



DEVELOPMENT REVIEW BOARD MINUTES

WEDNESDAY, SEPTEMBER 4, 2024 @ 6:00 PM
RUTLAND CITY HALL, ALDERMAN'S CHAMBERS

ATTENDANCE

DRB MEMBERS PRESENT:

Stephanie Lorentz, Acting Chair
Al Paul
Jim Pell
Steve Wilk

STAFF PRESENT:

Andrew Strniste, Zoning Administrator
Luke Alexander, Asst. Zoning Administrator
Megan LaChance Esq., Attorney
Katherine Alvarez Rios, Legal Intern

OTHER CITY OFFICIALS:

Ed Bove, Executive Director of Rutland
Redevelopment Authority
Sharon Davis, Alderwoman (99 Baxter St)

82 E WASHINGTON ST HEARING:

Frederick C. Watkins (82 E Washington St,
Landowner)

INDIVIDUAL APPELLANT(S):

Susan Kelley (8 Butterfly Avenue)
Thomas Bixby, Esq. (24 Catherine Dr)

JOINT APPELLANTS:

Richard Smyrski, Sr (1 Butterfly Avenue)
Richard Smyrski, Jr (3 Butterfly Avenue)
Suzanne Smyrski (3 Butterfly Avenue)
Marion Layn (5 Butterfly Avenue)
Alicia Daly (23 Butterfly Avenue)
Michelle Cables (81 Killington Avenue)
Joseph Roy (81A Killington Avenue)
Anne Roy (81A Killington Avenue)
Ann Hunt (15 Butterfly Avenue)

OTHERS IN ATTENDANCE:

Jamie Watkins (82 E Washington St)
David Allaire (57 Church St)
Patrick M Riordan (64 E Washington St)
Mason Fleischer (1607 Main St, Castleton VT)

MEMBERS OF MEDIA PRESENT:

Gordan Dritschilo (Rutland Herald)

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- Members of the Rutland City Development Review Board and the public convened in the Aldermen's Chambers at Rutland City Hall, 52 Washington Street, around 6:00 PM.
 - No general public was in attendance to provide public comment before the evening's hearings.

PUBLIC HEARING – APPEAL (HOME OCCUPATION) (82 EAST WASHINGTON ST)

6:05 PM

APPELLANT(S): Richard Smyrski, Sr (1 Butterfly Avenue)
Merideth Drude (2 Butterfly Avenue)
Richard Smyrski, Jr (3 Butterfly Avenue)
Suzanne Smyrski (3 Butterfly Avenue)
Marion Layn (5 Butterfly Avenue)

Susan Kelley (8 Butterfly Avenue)
Ann Hunt (15 Butterfly Ave)
Daniel Daly (23 Butterfly Avenue)
Alicia Daly (23 Butterfly Avenue)
Thomas Bixby, Esq. (24 Catherine Dr)
Harold Brookman (66 East Washington Street)
Jayme Cables (81 Killington Avenue)
Michelle Cables (81 Killington Avenue)
Joseph Roy (81A Killington Avenue)
Anne Roy (81A Killington Avenue)
Victor Regimbald (18 Ronaldo Court)
Susan Regimbald (18 Ronaldo Court)

LANDOWNER: FREDERICK C. WATKINS

ZONING DISTRICT: SINGLE FAMILY RESIDENTIAL DISTRICT (SFR)

[6:12] Acting Chair S. Lorentz called the hearing to order and provided an overview of the hearing procedures. The subject of the evening's hearing related to the appeal of the issuance a Home Occupation Permit for the purposes of conducting a cannabis grow operation.

[6:13] Acting Chair S. Lorentz then swore in all those who were in attendance wishing to provide testimony during the evening's public hearing. She provided a summary of the site visit conducted at 82 East Washington Street, the day prior to the evenings hearing.

Acting Chair S. Lorentz inquired with Landowner Frederick Watkins regarding documents requested at the aforementioned site visit. Landowner F. Watkins confirmed that the documents submitted to Staff were complete

Acting Board Chair S. Lorentz explained that an abbreviated version of the appeal overview was provided at the evenings hearing due to the substantial number of attachments and its availability online prior to the hearing. S. Lorentz opened the floor to the appellants.

