

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
MONDAY NOVEMBER 5, 2012

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Members Present: Lenord Robinson, Peter Monte, Virginia Roth and Bob Kaufmann.

Others Present: Gunner McCain, Sue Carter, Marilyn Miller, Raymond and Marcella Gratton, Lucy O'Brien, Alice Cheney, Peter Lazorchak, Dave Olenick, Miron Malboeuf and Ruth Robbins.

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

1. Application 2012-22-SD/PUD/CU, Proposed 6 Lot PUD for 50, 70 & 96 Flat Iron Rd. **BOKAY Ltd. and Lucy O'Brien**, request preliminary plan approval for a 6 lot Planned Unit Development in the Warren Village Mixed Use District. The properties comprise 2.33 acres with an existing single family dwelling on each lot, identified as parcel id #'s 004002-500, 004002-400, and 004002-300 in the Warren Grand List of 2012. This application require review under Articles 5, 6, 7 and 8, see note 1 of the Warren Land Use and Development Regulation date March 8, 2005 and last amended January 31, 2012. Note 1 (Planned Unit Development, approved by the Warren Planning Commission on September 24<sup>th</sup>, and the Warren Select Board on October 23<sup>rd</sup>, 2012)-
2. Application 2012-61-CU For construction of a driveway over steep slopes to a development site for a proposed Single Family Dwelling. This application is filed on behalf of **JDMC Properties Realty Trust**. The property is identified as 70.9 Acres off the Roxbury Mountain Rd and is in the Rural Residential and the Forest Reserve Districts, parcel id 023008-601. This application requires review under Article 2, Tables 2.1 & 2.2, Article 3, § 3.16 Article 5, § 5.3 Development Review of the Warren Land Use and Development Regulation date March 8, 2005 and last amended January 31, 2012.
3. Other Business:

Mr. Monte called the meeting to order at 7:05 pm.

- 1) Application 2012-22-SD/PUD/CU, Proposed 6 Lot PUD for 50, 70 & 96 Flat Iron Rd. **BOKAY Ltd. and Lucy O'Brien**, request preliminary plan approval for a 6 lot Planned Unit Development in the Warren Village Mixed Use District. The properties comprise 2.33 acres with an existing single family dwelling on each lot, identified as parcel id #'s 004002-500, 004002-400, and 004002-300 in the Warren Grand List of 2012.

This application was presented at an informal Sketch Plan review on August 6, 2012. They have now come in for a Preliminary Plan Review having taken into account some of the comments and suggestions received at the previous meeting. Mr. Monte read the warning and then Mr. McCain, representing the property owner, walked the members through the site plan.

Starting at the Brook Street end of Flat Iron Road, Mr. McCain explained that the single family residence will stay as such, the barn attached is currently being used as an artisan's workshop but will become a two apartment dwelling in the future; the next single family residence remains as is and the last house closest to Main Street is currently being renovated and will also remain as a single family residence. On the same lot as the last house are both a garage and a sugarhouse. Mr. McCain said the intent is to relocate both structures, if feasible, or construct similar structures to be utilized as small two bedroom houses. There will an additional new structure that will be a small two bedroom home as well.

A driveway will need to be constructed to access the "garage" dwelling and the "sugarhouse" dwelling and can be done so as to meet the standards set forth in the ordinance Mr. McCain told the Board. There exists on site water supply for the project with the exception of when the barn is converted to a two apartment dwelling then an additional source will be needed. The Town of Warren Municipal Wastewater system has capacity to take on any additional demand. State permitting will be acquired for water and wastewater for the project. Having covered the basics, Mr. McCain asked for questions from the Board.

Mr. Robinson asked about those areas between the houses which were lowlands and subject to being wet. Mr. McCain replied that those areas would be undisturbed but the proposed development. Some of those areas have had some fill added to them as well. Mr. Monte asked about the density and was told by Mr. McCain that the proposed six dwellings sit on 2.33 acres which gives a .39 acre average in a district that allows .25 acre minimum lot sizes. Mr. Monte also asked about what would be in place for the common facilities and was told that there would be some shared water supply and a shared drive thus requiring a homeowners association but that they have not spoken yet with an attorney to develop such documents as of yet. He also mentioned four parking spots at the beginning of the new driveway leading up to the new homes. The six +/- large old existing maple trees near the road will remain. Mr. Monte said that the Board will want to see whatever documents they decide on that pertain to the handling of the common areas, and especially noted that he expected to see language that calls for the payment of attorney fees in the case of delinquent common charges. Though a spring is currently ok for the current house [nearest Brook Road], when the barn is converted into two apartments then either a new well will be needed or it will need to be added to the other water system. Mr. Monte noted that before the barn is converted to the two apts. that it will need to be demonstrated that there is adequate water and will potentially be a condition of any permit the Board may grant.

