

**TOWN OF ESSEX
DEVELOPMENT REVIEW BOARD
MINUTES
JUNE 5, 2025**

FULL MEETING VIDEO CAN BE VIEWED AT: <https://www.youtube.com/watch?v=aii-JrNWmRo&list=PL6J-DqAq2zEMJgai7p2exGadu3SRosNS3&index=7>

Note: This meeting was held on Zoom.

DEVELOPMENT REVIEW BOARD (DRB) PRESENT IN ROOM: Ian Carroll, Chair; Stephanie Bixby, Clerk; Hubert Norton; Nick Martin; Dustin Bruso and Trefor Williams.

DRB ABSENT DUE TO RECUSAL: Sharon Zukowski, Vice-Chair.

OTHERS PRESENT IN ROOM: Sharon Kelley, Zoning Administrator; Kent Johnson, Planner; Bruce S. Post; Betsy Dunn; Mary Post; John McClellan; Meredith McClellan; Jeffrey P. Kershner; Tom Yandow; Duane Millar-Barlow; Chuck Vile; Paula Duke; Carolyn Lewis; Tom Waters; and Steve, Community T.V.

OTHERS VIRTUALLY: Cheryl Van Epps; L. Whitmore; Mike Allen; Ken; Gina Halpin Barrett; Lorraine Zaloom; Ken Signorello; April Peterson and Irene Wrenner.

AGENDA ITEM 1: CALL TO ORDER: Chairman Carroll called the meeting to order at 6:30 p.m.

AGENDA ITEM 2. ADDITIONS/ CHANGES: None.

AGENDA ITEM 3: APPROVE AGENDA: DRB Member Bruso Moved and DRB Member Martin Seconded a Motion to approve the Agenda. The MOTION passed 6-0.

Chairman Carroll provided the oath to the public.

AGENDA ITEM 4: PUBLIC TO BE HEARD:

Duane Barlow, 12 Rosewood Trail, Essex, VT, stated that DRB Member Bruso's comments at May 29, 2025, DRB hearing were inaccurate when DRB Member Bruso stated that the DRB is limited to review the Zoning Regulations (ZR) and not the Town Plan when reviewing a site plan. Barlow reported that when you look at the Section 5.6 of the Regulations, it lists 4 specific criteria: 1) Conform with the Town Plan; 2) Conform to Regulations; 3) Protect Public health, safety and welfare; and 4) Address outstanding violations. He reported that he raised this concern at the recent Selectboard hearing and they are looking into the matter.

AGENDA ITEM 5: PUBLIC HEARING CONTINUED FROM 5/1/2025 HEARING: John and Meredith McClellan are proposing a 2-lot simple parcel subdivision at 56 Tanglewood Dr (Parcel ID 2-044-059-002) located in the Medium Density Residential (R2) district. Lot 1 will be 3.21 acres and contain the existing single-family home. Lot 2 will be 1.00 acre for future residential development.

Chairman Carroll reminded the audience that the Public Hearing remained open.

Sharon Kelley, Zoning Administrator, noted that the application was continued from the 5/1/25 meeting due to mechanical technical difficulties and the need to include a waiver in the hearing notice. She stated the owners of 56 Tanglewood Drive are proposing a simple parcel subdivision, including a waiver of Subdivision Regulation Section 3.1(D), which requires a second access for a development over 50 dwelling units. Kelley made the following points:

- Subdivision Regulations requiring a second access for developments over 50 dwellings came into effect in September, 1996.
- The Planning Commission approved a 5-lot subdivision to include 2 residential lots on Rosewood Trail and 2 residential lots on Tanglewood Drive, with the remaining 44.7-acre forestry lot conveyed to the TOE. This approval was appealed in 2012 to the Environmental Court over the lack of 2 separate connections into the development. The Court upheld the PC decision.
- She noted some corrections to the report, namely:
 - Line 168, change date to read, 4/21/2005 and comments to read “No comments.”
 - Line 170, change date to read May 30, 2025 (re: Fire Chief Comments.)
 - Lines 172-174, replace with “In an email dated 5/30/2025, the Fire Chief said, “No objection. We only ask that each residence be clearly labeled with their E911 address for ease of locating them in an emergency.”
- She reported that she counted 163 homes in the Birchwood development. A Court decision, as well as waivers were granted to reach this development number.
- She reported the applicants have agreed to a condition as follows: “The applicant shall submit draft deeds for the proposed lot and amended deed for the existing lot for review and approval by the Town Attorney, at the applicant’s expense.
Proposed deed language
- shall include the following language “Each lot is only approved for a single-family structure. No further house(s) or subdivision shall occur on either parcel.”

