

**Town of Londonderry, Vermont
100 Old School Street
South Londonderry, VT 05155**

**Development Review Board
AGENDA
Wednesday, February 19, 2020**

The Londonderry Development Review Board will meet at **5:30 PM on Wednesday, February 19, 2020 at the Twitchell Building/Town Office**, 100 Old School Street, South Londonderry.

1. Call Meeting to Order
2. Additions or Deletions to the Agenda
3. Minutes Approval – Meeting of December 18, 2019 and January 15, 2020
4. Public Hearings as warned:

Application 2019-49 (continued from 1/15/2020) by James Barthelmes for Conditional Use Review regarding construction of a new single-family dwelling on Parcel 065088.100, located on Keith Hill Road within the Resource Conservation Overlay District.

Application 2020-03 by Christopher Ponessi, PE, of Mance Engineering, for Hunter Kaltsas, Owner, for Subdivision of Parcel 110002.000 located on Derry Woods Road within the Service Commercial District and Flood Hazard Overlay area.

5. Other Business
6. Next regular meeting date – Wednesday, March 18, 2020
7. Adjourn

Posted and distributed February 13, 2020

Town of Londonderry, Vermont Development Review Board

Regular Meeting Minutes
Wednesday, February 19, 2020

Board Members Present: Esther Fishman Co-Chair, Denis Pinkernell Co-Chair, Terry Hill, John Lancaster, Chris Laselle, Bob Maisey.

Board Members Absent: None

Others in Attendance: Town Officials – Shane O’Keefe, Zoning Administrator, Sharon Crossman, Assistant to the Zoning Administrator. Members of the Public – James Barthelmes, Chris Ponessi, Hunter Kaltsas, Paul Abraham, Nikky Alexander.

1. **Call the meeting to order.** DRB Co-Chair Esther Fishman called the meeting to order at 5:30 PM.
2. **Additions or deletions to the agenda** (to occur as ‘Other Business.’) Fishman requested that the Board be introduced to potential new member Paul Abraham.
3. **Minutes Approval.** Minutes of January 15, 2020 and December 18, 2019 were approved unanimously.
4. **Public Hearings as warned.**

Application 2019-49 (continued from 1/15/2020) by James Barthelmes for Conditional Use Review regarding construction of a new single-family dwelling on Parcel 065088.100, located on Keith Hill Road entirely within the Resource Conservation Overlay District.

The Board reviewed with the Applicant James Barthelmes the additional information requested on January 15, 2020, including the following submittals that were delivered prior to the continued hearing, including:

- a. proposed maximum total cleared areas, including a narrative describing clearing completed and all clearing planned for house site, septic system, view and home safety (dead trees to be removed) Highlighted area depicted on sheet drawn by GPI, James Russo E.I.T.,
- b. proposed development areas including structures, driveway, wastewater system, etc. depicted on sheet referenced in Paragraph a.
- c. proposed exterior lighting – Applicant stated exterior lighting to be installed on structure only will be downlit as required.

The Applicant stated there is no planned clearing for a view since there appears to be none. The Chair closed the hearing and the Board agreed to deliberate in private later in the evening and deliver their Findings and Decision within the 45-day period allowed.

Application 2020-03 by Christopher Ponessi, PE, of Mance Engineering, for Hunter Kaltsas, Owner, for Subdivision of Parcel 110002.000 located on Derry Woods Road within the Service Commercial District and Flood Hazard Overlay area.

Chris Ponessi appeared with Hunter Kaltsas to present the application of Hunter Excavating Inc. to subdivide a 13.7- acre parcel located at Derry Woods Road and along VT 11 East, into 2 parcels – Lot 1 being 3.7 acres , and Lot 2 being 9.57 acres – with individual accesses on Derry Woods Road. Ponessi explained that the dividing parcel line and the lot frontages on Derry Woods Road shown on the plan submitted on this date are changed slightly from the site plan originally submitted, due to necessary adjustments made to fully comply with the Bylaw Access, Frontage and Lot Width requirements (previously non-complying as depicted). Ponessi described the anticipated use of Lot 2 as a “contractor yard, “ as it was used formerly by Brown Excavating, but will no longer share the access formerly shared with abutters. He added that Lot 1 will be for sale. As to the presence of Flood Hazard Area, the Board accepted that this application is for subdivision only, and individual future uses will require separate zoning permit applications.