[6:19] Thomas Bixby, legal counsel of appellant Susan Kelley, confirmed the Board's possession of his submitted appeal. Acting Board Chair S. Lorentz distributed a copy of the submitted appeal to Landowner F. Watkins.

Attorney T. Bixby questioned the authority of the Zoning Administrator and recited a Vermont State Statute relating to Home Occupations. He opined that the home occupation at 82 East Washington Street did not adhere to the State Statute. Attorney T. Bixby continued to opine that the accessory structure involved in the home business did not meet the criteria for accessory structures written in the City Ordinance. He stated that the accessory structure and principal dwelling were not located on the same lot and that the accessory structure's use was not incidental and subordinate to the principal use of the property.

[6:25] Acting Board Chair S. Lorentz inquired regarding the definition of "the same lot". Attorney T. Bixby explained his understanding that lots are defined by the legal filing in land records. Acting Board Chair explained that to her understanding, pre-existing undersized lots under common ownership merge together for. A discussion regarding the legal aspects of merged lots ensued. Attorney T. Bixby opined that the City Ordinance regarding the merger of non-conforming lots was misinterpreted. T. Bixby continued to opine that the State's requirements for classification of Cannabis Home Occupations had not been met by the Board of Aldermen. Attorney T. Bixby went on to make arguments regarding character of the neighborhood, nuisance, and public health. Attorney T. Bixby began to list the Landowner's acts of deceit, mentioning the Tipton Lawsuit.

[6:37] Acting Board Chair S. Lorentz explained that a Development Review Board Hearing was not the platform to address these claims. S. Lorentz clarified that this hearing only pertained to whether this home occupation met the zoning regulations. A discussion regarding the relevance of the Landowner's deceit ensued.

Attorney T. Bixby readressed the Landowner's acts of deceit. T. Bixby claimed that the LLC "Big Man Cannabis" had been terminated. Landowner F. Watkins advised that Attorney T. Bixby was mistaken.

[6:45] Attorney T. Bixby opined that the Zoning Administrators actions regarding the home occupation permit involved selective enforcement and discrimination. He requested that the definition of a Cannabis Home Occupation be referred to the Board of Aldermen for determination. Attorney T. Bixby stated his closing arguments and requested the permit to be revoked.

Acting Board Chair S. Lorentz inquired if the joint appellants had any additional statements, requesting for the statements to be concise, and to not repeat Attorney T. Bixby's arguments.

Richard Smyrski Jr (3 Butterfly Ave), representative of the joint appellants, explained that the Landowner F. Watkins had continued cannabis related electrical work and interior renovations in the accessory structure after his home occupation permit had been revoked. He continued to ask if Staff Member A. Strniste had helped Landowner F. Watkins with the layout of the floorplan.

Staff Member A. Strniste informed all hearing participants and the public that he had no input in the layout of the first floor and that interior renovation that doesn't change the use or footprint of a structure is exempt from permitting under the City's zoning regulations. He confirmed that Landowner F. Watkins would be unable to operate his home occupation without a permit, regardless of the interior renovation.

R. Smyrski Jr. repeated is inquiry regarding Staff Member A. Strniste's involvement with the layout of the accessory structure.

Staff Member A. Strniste clarified that he had conducted a site visit to measure the square footage of the structure's rooms and to better understand the layout; however, he advised that he had no involvement in the planning of the accessory structures layout.

Acting Board Chair S. Lorentz explained that Landowner's assume their own risk when spending money on unpermitted renovations.

Landowner F. Watkins advised that his interior renovations related to the physical construction of the accessory structure, which has an already approved Building Permit.

A discussion ensued regarding if the electrical and interior walls were an advancement of the cannabis related home occupation and if they related to Building or Zoning.

[6:50] R. Smyrski Jr. opined that the operation of the HVAC system, lights, and filters should be considered "active operation" of the home occupation, which would exceed the 10-hour limitation per day for home occupations. He advised that the cannabis operation was reliant upon these systems.

Acting Board Chair inquired if the Board or public had any comments or questions.

