

**APPROVED**

**Huntington Planning Commission  
Tuesday, May 12, 2009**

Commissioners Attending: Lucinda Hill, Tom Bailey, Everett Marshall, Beverly Little Thunder and Eric Silman.

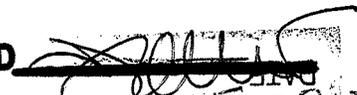
Commissioners Absent: None.

Others Present: Gordon Miller, Kendra Christiana, Dawn Taylor, Wilma Taylor, Nancy Bretschneider, Ron LaRose, Eliot Lothrop and Nils Smith (very briefly)

Minutes: Tom Bailey

Agenda:

- 5:45 PM HPC Site Visit - Bretschneider
- 7:00 PM Minutes of April 28, 2009 & Mail
- 7:20 PM Public Comment
- 7:25 PM Prepare materials for hearing
- 7:30 PM Bretschneider Preliminary Subdivision Review
- 8:15 PM Smith Deliberations
- 9:00 PM Member Business, including Work Plan discussion
- 9:30 PM Adjourn

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 DATE 5.28.09

Prior to the commencement of the meeting members of the Planning Commission (Lucinda Hill, Tom Bailey and Everett Marshall) attended a site visit at the property of Nancy Bretschneider at 189 Cummings Drive. Nancy's surveyor and engineer, Ron LaRose, led the property inspection and answered questions. Gordon Miller, a prospective member of the Commission, was also present.

The meeting was called to order at 7:07 PM by Everett Marshall, Chair.

Items for Discussion	Discussion	Action
<b>Minutes</b>	The Minutes of April 28, 2009 were postponed at the direction of the Chair, Everett Marshall.	None.
<b>Public Comment</b>	Kendra Christiana appeared and requested guidance regarding the interpretation of the provisions of the zoning regulations pertaining to accessory dwellings. Her stated goal was to be approved for an accessory dwelling to the house owned by her and John Christiana at 266 Texas Hill Road. Kendra's mother, Dawn Taylor, and her grandmother, Wilma Taylor, were also present. Kendra expressed concern that the regulations only allowed accessory dwellings having a maximum size of 30% of the 'parent' dwelling. In Kendra's case since their 'parent' dwelling is 1100 square feet, the regulations would allow an accessory dwelling of no more than 330 square feet. Members of the Commission acknowledged that this kind of situation had not been envisioned at the time that Section 5.7 of the Zoning Regulations was drafted, and that it should probably be reviewed. Tom Bailey and Everett Marshall agreed to research the regulations to determine if there is another way to accommodate Kendra's circumstance. Everett Marshall agreed to contact Kendra soon with the results of the research.	None.

Items for Discussion	Discussion	Action
<b>Mail</b>	<p>a. Gordon Miller's letter to the Selectboard requesting appointment to the Planning Commission was noted.</p> <p>b. Also noted was a copy of a state Wastewater and Potable Water Supply Permit numbered WW-4-2588-2 that was issued to Ian Wyatt of 555 Camels Hump Road for septic system replacement and guest house septic design.</p>	None.
<b>Bretschneider Preliminary Subdivision Review</b>	<p>The Preliminary Subdivision Review of Nancy Bretschneider commenced at 7:35 PM. Present for this hearing were (besides the members of the Commission) Nancy Bretschneider (the Applicant), Ron LaRose (Environmental Engineer representing the Applicant), Eliot Lothrop (a neighbor of the Applicant) and Gordon Miller (a prospective member of the Commission).</p> <p>Ron LaRose gave a brief overview of the proposed subdivision: The Applicant owns 10 ± acres and intends to subdivide it into three lots. Lot 1 will contain four acres and would encompass an existing house and garage, Lot 2 will contain 1.1 acres with a proposed house site, and Lot 3 will contain 5 acres with a proposed house site as well. Ron then pointed out on the survey (which had been submitted as part of the application) the proposed house sites, septic system locations and proposed well sites for the two undeveloped lots. Ron indicated that the proposed wells will be drilled wells and noted that one of the proposed wells will be located on an adjoining lot to avoid the anticipated isolation envelopes from the proposed septic fields (which were not defined on the submitted survey). He also pointed out that he will file an application for a state wastewater and potable water permit soon incorporating the results of this preliminary subdivision review. In response to questions from members of the Commission Ron indicated that the subdivision will require a mini-Act 250 permit.</p> <p>Then the Commission reviewed the submitted application for preliminary subdivision review in the light of the "checklist" contained in Section 4.1.1 of the Subdivision Regulations. Compliance with each numbered subsection in Section 4.1.1 was acknowledged except as follows:</p> <p>In considering Subsection (4) Everett Marshall noted that there is a deer yard in the vicinity of the proposed subdivision and that deer may travel across the proposed subdivision in the winter to feed. Eliot Lothrop pointed out that he had observed deer tracks and seen deer in the area last winter. Everett indicated that state biologists are beginning to look at wildlife movement corridors as well as deer wintering areas, but Everett concluded that it would be inappropriate to include a condition in this regard for the final subdivision permit. The rest of the Commission agreed. Similarly, Everett referenced the presence of a small Class III wetland (seepage area) but indicated that the subdivision as proposed would not create a problem for it (to which the rest of the Commission agreed). Finally, in considering Subsection (4) the Commission decided to impose a condition that the bank rim of the former gravel pit area shall be left naturally vegetated and that there would be no recontouring without prior review by the Planning Commission pursuant to a subdivision amendment or site plan review.</p>	Tom Bailey moved to approve the subdivision as proposed for preliminary subdivision review with conditions, and Beverly Little Thunder seconded the motion. The motion passed with a vote of 4 in favor and 1 opposed.

