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MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
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Minutes of December 10, 2009

Members Present: Gary Nolan (Chairman), Karyn Allen, Paul Trudell, Ron Stancliff, Theresa Breault, Chris Wiltshire, Brian Irwin (alternate)

Members Absent: Jean Wickart

Recorder: Mark Leonard, Zoning Administrator (ZA)

Chairman Nolan called the public meeting to order at 7:30 PM. On a motion by Theresa, seconded by Karyn, minutes of the October 22, 2009 meeting were approved as presented.

WARNED HEARING: JERRY UPTON, EXPANSION OF CONDITIONAL USE (ADD USED CAR SALES), 128 PLEASANT STREET

Gary introduced the application, to be reviewed under sections 208g, 453, 483, & 632-636 of the zoning & subdivision bylaws. Theresa administered the sworn oath to Jerry & Beth Upton, Community Development Coordinator Heidi Krantz, and Heather Sargent, representing the Morrisville Alliance for Culture & Commerce (MACC).

Jerry proposes to add used car sales to his previously approved auto repair business at the foot of Pleasant Street, on property he leases from Jeff Emerson. He plans to have no more than six vehicles for sale at a given time, in addition to no more than six vehicles awaiting service. He does not plan any additional employees or exterior changes to the structure.

The ZA advised that there are two separate rights of way (ROW) permitting use by Jeff Emerson on adjoining property along the former Lamoille Valley Railroad property (owned by the state; leased to VAST). One right of way is granted by Morrisville Lumber; the other by the state Agency of Transportation. Both involve the area currently used by Jerry and other tenants of the Emerson property for vehicle storage/parking.

Gary read an email from AOT to the ZA addressing its ROW lease to Jeff Emerson, as well as a letter from Jeff to Jerry outlining his expectations for the proposed used car sales.

Chris asked Jerry how long he had been operating at this location; Jerry said about six years. Chris asked if Jerry was familiar with the restrictions & requirements for auto repair & sales established in section 483 of the zoning bylaws; Jerry said he was & complies with them.

Heidi Krantz shared the ongoing community development plans she & MACC have been making for the redevelopment & improvement of the area around the Emerson properties. The state-owned land along the former railroad route has been designated a parking lot for a trail head

to be established at this location. The Town has obtained a grant for sidewalk improvements along the west side of Pleasant Street extending down to the rail trail, with work to begin next spring. She expects increased pedestrian, bicycle, & motor vehicle traffic when the sidewalk extension and rail trail are completed.

Heidi said that auto sales is not a use typically found in the central village area of most Vermont towns, more typically being found in the outlying areas of the central village. She noted that this location is at the mid-point of the planned rail trail; with a trail head here, there is a lot of potential for economic development in this area.

Heather Sargent said MACC and others groups have been planning for the redevelopment of this area for a number of years and are just beginning to see some of the projects, like the rail trail & sidewalk extension, envisioned in those plans coming to fruition. She urged the Board to take a more deliberative approach to requests for any new, permanent uses in this area, carefully considering their impact on the overall plan.

Jerry said he had not been consulted by any group regarding redevelopment plans in the area of his business. He, too, wanted the proposed auto sales display area to look good, both for his business and the common benefit of users in the area. His wife Penny stressed the limited number of vehicles to be displayed (6), saying this would not be what people typically see at a larger used car lot.

Gary inquired about how many other businesses are operating from Jeff's property. The ZA said he thought there were three others.

Paul expressed concern that the proposed use was not compatible with existing & planned downtown businesses & uses. He asked if there would be any landscaping or other visual improvements to the property. Jerry said landscaping was impractical as the whole area is blacktopped. He might consider re-painting the building's exterior.

Paul moved to recess the hearing to a deliberative session following the remaining applications. Theresa seconded the motion and it passed unanimously.

WARNED HEARING: CHAFFEE FARM INC., PRELIMINARY PLAT APPROVAL, 3-LOT SUBDIVISION, CHAFFEE ROAD

Gary introduced the application, to be reviewed under sections 264, 730, 740, 780, & 810 of the zoning & subdivision bylaws. Theresa administered the sworn oath to Angela Ross, representing the applicant. No other interested parties were present; adjoining property owners Neel & McCormick submitted written comments (via email) regarding the application.

Angela Ross described the applicant's proposal to subdivide the existing 85.4-acre parcel (#11-076) on Chaffee Road into three lots. Lot 1, containing an existing single-family dwelling, barn, and associated water and wastewater systems, is proposed to be 42.7 acres. Lot 2, 35.4 acres, is currently undeveloped. Lot 3, containing an existing single-family dwelling, sugar house, and associated water and wastewater systems, is proposed to be 7.3 acres. Lots 1 & 3 share a common septic disposal leach field; each lot has its own water supply. All three lots are accessed from Chaffee Road (Town Highway #63). A fifty (50) foot wide deeded right-of-way extends from the end of the public road across the southeastern portion of Lot 1 to the adjoining Lee & McCormick properties

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Paul inquired about road frontage. Angela said there would be approximately 550 feet of frontage along along Chaffee Road.

