

**Starksboro Development Review Board  
Hearing/meeting minutes**

**08/11/2016**

Dan opened meeting at 7:45pm

DRB Members present: Dan Nugent (chair), Ben Campbell, Rob Liotard, Marjorie Dickstein, Rich Warren, Jon Fenner

Others: Dave Wetmore (ZA), Benjamin Putnam, Cynthia Langley, Vali Audy, Kevin Audy, Amos Palmer

**I. Review Minutes**

7/28/2016 – Rob moved as corrected, Ben 2<sup>nd</sup>, approved 5 – yes, 0 – no, Rich abstained.

**II. Adjustments to agenda – none**

**III. Visitor Business – none**

**IV. Scheduled Public Hearing/meeting**

**#2016DRB-03-A, appeal of zoning administrator's letter dated June 1, 2016 by Cynthia Langley.**

Dan opened the meeting at 7:45 PM and asked all present to introduce themselves.

Jon took written minutes and recorded the meeting.

Dan read the warning notice and swore in all participants. Dan asked Dave to explain the original letter.

Dave noted that the parcel is completely in the Forest Conservation District, and that the town parcel map is incorrect showing part of the property in the Low Density District. He noted that in discussions with Cindy that he thought it needed a conditional use and would do the research on it and make a recommendation. Dave stressed he wanted to make sure that he preserved Cindy's appeal rights.

Dave reviewed the history of the property, noting especially that neither Cindy nor her dad used the property for full-time, year-round occupancy. But, he stated that it was lived in year-round prior to the 2000 purchase by Cindy's dad. Dave stated that in 2006 Cindy grieved the assessment to the town.

Starksboro differentiates seasonal use as up to 100 days per year, anything over that is considered full-time use. Both seasonal and full-time residence are only available via conditional use in that district.

In 2009, a permit for a deck was issued for the property.

Dave continued to review the letter and the cited regulations from the letter, including:

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

**Starksboro Development Review Board  
Hearing/meeting minutes**

**08/11/2016**

- Zoning districts chart section 1.6, identifies parcel in Forest Conservation as seasonal and single-family homes are conditional use.
- The density factor for that district is 25 acres. Ms. Langley's parcel is 14.1 acres.
- Setbacks were cited, but have not been physically measured so whether the structure is non-conforming is unsure.
- The non-conformity section 2.8 is what the decision is hinging on.

Dave stated that he believes since the year-round use of the property ceased as of 2000 and was for more than one year, and it is a non-conforming property, that action from the Development Review Board is required to allow it's continued use on the property as a full-time, year-round residence. Dave also expressed concern on the road condition and access to the property.

Marjorie asked about Homestead declaration and if they were able to show usage of the property for 101 or more days a year would it continue the full-time use. Dave agreed that was possible.

Marjorie asked about the fact if the house did not have a kitchen or power did that define it as a residence. Dave replied that the bylaws did not state that, but the conclusion he was drawing was that it was a camp-style residence based on the lack of those items.

Dan reviewed the property assessment hearing paperwork stating that it is Camp and Land. Also that after the grievance letter it went from a Residence to Camp and Land on May 31<sup>st</sup>, 2006.

Rob asked about the Class 4 road maintenance by the town. Dave replied that the town does not maintain or plow it.

Benj asked about the acreage making it non-conforming and whether or not it was a basis for Dave's decision. Dave stated that it adds to the non-conformity, but does not prevent it from being a full-time, year-round residence.

Benj also asked about the definition of year-round in the bylaws. There is a definition for seasonal camp, but where is the definition for year-round use. Dave concluded that year-round use would be something greater than 100 days per year.

Dave is only aware of one year-round house up on Brown Hill West.

Benj asked Cindy to explain the history of the property and families use of it. Cindy explained that her father bought the farm and surrounding land around the cottage in 1982. Her father bought the house from the Eastmans in 2000 after they had been living it full-time, and Cindy assumed that it would continue to be a full-time residence. She didn't know that when they were doing the renovations to the house that it would not be able to be used full-time. Some of the improvements included a year-round septic, well, power, telephone, re-roofing, repairs to exterior, and renovation of interior.

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

**Starksboro Development Review Board  
Hearing/meeting minutes**

**08/11/2016**

Benj handed out exhibits: pictures of house and septic plan.  
Cindy reviewed the facts from Dave's letter, page 1:

1. Cindy agreed with this.
2. Cindy agreed with this.
3. Cindy said she had not analyzed the lister's records.
4. Cindy agreed with this.
5. Dave clarified that it was Cindy's father. Cindy said that it was not used by her father.
6. Cindy clarified that the year-round septic information had not been provided to the town until recently and Dave acknowledged he had received it.

