

FAIRLEE DEVELOPMENT REVIEW BOARD

JULY 26, 2011 MEETING

Board members present: David Fracht, Chair; Tony Gahagan; Peter Berger; Ray Coffin, Jr.; and Temporary Recording Clerk, Dorothy Fuchs.

Also present: Laura Byron and Steve Moran.

The Chair called the meeting to order at 7:03 pm.

The minutes for the last meeting of the Development Review Board held June 28, 2011 were reviewed by the Board. Peter Berger requested an addition of wording to the effect that the Crandalls had acted against their architect's advice. The Chair asked the Temporary Recording Clerk to listen to the recordings of that meeting and add an appropriate sentence to the minutes. The Board postponed adopting the minutes until the next meeting.

#11-W-7 Application for Waiver and #11-Z-10 Zoning/Building Permit Application Shawn and Laura Byron to build 8' x 12' shed located at 1136 Lake Morey Road West, Tax Parcel 22-21-15.01

A site visit had been held earlier in the evening. The Chair read the Notice of Hearing. Laura Byron was sworn in by the Chair. Chair summarized that the shed has been in existence almost four years, the Zoning Administrator (ZA) noticed the shed and issued a Violation. The Byrons then filed for a Waiver. The shed is used for storing water-recreation and gardening equipment. ZA changed the application form from 20' to 24' from lake to reflect more accurate measurement supplied by applicant.

A discussion followed regarding the number of feet the Waiver would require. A motion was made by Berger, with Coffin seconding to grant a 26' waiver on the lakeside to the Byrons for their storage shed. The vote was unanimous by the Board in favor of the motion.

At 7:26 Byron and Moran left the building and Sheila Bedi, Jeff Worcester and Gary Spooner entered the hearing room.

#11-S-3 Site Plan Application and #11-Z-11 Zoning/Building Permit Application from Shelia Bedi for addition to existing structure and open a Childcare Facility at 232 U.S. Rte 5 North, Tax Parcel #24-21-70

The Chair read the Notice of Hearing. Chair stated that a site visit had been held earlier in the evening. Sheila Bedi, Jeff Worcester and Gary Spooner were sworn in by the Chair. Bedi stated that she wishes to change the use of the building from a church to a licensed childcare center for 38 children. Chair asked if all 38 would be there at the same time and she responded yes, and there would be eight on the staff with six present at all times. The 40' x 21' addition on the back will allow her to meet the requirements for eight infants and ten toddlers and have a toilet and sink for every 15 children.

Chair read Fairlee's site plan requirements. Gahagan was concerned about the parking. Spooner responded that there are 11 parking spaces and Bedi said it is rare to have more than five cars at one time between 7:30 – 9:00 am (at her current facility where she has a maximum of 25 children) and that

Route 5 has a wide shoulder to back onto. Bedi stated it is State law that the parents walk their child(ren) into building. A side door could not be designated for drop off/pick up because all three doors would be used by different age groups/classrooms. The Board was concerned about the children being dropped off/picked up so close to Route 5 and the cars having to back out of parking spaces. Coffin suggested cars pull into parking spaces parallel to the building so it is not necessary to back out.

Snow removal was discussed. Worcester said he would be using a snowblower because of lack of space.

Chair asked if 4' fence was high enough for older children and suggested 6' stockade fence at the back next to the railroad tracks and Bedi was amenable.

7:45 Gabrielle Crandall entered the hearing.

Bedi stated that the center would generate two or three bags of trash per day and she would require small dumpster which would be placed next to fence on left (north). Spooner said they would be amending the septic permit from 5,000 gallons to 1,200 gallons (septic system was never installed).

The Chair inquired about signage and was told they would convert the signs that are already there and add one over the front door. Chair suggested a "caution children" sign.

Applicant was asked about exterior lighting for pick up/drop off during dark winter months and she answered she would like motion light for security. Spooner stated there are regulations for emergency lighting.

