

FILE COPY

**MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
P.O. BOX 748
MORRISVILLE, VT 05661
Phone (802) 888-6373
Fax (802) 888-6378**

Minutes of October 13, 2005

Members Present: Gary Nolan, David Silverman, Carol Jennings, Jean Wickart, Carl Fortune, Theresa Breault

Members Absent: Paul Trudell

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: see attached list

Gary Nolan called the meeting to order at 7:35 PM. On a motion by Jean, seconded by Jean, minutes of the September 22, 2005 meeting were approved.

RECESSED HEARING: RONALD & JUDITH STANCLIFF, 2-LOT SUBDIVISION, STANCLIFF ROAD

Gary introduced the application, to be reviewed under sections 264, 740, 780, 810 of the zoning and subdivision bylaws. A pre-application review of the proposal was conducted on August 25, 2005. A warned hearing held on September 22, 2005 was recessed to provide the applicant the opportunity to respond to questions raised by adjoining property owners. Gary administered the sworn oath to Ron Stancliff, Richard Sargent (representing Ron), William and Phyllis Fitzgerald, Audrey DiPaolo, and Aaron Blake (acting as agent for Ms DiPaolo).

Ron Stancliff presented a revised site plan showing an existing water line crossing the new lot (A2) he proposes to create, a cellar drain pipe from the adjoining Fitzgerald property onto the proposed new lot, the right of way to the DiPaolo property, and the approximate location of buried utility lines along the road frontage of the two proposed lots. He said the water line may no longer be in service as the property it had served now has a well. He said errors in the survey bearings had been corrected.

Ron also presented engineering site plan by Navigator Environmental services depicting the sewage disposal system and well for lot A2 and associated well shields for this lot and the adjoining DiPaolo and Fogg properties. A local septic permit for lot A2 has been issued and a state water & waste water permit is pending.

Ron produced deeds and town tax bills purporting to show his ownership of Joe's Pond, which had been challenged in Aaron Blake's September 22, 2005 letter to the board. He reiterated his intention to conserve the balance of the property, 32 acres including Joe's Pond and

the surrounding wetlands, through a conservation easement to be granted to the Stowe Land Trust. That easement would include a prohibition on snowmobiles on the conserved lands.

Addressing questions raised by Mr Blake regarding the right of way to the Di Paolo property, Ron said the new site plan identifies a right of way to her lot across his property, but does not specify a width. He referenced the 1981 deed, which also does not specify a width. He does not dispute the existence of the right of way, only questions the width. Dick Sargent asked the board if this issue was relevant to the application. Gary responded that it was not, that any dispute over the deed or ownership of the driveway to Ms DiPaolo's property would be a civil matter to be resolved by the courts.

Aaron Blake asked if the existing driveway to the DiPaolo property might also be used to access the conserved lands around Joe's Pond. Ron responded that the land under Ms DiPaolo's driveway remained his, that she has the right to use it, but does not have the right to restrict its use by others. Aaron asked who would own the conserved land and would it continue to be hayed. Ron replied he would retain ownership and that the portion of the existing hay field that remained undeveloped could still be hayed, though he noted that the area is getting to a size where it may not be practical to do so. Aaron again questioned some of the survey marks and points. David said these might be valid questions regarding the accuracy of the survey, but that they were not zoning issues.

Bill Fitzgerald asked where the driveway to the new home site would be located. He was concerned that the driveway might act as dam, preventing storm water from draining away from his house and asked the board to conduct a site walk of the property. Referring to the engineering site plan, Gary noted that the driveway appears to be located in an area that is lower than the Fitzgerald lot, so that any storm water runoff would drain away from the Fitzgerald lot. If necessary, a culvert under the driveway could ensure the existing drainage pattern is not disturbed.

David made a motion to approve the application as presented with the additional condition that any new driveway on Lot A2 does not disturb or otherwise impede storm water drainage from or to the adjoining properties. Jean seconded the motion and it passed unanimously.

