

**Monkton Development Review Board
Meeting Minutes
September 11, 2012
Approved: 11/13/2012**

Attendance:

DRB Members Present: Peter Close, Marsha Abramo, Chris Acker, Curtis Layn, Philip Russell, John Winsor, Janet Dermody (arrived at 8:34 pm - non-voting)

DRB Members Absent:

DRB Alternate Present: Thea Gaudette (voting)

Others in Attendance: Ken Wheeling, ZA

The meeting was called to order at 7:31 pm by Peter Close, Chair.

Administrative:

1. Robert and Deborah Masi's Variance Application for Cousino Property on the Bristol Road- 2012-06-VAR

Time was not set for this application on the September 25th agenda. The hearing was scheduled for October 9th at 7:30pm. Background: house burned almost 2 years ago. The regulations direct that one can rebuild on the same footprint within a year. This application needs a site visit before decisions can be made. The board discussed nonconforming uses and set the site visit for before the hearing at 6:00pm on October 9th.

2. The Board reviewed minutes missing on website; web is missing all May minutes. Wendy Sue Harper will add amendments to May minutes and post them.

3. August 14th minutes were reviewed and corrected Chris Acker moved the minutes as amended and Thea Gaudette seconded. Vote: 6-0-1.

4. The Minutes from the August 28th were distributed for review. Several corrections were made. Time ran out. Review of these minutes will continue on September 25th.

Old Business

5. Hearing for Brian Corkin's Conditional Use Application for Property on Mountain Road 2012-04-CON

Summary of project: In May, Mr. Corkin came requesting a permit for an addition on their home, which is in a flood zone on the FEMA map—so it must be conditional use. Distances on Mr. Corkin's map were corrected at the meeting, because he meets all the town setbacks. Mr. Corkin has signatures from all abutting landowners. He has a receipt for the application

sent to ANR by Brian Corkin; ANR had 30 days to respond. The board reviewed Section 360 A 1-5 of the Unified Planning Document; all criteria were met.

In the future, Ken Wheeling will send a cover letter to ANR with the application discussing why the application is being sent to them.

Chris Acker move to approve the conditional use; it was seconded by Marsha Abramo. Vote: 7-0-0

The Board discussed Article 4 Flood Hazard Area Regulations variances of the Unified Planning Document.

6. Deliberations for Willowell Foundation's Conditional Use Application for Property on the Bristol Road 2012-02-CON

Peter Close: opened the deliberations.

Marsha Abramo: asked how heavily does the Board weigh the benefit to the Town?

New regulations for conditional use on page 27 Category 6 and page 35 360 C 1-5 were reviewed.

Thea Gaudette: suggested the Board proceed by determining if individual parts of the application are a conditional use e.g. a commercial daycare, which they are proposing, is a conditional use in RA5. The Board agreed.

Individual proposals:

1) Community center is a conditional use in RA 1V, RA 2 MD, and RA 5 LD. The commercial kitchen is set up as a teaching kitchen with commercial purposes.

Community center covers art gallery, meeting space, multipurpose room, library, and the classrooms and the commercial kitchen because they are places for further education.

2) Pre-school Daycare is a commercial daycare with more than 6 children; this is a category one conditional use.

3) Height restriction

Height issue: Monkton regulations say a maximum of 35 feet to the ridge, but Willowell would like to apply for a conditional use for the height. They meet the VT building codes (VT fire prevention and safety code and access codes). They are asking for a height of 44 or 45 feet so they can maintain a traditional barn design for the building with a monitor barn type look. Floor height is at the absolute minimum.

4) Administrative offices, which are on the second floor for the Willowell Foundation, were called out as a conditional use by Willowell. The Board can set a restriction that they

cannot lease out their space or any lease agreements can be subject to conditional use. The Board can consider the office incidental to the main building's use.

Other issues:

Should the Board require a new entrance for the residences?

Peter Close: can forego the septic in the Ag Reserve. Can have some conditions and if they are met allow them an easier phasing in process.

Marsha: agrees with Peter. Grant a conditional use as a phase in and try to ameliorate neighbor's concern.

Peter Close: noted that the deed says maintenance is required, which has not been done.