Three months anticipated time for construction and will not occupy until completed.

8:00 pm Peter Van Oot entered the hearing.

Motion made by Coffin and seconded by Berger to close the hearing and go into deliberative session. Unanimous affirmative vote.

Sheila Bedi, Jeff Worcester and Gary Spooner left the building.

#11-Z-9 Crandall Deck Application Continued Hearing

Chair summarized that four weeks ago the Board had a commitment from John Vansant (architect) to file a Waiver Application the following week but it was not received in time to be warned properly to be heard on this date which left three choices: (a) continue with the deck application hearing (b) postpone everything until the next meeting on August 9 (c) consider that the applicant failed to file the waiver application in a timely manner and we can proceed to make our decision on the deck application using the information we have. His opinion was that the waiver component is a fairly minor part of whole process. If the Board rules against the deck then the waiver application becomes moot. If they rule and approve the deck, there could be a short hearing in two weeks to grant the waiver.

Peter Van Oot of Downs Rachlin & Martin responded that he represents the Crandalls on two things on the evening's agenda 1) on the continued deck application and 2) Crandall property matter. Asked why Board would be acting on the application. He said he understood it was referred to the Board by the ZA for advice as to whether a waiver application was required and a waiver application has been filed.

Chair quoted the Fairlee Zoning Regulations Section 4.7 and stated the Board and Vansant went over the factual basis of this building and agreed it was a non-conforming structure by virtue of the fact that in its present reiteration and its previous reiteration it was entirely in the front set back area. Board and Vansant agreed deck was an enlargement of the non-conforming structure and they would evaluate the deck proposal under Section A and Section D both of which require approval by the DRB.

Van Oot stated that it is not clear from the minutes of June 28, 2011 whether this is an appeal of the jurisdictional expansion of a non-conforming structure. Suggested Board consider waiver and continue the hearing until August 9.

Members of the Board expressed that handling both items together would be more appropriate and they wished to move the entire set of issues forward as expeditiously as possible.

Motion to continue the (deck application) hearing and combine it with a hearing on the Waiver Application for a deck on August 9 was made by Berger and seconded by Coffin. Passed by unanimous vote at 8:20 pm.

Informal Discussion regarding Crandalls' Deck Application

Chair asked Van Oot if they wished to have the informal discussion continue (from the last DRB meeting) and Van Oot suggested that the Board close the informal discussion as it was not a good idea to engage in these discussions with the backdrop of the possibility of a warned hearing in the future on an alleged violation. Chair declared the discussions concluded. Crandall and Van Oot left the building at 8:25 pm.

Other Business

8: 25 pm Berger made motion to go into deliberative session regarding 11-S-3 Site Plan Application from Shelia Bedi. Motion seconded by Coffin.

8:50 pm Board came out of deliberative session. Board had safety concerns regarding traffic circulation and public safety when parents are dropping off/picking up children during rush hours on Route 5. They would like to see a formal traffic plan that does not involve backing out of parking spaces. They also had concerns about outdoor lighting and felt the exterior of the building should be well illuminated during hours of darkness for pick up/drop off of children. Security lighting is up to the owners. Chair will call Bedi and relate concerns and ask for formal plans for lighting and traffic. Motion to adjourn discussion of this site plan application made by Coffin, seconded by Berger.

Crandall Application 10-Z-11

Chair informed Board that he had reviewed the record of the Crandall application, 10-Z-11, and pointed out what he believed to be inconsistencies between what was represented in the application and hearing and with what is being built. There was discussion that the density issue had been brought up from the beginning and that the building was not to be a "dwelling" but an overflow accessory building. Motion made by Coffin with Berger seconding for Board to send letter to ZA stating that they believe the Crandalls are building in violation of the permit Development Review Board approved and request he take action. Copy of Board's letter to be sent to the Selectboard of Fairlee. Vote was unanimous in favor

of motion.

Meeting adjourned at 9:17 pm.

DRB Representative

Zoning Administrator