

**Town of Londonderry, Vermont
Development Review Board
Meeting Agenda**

Wednesday, April 15, 2020 – 5:30 PM

Meeting will be held remotely online with no physical presence - see information below

1. Call Meeting to Order
2. Additions or Deletions to the Agenda
3. Minutes Approval – Meeting of February 19, 2020
4. Public Hearings as warned:

Application 2020-06 by Donald and Deborah Hazelton for Subdivision Review of proposed 4-lot subdivision on Parcel 013013.000 located at Hell’s Peak Road.

Application 2020-07 by Donald and Deborah Hazelton for Conditional Use Review of proposed detached accessory dwelling on Parcel 013018.000, located at 234 Pitchfork Lane.

Application 2020-10 by Jeffrey and Cheryl Nutter for Conditional Use Review to establish an attached accessory dwelling (after the fact) to a single-family dwelling on Parcel 037004.100, located at 110 Cross Road.

5. Other Business
6. Next regular meeting date – Wednesday, May 20, 2020
7. Adjourn

Meeting may be attended remotely as follows:

Via web: <https://zoom.us/j/164607400> (Meeting ID: 164 607 400)

Via telephone: (929) 205-6099 (Meeting ID: 164 607 400)

It is strongly recommended that potential participants familiarize themselves with Zoom software (<https://zoom.us/>) prior to the meeting as the Board will not dedicate time to educating the public in its use.

Town of Londonderry, Vermont Development Review Board

Regular Meeting Minutes
Wednesday, April 15, 2020
Zoom Meeting ID 164607400

Note: This meeting was held remotely online with no physical presence – all attendees participated by video or phone, per the instructions provided in the public hearing notice and in the agenda posted in advance of this meeting, as indicated within these meeting minutes.

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

Board Members Absent: Chris Laselle (leave of absence)

Others in Attendance: Town Officials: Shane O’Keefe, Zoning Administrator, and Sharon Crossman, Assistant to the Zoning Administrator. Members of the Public: Philip Cloutman and Marty Trombetta (video), Don Kaiser (video), Jeffrey and Cheryl Nutter (video), Andrew Rackear (video), and Deborah Hazelton (phone).

1. **Call the meeting to order.** At 5:32, Development Review Board (DRB) Co-Chair Esther Fishman called the online meeting to order and read a prepared script describing the authority to hold an entirely online meeting and the procedures to be followed by Board members and others in attendance, depending on their mode of participation (script attached).
2. **Additions or deletions to the agenda** (to occur as Other Business). None.
3. **Minutes Approval.** Minutes of February 19, 2020 A motion to approve was made by Bob Maisey and seconded by Denis Pinkernell. The motion passed, with Paul Abraham abstaining due to not being a DRB member as of the February meeting. It was noted that there was no DRB meeting in March 2020 and so there are no minutes.
4. **Public Hearings as warned.**

Application 2020-10 by Jeffrey and Cheryl Nutter for Conditional Use Review to establish an attached accessory dwelling (after the fact) to a single-family dwelling on Parcel 037004.100, located at 110 Cross Road.

The Chair asked the Applicants to describe their application. The Nutters stated that they wish to obtain a local zoning permit for their residence at 110 Cross Road. They explained that they first built a guest house/garage where they resided until completing construction of the ‘main house’ which is now their residence. Jeffrey noted that at the time the main house was constructed, no permit was received for the guest house/garage as an accessory structure. He confirmed their objective to establish the guest house/garage as an ‘accessory unit’ to the ‘main house’, an existing single- family dwelling. In response to the Board’s questions, the Owner/Applicants testified as follows:

1. The on-site septic system is shared by 2 dwellings (5 lots total). A 2004 state certification of installation is on file.
2. 30’ setbacks for structures are depicted with blue dash lines on site plan.

3. The proposed accessory dwelling has primary access via an exterior door on left side of structure at garage level.
4. The proposed accessory dwelling has access via interior stairs from garage level to the second floor of the guest house.
5. Window units were installed in place of garage doors shown on plan submitted.
6. The Garage/basement level of the proposed accessory dwelling has a washer and dryer and is primarily used as storage by the owner.

The Chair called for a motion to close the Nutter public hearing at 5:48 pm. Denis Pinkernell made that motion, seconded by Bob Maisey, which passed unanimously. The Chair advised the Applicants that the Board would deliberate in private later in the evening and deliver its written decision within 45 days, as required by State statute.

