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**MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
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Minutes of August 12, 2004

Members Present: Gary Nolan, David Silverman, Carl Fortune, Paul Trudell, Theresa Breault

Members Absent: Carol Jennings, Jean Wickart

Recorder: Mark Leonard, Zoning Administrator

Guests: Dean Whittemore, Gregory Johnson, Wayne Demar, Roy Marble, Don Ostler, Pitt Despault, Helen Schneider

Chairman Gary Nolan called the meeting to order at 7:30 PM. Theresa moved to approve the minutes of July 22, 2004. David seconded the motion and it passed unanimously.

WARNED HEARING: ADVENT CHRISTIAN CHURCH, LOT LINE ADJUSTMENT & DENSITY WAIVER, 36 MAPLE STREET

Gary gave an overview of the application, which will be reviewed under sections 254 and 795 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Dean Whittemore, representing the Advent Christian Church.

The Advent Christian Church earlier this year obtained the DRB's approval to subdivide their property at the corner of Main and Maple Streets into two lots. The smaller lot was just over 8,000 square feet, the minimum lot size in the Medium Density Residential (MDR) zoning district in which the property is located, and contains the church parsonage. The church intends to sell this lot and wishes to increase the lot size to just over 11,000 square feet by extending the boundary at the rear of the structure to the back of the Church's adjoining lot. They also wish to get a reduction of 1000 square feet (approximately 9%) of the lot density requirement for a two-family unit on the parsonage lot. The minimum lot size for two units in the MDR district is 12,000 square feet. Mr Whittemore noted that the parsonage had in the past been used as a two family residence and that no additions to the structure are planned to revert to this configuration.

David moved to approve the application as presented. Paul seconded the motion and it passed unanimously.

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RECESSED HEARING: STELLAR PROPANE SERVICES, CONDITIONAL USE AND SITE PLAN REVIEW, STAFFORD AVENUE EXTENSION

Gary reviewed the application for a bulk fuel storage facility, which was first heard by the DRB on May 13, 2004. That hearing was recessed pending receipt of written comments from the Agency of Natural Resources Water Supply Division regarding the projects potential impact on an identified groundwater Source Protection Area (SPA). Those comments, contained in a July 1, 2004 letter, were read into the record. Theresa administered the sworn oath to Gregory Johnson, Wayne Demar, Roy Marble, Don Ostler, Dean Whittemore, Helen Schneider, and Pitt Despault.

Gregory Johnson of Greatwood Management Company was introduced by Roy Marble, representing the applicant, as an expert on fuel storage facilities and their mandated safety and environmental protection requirements. Mr Johnson reviewed the physical characteristics and operating procedures for the proposed fuel storage site. The site exceeds all regulatory requirements and is, in his view, over-designed. He stated that the storage tanks and supporting structures are regulated and inspected by the appropriate federal agencies. He reviewed likely failure scenarios and noted that it was very unlikely that more than one of the four 25,000 gallon tanks would fail at the same time. The containment area would hold 150% of the capacity of a single tank. He said they had an engineered lifespan in excess of fifty (50) years. The entire site would meet or exceed National Fire Protection (NFP) fire safety standards.

Paul asked how the spill containment area would drain off rainwater. Mr Johnson replied that a sump pump would discharge water into the ground after it was tested to confirm there were no fuel contaminants in it. Paul then asked whether the applicant would consider some kind of membrane as additional protection against groundwater contamination from a fuel spill. Mr Johnson said a vapor barrier was planned, but that no other barrier was contemplated.

Carl observed that Section 305 of the zoning bylaws specifically prohibits fuel storage facilities within the designated boundaries of a SPA. Roy Marble responded that the SPA boundaries seemed to be somewhat fluid, having been variously described over the years. He did say that the applicant had a fall-back position to relocate the storage site within the proposed lot, but outside the currently defined SPA boundaries. This would require approval of a setback waiver from the adjoining Manosh property and of eight (8) feet less than the required setback from the centerline of the road. Additionally, a small portion of the facility would extend over the property line onto the Manosh property, which Roy said he would obtain an easement from the owner to do.