Nikki Alexander, abutting property owner, appeared to inquire about the new use of the property, which the Board said was not part of the subdivision application, but would be part of an application for use of the lots, once submitted.

After discussion, Chris Ponessi submitted two revised access permit applications to the Zoning Administrator for approval by the Selectboard. The Chair closed the hearing and said the Board would deliberate later the same evening and deliver their Findings and Decision within the 45-day period allowed.

5. Other Business.

Fishman introduced Paul Abraham, interested applicant for the DRB Board vacancy, who explained his experience in rural western NJ, a town of 5000. Paul said he served for 6 years on the local Township Committee (acts as a Selectboard), during which time he also served several years as Mayor and on the Planning Committee and Land Use Board (acts as DRB) as well – all of which he considers similar and familiar to the open position in Londonderry. Paul retired recently and he and his wife are now full-time residents of Londonderry and want to be involved in the community.

O’Keefe announced that the required notice has been published for the required Planning Commission public hearing on Zoning Bylaw Section 402, scheduled for 3/9/2020, prior to referring it to the Selectboard for final approval, per State statute.

6. **Next regular meeting** - Wednesday, March 18, 2020, at 5:30 pm.

7. **Adjourn.** The meeting was adjourned at 6:24 pm.

Approved on April 15, 2020.



Esther Fishman, Co-Chair

Town of Londonderry, Vermont
Development Review Board

Findings of Fact and Notice of Decision
Application 2019-49
Property of James Barthelmes
Parcel 065088.100, Keith Hill Road

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application for construction of a new single-family dwelling, submitted by James Barthelmes, Applicant/Owner of Parcel 065088.100, located at Keith Hill Road, entirely within the Resource Conservation Overlay (RCO) district, requiring Conditional Use review by the Development Review Board.
2. The application for construction within the RCO district and the Rural Residential-1 (R-1) zoning district, was received by the Zoning Administrator on 11/6/2019.
3. On 11/12/2019, the Zoning Administrator deemed the application “Incomplete” and requested additional information from the Applicant in order to be considered at the next available meeting of the Development Review Board (the Board), as indicated on the Land Use Application Review Form.
4. On 1/3/2020, the Zoning Administrator referred the application to the Development Review Board, pursuant to Zoning Bylaw Section 204(A)(1), Resource Conservation and Section 503, Conditional Use Review.
5. Copies of all documents referenced above are available at the Londonderry Town Office.
6. On 12/19/2019, notice of a public hearing to be held by the Board was posted at the following places:
 - a. The Londonderry Town Clerk’s office.
 - b. The Londonderry Post Office
 - c. The South Londonderry Post Office
 - d. Keith Hill Road, within view of the public-right-of-way most nearly adjacent to the property.
7. On 12/19/2019, a copy of the notice of public hearing was mailed to the Owner and owners of properties adjoining the Parcel 065088.100 as listed on the Certificate of Service.
8. On 12/24/2020, a notice of a public hearing was published in the *Vermont Journal*.
9. The application was considered by the Board at a public hearing opened on 1/15/2020. The public hearing was continued to 2/19/2020.
10. Present over the course of the proceedings were the following members of the Board: Esther Fishman (Co-Chair), Denis Pinkernell (Co-Chair), Sven Fedorow, Terry Hill, John Lancaster, Chris Laselle and Bob Maisey. On 2/19/2020 the public hearing was closed.

