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**MORRISTOWN/MORRISVILLE  
DEVELOPMENT REVIEW BOARD  
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## Minutes of April 27, 2006

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

Members Absent: none

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: see attached list

Prior to the start of the warned hearings, the members met with the three applicants for the vacant position on the Development Review Board. Each applicant discussed their background, experience, and reasons for wanting to join the board.

Gary Nolan called the meeting to order at 7:30PM. On a motion by Theresa, seconded by David, minutes of the April 13, 2006 meeting were approved.

### **WARNED HEARING: JOSEPH & MARCELLA LANPHEAR, FINAL PLAT APPROVAL, LOT LINE ADJUSTMENT, EARL GRAY ROAD**

Gary introduced the application, to be reviewed under sections 790 and 795 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Joe and Marcella Lanphear.

The ZA explained that the Lanphears had been before the board in September 2005 for a lot line adjustment of two adjoining parcels they owned between Fitzgerald Road and Earl Gray Road. The resulting lots would be 27.7 and 89 acres, respectively. The board approved the application on September 8, 2005 with the standard requirement that a mylar survey plat be recorded in the town land records within 90 days.

Joe told the board that the mylar had not been recorded within the mandated timeframe and that the prospective buyer of the 27.7-acre parcel wanted to be sure that all necessary actions were properly taken before concluding the sale. Joe presented a mylar survey plat conforming to the requirements of section 790 of the subdivision bylaws depicting the adjusted property boundaries. He noted that the only changes between this survey and the one previously presented (but not recorded) were minor corrections to the survey notes and deed references. All boundary lines and areas for both lots remained as previously approved.

Carl made a motion to grant final plat approval of the proposed lot line adjustment. Jean seconded the motion and it passed unanimously.

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## **WARNED HEARING: RICHARD PALMER, FINAL PLAT APPROVAL, 5-LOT SUBDIVISION, LAWRENCE ROAD**

Gary introduced the application, to be reviewed under sections 264, 750, 760, and 790 of the zoning and subdivision bylaws. Preliminary plat approval had been granted at a warned hearing on March 23, 2006. A site walk of the subject property, attended by four board members and the ZA, was conducted prior to this evening's hearing. Theresa administered the sworn oath to Taggart Haslam and John Pitrowski, representing the applicant. Rudolph, Barbara and Tod Ziegler, Max Paine, and Carroll Lawrence were present as interested parties.

John Pitrowski informed the board that the proposed subdivision had received a state permit approving the plans for water and wastewater disposal systems for each of the lots. He also provided a letter from the Agency of Natural Resources (ANR) regional wetlands specialist stating that the plan provided adequate protection to the wetlands on the property and made several recommendations to ensure the wetlands and their associated buffer zone would be protected once individual homes were constructed.

Following up on an open issue from the preliminary plat approval hearing, Carl asked about access to lots 4 and 5 along Lawrence Road. John said he had researched all the relevant deeds and verified that a fifty foot wide right of way exists along that portion of Lawrence Road, encompassing both a segment of the town road (up to Sugar House Ridge Road) and where it is a private driveway accessing several adjacent properties. The right-of-way lies within the subject Palmer property and the adjoining Simmons property, with each property owning twenty-five feet of the right-of-way. Lots 4 and 5 would assume the Palmer portion of the right of way, providing them access to the public road.

David asked if the developer would comply with ANR's recommendations on wetlands protection; Taggart said they would.

Tod Ziegler inquired about any proposed protective covenants, such as minimum home prices or landscaping requirements. Taggart responded that covenants had not yet been considered, but could include typical restrictions on mobile homes and home businesses.

David moved, and Paul seconded, to grant final plat approval for the proposed subdivision with standard conditions and the additional condition that the ANR recommendation for wetlands protection be incorporated as a condition of approval. The motion passed unanimously.

## **WARNED HEARING: BRUCE LINTON, CONDITIONAL USE APPROVAL, HOME BUSINESS, 533 BRYAN POND ROAD**

Gary introduced the application, to be reviewed under sections 263, 460, and 630-635 of the zoning and subdivision bylaws. A site walk of the subject property, attended by four board members and the ZA, was conducted prior to this evening's hearing. Theresa administered the sworn oath to Bruce Linton and his partner Melissa Stavola, and interested parties Lee Labier, Jessica Hartley, Brian Wilcox, Peter & Kathleen Liebler, Peter & Brenda Christie, John Lepinski, and attorney Edward French, representing adjoining property owner Gary Seelinger.

Bruce outlined the dog sled touring business he has operated from his 78-acre parcel at the end of Bryan Pond Road for the past three years. He offers dog sled rides on the surrounding state and town lands and along the VAST trails, typically three to four times per day, during the winter months (mid-December through March). His clients typically drive to the property, but this usually only involves a few cars each day.

