

Sutton Development Review Board  
Minutes of public hearing 2-6-18  
6:00 P.M., Sutton Town Office

In attendance: Paul Brouha (chair), Chip Devenger, Darlene Ahrens, Lucien Belanger, Brandon Mazur (clerk) [Sutton DRB]; Alexandra Fogg (VELCO), Larry Francis, Thomas Soininen

The hearing was called to order at 6:00 P.M.

Brandon read the warning as it appeared in the *Caledonian-Record* on 1/23/18 and 1/25/18. In addition, it was posted within view of the property from a public right of way (Wood Hill Road), and in three public places in Sutton on January 22<sup>nd</sup> as required by law:

TOWN OF SUTTON

Notice of public hearing before the Development Review Board

February 6, 2018

6:00 at Sutton Town Office

VELCO proposes to convey 1 acre on Wood Hill Rd. to Larry Francis

A copy of this application and additional information may be obtained at the Sutton Town Clerk's office.

Participation in this hearing is a prerequisite to the right to make any subsequent appeal.

The proposed agenda was reviewed. There were no additions or deletions.

Paul asked if there were any conflicts of interest or ex-parte communications. None were noted from participants other than Paul, who stated he had extensive ex-parte communications with Larry Francis of Sutton, Alexandra Fogg of VELCO, abutters, and neighbors, and kept the focus of these conversations on completeness of the application, planning for the hearing, scheduling, and noticing while avoiding getting into the substance of the subdivision application. He disclosed that on the morning of February 6, 2018 he had a phone conversation with John M. Soininen of Ipswich, MA (who owns a parcel in the vicinity of the property in question) and, again, tried to avoid discussing the substance of the subdivision application and was forced to end the conversation to avoid that discussion. Mr. Soininen has also sent a letter of concern to the DRB that will be read into the minutes.

Paul defined "interested persons" for participants and read aloud 24 VSA, § 4465.

The findings of fact were then reviewed after Paul noted that Findings of Fact are considered drafts, pending the comments, actions, and amendments during the hearing, and become finalized only thereafter in conjunction with the DRB's decision.

**Findings of Fact:**

The 25-acre property (Parcel 037-0375) is situated in Sutton off Wood Hill Road.

The current zoning map shows the property as being in the Working Lands District (Table 205.05 of Sutton Unified Development Bylaws, March 7, 2017 revision). The purpose of this District is:

“The purpose of the Working Lands District is to preserve Sutton’s unfragmented tracts of land with agricultural and silvicultural value that can provide a sustainable economic return and contribute to the local economy. This district allows for some limited residential development, while stabilizing Sutton’s remaining agricultural and silvicultural lands by protecting them from fragmentation that would impair their continued viability as working lands. The lands in this district have restricted access to public roads, are important for wildlife habitat, have one or more physical space limitations to development, and include significant natural, recreational, agricultural, and scenic resources. Planned unit development based on the lot’s overall yield is encouraged in this district in order to preserve and protect Sutton’s working lands. All other forms of development shall be done in accordance with Sutton’s density-based standards.”

Minimum lot area and dimension requirement in the Working Lands District is as follows:

Lot area	1 acre
Road frontage	200 feet
Setback from center of road	75 feet
Setback from side and rear lot lines	25 feet

Applicant has notified abutting landowners in writing of plans and apprised them of the date/time of the public hearing. In order to provide a 15-day advance notice to abutters, a correction was sent January 16<sup>th</sup> noting that the hearing had been rescheduled for Tuesday February 6, 2018 at 6 pm. The meeting notice was also published in the *Caledonian-Record* January 23<sup>rd</sup> and 25<sup>th</sup> and the hearing was posted within view of the property from a public right of way and in three public places in Sutton on January 22<sup>nd</sup> as required by law.

The original application/maps and the required fee of \$50 was submitted to the Town Clerk’s Office by letter dated December 21st, 2017. Original letters to abutting landowners were not timely and a second mailing, based on the Sutton tax map, was made January 16<sup>th</sup>, 2018. John Soininen emailed a letter January 16<sup>th</sup> expressing multiple concerns about the proposed subdivision and followed up by telephoning Board Chair Paul Brouha who discussed his concerns with him. He did so again on February 6<sup>th</sup> after having emailed a second letter of concerns with three persons signing. Finally, because the tax map provided to VELCO was not current, the application and meeting notice was emailed to abutter Bill Egan on January 24<sup>th</sup> after he requested it.

The original lot is 25 acres and VELCO proposes to create two lots—A one-acre parcel connected to Wood Hill Road by a 50-foot right-of-way and a second parcel which is the remaining 24 acres.

