

**TOWN OF PEACHAM**  
**Development Review Board**  
**Subdivision Review**  
**Findings and Decision**

**In re: Rachel Howland**  
**Permit Application No. 12-19**

**INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves review of an application for subdivision of land submitted by Rachel Howland for subdivision approval under the Town of Peacham Bylaws.
2. The application and plat were received at Town Office on August 26, 2019. A copy of the application and plat were available at Peacham Town Offices.
3. On October 22, 2019 notice of a public hearing was published in the Caledonian Record.
4. On October 22, 2019 a notice of a public hearing was posted at the following places:
  - a. The Peacham municipal clerk's office.
  - b. Peacham Library
  - c. Peacham Elementary School
5. On October 22, 2019, a copy of the notice of a public hearing was mailed to the applicant and to the following owners of properties adjoining the property subject to the application [see certified mail receipts in folder]: George Wagner, Aline Ordman, W Bailey III, George Charron, Greg and Barbara Schoolcraft, and State of VT Dept of Forest and Parks.
6. The application and plat were considered by the development review board at a public hearing on November 7, 2019. The development review board reviewed the application and proposed survey plat under the Town of Peacham Subdivision Regulations Section 417.1 as adopted January 28, 2017.
7. Present at the hearing were the following: Members of the development review board: Nicholas Comerci-Chair, Greg Schoolcraft, Matt Kempton, and Marilyn Magnus. Applicant: Rachel Howland with her attorney Kimberly Butler. Zoning Administrator: Bob Hanson.
8. At the outset of the hearing, the development review board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. Interested persons noted: None but applicant. No written comments were received by the board from other interested persons
9. Discussion as to any conflict of interest as defined by DRB Policy Section III in reference to Greg Schoolcraft who is an abutter to the property. All agreed no conflict of interest existed. No ExParte Communication noted for any members.

10. During the course of the hearing the following exhibits were submitted to the development review board:

Application and list of abutters, application cover letter from attorney Kimberly Butler dated August 21, 2019, Subdivision Survey and Plot Plan by Truline Land Surveyors dated 8/1/2019, Dufresne-Henry Engineering Wastewater Disposal System plans for Lots 1 and 2, VT Agency of Natural Resources Subdivision Permit Case No EC-7-1335 with Notice of Permit Recording letter.

These exhibits are available at: Peacham Town Offices.

## **FINDINGS**

Based on the application, testimony, exhibits, and other evidence the development review board makes the following findings:

1. The applicant seeks a permit to subdivide land. The subject property is a 9.32 acre parcel. This parcel was previously subdivided from a larger 18.6 acre parcel with approval of that subdivision application # 24-07 occurring on January 8, 2008. This proposal is to subdivide the subject property into three lots, a 3.10 acre parcel with existing camper referred to as Lot 1, a 1.84 acre undeveloped lot referred to as Lot 2 and a 4.38 acre undeveloped lot referred to as Lot 3.
2. The proposed subdivision Lots 1 and 2 are located in the Shoreland One (SL1) district and Lot 3 is in both the Shoreland One and Rural District (RD) districts as described on the Town of Peacham Zoning Maps on record at the Town of Peacham municipal office and section 302 of the Zoning Bylaw.
3. Lots 1 and 2 meet minimum lot requirement for SL1 with frontage on Martins pond of 250' and 150' +- respectively. A legal ROW will also be recorded across Lot 1 from the existing drive to access Lot 2 providing legal ground drive access. Lot 3 meets minimum lot requirements for SL1 with frontage on pond of 113' and also RD with 382' along Widow Jennison Road which has a demonstrated nonexclusive right of use for ingress and egress. All lots meet minimum lot size for applicable districts.
4. Subdivision approval is requested for the project pursuant to review under the following sections of the Town of Peacham Subdivision Regulations: A subdivision will be considered a conditional use and follow the same procedure as in section 802.
5. General Standards of Review in section 802.1 and Supplemental Considerations in section 802.2 have been met with the following conditions being noted:

Lots 1 and 2 will follow State of Vermont Agency of Natural Resources Case # EC-7-1335 permit and referenced associated plans for development of the wastewater systems.

No wastewater plan meeting state of Vermont requirements for the unimproved Lot 3 has been submitted. See conditions below.

