

Town of Moretown Development Review Board  
79 School Street, Moretown, Vermont 05660

Minutes of Hearings Held September 28, 2023

Application No. 23-08: Application of Frank and Cynthia Barr for 2-Lot Subdivision and Construction of a Single Family Dwelling accessed from Class 4 Road, Located at 840 Brownsville Road.

Present for the Board were John Riley, Paula Woods, Dave Russo, Craig Oshkello and Jim O'Neill at the Town Office. Applicants were present at the Town Office including the Barr's adult daughter, Molly Humphrey and her husband Justin Humphrey. Town Zoning Administrator Karen Sauter also attended.

The hearing began at 6:32 p.m. Prior to the hearing the Board held a site visit at 5:15 at the property at which all Board members, the Barr's, and Humphrey's all attended.

Prior to the hearing Board Members received copies of the Subdivision Application, Zoning Permit Application, Applicants' request dated September 12 for waiver of Ordinance requirements they submit a survey depicting the perimeter boundaries of both new parcels and a grading plan for development on steep slopes: and a copy of a 2016 Survey by American Survey Company for the Barr's which depicts the boundaries of the 10.0 acre lot proposed to be subdivided from the 97.10 acre parcel.

The Application requires consideration of the Applicants' requesting a waiver of a full subdivision site plan depicting the entirety of the original lot, and a waiver for the grading plan requirement for development on steep slopes. As well as proposed development of land with access from a Class 4 Town road.

At the outset of the hearing, Karen Sauter noted a prior subdivision application by the Barr's was denied October 4, 2022 as a subdivision plan had not been submitted depicting the entirety of the proposed subdivision. The Barr's do have a State Wastewater Permit approving the subdivided lot for development of a single family residence, and obtained a curb cut approval from the Town in May of 2022. Without the benefit of Town Zoning subdivision approval, they recorded a mylar of the 2016 American Survey Company survey, and executed a deed conveying title of the 10 acre parcel to Molly and Justin Humphrey which has been recorded in the Moretown Land Records.

During the Hearing Frank Barr provided a full size copy of the 2016 American Survey Company Survey with penciled in edits depicting overhead power lines, the existing

driveway and proposed house location, an existing shed, and the location of a right of way that would branch from the driveway and provide access to the acreage of the Barr's retained lot. The penciled edits also show setback measurements for the house location showing it to be 175' from the centerline of Brownsville Road

Upon questioning as to why they were unwilling to provide a survey of the entirety of the property showing the dimensions of the two subdivided lots they explained their surveyor was having difficulty completing the work and they wished to move forward with the Application and seek a waiver of the Ordinance requirement.

The Board had an opportunity to review the access way and location of the proposed residence during the site visit. Although somewhat steep, the driveway is not at an extreme grade, and the location of the residence does not appear to involve steep slopes as defined in the Ordinance. After listening to the presentation, the Board closed the evidence and indicated it would hold a deliberative session to consider the merits of the Applicants' waiver request, and Application.

After completion of the Barrows hearing held at 7:30 p.m. later that evening, the Board went into deliberative session, and the following is the Decision of the Board in connection with the Barr Application:

#### Decision

Given the observations by the Board at the site visit including both the already constructed access way, and the proposed house site location, the Board grants Applicants' request for waiver of a grading plan. From the site inspection in the Board's judgment, the filling associated with creation of a reasonable grade for the driveway for the portion that involved a grade greater than 12% prior to the work being done does not exceed 50' in length such that a grading plan is not required under Ordinance Section 4.16(F)(1).

The Board denies Applicants' request for a waiver that they submit a survey depicting the entirety of the original lot, with the dimensions of the two newly created lots fully depicted. The only rationale for not meeting the Ordinance requirement was that the Engineer had been delayed in creating the required survey. Accordingly, the Development Review Board grants approval of the subdivision, and request to build a new residence which will have access from a Class 4 Town road subject to the following conditions:

1. That a survey mylar depicting both lots in their entirety (including the ROW benefitting the Barr retained lot) be submitted and approved within 180 days of this approval as required by Section 5.6.3(C) of the Ordinance.
2. As the Humphreys' plan to build and occupy a primary residence on the new 10 acre lot, it is a condition of this approval that the Applicants' ensure that the Class 4 portion of Brownsville Road to their driveway entrance be sufficiently maintained to allow access by emergency vehicles (both firetrucks and ambulances) all seasons of the year.

Application No. 23-28: Conditional Use Review of Application By David and Toni Barrows for Replacement of Single Family Mobile Home Dwelling in Flood Hazard Overlay and Ag-Res District at 1244 River Road.

John Riley called the hearing to order at 7:30 p.m.

Present were the Applicants David and Toni Barrows. Also, their Engineering Stephen Diglio of KAS Environmental appeared via Zoom. Prior to the hearing the Board received the Zoning Permit Application, Development Review Board Application with Conditional Use Addendum and handwritten sketch site plan; copy of a site plan by KAS titled "Site Design and Flood Mitigation Plan" dated September 20, 2023; a letter to the Zoning Administrator from Mr. Diglio dated September 22; a letter from Ned Swanberg, ANR Central Vermont Flood Plain Manager to the Zoning Administrator dated September 13, 2023; and additional email comments from Mr. Swanberg dated September 25, 2023.

The Barrows existing residence was destroyed in the catastrophic July 10 flooding along the Winooski River.

The Applicants' Engineer has submitted the Site Design and Flood Mitigation Plan with the intent to meet the requirements of the Moretown Flood Hazard Regulations and in consultation with the local HUD Inspector.

Based on Mr. Diglio's review of FEMA's Flood Hazard Mapping, the base flood elevation (BFE) at the location of the proposed residence is an elevation of 503.0 feet, though Flood Plan Manager Swanberg indicated a base BFE at the site of 504.0 feet.

Based upon a limited survey and additional field measurements by KAS, it was estimated the flood elevation of the July 2023 flood event was 507.50 feet and this was used for purposes of design.

The first floor of the proposed replacement residence would be at a minimum elevation of 508.50 feet with the top of the proposed slab at an elevation of 504.50 feet., or possibly 505.0 feet.

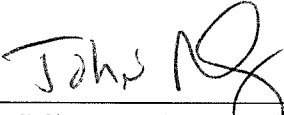
The proposed manufactured home will be elevated on piers and will be anchored to the slab in accordance with the manufacturer’s specifications. There will be an enclosed space between the slab and bottom of the first floor that would be subject to flood inundation in a similar flooding event with the design including adequate flood vent openings designed to equalize hydrostatic forces on skirting walls by allowing flood water to enter and exit the enclosed space. Provisions will also be made to adequately anchor propane tanks.

Based upon the information and certifications submitted, it was moved, seconded, and approval was unanimously granted for the Application as submitted on the conditions that the Applicants complete the Project in accordance with the submitted Plan and specifications set forth in Mr. Diglio’s letter of September 22. Also, as suggested by Mr. Swanberg, that after completion of the Project a Flood Elevation Certificate be submitted to the Town zoning file attesting to the anchoring and elevation of the completed foundation, and first floor of the new residence.

At the completion of this hearing the Board went into deliberative session on the Barr Application as outlined above, and the Board eventually exited the deliberative session at approximately 8:30 p.m. and adjourned.

Dated this 10<sup>th</sup> day of November, 2023.

Moretown Development Review Board



By John Riley, Acting Clerk