

**Town of Middlebury
Development Review Board (DRB)
Meeting/Hearing conducted in person and online via Zoom
Minutes of October 25, 2021**

Approved as corrected 4/25/2022

Members Present: David Hamilton, Chair, Gary Baker, Rick Emilo, Jason Larocque (alt) via Zoom, Kevin Newton, Anne Taylor (Zoom) and Mark Wilch

Members Absent: John MacIntyre

Staff Present: Jennifer Murray, Dave Wetmore

Others Present: Keith Franklin, Kimberly Franklin, David Guilani and Sylviane Acker

MEETING AGENDA

1. Application (file #2021-07:006.001-SD) request by Keith Franklin for final 2-lot subdivision approval of parcel #007006.001. The Franklin property is located on Gardiner Close (a private road off Middle Road in the Medium Density Residential (MDR) district.

I. Call to Order- David Hamilton, DRB Chair, called the meeting to order at 7:00 pm. David reviewed the agenda. DRB members introduced themselves. Chat feature on Zoom is set to allow one to visit with host only (Jennifer Murray).

II. Approval of minutes-

Motion by Gary Baker- Gary moved to approve the minutes of August 9, 2021 as drafted, 2nd by Mark Wilch. Discussion- None, **Motion to approve minutes, 5 yes, 0-no- David and Jason abstained**

III. Public Hearing business

1. Application (file #2021-07:006.001-SD) request by Keith Franklin for final 2-lot subdivision approval of parcel #007006.001. The Franklin property is located on Gardiner Close (a private road off Middle Road in the Medium Density Residential (MDR) district.

David Hamilton – opened the hearing, read warning and asked if any DRB member had a conflict of interest and/or ex-parte communications regarding this application- none expressed. David acknowledged that Jason will act as a voting DRB member tonight in John’s absence.

David- administered the oath to Keith Franklin (owner/applicant), Kimberly Franklin, and neighbors Sylviane Acker and David Guilani and staff Jennifer Murray and David Wetmore. Recording was started.

~~Kevin-David-~~ invited Mr. Franklin to present his subdivision plans.

Keith Franklin- explained that he had bought 10 acre parcel in the early 2000’s with the plan to subdivide the property and keep a lot for his own home. Lot #1, which Ms. Acker owns was created in 2005 and lot #3 was created in 2007. Remaining lot #2 (4.18 acres) is owned by Mr. Franklin and he is now proposing to subdivide the lot into two parcels. The survey shows that lot #2 will be a 2.93 acre parcel and new lot #4 will be 1.25 acres. It is anticipated that both lots #2 and #4 will be developed with single family homes. Lot #4 will be purchased by Keith’s sister, Kimberly Franklin. Lots 1 and 3 are developed with single family homes. The road “Gardiner Close” was built in 2005, the 6-inch sewer line and 3 water lines are located

along the road. At this time Gardiner Close is part of lot #2, and that lots 1 and 3 have a deeded easement to use the access.

David H.- opened to DRB questions.

David H.- Observed that there is no building envelope identified for either lots 2 or #4, except the setbacks from property line. Dave asked if there are any wetlands or Flood Hazard Areas (FHA) associated with lot #2 or 4? Dave expressed that the Regulations require there to be a building envelope for each lot. Keith showed where homes on lots #2 and 4 will likely be located. Keith will ask Don Johnson, land surveyor who prepared the draft SD survey, to show the building envelopes. As for wetlands and FHA, Keith expressed that these resources are not located anywhere near where homes would be built.

Staff comments:

Dave Wetmore- This development and Gardiner Close was developed at about the time the South Ridge development (MRV) was started. Dave spoke to the facts regarding amended Potable water and wastewater (WW) as well as Stormwater. The Town does not inspect the property for stormwater. It would be the developers/contractors responsibility to address stormwater management on the property at the time development and/or improvements are made. Mr. Franklin is working with Spencer Harris (Site technician) to comply with WW permitting. Dave spoke with him today and he is aware that amended WW permitting is required and perhaps State Stormwater permits as the amount of impervious area will be increasing. Mr. Harris expressed that the existing 6-inch sewer line is adequate to serve both lots 2 and 4. Currently, there are three ¾ inch lines installed to serve lots 1, 2 and 3. Whether the ¾ inch line serving lot #2 can also serve lot 4 will need to be determined.

