

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

Minutes and Decisions of Hearings Held March 23, 2023

Application No. 23-01: Application of George Welles for construction of single unit dwelling in the Preserve District at 1670 Cobb Hill Road.

Present for the Board were John Riley and Craig Oshkello at the Town Office. Also present via Zoom was Greg Nagurney. Applicants George Welles and Tracy Doherty were present at the Town Office, as well as Travis Blodgett who participated in the hearing. Participating in the hearing via Zoom were David Stapleton (1425 Cobb Hill Road), Denise McCarty (2003 Cobb Hill Road), and Bob Mallin (295 Adam Road, Duxbury). Also present at the Town Office was Zoning Administrator, Karen Sauther.

This hearing was scheduled to begin at 6:30 PM but due to technical issues connecting to the Town Zoom account, and a Board member's delay in connecting to the meeting, it was not called to order until 7:05 PM.

Zoning Administrator Karen Sauther prepared a Staff Report summarizing the application and her interpretation of how the Zoning Ordinance applies, and why the matter was referred for DRB approval.

Prior to the Hearing Board Members received copies of the Staff Report; Zoning and DRB Application; Wastewater Permits; a print out from ANR's Natural Resources Atlas marked to show setbacks and location of existing and proposed structures, a separate plan depicting the building layout and an "ESPC Plan" prepared by McCain Consulting and evidence adjoining landowners had been served with notice of the Application. The Board was also provided minutes from a Sketch Plan Review Hearing when Michael McCarty owned the property, and presented a proposed 6-lot subdivision to the DRB in 2021

Background

The Welles own a 30.6 acre parcel which has an existing single family dwelling known as 1760 Cobb Hill Road. At this location Cobb Hill Road is a legal trail. Although narrow, the road has been improved and provides access to Denise McCarty's residence which lies even further from the Class 3 portion of Cobb Hill Road. The current proposal is to build a second, larger residence on the 30.6 acre parcel, and change the use of the existing single family dwelling to an accessory dwelling unit. The Welles previously obtained a zoning permit to construct a garage at 1670 Cobb Hill Road which has been

constructed, and have in place an associated driveway permit at the proposed residence location. The matter was referred to the DRB as it involves proposed development on a parcel that doesn't have frontage on a Class I, II, III road or State highway under Ordinance Section 4.1(A). Also the Agency of Natural Resources Atlas Slope Map indicates there are steep slopes of 15% or greater which requires conditional use review under Ordinance Section 4.16(F).

Tracy Doherty and George Welles outlined their plans for the new house stating they did not anticipate any additional subdivision of the parcel, and answered questions of Board members and others participating.

They noted that in connection with requests from the Selectboard when providing a Road Access Permit, turnoffs had been constructed at several locations along the road, such that when oncoming vehicles happen upon one another, one can use the turnout to allow the other vehicle to pass. They and Denise McCarty have joined in expenses of maintaining the road for vehicle access.

The Applicants also advised that the house has been cited in a manner to meet the 75 foot setback required from Class II wetlands required by the Ordinance, and that the State of Vermont issued an approval where portions of the access drive encroach into wetland areas or required setbacks. The house location has been selected to be designed with a basement walkout in the area of steep slopes.

Conflict of Interest

During the Hearing Travis Blodgett questioned whether Greg Nagurney could participate as a Board member as he lives in the general vicinity of the proposed development (Conti Court – which is off the Class 3 portion of Cobb Hill Road). The Town adopted a Conflict of Interest Policy March 30, 2009. As Greg does not have a conflict of interest as defined in Article 3 of the Policy and otherwise believes he can be impartial in considering the matter before the Board he has not recused himself.

Proposed Development on Portion of Parcel Not Having Frontage on a Class 3 Town Road

The application came before the DRB in part pursuant to Ordinance Section 4.1(A). The Board is to consider intended use, safety, traffic, lot configuration and road and site conditions in granting or denying approval, and impose conditions as appropriate. In this case the legal trail portion of Cobb Hill Road already serves Denise McCarty's residence as 2003 Cobb Hill Road, and the residence currently existing at 1760 Cobb Hill Road. Further, the Moretown Selectboard in granting a curb cut approval for the garage at the

existing residence location imposed requirements and conditions requiring modifications and conditions to ensure oncoming vehicles can pass one another, and the road has sufficient width for access by emergency vehicles. Given these circumstances the Board concludes approval of the new residential structure can be approved and imposes as permit conditions that the Applicants and their successors and assigns continue to comply with the conditions of the access approval set forth by the Selectboard, and further required by the terms of an issued permit, and the non-Town maintained portions be maintained by the residential users such that fire trucks and other emergency vehicles can access all residences all seasons of the year.

