

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

Minutes of Hearing Held October 20, 2016

Application No. 16-46: Ted Brunell For Side Setback Waiver and Conditional Use
Approval for Mixed Use Building at 329 US Route 2

John Riley called the meeting to order at 6:35 p.m. Present for the Board were Erick Titrud, Paula Woods, Greg Nagurney, Dave Russo and John Riley. Present for the Applicant were Ted Brunell and Candice Brunell. Also present was John Weir, Zoning Administrator.

John swore in the Brunells. They own a 2.3 acre parcel near the intersection of Route 2 and Route 100 where they operate Ted's Kar Kare. There is also an auto body repair building on the parcel which Ted leases to a separate business. They propose a third structure, 24 feet by 32 feet, which would have two garage bays on the first floor for vehicle and equipment storage with living quarters on the second floor. Mr. Brunell explained that presently they live some distance from the Property and the living quarters would allow them to stay at the Property.

The Applicant went over the site plan submitted with the Application. There is an existing septic tank and leach field towards the front of the property near US Route 2. The new building is intended to tie into that system. Also, water is provided by the Moretown-Duxbury Fire District and would be the water source. Mr. Brunell believes there is adequate capacity in the septic system for the new building, though he has not yet investigated whether he needs a State permit or amendment of an existing permit for the water and wastewater systems serving the proposed building.

The Board reviewed Section 4.5(C) which was recently added to the Zoning Ordinance. Under this provision, notwithstanding stated setbacks for certain Districts, the DRB is allowed to grant modifications as a conditional use subject to certain provisions. With respect to the Commercial District where this property is located, a side or rear property line setback may be reduced from 25 feet to not less than 10 feet. As written, the section appears to require that the reduction is needed to preserve a scenic feature not otherwise protected by the setback; or is necessitated by building constraints caused by geologic, topographic, or hydrologic conditions.

The current proposal seeks the maximum allowable reduction to a 10 foot setback from the Emery property line. Applicants point out there is an existing hedge which screens the Emery property from the Brunell parcel.

The current proposal does not appear to involve preservation of a “scenic feature”. And there does not appear to be any building constraints caused by existing site conditions. Ted Brunell explained that it would be difficult to site the building further into the lot because it would encroach upon existing water and sewer lines, and would not be consistent with orderly access into the parcel, and existing traffic flow and parking locations. However, these factors are not the result of the geology, topography or hydrology of the parcel.

There was discussion among the Board whether based on the grammar of subsection (1), the requirements should apply to any potential setback reduction; or only for rear and side setbacks in the Preserve District. All agree that a comma should probably have been a semi-colon, and the language is somewhat awkward. However, if the requirements are not construed as applicable to all setback reduction requests, the Ordinance would provide no guidance or standards for the DRB to consider any reduction proposal.

It did not appear the Applicant can meet the requirements for a setback reduction. There was discussion whether the proposal could be modified to meet the 25 foot setback requirement. The Board was willing to continue the Application if the Applicant wished to modify the proposal. Mr. Brunell advised that he did not wish to do so as the project is not feasible without the setback reduction.

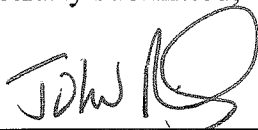
The Board received into evidence a one page document with comments and associated aerial photo submitted by Dan and Laurie Emery. The Brunells indicated they were willing to make some modifications based on these requests. They were not considered in any detail as the proposal as an initial matter does not qualify for a side setback waiver.

Mr. and Ms. Brunell left the meeting at approximately 7:40 p.m. Subsequently, Erick Titrud moved, and Paula Woods seconded, to deny the application as not meeting the 25 foot side setback applicable to the Commercial District, and not qualifying for a reduction waiver under the requirements of Section 4.5(C)(1). All in favor.

After some further discussion about the new Ordinance and review of other new provisions, the Board adjourned at 8:05 p.m.

There being no further business, the Board adjourned at 7:40 p.m.

Respectfully submitted,



John Riley, Acting Secretary

10-27-16

Date