WARNED HEARING: ERNIE & TRACY PATNOE, CONDITIONAL USE & SITE PLAN REVIEW, CHILD CARE FACILITY, 1092 PARK STREET

Gary introduced the application, to be reviewed under sections 258, 500, and 630-635 of the zoning and subdivision bylaws. Gary administered the sworn oath to Tracy and Ernie Patnoe and Robin Williams (current property owner).

Tracy Patnoe detailed their plans to convert the existing single-family home at 1092 Park Street, along Route 15A, into a year-round child care facility, serving children from age 6 weeks to 12 years. She noted that their application stated that they were seeking approval for the child care center and a one-bedroom apartment, but that they were now amending their application to delete the apartment.

The center would be staffed by seven full-time and one part-time employees and would normally serve 34 children, but that they would be licensed for up to 45 children. The location

has been inspected by Labor & Industry and the state child care licensing agency and found to meet all relevant requirements, or will once interior renovations are completed.

Tracy said the center would operate weekdays from 7:00AM to 5:00PM, with most drop-offs occurring between 7:30-8:00AM. There would be parking for ten vehicles, with most customers making very brief stops to drop off or pick up their children. Ernie said the state Agency of Transportation had visited the site and found that the existing single access point onto Route 15A provided good sight distance in both directions.

Gary asked how many children are served at the Jersey Heights child care center, for comparison. Tracy said she believed they were licensed for up to 40 children.

Theresa asked if any new exterior lighting was envisioned. Tracy said no, with Robin Williams noting there already were existing exterior lights.

David moved, and Theresa seconded, to approve the application with standard conditions. The motion passed unanimously.

**RECESSED HEARING: KENFIELD BROOK PROPERTIES LLC, LOT LINE
ADJUSTMENT AND PRELIMINARY PLAT APPROVAL, 6-LOT SUBDIVISION,
STAGECOACH ROAD**

Gary reviewed the application, which had been recessed on September 22, 2005. He explained that a separate application had been submitted for a lot line adjustment of the two adjoining parcels owned by Kenfield Brook Properties, which would be addressed before resuming the hearing on the proposed subdivision of one of those parcels. Jean recused herself due to possible conflicts of interest. Gary administered the sworn oath to Darrow Mansfield and Carroll Peters, representing the applicant, and adjoiners Stan Biasini, Ed Morrison, Donna Beck, Lou Hoisington, and Christine Luce.

Carroll Peters explained that the applicant is negotiating with the Vermont River Conservancy for the sale of the 10.4-acre parcel that provides access to Terrill Gorge on Kenfield Brook. The two parties want to realign the existing boundary between this lot and the 12.8-acre lot that is the subject of the subdivision application. The result of this adjustment would be that the lot to be subdivided (Lot A) would increase by 0.9 acres, to a total of 13.76 acres, while the lot to be sold to the Conservancy (Lot B) would be reduced by 0.9 acres, to 9.5 acres. The access path to the gorge and most of the parking area along Stagecoach Road would remain with Lot B.

Carl moved, and Theresa seconded, to approve the lot line adjustment. The motion passed unanimously.

Darrow Mansfield presented a revised site plan of the proposed subdivision reflecting the lot line adjustment. The additional 0.9 acres was divided among the six proposed lots, which range in size from 2.2 to 2.6 acres. The revised plan clearly delineates building envelopes on each lot which are a minimum of 200 feet from the roadway.

Carl moved, and Theresa seconded, to approve the subdivision application with standard conditions and the additional condition that prospective buyers of the building lots be informed that any structures to be built on the lots must fall within the designated building envelopes. The motion passed unanimously.

WARNED HEARING: JAMES GROVER, CONDITIONAL USE, HOME BUSINESS (TOWING & ROAD SERVICE), 79 GREEN MOUNTAIN DRIVE

Gary introduced the application, to be reviewed under sections 263, 460, and 630-635 of the zoning and subdivision bylaws. Gary administered the sworn oath to Caroline Friede, Yves Gannet, Jeff Hill, Mette Endreson, Frederick & Priscilla Draper, Chip Horton, Jim & Bonnie Grover, Howard & Patricia Beskin, and William & Shelley Merriam.