11. During the course of the hearing, the following exhibits (available at the Town Office) were submitted and/or referenced for the record:
 - a. Exhibit 1. Zoning Permit Application Form 2019-49 with associated attachments dated 11/6/2019, including Rapanotti Septic Design, Overall Site Plan, Barthelmes, dated June 6, 2019 and Deed Covenants for Powder Mill Development, Pages 1-2.
 - b. Exhibit 2. Additional documents received 12/31/2019 including: Schematic of Current Flagging of Property, dated 12/2019; Pictures (2) of Lot as is, Coventry Log Homes - Custom Oak Ridge, Plan Sheets 1-4.
 - c. Exhibit 3. Documents received from Owner on 2/6/2020 including: Map of the property indicating area to be cleared; Exterior Lighting Elevation and Correspondence from VT State Forester re: rare, threatened, endangered species.
 - d. Exhibit 5. Land Use Application Review Form, dated 1/3/2020, addressed to James Barthelmes, from Zoning Administrator Shane O'Keefe, re: referral of Application 2019-49 to the Board for consideration.
12. Owner James Barthelmes appeared on 1/15/2020 to discuss his plan to build a family vacation home on his land in the Powder Mill Ridge development. He stated that he was aware of applicable covenants for the property, but not of the Town's RCO district until he applied for a local building permit. The Owner described the lot as completely wooded and added that he plans to have dead trees removed for safety and about a third of the parcel cleared at the highest elevation for a view. He said the site plan will be prepared by Rapanotti Surveyors.
13. The Board had multiple questions about the proposed development that could not be discerned with the application materials provided. Accordingly, the Board decided to continue the public hearing at the next regular meeting of the Board on February 19, 2020 at 5:30PM and requested additional information be submitted by that same date, specifically related to proposed tree clearing, development areas, setbacks and exterior lighting.
14. The Owner agreed to provide the additional information requested by the Board and to return for the continuation of the public hearing on 2/19/2020. The additional information was received by the Zoning Administrator on 2/6/2020 (Exhibit c. above).
15. On 2/29/2020, the Owner appeared for the continuation of the public hearing. The Board discussed with the Owner the additional submittals (Exhibit c. above) requested on 1/15/2020, which provided the following information, as attested by the Owner:
 - a. The maximum total cleared area will be limited to 22,500 square feet (just under one-half acre) to include: clearing for development of a driveway, one 3- bedroom, 2-bath log home, associated wastewater and water supply systems, and removal of dead or trouble trees, as depicted on a note with attached plan sheet drawn by GPI, James Russo E.I.T..
 - b. There will be no clearing for a view.
 - c. All exterior lighting to be installed on the dwelling and downlit as specified in Section 410 of the Zoning Bylaw, applicable.

16. No one else appeared, responded or spoke, for or against, the application.
17. On this same date the Board announced that its Findings and Decision would be delivered within the requisite 45 days from the close of the hearing on this date, per 24 VSA 4464 (b).

FINDINGS

Based on the application, testimony, exhibits and other evidence, the Board makes the following findings:

1. The subject property is a 3.33-acre parcel located off Keith Hill Road, a private road within the Powder Mill Development, on Parcel 065088.100 and described in a Deed dated 12/14/2018 and recorded in Book 83/Page 158 of the Londonderry Land Records.
2. The property is situated within the R-1 zoning district and Resource Conservation Overlay (RCO) zoning district as described on the Town of Londonderry Zoning Map on record at the Londonderry Town Clerk's Office and Section 201 of the Bylaw.
3. Permit application 2019-49 proposes construction of a new single-family dwelling on land situated entirely within the Resource Conservation Overlay district, requiring review by the Development Review Board per Zoning Bylaw Section 204 (A)(1) and Conditional Use review per Bylaw Section 503.
4. The permit application, together with the supplemental information submitted by the Owner and represented in Paragraph 11, Exhibits a-d, and includes all the elements requested by the Zoning Administrator and the Board, and necessary for the review and consideration of the applicable standards.
5. The Board finds that the Barthelmes plan for development of Parcel 065088.100 located in the R-3 and Resource Conservation Overlay districts, as submitted and attested by the Owner in Paragraph 15 above, meets all applicable local zoning standards.

DECISION

Based on the findings above, the Board approves Permit Application 2019-49 for construction of a single-family dwelling, as submitted by James Barthelmes, Owner of Parcel 065088.100 located off Keith Hill Road at Powder Mill Ridge, and within the Resource Conservation District Overlay district, as submitted.

