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MORRISTOWN/MORRISVILLE DEVELOPMENT REVIEW BOARD

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Minutes of May 9, 2002

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

Recorder: Mark Leonard, Zoning Administrator

Guests: Peter Bourne, Rafael Yordan Jr, Steven Leach, Sondra Sanborn, Joe Yacavone, Irene Wilkens, Eileen Toomey, Vivian Cole, Brendan Cole, Pat Harvey, Dayton Baraw, Mary Dick, Stephen Dick, Kevin Amoyet, Beverly Ryder, Kathy Churchill, Jane Greene, Paul Raymond, Roy Marble, Sharon Rowell, Gary Greaves

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

Theresa made a motion to approve the minutes of April 11, 2002, as written.
Paul seconded the motion and it passed unanimously.

ANNUAL REVIEW, BOURNE'S PROPANE, 171 BRIDGE ST

Gary opened the review and gave an overview of the application. A site walk of the property, attended by five board members, preceded the review. This is the one-year review of the application approved by the board last year to convert the building at 171 Bridge Street from three apartments to offices for Bourne's, Inc. Peter Bourne represented Bourne's, Inc.

Paul asked how the second driveway that was added has worked out and whether there were any traffic problems as a result. Peter replied that the driveway was working out well and there were sometimes problems leaving the site at the end of the work day, but nothing too unusual.

The board unanimously agreed that the property was in compliance with all conditions in the notice of decision on the original application. The next review will be due in May 2004.

WARNED HEARING, CONDITIONAL USE AND SITE PLAN REVIEW, 10,000 SQUARE FOOT WAREHOUSE AND 336 SQUARE FOOT ADDITION TO EXISTING BUILDING, BUTTERNUT MOUNTAIN FARM, 37 INDUSTRIAL PARK DRIVE.

Gary opened the hearing and gave an overview of the application. Paul and David recused themselves due to conflicts of interest. The application will be reviewed under Sections 230,500,

and 630 of the Morrisville/Morristown Zoning and Subdivision Bylaws. A site walk of the property, attended by five board members, preceded the hearing. Theresa administered the sworn oath to Paul Trudell and Dayton Baraw, representing the applicant David Marvin. There were no interested parties in attendance.

Dayton Baraw explained that the proposed 10,000sf warehouse will be approximately 100'x100', with a 30' connector to the existing Butternut Mountain Farm building. It will have two loading docks and a ground level access door. The area in front of the loading docks, currently grass covered, will be graveled over to accommodate vehicles. The building will be lighted, but will not be heated nor will there be any water hookups. It will have a sump drain. The 336sf addition to the existing building will provide a break room for employees. There will be no additional employees or traffic resulting from either of these projects. An Act 250 permit application is pending with the state.

Gary asked what provisions had been made for stormwater runoff. Dayton said they have not designed any specific stormwater systems (i.e., drains). He explained that stormwater will drain onto the grass surrounding the buildings and flow to the gully along the lot's road frontage. This is the same manner in which stormwater runoff is handled with the existing building.

Theresa moved, and Jean seconded, to approve the application as presented with standard conditions. The motion was approved unanimously.

WARNED HEARING, CONDITIONAL USE AND SITE PLAN REVIEW, 40X150 OPEN LUMBER STORAGE SHED, H.A. MANOSH INC., 153 STAFFORD AVE.

Gary recused himself from this hearing due to conflict of interest. David assumed the chair in Gary's absence and gave an overview of the application. The application will be reviewed under Sections 210, 500, and 630 of the Morrisville/Morristown Zoning and Subdivision Bylaws. A site walk of the property, attended by five board members, preceded the hearing. Theresa administered the sworn oath to Kevin Amoyet, representing the applicant. There were no interested parties in attendance.

Kevin explained that H.A. Manosh Inc wishes to erect a 40x150 open lumber storage shed on the site of its sawmill on Stafford Ave. The shed would be used to cover finished lumber while awaiting shipment. The shed would be open on all four sides and would have a gravel floor. There would be no utility connections. An Act 250 permit application is pending with the state.

David asked how high the structure would be. Kevin replied that the peak of the roof would be 27'8" high, roughly equal to the height of the adjacent sawmill building.

David inquired about drainage issues. Kevin said there would be catch basins on either end of the structure and that the ground there drains well.

A questioner from the floor asked if this project would be impacted by the proposed bypass route. David responded that the plans show a 25' buffer along the Manosh property line back from the proposed bypass route and that sawmill and shed would be screened from the bypass by existing trees in the buffer.

Theresa made a motion to approve the application with standard conditions. Jean seconded the motion and it was approved unanimously.

**APPEAL OF ZONING PERMIT FOR HOME OCCUPATION (TATTOO SHOP), 72
UPPER MAIN ST**

Gary opened the hearing and gave an overview of the application. Mary Dick, adjacent property owner, is appealing the Zoning Administrator's approval of the permit application of Rafael Yordan Jr. to maintain a home occupation in the premises he rents at 72 Upper Main Street. The application will be reviewed under Sections 225-228, 423, and 640-643 of the Morrisville/Morristown Zoning and Subdivision Bylaws. Theresa administered the sworn oath to all interested parties in attendance (see guests).

Mary Dick stated that she is appealing this permit as she feels that it doesn't look good to have a tattoo shop on Main Street, near churches and schools, and that it will lower property values in the neighborhood.

