**Draft**

**05/19/2020 Development Review Board Meeting Minutes**

Present: Robert Day (DRB Chairman), Don Wood (Board Member), Bruce Longtin (Board Member), Joe Mark (Board Member), Pat Keller (Board Member), Jonas Rosenthal (Zoning Administrator), Gary Kupferrer (Attorney for Marjorie Reuling), Marjorie Reuling (appellant), Bob Bigelow (public), Wendy Patterson (Public-via Zoom), the Gustafson’s (public), Eliza Lebrun (Recording Secretary), Janet Currie (Planning Commission Chairwoman)

7:10 PM - Meeting Called to Order

Don Wood made a motion to approve agenda seconded by Pat Keller. Discussion followed to move New Business in front of deliberative session by Joe Mark. All in favor.

Approval Minutes for April 7, 2020: Don Wood said he noted there was no motion to exit deliberative session or seconded. Don made motion to exit and Pat Keller seconded. Joe Mark said we should identify Mr. Day as Chairperson. Don Wood stated on Pg. 1, we did not get 3/31 for approval. Minutes were sent for approval, reviewed, and accepted.

Joe Mark made a motion to approve the minutes for 3/31/2020. Seconded by Don Wood. Motion passed.

Motion made by Joe Mark to approve the minutes of 4/7/2020 with Pat Keller seconded. Motion passed.

Appeal of Zoning Administrator’s decision of Permit #8095. Jonas introduced Marjorie Reuling and her Attorney Gary Kupferer.

* Gary Kupferer spoke re: legal issues, can you have an accessory building without primary building on the lot?
* Gary Kupferer asked Bruce Longtin (permit applicant) testimony questions and showed Mr. Longtin pictures of structures on his property.
* Gary Kupferer and Marjorie Reuling are sworn in.
* Don Wood asked why evidence was not presented to DRB Board prior to hearing so they could review the evidence. Gary said the rules do not require evidence prior to

meeting. Pictures were entered into evidence for DRB to review.