Mr. Monte then asked if anyone in the audience had a comment or question. Mr. Gratton spoke up asking for the installation of a chain link fence to prohibit the added number of residents [kids] from sledding down the hill that is part of his property that abuts Ms. O'Brien's. Mr. McCain said they had no plan for any fencing and that specifically a chain link fence would not be aesthetically appropriate with the surrounding area. Mr. Gratton spoke of children currently sledding down his hillside but that with the additional housing any added children would be a "burden" to him and he did not want any children sledding down his hill as a result. Mr. Gratton stated that though he has enjoyed people sledding on his hill that the added housing and resulting children sledding would create too much of a burden on him with a lot more people. Mr. McCain said that the applicant did not feel fencing was consistent with the overall look of the plan but that they would defer to the DRB as to what they thought appropriate when the time came to issue a decision on the application. He also noted that Mr. Gratton could post his property [which Mr. Gratton said he intended to do] and that Ms. O'Brien would inform any tenants that they were not to cross Mr. Gratton's property. One of the DRB members asked if additional tree planting to act as a screen would be acceptable and the reply from Mr. Gratton was that that would not be a sufficient deterrent.

Mrs. Roth asked where the church was in relationship to the new proposed houses. She asked if there might be any other uses other than residential since the zoning district has changed to allow mixed use activities. Ms. O'Brien said that her initial intent is for residential use but is open to other permitted uses being utilized down the road. She noted that the only dwelling that might be appropriate for mixed use would be the "garage" building as the other two planned homes would most likely be too small. She told the Board that she wanted to keep the dwellings small so as to maintain some significant green space and thought the scale would be more "village-like".

Mr. Monte then went over with the members the review process noting first that this project would need to conform to the vision of the Town Plan. Mr. McCain asked if they could postpone the applicant's response until next time and Mr. Monte said that was not a problem but that he

wanted the applicant to be aware that it was required. He also noted what some of the general requirements were. Mr. Monte then made a **MOTION** to designate this as a Major Subdivision [6 lots] and that the project as designed and presented meets the density requirements of Article 8 Planned Unit Development Sec. 8.3 (D) Density. The motion was **SECONDED** by Mr. Robinson. In **DISCUSSION** it was noted that there was not a density bonus being requested in this situation. The **VOTE** was unanimous and the motion passed.

Mr. Monte then walked through the General Standards under Sec. 8.3 (E) to see if there were any "red flags" or issues that might need to be addressed by the applicant. They found no issues and determined that items (7) and (8) were not applicable for this application.

Ms. Carter asked if there was adequate parking for Lot 1 [nearest Brook Rd.] and was told there were 4 spaces right in front of the barn for both structures. Mr. Monte asked if the individual lots would have separate ownership. Mr. McCain said that he thought initially Ms. O'Brien would maintain overall ownership but that they could/would be sold sometime in the future. He then asked about the use of "common open space" and how that would be achieved. Ms. O'Brien replied that she thought it might be done through deed language. She was told that the "common area" needed to be shown on the site plan and that the DRB would want to see the language for its use.

The Board then moved on to Sec 8.3 (G), Village Standards and conducted an overview as they did for General Standards to see if there were any issues the applicant needed to address. One of the standards in this section calls for sidewalks and pathways to facilitate pedestrian circulation. Mr. Monte asked of his fellow Board members if it was appropriate to require sidewalks in this instance. Discussion brought up that there wasn't much space; would ADA requirements be made of Ms. O'Brien if she installed them on her land versus the Town; would an interior pathway be better; and that Ms. O'Brien was in favor of sidewalks but would have to look at closely to see what the ramifications would be. Due to the space restrictions with the road width and the existing structures being so close to the road, that Mr. Monte said maybe an answer would be for Ms. O'Brien to grant an easement to the Town of Warren for any possible future construction of a sidewalk by the Town if space allows.

The Board then moved to Article 7 to again just do an overview to make sure the applicant was on the right track and that there were no major issues they needed to address before the next hearing. They went through Sec. 7.2 General Standards and briefly discussed (F) Landscape and Screening in regards to Mr. Gratton's desire to fence off the sledding hill that is on his property. Mr. Kaufmann asked how big the area was and was told it was approx. 50 to 60 feet wide. Mr. Kaufmann asked if an evergreen hedge or post and rail fence with Mr. Gratton's posting would be satisfactory. Mr. Gratton told the Board that the kids will get through either of those and the only thing that will keep them out will be a chain link fence. Mr. McCain added that he climbed many a chain link fence in his youth and also added that it really wasn't in keeping with the character of the Village to utilize a chain link fence. Mr. Gratton then replied that he would put up a chain link fence and was told he could do that on his property and as long as it was less than eight feet tall it did not need a permit. Mr. Monte suggested they all think about it and they could make a decision at the Final Review.

Mr. Monte asked Mr. McCain if he would be providing an erosion control plan and he said yes, especially with the construction of the road accessing the dwellings on the lot closest to Main Street. Mr. McCain was asked if he had contacted the Fire Dept. and he said yes, but had not yet heard back. Under Energy Conservation Mr. Robinson asked if any consideration had been given to using solar and was told that with it being a north facing slope that accessing the south/southwest for some significant solar was not practical. Not only does the slope rise up behind the homes, but the church also creates a block. Mr. Robinson stressed that he still thought that it should be evaluated for potential use.

