

Monkton Development Review Board
Meeting Minutes
March 27, 2012
Approved: 6/12/12

Attendance:

DRB Members Present: Peter Close, John Winsor, Janet Dermody, Chris Acker, Marsha Abramo, Curtis Layn, Philip Russell

DRB Alternate Present: Thea Gaudette (not voting)

Others in Attendance: Ken Wheeling, Stephen Pilcher, Liam Murphy, Lily Jacobson, Damien Lanyard

The meeting was called to order at 7:34 pm.

Minutes

Philip Russell made a motion to postpone the minutes until the next meeting. Chris Acker seconded the motion and it passed 6-0.

Brisson Stone/BMC

Liam Murphy and Damien Lanyard were present to discuss the Brisson Stone appeal. Mr. Murphy is an attorney who specializes in real estate, land use, and environmental law. Mr. Lanyard is his one of his associates. Mr. Murphy has reviewed the materials sent by the board. The zoning regulations state rules for removal of sand, rock, and gravel; which is not quarrying. Quarrying is the blasting and crushing of stone. He noted that there has been a similar case that has been before environmental court (Sprague Farm LLC); in which the court upheld the town's decision to deny the quarry. Mr. Murphy provided the board with a copy of this court case.

Mr. Murphy suggested the appeal be vacated because the Zoning Administrator had referred the application to the DRB. Mr. Wheeling stated that he did not officially refer the application to the DRB and that the application was incomplete. Mr. Murphy noted that by the DRB warning the hearing they then had the authority. He noted that at that time the ZA no longer needed to deny or approve the application. Mr. Murphy will write a letter to the DRB regarding these findings.

The board received a letter from Stephen Pilcher regarding the BMC appeal. This letter was reviewed by the board and will be filed. The board received a letter from BMC; this letter was reviewed and placed in the file. Peter Close has responded to this letter; his response will be placed in the file.

Administrative

Mr. Murphy said that the DRB should not be waiting to hear applications based on the need for permits. The DRB can put conditions on the approval of the application with reasonable time limits. It was noted that the board has the right to request more information before making their decision. Mr. Murphy stated that the ZA cannot approve with conditions on an application. Mr. Murphy discussed the responsibilities of the DRB in regards to their meeting policies and warnings. Mr. Murphy noted that the 45 day clock does not start until the DRB has closed the evidentiary portion of the hearing. Minutes and findings of fact are not enforceable- only mandates are...the findings of facts support the mandates. As of 1998, whenever a decision is issued there should be a note placed in the land records

so it can be cross referenced. If this is not done then the conditions cannot be enforced. Mr. Murphy stated that the DRB has the right to make a policy interpretation of the zoning regulations. It can be challenged in court; therefore it is important to record the policy interpretation and use it consistently.

Willow Well

Liam Murphy reviewed information he was sent regarding Willow Well. He noted that he would like more information before advising the board. The deed restrictions were not recorded with the deed and they are no longer in the file. Mr. Murphy noted that there are private and public rights to consider; however the DRB is not responsible to resolve private disputes. It was also noted that the DRB does not have the authority to decide on legal deed restrictions. The DRB has the authority to resolve disputes based on restrictions that were imposed by the board. Janet Dermody asked what the board is allowed to ask regarding their financial ability to complete the project. Mr. Murphy stated that the DRB can approve this with conditions regarding a phasing schedule, screening, etc. The building permit is only good for two years; however if the applicant wants to extend the permit the board can require the previous phase be completed. It was also stated that the board can require Willow Well provides evidence that they have received approval for accessibility to a public building.

The board received a letter from Willow Well regarding information requested by the board. This information was reviewed by the board.

Gould

The board received a letter from David and Julie Gould regarding their appeal to environmental court. This letter was reviewed and placed in the file. The board also received the information that was submitted to the environmental court.

Adjournment

Curtis Layn made a motion to adjourn, Philip Russell seconded the motion and it passed 6-0. The meeting adjourned at 10:12pm.

Respectfully submitted,
Bailee Layn-Gordon