

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MONDAY SEPTEMBER 17, 2012

Members Present: Chris Behn, Peter Monte, Jeff Schoellkopf and Virginia Roth.

Others Present: Adam Longworth, Lorien Wroten, Desiree Trahan, Mike Trahan, Jim Edgcomb, Miron Malboeuf and Ruth Robbins.

Agenda: Call meeting to order, 7:00 pm.

- 1) **Application 2012-33-CU**, Conditional Use Review, Reconfiguration of a non-conforming existing Parking Lot and Setback relief for a deck adjacent to German Flats Road. The Zoning Administrator has referred the application of **3209 German Flats Road LLC (dba Common Man)** to the Development Review Board. 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, § 3.6 (C1) (Height & Setback Requirements), § 3.8(Non Complying Structure & Non-Conforming Uses), § .10(Parking, Loading & Service Area Requirements) 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) Review and Sign Mylar for Summit Ventures Eight Lot Subdivision

- 3) Other Business:

Mr. Monte called the meeting to order at 7:02 pm.

- 1- **Application 2012-33-CU**, Conditional Use Review, Reconfiguration of a non-conforming existing Parking Lot and Setback relief for a deck adjacent to German Flats Road. The Zoning Administrator has referred the application of **3209 German Flats Road LLC (dba Common Man)** to the Development Review Board. The property is located in the Vacation Residential District at 3209 German Flats Road (parcel id # 006002-100.)

Before beginning this hearing, DRB member Mr. Schoellkopf noted for the Board that he was a business partner with the presenter of the application [Mr. Edgcomb] but was not and had not been involved with the preparation of the application, would not benefit from the outcome and therefore did not believe there was any conflict. There was no objection from any of the other members and the hearing proceeded with Mr. Schoellkopf as a sitting member.

Mr. Edgcomb began his presentation by telling the Board that the Common Man Restaurant had new owners and that they had upgraded the kitchen this past year. Additionally, they would like to do two things: one, bring the parking lot into conformance which will also make it more efficient, and add a deck and patio. The first item they would like to do this fall and then assuming the winter business is good for them, would like to add a deck/patio in the spring. He continued to tell the members that the current parking lot was gravel with a 140 foot (e) curb cut. They had the property surveyed and the parking area actually extends another 30 to 40 feet south from where the gravel ends. Mr. Edgcomb also noted that there would be one dead tree that would be removed, all others would remain. Currently the stormwater on the site flows from the northwest corner of the parcel to the southeast corner across the current parking lot. It works well as there are never any puddles anywhere and he has had both Kingsbury and the town DPW who both were ok with the conditions as they were. Mr. Edgcomb also told the Board that the Select Board has approved their application to modify the curb cut. The state DEC has been contacted and since the overall total disturbance of the project is under the 5,000 foot threshold, no state

permitting is required. Mr. Edgcomb said he had that determination in an email of which he would get a copy to the Board.

Mr. Edgcomb told the Board that the Common Man currently is a 96 seat restaurant and will remain a 96 seat restaurant. The maximum number of employees is 18 and thus the parking space calculation would come out to 42 required parking spaces. What the submitted plan shows is a total of 44 spaces with an ADA compliant space included. He clarified that when the deck is built for outside dining, those number of seats will be subtracted from the interior seats so as not to exceed the total number of 96 seats. He went on to describe the deck as a combination eating and waiting area. The submission shows 36 proposed seats of which the plan is for 20 primary dining seats and the balance a place for those waiting to be seated to enjoy the outdoors and have a cocktail. Mr. Edgcomb noted for the DRB that the current stairs to the main entrance were not to code and would be replaced with code compliant stairs and additionally a handicapped ramp would also be constructed. The proposed patio would be built on the existing grade with a couple steps up to the proposed deck which would be level with the door to the restaurant. The applicant said that the summer was their slowest time and that swapping 36 seats from inside outside would not be a problem. It is not proposed for the deck to be covered.

Mr. Behn asked about potential noise – whether or not three would be outdoor speakers for music. The reply was that should they decide to mount some speakers outside that the music played would be the same as inside which would be lower volume “dinner” music or background music. It was important to them that the character outside be the same as that inside. Mr. Edgcomb addressed the topic of lighting telling the Board that the lighting shown on the plan would be of a low level, ordinance compliant and that candles would be utilized on the tables. A general discussion then took place about the level of noise and the decibel level allowed per the ordinance.

MOTION by Mr. Monte that the Board finds that the only residential neighbor who would be affected by the outdoor operation of the restaurant and potential noise would be the Drumleys Condominiums which all have decks/balconies facing away from the proposed deck on the Common Man Restaurant property and are thus shielded from any noise; and that a 70 decibel noise limit[at the property line] for activities on the deck including music would satisfy the requirements of the ordinance with the condition that any music or other added noises were terminated at 10 pm but meal service can continue beyond that hour. **SECOND** by Mr. Schoellkopf. In discussion Mrs. Roth expressed that she felt that they should be allowed to go until “closing” for the possibility of accommodating special parties. Mr. Behn made a **MOTION** to amend the motion on the floor to the termination of music at 11pm which was **SECONDED** by Mr. Schoellkopf who had also seconded the original amendment. The **VOTE** was three in favor and one against the motion, and passed with a simple majority of the Board.