**MOTION** by Mr. Monte that before the workshop in the barn on Lot 1 is converted to residential use that the applicant must demonstrate to the DRB that there is an adequate water supply.

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

The applicant verified that all the utilities will be placed underground. Mrs. Roth brought up her concern of the location of the upper dwelling in relationship to the church and thought maybe a buffer might be in order. Mr. McCain noted that there were existing trees along that property line which would not be touched.

**MOTION** by Mrs. Roth that a 10 foot wide buffer area along the westerly property line of lots 4 and 5 be maintained to offer screening for the church and that there will be no cutting unless there is a diseased, dying or hazardous tree. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte to move this application to Final Plan Review on Monday December 3, 2012. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

- 2) Application 2012-61-CU For construction of a driveway over steep slopes to a development site for a proposed Single Family Dwelling. This application is filed on behalf of **JDMC Properties Realty Trust**. The property is identified as 70.9 Acres off the Roxbury Mountain Rd and is in the Rural Residential and the Forest Reserve Districts, parcel id 023008-601.

Mr. Monte read the warning and Mr. Lazorchak presented the application for the development of a driveway on steep slopes to the DRB. The first thing he mentioned is that the drive is off of Senor Road, not the Roxbury Mtn. Road as stated in the warning. Mr. Monte interjected that he lived a quarter of a mile down the road and asked if anyone had an objection to him being part of the review of this application. Hearing none, they continued. Mr. Lazorchak pointed out the areas that were 15-25% slopes, over 25% and the rest being under 15%. He explained that the placing of the drive was done so as to minimize any possible impact to the wetlands buffer – there is no direct impact to the wetlands with this plan. A curb cut permit has yet to be issued by the Select Board but the DRB members had no problem with the location. There is a small stream crossing requiring a culvert that will need a stream alteration permit that Mr. Lazorchak was confident would meet the criteria and not need full ANR review.

Mr. Malboeuf alerted the Board members that there was a small piece of this parcel that was in the Forest Reserve District. None of the proposed development takes place in that area, but the standards of that district could still be applied. The members looked at the layout of the project and found that the stricter standards of the Forest Reserve were not required here especially since the development taking place was outside of that section.

Mr. Monte asked if there was an erosion control plan and was told that one was submitted. The Landscaping plan showing the grading around the proposed house site was new as of the meeting. The erosion control plan includes matting that allows for vegetative growth, stone lined ditches, stone check dams during construction, silt fencing below house site and the leach field and recommended seed mixtures. Mr. Monte asked about the maintenance of the stone lined ditches going forward. He was told that the plan doesn't spell it out but that they should be periodically cleaned out but is site specific as to the frequency needed.

Mr. Malboeuf asked what the length of the drive was and was told it was 2800 feet long. He then noted that the ordinance calls for pull offs on any drive longer than 400 feet. Mr. Lazorchak

admitted that he missed that but had it on his list. He went over the plan and indicated those areas that he thought would be most appropriate for pull offs. Mr. Monte also asked if there would ever be the possibility of additional dwellings built on this property. Mr. Lazorchak said that they wanted to keep that an option but had no immediate plans. He continued to say that this was a driveway, not a development road, and in the event it was to be a development road they would come back to the DRB. Mr. Monte then said that they [the Board] needed to make sure that this plan did not preclude that possibility – that they did not want to get painted into a corner. Mr. Lazorchak said that the 12 foot traveled way could be widened to 14 feet should it be required in the future. **NOTE:** the Board finds that the engineer has represented to them that a two to three foot widening of the proposed drive can be done so that the relocation of the drive will not be necessary.

Mr. Lazorchak also stated that the plan for this drive would meet state standards if submitted and that nothing was "skimped" on. He also told the Board that they most likely would be applying for a moderate risk construction general permit that will have phasing added in to the actual procedure in development of the site.

Mr. Monte listed the items that were still needed for the Board to make a complete decision: a revised site plan with three pull offs, a description of the phasing required by the state and an ongoing maintenance schedule added to the erosion control plan for the stone lined ditches. He also added that they would want an update on a requested easement that a neighbor has requested.

**MOTION** by Mr. Monte that the regulations and standards of the Rural Residential District will apply to this application even though there is a small portion of the parcel that lies in the Forest Reserve District. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that they continue the hearing of this application until Monday December 3, 2012 at 7pm. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

The members reviewed and signed previous minutes and decisions and Mr. Monte adjourned the meeting at 9:40pm.

Respectfully submitted,  
 Ruth V. Robbins  
 DRB/PC Assistant

TOWN OF WARREN, VT  
 Received for Record 12/4 2012  
 at 10:30 o'clock AM and Received in  
 Vol 219 Page 566-570  
*Peter Goss*  
 TOWN CLERK

**DEVELOPMENT REVIEW BOARD**

*Lenord Robinson 12/3/12*  
 Lenord Robinson date  
*Peter Monte 12/2/12*  
 Peter Monte date

*Virginia Roth 12-2-2012*  
 Virginia Roth date  
 Bob Kaufmann date