John Winsor: noticed they are picking and choosing what of the deed applies.

Chris Acker: thinks they do not need a separate driveway. The phase in requirement will make it hard to plan construction if they have to come back each time to the Board.

John Winsor: the Board should go through how it affects the town plan. He can understand how the increase in noise and traffic would bother the neighbors.

Philip Russell: has a problem having such big a unit in that location and the access to the development; should have different access. Lawyers will see it either way.

Janet Dermody: does not like the build-out schedule, which is 2012 to 2028. She wonders will the project come together or will they need to come back when then cannot meet their plans? She read a similar case where Open Land/Ag Reserve restrictions were not recorded in the deed—the Nehemiah Case in Pittsford, VT. The courts in that case gave the town recourse so reasonable expectations could be met because people were told the land was conserved.

Erosion of the concept of the Ag Reserve concerns her; she also has problems about septic being in Ag reserve.

Also Janet Dermody noticed that ADA (Federal Law: Americans with Disabilities Act) requirements for the building are not called out for 10 years.

Curtis Layn: is not sure how they can move the driveway, but it is not in their best interest to have it in the current location. Phasing: the residents did not want to have this in their front yard, but as their kids grow Willowell might not like having teenagers in their backyard. They will not be able to control everything; it may not be a compatible use.

Thea Gaudette: these are permitted Conditional Uses. She has a problem with the shared driveway. Willowell would be a good neighbor to address that issue. The caretaker's cottage should not be in the Ag Reserve. She believes the Board should not grant all phases.

Perhaps grant Phase 1 and 2. Then have Willowell reapply and come back in for Phases 3 and 4. Thea Gaudette thinks a performance bond should be required.

Peter Close: said restrictions should be a conditional use. Septic: there is no other place to put it unless it is allowed in the Ag Reserve. If not, then it is not an appropriate development for the property.

Curtis Layn: Wondered if pushed too hard to make changes; how hard would they push back?

Thea Gaudette: noted that Liam Murphy said the only conditions of a property are those the DRB put on a development. The Board should put in the conditions that serve the Town best. Anything that opens a subdivision opens the entire sub-division and conditions can be put on any property. The Ag Reserve can be redefined.

Peter Close: Open land as defined in the regulations to include septic systems. If the Board goes with allowing the septic system in the Ag Reserve, it should include the proposed deed restrictions that did not get filed. The project is not compatible the way they have it now.

Thea Gaudette: said the DRB has the right and responsibility to follow regulation. Applicants have the right to reasonable use of their land. So the Board should allow some conditional uses.

Ken Wheeling: noted that the Board did not address the height issues.

John Winsor: said the height is apart of the project not fitting in to the character of the Town.

Peter Close: they could drop the roof a little. Building will not encumber most of the views. They can move caretaker's cottage toward the development and have a more traditional look to that building.

Janet Dermody: asked is height about fire safety?

Peter Close: noted that height restrictions are in the regulations.

Thea Gaudette: Said that some vegetative screening across the back of the property would help with the neighbor's concerns.

The Board discussed bonding. They could require a performance bond that would protect the town if the project never finished. The project would be bonded for Phase 1. When Phase 1 is complete, the bond would be released and Willowell would have to bond for Phase 2.

The Board defined the issues they agreed upon and added conditions to ameliorate the issues.

- 1) No buildings in the Ag Reserve- yes. Move caretaker's house.
- 2) New access for road for residence – maybe an entrance to south Vote 6-1-0

- 3) Bonding project support: 7-0-0
- 4) Phase in the phases: where and how?
- 5) Septic in the Ag Reserve. OK to have septic in reserve if Ag Reserve is defined and preserved. Could have them add to northern reserve what is taken from south. Have them blend septic in better by extending the toe.

The Board discussed continuing Willowell deliberations in two weeks on September 25th. The 45 days are up on 9/28 two-days afterwards. An extra meeting was scheduled at 7:30pm on 9/20/12 to finish the Willowell deliberations.

Adjournment

Philip Russell moved to adjourn the meeting at 10:25pm. The motion was seconded by Curtis Layn and passed 7-0-0.

Respectfully submitted,

Wendy Sue Harper
Recording Secretary