Attorney T. Bixby advised that the business Big Man Cannabis had been terminated, according to the Secretary of State, citing the document in which his claim was founded. He inquired if the Board would like to submit the document as an attachment.

Acting Board Chair S. Lorentz advised that they would take Attorney T. Bixby's word and mentioned that this problem is easily remedied. She inquired with the Landowner F. Watkins regarding the business and if we wished to add anything to the record other than what had been previously stated or submitted.

- [6:55] Landowner F. Watkins opined that lung and health issues were not applicable to a cannabis grow of this scale. He advised that the grow was within a 12 ft. x 32 ft. room, which has a maximum capacity of 52 plants. He stated that he is taking all the necessary precautions regarding odor control. A discussion ensued regarding odor relating to cannabis cultivation.

Landowner F. Watkins stated that he did not expect any odor to get out of the enclosed room. A discussion ensued regarding Big Man Cannabis LLC and the status of the business license. Landowner F. Watkins stated that the business license was active to the best of his knowledge.

Acting Board Chair S. Lorentz recommended Landowner F. Watkins to check with his attorney regarding this issue.

Landowner F. Watkins responded to the claim that he was continuing to renovate relating to his proposed home occupation. He advised that the cannabis related equipment in the accessory structure had not been installed and most of which was still in their packaging.

Attorney T. Bixby described the unit in which he claimed to be a control board relating to the cannabis operation.

Landowner F. Watkins advised that this was a water pump for the cannabis operation, that was inoperable and not connected to water.

Acting Board Chair S. Lorentz confirmed with the Landowner F. Watkins that the pump was inoperable.

R. Smyrski Jr. advised that wastewater relating to the home occupation is proposed to be reintroduced to the City's sewer system. He advised that the cannabis related wastewater is required to be treated as hazardous waste.

Acting Board Chair S. Lorentz advised that permitting was required for wastewater disposal into the City's sewer system.

Staff Member A. Strniste advised that to his understanding, the majority of the wastewater would be repurposed for landscaping at the Landowner's property.

Acting Board Chair S. Lorentz inquired regarding the source of appellant R. Smyrski Jr's information relating to cannabis wastewater regulations. R. Smyrski advised it was sourced from the Cannabis Control Board's website and that a copy would be submitted to the Board and the Landowner.

- [7:00] Acting Board Chair S. Lorentz clarified with the appellants that the Landowner F. Watkins was entitled to copies of their submitted documents and to please provide copies for the Landowner going forward.

Landowner F. Watkins clarified that the wastewater relating to his proposed cannabis operation was organic and biofriendly. He advised that it would be used on vegetation at his property in the summer and poured down the drain during the winter. He advised that fertilizer is required to be safe due to the nature of cannabis use. F. Watkins gave a brief overview of a controlled environment cannabis grow. He advised that the room was completely sealed, and the plants were able to grow from the CO2 in tanks, pumped into the

grow room. He continued to opine that the aesthetics of the accessory structure were not out of character with the neighborhood.

Acting Board Chair S. Lorentz clarified that character of the neighborhood was not limited to aesthetics.

- [7:03] Landowner F. Watkins advised that other grow operations were in close proximity to the neighborhood, opining that if those do not produce odor, neither would his. He continued to opine regarding an unrelated needle exchange in a different neighborhood. F. Watkins advised that if his neighbors were unaware of this cannabis operation, they wouldn't know I was there. F. Watkins opined regarding his neighbors and the proposed home occupation.

A discussion ensued regarding how the grow operation was able to bring air in without pumping it back outside the building. Landowner F. Watkins advised that the filtration was an internal system, and CO2 which allowed the plants to grow, was pumped into the building, but was not pumped back out of the building.

- [7:12] Acting Board Chair S. Lorentz explained the appeal period and process regarding the Board's final decision. No additional comments or questions were provided or asked by members of the public, the Board, or the Appellants. Acting Chair S. Lorentz closed the hearing and entered into closed deliberation.

OTHER BUSINESS

7:12 PM

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- [8:12] The Board adjourned the evening's meeting.
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Respectfully Submitted by Luke Alexander, Assistant Zoning Administrator