as written.

The Development Review Board entered deliberative session at **x:xx** p.m.