Bruce stated that he was aware that his dogs can be noisy at times, particularly during feeding times and when they are being hooked up to go out on the trails. He is trying to limit the noise impact on his neighbors. He had previously kept his dogs, numbering from 8-42 at various times, on the premises year-round but has made arrangements to keep all but a couple of dogs at another location outside of Morristown during the off-season. He trains the dogs year-round, but with them not on the premises during the off-season, there would be no noise during most of the year, including the summer months when neighbors would be more likely to have their windows open and be outside. He has adjusted the feeding times to try to avoid disturbing his neighbors early in the morning when the dogs are on-site.

Bruce said that he feels his business is good for the local economy and, other than the noise issue, has little or no impact on his neighbors. His partner Melissa Stavola said that they have made educational presentations about dogsledding in various local schools. She added that Bruce has competed in regional and national events and has brought good publicity to the area.

Theresa asked Bruce how many noise complaints he's had from neighbors; he said only four calls over the past few years.

Carl inquired about other employees. Bruce said he had as many as 5-6 at various times, depending on customer demand, but that typically it's only himself, Melissa, and maybe one other person. Carl noted the bylaw restriction of a maximum of three on-premises non-family member employees for home businesses.

Lee Labier, who lives on Mud City Loop approximately 500 yards from the Linton home, vigorously disputed Bruce contention that there had been few noise complaints. He said he had frequently called Bruce to complain about the noise throughout the year. He cited Bruce's own website that highlighted the noise from the dogs as part of the dog sled experience.

Brian Wilcox, who together with Jessica Hartley is the closest neighbor, spoke positively about the business. He said that over the past few years he has not found the noise to be excessive and that Bruce has been very considerate of them, as well as being very environmentally conscious. He said Bruce's clients have been well-mannered and noted that they do bring money into the local economy. Jessica Hartley said the topography of the area tended to channel the noise across the valley toward Beaver Meadow Road, not toward her home.

Ed French, speaking for his client Gary Seelinger, referred to the home business bylaws. He cited the purpose of these bylaws as being to allow for small, home-based businesses within residential areas while protecting the property rights of neighbors. He noted they explicitly prohibit 'objectionable noise' and that his client and other neighbors clearly find the noise objectionable. He said that noise is very intrusive and hard to ignore. He added that under Conditional Use standards, the proposed use must not adversely affect the character of the area and that his client feels the noise greatly disturbs the quiet, remote character of the area.

John Lepinski, a member of the Morristown Trails Committee, expressed concern about Bruce's use of the town lands. He referenced interim Select Board guidance on use of town

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lands for recreational purposes.

Thaddeus Davis, who has worked for Bruce, supported the educational component of Bruce's operation and echoed previous comments on its economic value to the community.

Brenda Christie asked what limits there were on size and scope of a home business. Peter Christie said they hear the dogs year-round on their property on Beaver Meadow Road.

Gert Lepine cited a request twenty years ago by a pipe-carver to run a business in the area that was turned down due to similar noise concerns.

David noted that the applicant has modified his operation to accommodate neighbors concerns and asked if the new arrangements would be sufficient to allay their objections. Lee Labier said they would not, that he would still hear the dogs during the winter months and that the noise would inhibit his enjoyment of outdoor winter activities.

David asked Bruce if he'd considered any sort of barrier to redirect sound waves away from neighboring homes and whether Bruce would agree to a condition limiting any approval to Bruce alone, not to be transferable to any future occupant of the property. Bruce said he had not looked into means to redirect the noise but would be willing to do so. He had no objections to limiting the approval to him alone.

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

The board met in deliberative session on the Linton application. David moved to recess the hearing for 60 days during which the applicant would develop a sound mitigation plan for the board's review. Upon receipt of this plan, the hearing would resume. Carl seconded the motion and it passed unanimously.

## **OTHER BUSINESS:**

The board reviewed the applicants for the DRB vacancy and agreed to recommend Karyn Allen to the Select Board for appointment, replacing Carol Jennings who resigned in March.

Gary asked the ZA to review the site plan for new construction and improvements at the Morrisville Plaza. He recalled that there was a requirement for a sidewalk along the Munson Avenue side of the property which has not been installed and also questioned whether curbs and parking markings were being installed as depicted on the approved site plan. The ZA will check and report back to the board.

The ZA informed the board that the Environmental Court had remanded the Leikert home business application back for a new hearing. As a result of this case and other recent Court decisions, the ZA had recommended and the Select Board had approved the recession of its 1996 adoption of 'on the record' review of DRB decisions on appeal. From here on, any appeals of DRB decisions would be 'de novo'; that is the parties would make their case to the Environmental Court from scratch. A written decision will still be issued for all applications.

On a motion by Gary, seconded by Theresa, the meeting adjourned at 9:30 PM.

Respectfully submitted,  
Mark Leonard, Recorder

Minutes approved on: 5/11/06 TB/JW