FILE COPY

MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
P.O. BOX 748
MORRISVILLE, VT 05661
Phone (802) 888-6373
Fax (802) 888-6378

Minutes of June 23, 2005

Members Present: Carl Fortune, Carol Jennings, Jean Wickart, Gary Nolan, Paul Trudell

Members Absent: Theresa Breault, David Silverman

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: Wilton & Catherine Whitcomb, Claudia Stauber, Winford & Carmen Small, Jason Allen, Joie Marshall, Larry Miller

Chairman Gary Nolan called the meeting to order at 7:30 PM. Paul moved to approve the minutes of May 26, 2005. Jean seconded the motion and it passed unanimously.

WARNED HEARING: CLAUDIA STAUBER, PRELIMINARY PLAT APPROVAL, 2-LOT SUBDIVISION, 403 GOELTZ ROAD

Gary introduced the application, to be reviewed under sections 264, 740, 770, and 810 of the zoning and subdivision bylaws. A pre-application review of the proposal was conducted on May 26, 2005 Gary administered the sworn oath to the applicant, Claudia Stauber. There were no interested parties present.

Claudia Stauber proposes to subdivide her 12-acre lot on Goeltz Road into two lots: lot 1, 2.27 acres, fronting on Goeltz Road and containing an existing single family home, and lot 2, 9.6 acres, on which she plans to build a new single family home. The new lot (lot 2) had previously had a mobile home on it and would use the existing septic leach field. The existing home has a functioning septic disposal system, but requires a plan for a replacement leachfield under state subdivision rules. An application for a state waste water permit is pending. Lot 2 would be accessed by the existing driveway on lot 1 via a deeded right-of-way across lot 1.

Jean moved to approve the application with the condition that a copy of the state waste water permit be filed with the zoning administrator. Carol seconded the motion and it passed unanimously.

WARNED HEARING: WILTON & CATHERINE WHITCOMB, ZONING PERMIT APPEAL, 212 SUMMER STREET

Gary introduced the application, to be reviewed under sections 252, 425, and 640 of the

FILE COPY

zoning and subdivision bylaws. Gary administered the sworn oath to Wilton & Catherine Whitcomb (appellants) and Joie Marshall (permittee)

Catherine Whitcomb explained that she and her husband were appealing the decision of the zoning administrator granting Joie Marshall a permit to erect a six-foot high privacy fence along the property line between her lot at 212 Summer Street and their property at 13 Harrison Avenue. She said that the proposed fence location was actually across the property line approximately 6-8 feet from where Ms Marshall states the boundary is. She based her belief as the boundary location on deed references, tax maps, and the recollections of Brad & Jeff Limoge, whose late father had been the owner of the Whitcomb property prior to their purchasing it. Wilton Whitcomb said that the deed descriptions were not precise enough to accurately determine the boundary and acknowledged that there was no survey record of the property boundary.

Joie Marshall produced an affidavit from Jeff Limoge that described the property line as being along a retaining wall that his father had constructed. This was consistent with where she believed the property line to be. She said the boundary was where she and her other neighbors believed it to be for the many years she had resided at this location.

The Zoning Administrator described how he reviews permits and what is required to approve one. He said he must take on the applicant's statements on the application and on any accompanying site drawings on face value. If it is later determined that any of the information on the application was false or misrepresented, the permit is null and void (as stated on the permit application form). If the Whitcombs were to take the matter of the property boundary to civil court and a judge were to rule in their favor, the fence permit would be voided.

Gary reviewed a legal opinion from the staff attorney of the Vermont League of Cities & Towns regarding the zoning board's jurisdiction in property line disputes such as this. The opinion stated that the zoning board has no jurisdiction in such matters and can only rule on the zoning administrator's actions in reviewing and approving the permit. Lacking any clear evidence, such as a survey, to challenge the facts submitted in the application, the board could not rule on the question of the boundary location.

Paul moved to uphold the decision of the zoning administrator granting the fence permit. Jean seconded the motion and it passed unanimously.

OTHER BUSINESS:

Jason Allen came before the board to ask if the recently approved expansion of an existing conditional use at the Allen Foss property at 2915 Laporte Road, allowing the addition of a dog grooming business, could be transferred to his proposed retail electronics business, selling and repairing electronic components. He explained that the dog grooming business decided not to rent space from Allen Foss and he was looking for a more accessible location for the business he currently operates on Portland Street. Most of his business is conducted over the Internet, with perhaps 3-5 walk-in customers daily. He would be open from 9am-6pm Monday through Saturday. He is a one-man shop right now but hopes to add one employee. He has deliveries once or twice a week.

FILE COPY

Carl moved to amend the previously approved conditional use permit to allow a retail electronics business instead of a dog grooming business, with the condition that the permit be reviewed in one year. Jean seconded the motion and it passed unanimously.

Winford and Carmen Small presented a proposal for a two-lot subdivision for pre-application review. They propose to carve off two acres from an existing 74-acre parcel of open land on Randolph Road along the Morristown/Stowe boundary line. Paul moved, and Carl seconded, that the proposal meets the requirements of the Town Plan. The motion passed unanimously.

Larry Miller presented a proposal for a two-lot subdivision for pre-application review. He proposes to subdivide a 32.6-acre lot on Frazier Road into two lots of 25.2 and 7.4 acres. Carl moved, and Paul seconded, that the proposal meets the requirements of the Town Plan. The motion passed unanimously.

On a motion by Paul, seconded by Carl, the meeting adjourned at 9:00 PM.

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 7/28/05 CF/JW