Jeffrey Kershner, P.E. and John McClellen represented the application. Kershner stated that he met with Aaron Martin of Public Works to review the revised plans. Public Works was satisfied and had no issues with the application.

Kershner and McClellen agreed and confirmed that no further development of the parcel was proposed. Kershner reported that the application meets all the requirements of a subdivision, however they were asking to waive the second access requirement. J. McClellen reported that he has no issue including language

in deeds to each lot that restricts further subdivision or building additional house(s) on either lot.

Chairman Carroll reminded the audience that the Public Hearing remained open,

Duane Miller Barlow, 12 Rosewood Trail, Essex, VT, spoke on the “Municipal Plan: Its Statutory Role and Influence in Site Review. Topics that he touched upon within the report included, but not limited to, Dillon’s Rule; Overview of Municipal Planning and Site Review as Statutory Constructs; The VT Municipal Plan Statutory Foundation and Purpose, Legislative Mandate and Overarching Goals, The Weight of the Plan in Development Review (DRB) Deliberations. He read two sections, as follows:

1) *Some municipalities explicitly incorporate direct plan consistency checks into their review processes. For instance, a Development Review Board checklist from Middlebury includes questions such as, “is the project compatible with objectives of the Town Plan?” and “Does the project comply with and actively further the Town Plan?” as criteria for conditional use review, which often accompanies site plan review.*

2) *As noted above, some municipal bylaws may go further and explicitly require the DRB to consider a project’s consistency with the Municipal Plan as a specific criterion during site plan or conditional use review. In such cases, the plan’s influence is direct.*

Mary Post, 1 Cindy Lane, Essex, VT, stated the rule for two accesses were for a reason and asked that they not approve the application. She provided some past history on the development.

Betsy Dunn, 2 Cindy Lane, urged the DRB to deny the application as the proposal would be a matter of public safety and it contradicts the Town Plan. She stated the Regulations require a second access. She was concerned if a large tree fell and blocked the road, emergency vehicles would not be able to pass. She noted that Public Works is aware that water lines in the development are crumbling and deep ravines are collapsing. She stated the proposal goes against the Town Plan. She concluded that the infrastructure and stormwater is bad.

Bruce Post, 1 Cindy Lane, Essex, VT, noted the former Zoning Administrator said no to a proposal as the project needed to provide a second access. No changes occurred in the development for 10 years, and they received notice for a

development. He said he has no malice, but “a waiver is a waiver.” He stated that the new legislation diminishes public participation and Act 47 brings further development. He noted that he was a part of the court case years ago. DRB Member Bruso stated that he was struggling with Finding 7, which read, “The applicant’s engineer submitted a supplemental letter to the application dated May 2, 2025, addressing the waiver. (See attached letter marked as Exhibit A.)” DRB Member Norton was confused by Bruso’s remarks as he does not see having an attachment as a problem. Bruso explained that the “words are not in the Staff Report” and stated this was a different approach. DRB Member Williams felt an appendix should be okay. Members Martin, Bixby and Chairman Carroll had no issues with an attachment to the report.

After discussion, the DRB determined they should make a formal request to the Planning Commission to exam the existing requirement for a second access for developments proposing 50 homes or more and potential regulatory changes.

Chairman Carroll re-administered the oath to late arrivers.

Lorraine ZaLoom noted that the development connected to Sand Hill Road and was concerned about added traffic. She requested the DRB not hand out waivers like candy and deny the application. DRB Member Norton took umbrage to this statement, stating that “It is not true that the Development Review Board just hands out waivers.”

Carolyn Lewis, 3 Cindy Lane, Essex, VT, supports a denial of the application and asked, “When will it end as the development is already compromised.”