Items for Discussion	Discussion	Action
	<p>In considering Subsection (5) the Commission noted that the survey would need to change its identification of "Heath Cummings" as an adjoining land owner to "Eliot Lothrop" since Eliot has purchased the adjoining property.</p> <p>The Commission anticipated imposing a condition (in considering Subsection (20)) that appropriate erosion control measures will be established during any construction in the subdivision with special attention to drainage issues.</p> <p>There followed a discussion of the nature of the lack of a formal road maintenance agreement among the property owners who share in the use of the private road known as Cummings Drive. While acknowledging that each landowner has a covenant in his or her deed requiring proportional contributions to the maintenance of the road, many Commission members expressed concerns that this arrangement is too informal and will lead to neighbor disputes and complaints to the town. Heidi Racht, the clerk, noted that she has already fielded some. Commission members indicated that there is a safety issue because the inability of a fire truck or ambulance to navigate the road could jeopardize the lives of residents, including their children. Nancy Bretschneider responded that the current arrangement works fine and that no resident has failed to pay his or her share. Tom Bailey explained that informal arrangements based on personal responsibility and faith in one's neighbors seem to work right up until they don't, when a neighbor won't pay and there is no good way to force them to. The Commission strongly urged Nancy Bretschneider and Eliot Lothrop to enter into a formal road maintenance agreement with their neighbors now before serious problems occur, although no condition was attached as a part of this review.</p> <p>Then Tom moved to approve the subdivision as proposed for preliminary subdivision review with the conditions set forth above. Beverly Little Thunder seconded the motion and the motion passed with a vote of 4 in favor and 1 opposed. Eric indicated that he had opposed the approval because it lacked the condition that all of the residents of the Cummings Drive development enter into a suitable road maintenance agreement.</p> <p>Thereafter, Eric Silman moved that the Commission go into executive session which the Commission did and 8:57 PM and concluded the executive session at 9:08 PM.</p>	
<p><b>Smith Final Subdivision Review deliberations.</b></p>	<p>The Commission members closely read, edited and made modifications to a draft of Findings of Fact, Conclusions and Decision of Approval and Conditions prepared by Tom Bailey.</p>	<p>Beverly Little Thunder moved to approve the subdivision and the Findings of Fact, Conclusions and Decision of Approval and Conditions with the changes noted. Lucinda</p>

Items for Discussion	Discussion	Action
		Hill seconded the motion and the Commission unanimously approved the motion.
<b>Member Business</b>	Heidi Racht noted that Cathleen Gent's duties as Administrative Officer have taken a considerable amount of time recently, more time that she had anticipated. Members of the Commission urged that Cathleen bill for all of the time that she has devoted to her duties even if it exceeds the budgeted amount. It was also observed that this is probably Cathleen's "busy" season, and the amount of time that she will need to spend on her duties should lessen in the winter.	