## **CONCLUSIONS:**

### **601.1: General Standards of Review**

601.1(A) The Capacity of Existing or Planned Community Facilities.

- 1) The project shall not result in undue impacts on the municipal water supply.
- 2) The project will not cause other undue impacts on the municipality, including public, quasi-public and private providers to provide services or facilities, and further including but not limited to education, fire protection, emergency services, health services, recreation, waste disposal and recycling.

601.1(B) The Character of the Area Affected.

- 1) The proposed project, by its nature, scale, appearance or operation will not adversely change the character of the potentially affected area as it exists or as the area is projected to exist in the municipal land use plan and the zoning by-law in effect.

601.1 (C) Traffic on Roads and Highways in the Vicinity.

- 1) The project will not significantly reduce the safety of existing pedestrian, vehicular or recreational uses of the highways affected.
- 2) The proposed use will not exhaust or exceed the physical capacity of the affected highway. In general, the project shall not substantially overburden the municipality in providing adequate highway construction and maintenance services.

601.1 (D) Bylaws Then in Effect

- 1) The proposed subdivision will comply with the bylaws and regulations adopted at the time of submission of the application.

601.1 (E) Utilization of Renewable Energy Resources.

- 1) No renewable energy resources are proposed.

### **601.2: Supplemental Considerations**

601.2 (A) Economic benefit.

- 1) Economic benefit not applicable

601.2 (B) Minimum lot size, width and building setbacks.

- 1) Requirements for both SL1 and RD are met.

601.2 (C) Air/water/noise/light pollution and soil erosion.

- 1) The subdivision will not adversely effect or exceed the intrinsic or inherent capability of the land to support the use.
- 2) The development will not result in groundwater or surface water pollution or cause an undue impact on air quality nor cause undue noise or light pollution or soil erosion.
- 3) No impacts will be made regarding the nature of soils and topography, proximity to streams, aquifer recharge areas, groundwater table and flood plains and to storm water runoff and drainage. No impacts to the natural terrain, shorelines of lakes and streams, retention of vegetation and erosion control. The Vermont Shoreland Protection Act will guide development of all lots
- 4) Landscape plan not applicable
- 5) Hours of operation not applicable

601.2 (D) Wildlife habitat, agricultural and forest resources.

- 1) No known impacts to critical habitats including but not necessarily limited to deer yards, wetlands, endangered or threatened species habitats and stream and shoreline corridors.
- 2) No impact to the viability and productivity of agricultural resources.

601.2 (E) Off-Street parking vehicular and pedestrian traffic. – not applicable

601.2 (F) Lighting, signs and fences.

1) No lighting or fencing proposed.

### **DECISION AND CONDITIONS**

The Development Review Board (DRB) met in session on November 7, 2019 and considered the project.

Based upon these findings, and subject to the conditions set forth below, the development review board grants the application for Rachel Howland.

As conditioned, the proposed subdivision meets the requirements of Sections 417 and 802 of the Subdivision Regulations.

The Development review board approves the application and draft plat subject to the following conditions:

1 – No wastewater plan meeting state of Vermont requirements for the unimproved Lot 3 has been submitted. If no plan is submitted and approved by the state of Vermont prior to filling of new deed then Vermont law states that any unimproved lot created by an act of subdivision that occurs on or after January 1, 2007 be exempt from a permit provided that the deed that is recorded and indexed, that describes the affected property contain the following language: “Notice of permit requirements. In order to comply with applicable state Rules concerning potable water supplies and wastewater systems, a person shall not construct or erect any structure or building on the lot of land described in this deed if the use or useful occupancy of that structure or building will require the installation of or connection to a potable water supply or wastewater system, without first complying with the applicable Rules and obtaining any required permit. Any person who owns this property acknowledges that this lot may not be able to meet state standards for a potable water supply or wastewater system and therefore this lot may not be able to be improved.

The vote was unanimous to approve the application on November 7, 2019 with the above conditions

The approval of the development review board shall expire 180 days from the date of this decision, unless the approved plat is duly filed or recorded in the office of the municipal clerk.

Written decision dated at Peacham, Vermont, this 19th day of November 2019.  
Nicholas Comerci, Chair

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) 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.