

Morrisville/Morristown Development Review Board
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Meeting Minutes of 11 October 2023

Members Present: Donnie Blake (Alternate for both hearings), Susanna Burnham, Gary Nolan (Chair), Melissa LeBlanc, Christy Snipp, Paul Trudell, & Mary Ann Wilson

Members Absent: Chris Wiltshire & Lenny Wing (unneeded alternate)

Staff: Zoning Administrator Todd Thomas, and Bonnie McDermott

Guests: Ron Stancliff (Conservation Commission), Phil Brown & Christine Eid, Bill Fishell, Kathy Chafee, Jeff Jill, Mette Endreson, Ted & Kirk Ryan, Scott Rank, Ryan Starr, Steacy Suddaby, Nancy Teed, Jim Grover, Charles Mcneeley, Michael Kochman & Britney Aube

Call to Order: Chair Nolan called the meeting to order at approximately 6:00 PM.

Minutes: Member Wilson moved to approve the July 26th minutes. A vote of 7-0 affirmed.

Hearing: Conditional Use approval after-the-fact for tall fence at 117 Copley Ave (Eid)

Phil Brown & Christine Eid appeared before the Board on behalf of their daughter Michelle Eid, who was requesting §630 Conditional Use approval after-the-fact on Parcel 22054 in the High Density Residential Zone per §425 of the Zoning Bylaws for a 6-foot-tall stockage fence that was constructed without the required permit along approximately 125 feet of the road frontage of 117 Copley Avenue. Mr. Brown read a prepared statement asking the Board to allow the as-constructed fence to accommodate Michelle Eid, who has some developmental challenges that make her living on Copley Ave (given the abundant school traffic) problematic for her medically. Mr. Brown offered that if the Board allows the fence to remain as is, they will agree to remove it when Michelle vacates the property, and the fence will be stained and adorned with landscaping in the interim. Member LeBlanc asked if the fence could practically be relocated to the back or side yard, so it was not proud of the frontline of the house. Phil Brown & Christine Eid claimed that such a relocation of the fence was possible, but they prefer a compromise option that removes the fence only from in front of the home's front lawn, but continue to allow the as-constructed section of 6 foot tall stockade fence located on the uphill side of the house to remain adjacent to the sidewalk of Copley Ave. Neighboring property owner and Interested Party Bill Fishell said he supports moving the fence back to behind the frontline of the house to ensure a positive aesthetic visual appearance for Copley Ave, which he believes to be an historic street given its period-appropriate streetlights. Kathy Chafee, whose home is a few doors down the street (but is not an Interested Party), said that she did not like the appearance of the new fence and worried that its location would inhibit Town snow removal from the sidewalk. After some discussion, it was clear that a majority of the Board would prefer to see the fence no closer to Copley Ave than the frontline of the existing home. As such, member LeBlanc moved to approve the as-constructed fence application, which would allow the as-built 6-foot-tall stockade fence to remain adjacent to the Copley Ave sidewalk. The motion failed to carry by a vote of 0-7.

Appeal hearing: Mooring Farm Fishkill Ln Accessory On-farm Ag Events Business (Ryan)

Under §640 Appeals, Mette Endreson & Jeff Hill appeared before the Board to appeal Zoning Permit 2023-088 which approved the application of Cordelia "Kirk" & Edward "Ted" Ryan for an accessory on-farm agricultural events business on Parcels 16111 & 16111-17 at 210 Fishkill Lane in the Rural Residential Agricultural Zone. Chair Nolan explained that Zoning Administrator Thomas could have issued a permit administratively for this accessory on-farm agricultural business (AOFB), but he thought the correct approach was to warn a hearing to give neighbors the ability to request permit conditions that could help mitigate the proposal's impacts

to their properties. Chair Nolan added that Mr. Thomas took time away from his vacation to work with the appellants to facilitate their appeal, including this evening's appeal hearing. Upon a question from Member LeBlanc, Mr. Thomas explained that because the Town's Zoning Bylaws do not have a specific accessory on-farm agriculture use, he warned the applicants original application as a Home Business, which was the closest mechanism that allowed the Board to attach permit conditions that might mitigate the neighbors' concerns with the proposal. Mr. Thomas explained that the Board, to cure any concerns with the chosen method of notice, provided Mr. Thomas with a list of agreed-upon permit conditions and remanded the accessory on-farm approval to him for the issuance of an administratively conditionally approved permit.