Application 2020-06 by Donald and Deborah Hazelton for Subdivision Review of proposed 4-lot subdivision on Parcel 013013.000 located at Hell's Peak Road.

After various attempts to reach the Hazeltons who had not yet joined the meeting, Co-Chair Fishman decided to open the public hearing and proceed with review of the application for subdivision and any questions from the abutters present (by video). The Board began a discussion of the application with Philip Cloutman and Marty Trombetta, abutting property owners, attending via video. The Chair briefly described the application for subdivision of 29.5 acres into 4 lots total – 3 new lots to be created, and the remainder land being Lot 4. The abutters stated that they own 13 +/- acres on VT Route 100 along the northeast side of the remainder lot and were curious about the setback standards for development near the shared boundary. O'Keefe responded that the application does not include any plan to build on Lot 4 nor any proposed access from VT Route 100. These abutters said they had no further questions.

O'Keefe explained that access from Hells Peak Road via a 50' right-of-way (ROW) serving Lots 1, 2 and 4 has been granted by the Selectboard. He stated that the ROW remains part of Lot 4 as shown on the site plan. Terry Hill noted that the application states the ROW is over an existing logging road. Abutting property owner Donald Kaiser asked about the intended use and access point for Lot 4 when developed. O'Keefe stated that the application does not include a plan for either at this time, although there is 'adequate frontage' along VT Route 100. Mr. Kaiser said he had no other concerns.

Co-Chair Fishman asked for a motion to continue this hearing to the next regular meeting of the Board. Terry Hill moved to continue the hearing for Donald and Deborah Hazelton subdivision of Parcel 013013.000 until the May 20, 2020 meeting, Denis Pinkernell seconded, and the motion passed unanimously.

Application 2020-07 by Donald and Deborah Hazelton for Conditional Use Review of proposed Accessory Dwelling on Parcel 013018.000 located off Pitchfork Lane. At 6:06 pm, the Chair opened the public hearing, although the Applicants had not appeared by video or phone.

In response to a question from the Co-Chair Fishman, O'Keefe confirmed that a State wastewater permit for the accessory dwelling was not included in the application and needs to be requested now or made a condition of the permit approval.

Co-Chair Fishman asked for a motion to continue the hearing, since the Applicant had not yet joined

the meeting to respond to additional questions. John Lancaster moved to continue the public hearing for Application 2020-07 to the May 20, 2020 meeting, Terry Hill seconded, and the motion passed unanimously. Abutters Philip Cloutman and Marty Trombetta left the meeting stating they had no more questions or concerns about the project.

At 6:16 pm Deb Hazelton joined the meeting by phone, having had technical difficulty calling in earlier.

At 6:18 John Lancaster moved to rescind the previous motions to continue public hearings for Applications 2020-06 and 2020-07 to May 20, 2020, and Terry Hill (seconded) consented. All meeting participants then introduced themselves to Applicant/Owner Deb Hazelton.

Deb Hazelton provided the following information regarding the proposed 4-lot subdivision described in Application 2020-06:

1. Overall objective is to create and donate land to Habitat for Humanity to be developed with a single-family dwelling and owned by a qualified full-time resident - Lot 2.
2. Decided to subdivide entire parcel at same time, creating 4 lots total, Lot 4 to be retained.
3. All lots have been perked.
4. Lot 3 will likely be accessed from Hells Peak Road as the most safe and sensible location.
5. The 50' ROW shown is part of remainder parcel (Lot 4) and provides access to Lots 1, 2 and 4. Applicants plan to design and build ROW to conform with Town road specifications.
6. Tree clearing limited to house site preparation.
7. Corner of Lot 1 has steep bank, otherwise terrain is "rolling" and relatively flat.

The Board noted that the Agency of Natural Resources Atlas map provided does not include contours which should be added.

Don Kaiser asked about plans for development of lower portion of Lot 4, which abuts his property. The Applicant stated there are no plans at this time for Lot 4. Don Kaiser left the meeting.

A motion to close the public hearing for Application 2020-06, made by Denis Pinkernell, seconded by Terry Hill, passed unanimously.