<b>Adjournment</b>	A motion to adjourn was made by Lucinda Hill, seconded by Eric Silman and unanimously approved. The meeting was adjourned at 9:51 PM.
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Date UNAPPROVED minutes submitted to HPC: May 16, 2009

Date minutes APPROVED by the HPC: May 27, 2009

Date Approved Minutes submitted to Town Clerk:

Huntington Planning Commission  
4930 Main Road  
Huntington, Vermont

RE: Application of Nils Smith, Jennifer Baer, Markley Smith and Marijke Smith  
Application No. : 2009-1

**FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

FINAL SUBDIVISION AMENDMENT HEARING FOR:  
Nils Smith & Jennifer Baer of 1125 Bert White Road, Huntington, VT 05462, and  
Markley Smith and Marijke Smith of 1425 Bert White Road, Huntington, VT 05462

Based upon the application of Nils Smith, Jennifer Baer, Mark Smith and Marijke Smith (hereinafter the "Applicants") and the testimony and exhibits presented prior to and at the April 28, 2009 hearing pursuant to the Final Subdivision Amendment Review which was held at the Huntington Town Office in Huntington, Vermont, and, after due deliberation at its May 12, 2009 meeting, the Huntington Planning Commission (hereinafter the "Commission") makes the following Findings of Fact, Conclusions, and Decision of Approval and Conditions in accordance with the Town of Huntington Subdivision Regulations, effective November 3, 1992 (hereinafter the "Regulations") which are applicable to this matter:

**FINDINGS OF FACT:**

1. On March 18, 2009, the Applicants filed an Application for Amendment to Final Subdivision Approval for a project described as a two-lot subdivision and property line adjustment on Bert White Road. This parcel of land is part of a prior duly approved subdivision and is subject to an existing Act 250 Permit numbered 4C105. As a part of their application the Applicants attached and filed the following:
  - a. The completed required subdivision Information form filed March 18, 2009. (hereinafter EXHIBIT 1)
  - b. Summary dated March 16, 2009 of compliance of project with the Huntington Town Plan (adopted June 18, 2007). (hereinafter EXHIBIT 2)
  - c. Act 250 School Impact Questionnaire for Residential Projects dated February 17, 2009 and executed by James G. Massingham, Co-Superintendent. (hereinafter EXHIBIT 3)
  - d. Act 250 Municipal Impact Questionnaire dated February 23, 2009 and executed by Edward Wildman, Huntington Town Administrator. (hereinafter EXHIBIT 4)

- e. Letter dated March 8, 2009 executed by Tate Jeffrey, Chief of the Huntington Volunteer Fire Department. (hereinafter EXHIBIT 5)
  - f. Letter dated February 19, 2009 and executed by Harry R. Abendroth, P.E., Manager of Regulatory & Planning Engineering, Vermont Electric Cooperative, Inc. (hereinafter EXHIBIT 6)
  - g. Letter dated February 24, 2009 executed by John Gobeille, Wildlife Biologist of the Vermont Department of Fish and Wildlife, Agency of Natural Resources. (hereinafter EXHIBIT 7)
  - h. Site plan entitled "Site Plan: # 4, Amendment to Subdivision of Land Belonging to: Markley & Marijke Smith and Nils Smith & Jennifer Doucet-Baer" prepared by Renaissance Builders dated March 17, 2009. (hereinafter EXHIBIT 8)
  - i. Survey entitled "Survey Plat Subdivision & Line Adjustment of lands belonging to Markley & Marijke Smith and Nils Smith & Jennifer Doucet-Baer, Bert White Road, Town of Huntington, Chittenden County, Vermont" dated March 13, 2009 and prepared by South Mountain Surveying & Mapping, P.C., Donald A. Johnson, Licensed Land Surveyor. (hereinafter EXHIBIT 9)
  - j. Septic design plans (Sheets 1 of 2 and 2 of 2) entitled "Smith Subdivision/Septic Design, Bert White Road, Huntington, Vermont" dated March 17, 2009 and prepared by Vermont Contours, Inc., Spencer K. Harris, Licensed Site Technician. (hereinafter EXHIBIT 10)
  - k. Waiver Request dated February 9, 2009 pursuant to Sections 210 and 320.1 of the Regulations to submit only 3 copies of application materials. (hereinafter EXHIBIT 11)
2. Also received between the date of filing of the Application and the conclusion of the subdivision final review hearing (and also considered by the Commission in its deliberations) were:
- a. An amended septic design plan (Sheet 2 of 2 only) entitled "Smith Subdivision/Septic Design, Bert White Road, Huntington, Vermont" dated March 24, 2009 and prepared by Vermont Contours, Inc., Spencer K. Harris, Licensed Site Technician. (hereinafter EXHIBIT 12)
  - b. An amended septic design plan (Sheet 2 of 2 only) entitled "Smith Subdivision/Septic Design, Bert White Road, Huntington, Vermont" dated March 29, 2009 (sic, should be March 28, 2009) and prepared by Vermont Contours, Inc., Spencer K. Harris, Licensed Site Technician. (hereinafter EXHIBIT 13)
  - c. Letter dated March 26, 2009 executed by Spencer K. Harris, Vermont Contours, Inc. (hereinafter EXHIBIT 14)

