

**MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
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Minutes of October 8, 1998

Members Present: Rich Furlong, Gary Nolan, Tom Paine, David Silverman, Theresa Breault, and Paul Trudell.

Members Absent: None.

Guest: Amy Noyes, Richard Sargent, Richard Workman, Wilhelm Jaremezuk William Danforth, Ann Danforth, M.S. Hundal, Darrow Mansfield, Lisa Darden, Duncan Nash, Cindy Knauf, Ernest Ruskey, Jan Miller, Gary Sprague, Marcia Marble, Brent Miller, Linda Wood, Gregory Wight, Jan Gordon, Ann Linton and Helen Lewis

The meeting was called to order at 7:30 PM. by Gary Nolan, Chair.

Theresa made a motion to approve the minutes of August 27, 1998, as written.
Tom seconded the motion and it passed unanimously.

Tom made a motion to approve the minutes of September 10, 1998, as written
Theresa seconded the motion and it was approved unanimously.

**WARNED HEARING GERHRIG SPRAGUE AND DONNA SMITH, HOME
INDUSTRY, CONDITIONAL USE AND SITE PLAN REVIEW, 181 RANDOLPH ROAD.**

Gary gave an overview of the application, it will be reviewed under the following sections of the Morrisville Zoning Bylaws: 220, 223.d, 450-454, 460-462, 7,500-503.4 and 630-637.

Theresa administered the sworn oath to Gehrig Sprague

Mr. Sprague gave an overview of his proposed project. He wishes to do auto detailing, cleaning, washing, waxing as well as selling truck accessories. No mechanical work will be done, nor will there be any junk vehicles on site, no air compressor and the noisiest thing will be a drill. He will sell and install truck accessories. The hours for the business will be 5:00 PM to 9:00 PM Monday through Friday, Saturday and Sunday 10:00 AM to 5:00 PM. They will have no employees at this time. There will be no long term storage of vehicles associated with this business. Parking will be in the front during business hours.

David made a motion to approve this application with our standard conditions and the condition that vehicles that stay overnight are to be parked inside or on the side and rear of the building only.

Paul seconded the motion and it passed unanimously.

PRE-HEARING, ASHLEY AND BEVERLY MADDEN, THREE LOT SUBDIVISION AND TWO LOT LINE CHANGES, MAGOON ROAD.

Gary gave an overview of the application. The application will be reviewed under the Morristown Subdivision Bylaws sections: 220-220.4b and 300-300.2.

Theresa administered the sworn oath to Marcia Marble who represented the applicant at the hearing.

Ms. Marble gave an overview of the proposed project. The two lot line changes add .3 and .8 acres to the existing lots for Georginna Manosh and Connie Demars. Three new lots are proposed, lots A, B, & C. Lot A is off the Stagecoach Road and the other two lot are off the existing development road.

The members asked about the lot sizes as they should be from the edge of the right of way not the center of the road.

Rich made a motion to classify the subdivision as a major subdivision and rule that it meets the town plan.

Paul seconded the motion and it passed unanimously.

PRE HEARING, BIRCH HILL DEVELOPMENT CORP, 11 LOT SUBDIVISION, RANDOLPH AND CAMPBELL ROADS.

Gary gave an overview of the application. The application will be reviewed under sections 220-220.4b and 300-300.2.

Theresa administered the sworn oath to Darrow Mansfield who represented the applicant in this application.

Darrow Mansfield gave an overview of the proposed project. One lot fronts on the Randolph Road and the other ten lots on Campbell Road. They will put a new cul de sac at the end of the road. The old road used to connect to the Elmore Mountain Road but a bridge has been gone for many years. The lots are large from 6.8 acres to 87 acres as the layout considers the terrain and deer yards. There is a pond at the top of the hill and they plan to put in a dry hydrant. The lots are clustered and they have only a two to three acre clear/building zone. Septic will likely be on lot or small shared systems. The subdivision is about 1,000+ from the Elmore Mountain Road.

Tom made a motion to classify the subdivision as a major subdivision and that it meets the town plan.

Paul seconded the motion and it was approved unanimously.

**RECESSED HEARING, NORTH COUNTRY ANIMAL LEAGUE, ANIMAL SHELTER,
CONDITIONAL USE AND SITE PLAN REVIEW, ROUTE 100 SOUTH.**

Gary gave an overview of the application and what has taken place with the hearing prior to tonight. The DRB has hired Dr. Hundal from UVM as a noise expert for the board. Dr. Hundal has reviewed the minutes and documents on this application and has done a site walk of the property.

Theresa administered the sworn oath to all that were present.