The Chair then re-opened the public hearing for Application 2020-07. During discussion with the Board, Owner Deb Hazelton provided the following information:

1. Plan includes construction of an accessory dwelling, a detached single-story/single-family structure, to be located on Parcel 013018.000 a 5-acre parcel that contains the Applicants' existing single-family residence.
2. The accessory dwelling will be owned by the Hazeltons and occupied by a retired relative.
3. Parcel 013018.000 is accessed by a private road/ROW, a former farm lane off Pitchfork Lane. Pitchfork Lane is an improved Town road that does not extend to serve the subject parcel.
4. Setbacks shown are within the 5-acre lot, which is surrounded by land individually owned by,

and separately deeded to, Donald Hazelton, which makes the 5-acre lot “technically landlocked.”

5. There is no thought of selling the surrounding land, now or in the future. If sold, the existing driveway/ROW serving the 5-acre parcel would transfer with the land.
6. Applicants plan to have the septic system design prepared by Marquis and Marquis Engineers once local permit obtained.

At 6:47, the Chair moved to close the hearing on Application 2020-07, seconded by Denis Pinkernell, passed unanimously. The Chair stated that the Board would deliberate in private on Applications 2020-06 and 2020-07 later the same evening and render Findings and Decisions within the 45-day period required.

Deborah Hazelton and Andrew Rackear left the meeting.

5. **Next regular meeting** - Wednesday, May 20, 2020, at 5:30 pm.
6. **Adjourn.** The meeting was adjourned at 7:23 pm.

Approved on May 20, 2020.



Esther Fishman, Co-Chair

Development Review Board – April 15, 2020

- I'd like to call to order the Londonderry Development Review Board meeting of April 15 2020. This is Board Co-Chair _____.
- In response the Governor Scott's January 20, 2020 declaration of a State of Emergency due to the spreading COVID-19 pandemic, and his "Stay Home, Stay Safe" executive order restricting and minimizing all unnecessary activities outside of the home, and in accordance with Act 92, signed into law on by the Governor on March 30, 2020, which allows for changes to the Vermont Open Meeting Law to protect the health and welfare of the public, this meeting is being held entirely remotely with no physical presence.
- This meeting is being conducted entirely on Zoom meeting software and the Board members and staff are participating by video except for Commission member(s) _____, who is(are) participating via telephone. Other attendees are permitted to participate via video or telephone. The meeting agenda posted on April 10, 2020 and still available on the Town's website provided information on how the public can participate in this meeting.
- We will mute attendees except for Board members and Town staff and those determined by the Chair to be unmuted, such permit applicants and abutters. After Board discussion on a specific agenda matter, all participants will be unmuted to ask questions or provide comment, which will be limited to 3 minutes per person.
- All non-unanimous votes by the Board, if any, must be taken by roll call vote, with each member stating their name and vote.
- We will then repeat this process for each agenda item.
- For those of you participating by telephone, you can mute and unmute yourself by dialing star-6.
- For those of you participating by Zoom video, particularly those new to it, here are a few highlights.
- At bottom left is the mute button to turn sound on or off, though the host controls that for this meeting.
- Just to the right of that button is the video button, where you can either turn or off your video.
- The participants button at the bottom allows you to see who is on the call, and there will be a list that populates with all of the participants.
- There is a raise hand button at the bottom of the participants list for those who want to be recognized. We will hold off on recognizing those raising their hand and wait for the end of the specific agenda discussion so that those on the phone are treated equally.
- While viewing if you want to see all participants being viewed, press the Gallery View button on the top right of the screen.
- Beyond these few pointers, the Board will not take time for educating the public in the use of Zoom software during the meeting, as the posted meeting agenda recommended that those wishing to participate familiarize themselves with the software program ahead of time.

Development Review Board – April 15, 2020

- Before we proceed to the rest of the agenda, I ask all Board members to vocally identify themselves, which is a requirement of the Vermont Open Meeting Law. And throughout the meeting, as appropriate, Board members and other participants are asked to identify themselves when they speak.
- Esther Fishman
- Denis Pinkernell
- Bob Maisey
- Chris Laselle
- Terry Hill
- John Lancaster
- Paul Abraham

The next order of business is the consideration of additions to or deletions from the agenda.

