

December 2, 2014

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

DRB Members Absent: Steve Kappel

Others Present: Bruce Johnson (Zoning Administrator), Kristi Flynn (Recording Secretary), Duane Wells, Layne Gregoire, Kris Jurentkuff, Deb Glottman, Eric Parker, David Webb, Jessica Kobb, Ed Deegan

Call to Order: 7:00pm

Public Comment: None

Additions to Agenda: None

Appeal by Duane Wells of Zoning Administrator Decision

The Chair opened the appeal hearing at 7:01 pm. by reading the warning: “Appeal by Duane Wells of the Zoning Administrator’s decision by Mr. Wells to construct a detached accessory dwelling at 30 Cutler Heights. The lot is located in Zone D – Rural Residential/Agricultural, where accessory dwellings are a permitted use. The Zoning Administrator denied the application based on an Environmental Division of the Vermont Superior Court ruling banning construction of additional dwelling structures on the 30 Cutler Heights property.” The appellant and the Interested Persons were sworn in at 7:02pm. The ZA went over the decision with the Town Attorney. Mr. Wells referred the DRB to his attorney’s letter for an explanation on why he is appealing the ZA decision. Mr. Wells plans to build an accessory dwelling with 600 feet of living space with a 3-car garage. The lot cannot be subdivided and this would be a second accessory building. Mr. Wells plans to live in one house or the other but doesn’t live on the property currently and has no plans to rent or lease the dwellings.

The Chair read a letter from abutting landowner, Dale Phillips, who opposes the application: “I am unable to be present at the December 2, 2014 East Montpelier DRB hearing on Duane Wells’ appeal of your denial of his zoning application #14-057. The purpose of this letter is to indicate my objection to his application to build a 600-square-foot accessory dwelling with a 3 car garage on his property at 30 Cutler Heights Road and to protect my “right to appeal any resulting decision or action of the DRB, pursuant to 24VSA §4464(a)(1)(c).” As an abutting property owner on Cutler Heights Road, I oppose Duane Wells’ application. Since purchasing 30 Cutler Heights Road (a residential 2.7 acre parcel) for \$52,000 in December 2010, Duane has rebuilt the original residence on its 960 sq. ft. footprint, constructed a 1.5 story detached garage (1536 sq. ft.) with a 240 sq. ft. high drive, and built a 2nd detached garage of 576 sq. ft. on an undersized lot located in a residential area zoned 3 acre residential/agricultural. The addition of these (attached) detached garages/barn with a footprint of 2114 sq. ft. (more than twice the size of the main residence’s footprint of 960 sq. ft.) and of similar height to the main residence and the heavy construction equipment on the property and in and about the garages/barn have significantly altered the footprint of property and undermined the residential character of the Cutler Heights neighborhood. To allow the construction of a third detached garage (for 3 cars) and an in-law accessory apartment of approximately 600 square feet on this currently rented property would further degrade the neighborhood and presumably property values as a result of the comparatively high density of physical structures and their square footage/footprint relative to acreage/zoning on a non-conforming lot, effectively create two separate rental dwellings on a single undersized parcel, and further facilitate and expand the use of the property as a storage facility for heavy construction equipment. I therefore request that the East Montpelier DRB deny Duane Wells appeal.”

The Chair read a letter from a neighbor, Marjorie & Richmond Rebman, who opposes the application: “I’m very sorry that I can’t be at the meeting this evening. Responsibilities at home make it impossible for me to attend. I am writing in response to the request of my neighbor, Duane Wells, that he construct a house on a hill close to our home. A few years ago, Mr. Wells intended to build on the same hill and at a meeting of the Board I voiced my concerns about the impact this would have on our property. My concerns are still the same this time around. Water courses through our property from two large drainpipes: one on Cutler Heights Road across the street from our house and one on Center Road beside Mr. Wells’ house. All this water drains into a town easement on our property [a ditch running across my yard adjacent to Center Road]. When it rains hard or during the Spring thaw our leaching field becomes flooded. About eight years ago I requested that the town dig out the easement going through our yard. That was kindly done and it helped some. But we had to replace our leaching field two years after that. We continue to have some flooding in the spring over the field at the site of our new leaching field. We are very concerned that any digging, deforestation, construction, and drainage issues would increase the water flow through the two drainage pipes on Center Road and Cutler Heights Road and further harm our leaching field and the town easement on our property. We are requesting that Mr. Wells’s petition be denied.”

