

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MONDAY DECEMBER 5, 2011

Members Present: Lenord Robinson, Peter Monte, Bob Kaufmann, Virginia Roth, Tom Boyle and Don Swain.

Others Present: Keith Paxman, Shelia Ware, Miron Malboeuf and Ruth Robbins.

Agenda: Call meeting to order, 7:00 pm

1. Application **2011-13-CU**, Development Review Board determination of an apartment located within the *Common Man Restaurant*. The applicant **Pennmont LLC** request a determination from the Development Review Board that an apartment housed within the restaurant is a pre-existing nonconforming use. The apartment was not referenced in the 1987 Warren Zoning Board of Adjustment decision, to rebuild the restaurant, which was destroyed by fire. As evidence of the existence of the apartment, the applicant has presented data from the Assessor's office.

The property is located in the Vacation Residential District at 3209 German Flats Road (parcel id # 006002-100.) This application requires review under Article 3, § 3.8(Non-Complying Structure & Non-Conforming Uses) and Article 5, § 5.3 of the Warren Land Use and Development Regulations as adopted by the Warren Select Board on August 24th, 2011.

2. Other Business:

Mr. Monte called the meeting to order 7:03 pm.

Application **2011-13-CU**, Development Review Board determination of an apartment located within the *Common Man Restaurant*. The applicant **Pennmont LLC** request a determination from the Development Review Board that an apartment housed within the restaurant is a pre-existing nonconforming use. The apartment was not referenced in the 1987 Warren Zoning Board of Adjustment decision, to rebuild the restaurant, which was destroyed by fire. As evidence of the existence of the apartment, the applicant has presented data from the Assessor's office. The property is located in the Vacation Residential District at 3209 German Flats Road (parcel id # 006002-100.)

After reading the warning, Mr. Monte asked what the applicant hoped to get from this review. Ms. Ware, representing the applicant, asked the Board to confirm that the structure was a pre-existing non-conforming use which does not require conditional use approval. She continued to say that they applied for conditional use as they could not figure out any other way to approach the issue. The structure is and has been used as a mixed use building, housing both a restaurant and a residential apartment, a use which is allowed in the Vacation Residential District. Ms. Ware told the Board that the apartment had been a part of the structure since 1959 and that after the fire that destroyed the building in 1987 the apartment was included in the rebuilding which took place within ten months of the fire. She continued to say that both the older and the newer lister cards show an apartment and the plans on file for the rebuilding of the building after the fire show the space though it is unidentified as an apartment.

MOTION by Mr. Monte that the Board makes the following findings:

- 1) Before zoning was enacted in the Town of Warren, the basement in this building included an apartment which at times included as many as five bedrooms.
- 2) At the time of the fire in 1987 the apartment consisted of two bedrooms, a bath, and a living/kitchen area.

- 3) Less than one year after the fire in 1987 the building was rebuilt including a two bedroom apartment in the basement with a bath and kitchen/living area that has not been substantially altered since the reconstruction in 1987.

SECONDED by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board concludes under Article 3, Sec. 3.8 (A) Nonconforming Structures and Uses, that the existence of the apartment does not require conditional use approval as it is a pre-existing non-conforming use that was restored less than one year after destruction by fire and the present apartment does not represent a material change in the degree of non-conformance of the property. **SECONDED** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that application 2011-13-CU is hereby dismissed as not being required by the standards of the ordinance. **SECONDED** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

Mr. Monte adjourned the meeting at 7:17 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Peter Monte date
Lenord Robinson 1/16/12 date

Chris Behn date

Virginia Roth 1/16/2012 date

Don Swain date

Tom Boyle 1-16-12 date

TOWN OF WARREN, VT

Received for Record 1/17 20 12
at 11:15 o'clock A M and Received in

Vol 214 Page 278-279
Ruth Robbins

TOWN CLERK