Mette Endreson led the Board through a lengthy presentation as to why the Board should reverse its prior decision and reject the accessory on-farm proposal via this appeal. Amongst various allegations/conclusion, such as an inadequate site plan, she claimed that the Board erred by not regulating the on-site short-term rental and flower shop as part of the original AOFB permit. She clarified that the short-term rental was permitted in 2022 was on the same parcel of land as the field that would host the AOFB events. The crux of her argument was that the application did not legally qualify as AOFB. Applicant Ted Ryan rebutted that the short-term rental was a separate business, and any farm weddings will feature both flowers from the farm and often tree stock from its nursery, but the focus of the farm was the tree nursery and the flower business, not hosting events (as too many events would act as an impediment to the farm business). He added that his new legal counsel recommended that the Board should refuse to hear and reject the submitted appeal due to the appellants recycling their original comment letter from the first hearing to create the appeal filing, which was allegedly illegal in Vermont due to it being considered a "collateral attack." Comments from the following abutting property owners were noted for the record, and these people were granted Interested Party status in the appeal: Steacy Suddaby, Ryan Starr, Scott Rank, and Nancy Teed. Member Burnham moved to close the hearing and continue the discussion in Deliberative Session. A vote of 7-0 affirmed the motion. At the conclusion of the evening's Deliberative Session discussion, the DRB agreed to reconvene at 5:30 PM on Tuesday October 17th to continue its Deliberative Session behind closed doors.

Discussion (agenda add): Zooming DRB hearings

Mr. Thomas informed the Board that \$5,000 had been included in his budget to help Zoom DRB & Planning Council meetings. After a brief discussion, the DRB Members by consensus agreed that using a hybrid / interactive Zoom format would be detrimental to its quasi-judicial hearing process. However, Board Members indicated that they could be amenable to using Zoom to offer a live web feed type of format (that would be free of problematic online interruptions that were common when the Board used Zoom during the pandemic). Resident Tom Cloutier spoke to his strong desire to have a video recording of all Town Board meetings readily available at any time for the benefit of the public. Mr. Thomas explained that a live Zoom of the meeting was only possible currently because the Town lacked a record retention policy for saved video, and the related increase in server space / cloud storage costs for these videos. By consensus, the Board tabled its decision to allow one-way live Zoom feed for the public portions of its meetings until the Planning Council decides how it would utilize the budgeted Zoom money. The DRB would then decide at a later meeting to follow suit (or not) with the Planning Council's Zoom decision.

*The meeting adjourned at 10:30 P.M. - *Respectfully submitted by Zoning Administrator Thomas*

REASONS TO DENY THIS APPLICATION

1. Qualifying Product
2. Misleading Statement
"Recommendation of VT Dept. of Agriculture"
3. No Site Plan
4. No Business Plan
5. No List of "Other" Events
6. Permits Needed
7. Legislature
Reviewing wedding venues – you can deny or postpone until determination is made.
8. Home Business
Does not meet the minimum standard
9. Act 143
Must meet a higher standard
10. Owners do not reside on the Farm

QUALIFYING PRODUCT MUST BE 'FEATURED'

Definition of Featured

1. Main Attraction
2. The Focal Point
3. Relating to the Center or Main Point of View

Other Variables: No Guarantee Flowers will be at each Event

1. Mother Nature
 - Perishable Item – Brief Life
 - Short growing season in Vermont
 - Heavy frost in May – Farmer's Almanac
 - Heavy rain/hail throughout the summer
2. Human Element
 - Bride does not want Mooring Hill Flowers
 - Who will monitor that the flowers are being displayed?

MOORING HILL FARM

COMMERCIAL HOSPITALITY BUSINESS

1. AIRBNB
 - Driveway and Parking
2. Retail Flower Shop
 - 'Self-serve shopping'
 - Pick-ups
 - Cooler
3. Wedding Event Site
 - Venue Tent
 - 50 Car Parking Lot
4. Farm
 - Trees and Shrubs – EJR Landscape Management
 - Flower Patch (Not a farm with acres of flowers)
 - Barn
 - Porta let

RECEIVED

OCT 17 2023

TOWN OF MORRISTOWN