Because the 250-foot VELCO transmission line right-of-way cuts through the forested property and precludes management of the trees underneath, the original parcel does not qualify for Current Use. See page 99 of the following:

[http://fpr.vermont.gov/sites/fpr/files/Forest\\_and\\_Forestry/Your\\_Woods/Library/UVA%20Manua171814.pdf](http://fpr.vermont.gov/sites/fpr/files/Forest_and_Forestry/Your_Woods/Library/UVA%20Manua171814.pdf)

In accordance with Sutton’s density-based standards, the 10-acre minimum/residence lot density

standard applies—see Section 205.05 (lines 48-51) of Sutton Unified Development Bylaw, adopted March 7, 2017.

Despite the proposed parcel not having the required 200 feet frontage on Wood Hill Road, a right-of-way to the parcel 50 feet in width is proposed as required by Section 302 of Sutton Unified Development Bylaw, adopted March 7, 2017.

There is an un-landed camp on the proposed one-acre parcel for which a zoning permit was applied on September 18, 1980.

VELCO, as manager of the Vermont Transco system, is the unrestricted owner of the property and has the authority to apply to subdivide the property.

The meeting then moved on to a summary of the application history and review of the application. Paul asked Ms. Fogg to describe what VELCO proposes in regards to the boundaries and shape of the lot. Ms. Fogg stated that the shape of the one-acre lot is unimportant to VELCO. Ms. Fogg explained that the image/sketch previously provided by VELCO represents only an acre subdivided and was not meant to convey exact shape or location. Paul informed Ms. Fogg it is VELCO's prerogative to decide the shape of the lot based on whatever considerations they wish. Ms. Fogg submitted an updated image/sketch and stated that the lot boundary would be pushed to the road, creating the necessary frontage, eliminating an inaccessible 10 feet-wide sliver of land, and obviating the need for a right of way. Next, Paul reviewed the requirements for a subdivision application and the DRB deemed the application complete.

Having forgotten to do so, Paul then swore in Ms. Fogg and Larry Francis as interested parties.

Paul then asked Ms. Fogg if she wished to make any additional comments about the application on behalf of VELCO. She said she had no further comments but did want to disclose that she had had conversation with John Soininen, who called her on January 24, 2018, and that William H. Egan had emailed her. The Board had no questions for Ms. Fogg. Paul then asked Larry Francis if he had any comments. Larry offered that the camp on the acre being subdivided is enjoyed by his extended family, that he always asks permission to hunt on adjacent land, that he thought he had a good relationship with his neighbors and the fact that any are displeased with his presence comes as a surprise to him. He stated he had purchased the unlanded camp in 2015, has paid taxes on it, and he does not plan to change its use. He is aware he must notify the Town of Sutton before he proposes changes by applying for a permit.

Paul then noted that the camp on the acre is an existing non-conforming structure which is “grandfathered” and its use may be continued indefinitely as long as no changes are made to increase the degree of non-conformance. For the sake of clarification Paul then read Bylaws Section 603 describing the governance of non-conforming structures.

Paul then shared with participants a letter of concern from William H. Egan of Fort Mill, SC, Adelaide M. Grady of Carlisle, MA, and John M. Soininen, who he considers interested parties. All participants were given a copy, and Brandon read the letter aloud. At 6:40, shortly after Brandon began reading, John Soininen’s father, Thomas Soininen (who lives in the vicinity), arrived and stated his son had asked him to attend to be sure the letter was read. There were no questions or comments about the letter. Paul informed Tom that the DRB was acting on the new image/sketch provided by VELCO,

which includes the required road frontage.

Paul then entertained a motion to close the public portion of the hearing and go into deliberative session. He explained for participants the differences between deliberative and executive sessions. The motion was made by Chip and seconded by Lucien. There being no further discussion, the motion passed.

During the deliberative session the DRB unanimously authorized Paul to present the Board's findings and proposed decision to Laura Wilson, Town of Sutton attorney, for review. The Board voted to recess until February 13<sup>th</sup> at 6:00 pm while she reviews the findings and makes recommendations. The deliberative session then ended.

There was no new business, so the Board resumed discussion on the size of signs present in Sutton and what the maximum allowable size should be. Paul contacted Sign Depot in Lyndonville about shrinking the proposed new sign for the Sutton School and was informed the cost would be \$225.00. Paul noted he had passed this information along to School Board Chair Hayden Tanner, who will bring it to the next School Board meeting. Paul moved the DRB reconsider Darlene's motion about sign size. Chip seconded, and the motion carried. Darlene then moved to leave the maximum sign size as it presently is and remedy the nonconforming signs through other avenues. Chip seconded the motion. There was no discussion and the motion carried.

Lucien moved the adjourn. Chip seconded. There was no discussion and the Board adjourned at 7:45 P.M.

These minutes prepared by Brandon Mazur, clerk