* Gary Kupferer stated the legal argument is whether building is an accessory building under the current rules. He states on Pg. 65, section 1016: Accessory building in a residential district - then states the rule. He says since there is no house there, there cannot be an accessory building. If the house is built, he states it still will not meet the definition of an accessory building due to definitions of buildings, structures, and accessory buildings. Said the Board needs to determine if the storage container meets the criteria as an accessory building. Gary states he would not want it next to him as it's ugly and industrial.
* Joe Mark to Gary Kupferer: The Body is the Development Review Board. Appearance and aesthetics is beyond the scope of authority for the DRB. Section 1016 says all other uses in a residential district may have no more than one accessory use building. Argument may be able to be made that applicant has installed 2 accessory buildings without a house present.
* Al Gustafson is sworn in and describes that the trailer that has been put on Bruce's property is out of character with the neighborhood. He said the view from Marjorie Reulings has the most problem.
* Bob Day says the DRB is not a design committee and cannot make rulings regarding views being interrupted.
* Robert Bigelow is sworn in and asks why he was not notified prior to the shipping container being delivered to the property. He asks if this is how business is being done in Castleton. Bob Day agrees and said normally this would not happen.
* Marjorie Reuling is sworn in and states she pays steep taxes and has to look at an industrial trailer. She states she is concerned about property values. She states the storage trailer is industrial and does not understand how the town could allow it to be permanently placed on the property.
* Jonas Rosenthal is sworn in. He states he received the original application on 3/23/20 and was revised on 3/31/20. He could have issued notice of violation but decided not to base on the town's previous actions regarding properties not in compliance regarding permits not being in place prior to building started. He describes instances of other cases where building has initiated prior to a permit application being filed and what steps the town takes to get the applicant into compliance. Jonas said he would try to get the permit applicant (Bruce in this instance) and the permit was not issued until after the building was placed in this instance. Jonas states the use is permitted in this case and the building meets all setback requirements. Jonas further states accessory buildings are permitted on a regular basis prior to the primary residence being built on the lot. He gives examples of garages (accessory structures) being built prior to building houses and the town has approved permits like this regularly.
* Wendy Patterson is sworn in and reads the statement she has prepared. She states Bruce has made attempts to satisfy setbacks but is dismayed the proper protocol was not followed. She states structure is large industrial storage trailer. She states the DRB should give Bruce a date to have the structure sided and roofed if it is accepted. States the structure is a "storage trailer" and should not be considered a garage. She said the DRB should come for a site visit. She further talks about the aesthetics of the structure and how property values may be affected. Bob Day states purpose of DRB and the power applies only with the written rules and not aesthetics. Wendy talks about the covenants and Bob Day states the DRB does not regulate covenants.
* Bruce Longtin is sworn in and speaks regarding each appellant's complaints. He states he spoke with Jonas and was not aware abutters were able to appeal an application that met setback requirement or other non-conforming structure where the Zoning Administrator denies the initial permit. Bruce states that he is putting up a fence that will mostly block out Mrs. Reuling's view. Bruce states the neighbors are trying to turn a permitted use into a conditional use. Bruce states that the DRB requiring siding and a roof to be put on the structure is considered a conditional use and the DRB does not have the authority to require buildings to be sided or roofed in a certain way. Bruce states structure is not considered a trailer although Jonas Rosenthal wrote "storage Trailer" on the permit.
* DRB asks Bruce questions: Pat Keller asks what the initial intent of the structure was. Bruce states initially is was not going to be permanent but decided it would be permanent and he plans to side it and put a peaked roof on it.
* Gary Kupferer: States he does not see this as a design review issue, but states on page 73, section 1206 the DRB should be charged with proper interpretation of zoning regulation. "is a shipping container an accessory building?" He further states a site plan review should be conducted. He states the shipping container is very industrial looking.
* Bob Wood ask Gary Kupferer if when building is sided and roofed, what will he consider the structure at that time? Gary states he believes the argument will likely go away if that happens. Gary further states if the process were followed, there would be an appeal before it was placed. He further states he has talked to his client and believes if a timeline is established to have the shipping container sided/roofed/windowed, it would likely meet the criteria for an accessory building and the argument would go away.
* Janet Currie is sworn in. She states the Planning Commission is working to update the zoning ordinance. She said they plan to give landowners more rights regarding what they do on their own property. States the property in question in not part of the village designation. She states the trailer and container have two different definitions. She states in her own opinion, shipping containers would not qualify as an external inadequacy.
* Wendy Patterson states permit sign on the property say’s "storage trailer". She states the covenants prohibit trailers.
* Jonas Rosenthal states he wrote "storage trailer" and that was his own language and not from the applicant. He states in a re-write this could be corrected if needed.
* Joe Mark made motion to close the hearing and was seconded by Don Wood. Motion passed.

Old Business - Jonas Rosenthal stated Bruce stepped out but wanted to speak regarding the Fontaine permit. Joe Mark stated we struggled to make a decision on the Fontaine permit but there may be grounds to grant the permit if we consider the table of use "other retail sales and services" which are permitted in the VC district. Bruce Longtin states he reviewed table of uses and feels it does fit the criteria for approval. Joe Mark made a motion to rescind previous decision regarding denial of Fontaine Application permit #8091. Motion was seconded by Pat Keller and passed. Motion was made by Joe Mark to grant permit #8091 DRB #528 for Fontaine Roofing. Pat Keller seconded the motion. Motion passed. Jonas Rosenthal will notify applicant prior to the 45 day decision deadline.

New Business - Jonas stated Mr. Rehlen and he discussed a permit application for a bicycle repair and rental shop and was inquiring about whether a change of use permit was needed for his old auto repair shop location. DRB suggested change of use should be requested and the DRB would hear the permit application request.

Another application was received for the old Collaborations Building for a shake and tea spot. Rosenthal states that there may be an issue with the old state permit being in place for the building with respect to water / wastewater. DRB stated hearings for both applications should be warned and scheduled.

Jonas states there's an appeal for Piper Strong where there are right of way/easement issues. Applicant is converting church into single family residence.

Motion to go into Deliberative Session made by Don Wood (time?) seconded by Joe Mark. Motion passed. Bruce Longtin recused himself from the deliberative session.

Motion to come out of deliberative session at 9:05 PM by Pat Keller seconded by Joe Mark. Motion passed.

Bob Day states a decision was reached regarding permit #8095. The decision was to deny the appeal. If the second building on the property is larger than 120 square ft., it will need to be removed from the property or reduced in size in accordance with section 1016.

Motion to adjourn by Joe Mark (time?) made and seconded by Don Wood. Motion passed.

Meeting adjourned.