* * *

Town of Londonderry, Vermont
Development Review Board

Findings of Fact and Notice of Decision
Application 2020-06
Property of Donald and Deborah Hazelton
Parcel 130130.000 Hell's Peak Road
May 26, 2020

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application for subdivision of 29.5-acres +/- of land into 4 lots as submitted by Donald and Deborah Hazelton, Applicant/Owner of Parcel 130130.000, located on both Hell's Peak Road and VT 100 north, within the Residential (R1) district.
2. The application for subdivision approval was received by the Zoning Administrator on 2/26/2020.
3. On 3/4/2020 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 3/23/2020, notice of a public hearing to be held on 4/15/2020 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. Hell's Peak Road, within view of the public-right-of-way most nearly adjacent to the property.
6. The Notice of Public Hearing included information regarding the possibility for a change in the venue of the meeting to a means of remote electronic access as allowed by 1 V.S.A. Section 312(a)(2) due to the ongoing COVID-19 health emergency, and advised that the most current information on remote meeting participation could be obtained within at least 48 hours of the meeting by contacting the Town Office or checking the Town website www.londonderryvt.org
7. On 3/23/2020, a copy of the notice of public hearing was mailed to the Applicant/Owner and owners of properties adjoining the parcel to be subdivided as listed on the Certificate of Service.
8. On 3/25/2020, a notice of a public hearing was published in the *Vermont Journal*.
9. On 4/10/2020, the agenda for the 4/15/2020 Board meeting was properly posted and distributed via email to Board members and the applicants, and the agenda included information on how the public could participate electronically or by phone.
10. The application was considered by the Board at a public hearing opened on 4/15/2020. This hearing was held remotely online as Zoom Meeting ID 164607400. All attendees participated by video or phone, per the instructions provided in the public hearing notice.

11. Present over the course of the proceedings were the following members of the Board: Esther Fishman (Co-Chair), Denis Pinkernell (Co-Chair), Paul Abraham, Terry Hill, John Lancaster, Bob Maisey. On 4/15/2020 the public hearing was closed.
12. During the course of the hearing, the following exhibits (available at the Town Office) were submitted and/or referenced for the record:

Exhibit 1. Zoning Permit Application Form 2020-06, dated 2/26/2020, with associated attachments including: Site Plan Review Application Worksheet; Site Development Plan Checklist; a plat entitled "Subdivision of Land, Donald and Deborah Hazelton, prepared by Colman Surveys Inc., Drawing No. 2019-871 dated 12/4/2019, revised 12/30/2019," depicting a portion of the subject property to be divided into 3 individual lots; and a copy of the aforementioned plat with notations by the Applicant regarding topography and future driveway locations for proposed Lots 1, 2 and 3.

Exhibit 2. Land Use Application Review Form and Zoning Permit Application Checklist prepared and delivered by Zoning Administrator Shane O'Keefe via email on 3/4/2020 to Donald and Deborah Hazelton, Applicant/Owner, re: referral of Application 2020-06 to the Board for consideration.

Exhibit 3. A plat entitled "Subdivision of Land, Donald and Deborah Hazelton, prepared by Coleman Surveys Inc., Drawing No 2019-871, Revised 3/26/2020, to depict the entire subject parcel as 4 individual lots and to supersede the original plat 2019-871 described in Exhibit 1.

Exhibit 4. ANR Atlas Maps by VT Agency of Natural Resources of subject parcel: one showing Wetlands Advisory areas, dated 3/4/2020, and another showing Critical Habitat areas dated 4/14/2020.

13. DRB Co-Chair Esther Fishman opened the public hearing and briefly described Application 2020-06, an application for subdivision of Parcel 013013.000 as shown on the 2019 Londonderry Parcel Maps.

Deborah Hazelton (Applicant) participated in the remote-access public hearing by phone to discuss the request for approval of a 4-lot subdivision. She reviewed with the Board the "Subdivision Survey Plat, Lands of Donald and Deborah Hazelton, revised 3/26/2020," depicting the subdivision of Parcel 013013.000 lying between Hell's Peak Road and VT Route 100N and referenced in Exhibit 3 above. She explained the plan to create 3 new lots to be sold - Lot 1 with 2.24 acres: Lot 2 with 1.76 acres and Lot 3 with 1.78 acres – and to retain ownership and use of the remainder of the parcel.

