

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

Meeting Minutes of October 11, 2012

Members Present: Karyn Allen, Theresa Breault, Brian Irwin, Gary Nolan (Chair), Paul Trudell, Jean Wickart & Chris Wiltshire

Members Absent: Ron Stancliff

Staff: Todd Thomas, Zoning Administrator & Planner

Guests: Robert Audet of Jersey Heights, Charlie Booher of Warren, Norman Nepveu of Congress Street, David Nepveu of Garfield Road, Peter Peltz of Woodbury, Robert Budliger of Jersey Court, Heath and Kurt Perras of Earl Grey Road, Maxfield English of E. Hill Road, Mickey Smith of Bridge Street and Paul Griswold of Gallup Road.

Call to Order & Minutes: Chair Nolan called the meeting to order at 6:30 P.M. Member Breault moved to approve the August 23, 2012 meeting minutes. A vote of 5-0-2 affirmed the motion, with members Allen & Irwin abstaining.

WARNED HEARING: 367 Brooklyn St, §437 CNU, §500 SP & §630 CU (Heath Perras)

Under §220 Neighborhood Commercial Zone, §437 Change of Non-Conforming Use, §500 Site Development Plan Approval & §630 Conditional Use, Applicant Heath Perras appeared before the board seeking to continue to operate Palmer's Garage under the existing Motor Vehicle Service Station use, renew the sale of gasoline thereat and add the Motor Vehicle Sales & Repair Facility use to sell used cars on parcel 21-115 at 367 Brooklyn Street on land owned by Palmers Inc. Applicant Perras explained that he would like to purchase Palmers Garage and continue the current operation while reinstating the gas pumps and adding used car sales to lot. Chair Nolan asked about the proposed hours of operation. Mr. Perras said that the proposed hours of operation would be from 7 AM to 5:30 PM six days a week and closed on Sundays. Mr. Perras explained that the gas pump would be reinstalled where the old pump was, but he would likely convert one of the existing gas tanks to diesel. Member Allen asked if any new exterior lights were planned as part of the project. Mr. Perras said that he has no plans to add new lighting other than what would be on the gas pump and that any new lighting added would be turned off at night. Mr. Perras added that he had no plans to add a canopy above the gas pump. Member Nolan asked about the quantity of used cars to be sold. Mr. Perras said that he would like to have a maximum of 20 cars for sale outback. He added that he'd spoken to his neighbors and that there were no concerns about this proposed use. Member Wiltshire asked if all auto repair work will be done inside. Mr. Perras said that he would be amenable to a condition of approval that required all car repair work to be done inside with the exception of the tire change work that has historically been done outside on the concrete pad. Member Nolan said that a site plan was needed to properly permit the addition of used car sales to the site. Member Wiltshire moved to approve the application, provided that no repair work is done outside other than tire work on the existing concrete slab, no parts or junk cars shall be allowed to be kept outside and that a site plan drawn to scale shall be submitted to the board at its next meeting to determine the maximum number of used cars that may be kept and sold on-site at any one time. A vote of 7-0 affirmed the motion.

WARNED HEARING: 589 Jersey Hts., §437 CNU, §500 SP & §630 CU, Charlie's Garage

Applicant Charlie Booher, on behalf of Sierra Properties LLC, appeared before the board seeking §437 Change of Non-Conforming Use, §500 Site Development Plan Approval & §630

Conditional Use approval to add the Motor Vehicle Sales & Repair Facility use to sell used cars on parcel 07-004 at 589 Jersey Heights on land owned by Sierra Properties LLC. Zoning Administrator Thomas explained to the board that this zoning application came about as a result of a zoning violation regarding the non-permitted sales of Mercedes cars that had recently begun on the parcel. Mr. Thomas explained further that Mr. Booher, in the zoning violation letter, was given a choice to stop selling cars immediately or to request a permit there for and that Mr. Booher had correspondingly requested this evening's hearing. Mr. Thomas also noted that the owner of the property, Sierra Properties LLC, was listed as terminated on the Secretary of State's corporation database page. Mr. Booher responded that Sierra Properties owned the property and that he was before the board doing business as Sierra. Chair Nolan noted for the record the 47 page long zoning violation file for the property supplied to the board members by Mr. Thomas. Mr. Thomas said that most of the file was comprised of abutter comments and pictures supplied by neighbors of the property over the past few months. Member Breault asked about page six of the zoning file which was regarding a neighbor complaint that there were no functioning bathroom facilities at the garage. Mr. Booher confirmed the complaint and said that his sewer line was plugged. Member Wickart asked about page seven of the zoning file regarding workers living at the property. Mr. Booher said that this assertion was true at one time, but that person had moved out and no longer worked at the garage. Member Irwin asked how many cars are currently parked on the lot. Mr. Booher replied that there are approximately twenty cars parked on the property. A question arose as to how many of these cars are junk cars. Mr. Booher said that, of the twenty cars, five were for sale, one was a junk car, a few cars were owned by him and the rest were in for repairs.

