

TOWN OF PEACHAM
Development Review Board
Hearing to Consider

Hensley Subdivision Application 5-20, 464 Peacham-Danville Rd.

INTRODUCTION AND PROCEDURAL HISTORY

1. The hearing is to review an application for subdivision of land submitted by **Penny K. Hensley**.
2. The application was received at Town Office on June 1, 2020, and transmitted to the Zoning Administrator on June 1, 2020. The revised application was referred to Development Review Board on July 13, 2020. A copy of the application and site information was available at Peacham Town Offices.
3. On August 29, 2020, notice of a public hearing was published in the *Caledonian Record*.
4. On August 28, 2020, notice of a public hearing was posted at the following places:
 1. The Peacham municipal clerk's office,
 2. Peacham Library,
 3. Peacham Elementary School,
 4. Peacham town website.
5. On August 29, 2020, a copy of the notice of a public hearing was mailed to the applicant and to the following adjoining property owners: John Dawson Family Trust; Homer Buick and Virginia Bell; Shirley Gaynor; Raymond Raynor; Michael Heath and Laura Emmons; Ronald Bauer; and Earnest and Claire Shatney.
6. The application was considered at a public hearing on September 21, 2020. The subdivision application was reviewed under the *Town of Peacham, Vermont Zoning and Flood Hazard Regulations* adopted February 28, 2017.
7. Present at the hearing were the following: Bob Hansen, Peacham Zoning Administrator, and the members of the Peacham Development Review Board: Rusty Barber, Chair, Matt Kempton, Morris McCain, and Rick Scholes.
8. Others wishing to achieve status as an interested person were given the opportunity, under 24 V.S.A. § 4465(b), to demonstrate that they met the criteria set forth in the statute. One interested person was present: Tom Giroux.
9. During the course of the hearing the following exhibits were submitted: the Application, a proposed site survey prepared by Sunwise Surveying dated June 2020, an aerial photograph indicating adjacent property owners, and a Water and Sewer Plot Plan, prepared by Keith Johnson, indicating a replacement septic design for the existing house.

TOWN OF PEACHAM

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 the 14.62-acre property at 464 Peacham-Danville Road, Parcel 00119, into two parcels.
 - a. A 2.54-acre parcel with the existing house, bounded by a 525.5-foot frontage along the Peacham-Danville Road, and by a 480.4-foot frontage along the East Peacham Road.
 - b. A 12.08-acre unimproved parcel, bounded by a 534' frontage along Peacham-Danville Road and by a very long frontage along East Peacham Road.
2. A subdivision shall be considered a conditional use and follow the same procedure as in *Section 801: Site Plan Review*.
3. Both parcels meet the 2-acre minimum lot size and 200-foot minimum road frontage requirements in *Section 302, Rural District (RD)*.
4. No information was provided indicating setbacks for the house. In referring to the site survey, it appears that setbacks for the house exceed the requirements of the zoning regulations.
5. The existing house on the 2.54-acre lot is less than 500 feet from the new property boundary and a Water and Sewer Plot Plan, prepared by Keith Johnson, indicating a replacement septic design for the existing house is included with the application.
6. No wastewater plan that meets State of Vermont requirements for the unimproved lot has been submitted.

CONCLUSIONS

802.1: General Standards of Review

- (A) The Capacity of Existing or Planned Community Facilities.
 - 1) The project will not result in undue impacts on the municipal water supply.
 - 2) The project will not cause other undue impacts on the municipality including but not limited to education, fire protection, emergency services, health services, recreation, waste disposal, and recycling.
- (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.
- (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.

TOWN OF PEACHAM

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.

(D) Bylaws Then in Effect.

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

(E) Utilization of Renewable Energy Resources.

1) No renewable energy resources are proposed.

802.2: Supplemental Considerations

(A) Economic benefit.

1) None.

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

1) Requirements for Rural District are met.

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

1) The conditional use will not adversely affect 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. There is no known potential pollution source that will impact adjacent properties.

4) Landscape plan not applicable

5) Hours of operation not applicable

(D) Wildlife habitat, agricultural and forest resources.

1) No known impacts to critical habitats was noted.

2) No impact to agricultural resources was noted.

(E) Off-Street parking vehicular and pedestrian traffic.

1) Residential off street parking is available.

(F) Lighting, signs and fences.

1) No adverse lighting or fencing proposed.

General Standards of Review in Section 802.1 and Supplemental Considerations in Section 802.2 have been met.

DECISION AND CONDITIONS

The Development Review Board conducted public deliberations at the conclusion of the hearing.

Based upon the Findings, and Conclusions, but subject to the condition set forth below, the Development Review Board grants the application for Penny K. Hensley.

The proposed subdivision meets the requirements of *Section 417: Subdivision of Land* of the zoning regulations.

TOWN OF PEACHAM

The application is subject to the following condition:

No wastewater plan meeting state of Vermont requirements for the unimproved lot 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 contains 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.

The approval of the subdivision will expire 180 days from the date of this decision, unless the approved site survey is duly recorded in the office of the town clerk.

Dated at Peacham, Vermont this 28th day of September 2020.

Rusty Barber, Chair

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