Change of Use of Existing Dwelling to Accessory Dwelling Unit

The existing residence at 1760 Cobb Hill Road was approved as a four bedroom residence, but presently only consists of 1,024 square feet and it was represented that it does not presently contain four bedrooms. Under Ordinance Section 3.1 every lot with a principal residential structure is permitted to have one accessory dwelling unit which can be detached from the principal structure. In the Zoning Revisions adopted March 7, 2023 an accessory dwelling unit can now be up to 2,000 square feet with up to 100% of the habitable square footage of the principal dwelling. The residence at 1760 Cobb Hill Road will meet these criteria if the proposed new residence is built.

A question was raised at the Hearing as to whether there can be separate driveway entrances for the principal residence and accessory dwelling. Section 4.1(B) provides that no lot may be served by more than one access road or driveway unless otherwise permitted under site plan review in accordance with Section 5.2. Access ways (curb cuts) are to be installed in accordance with municipal and/or state regulations and shall be of a designated width and not extend along the length of road frontage. Here, given the Selectboard's approval of both driveway locations, and that the access drives otherwise appear to meet Section 4.1(C)'s requirement that they be at least 50 feet from each other, the Board concludes the application is consistent with the access and ADU requirements in the ordinance.

Development on Steep Slopes

The Ordinance Provisions relating to development on steep slopes are found in Section 4.16, titled "Erosion and Sediment Control and Stormwater Management". Section 4.16(F) provides the specific criteria and contains definitions of "Steep Slopes" (15 percent grade and up), and "Very Steep Slopes (25% gradient and up). The Applicant's ESPC Plan depicts steep slopes in the vicinity of the proposed development areas and does not yet depict a finished grade for the driveway. In their presentation the Applicants represented that although the house location involves construction on what the Ordinance

considers a steep slope, the design has been developed to compliment the topography, and will be constructed in a manner that will not cause undue erosion and stormwater runoff. There are extensive wetlands on the parcel and the residence has been located so as to not encroach on the 75 foot setback requirement from Class 2 wetlands contained in the Moretown Ordinance.

Given these considerations, the Board approves development in the vicinity of steep slopes on the following conditions:

- A. No site disturbance or development shall take place on Very Steep Slopes with natural gradients of 25% or more;
- B. The driveway shall not exceed an average finished grade of 12% over any 50 foot section.

Requested Approval for Four Bedroom Residence

The Application describes the proposed new residence as having four bedrooms. Submitted as part of the application was Permit WW-5-7756-2 dated January 3, 2023 which amended WW-5-7756-1 to construct a three bedroom single family residence in addition to the previously approved dwelling, located at 1760 Cobb Hill Road. Given the State Wastewater approval only allows a three bedroom residence it is a condition of this permit that Applicants only construct a three bedroom residence, which can only be converted to a four bedroom residence at such time as they have in place a valid approved state wastewater permit allowing for a four bedroom residence.

Summary

The application for the new residence at 1670 Cobb Hill Road, and change of use of 1760 Cobb Hill Road to an ADU, is hereby approved subject to the conditions and requirements set forth herein. All DRB Members in attendance approve.

Application No. 23-02: Application of Peter Bradley and Anna Maria Anthony For Construction of a Single Family Dwelling at 80 Roberts Ramble Road

The Applicants were present at the Town Office for the hearing. Their Engineer, John Grenier appeared via Zoom. Also present for the Application was Carl Wimble. The meeting was called to order at approximately 7:45 PM.

The matter is before the DRB because the residence location is accessed via a private road such that DRB approval is required under Section 4.1(A). Also, portions of the driveway and house location have steep slopes requiring review under Ordinance Section 4.16.

Prior to the hearing the Board received the Zoning Administrator's Staff Report; Zoning Permit and DRB Applications; Zoning Site Plan prepared by Grenier Engineering; Site Grading Plan prepared by Grenier Engineering; Wastewater Permit WW-5-1880-1 benefitting Lots 1 and 2; and Minutes of the DRB Hearing held May 13, 2021 approving the Wimble 2-Lot Subdivision.

Although not discussed during the hearing, during Board deliberation it was noted that the 2021 Subdivision Approval and WW-5-1880-1 Wastewater Permit both characterize Lot 2 as consisting of 6.8 acres but the Application indicates Lot 2 now consists of 10.84 acres. This discrepancy does not affect the Board's review and approval of the Application, however the 2021 Subdivision Approval may need an Administrative Amendment, if one is not presently in place, addressing the change in lot size.

