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MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
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Minutes of May 12, 2005

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

Members Absent: Carol Jennings

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: Andrew Field, Susan Low, Judith St Aubin, Kenneth Williams, John Lepinski, Jay & Janice Hull, Roy & Tania Ward, Charles & Shaune Gregory, Larry Bertrand, Charlie Burnham

Chairman Gary Nolan called the meeting to order at 7:30 PM. Theresa moved to approve the minutes of April 14, 2005. Jean seconded the motion and it passed unanimously.

WARNED HEARING: JAY & JANICE HULL, 2-LOT SUBDIVISION, LAWRENCE FRAM ROAD

Gary introduced the application, to be reviewed under sections 264, 740, 780, and 810 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Jay and Janice Hull. There were no interested parties present.

The Hulls wish to subdivide their 10-acre lot into two roughly equal five acre lots. Lot 1, fronting on Stagecoach Road, contains their existing home. Lot 2 would be created below Lot 1 and would be accessed via a right of way from Carroll Mountain Lane across the adjoining Trowbridge property and a portion of Lot 1. Lot 2's primary leachfield would be on the lot, with its replacement area located mostly on Lot 1 by easement.

David moved to approve the application with the condition that the necessary 50' right-of-ways across the Trowbridge and lot 1 parcels be deeded to those properties. Paul seconded the motion and it passed unanimously.

WARNED HEARING: JOHN LEPINSKI, CONDITIONAL USE, PRIVACY FENCE IN EXCESS OF SIX FEET IN HEIGHT, 144 FAIRWOOD PARKWAY WEST

Gary introduced the application, to be reviewed under sections 425, 632, and 635 of the zoning and subdivision bylaws. A site walk of the property, attended by Gary, David and the ZA, was held prior to the hearing. Theresa administered the sworn oath to John Lepinski.

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John explained that he and the property owner, Eleanor Webber, want to erect a privacy fence along the west boundary of their property to provide screening from exterior lighting on their neighbor's house. The fence would run along approximately 100 feet of the boundary, set back about 10 feet from the property line. Existing brush and trees would partially screen the fence from the view of the adjoining neighbors. Most of the fence would be six feet in height. A portion of the fence, approximately 30 feet long, would be eight feet high.

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

WARNED HEARING: CHARLES GREGORY AND LINDA COVATTA, LOT LINE ADJUSTMENT, 1176 PARK STREET

Gary introduced the application, to be reviewed under sections 264 and 795 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Charles Gregory.

Linda Covatta owns a 10-acre parcel at 1176 Park Street. Her property is surrounded on all sides by Charles Gregory's 89.5-acre parcel. Ms Covatta wishes to purchase 7.5 acres along the west side of Mr Gregory's property to expand her lot. A 50'-wide right-of-way across the extended lot to the remaining Gregory property would be created. The reconfigured lots would both exceed the minimum lot size requirement.

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

WARNED HEARING: JUDITH ST AUBIN, ZONING PERMIT APPEAL, 84 LOWER MAIN STREET

Gary introduced the application, to be reviewed under sections 207, 209, 403, 421, 422, 450, and 640 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Judith St Aubin, Susan Low, Larry Bertrand, Kenneth Williams, and Andrew Field. David, citing a business relationship between the permittee (Larry Bertrand) and his employer (Union Bank), recused himself from the hearing.

Zoning Administrator (ZA) Mark Leonard reviewed the pertinent facts and documents presented to the board for their review. Larry Bertrand applied for a zoning permit to replace an existing barn on a parcel off Lower Main Street with a new 1872 square foot office building. After determining that the proposed use was a permitted use in the Central Business District where the parcel is located, that the parcel falls under the provisions for existing small lots (section 421), and that the site plan submitted with the permit application shows that the property has adequate parking and access for the proposed use, the ZA issued the zoning permit. Adjoining property owner Judith St Aubin is appealing the permit approval over concerns regarding access to the property over a driveway she owns and parking for the proposed use.

Attorney Andrew Field, speaking on behalf of the Appellant, said that the use of the right of way to the Bertrand property over the St Aubin driveway to access any use other than a barn is a legal question to be resolved in the courts. He noted that the original right of way was granted in deeds to the property some 125 years ago, when the barn was part of the brick house property

(now a separate parcel owned by the estate of the late Edward Birmingham). The right of way allowed access to both (barn and house) structures.

Mr Field stated that the right of way is being used by residential tenants of Mr Bertrand's adjoining property (containing Haymaker gift shop and three apartments) to park their cars on the proposed office building lot and the adjoining Birmingham property. This has increased the wear and tear on Ms St Aubin's driveway without any cost sharing for the driveway's maintenance by Mr Bertrand. He presented several photos showing cars purported to be those of the apartment tenants parked in the proposed office building space.

Mr Field's client is concerned that the proposed office use does not have adequate parking space, including space for handicapped users, and that any parking area will also be used by the tenants of the adjoining apartments. He noted that the DRB has authority under section 450 to increase or decrease required parking spaces for a given use. He stressed that the type of office use, unknown at this time, would impact on the number of spaces that would be required.

Larry Bertrand addressed the comments regarding his residential tenants' parking arrangements. He stipulates in their lease that they each are allocated one space in front of the store. He acknowledged that some tenants do park behind the building in either the barn lot or on the Birmingham property. He couldn't say how this might be controlled when there were other owners or users of these properties.

Larry said he would have preferred to re-develop the property as a single family residence consistent with the surrounding buildings' architecture but had run into opposition from his neighbor for this conditional use, so he was now proposing a permitted use. He had offered to buy the driveway from Ms St Aubin, who had declined the offer. He said he had never been asked to share in the maintenance costs of the driveway and stated a willingness to maintain it himself for the benefit of his properties and Ms St Aubin's.

Larry agreed parking for the proposed offices will be tight and said he can designate one space within the available parking area for handicapped users. He said snow will have to be moved off site to keep those parking spaces available to the office users. Regarding utilities, he said that the sewer line runs up the right side of the driveway, along the Haymaker building and could be extended to the barn lot without entering the driveway right of way.

Theresa asked about daytime parking for Haymaker employees and customers. Larry replied that the residential tenants are not supposed to park in front during the day when the store is open. Asked how many cars his tenants have, Larry said two tenants have two cars with the remaining tenant owning one, for a total of five cars.

Paul made a motion to recess the hearing to a deliberative session following a site walk of the property. Gary seconded the motion and requested that Larry mark the proposed parking spaces for the site walk (to be held on May 26). The motion passed unanimously.

OTHER BUSINESS:

Charliem Burnham, representing Grey Goose Farm LLC, presented a plan to subdivide a 50-acre parcel on Randolph Road into a nine-lot Planned Residential Development (PRD) for pre-application review. He noted that the parcel contained a large common area containing a small private golf course that would be retained in the plan. Several lots are less than the

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minimum two acres, which, along with the desire to preserve the open space, is why the plan is being presented as a PRD. There are two wetland areas that the applicant will seek a conditional use determination from ANR for the proposed development. The proposal will not be subject to Act 250 review, being less than ten lots.

Paul moved, and Theresa seconded, that the proposal conformed to the Town Plan for residential development. The motion passed unanimously. A site walk of the property was tentatively scheduled ahead of the June 9 DRB hearing.

The final survey plat for the revised 8-lot subdivision by Charles Nelson off Needle Eye Road was reviewed and signed by the chairman.

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

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 5/26/05 (TB/JW)