In response to questions from the Board, the Applicant testified as follows regarding the proposed 4-lot subdivision described in Application 2020-06:

- a. The overall objective is to create and donate a parcel of land to Habitat for Humanity to be developed with a single-family dwelling and sold to a qualified full-time resident (Lot 2).
- b. The entire parcel will be subdivided at once, creating a total of 4 individual parcels, including a remainder lot (Lot 4).
- c. The 50' ROW shown is part of Lot 4 and will provide access to Lots 1, 2 and 4. The ROW will be designed and built in conformance with Town road specifications.
- d. Lot 3 will likely be accessed from Hell's Peak Road as the most safe and sensible location.
- e. Tree clearing will be limited to house site preparation.
- f. The southeasterly corner of Lot 1 is rather steep; the overall terrain is "rolling" and relatively flat.
- g. All lots have been perked and permitted by the State of Vermont for Presby septic systems.

14. Abutting property owners joined the hearing via video. Philip Cloutman and Marty Trombetta stated that they own Parcel 013017.000 comprised of 13 +/- acres situated on VT Route 100N along the northeast side of Lot #4. They asked about the setbacks required at their common lot line, should the Hazeltons propose development there in the future. Zoning Administrator Shane O'Keefe stated the Village Residential (VR) district setbacks are 10' minimum for side yard and 20' minimum for rear yard, per the 2009 Zoning Bylaws in effect.

Donald Kaiser, owner of abutting Parcel 013004.000, asked about the Hazeltons' plans for the southerly portion of Lot 4, which abuts his property.

The Applicant confirmed that there is no plan at this time for development or change of use of Lot 4. The Zoning Administrator confirmed that development or change of use of Lot 4 will require a permit application that may or may not be subject to Board review.

The Abutters had no further questions for the Applicant.

No one else responded, appeared or spoke, for or against the application as proposed.

15. On 4/15/2020, 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, Parcel 013013.000, is a 29.5-acre +/- parcel located along and between Hell's Peak Road and VT Route 100N, described in a deed dated 9/28/1986, and recorded in Book 44, Page 193-195 of the Londonderry Land Records.
2. The property is situated in the Village Residential 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. The permit application proposes a 4-lot subdivision of vacant land as shown on a plat prepared by Coleman Surveys Inc. for Donald and Deborah Hazelton, Drawing No. 2019-871, dated 12/4/2019 and revised 12/30/2019 and 3/26/2020, depicting Lot #1 as 2.24 acres, Lot #2 as 1.76 acres, Lot #3 as 1.78 acres and Lot #4 as 23.7 acres remaining.
4. Subdivision is a permitted use in the Village Residential zoning district, per Section 200 of the 2009 Londonderry Zoning Bylaw in effect, and the specific standards of Section 314 Subdivision.
5. Access to Lots #1 and #2 will be via a right-of-way off Hell's Peak Road, granted by and shared with Lot #4. Future access to Lot #3 is expected to be directly off Hells Peak Road. The Applicant understands that access permits from the Town are required per Section 402 of the 2009 Zoning Bylaw in effect and intends to apply once subdivision is approved.
6. Each individual lot of the 4-lot subdivision has been tested and State-approved for Presby on-site

wastewater disposal systems.


7. The application for subdivision includes no plan for proposed development or change of use of Lot #4, the remainder lot.
8. The ANR Maps of the subject parcel show evidence of wetlands and critical habitat that appear only on portions of Lot #4, the remainder parcel, for which there is no plan for development or change of use at this time. Of note, the ANR maps provided include no contour lines.
9. The Board finds that, as submitted and attested to at the public hearing by the Applicant, the proposed 4-lot subdivision of Parcel 013013.000 located in the Village Residential zoning district will meet all applicable standards of the 2009 Londonderry Zoning Bylaw.

DECISION AND CONDITIONS

Based on the findings above, the Board approves the subdivision of Parcel No. 013013.000, located on both Hell's Peak Road and VT Route 100N, into four lots, as proposed in materials submitted in support of application 2020-06, and as specifically shown on a subdivision plat titled "Subdivision of Land – Land of Donald and Deborah Hazelton, prepared by Coleman Surveys, Inc., and shown as DWG 2019-871, last revised on 3/26/2020, subject to the following conditions:

1. The 50-foot wide "access to remaining land," shall constitute part of the 23.7-acre +/- lot and, in addition to that one remaining lot, shall only provide vehicular access to Lots 1 and 2 as shown on the approved plat.
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 26th day of May 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 2020-07
Property of Donald and Deborah Hazelton
Parcel 013018.000 at 234 Pitchfork Lane