Mr. Monte then made a **MOTION** that should the Board approve a Conditional Use permit, that a condition of the permit be that any outdoor music will cease at 11 pm with a reminder that the maximum noise level at the property boundary shall not exceed 70 decibels as stated in the ordinance. **SECOND** by Mr. Behn. **VOTE**: all in favor, the motion passed.

Mr. Monte asked if the applicant knew where the surface water went after crossing the lot at the southeast corner. Mr. Edgcomb said it went underground after traveling through a hole and culvert but was not tracked any further than that. He had looked at it with the town DPW and the State but did not spend a lot of time on it as there appeared to be no issue. The subject of trees and screening came up but with the change being minor and the addition of the deck being on the street side it became a non issue. Mr. Edgcomb also told the Board that the current grade of the parking lot would be kept as is since it seems to work as such. With the decrease in the road cut opening additional fencing will be added along the road [a condition of the revised road cut issued by the Select Board] and there will be a small increase in earth material along that same area.

In going forward with the review of the standards Mr. Monte noted that there were two distinct projects, one not dependent on the other: (1) the parking lot/curb cut and (2) the addition of the deck, patio, ramp and entrance.

MOTION by Mr. Monte that this application includes two distinct projects; the parking lot improvements and the deck addition; and that the applicant may proceed with either one or both and is not required to do both. **SECOND** by Mr. Behn. **DISCUSSION:** it was brought up that the parking/curb cut is non-conforming and it should be required to be done to bring it into compliance. An **AMENDMENT** was offered by Mr. Behn that requires the parking lot with the revised curb cut to be done but that the addition of the deck, patio, entry cannot be done [nor is it required to be done] without the completion of the parking/curb cut changes. **VOTE:** all in favor, the motion passed.

Also part of the application is a request for setback relief for the addition of the deck and patio. The required setback is 40 feet and the Board can grant relief up to a 28 foot setback. The applicant is asking for a 30 foot setback. When asked if there were any other options that would not require setback relief, the applicant told the Board that any other location would either be an imposition on the neighbors, next to the dumpster, take away parking spaces, is occupied by mechanicals or other structures. The Board agreed and found that there was no other option available that made sense.

MOTION by Mr. Monte that the Board grant setback relief in the amount of no more than 10 feet [structures must have a 30 foot or greater setback from the right-of-way] for the addition of the patio and the deck in the dimensions as shown on the plans. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

In reviewing the standards of Conditional Use, Article 5, Sec. 5.3 (A) the following motions were made:

MOTION by Mr. Monte that the project will not adversely affect the capacity of existing or planned community facilities or services [Sec. 5.3 (A) (1)]. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Behn that the project will not adversely affect the character of the neighborhood or area affected [Sec. 5.3 (A) (2)]. **SECOND** by Mr. Schoellkopf. **VOTE:** all in favor the motion passed.

MOTION by Mr. Schoellkopf that the project will not adversely affect the traffic on roads and highways in the vicinity and in fact will be an improvement over the current conditions [Sec. 5.3 (A) (3)]. **SECOND** by Mr. Behn. **VOTE:** all in favor the motion passed.

MOTION by Mr. Monte that project will not adversely affect or is applicable in regard to the bylaws and ordinances then in effect [Sec. 5.3 (A) (4)] nor the utilization of renewable energy resources [Sec. 5.3 (A) (5)]. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

Mr. Monte stated that he did not see the need to review the Specific Standards under Sec. 5.3 (B) unless a member felt differently. Item (10) Lighting was brought up and the applicant confirmed that the plans were for the fixtures to be conforming to the ordinance.

MOTION by Mr. Monte that the Board grants Conditional Use approval subject to any conditions already voted on. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

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TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MONDAY SEPTEMBER 17, 2012

2- Review and Sign Mylar for Summit Ventures Eight Lot Subdivision

The DRB members reviewed and signed the subdivision mylar for the Sugarbush Lincoln Peak Redevelopment Project, Phase II.

Mr. Monte adjourned the meeting at 8:21 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

<u>Chris Behn</u>	date
<i>Peter Monte</i>	<i>5/11/12</i>
Peter Monte	date

<i>Virginia Roth</i>	date	<i>11/5/12</i>
<i>Jeff Schoellkopf</i>	date	<i>11/6/12</i>
Virginia Roth	date	
Jeff Schoellkopf	date	

TOWN OF WARREN, VT
 Received for Record 11/6 2012
 at 4:12 o'clock P M and Received in
 Vol 219 Page 175-178
Ruth Robbins
 TOWN CLERK