- d. Copy of Act 250 Permit Amendment Application (#4C105) and cover letter of Arrowwood Environmental, Dori Barton, Ecologist, received March 18, 2009. (hereinafter EXHIBIT 15)
  - e. Copy of Act 250 Notice, Minor Application dated March 23<sup>rd</sup>, 2009 (received March 24, 2009) and executed by Peter E. Keibel, District #4 Coordinator, Natural Resources Board. (hereinafter EXHIBIT 16)
  - f. Letter dated March 26, 2009 (and received March 30, 2009) regarding the relocation of a fire department radio tower executed by Nils Smith & Jennifer Baer and Tate Jeffrey, Huntington Fire Chief. (hereinafter EXHIBIT 17)
3. On April 28, 2008 at the Final Subdivision Review hearing, the Applicant Nils Smith on behalf of the Applicants appeared before the Commission and presented evidence in support of the project. Notice of this hearing was duly accomplished in accordance of the Regulations and state law.
  4. The project is located at Bert White Road and is located in the zoning district formerly named the Agricultural-Residential District (now named the Rural Residential District) which is zoned for five acres. The project is located on Town Tax Map # 06.
  5. The Applicants together own 173.82 acres +/- of which 6.98 acres are proposed to be subdivided therefrom into new Lot 4 and minor boundary adjustments are proposed for the existing parcels owned by the Applicants (See the survey referenced as EXHIBIT 2 above).
  6. The Applicants seek approval for a proposed single-family dwellinghouse, garage/barn, septic system and well on proposed Lot 4 and access to the proposed dwellinghouse by a proposed driveway from Bert White Road.
  7. The Applicants have represented that the proposed dwellinghouse and septic system on Lot 4 will be located next to a wetland (as shown on plans and survey referenced as EXHIBITs 7-13 above) and will maintain required setbacks from the wetland as provided herein.
  8. The Planning Commission members present during the hearing on April 28, 2009 referred to above were Everett Marshall (Chair), Lucinda Hill, Eric Silman, and Tom Bailey (constituting a quorum), and the members present during deliberations on May 12, 2009 were Everett Marshall (Chair), Lucinda Hill, Tom Bailey, Beverly Little Thunder and Eric Silman (constituting a quorum).

### **CONCLUSIONS:**

After deliberations on May 12, 2009, the Commission has concluded that Applicants have provided materials in their application and up to and during the hearing on April 28, 2009 (referred to as EXHIBITs 1-17 above) that satisfies the requirements of Section 320 of the Regulations (subject to the conditions set forth

below). In addition, the Commission has considered the materials referred to above in the light of the requirements of Section 400 of the Regulations and conclude that the requirements of Section 400 are satisfied subject to the conditions set forth below. The Commission's conclusions with regard to each subparagraph of Section 400 are set forth (by subparagraph number) as follows:

1. The project is suitable for subdivision as proposed and will not be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.
2. Subject to the conditions set forth below, the proposed subdivision shows due regard for the preservation and protection of existing natural features, trees, brooks, rock outcroppings, water bodies, or other natural and/or historical resources.
3. Subject to the conditions set forth below, the potential for erosion and runoff into nearby surface waters during construction is adequately remedied.
4. The project appears to comply with the Huntington Town Plan, the Huntington Zoning Ordinance dated July 11, 1995, the current Zoning Regulations amended March 3, 2009 and other applicable Town regulations, subject to the conditions set forth below.
5. The project is not in a floodplain.
6. This area has single family residences, open fields and wooded areas. The subdivision meets the minimum lot size of five acres for the Zoning District. The Commission concludes the project complies with the provision of compatibility with surrounding properties.
7. The project is suitable for the proposed site density.
8. Based on an examination of the items referenced EXHIBITs 3-6 above, the town and schools will be able to provide adequate services and facilities, subject to the conditions set forth below.
9. Based on the Applicant's testimony, there will be sufficient water to meet the needs of the proposed project for the reasonably foreseeable future.
10. This subdivision as proposed will not cause highway congestion or unsafe conditions, subject to the conditions set forth below.
11. There are no deeryards impacted by the proposed project.

## DECISION OF APPROVAL AND CONDITIONS

Following deliberation on May 12, 2009, Final Subdivision Approval was granted on May 12, 2009 by a unanimous vote of the Huntington Planning Commission with the following conditions:

1. The Applicants shall allow representatives of the Town access to the lots, at reasonable times and with prior notice, for the purpose of ascertaining compliance with the Regulations and the conditions of this permit.
2. All conditions specified in this "Decision of Approval and Conditions" shall be satisfied prior to the issuance of a Certificate of Occupancy pertaining to the project (See Section 4.1.3 of the Zoning Regulations last amended March 3, 2009), and no structure may be used or occupied until all of the conditions specified in this "Decision of Approval and Conditions" shall be satisfied.
3. The project shall be completed, operated and maintained in accordance with:  
(a) these Findings of Fact, Conclusions, and Decision of Approval and Conditions; (b) the plans and exhibits on file with the Commission; and (c) the conditions of this permit.
4. Within 180 days of the issuance of this decision, the Applicants shall submit for signature by the Chair of the Planning Commission and file for recording in the Town Clerk's Office an 18" x 24" mylar (otherwise in compliance with state statutes) of the survey referenced as EXHIBIT 9 above, corrected as follows:
  - a. The survey shall accurately reflect the easements and rights of way for the fire department radio tower as shall exist at the time of the correction;
  - b. The survey shall include Nils Smith's and Jennifer Baer's street address as 1125 Bert White Road and shall include Markley and Marijke Smith's street address as 1425 Bert While Road; and
  - c. The survey shall label the neighboring property now or formerly owned by DePietro as "DePietro" or "N/F DePietro".
5. Applicants shall obtain all necessary local, state and federal permits, including a driveway access permit to be obtained from the Huntington Selectboard prior to construction of the proposed driveway.
6. The Commission acknowledges receipt of a copy of the Wastewater System and Potable Water Supply Permit (WW-4-1587-2) pertaining to this project. Applicants shall abide by and comply with all terms and conditions thereof and any amendments thereto.

7. Applicant shall provide to the Town copies of all Act 250 amendments granted with respect to this project and shall abide by and comply with all terms and conditions thereof and any amendments thereto.
8. Appropriate erosion control measures shall be implemented during construction of the proposed dwellinghouse, garage/barn, septic system, well and driveway.
9. The land within 50 feet of the boundary of wetland identified on EXHIBITs 10, 12 and 13 shall remain undisturbed both during and after construction as a buffer zone, except for construction associated with the well site. Discharge of all well drilling debris will be disposed of outside the wetland.
10. The requested Waiver of copies required pursuant to Sections 210 and 320.1 of the Regulations is granted.
11. The applicant shall pay the recording fees associated with the filing of the survey (referred to in Condition # 4 above) and permit decision with the Town of Huntington.
12. Construction plans and construction of the proposed project shall comply in all respects with the Zoning Regulations as amended on March 3, 2009.

*Everett J. Marshall*

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Everett J. Marshall, Chair  
Huntington Planning Commission

Dated this 13th day of May, 2009.