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves Conditional Use review for a proposed Accessory Dwelling as submitted by Donald and Deborah Hazelton, Applicant/Owner of Parcel 013018.000, located at 234 Pitchfork Lane within the Residential (R3) district.
2. The application for conditional use approval was received by the Zoning Administrator on 3/11/2020.
3. On 4/10/2020 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 3/23/2020, 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. Pitchfork Lane, within view of the public-right-of-way most nearly adjacent to the property
6. The Notice of Public Hearing included information regarding the possibility for a change in the venue of the meeting to a means of remote electronic access as allowed by 1 V.S.A. Section 312(a)(2) due to the ongoing COVID-19 health emergency, and advised that the most current information on remote meeting participation could be obtained within at least 48 hours of the meeting by contacting the Town Office or checking the Town website www.londonderryvt.org
7. On 3/23/2020, a copy of the notice of public hearing was mailed to the Applicant/Owner and owners of properties adjoining the parcel to be subdivided as listed on the Certificate of Service.
8. On 3/25/2020 a notice of a public hearing was published in the *Vermont Journal*.
9. On 4/10/2020, the agenda for the 4/15/2020 Board meeting was properly posted and distributed via email to Board members and the applicants, and the agenda included information on how the public could participate electronically or by phone.

10. The application was considered by the Board at a public hearing opened on 4/15/2020. This hearing was held remotely online as Zoom Meeting ID 164607400. All attendees participated by video or phone, per the instructions provided in the public hearing notice.
11. Present over the course of the proceedings were the following members of the Board: Esther Fishman (Co-Chair), Denis Pinkernell (Co-Chair), Paul Abraham, Terry Hill, John Lancaster, Bob Maisey. On 4/15/2020 the public hearing was closed.
12. 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 2020-07 with associated attachments including Conditional Use Review Application Worksheet and Site Development Plan Checklist, dated 3/11/2020.
 - b. Exhibit 2. Site Plan/Sketch of Parcel 013018.000, hand-drawn to scale and depicting the existing and proposed development including structures, utilities, well, septic and accesses, dated 3/11//2020.
 - c. Exhibit 3. Construction plans for proposed accessory dwelling, hand-drawn to scale, showing exterior design and interior layout.
13. Applicant/Owner Deborah Hazelton participated by phone to discuss the request for Conditional Use approval for construction of an accessory dwelling. In response to questions from the Board, she offered the following testimony:
 - a. The proposed 420 square feet accessory dwelling will be owned by Donald and Deborah Hazelton and occupied by a retired relative.
 - b. Parcel 013018.000 is accessed by a private road/right of way (ROW), a former farm lane off Pitchfork Lane, a Town road that does not extend to the Hazelton property.
 - c. The ROW is located on land surrounding the 5- acre parcel, which is individually owned by, and separately deeded to, Donald Hazelton. The Applicant stated that there is no thought of selling the surrounding land, now or in the future, however, if sold, the existing ROW would transfer with the land.
 - d. The Applicants stated that they plan to have the septic system for the accessory dwelling designed to State standards by Marquis and Marquis Engineers, once a local permit obtained.
14. No one else responded, appeared or spoke, for or against the application.
15. On 4/15/2020, 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 +/-5-acre parcel located at 234 Pitchfork Lane on Parcel 013018.000 described in a deed dated 7/16//1976 and recorded in Book 35, Page 226 -228 of the Londonderry Land Records.
2. The subject property is situated in the Rural Residential 3 (R-3) 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 2009 Londonderry Zoning Bylaw (Zoning Bylaw).
3. The application proposes construction of an accessory dwelling, to be a detached single-story, one-bedroom structure (Exhibit 3), located on Parcel 013018.000 along with the Applicants' existing single-family residence and accessory farm equipment storage structure as indicated on Exhibit 2.
4. Accessory dwellings are subject to Section 301 Conditional Use review by the Development Review Board per Section 203 of the Zoning Bylaw.
5. Zoning Bylaw Section 301(A)(1) provides as follows:
"The residential lot must meet all current requirements for the district in which it is located. The accessory dwelling shall meet all setback requirements for the district in which it is located; or for an accessory dwelling attached to a non-complying structure, the accessory dwelling shall in no way increase the degree of noncompliance in accordance with Section 412. Total floor space shall not exceed 60 percent of the existing floor area of the single-family dwelling or 1,000 square feet, whichever is less".
6. As the existing single-family dwelling is 2,300 square feet in area and the accessory dwelling is proposed to be 420 square feet in area, the proposed use meets the size limitations specified in Zoning Bylaw Section 301(A)(1).
7. Pitchfork Lane is an improved Town road that does not extend to serve the Parcel 013018.000, the subject parcel. The subject parcel is accessed by private road/right of way(s) off Pitchfork Lane and over Parcel 013019.000, which is individually owned and separately deeded to Donald Hazelton and surrounds the subject parcel.
8. The existing single-family dwelling and accessory farm equipment storage structure have separate driveways off from this right-of-way. The proposed accessory dwelling will be accessed off the existing right-of-way /driveway to the farm equipment storage structure as shown on Exhibit 2.
9. The water supply for the accessory dwelling will be provided by an existing well that serves the existing single-family dwelling.
10. The Applicant intends to obtain a State-approved plan for an individual waste-water system