Dated at Londonderry, Vermont, this 18th day of March 2020.


_____, Co-Chair
Esther Fishman, Co-Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Town of Londonderry, Vermont
Development Review Board

Findings of Fact and Notice of Decision
Application 2020-03
Property of Hunter Kaltsas
Parcel 110002.000 Derry Woods Road

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application for subdivision of 13.27 acres of land into 2 lots as submitted by Christopher M. Ponessi, P.E., Mance Engineering Partners, P.C. , Applicant, for Hunter Kaltsas, Owner, of Parcel 110002.000, located at Derry Woods Road and Route 11 East, within the Service Commercial (SC) district and Flood Hazard Overlay (FHO) district.
2. The application for subdivision approval was received by the Zoning Administrator on 1/14/2020.
3. On 1/23/2020 the Zoning Administrator deemed the application “Complete” and referred the application for subdivision to the Development Review Board (the Board).
4. Copies of all documents referenced above are available at the Londonderry Town Office.
5. On 1/23/2020, notice of a public hearing to be held by the Board was posted at the following places:
 - a. The Londonderry Town Clerk’s office.
 - b. The Londonderry Post Office
 - c. The South Londonderry Post Office
 - d. Derry Woods Road, within view of the public-right-of-way most nearly adjacent to the property
6. On 1/27/2020, a copy of the notice of public hearing was mailed to the Applicant, the Owner and owners of properties adjoining the parcel to be subdivided as listed on the Certificate of Service.
7. On 1/29/2020, a notice of a public hearing was published in the *Vermont Journal*.
8. The application was considered by the Board at a public hearing opened on 2/19/2020.
9. Present over the course of the proceedings were the following members of the Board: Esther Fishman (Co-Chair), Denis Pinkernell (Co-Chair), Terry Hill, John Lancaster, Chris Laselle and Bob Maisey. On 2/19/2020 the public hearing was closed.

10. During the course of the hearing, the following exhibits (available at the Town Office) were submitted and/or referenced for the record:

- a. Exhibit 1. Zoning Permit Application Form 2020-03 with associated attachments including ANR Atlas Map showing Flood Hazard Area, the Site Development Plan Checklist and the Site Plan Review Application Worksheet dated 1/8/2020.
- b. Exhibit 2: Subdivision Survey Plat/ Lands of Hunter Kaltsas, SV1, dated 1/10/2020
- c. Exhibit 3. Lands of Kaltsas, Vermont Route 11 and Derry Woods Road, 2-Lot Subdivision, Preliminary Plat, PP-1, dated 1/8/2020
- d. Exhibit 4. Lands of Kaltsas, Vermont Route 11 and Derry Woods Road, Subdivision Access, AC-1, dated 2/14/2020.
- e. Exhibit 5. Land Use Application Review Form, dated 1/23/2020, to Christopher Ponessi, P.E., from Zoning Administrator Shane O'Keefe, re: referral of Application 2020-03 to the Board for consideration.

11. Applicant Christopher M. Ponessi, P.E., Mance Engineering Partners, P.C. (Applicant) and Owner Hunter Kaltsas (Owner) appeared to discuss the request for a 2-lot subdivision of a parcel of land at the northeast corner of Derry Woods Road and VT Route 11. The Applicant submitted, and reviewed with the Board, a "Subdivision Survey Plat, Lands of Hunter Kaltsas," referenced above (Exhibit 2), which represents a revised version of the original, with Lot #1 now having the required lot width of 150 feet, accomplished with a slight change in the dividing property line. He further explained that both Lot #1 (3.66 acres) and Lot #2 (9.61 acres) will have new individual accesses from Derry Woods Road,

The Applicant added that the existing single-access at the intersection of a private road known as Pit Road, previously shared by the former owner (Brown) and the abutting property owner to the north, will from now on be used solely by the abutters per a perpetual Right of Way agreement, which eliminates truck traffic on Pit Road (see Exhibit 4).