Peter Bradley briefly presented the development plan. He and Anna live in Hingham, Massachusetts and plan to construct a second home on the Lot. In addition to the initial Application materials, during the hearing Mr. Bradley submitted an Erosion Control Plan providing additional details about erosion control and stormwater management measures. The Plan was marked and accepted into the hearing record. John Grenier then addressed questions about how equipment will access the planned wastewater system location, and clarified that the newly created impervious services did not meet the one-half acre trigger which would have required a State operational stormwater permit. The Board moved to close the evidence and conducted a deliberative session later, and now issue a written Decision on the Application.

The Board approves the Application as presented on the condition that the new driveway and residence be constructed in accordance with the submitted Plans. In addition, the condition of approval for the Wimble Two Lot Subdivision remains in place that the shared portion of the access driveway with Lot 1 be constructed and maintained so as to be accessible by fire trucks and emergency vehicles all seasons of the year, and including the portion of the driveway leading to the Lot 2 residence.

Application No. 23-03: Application of Jolley Associates Requesting Modifications of Signage at the Moretown General Store

The Hearing was called to order at approximately 8:15 PM . Appearing for the Applicant via Zoom was Peter March of NH Signs which prepared and submitted the Application

on behalf of Jolley Associates. Neighboring landowners John Summers, and Mary Flemming also appeared at the Town office, and Travis Blodgett also participated in the Hearing.

Prior to the hearing the Board received the Zoning Administrator's Staff Report; the Zoning and Conditional Use Applications; a two page narrative summarizing the reasons for the application and its analysis of how the Ordinance applies; a Site Plan depicting the parcel; a photo of the existing conditions dated December 1; renditions of proposed changes; and minutes of a June 2014 DRB Hearing on a prior sign modification application.

Mr. March presented the application to the Board. The store currently sells Irving branded gas. Jolley is planning to transition to Citgo branded gas and in connection with the change it wishes to replace the free standing sign located on the island between the curb cut entrances to the store parking lot, and replace Irving with Citgo on the roof of the canopy over the existing gasoline pumps.

Other than changing the brand name no changes are proposed to the canopy. The free standing sign would be replaced with a new sign having somewhat different sizes and dimensions than the existing sign. And utilizing technology such that the current gas price be depicted utilizing LED illumination, and designed such that the price can be adjusted from a remote location. The free standing sign would only be illuminated at such times as the store is in operation.

The 2014 DRB Minutes reflect the Board considered the earlier application in the context of changing the brand name from Mobil to Irving. It was recognized in 2014 that the existing store signage did not meet provisions of the Town Zoning Ordinance limiting the size and number of on premises signs. In 2014 it was assumed the existing signage was grandfathered and the 2014 DRB analyzed the application on the assumption the non-conforming use and structures could remain so long as the degree of noncompliance did not increase.

On questioning Mr. March acknowledged the existing proposal proposes the replacement sign be somewhat larger in dimension, and extend somewhat higher in height. Mr. March also acknowledged that although only words are intended to be lit, the plan showed the entire sign. Mr. March stated this was an error in developing the proposed depiction.

Mr. March also stated at the hearing Jolley would be agreeable to a revised design which did not increase the height or size beyond what is presently in place. On March 30, 2023 NH Signs submitted a revised design to the Town Zoning Administrator showing the free

standing sign as not being larger or taller than what is presently in place which the DRB has accepted as part of the record of this proceeding.

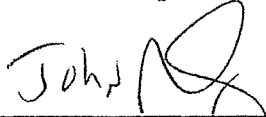
The Board at the Hearing received comments from Mr. Summers and Ms. Flemming. The Board recognizes the points made in the Applicant's narrative that signage is important to the viability and economic success of the enterprise, and believes there is a public benefit in having a general store in the Village. On the other hand, there are a number of residences in close proximity to the store property, such that the impacts of glare and light from the existing signs and lighting should not be increased.

Following closure of the Hearing the Board held a deliberative session and unanimously agreed to approve the application on the following conditions:

1. that the freestanding road sign be revised consistent with the amended design submitted March 30, 2023;
2. that only the wording of the brand and fuel price be illuminated internally by LED lighting that is equal to or lesser in intensity as the current wording;
3. that the ATM portion of the sign continue to not be lit;
4. that the sign continue to not be lit when the store is closed;
5. and that the applicant contract with an independent third party to measure light emissions in lux and lumens from the current sign brand and sign price, and that after installation a certification be filed with the Town Zoning Administrator that the lux and lumens are of no greater intensity.

Dated this 17th day of April, 2023.

Moretown Development Review Board



By John Riley, Acting Clerk