Sondra Sanborn spoke against the permit on various points. She feels the signs displayed exceed that allowable under the bylaws and are garish and out of character with the neighborhood. She noted that the actual owner of record of the property was incorrectly listed on the permit application, a misrepresentation that should render the permit null and void. She noted that as a home occupation, no on-street parking is allowed and that the property only has off-street parking spaces for the two units it houses. She stated that she had made inquiries in Hardwick, where the permittee had formerly conducted business. She said that the police there said they had had no complaints or serious problems, other than some tendency for loitering near the premises and that to the best of their knowledge he moved out due to lack of business. She suggested that a tattoo parlor would generate undesirable and/or illegal activities and was not appropriate in a residential neighborhood. She felt that zoning and permitting should control or prevent these sort of things. While she would prefer that there be no tattoo shops in town, she respected the permittee's right to conduct a legitimate business, but would prefer that it be in a commercial or retail area, not a residential neighborhood. She also felt it unfair that the appeal hearing fee was more than double the fee the permittee paid for his permit.

Ray Yordan described his business and how he conforms to all state and local regulations. He submitted copies of his state business and professional registration and stated that he had passed state health inspections. He asserted that he maintains a respectable business and does not allow any illegal or objectionable activities on the premises. He stated that he would remove pennants and would reduce his signage to bring it into compliance with the applicable bylaws. He said he has one or two customers per day, so traffic and parking is not an issue. As to the matter of the owner's name on the application, he submitted a notarized agreement between the owner of record, Thomas Michelson, and Lindsey Royce, who was listed as the owner on the permit application, for the eventual purchase of the property by Mr Royce. He stated that prior to this issue being brought up, he was unaware that Mr Royce was not the owner of record and that as far as he knew Mr Royce was the owner as that is who he paid his rent to and who was the landlord of the building.

Mark Leonard, Zoning Administrator, explained the process by which he reviews and approves permit applications. A home occupation is a permitted use in the Mixed Mercantile and Residential zoning district, where this property lies. The bylaws specifically define what standards apply in determining if it would change the character of the residential area. Mr

Yordan's application met all the criteria established for approving permits for home occupations.

Several interested parties inquired about the notification process for permits. Some felt that neighbors should be informed prior to granting a permit; others felt everyone in a given area, not just adjoining and adjacent property owners, should be notified when permits are submitted or approved. The zoning administrator explained the statutory notification requirements and how it is the policy in Morristown to go beyond those requirements by mailing notices to adjoining and adjacent property owners. Permits are approved if they meet the requirements in the bylaws.

The permittee may proceed with the permit activity subject to an appeal being filed with 15 days of the permit being issued.

Several other interested parties repeated previous concerns over signs and pennants displayed on the premises, the potential negative impact on the neighborhood, and the fact that the owner of record was not correctly identified on the permit application.

Steve Leach asked if there were any mechanisms to protect neighbors from an activity they felt was out of character with the area and whether any state standards apply to this business. Mr Yordan again pointed to his state licenses and health inspections. David pointed out that all local zoning bylaws and restrictions are governed by state statutes. Those statutes in some case say what activities and uses are expressly permitted or prohibited. In the case of home occupations, Morristown's bylaw is written explicitly to comply with 24 VSA section 4406(3). He said the mechanism to protect the interests of other residents in zoning matters is through the Development Review Board in a hearing such as this. Beyond that, any interested party can have input to the drafting and revision of the bylaws through the Planning Commission.

David asked if the Morristown Police Chief had provided any information on problems at the business since it opened a month ago. Both Sondra Sanborn and Mark Leonard said they'd spoken with the chief and that he had not had any problems at this business to date.

David and Paul agreed with comments that the signs and pennants displayed appeared to exceed that allowable under the bylaws and suggested that more discrete signage would allay some of the objections raised. Ray Yordan reiterated his willingness to modify his signs, but would not agree to remove them completely as he is entitled to advertise his business within the limits of the bylaws.

David stated his view that the issue of the owner of record on the permit application was a technical deficiency that did not indicate any intent to mislead or misrepresent the material facts by the permit applicant.

Gary noted that there is adequate parking for this business in the municipal lot less than 400' away from the premises. He said the DRB must review any application or appeal on the basis of what is in the bylaws; it has no discretion to ignore them or to expand on their requirements.

David moved to adjourn this hearing to deliberative session following the completion of all other business. Paul seconded the motion and it was approved unanimously.

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**PRE APPLICATION HEARING, ERIC & ANDREA BARINGER, TWO LOT
SUBDIVISION, WALTON RD.**

Gary opened the prehearing and gave an overview of the application. The application will be reviewed under Sections: 660-662, 700-860.2 of the Morrisville/Morristown Zoning and Subdivision Bylaws. Eric Baringer proposes to subdivide his 15 acre parcel into two lots, with the new lot being approximately 3 acres. He said that the state subdivision permit had been applied for

David made a motion that the application complies with the requirements of the Subdivision Bylaws and conforms to the town plan. Paul seconded the motion and it passed unanimously.

OTHER BUSINESS:

Sharon Rowell came before the board with an informal inquiry as to what street and sidewalk requirements the board might have on an application to subdivide a 9 acre parcel on the edge of the village on Elmore St. The board reviewed Sections 820 and 830 with her and advised her to develop a plot plan for any subdivision application she might want to submit.

The board went into deliberative session at 9:40 PM. David moved to uphold the decision of the Zoning Administrator granting a home occupation permit to Rafael Yordan for a tattoo shop in his apartment at 72 Upper Main Street with the following conditions:

- The permittee shall remove all pennants and bring signs into compliance with Section 471 of the zoning bylaws; that is, no more than one sign not exceeding six square feet.
- The permittee shall submit a corrected permit application with the actual owner of record's name and signature within 14 days of the signed Notice of Decision.

Paul seconded the motion and it was approved by a vote of six in favor, one (Theresa Breault) opposed. On a motion by Carol, seconded by Theresa, the board came out of deliberative session at 9:55 PM

On a motion by Paul, seconded by Theresa, the meeting was adjourned at 10:00 PM.

Respectfully submitted,

Mark Leonard, Recorder