

**Moretown Development Review Board
Minutes of DRB Hearing Held June 27, 2013**

Application of Douglass For Structure Modifications and a Change of Use From Engine Repair Shop to Mixed Use Building, Application No. 13-17

Members of the Board present: John Riley; Erick Titrud; Jim O'Neill and Tom Badowski.

Others present: Martha Douglass and Thomas Douglass

John Riley called the meeting to order at 6:30 PM. The Douglasses have acquired the former Irish property located at 1652 U.S. Route 2. This is an approximately 10.2 acre parcel which is fairly narrow and contained the former Irish residence and an engine repair shop. The Douglasses have replaced the prior home with a mobile home that they purchased. They are also proposing modifications to the engine repair shop which involves a roof extension, cupola, exterior stairs and sign. Their intent is that their son conduct his business of constructing musical instruments in a portion of the structure, and intend to lease other portions to business tenants.

As part of their application they have submitted a site plan showing setback distances and parking for six vehicles for the commercial building, and two parking spaces for the mobile home. It appears that the existing structure may not meet setback requirements on the easterly side, but any degree of noncompliance will not be increased.

The Board discussed whether the property is located within the flood hazard area. It is not within the 100 year area in which flood proofing is mandatory, but may be within the 500 year flood hazard area. Applicants plan to elevate utilities above grade and are amenable to a condition that propane tanks be anchored.

Tom Badowski moved, second by Erick Titrud to approve the application as submitted on the condition that the work be completed consistent with the submitted plans; that utilities be elevated and above grade; and any fuel tanks be anchored. All approve.

Application No. 13-16 of H&H Real Estate for Planned Unit Development at Gallagher Acres, Parcel ID No. 01-085.000

Hearing on Application No. 13-16 began at approximately 7:15. Present for the Applicant is Nate Hayward. H&H Real Estate acquired the former Gallagher Acres Property. This subdivision off U.S. Route 2 near Waterbury Village was originally established by Robert Gallagher in 1974 before enactment of zoning regulations. The development obtained an Act 250 Permit in the early 1970's. Subsequently, ten lots were developed with single family homes.

In September 2011 H&H Real Estate purchased the remaining undeveloped lots totaling 36 in number. Present zoning requires a 1 acre minimum lot size in the Zoning District. Most of the grandfathered lots are one third, to one half acre in size.

Prior to acquisition by H&H there was a hearing before the Development Review Board where it was determined that the front yard setback of lots is measured from the center line of the private roadways, and it was concluded a variance was not needed for setbacks of the previously laid out lots.

At this point, of the 36 acquired lots, two have been sold with residences, and two additional houses constructed. An attorney for a prospective purchaser has raised a question as to whether the lots are properly grandfathered under Town Zoning Regulations. Under Section 4.4 existing small lots which subsequently come under common ownership with one or more contiguous lots, are deemed merged for purposes of the regulations. Although an unappealed letter ruling of the Zoning Administrator concluded each lot can be sold and developed with a single family home upon receipt of a building permit, there is enough uncertainty that the Applicant seeks to confirm the validity of the subdivision by seeking a determination that it qualifies as a planned unit development under present Moretown Zoning Regulations. As part of the application the Applicant has submitted a narrative and supporting exhibits in support of its analysis that the development can qualify as a PUD under Section 5.3 of the Ordinance.

Mr. Hayward presented a map prepared by Richard Bell, L.S. dated May 2013 and titles Gallagher Acres P.U.D. Subdivision and depicting the lots and related acreage which would be committed to the planned unit development. The Board worked through the Section 5.3 requirements governing planned unit developments one by one.

Under 5.3(A) PUD's are permitted to specifically achieve certain objectives including for clustered residential development, and to provide housing in a cost effective manner. The Board agrees that the application meets this requirement.

Section 5.3(B) requires review in accordance with procedures for conditional use review and that the application include a statement describing all proposed modifications to existing Bylaw requirements. The Board finds that the application does this through the narrative.

Subparagraph (D) then sets forth general standards applicable to PUD's. The Board finds that the application contemplates housing which has the benefit of municipal water through the Moretown-Duxbury Fire District and provides new housing with ready access to U.S. Route 2 and in proximity to services available in Waterbury Village. Under (D)(3) greater concentration or intensity of development is permitted if there is an offset by a lesser concentration in other sections, including the reservation of no less than fifty percent of the remaining land as open space. Mr. Hayward outlined how the acreage across U.S.

Route 2 running to the Winooski River will remain undeveloped common land. Also, there is dedicated common land southerly and uphill of the housing lots which has been expanded such that more than fifty percent of the committed acreage is dedicated as open space.

Although the lots are smaller than what is currently required by zoning, no setback variances are requested.

Under 5.3(D)(5)(d) open space is to be suitably improved or maintained for intended use except for open space containing natural or cultural resources worthy of preservation which may be left unimproved.

Under Subsection (F), in addition to the general standards, PUD's are required to meet specific standards including that the total number of residential units not exceed the number which would be permitted in the Development Review Board's judgment if the parcel was subdivided into buildable lots in conformance with the zoning regulation for the district. However, this number may at the discretion of the DRB be increased by up to 25 percent of the number which the Board determines could be provided on the site in conformance with the Zoning District Requirements.

The Board discussed this requirement. The Applicant is seeking approval of 34 lots on 40.58 acres. Although the Applicant has not specifically requested a density bonus in its application, the Board is not certain that the 40.58 acres could be subdivided into 34 lots which meet current zoning. The land on the northerly side of U.S. Route 2 adjacent to the Winooski River does not appear to be buildable based on flood plain and other limitations. Also, given the need that a portion of acreage be devoted to the road network, and the presence of substantial overhead utility lines limits building envelopes, makes placement of 34 fully qualified lots a challenge.

All present agree that a site visit will help facilitate a better understanding and ability to address this issue. Tom Badowski moved, and Eric K. Titrud seconded that the Board conduct a site visit on Wednesday, July 17th, at 5:00 p.m., with the Board to reconvene and continue its hearing on this application on July 17th at 6:15 p.m. All approve. With no further business the Board adjourned at 8:30.

Respectfully Submitted,



John Riley, Acting Clerk