Morristown/Morrisville Development Review Board
P.O. Box 748 / Morrisville, VT 05661
Phone (802) 888-6373

Meeting Minutes of August 14, 2014

Members Present: Karyn Allen, Theresa Breault (Alternate), John Gloss, Susanna Guthmann Brian Irwin, Paul Trudell (acting Chair) & Chris Wiltshire.
Members Absent: Gary Nolan (Chair)
Staff: Todd Thomas, Zoning Administrator
Guests for the Dave's Appliances, Jersey Heights hearing: Dave Small & Tawnya Kennison for Dave's Appliances and neighboring property owners Bill Thomas, Bill Swanson and Susan DeColaines
Guests for the Bread & Butter, Bridge Street hearing: Melissa LeBlanc & Laine Ogden for Bread & Butter LLC.
Guests for the Foss zoning violation appeal hearing: Attorney Peter Anderson and landowner Allen Foss and neighboring property owners Tim Danahy, Howie Fairloth and Richard "Buckwheat" Lowe.

Call to Order & Minutes: Member Breault moved to approve the July 24 meeting minutes. A vote of 6-0-1 affirmed the motion, with Member Trudell abstaining.

Hearing: Dave's Appliances, Jersey Heights, §460 Home Business, §500 SPA & §630 CU
Applicant Dave Small appeared before the Board seeking §500 Site Development Plan Approval & §630 Conditional Use to add a §460 Home Business use for the relocated Dave's Appliance store within an existing accessory building at 456 Jersey Heights, parcel 23-040 in the §255 Low Density Residential Zone. Mr. Small said that he is losing his current appliance repair store location due to the pending construction of CVS pharmacy. He said that he would like to relocate his business into the existing garage where he is living at 456 Jersey Heights. Member Guthmann asked about the noise that might emanate from the business. Mr. Small said that all work will be done inside and that he only sees about 2 to 3 customers per day looking at appliances. Member Breault asked about hours of operation. Member Small said that he wished to stay open until 6 PM. Zoning administrator Thomas read letters from abutting property owners Heanue and DeColaines that stated opposition to the proposed project. Mr. Small said that he does not do refrigeration repair in response to the letters regarding refrigerant leaking into the soil. Mr. Small also said that he plans on having no outside storage. Mr. Small said that he envisioned Saturday hours from 9 AM to 1 PM. Mr. Small added that he is the only employee of his business. Neighboring property owners Bill and Joyce Thomas spoke and said they were opposed to this commercial use in a residential zone. They also asked that any signage for the appliance store, if approved, be professionally made. Mr. Small said that without a permit to do work in this location, he would have to close his business. Member John Gloss, who sat in the audience this hearing because he lives adjacent to the subject site said that he is opposed to the retail component of this project. Member Wiltshire moved to close the hearing and enter Deliberative Session. At the conclusion of Deliberative Session, Member Irwin moved to conditionally approved the application provided that no outside storage is allowed, that all work take place inside the garage and that the hours of operation, including for customer drop-offs, be from

8 AM to 6 PM during the workweek and from 9 AM to 1 PM on Saturday, in addition to the Board's typical project conditions regarding lighting and state permits. The motion was approved by a vote of 6 to 0, with Member Gloss abstaining.

Hearing: Bread & Butter, Bridge St, §460 Home Business, §500 SPA & §630 CU

Melissa LeBlanc & Laine Ogden of Bread & Butter LLC appeared before the Board seeking §500 Site Development Plan Approval & §630 Conditional Use to add a §460 Home Business use for a sandwich shop and café within the existing building at 309 Bridge Street, parcel 21-065 in the §250 Medium Density Residential Zone. Property owner Melissa LeBlanc said that she and business partner Lane Ogden, along with one of her tenants residing at 309 Bridge Street, plan to remodel the existing apartment closest to the road into a breakfast and lunch Café that will also include the sale of antiques and reclaimed items. Ms. LeBlanc said that the café would include up to 20 seats and it would have hours of operation from 6 AM to 3 PM Monday through Saturday. Member Trudell clarified that only 25% of any structure is available for the Home Business use under §460 of the Bylaws. Ms. LeBlanc said that she planned to incorporate the porch for outdoor dining into this 25% of allowable space in the summer, while moving that 25% of space into a room upstairs for antique sales in the winter. Ms. LeBlanc also noted that the basement is heated space too, which should ease any of the aforementioned space restrictions because said space does not appear on the Lister's card. Member Breault moved to approve the application as proposed with the typical state permit and lighting conditions, along with a limitation on hours of operation from 6 AM to 3 PM Monday through Saturday and a limit to the business size of 770 ft.^{2}. The motion was affirmed by a vote of 7 to 0.