The Applicant stated that the subdivision application does not include a request for any specific future use of either parcel. However, he indicated that Lot #2 could serve as a "contractor yard," to accommodate the needs of Hunter Excavating Inc., which would be similar to the long-term use by the former owner, although that is not germane to the current application.

The Board asked about the mapped Flood Hazard Area (FHA) that appears on a portion of the property. The Applicant verified that the FHA includes only a narrow area of the parcel along Derry Woods Road, that is not likely to impede reasonable use of the property or the Owner's desired future use.

In closing, the Applicant submitted to the Zoning Administrator two new applications for access from Derry Woods Road, revised to meet the Town's standards, as shown on the Subdivision Access plan sheet, dated 2/14/2020 and revised 2/18/2020.

The Zoning Administrator stated that the application with revisions for access, frontage and lot depth/width, meets applicable local regulations for the district.

12. Nikki Alexander, abutting property owner to the south along VT Route 11, stated that she received notice of the subdivision of the property. She asked about the future use of the property and whether the lots would be for sale. The Board stated that the subdivision application submitted includes no request for change of use at this time. The Applicant and the Owner provided no specific information about intentions for the property.

The Zoning Administrator confirmed that the subdivision application stands alone. He added that change of use of the vacant parcel will require a permit application that may or may not be subject to Board review.

Alexander said she had no other concerns at this time. No one else responded, appeared or spoke, for or against the project.

13. The Applicant submitted to the Zoning Administrator revised applications for the revision of two accesses, that reflect the site plan delivered at the hearing, for consideration by the Selectboard.
14. On 2/19/2020, the Board closed the public hearing and announced that deliberations would occur in private later in the evening and that their Findings and Decision would be delivered within the requisite 45 days from the close of the hearing on this date, per 24 VSA 4464 (b).

FINDINGS

Based on the application, testimony, exhibits and other evidence, the Board makes the following findings:

1. The subject property is a 13.27-acre parcel located at Derry Woods Road and VT Route 11, Parcel 110002.000, described in a deed dated 8/30/2019, and recorded in Book 84, Page 623-624 of the Londonderry Land Records.
2. The property is situated in the Service Commercial and the Flood Hazard Overlay zoning districts as described on the Town of Londonderry Zoning Map on record at the Londonderry Town Clerk's Office and Section 201 of the Bylaw.
3. The permit application proposes a 2-lot subdivision of vacant land. As proposed, Lot #1 will be 3.61 acres and Lot#2 will be 9.66 acres.
4. Individual Access to Lot #1 and Lot #2 will be off Derry Woods Road. Revised access permits to be approved by the Selectboard were submitted on this date to the Zoning Administrator.

Former access off Derry Woods Road to Parcel 110002.000 and to Pit Road, shared with abutting property owners to the north, will no longer be in use for the subject property. The same abutting property owners will have sole access over Pit Road via a permanent right-of-way.

5. The application for subdivision includes no proposed uses of Lot #1 or Lot #2.


6. The Board finds that the proposed 2-lot subdivision of Parcel 110002.000 located in the Service Commercial district and Flood Hazard Overlay will meet all applicable zoning standards.

DECISION AND CONDITIONS

Based on the findings above, the Board approves Permit Application 2020-03 for subdivision, as submitted on 2/19/2020 by Christopher M. Ponessi, P.E., Mance Engineering Partners, P.C., Applicant, for Hunter Kaltsas, Owner, of Parcel 110002.000, located at Derry Woods Road and Route 11 East, within the Service Commercial (SC) district and Flood Hazard Overlay district, subject to the following:

1. Receipt of approval of individual access permits for Lot 1 and Lot 2 as depicted on Exhibit 4, Lands of Kaltsas Vermont Route 11 and Derry Woods Road, Subdivision Access, AC-1, dated 2/14/2020, and updated 2/18/2020.
2. As required by Vermont Statutes Annotated, Title 24, Chapter 117, Section 4463 (b), the approval of the Board shall expire 180 days from the date of this decision, unless the approved plat on Mylar is duly filed or recorded in the office of the municipal clerk.

Dated at Londonderry, Vermont, this 11th day of March 2020.


_____, Co-Chair
Esther Fishman, Co-Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.