for the proposed accessory dwelling once a local permit is approved.

11. While not specifically germane to the application, the Applicant acknowledges that the subject parcel is technically "landlocked" per Finding 4 above, and in the unlikely event the subject parcel was to be sold, the existing rights of way serving as access to Parcel 013018.000 would be transferred with the land.
12. The Board finds that the accessory dwelling to be located on Parcel 013018.000, in the R3 district on lands of Donald and Deborah Hazelton, as proposed, will meet all applicable zoning standards.

DECISION AND CONDITIONS

Based on the findings above, the Board approves the construction and use of a detached accessory dwelling on Parcel No. 013018.000, located at 234 Pitchfork Lane, of 420 square feet as proposed in materials submitted in support of application No. 2020-07, with the following condition:

1. Occupancy of the proposed new structure for accessory dwelling purposes shall not be permitted until the Town is in receipt of valid State water/wastewater permits specific to the proposed use.

Dated at Londonderry, Vermont, this 14 day of May 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 2020-10
Property of Jeffrey and Cheryl Nutter
Parcel 037004.100 at 110 Cross Road

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves an application for Conditional Use Review to establish an attached accessory dwelling (after the fact) to a single-family dwelling as submitted by Jeffrey and Cheryl Nutter, Applicant/Owner of Parcel 037004.100 located at 110 Cross Road within the Rural Residential-1 District (R1).
2. The application requesting Conditional Use approval was received by the Zoning Administrator on 3/19/2020.
3. On 4/8/2020 the Zoning Administrator deemed the application “Complete” and referred the application for Conditional Use approval to the Development Review Board (the Board).
4. Copies of all documents referenced above are available at the Londonderry Town Office.
5. On 3/23/2020, 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. 110 Cross Road within view of the public-right-of-way most nearly adjacent to the property
6. The Notice of Public Hearing included information regarding the possibility for a change in the venue of the meeting to a means of remote electronic access as allowed by 1 V.S.A. Section 312(a)(2) due to the ongoing COVID-19 health emergency, and advised that the most current information on remote meeting participation could be obtained within at least 48 hours of the meeting by contacting the Town Office or checking the Town website www.londonderryvt.org
7. On 3/23/2020, a copy of the notice of public hearing was mailed to the Applicant/Owner and owners of properties adjoining the subject parcel as listed on the Certificate of Service.
8. On 3/25/2020, a notice of a public hearing was published in the *Vermont Journal*.
9. On 4/10/2020, the agenda for the 4/15/2020 Board meeting was properly posted and distributed via email to Board members and the applicants, and the agenda included information on how the public could participate electronically or by phone.
10. The application was considered by the Board at a public hearing opened on 4/15/2020. This hearing was held remotely online as Zoom Meeting ID 164607400. All attendees participated by video or phone, per the instructions provided in the public hearing notice.