Ms. Glottman, a neighbor, and her attorney noted that the Wells application doesn't appear to be any different from an earlier application, and they noted that the judicial ruling prohibits new development on the property.

Mr. Webb owns the house below the ledge on Center Road and he is very concerned with wastewater and drainage issues.

Mr. Kobb wondered if heavy equipment storage is permitted in the zone; the ZA noted that it is permitted in conjunction with a home occupation but not for a commercial business. Mr. Wells stated that the 3 car garage would be used for cars, a boat and small tractors.

Motion: I move to enter deliberative session after the second hearing. Made: Mr. Cueto, second: Mr. Curtis

Vote on Motion: Passed 8-0

Conditional Use Review of Application #14-066, submitted by 1368 US Route 2, Inc.

The Chair opened the hearing at 7:30pm by reading the warning: "Conditional use review of Application #14-066, submitted by 1368 US Route 2, Inc., for mixed use development of the property located at 1368 US Route 2, the site of the former Green Valley Campground. The property owner is requesting a continuation of two single family dwelling uses, a new retail sales use, and a new motor vehicle sales and service use. The public campground use would be eliminated. The retail sales and motor vehicle sales and service uses are designed to allow Vermont Country Campers to use a portion of the property for RV sales and service in conjunction with its main location on the adjacent property at 1498 US Route 2. As part of this use, Vermont Country Campers would like to maintain five of the existing campground sites for occasional employee and customer use. The property is located in zone B – Industrial/Commercial and is in both the Special Flood Hazard Area and Conservation Overlay Area S." The applicant and his representative were sworn in at 7:32pm.

The ZA had asked the owner to bring all the lots into conformance; the lots have ownership issues; the campground was a pre-existing use, but has no permit history. The applicants noted the following:

- 1369 US Route 2 LLC owns the campground; 1468 US Route 2 LLC owns Vermont Country Camper
- Mr. Gregoire bought the properties as is and will get wastewater permits if necessary
- 1368 is 8.25 acres, is in the 100-year floodplain, and no new development is planned
- RVs are permissible because they can be moved
- Applicants would like to keep five sites available for seasonal employees and customers; would not be for public rental
- Replacement well was drilled in the state ROW and will need to be moved if VTrans ever needs to use the ROW
- Plan to fill in the pool
- Signs – the one on the opposite side of the road was permitted in 1994 and will be removed; the Vermont Country Camper sign was permitted in 2005
- Service will mostly be done at the adjacent site (#1468)
- Owner is registered as a new car dealer with the state but main business is RV sales and service
- No plans for expansion at this time
- No one is living in the 2-bedroom home, but there is someone living in the apartment above the old pool house; residential use was never permitted and is in the floodplain; the town allowed additions in 2005
- 5 camping sites – used as accessory to the RV sales; not for rent to the public; part of the business use
- Seasonal employees – live there full-time from 5/1 – 9/1

Mr. Deegan was sworn in at 8:10pm: he noted that the owners are not proposing any changes to the property and appreciates the fact that they are trying to do what's right; he also appreciates that they are removing the old sign across Route 2

Motion: I move to discuss in deliberative session. Made: Mr. Cueto, second: Ms. Catlin

Vote on Motion: Passed 8-0

The DRB entered deliberative session to discuss the Wells appeal at 8:15pm, and exited deliberative session at 8:37pm.

Motion: I move to reverse the ZA decision in so far as the applicant can apply for an accessory dwelling and remand the ZS to look at the merits of the application. Made: Ms. Catlin, second: Mr. Cueto

Vote on Motion: Defeated 3-5

Motion: I move to uphold the Zoning Administrator's decision to deny Application #14-057 for an accessory dwelling.

Made: Mr. Cueto, second: Mr. Hill

Vote on Motion: Passed 6-2

The DRB entered deliberative session to discuss Application #14-066 at 9:00pm, and exited deliberative session at 9:15pm.

Motion: I move to approve Application #14-066 as presented with the condition that the sign across Route 2 be removed. Made: Mr. Santor, second: Mr. Lane

There was some discussion regarding the pool being filled in.

Vote on Motion: Passed 8-0

Review Minutes

October 7, 2014

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

Vote on Motion: Passed 8-0

Other Business

ZA Report

- Packard has appealed
- Grant – replacing mobile home with a double wide

Motion to adjourn. Made by Ms. Watson; seconded by Mr. Santor. Passed 8-0. Meeting adjourned at 9:30p.m.

Respectfully submitted by Kristi Flynn, Recording Secretary