Paul moved to grant Preliminary Plat approval of the project as presented. Theresa seconded the motion and it passed unanimously.

WARNED HEARING: THEODORE BARNETT, APPEAL OF SUBDIVISION PERMIT NOTICE OF VIOLATION, CARPENTIER FARM ROAD

Gary introduced the appeal, to be reviewed under sections 640 of the zoning & subdivision bylaws. Theresa administered the sworn oath to Roy Marble, representing the Appellant, ZA Mark Leonard, Highway Superintendent Bob Melfy, and adjoining property owner David Fleming.

ZA Leonard reviewed the violation notice alleging that the applicant failed to meet a condition of approval for a six-lot subdivision on what is now Carpentier Farm Road by not constructing the development road to Town road standards. He also reviewed the original subdivision permit approval, granted in 1997.

The ZA said one of the adjoining property owners had claimed that the road, which is privately owned & maintained, was not built to Town road standards as required by the subdivision permit and that the Town would not consider taking it over until it is brought up to specs. Upon receipt of this complaint, the ZA contacted the Highway Superintendent to determine whether the road met standards. When advised that it did not, he issued the violation notice.

Roy Marble, on behalf of the Appellant, asserted that when the road was built some 12 years or so ago that it met the required standards. He said he was not informed by the Highway Superintendent of the latter's recent visual inspection to determine the road's current condition. He conceded that there was no inspection done of the road at that time, or documentation to support his assertion.

Roy said there is an informal property owners association in place to arrange for road maintenance, with the cost shared among the owners, himself included. He stated that over the last 12 years, the road surface has been degraded with use, which could explain why it does not currently meet the Town standard. He said he had no complaints about the road's condition in the last 12 years, speculating that this one came now as some owners were tired of paying for its upkeep. He said the goal of the owners was to eventually repair the road to Town specs and petition the Town to take it over, but that no such request has been made to date.

Gary asked what maintenance issues there were with the road. Roy said the road needs to be graded and the shoulders cleaned up, having become overgrown with vegetation. He said this portion had been re-surfaced with crushed gravel 2-3 years ago.

Ron asked who constructed the road originally; Roy thought it might have been Carroll Lawrence, but didn't know for sure.

David Fleming identified himself as the property owner who had brought this matter to the ZA's attention, requesting that the subdivision permit conditions be enforced. He said when he purchased his lot in 1999 he was told that the subdivision permit required that the road meet Town standards and therefore had the expectation that the road could be turned over to the Town

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at some point. He questioned why the property owners should bear the cost of upgrading the road now when it was the developer's obligation to do so in the first place.

Highway Superintendent Melfy explained the process by which the Town considers taking over a private road. He said they had recently done so with Beacon Hill Road, the road which leads up to Carpentier Farm Road. In the course of considering that request, he & other Town officials had met with Roy Marble, on behalf of the developer (Barnett), several years ago to determine what, if any, improvements would be necessary to bring Beacon Hill Road up to Town standards. They inspected both Beacon Hill Road and Carpentier Farm Road at that time, finding the Carpentier Farm Road segment deficient due to inadequate width, road base, and turnaround space.

Bob said he conducted a visual inspection at the ZA's request that confirmed the road currently did not meet standards. He said if/when the property owners request to turn over the road, he will conduct a more detailed inspection to determine what work would need to be done to bring it up to Town standards.

The ZA said he was obliged to issue the Notice of Violation on the basis of the information available to him. He said he had no way of determining whether the road had, at one time, met Town road standards as required by the subdivision permit. He acknowledged a shortfall in the permit approval process that did not require an inspection at the time the road was constructed.

Gary said he didn't see how the Board could make a determination now on whether the road initially met the required standards. Without such a determination, he would be unable to find the permit in violation.

Theresa moved, and Chris seconded, to dismiss the violation notice for lack of sufficient evidence to support it. The motion passed unanimously.

OTHER BUSINESS:

Gary reviewed and signed the final mylar survey plat for the Chaffee Farm 3-lot subdivision on Chaffee Road.

The Board met in deliberative session on the Upton application. Following the deliberative session, Chris moved to approve the application with the conditions that the approval be reviewed at 1, 3, and 5-year intervals and that the business be specifically limited to no more than six vehicles for sale at any one time. Theresa seconded the motion and it passed with six in favor, one opposed,

The meeting adjourned at 9:25 PM.

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on:

1/14/10