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MORRISTOWN/MORRISVILLE DEVELOPMENT REVIEW BOARD

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Minutes of January 13, 2005

Members Present: David Silverman, Paul Trudell, Theresa Breault, Kelly Rogers (alternate), Bill Henchy (alternate)

Members Absent: Carol Jennings, Carl Fortune, Jean Wickart, Gary Nolan

Recorder: Mark Leonard, Zoning Administrator (ZA)

Guests: Robert Davis, Everett Rowell, Larry Bertrand, Judith St Aubin, Susan Low, Sherry Wilson, Elerson (Bobby) Roberts, John Grenier

Acting Chairman David Silverman called the meeting to order at 7:30 PM. Theresa moved to approve the minutes of December 9, 2004. Paul seconded the motion and it passed unanimously.

WARNED HEARING: ROBERT & BARBARA DAVIS TRUST, LOT LINE ADJUSTMENT, 227 JERSEY WAY

David introduced the application, to be reviewed under sections 259 and 795 of the zoning and subdivision bylaws. Theresa administered the sworn oath to Robert Davis.

Robert Davis explained that he and his wife own adjoining lots in the Jersey Heights subdivision. Their home is on lot 31; lot 32 is undeveloped. Both lots are approximately one half acre in size. He proposes to shift the common boundary line between the two diagonally, reducing the road frontage of lot 32 twenty feet and adding that amount to the rear property line of that lot. Lot 31's road frontage would be increased by twenty feet and its rear property reduced by that amount. The total area of each lot would remain unchanged.

Paul moved to approve the lot line adjustment as requested. Theresa seconded the motion and it passed unanimously.

WARNED HEARING: LARRY BERTRAND, CONDITIONAL USE: RESIDENTIAL DWELLING, 84 LOWER MAIN STREET

David introduced the application, to be reviewed under sections 208 and 630-635 of the zoning and subdivision bylaws. David then recused himself from the hearing due to a business relationship he had with the applicant. Paul assumed the chair for this hearing. Theresa administered the sworn oath to Larry Bertrand, Judith St Aubin and Susan Low (adjacent

property owners), and Sherry Wilson.

Larry gave some background information on the parcel involved in this application. The lot, which he had labeled Lot B (tax map #21-028), had been one of three lots that had been in common ownership. These lots were purchased by the Birmingham family several years ago. He acquired Lot B from the Birmingham estate. Lot B, containing an old barn, was separated from the rest of Birmingham property by a private driveway owned by adjoining property owner Judith St Aubin. Larry also owns Lot A (tax map #21-026), which contains a retail shop and three apartment units.

While researching the property boundaries for this application, it was discovered that lots A and B were not contiguous, as had been previously believed. A piece between the two lots, approximately 28'x74' (1765 square feet), which had been assumed to be part of lot B is a separate parcel still owned by the Birmingham estate. Without this piece, lot B is 4275 square feet in area. Larry said he was in the process of acquiring this piece, which he expected to complete within the next few weeks.

Larry proposes to remove the barn and replace it with a single family home. The new structure would be built on the existing barn footprint. This is a conditional use in the Central Business District, where the property is located.

Judith St Aubin stated her view that the easement to use her driveway allows access only to the barn on lot B, not to any other use. She submitted a legal opinion from her lawyer that stated no party may use the driveway easement other than to access the Birmingham house and barn. She further stated that she has had persistent problems with both tenants of Mr Bertrand's apartments and patrons of a nearby café using her driveway to park their cars. She said that she bears the cost of maintaining the driveway and pays taxes on it and does not want to see it further abused. She is considering gating the driveway to deny its use to unauthorized persons.

Larry expressed the opposite opinion, stating that his review, and the review by his surveyor, of the relevant deeds show that both lot A and lot B have the legal right to use the St Aubin driveway for access to those parcels.

Theresa reviewed the legal opinion and read the deed that established the easement. She felt that the legal interpretation of the disputed easement was beyond the Board's jurisdiction. She suggested that the Board make a site visit to better understand the lot issues.

Paul said his reading of the legal opinion indicates that the easement allows access to the barn property.

The ZA suggested that the Board have the deeds independently reviewed by the town's attorney before rendering a decision. He said any such legal review would be at the applicant's expense.

Paul noted that lot B, as identified on the applicant's survey, is 4,275 square feet in area. Under Section 421, Existing Small Lots, of the zoning bylaws, lots must be at least one-eighth of an acre (5,445 square feet) in area in order to be developed as permitted within the applicable zoning district. Unless and until Mr Bertrand acquires ownership of the strip of land between lots A and B and legally joins it to lot B, lot B would not meet this minimum area requirement.

Theresa made a motion to recess the hearing until January 27, 2005 and that a site visit be conducted prior to that date. Bill seconded the motion and it passed unanimously. A site visit was scheduled for January 23, 2005 at 1:00PM.

OTHER BUSINESS:

Bobby Roberts presented a site plan of a proposed 4-lot subdivision for pre-application review. The plan subdivides a 51-acre parcel along Randolph Road near the Morristown-Stowe line currently owned by Lester and Madonna Small into four lots ranging in size from five to 25 acres. The lots would be accessed from Randolph Road and the Stowe side of Elmore Mountain Road. On a motion by Paul, seconded by Theresa, the Board unanimously found that the application conforms to the Town Plan.

John Grenier, representing applicant Charles Nelson, presented a site plan for pre-application review to further subdivide an 11-acre lot that had been created as part of a six-lot subdivision in 2003. Lot #5 would be split into three lots of three, four, and four acres respectively. The application also seeks to adjust the Lot #6 property line, reducing it from 3.5 to 3.3 acres, with the lost acreage gained by Lot #7. On a motion by Paul, seconded by Bill, the Board unanimously found that the application conforms to the Town Plan.

On a motion by Paul, seconded by Theresa, the meeting adjourned at 8:40 PM.

Respectfully submitted,
Mark Leonard, Recorder

Minutes approved on: 1/27/05 (TB/DS)