Member Nolan asked if there were any public comments. Robert Budliger of Jersey Court noted the letter he submitted to the board which was contained in the zoning file and said that he objects to the board extending the requested permit because the business has been noncompliant for a long time and that the operation is noisy and problematic for the neighbors. Mr. Budliger added that approving this application rewards bad behavior and he instead encouraged the board to enforce the Town's zoning. Robert Audet of Jersey Heights said that he historically had no problems with Mr. Booher's car repair business, but he takes issue with the recent addition of car sales at the property. Mr. Audet said that there simply is not enough room on the property to accommodate parking needed for car sales and repairs and this lack of parking has been very problematic for him as a neighboring property owner. He noted that parked cars often block his right-of-way to his driveway. Mr. Audet estimated that there are at least ten Mercedes cars on site that were for sale by Mr. Booher and his business partner Sean Fitzgerald. Mr. Budliger added that he also had a problem the previous unpermitted motorcycle sales use on the property, which highlighted that the applicant shows no regard for zoning requirements. Mr. Booher responded that there was no longer any motorcycle sales taking place at the property. Member Nolan said that he would want an updated site plan to consider allowing car sales on the premises. Mr. Thomas noted that there is an existing Environmental Court order against Sierra Properties regarding the parking of junk cars on the property. Member Trudell moved to recess the hearing and enter into Deliberative Session, where the project would be voted upon immediately following the other scheduled hearings. A vote of 7-0 affirmed the motion.

Upon returning from Deliberative Session, Member Wiltshire moved to approve the applicant's

request to add the Motor Vehicle Sales & Repair Facility use to the property, thereby allowing the existing used car sales to take place at the garage. The motion failed to carry by a vote of 0-7. Mr. Thomas said he would begin to enforce against any car sales taking place on the property immediately as a zoning violation.

WARNED HEARING: 82 Portland St, §209.1 & 451.1 Waivers & §630 CU (Nepveu)

Applicant Norman Nepveu appeared before the board seeking a parking waiver and a waiver of the Minimum Area per Residential Unit to increase the maximum residential density of 82 Portland St (parcel 21-170) from eight to nine Dwelling Units under §205 Central Business Zone, §209.1 Waiver & §630 Conditional Use. Zoning Administrator Thomas clarified that the application is two separate requests for the board to consider, with the first being the waiver for the additional dwelling unit and the second being the parking waiver for the corresponding number of dwelling units being allowed on the property. Chair Nolan asked the applicant present the proposal. Mr. Nepveu said that he's been working with his daughter to redevelop his building at 82 Portland Street. He added that he's proposing the addition of nine handicapped accessible apartments on the second floor the building that would be accessed at ground level via the municipal parking lot. Member Breault noted the Town's engineering report contained in the meeting package and asked the applicant to address issues raised therein regarding the building's failing foundation. Mr. Nepveu refuted the validity of this engineering report and said that he and his own engineer, David Ring, who had simple plans to address the foundation. Member Trudell verified that the waiver request for the additional dwelling unit was within the 15% allowed. Mr. Thomas clarified that the parking waiver was only for the use of the second floor and that an additional application would have to be submitted for a parking waiver for the ground floor at that time when the applicant knew what the use thereof might be. Mr. Nepveu distributed a proposed floor plan for the apartments and said that the residents thereof will receive some sort of State aid, like Section 8. Member Nolan asked for comments from the audience. Planning Commission member Paul Griswold questioned how handicap vehicle parking would be accommodated in municipal parking lot for the proposed building given the proposed tenant mix. Mr. Thomas said that there was no local zoning requirement for handicap parking. Member Nolan said that the state would regulate handicap parking during state permitting of the project. Mr. Thomas clarified that the .75 parking space ratio per dwelling unit required in the downtown resulted in a parking waiver for seven spaces if the requested waiver is granted for Minimum Area per Residential Dwelling Unit and six parking spaces if not. Member Wickart moved to recess the hearing and enter into Deliberative Session, where the project would be voted upon immediately following the other scheduled hearings. A vote of 7-0 affirmed the motion.

Upon returning from Deliberative Session, Member Breault moved to approve the 15% waiver for Minimum Area per Residential Dwelling Unit for a total of nine units. A vote of 6-1 affirmed the motion, with member Wickart opposed. Member Breault moved to approve the parking waiver for nine units or seven spaces. A vote of 6-1 affirmed the motion, with member Wickart opposed.

WARNED HEARING: 110 Portland St, §451.1 Parking Waiver & §630 CU (United Way)

Selectboard Member Mickey Smith appeared before the board, on behalf of applicant the United Way of Lamoille County, who was seeking a parking waiver for the commercial

use of the ground floor space and the addition of three Dwelling Units on the second floor of 110 Portland St (parcel 21-168) on land owned by the Lambertus Becht Rathbone Trust under §451.1 Parking Requirements in the §205 Central Business Zone. Chair Nolan read the hearing notice and clarified that only a parking waiver was being sought by the application. Mr. Smith, who also serves as the vice president of the United Way's Board of Directors, described the project and the need for the parking waiver. Mr. Smith explained the proposed business, ReStore, the soon to be ground floor tenant. Mr. Thomas noted that the building is approximately 125 feet from the Copley municipal parking lot. Abutter Peter Peltz received confirmation from Mr. Smith that the deliveries for ReStore would be taking place through the adjacent parking lot owned by Roland Jost, as opposed to through the right-of-way that ran along the rear of his property. Member Breault moved to approve the requested parking waiver for the ground-floor retail space and the three residential dwelling units above. A vote of 7-0 affirmed the motion.

The meeting adjourned at approximately 9:30 P.M.

Respectfully submitted by Todd Thomas, ZA