

Minutes of the East Montpelier Development Review Board

APPROVED 12/2/14

October 7, 2014

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

Others Present: Bruce Johnson (Zoning Administrator), Kristi Flynn (Recording Secretary), Philip Zalinger, Ellery Packard, Dina Bookmyer-Baker

Call to Order: 7:00pm

Public Comment: None

Additions to Agenda: None

Appeal by Ellery & Jennifer Packard of Zoning Administrator Decision

The Chair opened the appeal hearing at 7:01 pm. by reading the warning: "Appeal by Ellery and Jennifer Packard of the Zoning Administrator's decision on the status of a 1.53-acre undeveloped lot purchased by the Packards next to their 1.96-acre home lot at 270 Pine Ridge Road. The lots are located in Zone D – Rural Residential/Agricultural, where the minimum lot size is 3 acres. The Zoning Administrator deemed the Pine Ridge Lots #8 & #9 owned by the Packards to be merged into one undivided parcel of 3.49 acres for zoning purposes." The appellant and his representative were sworn in at 7:02pm. Mr. Zalinger detailed the pertinent chronology:

- May '08 – Packards buy lot #8 at tax sale; Casavant has one year to redeem
- Jan '09 – new zoning district moved Pine Ridge lots to minimum 3 acre zone
- May '09 – Casavant fails to redeem and the Packards receive deed to lot #8
- Aug '14 – Zoning Administrator (ZA) publishes a decision that the lots were deemed merged immediately upon title to lot 8 passing to Packard, whether it was before or after the amendment of the zoning districts

Mr. Packard would like to deed lot #8 to his son to build a house as that was the original purpose for buying the lot, but can't because the lots are merged. Main arguments for the appeal are:

- Lots pre-existed before the zoning amendments
- Certain requirements would preclude the silent merger, such as design plans and qualified septic plan
- Believe it is an inequitable decision
- Very few people understood what the 2009 amendment would change
- Change from Zone C to Zone D is the main issue
- At the time of the tax sale, lot #8 was conforming and permitted; the lots are not contiguous anymore because the land has eroded between them; cannot walk from one to the other without going onto the town right-of-way
- Taxes were paid on one lot, but the two lots have separate deeds
- Feel the town is obligated to hold up their end of the bargain
- Main issue is that the town changed the zoning districts without taking into consideration what it would do

The ZA believes that this situation fits the definition of a silent merger because there was no water or wastewater on the lot and the lot was not developed. The DRB noted that the new zoning district map was created in 2006.

Motion: I move to enter deliberative session. Made: Mr. Curtis, second: Ms. Welch

Vote on Motion: Passed 7-0

The DRB entered deliberative session at 7:55pm, and exited deliberative session at 8:15pm.

Motion: I move to uphold the Zoning Administrator's decision dated August 8, 2014. Made: Mr. Kappel, second: Ms. Catlin

Vote on Motion: Passed 7-0

The rationale from the DRB is that the amended districts were sent to the SB in October 2007 and were in effect at the time of the May 2008 purchase date.

Review Minutes

September 2, 2014

Motion: I move to approve minutes as amended. Made: Ms. Welch, second: Mr. Lane

Vote on Motion: Passed 7-0

Other Business

ZA Report

- 9 new permits
- Duane Wells has submitted a permit for an accessory dwelling on his small lot on Cutler Heights; will have to be denied
- VT County Campers will be coming to the DRB for conditional uses on the campground lot

Next DRB meeting will be December 2, 2014

Motion to adjourn. Made by Mr. Curtis; seconded by Mr. Kappel. Passed 7-0. Meeting adjourned at 8:30p.m.

Respectfully submitted by Kristi Flynn, Recording Secretary