Mary Post, 1 Cindy Lane, Essex, VT, is getting “more and more concerned” about the second access and waivers. She is concerned about the following:

- An ambulance not being able to gain access.
- If a tree fell and an emergency vehicle could not gain access.
- The DRB is blasé and not thinking ahead.
- They need to go by the rules and there needs to be a second access.
- Existing infrastructure is failing.
- A sink hole is on Tanglewood/Cindy Lane.
- She faithfully goes to meetings and said, “Please give a second access.”

Duane Millar-Barlow, 12 Rosewood Trail, requested that the DRB think of “the safety of the citizens” and if the town gets sued, the public is on the record saying, “No.” He hoped that people would come away from the meeting feeling listened to and that they matter.

Tom Yandow, Linden Lane, said, “ I love to serve my community and has also served as a firefighter. He stated that he owns 3 chainsaws and a person living in his house

works for Public Works. He noted that Tanglewood Drive is the largest road that serves a development. He listed the following developments that have more than 50 homes with only 1 access, Saybrook, Lang Farm, Bixby Hill, Foster Road, Corporate Drive, Allen Martin Parkway, Sunset Drive, Price Chopper, Morse Drive, Royal Park, Elsa Lane, to name a few. He stated that the Fire Department “Will get there no matter what” and “We need houses in Essex.” He noted houses sell for \$522,000.00 and his kids, as well as most others, can’t afford to purchase a house in Essex.

Mary Post told the DRB to “stick to what we want for our neighborhood.”

DRB Member Norton felt the comment was “kind of nasty” and said, “careful what you wish for as a second access will change the traffic.”

Board Member Bruso Moved and Board Member Williams Seconded a MOTION to close the Public Hearing. The Motion passed 6-0.

DRB Member Norton made the following points:

- He has been involved in heavy storms, and it does not matter if there is a second access or not.
- Comments on access are subjective and there is no hard evidence.
- The reason for 50 houses is arbitrary and asked why 50, not 10, etc.
- The Regulations list 50 as the cap, he is going with 50.

He noted that every lot in Birchwood has an opportunity for an accessory dwelling unit. The population can increase in this area.

He noted that the State of VT is relaxing the rules in order to create living units.

DRB Member Bruso asked to insert the last paragraph on the third page of the engineer’s letter as the language explains why a waiver is appropriate. He noted that the house limit was already exceeded in 2005/2006. He does not believe the application should be denied and the DRB should address the second access requirement promptly.

DRB Members Williams & Martin agree with DRB Member Bruso. DRB Member Martin stated that it was shocking that the development has been allowed to grow with a 50-unit limitation. DRB Bruso asked when this regulation came into effect. Kelley replied in September, 1996.

DRB Member Bixby agreed with Norton and asked at what point does the increases stop. A brief discussion ensued amongst the members. Bruso pointed out that the waiver allowed for the increases. He felt the Planning Commission needed to narrow down the waiver language.

Board Member Bruso Moved to approve the 2-lot subdivision, with the following edits:

210 On Line 52, insert the language found in the application, (a thru j); and Page 3
211 paragraph (ending with Town Plan or Zoning Regulations.

212 Line 246, Finding 16, add: "The DRB accepts the waiver request and is supported by
213 staff and town departments, however acceptance is not unanimous."

214 **The Motion passed 4-2 (Norton & Bixby voted no.)**

215 DRB Member Bixby asked staff to have the Planning Commission look at the 50-unit
216 requirement and steep slopes.

217 **AGENDA ITEM 6: May 1, 2025 Minutes:**

218 **Board Member Norton Moved and Board Member Bixby Seconded a Motion to**
219 **approve the 5/1/2025 minutes as written. The Motion passed 6-0.**

220 **AGENDA ITEM 7: OTHER BUSINESS:**

221 Board Member Norton asked that when the Chair provides the public oath, to read it as
222 noted in the Operating Procedures. He stated the "mass oath" felt foolish and
223 suggested that the oath be given to each person as they testify.

224 Board Member Martin stated that the meetings should start at 6:00 p.m.

225 Paula Duke thinks the State is being extremely short sighted in adding units, especially
226 in smaller housing developments.

227 The Meeting adjourned at 8:21 p.m.

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DEVELOPMENT REVIEW BOARD

By: _____

Ian Carroll, Chair

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