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MORRISTOWN/MORRISVILLE DEVELOPMENT REVIEW BOARD

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Minutes of September 26, 2002

Members Present: Gary Nolan, David Silverman, Theresa Breault, Carol Jennings

Members Absent: Carl Fortune, Jean Wickart, Paul Trudell

Recorder: Mark Leonard, Zoning Administrator

Guests: Dominick Donza, Daniel Donza, Larry Sweetser, Min Cote, Bill & Kristi Flanders, Graham Govoni, Edward French, Bruce Towne, Jim Raymond, Richard Lowe, Josh Delman, Don Goodhue, Alex Hemphill

Gary Nolan, Chair, called the meeting to order at 7:30 PM.

Theresa moved to approve the minutes of September 12, 2002, with one correction.
Carol seconded the motion and it passed unanimously.

WARNED HEARING: DOMINICK DONZA, 2-LOT SUBDIVISION, 1957 STERLING VALLEY RD

Gary opened the hearing and gave an overview of the application. The application will be reviewed under Sections 260, 500, and 710-790 of the Morrisville/Morristown Zoning and Subdivision Bylaws. Theresa administered the sworn oath to Dominick Donza. A site walk of the property, attended by four board members, preceded the hearing.

Dominick Donza presented a proposal to subdivide his 6.3-acre parcel at 1957 Sterling Valley Road in the Rural Residential with Agriculture zoning district into two parcels of 3.3 and 3.0 acres. The current parcel contains a two-family dwelling. The proposed subdivision would create two lots that meet the minimum lot size for the district and which would meet the lot size requirement for a two family dwelling. All interdepartmental sign-offs had been received, with a letter pending from the Fire Department addressing driveway requirements for the new lot.

David moved to approve the application with standard conditions and the requirement that the Fire Department determine the width of any new driveways over 100 feet in length. Theresa seconded the motion and it passed unanimously.

WARNED HEARING: MICHAEL & VERONICA COTE, WILLIAM & KRISTI FLANDERS, LOT LINE ADJUSTMENT, 137-223 GODDARD-NESBIT ROAD

Gary opened the hearing and gave an overview of the application. The application will be reviewed under Sections 260, 500, and 795 of the Morrisville/Morristown Zoning and Subdivision Bylaws. Theresa administered the sworn oath to Michael Cote, William and Kristi Flanders, and Graham Govoni.

Graham Govoni, representing the Cotes, explained that the two adjoining landowners were proposing to swap approximately 2.6 acres of each of their properties in order to provide some additional buffer area around the Cote home. Each lot would remain at its current total acreage of approximately 11 acres.

Theresa moved to approve the application. Carol seconded the motion and it passed unanimously.

WARNED HEARING: LARRY SWEETSER, CONDITIONAL USE, HOME BUSINESS, 95 PLANE VIEW ROAD

Gary opened the hearing and gave an overview of the application. The application will be reviewed under Sections 260, 460, 480, and 630 of the Morrisville/Morristown Zoning and Subdivision Bylaws. Theresa administered the sworn oath to Larry Sweetser, Edward French, Bruce Towne, Jim Raymond, Richard Lowe, Don Goodhue, and Alex Hemphill. A site walk of the property, attended by four board members, preceded the hearing.

Larry Sweetser explained his proposal to sell used cars and other vehicles on his property at 95 Plane View Road, fronting on Route 100. He proposed to have no more than ten vehicles on display at any one time. He does not intend to gravel or pave the display area. He said he keeps the site and the cars neat and clean. The service area would be inside his garage, which has space for 8-10 vehicles. No work on the vehicles would be performed outdoors. There would be no changes or additions to buildings on the lot. No curb cut changes are required. Access to the property and the car sales area would be from Plane View Rd; customers would not enter directly from Route 100. He has no plans to install any lighting, but indicated he may wish to install a streetlight on the corner of Plane View Rd and Route 100 to improve traffic visibility and provide some security for the car lot at some later date. He has no employees at this time, but might hire one if the volume of business requires him to do so. He is applying for a state used car dealer license. He expressed the hope that this business, along with the used furniture sales he has in an adjacent property, would provide his retirement income.

Gary read a letter from the Morristown Planning Commission commenting on the application. It stated that the nature of the proposed home business was not consistent with the Commission's goals of preserving the residential and scenic nature of the area and restricting commercial development along Route 100 between Morristown and Stowe.