Benj asked Cindy when the first time she knew that the house could not be used year-round. Cindy said a family member let her know a couple of months ago that she needed to talk to Dave about it. Dave clarified that he has been consistent on his opinion on the property for the last couple of years.

Marjorie asked when the renovations were done and over what span of time. Cindy said she re-roofed first after purchasing in 2002, then the well was put in 2004-2005, then septic in 2006. Interior renovations went on, and then deck as 2009. Marjorie asked if during that time or since then had Cindy or anyone been living up there. Cindy said people have stayed there.

Jon asked if anyone had stayed there in the winter. Cindy replied yes at different times. Cindy's brother used it for sugaring on occasion, as did her sister helping around the farm.

Dan referred back to the grievance letter where property description is Camp and Land. Cindy said she did not mean to imply it was a camp, as it had not been a camp since the Eastmans owned it. Dave clarified that it was the listers who put that label on there.

Rob asked what Cindy intended to do with the property now. Cindy said that she put it on the market, which is why Vallie and Kevin were present as they are wanting to purchase the farm and the cottage.

Vallie said they are planning on living up there full-time. Kevin plans to use a small excavator to clean up the Class 4 road to make it more accessible, if possible. Vallie said they are planning on sugaring as well.

Rich asked if the well was dug with the usual big equipment. Cindy was not there when it was dug so she did not know.

Rob asked who brought the electricity in. Cindy said her father did in 1982 for the trailer and barn. The cottage did not receive power until 2005-2007 and GMP is responsible for it.

Ben asked about the grieving and if it had power at that time in 2006. Cindy said it did not.

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

**Starksboro Development Review Board  
Hearing/meeting minutes**

**08/11/2016**

Jon asked Dave if there is a difference between taxes on a year-round property vs. a seasonal property. Dave said that based on the most recent appraisal it is not as much as you might think.

Benj went through his interpretation of the bylaws. He said there is not a category called full-time or year-round use defined. Before zoning, the property was used as a residence. In 1993 it became non-conforming use when the laws were established. Because the definition of residential use is not tied to year-round or full-time use, Benj argued that the use was never discontinued. It continued to be residential use because there is nothing in the definition that says it has to be at least 100 days. Seasonal camp says 100 days, but it does not state that residential is considered more than 100 days.

Marjorie stated that when it was owned by Cindy's father for two or three years, it was not residential use since no one lived there. She said if someone had lived there some portion of time during those years, then she could see the residential use. Cindy did not own the property during that time, but was going to inquire with her mother to see what she knew about her father's usage of the property.

Ben pointed out that the lister's card states Vacant.

Benj also pointed out that the burden of proof should be on the ZA to show that the property was not occupied or discontinued for more than a year.

Rich brought up the point that for many years now the ZA and the DRB board has been interpreting the bylaws as "residential use is 101 days or more". How does the case history apply? Benj said that it is up to the board to apply as they see fit.

Dave brought up the fact that the board may contact the town's attorney (Jim Carroll) to get his interpretation of what Benj is presenting.

Rob suggested that Benj write up his argument so that it can be presented to Jim Carroll.

Jon pointed out that it is still considered a camp according to the lister's record. Marjorie countered that her house is also listed as a camp even though it is lived in full-time, and that the listers descriptions are subjective.

Rich inquired if the new bylaws differed much in this area. Dave said that they do not.

Ben moved to recess until August 25th pending the information from Benj and reply from Jim Carroll, Jon 2<sup>nd</sup>. Approved 5 – yes, 0 – no.

**#2016DRB-06-CU, request for conditional use approval to use the property located at 509 Brown Hill East for full time residential use.**

Dan opened #2016DRB-06-CU and asked for a motion to move it to August 25<sup>th</sup> pending the outcome of the appeal #2016DRB-03-A.

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

**Starksboro Development Review Board  
Hearing/meeting minutes**

**08/11/2016**

Rob moved, Ben 2<sup>nd</sup>, Approved 5 – yes, 0 – no.

**V. Sketch Plan Reviews** – none

**VI. Other Business** – none

**Adjournment**

**Next meeting** – August 25, 2016- Langley appeal and conditional use request.

Adjourned at 9:15 PM

Date: \_\_\_\_\_

Approved: \_\_\_\_\_