Dave noted that Ms. Acker's deed and the Altemose's outlines the minimum standard Gardiner Close was built to and how the responsibility for its maintenance will be shared. Dave also talked with Steve Heffernan, the contractor who built the road. Steve confirmed that the road conforms to the B-71 standard and that the 14 inch base is built mostly from the blasted rock from lot #2. 2+ inches of top dressing was added as well. Mr. Heffernan could not speak to the top width of the Road. Improvements may need to be made to ensure access for fire and rescue vehicles.

DRB- asked if Thomas and Jackie Sullivan have access to Gardiner Close? Keith noted that he had been contacted by the Sullivan's but at this time they have no deeded access to Gardiner Close.

Mark Wilch- asked for confirmation regarding the number of lots being requested. Applicant confirmed that they are requesting to subdivide lot #2 into two parcels. Mark asked whether Gardiner Close will need to be expanded/upgraded. Mr. Franklin explained that Gardiner Close extends up to lots 2 and 3 and that the road will not need to be expanded to serve lot #4.

David H.- opened the hearing to the public for questions/comments.

Sylviane Acker- expressed that she is having difficulty hearing the presenters and asked for a copy of the minutes. Ms. Acker objects to the proposed SD based on the wildlife corridor that seems to exist through the entire area. She has seen and know that bear, deer, fox, turkey and black squirrels have used the property. She also noted she improved Gardiner Close recently, at her expense, from her home to the intersection with Middle Road. She did not ask the Altemose' to share in the cost. She is concerned moving forward that increased use of Gardiner Close will result in more maintenance and stormwater runoff onto her property and who will be responsible?

David H.- asked if Dave Guilani and Kimberly Franklin had any comments/concerns- none expressed

Keith Franklin- responds to the concerns that have been raised. He is willing to improve Gardiner Close where required including ensuring access for fire and rescue vehicles. Further, he expressed that the transfer deeds outline how maintenance will be shared- all residential structures will share equally the cost of maintenance. It would be good for residents/property owners along Gardiner Close to develop an HOA to continue maintenance of Gardiner Close, shared sewer line and stormwater infrastructure. As for wildlife concerns, this area is zoned Medium Density Residential (MDR) and the district objective is centered on smaller lots with residential and compatible uses. Keith shared that reducing the size of the building envelope will limit area to be cleared for development and minimize impacts to the wildlife in the area.

David H.- asked if there was any other comments/testimony that needed to be expressed? None shared.

David H.- asked what conditions will need to be reflected in the decision in addition to the standard ones.

1. Reduce building envelopes (BE) on both lot #2 and 4 restricting the area to be cleared and developed for residential purposes. The survey should show the setbacks as well as the BE. The BE should be the smallest area needed to develop a residential use on each lot.
2. Compliance with WW and Stormwater requirements.
3. Improve and upgrade Gardiner Close to comply with Section 705 and provide access and turnaround at end of road for fire and rescue vehicles.

Dave H.-asked if there were more questions/comments- none expressed

Motion by Kevin Newton- I move that the Middlebury Development Review Board, having reviewed the application submitted and having heard and duly considered the testimony presented at the public hearing of October 25, 2021, approve this request for final subdivision approval to create a 2-lot subdivision of existing lot #2 owned by Keith Franklin located on Gardiner Close, subject to the findings and conditions of approval of the written decision and Final Plat signed by the DRB Chair. 2nd by Gary Baker. No discussion- Motion to approve 7-yes and 0-no.

Motion by Gary Baker- I move to close the Franklin hearing closed at 7:45 PM. 2nd by Kevin Newton. Motion to approve, 7 yes and 0-no.

V. Other Business- none

VI. Adjournment

Motion by Mark Wilch- Mark moved the DRB to adjourn at 7:45 PM, 2nd by Gary Baker. **Motion passed, 7-yes, 0-no.** Meeting adjourned at 7:45 PM.

Minutes Submitted by Dave Wetmore