Jim Grover is seeking approval for a towing and road service business he has operated from his home for a number of years without the necessary permit. He has three tow trucks that he and one other employee use to retrieve vehicles that have been in accidents or are impounded by the police for various traffic violations. Typically, he responds to calls and removes the vehicle to a repair facility. In some cases, he brings the vehicle to his property, where they are kept behind a closed fence area awaiting an insurance claim adjuster, then transfers the vehicle to a repair facility. He does no repair or salvage work on any vehicles he picks up.

He uses approximately 400 square feet in his home and garage, 18% of the total structural square footage, in the course of the business, in addition to the fenced-in storage area. He estimates that he makes no more than five trips on any given day, which may be at any time of day or night due to the nature of the business. His house is the first on the left entering this subdivision from Randolph Road, so he does not drive past any of his neighbors coming or going.

Chip Horton read a letter signed by Mette Endreson, Jeff Hill, Caroline Friede, and himself into the record objecting to the home business on the basis that it does not meet standards for home businesses in Section 460 of the bylaws regarding traffic, noise, smoke/odors, parking, and exterior indications of the business and is violation of restrictive covenants for the subdivision.

Yves Gannet read a letter signed by Karen Bowen (next door neighbor of the Grovers) expressing concerns that the business might further expand and could negatively impact her property value and stating that it was in violation of the subdivision covenants.

Shelley Merriam asked who is considered an interested party to this hearing. The Zoning Administrator read the pertinent section of the bylaws defining interested parties. She wondered why this business, having been there for years, was now a problem, saying she had never had any objections to it even though it is directly across the street from her house. Chip replied that the business seemed to be expanding beyond what it had been previously.

Howard Beskin said he had lived in the neighborhood for two years before he was even aware of the business and has not noticed any noise or seen cars parked outside associated with the business. He has never seen any of Jim's trucks or others retrieving vehicles from Jim's property beyond Jim's house on Green Mountain Drive, unlike Jeff Hill's truck which he said regularly drives up and down the length of the road. Patricia Beskin said she considered Jim a good neighbor and said she doesn't see his business as a problem.

William Merriam said that there was no more traffic using the commonly maintained private road from this business than there was from delivery trucks coming and going to what he alleged were un-permitted businesses in the Hill and Horton residences. He said that he had not experienced any problems with noise or lights caused by Jim's trucks operating at night.

Bonnie Grover said that they had had a dumpster outside of their home for a short period of time for roofing work being done, not anything to do with her husband's business.

Mette Endreson said the site had been recently spruced up in anticipation of this hearing. She said there had been seven cars on site the previous week. She said that the business is a violation of the subdivision covenants, which she believes help define the character of the area.

Caroline Friede also said the recent cleanup of the site is not representative of how it regularly looks. She has seen the business grow over the last three years.

William Merriam said that only three of nine property owners seemed to have any objections to this business. He said that based on his property tax assessment and the pending sale of a house in the subdivision, there was no indication at all that it had devalued properties.

Jim Grover said he had always tried to be considerate of his neighbors and is willing to work with those who have objections to accommodate their concerns. He is willing to stipulate as a condition of approval that this business would only be operated in the future by him or other resident family members, so that should he sell the property it would cease to be allowed.

David said that home businesses are among the toughest issues for the board to deal with as they involve peoples' livelihoods and investments in their homes.

Gary said that the board must weigh both sides and consider all points of view. He read an email from Frank Kearney, a customer of Jim Grover, also raising questions about Jim's business into the record.

David made a motion to recess to a deliberative session on October 27 and suggested that board members visit the site ahead of that session. Carol seconded the motion and it passed unanimously.

PRE-APPLICATION REVIEW: LEO ST CYR, 2-LOT SUBDIVISION, COTE HILL RD

Leo St Cyr presented a plan to subdivide his 22 acre lot on Cote Hill Road into two lots of 19 acres (Lot #1) and 2 acres (Lot #2). Leo's house is on Lot 1 and his son is building a house on Lot 2. Each lot would have its own drilled well and septic disposal systems.

Dave moved, and Jean seconded, that the proposal meets the requirements of the Town Plan. The motion passed unanimously.

On a motion by Paul, seconded by Carl, the meeting adjourned at 10:00 PM.

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 10/27/05 TB/JW