Hearing: Foss §640 Appeal, parking for §500 SPA & §CU630 permit 2011-068, LaPorte Rd

Attorney Peter Anderson and landowner Allen Foss, along with neighboring property owners Tim Danahy, Howie Fairloth and Richard "Buckwheat" Lowe appeared before the Board for the §640 Appeal of property owner Allen Foss' zoning violation, which claimed that Mr. Foss is violating the terms of his Conditional Use & Site Plan Approval permit #2011-068 due to his blocking parking on parcels 12-044, 12-044-1 at 2917 LaPorte Road for the benefit of 2919 LaPorte Road in the Airport Business Zone. Mr. Thomas explained that he tried to work with Mr. Foss over the past few months regarding the parking situation between his property and the new Green Mountain Distillers building, but his efforts had been to no avail. Mr. Thomas said that the site plan Mr. Foss got approved by the Board via permit 2011–068 showed 15 off-site parking spots that he believed were instrumental in Mr. Foss obtaining Conditional Use & Site Plan Approval permit #2011-068. Mr. Thomas said that he did not believe the Board would have approved this permit for a building with a 2,640sf footprint if it only had 4 parking spots associated with it (instead of the 15 parking spots required by the zoning bylaw). Mr. Thomas explained that during the #2011-068 permit hearing, Mr. Foss, at that time, owned all three parcels and that he said during the hearing that the parking would not be a problem as it was available across the property lines of the recently approved lot lines. Mr. Foss denied that he made such an inference. Member Irwin also said that he recalled Mr. Foss saying that parking would not be a problem during the Conditional Use & Site Plan Approval hearing that approved the woodshop (which later became the distillery). Mr. Thomas explained that the way the parking was being treated on-site and seemed to change after a dispute with the distillery construction crew and then move severely after fire consumed Mr. Foss' building. Attorney

Anderson presented that there is nothing in the permit or the meeting minutes that require the shared parking that Mr. Thomas insisted was included in Mr. Foss original permit. Mr. Thomas agreed, but said it would have been odd for him to add a shared parking condition to the permit when Mr. Foss owned all the lots in questions. Mr. Thomas added that what was actually approved by the Board during §500 Site Plan Review was the submitted site plan and that submitted site plan showed off-site parking which, at the permit hearing, was to be available across the property lines. Mr. Thomas asked why the site plan showed parking on adjacent lots owned by Mr. Foss if his intent was to only permit the woodshop on parcel 12-114-2 and its four parking spaces. Attorney Anderson said that parking was shown off-site because the applicant used the subdivision plan, which had parking on it, to permit the site plan. Mr. Thomas said that there is no requirement to show parking on a subdivision plan. Attorney Anderson said that the ACT 250 permit and the State Wastewater permit spoke to his clients assertions that parcel 12-144-2 does not have any off-site parking benefitting it on his client's other adjoining parcels. Acting Chair Trudell said that what was on the State permits was not germane to the appeal of the local zoning proceeding. The Board took comments from the public in attendance. Richard "Buckwheat" Lowe said that he has a copy of the same site plan that the Board approved and that is shows parking off-site for parcel 12-144-2 because Mr. Foss would not have been able to get his woodshop approved with that parking. Tim Danahy and Howie Fairloth said that when they were buying the property from Mr. Foss, he represented that parking was going to be shared. Mr. Danahy said he would not have built the distillery in its current location if they knew it was going to be restricted to 4 parking spots. Mr. Fairloth added that, prior to purchasing the property, that he had spoken to Mr. Foss many times about where tour busses would park after they came up the shared driveway. Mr. Thomas said that he also had a similar conversation with Mr. Foss when he was working with Mr. Foss to sell parcel 12-144-2 to Green Mountain Distillers. Mr. Thomas said that it was not possible to park a tour bus in the four parking spots that Mr. Foss is restricting the distillery access to. Member Wiltshire moved to close the hearing and for the Board to continue its discussion in Deliberative Session. The motion was affirmed by a vote of 7-0. In Deliberate Session, a motion was made to approve Mr. Foss' appeal of the zoning violation. The motion failed to carry by a vote of 0-7 and the zoning violation was thereby upheld.

The meeting adjourned at approximately 8:30 P.M.

Respectfully submitted by Todd Thomas, ZA.