

Tuesday September 8, 2020

**FAIRFAX DEVELOPMENT REVIEW BOARD  
GENERAL & HEARING MINUTES:**

**Members Present: Jason Heyer, Nick Hibbard, Adam Fitzgerald, Michelle Dufresne**

**Public Present: Amber Soter, Z.A., Gary Gilbert. ZOOM attendees; Robert Provost, Peggy Gilber, Steve Graves, William Albright**

**7:00 PM- J. Heyer** called the meeting to order. This meeting had in person attendance of the board, the Zoning Administrator and Gary Gilbert. All other attendees were via Zoom. The meeting was held via Zoom and interested parties were given the information in advance and able to attend.

**7:05- Request of DODT LLC, (Robert Provost)** for a Variance Hearing for the property located at 109 Sand Hill Road (Parcel ID SL0109). The request is to finish an unfinished home that was permitted as a barn 19 years ago but built as a house and never finished.

The warning was read, and all parties were sworn in. R. Provost is asking for a variance to change the use of the structure that was permitted as a barn about 20 years ago and was constructed like a house. This structure is on a parcel of land with about 4 acres and an existing 6 unit building that was built in 1960. The issue is the density requirements which are 2 acres per every dwelling unit. The 6 units are grandfathered in.

Although the structure was never fully completed it was habited and does have a bathroom. This never received a Certificate of Occupancy nor did it obtain approval for a dwelling unit. Provost addressed the criteria needed to obtain a variance and his detailed application is reviewable in the Zoning file. To summarize, Provost states that the structure the proposed change is minimal and would be a benefit to the surrounding area versus it being a business or other use. He stated that it aligns with the character of the neighborhood and cleaning up this property and using it as residential would be its best use. He stated that the board would be hard pressed to find another structure permitted as a barn, but built as a house, that would cause concern for setting a precedent. Additionally, he stated that this hardship was not created by him, the applicant, and that it was inherited. He asked for relief stating that residential housing is the highest and best use of the structure with the least amount of impact.

The home would have its own well and septic therefore not affecting the Fairfax Heights Water Co-op that the remaining 6 units are a part of. He stated if approved, he would go through the process of obtaining a state wastewater permit as one didn't appear to be required when the original septic was installed.

Gary Gilbert was present to represent the water co-op. He prepared a statement that can be viewed in its entirety in the Zoning File. He addressed the variance requirements and stated how on most points, the variance should not be approved and does not meet the criteria needed and goes against the regulations. He stated that the purchase of a property with an illegal structure or use does not permit the structure or use to become legal. Non-conforming structures or uses can not be created under current regulations. The general sentiment of the statement was that he variance should not be approved and is unnecessary.

William Albright spoke about the potential impact his current well would have if a new well was drilled.

Steve Graves also commented on water issues.

The water issues of the Co-op and the proposed application are not in relation with each other and the board asked the public comments to stay on task.

**8:10** – The board closed the public input part of the hearing as there was no new questions or comments.

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The board discussed the application and other options to accommodate R. Provosts request. The conclusion was that the structure was permitted as a barn/garage and that a variance for a change of use request does not meet the Development Regulations.

**8:15- M. Dufresne** made a motion deny the variance application with the determination that it does not fit all of the variance criteria as outlined in the Development Regulations. **A. Fitzgerald 2<sup>nd</sup>**. All in favor.

**8:25PM PM M. Dufresne** made a motion to close the hearing. **A. Fitzgeralds 2<sup>nd</sup>**. All in favor.

**8:27 PM M. Dufresne** made a motion to approve the Minutes from July 28, 2020. **A. Fitzgerald 2<sup>nd</sup>**. All in favor.

The board discussed 2 residential houses on one parcel and how to proceed with a potential subdivision if it doesn't meet density. The ZA will reach out for legal counsel.

**8:55 PM – C. Rainville** made a motion to adjourn. **A. Fitzgeralds 2<sup>nd</sup>**. All in favor.

Respectfully submitted, Amber Soter, Zoning Administrator, DRB & Planning Commission Coordinator

**Signed:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
For the Development Review Board

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*These draft minutes are unofficial until approved at the next regularly scheduled meeting. All motions were unanimous unless otherwise indicated.*