Ernie Ruskey went over the recess memo that the DRB sent to the North County Animal League (NCAL).

Regarding fixed windows in the kennels, they propose to keep the windows on the north and east permanently closed and allow the windows on the south and east to be operable. The windows they are proposing are hopper-awning style that are hinged on the top and open on the bottom.

Moving the dog run into the ell, they agree and also agree to the fence on the south, but would like to keep the west side an open fence.

Moving parking to the rear to minimize the commercial look. They agree and will move the employee parking to the rear and have cut the front parking lot in half to seven space. The building will be toned down so that it does not appear as a commercial building. They will push the building back ten feet and have reduced the amount of asphalt. They will add a row of deciduous trees in the front and have eliminated the foundation ornamental scrubs that tend to accentuate the building. They propose the trees be 3" caliper sugar maples. They are not proposing to screen or hide the building as this will make it look worst than seeing parts of the building. It would look artificial to hide the building and it is best to integrate the building and landscaping. The parking lot will be at a grade of four to five feet above the road and can be screened with native scrubs.

Regarding the STC rating of sixty, nothing has been done as Ken Sweetser the Zoning Administrator advised to wait before redesigning the building until after getting Dr. Hundal suggestions.

Linda Woods, the Chair of NCAL Board, addressed some of the issues. They would like to try a mechanical monitor system with audio and video capacity as they may not be able to afford to have an attendant to be outside with the dogs all the time.

No commercial advertising, they agree and only will sell items needed to have when taking an animal home.

Hours that dogs can be outside in the turnout. They would like to start at 9:00 AM to 4:00 PM Monday through Saturday and 11:00 AM to 3:00 PM on Sundays. If they have adequate sound abatement they would like to be able to let the dogs out on Sundays.

Hour for adoption of animals. They would like to be open 10:00 AM to 5:00 PM on four days a week and one night to 7:00 PM. They would like to be open from 10:00 AM to 4:00 PM on Saturday and 10:00 until 3:00 PM on Sundays. They would also like to be open occasionally for obedience classes in the basement and for community days.

Ernie Ruskey continued. The septic system has been reviewed because of its size and proximity to a well and spring on neighboring properties. The system is adequate and meets the

isolation distances.

They will use accepted erosion controls methods in pre and post construction.

Exterior lighting will be down shaded, zero cut off fixtures. They wish to use halogen bulbs rather than metal halide bulbs. All of the lighting except by the door will be low light fixtures.

A question from the public was asked as to the type of indoor lights as the building has a lot of windows.

Mr. Ruskey responded the interior lighting has not been determined but will likely be fluorescent lights with warm tones in down shaded fixtures. No lighting will be directly visible from the Farm Motor Resort.

A question from the public asked Linda Wood if they would have events like they have had in Stowe? Stowe would not allow the animal shelter to go in Stowe.

Ms. Wood said yes, and that she had spoken with Lee Darrow who said that it could go in Stowe, however they were trying to find a more central location.

Dr. Hundal presented his findings. He gave his background to the public, he has taught mechanical engineering at UVM for 32 years and has worked on noise control and acoustics for over twenty years all over Vermont.

He has reviewed the minutes of the meeting and all of the documents associated with this application. A site visit was conducted prior to tonight's meeting.

Dr. Hundal said that he has personally not taken any noise levels, he has based his finding on the readings from the other sound reports as the numbers appear to be good. What you find today at the site are the existing environmental noises, you have Route 100 the major north-south route in this area of the state, the airport has certain noises associated with it and noise from the neighborhood.

Noise is subjective, so when examining noise levels you need certain standards and guidelines. Technical Association and the Government development standards and guidelines include: Sound Levels, Speech Interface (STL), Noise Criteria, Room Criteria, and Noise Composite Rates (NCR). The EPA over twenty years ago developed standards based on what people are willing to accept, this was based on hundreds of thousands of noise complaints. This is the Equivalent Sound Levels (ESL) for outdoor noises.

Neither noise study included the (ESL) or enough data to have confidence that it is correct. The noise environment is dominated by road noise, and almost all other noises including dogs barking would add little if anything to overall noise levels. If we had one dog at various places the (CNR) guidelines tell us that if the number is 45-50 decibels there is no reaction. The other end of the spectrum is 75-80 decibels results in rigorous actions (problems/complaints)

In reviewing the data he finds that if one dog is barking and the 7th tee is the closest tee the numbers give you a 53 CNR which is at the low end of the scale. If you could train ten dogs to all bark at the same time you would get a 60 CNR and at 60 you would get sporadic complaints. Without compensation, what is the background level, for light traffic it lowers the CNR by 5 and for heavy traffic by 10. This would bring the dog barking down to an acceptable level without having a building on site. A dog barking outside is the worst case scenario with the building in place and dog turnout in the ell it would bring the noise down 20 decibels to the north, east and

south, this is an acceptable noise level.

