

## **Fairlee Development Review Board February 23, 2010**

**7:00 Development Review Board Meeting called to order.**

**Present:** Ray Coffin, Jr.; Anthony Gahagan; Peter Berger; David Fracht, Chairman; Kostas Amanitidas, George Smith, Zoning Administrator. Stephen and Ruth Hook; Jay Barrett; William Dunnack; Meridith Babbott; Frank Babbott; Andy Hoak, agent for the Babbotts .

**7:03 Review and approve DRB minutes from January 26<sup>th</sup> meeting.**

**Motion:** (RC) To approve minutes as written.

**Second** (AG): The motion was passed unanimously (4-0).

**7:10 Application #10-SUB-1: William Dunnack proposes to divide his 15 acre parcel into two lots. The property is located at 195 Maurice Roberts Highway and is further identified as Tax Parcel # 23-21-06.1.**

William Dunnack presented a map of the proposed subdivision to the Board. After looking at the map the Board provided feedback to Mr. Dunnack regarding the items missing from the map provided to him from Tom Otterman. There were no corner pins with coordinates represented on the map. The Board was looking for the Parcel coordinates that would locate the subdivision, the abutters, an access permit, the state wastewater permits. The applicant was informed of the check list of what would be required with the application to proceed. The hearing was adjourned to March 23, 2010.

**7:30 Application #10-S-1: Stephen and Ruth Hook propose to operate a Produce Business on the Fairlee Railroad Station property owned by the town of Fairlee. The property is located at 320 Route 5 North and is further identified as Tax Parcel # 24-21-58.**

Stephen Hook presented a map of the proposed changes to the Railroad Station to accommodate a retail space for a year round produce business. The business will run in conjunction with the flea market in the Summer. The Board was informed by the applicant that they had been in touch with Russ Collins on this matter and he had no reservations about this project. There will be no water in the building and a outdoors porta-potty for sanitation. The Board had some questions regarding how the business would be located in the building, it was decided to make a site visit after the final order of business of the Board, then move to a deliberative session. Jay Barrett spoke for the Town, who is the owner of the building. He stated that the Selectboard was in full support of the Hook's proposal. The Board adjourned to a site visit and subsequent deliberative session. The Board will notify the Hooks of their findings.

**8:00 Application #10-V-1: Meredith Babbott (Frank Babbott acting as Agent) requesting a variance to build a year round residence on Anna Dodge Lane. The property is located at 277 Anna Dodge Lane and is further identified as Tax Parcel # 20-00-24 and Tax Parcel # 20-00-25.**

The hearing opened with the applicants not present. Discussion by the Board proceeded with the review of the map showing two lots .32 acres and .63 acres on Lake Fairlee submitted by the applicant. The plan shown on the map is to construct a year round house on the .63, the larger parcel and an existing house on the .32 smaller parcel. The properties were developed in 1973 from the Quinbeck camp property. The Babbotts transferred their 3 parcels to a trust fund. The application needs to be updated to reflect that the Babbott trust is the owner of the parcel. In 1998 Frye sold/transferred his interest to Babbotts in the .63 acre lot and the 1/5 ownership in Anna Dodge Ln. The Babbotts and their agent joined the meeting at 8:15. Mr. Hoak, project engineer for the Babbotts stated that the Babbotts were seeking a variance to the setback from the ROW and to have the parcels in question to be viewed as individual parcels even though they have a common owner.

They would like to construct a single family residence on the noted .63 acre parcel in addition to the existing camp structure that is being used as a residence for the Babbotts during the Summer months. There was significant disagreement on whether the lots should be treated as merged or individual, both sides presenting arguments for the same.

The Board presented Vermont State statute VSA Title 24 4406 in effect from 1997 that states that sub standard lots, in terms of size, if such lot comes under common ownership with one or more contiguous lots they shall be henceforth be merged for this chapter. Mr. Hoak's made the point multiple times that without mention of the statute in the Town Zoning Regulations would nullify the State position within the Town and allow the Town to approve the conditions requested by the Babbotts.

Mr. Hoak felt that the length of time for the Babbotts to appear before the Board was to lengthy and he was unable to get what he felt was a straight answer to the question. The original application was submitted in July of 2009 and after thirty days the application becomes accepted. The Babbotts claim that the previous ZA stated that by submitting a partial application minus the State Wastewater permit would force the issue to the DRB for a decision. Even after the partial permit was submitted the ZA made no effort to schedule the Babbotts before the DRB and they have no written communications from the previous ZA to this point. George Smith the current ZA stated that a full and complete application needed to be presented to the Town for the process to move forward before the DRB Board, and lacking a State Waste water permit made it an incomplete application. The town also presented a test case based on a similar situation, the Town of

Weathersfield ZBA v. Gregory Frick. Docket 208-09-08 in re: Chimney ridge Road Merged Parcels.

Additional information was presented to the Board in the form of a fax submitted by Mr. Gary Crotti(sp) requests the Board to table a decision to allow him to consult with an attorney and to discuss directly with the Babbotts about how the two developing lots can co-exist. Also a letter from Mrs. Snow stressing her concern that the development is being viewed as opportunistic and she wishes that moving forward the character of the lake can be maintained.

The Babbott's requested that the Board initiate a site visit to view the property and the setting to better understand the situation before the Board. A site visit was scheduled for 1:30 March 6<sup>th</sup>, 2010. The hearing was continued to the March 9<sup>th</sup> DRB hearing.

**Motion(PB) To make a site visit to the Babbott property March 6<sup>th</sup> 2010.  
Second(RC) Approved unanimous (4-0)**

**Motion(PB) To continue the hearing for the application to March 9<sup>th</sup> 2010.  
Second(RC) Approved unanimously (4-0)**

**To adjourn to a site visit to the RR station to view the Hook application.**

**Participation in the hearing is required by State statute in order to appeal a decision in this matter to the Environmental Court (24 VSA Section 4464 a**

**Other Business:**

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Peter Berger

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David Fracht - Chairman