David referred to the Town Plan which identifies Route 100 as a scenic route. He noted that Section 462.3 of the zoning bylaws addressing home businesses expressly prohibits exterior displays, storage of materials, or indications of the home business which are at variance with the residential character of the neighborhood. Mr Sweetser replied that his business would be no

more visible than Green Mountain Landscaping, located directly across Route 100 from his property and noted that there had been and continue to be various other small businesses in the area. Ed French, Mr Sweetser's attorney, said he did not feel a business such as his client's would be out of character with the neighborhood.

Alex Hemphill stated that he owned one of those former businesses. He had no knowledge of anyone having been issued a permit to sell cars in the neighborhood.

Gary reviewed the board's previous consideration of Mr Sweetser's request to sell cars on his property. He said that 4-5 years ago they had looked at the state Agency of Transportation requirements for licensing used car dealers. Those requirements stated only that anyone could sell up to 12 vehicles per year without a dealer license. They did not address any zoning issues associated with such activity. He recalled that the board informed Mr Sweetser back then that it was okay for an individual to put a 'for sale' sign on his personal vehicles and display them along the public road, but that doing so as a commercial venture was another matter.

Richard Lowe, owner of Green Mountain Landscaping, stated that his business had been allowed under the zoning rules in effect 26 years ago. It is a commercial business, not a home business. He said he's not opposed to anyone going into business, but that he feels this type of business would be out of character with the neighborhood. He said the pennants and flags on the display vehicles are too showy. He also expressed some concern that vehicles parked on the grassy area could pose a threat to water sources in the area.

Gary noted that Section 462.2 of the bylaws limits home businesses to not more than 25% of the combined area of all structures on the property. Ed French replied that, excluding the portion of the garage in private use, the area used for the business would not exceed the 25% requirement. He said the business side of the garage could hold 8-10 cars.

Bruce Towne estimated that the total area of Mr Sweetser's buildings was around 4,900 square feet. The application states that 2,200 square feet would be used for the business. Even if his estimate of the total area was off by several hundred square feet, the business use would far exceed the 25% requirement. He went on to say that the home business bylaw requires that the business not generate traffic in greater volumes than would be normal in the neighborhood. As a cul-de-sac with only one way in and out, the business would certainly generate additional traffic above what would be normal. He had concerns that people would pull up on the side of Route 100 to view the cars on display, exacerbating an existing hazardous situation. He cited Section 483.1, governing motor vehicle sales & service, which prohibits outside storage of materials and stated that Mr Sweetser had had materials, supplies, and assorted items piled up on his property for years, only recently cleaning up the site in anticipation of this hearing. He said that the nature of car repairs and service would generate additional noise in close proximity to nearby homes. He closed by reiterating his opposition to the application, saying that a few cars might be okay, but ten or more would be too many.

Jim Raymond said his house faces the back of Mr Sweetser's house. He felt that cars and assorted items which have been stored on Mr Sweetser's property are an eyesore. He noted that it wasn't just cars on display, but trucks and large recreational vehicles, too. The garage is huge, certainly not built for residential uses. He echoed previous concerns about traffic.

Ed French responded that Mr Sweetser would downsize the portion of the garage used in the business in order to comply with the 25% requirement and would accept any reasonable

conditions imposed by the board to minimize any adverse impacts on his neighbors.

Alex Hemphill said that the earlier permit application for the garage purported that it would be for private, personal use, not commercial. He felt that Mr Sweetser started a business that changed the character of the area without prior approval by the zoning board. He can't now argue that the character of the neighborhood is consistent with his business.

Don Goodhue repeated the points made by other neighbors and said he has a water line right-of-way across Mr Sweetser's property that could be impacted by this business. He is also concerned about future requests for similar businesses citing this one as their basis for saying theirs would be within the character of the area.

Mr Sweetser addressed the traffic concerns by saying that the bank alongside Route 100 would prevent people from stopping there. The turn-around at the end of Plane View Road is tight now and would not get any worse due to his business.

Theresa moved to go into deliberative session on this application following all other public business. David seconded the motion and it passed unanimously.

OTHER BUSINESS:

The board went into deliberative session on the appeal by JD Associates of the zoning permit granted to Elizabeth Darden. David made a motion to uphold the Zoning Administrator's decision issuing the zoning permit. Theresa seconded the motion and it passed unanimously.

The board went into deliberative session on the Larry Sweetser application. Carol made a motion to approve the application, seconded by Theresa. The motion was denied, with four opposed and none in favor.

On a motion by Theresa, seconded by Carol, the meeting was adjourned at 9:20 PM.

Respectfully submitted,

Mark Leonard, Recorder