People in the motel or on the golf course hear the noise of the traffic. The growth between the proposed site and the golf course and motel will help some. It is better to have growth than an STC level of 60, a level of 45 STC is sufficient. Inside the building the floor needs to be concrete for keeping it clean but the walls and ceiling should have some sound absorption material to keep the noise down on the inside where the workers are and this will also keep the noise down on the outside. Fixed closed windows are not necessary, but there should be some trees planted by them.

Paul asked Dr. Hundal about open windows if you have an 80 decibels noise inside.

Dr. Hundal responded that you would see a 20 decibel drop outside the wall and more over distance. Awning windows should be used that are open at the bottom which pushes the noise down. They need to plant deciduous trees and scrubs as the windows will not be open in the winter, so that when the windows are open the trees have leaves on them. If the windows were to be open in the winter then they would need coniferous trees.

A question from the public asked Dr. Hundal does your noise criteria deal with sporadic noises?

Dr. Hundal responded that intermitting noises are based on how often the noise happens and this is another modification in the criteria.

A question from the public asked if the 24 hour noise study would lower the noise level, and does it take into effect less at night?

Dr. Hundal answered yes it is an averaging over the 24 hours and the acceptable noise level drops by 10 at night.

A question from the public asked did you take into effect the uses of the properties such as golf courses, nursing homes and hospitals compared to a neighborhood.

Dr. Hundal said no.

A question from the public asked Dr. Hundal if he was familiar with Pierce vs. Riggs a supreme court ruling where the court addressed nuisance noise. They found that nuisance noise was any noise that could be heard on a neighbor property is a nuisance.

Dr. Hundal said he was not familiar with that case and disagreed with that ruling.

A question from the public asked if Dr. Hundal ever had a client who liked the sound of a barking dog?

Dr. Hundal said no.

A question from the public asked Dr. Hundal if the City of Burlington has ever imposed a noise ordinance that deals with nuisance noise, not the general noise that come from airport, trucks and busses?

Dr. Hundal responded that he had not read the noise ordinance but it was his understanding that the noise ordinance they have is not based on decibel readings.

A question from the public asked the difference between decibels and frequency?

Dr. Hundal answered that decibels gives you a number and frequency gives all the data to you.

A question from the public asked that in a Burlington ordinance says a bark, cry or whine in a excessive continuous or untimely fashion that disturbs your peace and quiet is it a nuisance. Your composite model rate, I take issue with as that is for a steady mechanical noise as compared

to impulsive noise where a dog barks audibly but is not excessively loud could somebody be disturbed?

Dr. Hundal said he prefers the LEQ equivalent sound level in absence of any traffic data or 24 hour data. I have used a dog spectrum and a composite sound data as the LEQ is the best method to do it.

A question from the public asked are you familiar with any military studies that look at canons going off compared to traffic noise?

Dr. Hundal responded there are lots and lots of noise studies out there and no one is familiar with every study.

Gary said with no more questions from the public he would entertain a motion to go into deliberative session.

Dick Sargent asked for time for his client to provide a written rebuttal as we did not know what Dr. Hundal was going to say tonight.

Gary responded that they will issue a recess memo and it will allow for one rebuttal only from each party.

NCAL asked when a decision would be made?

Gary said it would likely be made in a deliberative session on October 22nd.

Mr. Danforth said he presented the board with a petition from the neighborhood where everyone objected to this project and he has seen no response from this board.

Gary said every thing will be given consideration when the DRB makes it decision.

Dr. Jaremcuk said he has a business there and no newcomer should jeopardize him and that he is marketing as a country atmosphere. The dog people keep on saying that let us try something and if it does not work then tighten the requirements on them. You should do something before it can become a problem.

Gary said everything will be considered.

Dick Sargent asked that they (NCAL) be required to post a bond.

David made a motion to recess the hearing to a deliberative session on October 22, 1998 after the business of the board meeting that starts at 7:30 PM, in the Town Clerk's Office Building.

Tom seconded the motion and it passed unanimously.

Other Business:

The Board signed the written decision on Perras

The Board signed the following mylars: Russell Lanphear, Marjorie Miller, and Howard Manosh.

The meeting adjourned at 10:30 PM.

Respectfully submitted,

Kenneth J. Sweetser, Scribe.