

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

Minutes of Hearing Held May 21, 2015

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. Also attending were neighbor Deb Sargent, and Zoning Administrator John Weir.

John Riley called the meeting to order at 6:32 PM. Clayton and Sandra Wetzel own a residence at 1057 Herring Brook Road. As initially permitted in 1991, the residence was approved for a slab foundation to be built above the one hundred year flood hazard zone but the then landowner installed a below grade poured foundation. Included with the material provided the Board were July 24, 2008 DRB minutes under which the Board ruled it could not grant "as built" approval because the house still did not comply with flood hazard requirements.

However, at the same meeting the 2008 Board found there was credible evidence the structure was in place April 1, 1992 such that any enforcement proceedings could not be maintained because more than 15 years had passed since the violation occurred.

Subsequent to the 2008 decisions, the Wetzels acquired this property. Mr. Wetzel initially worked with McCain Consulting of Waterbury to determine if further investigation could support issuance of a flood elevation certificate that might find the property not actually within the flood hazard area. This was unsuccessful. But Applicants have now secured a flood hazard area mitigation grant through FEMA based on federal monies that became available after Tropical Storm Irene in August 2011. Under the terms of the grant, the Town of Moretown is the applicant and administers the federal monies. Mr. Wetzel explained how, as part of the grant process, he needed to submit a detailed application as to the manner of bringing the structure into compliance with the regulations.

The plan is to fill the existing poured wall foundation and then construct a slab on top sufficient to raise the structure such that the lowest floor will be one foot above the base flood elevation. It will still be a two story structure, with the lower floor still being a basement-type area (although above the base flood elevation), and the second floor having the primary living space.

Board member Tom Badowski asked whether Sasha Peeler of DEC had commented on the application. Mr. Wetzel indicated he had consulted with Ms. Peeler and that she was familiar with the proposal. Ms. Peeler is the Agency of Natural Resources official who presently reviews local zoning applications for compliance with mandatory flood hazard regulations in municipalities which offer federal flood insurance.

There was discussion whether the Board can grant a permit without having seen ANR's review and comment. John Riley notes that given FEMA has approved the grant application and is making funds available, that it would only do so if the project as proposed is consistent with flood hazard regulations. Tom Badowski is less sure, and has seen some instances where the Agency has directed construction on pillars so that flood waters would flow through the structure.

The Wetzels express concern that approval delay may create difficulty in having contractors complete work during the 2015 construction season.

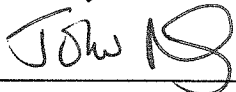
John Weir consulted his records and it appears the application proposal was sent to the Agency of Natural Resources May 11. The Board then reviewed 24 V.S.A. §4424(2)(D). That section provides that new construction or substantial improvements cannot be granted for the flood hazard area until a copy of the application has been provided to the Agency of Natural Resources, and either 30 days have elapsed, or the Agency has delivered comments on the application.

As neither 30 days have elapsed or comments been received, the Board decided it could not grant approval at this hearing.

A motion had been made to continue the hearing to June 11. It was amended to clarify that the continued hearing will be scheduled for June 11 at 6:15 PM. All approved. It was asked that if John Weir receives comments prior to the hearing that he circulate them to the Board and interested parties. Although Deb Sargent is an abutter, she noted on the record that she did not seek party status and simply was attending in support of the Wetzels' application.

The meeting adjourned at approximately 7:50 PM.

Respectfully Submitted,



---

John Riley, Acting Secretary