

Town of Moretown Development Review Board
P.O. Box 666, Moretown, Vermont 05660

Minutes of Hearings Held June 11, 2015

Continued Hearing on Application No. 15-10
Clayton and Sandra Wetzel - 1057 Herring Brook Road

Present for the Board were Tom Badowski, Jim O'Neill, Paula Woods (Alternate), and John Riley. Also present were Applicants Clayton Wetzel and Sandra Wetzel.

John Riley called the meeting to order at 6:15 PM. This is a continued hearing from May 21. Subsequent to the first hearing the Town received a three page letter from Sacha Pealer of the Agency of Natural Resources providing the State's review in accordance with 24 V.S.A. §4424.

The Board reviewed Ms. Pealer's letter. The letter notes that under the Moretown Flood Hazard regulations and requirements of the National Flood Insurance Program, residential structures must be elevated such that the lowest floor, including the basement, is at or above base flood elevation.

That is the goal and intent of the present application. The letter suggested that the violation would remain an unaddressed NFIP issue until the Town receives as built documentation that the structure has been elevated correctly. The letter recommended that the permit be conditioned on submittal of a FEMA Elevation Certificate within ninety days of project completion to establish the structure elevation meets the flood hazard area criteria.

The Applicants are willing to do this. Mr. Wetzel then reviewed with the Board the Conditional Use Application criteria under Section 5.2. There are no issues that the application meets the requirements.

There was discussion as to whether requesting the Applicants provide an as built compliance letter of an engineer that the construction was generally in accord with the permit should be required. Moretown presently doesn't require the administrative officer to issue certificates of compliance or occupancy. However, it was agreed this is reasonable for the present application since it is remedying a prior notice of violation.

Tom Badowski moved to approve the application on the condition that the project be completed consistent with the proposed application; that subsequent to completion an appropriate licensed professional submit a flood elevation certificate as recommended by ANR; and that Applicants' engineer certify that the elevation and fill were completed in accordance with the proposed application. Paula seconds. All in favor.

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Application No. 15-11: Marc and Nicole Rocheleau To Construct a Garage and Deck - Off Lester Lane

John Riley called the meeting order at 6:30 PM. Sitting on this application are John, Jim O'Neill, Erick Titrud, Dave Russo, and Tom Badowski.

The Rocheleau's have a single family residence on Lester Lane which appears to be a short private drive near the end of Freeman Hill Road. The Rocheleau's built their current residence in 2005. The proposal is to construct an attached garage and deck to the existing house.

Regulation 4.1(A) requires DRB review and approval for any development which does not have frontage on a Town Class 1, 2, or 3 road, or a state highway. In its review the Board is to consider use, safety, traffic, lot configuration and road and site conditions. The proposal involves a modest addition to an existing residential structure and does not implicate any of these criteria.

The Board discussed that in prior years it had concluded that applications of this type probably should not require DRB review and should be approved by the zoning administrator if they meet ordinance criteria such as setbacks. The Board reviewed with Mr. Rocheleau and verified that the location of the addition will not implicate minimum setbacks for the Ag-Res district. Tom Badowski moved, second by Jim O'Neill to approve the application as presented. All in favor.

Application No. 15-12: Warren Noyes for "As Built" Approval of Two Additional Apartments at 802 U.S. Route 2

John Riley called the meeting order at 7 PM. Present for the applicant is Warren Noyes as well as his engineer, Dexter Lefavour. Also present is Mr. Noyes' son, Steven Noyes.

After introductions were completed Erick Titrud indicated he has a conflict sitting on this application and recused himself. Erick left the meeting. John Riley noted that as a five member board it will require three votes for the Board to take action.

Mr. Lefavour noted that several years ago the Board had granted mixed use approval for the Noyes' property for construction of two residential apartments in the same structure as the hardware store/lumber business. However, a requirement of the approval was that a plan and mylar be prepared and recorded which never occurred. Mr. Lefavour indicated that the town zoning administrator may take the position that the prior permit is null and void for failure to complete that requirement.

Mr. Lefavour stated the Applicant wishes to appeal decisions of the zoning administrator and at the same time seek permit approval for the third apartment which was built in 2013-14.

John Riley stated that an appeal from the actions of the zoning administrator had not been requested or warned for this hearing. The only matter before the Board is Application 15-12 signed by Warren Noyes May 15 for approval of the two additional apartments. If Mr. Noyes wishes to appeal determinations of John Weir that would require a separate proceeding. This hearing was warned with respect to the particular application, and the Applicant can either proceed or seek to withdraw the request.

Mr. Lefavour hadn't previously reviewed the submitted application and did so. Mr. Lefavour and Mr. Noyes indicated they would proceed at this time with the present application.

Tom Badowski asked whether the Applicant has sought a Letter of Intent from the Utilities Division of the Vermont Department of Transportation. The Applicant indicated he was not aware any such approval was required. Tom believes the State takes the position that any modification to a use which has access from a state highway now requires such a review and approval letter.

John Riley then noted that at the time of the prior approval it was indicated that Act 250 jurisdiction has attached to this property and asked whether an Act 250 amendment has been obtained for the apartments. Mr. Lefavour indicated that the third apartment had been approved and submitted a draft letter dated September 27, 2013 to the District 5 Commission requesting the administrative amendment. Dexter did not have the approval with him this evening, but will obtain and submit. Applicant will also need another administrative amendment for the fourth apartment.

Next Mr. Lefavour submitted copies of State Wastewater Permits WW-5-1203-1 and 1203-2. The first permit approved the first two apartments, and the latter permit dated July 23, 2013 approved a third apartment.

In response to questions from the Board Mr. Noyes could provide no reason or explanation as to why he only sought approval from the Town for the third and fourth apartments after the Town initiated enforcement proceedings against him.

Tom Badowski suggested that the Board cannot hear and should deny the application because of the lack of the VTrans letter of intent. The requirement was communicated to towns by Craig Keller of the Utilities Division in August 2014. After a search engine inquiry Dexter Lefavour was able to locate online the letter. It references statutory changes to 24 V.S.A. §4416 effective July 1, 2014 which requires a letter of intent access permit under 19 V.S.A. §1111. The Board does not have these sections before it but it appears that at a minimum an inquiry must be made to the Agency of Transportation whether it has jurisdiction to review the proposed change in use.

John Riley suggested that given the zoning administrator had deemed the application sufficiently complete to be warned that it would be better to continue the matter so that the Applicant can supplement the Application if he can with evidence that additional required permits associated with the project are in place and that it qualifies as a conditional use under the ordinance. Also, that the applicant can show he has met the requirements of the earlier approval which required a survey mylar and staking of pins to establish the lot.

The matter will be continued to Thursday, July 16 at 6:30 PM. It was asked of the Applicant that the Act 250 permit be submitted in the interim to the zoning administrator who can circulate it to the Board, and that if any other permits issue in the interim that they be provided so members can review them in advance of the July 16 hearing.

Although July 16 may be insufficient time to obtain determinations of everything which is required the Board can convene on July 16, review the status, and if needed continue the matter to a later date. At this point no abutters or other interested parties have appeared in this proceeding. John made a motion to continue this hearing to July 16 at 6:30 PM. Tom Badowski seconds. All approve.

The meeting adjourned at 7:45 PM.

Respectfully Submitted,



John Riley, Acting Secretary