

Minutes of the East Montpelier Development Review Board

APPROVED 10/16/12

September 18, 2012

DRB Members Present: Rich Curtis (Chair), Carol Welch, Ken Santor, Steve Kappel, Betsy Catlin, Gray Ricker, Jeff Cueto, Mark Lane, Kim Watson

DRB Members Absent: None

Others Present: Dina Bookmyer-Baker (East Montpelier ZA), Kristi Flynn (Recording Secretary), John Sanfacon, Bill Pollock (IP), Bruce Johnson, Steve Cusick, Norman Hill (IP)

Call to Order: 7:00pm

Public Comment: None

Additions to Agenda: None

Application #12-048, a proposal by John and Phyllis Sanfacon

The Chair opened the hearing at 7:01pm by reading the warning: "Application #12-048, a proposal by John and Phyllis Sanfacon to conduct closed storage of equipment and supplies on their 10.8-acre parcel on Wheeler Road. The property is in Residential and Commercial zoning district C." The applicants and Interested Persons (Pollock/Hill) were sworn in at 7:02pm. Testimony by the ZA: property was determined to be a salvage yard by the state and the applicant is proposing a change of use, though generally has to be from another permitted use. The ZA doesn't believe a storage facility is permitted in this zone. Mr. Cusick, the applicant's lawyer, stated that, according to the state, trailers used as storage for more than one year should be considered a permanent structure and the proposed change of use satisfies the conditional use requirements in Table 2.3 and is in line with other uses in the neighborhood. The applicant intends to just store materials in the trailers and has started cleaning up the site, complying with the enforcement order. He will comply with any conditions put on by the DRB and ZA. He is storing working equipment and materials in the trailers; Mr. Kappel argued that it sounds like storing discarded items. The applicant stated he will conduct an auction once he is ready. Ms. Watson noted that during the previous subdivision, no building permit was issued and the trailers could be accessory buildings but not if there is not a primary residence. Ms. Welch asked for clarification on whether the tools and materials are used in a commercial business; Mr. Sanfacon noted that he has not worked for other people since 2003. Mr. Pollock has contacted the District 5 Environmental Commission regarding Act 250 for a jurisdictional opinion and may have an answer in the next few weeks. Mr. Pollock noted that the issue is what the contents are stored in, not the contents themselves; the community is not served by not bringing this to closure and he asked the DRB to consider this a junkyard. Mr. Hill asked the applicant if he would be willing to set a time for an auction; the applicant replied he would not.

The ZA noted that pallets have been burned on the property in the past; the applicant noted that it was with his permission. Mr. Cueto brought up the issue of whether the trailers should be registered or not; the applicant said they didn't need to be road-worthy. Ms. Catlin would like to get an opinion from the state once a site visit is made. Mr. Johnson was sworn in at 7:51pm. He spoke with John Brabant with the state and doesn't believe Brabant has a valid opinion on junkyards. Ms. Catlin asked Mr. Cusick to provide the DRB with other legal precedents.

Motion: I move to go into closed deliberative session. Made: Curtis, second: Watson

Vote on Motion: Passed 9-0

DRB entered deliberative session at 7:58pm, DRB exited at 8:33pm

Motion: I move that prior to going forward with consideration of the permit application, we require the applicant to submit to the DRB the state's opinion based on a site visit with the state and the ZA regarding whether the site is considered a salvage yard or not under all applicable state law. Furthermore, to provide the DRB a legal brief from the applicant stating why the trailers should be considered structures under all applicable state laws. The DRB will recess the hearing to the 10/16 meeting for a status update on requested materials and the DRB will decide the matter no later than 12/18 (90 days). Made: Ricker, second: Welch

Vote on Motion: Passed 9-0

Review of Minutes

August 7, 2012

Motion: I move to approve the minutes as amended. Made: Welch, second: Curtis

Vote on Motion: Passed 9-0

ZA Report

7 new permits issued since the last meeting.

ZA issued the T. Wayne Clark subdivision. Mr. Fontaine is building on his property even though subdivision is not complete and wastewater permit has not been received. Mr. Swenson's yurt was built without wastewater and building permits.

Next meeting is 10/16 at 7pm. Election of Officers will take place.

Motion to adjourn. Made by Mr. Kappel; seconded by Mr. Lane. Passed 9-0. Meeting adjourned at 9:00p.m.

Respectfully submitted by Kristi Flynn, Recording Secretary