

Town of Moretown Development Review Board  
79 School Street, Moretown, Vermont 05660

Minutes of Hearing Held April 28, 2022

Application No. 22-05: Application of Ted Brunell for Conditional Use Review for Setback Modification Under Section 4.5(C)(1) for Construction of 18' by 36' foot Addition to Commercial Building at 329 U.S. Route 2

Present for the Board were John Riley, Paula Woods, and David Russo at the Town office. Also present via Zoom were, Greg Nagurney, James O'Neill and Craig Oshkello (alternate). Applicant Ted Brunell and Candice Brunell appeared by Zoom. Also present for the Hearing at the Town Office, but not directly participating, was Travis Blodgett.

John Riley called the meeting to order at 6:32 PM.

Acting Zoning Administrator Clare Rock prepared a Staff Report summarizing the application and her interpretation how the Zoning Ordinance applies, and why the matter was referred for conditional use review. The Brunell's are presently in Florida and indicated they just received it that day. A few minutes were used to allow them to review the Report.

Prior to the Hearing Board Members received copies of the Staff Report; Zoning Application; Development Review Board Application with Conditional Use Addendum; Excerpt of a prior engineering plan with the location of the proposed addition panned in; a February 29, 2000 Site Plan; and an Exhibit B overhead map prepared by Clare Rock April 14, 2022 using ANR's Natural Resources Atlas.

There are presently two commercial buildings on the 1.9 acre parcel. The "Existing Shop", a portion of which is utilized by Ted Brunell for his car service and repair business. And a second commercial building which was designated as "Proposed Body Shop" on the year 2000 McCain Consulting Plan that was previously permitted. Ted leases the building to a separate business which does body shop work.

The "Existing Shop" rear portion is leased to a hairdresser. The DRB reviewed and approved it as a mixed use in 2021.

The current proposal for the 18' by 36' addition would be to the side of the building closest to U.S. Route 2, towards what is shown on the 2000 McCain Plan as "Town of Moretown Belden Cemetery".

Clare Rock's Staff Report indicates the existing building is 30 feet from the cemetery boundary. The side set back standard in the Commercial District is 25 feet. Construction of the addition would reduce the setback to 12 feet, and bring the property out of compliance with the Ordinance.

However, Section 4.5 of the Ordinance titled "Height and Setback Requirements" contains Subsection(C) which provides that notwithstanding minimum setback standards the DRB may allow modification of building setbacks as a conditional use subject to certain provisions. In the Commercial District side/rear setback reductions from 25 feet to not less than 10 feet may be permitted if the reduction:

- a. Accomplishes the preservation of a scenic feature(s) not otherwise protected by the required setback; or
- b. Is necessitated by building constraints caused by geologic, topographic, or hydrologic conditions

There was discussion about the meaning of the ordinance language. Ted and Candy Brunell stated they did not believe the addition would have an adverse aesthetic impact as the existing commercial building is already in place, and visible from U.S. Route 2, and individuals visiting the cemetery. However, it was noted the ordinance language in a. above appears oriented towards allowing invasion of the setback area where doing so permits preservation of some existing scenic feature, that would be lost without allowing the violation.

David Russo asked if it was known where the precise boundary with the cemetery is located. The McCain 2000 Plan appears to depict the cedar hedge as being completely on the Brunell property. While the ANR Natural Resources Atlas Map seems to depict the boundary as going through the center of the hedge. After discussion, it was generally agreed the engineering plan was likely more reliable as to the boundary location. Though there is no indication the true location has been established by survey.

The Board concluded a site visit would be helpful for its consideration of this matter. It was agreed to conduct a visit on Saturday, April 30 at 1 PM. As the Brunell's are in Florida they will not attend. The shop is not open on Saturdays. John moved to continue the Hearing to Thursday, May 5 at 6:30 PM. Paula seconded and all approved. Email addresses were exchanged so Paula can provide the Brunell's the Zoom and call in options for the continued Hearing, and John can provide Minutes from the April 28 Hearing. The Hearing concluded at approximately 7:15 PM.

In other business Travis Blodgett provided the DRB with his concerns about whether the zoning regulations are being correctly followed and applied in Moretown. John noted Mr. Blodgett had called him previously with questions about a property off Cobb Hill Road for which the Board had conducted preliminary site plan review in 2021. It was explained that the DRB is a review board, and only has jurisdiction to review applications or appeals which come before it. The Board thanked Travis for his thoughts and input. With no further business the meeting adjourned at approximately 7:30 PM.

Dated this 3<sup>rd</sup> day of MM ~~April~~, 2022.

Moretown Development Review Board

  
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By John Riley, Acting Clerk