David agreed that the site is well-located for this type of activity, but questioned how the board could approve it when it did not meet the five-acre minimum lot size and 100' setbacks prescribed in Section 481 for bulk fuel storage sites. Carl asked if the proposed site met the requirements of section 481h regarding separation from other fuel storage facilities. Greg Johnson said the federal minimum separation requirement is 30 feet, which this project meets.

Carl asked if the applicant had considered having a new study of the source protection area done to determine its precise boundaries. Roy said that this would be too costly to accomplish for an area of the size of the Cadys Falls Water Co-op SPA.

Don Ostler, speaking for the Cadys Falls Water Co-op, noted that the ANR letter states that the proposed site is within a quarter-mile of their spring and that the recognized SPA boundary lies across the project site. He suggested that there are other nearby sites that do not fall within the SPA that could meet the needs for such a facility. He said that while the area is within the Industrial zoning district, this portion of the district lies within a sensitive (i.e., SPA) area. He said that the board must observe the requirements and restrictions established in the zoning bylaws, specifically referring to sections 305 (prohibited uses in a SPA) and 481 (minimum lot size and setbacks for bulk fuel storage facilities).

Don asked the applicants if they could guarantee that there would be no negative impacts on the SPA from the project. Greg Johnson replied that they can't guarantee a negative and that while they feel they have engineered the project to exceed all safety and environmental standards, you can't possibly foresee all possible scenarios or risks.

Pitt Despault, a member of the water co-op, expressed concern that once one type of development were allowed within the SPA it will be difficult to stop other development.

David moved to recess the hearing to a deliberative session. Paul seconded the motion and it passed unanimously.

WARNED HEARING: ALLEN & SALLY LOURA, 2-LOT SUBDIVISION, LAPORTE ROAD

The ZA reviewed the application to subdivide a 14-acre parcel behind the Mountain View Equestrian Center on Laporte Road into two lots. The application had been reviewed and approved at a warned hearing on June 24, 2004. Following the hearing, North Country Animal League, an adjoining property owner, through their attorney, raised questions and concerns regarding access to the proposed lots via a right of way shared by NCAL and Pat and Sue Miller. The board agreed at its July 22 meeting to reopen the hearing to address the questions raised.

The ZA reported that NCAL's attorney had met with the Loura's agent and the Millers and all had agreed on a road maintenance cost-sharing plan and on how to address any potential improvements or realignments of the existing roadway leading to the Loura's property. On the basis of this agreement, NCAL's attorney provided written confirmation that they had no objections to the proposed subdivision, provided that the road maintenance agreement was made part of the conditions of approval.

David moved to amend the previous approval to incorporate the agreements and conditions between NCAL, the Millers and the Louras outlined in NCAL's memo to the Zoning Administrator. Carl seconded the motion and it passed unanimously.

PRE-APPLICATION REVIEW: BRIAN PALMER, 3-LOT SUBDIVISION, COTE HILL ROAD

Brian Palmer presented a proposal to subdivide his 20-acre parcel 1853 Cote Hill Road into two 5-acre lots and a 10-acre lot. David moved that the proposal conforms with the Town Plan. Carl seconded the motion and it passed unanimously.

OTHER BUSINESS:

The final surveyed mylar plat of the Babcock 9-lot subdivision on Stagecoach Road was reviewed and signed.

The ZA reviewed the status of NCAL's appeal of the DRB's decision on their request for extended operating hours. He had discussed a possible settlement with NCAL's attorney that would have NCAL submit a schedule for completing landscaping required under their conditional use permit and the board would amend its decision to allow NCAL the operating hours they requested. The board members indicated that this would be acceptable, pending review of the actual documents.

The board met in deliberative session on the Stellar Propane Services application. David moved to recess the deliberative session pending receipt of additional information. Theresa seconded the motion and it passed unanimously.

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

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 9/9/04 TB/CF