11. Present over the course of the proceedings were the following members of the Board: Esther Fishman (Co-Chair), Denis Pinkernell (Co-Chair), Paul Abraham, Terry Hill, John Lancaster, Bob Maisey. On 4/15/2020 the public hearing was closed.
12. During the course of the hearing, the following exhibits (available at the Town Office) were referenced for the record:
 - a. Exhibit 1. Zoning Permit Application Form 2020-10 with associated attachments including Conditional Use Review Application Worksheet and Site Development Plan Checklist received on 3/19/2020.
 - b. Exhibit 2: Septic System Certification of Lots 1, 2 and 3, prepared by Krueger Engineering for Wendell Rice, 8 of 8 of pages, dated August 2004.
 - c. Exhibit 3. Elevations and Exteriors, 110 Cross Road, 4 sheets, received 3/20/2020.
 - d. Exhibit 4. Floor Plans, Jeffrey & Cheryl Nutter, Garage and House, 4 sheets, "Not to Scale," dated 4/15/2020.
 - e. Exhibit 5. Area Calculations for main house and guest house.
13. Jeffrey and Cheryl Nutter (Applicant/Owner) appeared to describe their application to establish a guest house/garage (after the fact) as an accessory dwelling to an existing single-family dwelling located on the same property. The Nutters stated that they first built and resided in the guest house/garage until later completing construction of the 'main house' which is now their residence. Jeffrey noted that at the time the main house was constructed, no permit was received for the guest house/garage as an accessory structure. He confirmed their objective to establish the guest house/garage as an 'accessory unit' to the "main house," an existing single-family dwelling.

In response to the Board's questions, the Applicant/Owner provided the following testimony and references to Exhibits listed in Paragraph 11 above:

 1. The on-site septic system is shared by 2 dwellings. A 2004 state certification of installation is on file. (Exhibit 2)
 2. The setbacks for structures are depicted with blue dash lines on site plan (Exhibit 3).
 3. The garage/basement of the proposed accessory dwelling has primary access via an exterior door on left side of structure at garage level (Exhibit 3 and 4).
 4. The accessory dwelling unit has access via interior stairs from garage level to the second floor of the guest house (Exhibit 4).
 5. The garage/basement level of the proposed accessory dwelling has a washer and dryer and is primarily used as storage by the owner (Exhibit 4).
 6. Window units were installed in place of garage doors shown as on plan submitted (Exhibit 3).
 7. Calculated floor area of the main house and the guest house is less than maximum allowed by the definition of accessory dwelling (Exhibit 5).
14. No one else responded, appeared or spoke, for or against the project.
15. On 4/15/2020, 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 1.58 +/- acre parcel located at 110 Cross Road on Parcel 037004.100, described in a deed dated 12/13/2004 and recorded in Book 61, Page 513 of the Londonderry Land Records.
2. The property is situated in the Rural Residential 1 zoning district as depicted 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 establishing an existing guest house with basement/garage as an accessory dwelling (after the fact) to an existing single-family dwelling. While a zoning permit exists for the proposed guest house as a garage with studio above, which was constructed around 2006, there is no evidence that a zoning permit was issued for the "main house".
4. An accessory dwelling requires Conditional Use review per Section 301 of the 2009 Londonderry Zoning Bylaw.
5. Zoning Bylaw Section 301(A)(1) provides as follows:
"The residential lot must meet all current requirements for the district in which it is located. The accessory dwelling shall meet all setback requirements for the district in which it is located; or for an accessory dwelling attached to a non-complying structure, the accessory dwelling shall in no way increase the degree of noncompliance in accordance with Section 412. Total floor space shall not exceed 60 percent of the existing floor area of the single family dwelling or 1,000 square feet, whichever is less".
6. The guest house as built and designed does not appear to meet the required standards for an accessory dwelling per Section 301 (1) specifically relevant to the requirement for a "maximum floor area of 60 % of the primary dwelling, or 1000 square feet, whichever is less." The floor area of the "main house" is noted to be 3,710 square feet in area (see Exhibit #4), while the existing guest house as designed, built and used measures over 2,000 square feet in area (see Exhibit #4), which is greater than the 1,000 square foot maximum allowed under Zoning Bylaw Section 301(A)(1).
7. Per Finding in Paragraph 6, the Board concludes that Application 2020-10, requesting approval of an existing guest house/garage (after the fact) as an accessory structure, as submitted, exceeds the maximum allowable area and therefore cannot be approved in accordance with the applicable standards of the 2009 Londonderry Zoning Bylaw.

DECISION AND CONDITIONS

Based on the findings above, specifically the definition of an Accessory Structure per Section 301(1) of the 2009 Londonderry Zoning Bylaw, the Board hereby denies Permit Application 2020-10 to establish an existing guest house/garage (after the fact) as an accessory dwelling to an existing single-family home.

Dated at Londonderry, Vermont, this 4th day of May 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.