

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
MONDAY OCTOBER 21, 2013

---

Members Present: Lenord Robinson, Peter Monte and Jeff Schoellkopf.

Others Present: Deb Johannesen, Gary Johannesen, Tomislav Marincic, Kate Marincic, Marilyn Miller, Sue Carter, Peter MacLaren, David Sellers, Miron Malboeuf and Ruth Robbins.

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

- 1) Application **2013-50-CU/ZP** Conditional Use Review for approval for Gallery/Artist Studio; The applicant, David **Sellers** has requested the use as per Article 2, Table 2.2 ,(C) Conditional Uses(14), Gallery/Artist Studio; to his Single Family Dwelling at 1635 West Hill Rd. The property, 4.2 acres, is located in the Rural Residential District, parcel id # 016003-502.
- 2) Application **2013-02-CU/ZP**, Conditional Use Review, for the re-construction of an Accessory Structure (Deck) in the Flood Hazard Overlay District (FHO). Gary & Debora **Johannesen** requested permission for an as-built permit for the re-construction of a deck and adjacent retaining wall on their property located at 59 Main Street, parcel id #004000-200. The Zoning Administrator had referred this application to the DRB on February 4th, 2013, the applicant will present corroborating information that the structures do not encroach into the floodway beyond the encroachment of the original deck. The property is located in the Warren Village Historic Residential and Flood Hazard Overlay Districts. This application requires review under Article 2, table 2.2 & 2.14 (3); and Article 5, § 5.3 of the Warren Land Use and Development Regulations.
- 3) Approval of Mylar for **2013-11-SD/CU/ZP**, Subdivision Amendment, & Conditional Use Review: The applicants, Zachary & April **Taylor**, request an amendment to an approved plat, #2000-08-SD and Conditional Use approval for a development road.
- 4) Other Business:

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

1. Application **2013-02-CU/ZP**, Conditional Use Review, for the re-construction of an Accessory Structure (Deck) in the Flood Hazard Overlay District (FHO). Gary & Debora **Johannesen** requested permission for an as-built permit for the re-construction of a deck and adjacent retaining wall on their property located at 59 Main Street, parcel id #004000-200. The Zoning Administrator had referred this application to the DRB on February 4th, 2013, the applicant will present corroborating information that the structures do not encroach into the floodway beyond the encroachment of the original deck. The property is located in the Warren Village Historic Residential and Flood Hazard Overlay Districts.

Mr. Monte began the hearing with reference to an email from Sacha Pealer who is the State's Central Vermont Floodplain Manager. In that letter, Ms. Pealer outlined what needed to happen next: that the DRB may waive the no-rise analysis with appropriate documentation for their rationale and with a complete review that is clear that the flood hazard regulations are being followed. She emphasized that the documentation must be sufficient to reasonably establish that the deck is not a new encroachment on the floodway. She also noted that there was always the option for the deck to be removed or reduced in size.

000038

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
MONDAY OCTOBER 21, 2013

---

Mr. Monte asked the applicant if there was any excavation performed with the installation of the retaining wall and Mr. Johannesen said no. Mr. Johannesen then outlined for the members the history of the deck. He told them that the deck was there when he and his wife purchased the house in 1986. It had been repaired/rebuilt several times and is further back away from the river. The deck itself is anchored into the rock ledge.

A neighbor in the audience, Mr. Marincic told the Board that he had purchased the house next door to Mr. Johannesen in 2008. He observed Mr. Johannesen doing work on the deck in May of 2011 which he perceived as being larger than before. He noted for the Board that this was two months before TS Irene occurred. Mr. Marincic said that in his opinion it was an eyesore.

The subject of lights was then brought up which had been discussed in a previous hearing. Mr. Johannesen told the Board that the lights were there when the house was purchased and that one time when they were away a house sitter inadvertently left them on. Both Mr. and Mrs. Johannesen told the DRB that the lights were not important and that they had not been used since the complaint and have been disconnected. Mr. Monte did tell the applicants that should they ever want to utilize some sort of lighting they would need a permit that conformed to the lighting regulations.

**MOTION** by Mr. Monte that the DRB finds that the application meets the requirements of Article 5, Sec. 5.3 (E) Flood Hazard Overlay District – Development Standards (1) Special Flood Hazard Area, (h) which allows a small accessory structure of 500 square feet or less that is placed in such a way that it provides minimal resistance to the flow of flood waters and thus also meets the required criteria of (1) Special Flood Hazard Area, (f) (ii) since it does not impede the flow of flood waters having no vertical materials to offer resistance. This therefore does not require the raising of the structure above the flood elevation of the site. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

A discussion then took place regarding the requirement of various forms, approvals from state agencies such as the project review sheet from the Agency of Natural Resources. The DRB then went on to make some findings in preparation for a final review at a later date.

**MOTION** by Mr. Schoellkopf the Board makes the following findings: 1) the structure has space both above and below for the passage of water; 2) the original structure survived TS Irene – though damaged it did not break free and do downstream – and the current rebuilt structure is anchored in the same manner; 3) this is a pre-existing structure that has not been relocated; 4) no excavation was employed in the development of the retaining wall as it was built in a “void” and is anchored at one end; 5) there is new decking material but no electric, heating, ventilation, plumbing or air conditioning to be affected by water damage; 6) the current stream channel is not likely to change course due to the predominance of bedrock; 7) there are no fuel storage tanks. **SECOND** by Mr. Monte. **DISCUSSION:** Mr. Marincic stated to the Board that the lighting on the deck, flush with the vertical surface, was operational as recently as yesterday. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Monte that if this application is approved, there will be a condition regarding any and all electrical or solar powered lighting of the project area. **SECOND** by Mr. Robinson. **VOTE:** two in favor, one opposed, the motion passed by a simple majority of the members in attendance.

**MOTION** by Mr. Monte that the Board continues this hearing until Monday November 18, 2013 at 7pm at which they will expect the remaining documentation from the applicant. **SECOND** by Mr. Schoellkopf. **VOTE:** all in favor, the motion passed.

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
MONDAY OCTOBER 21, 2013

- 2. Application **2013-50-CU/ZP** Conditional Use Review for approval for Gallery/Artist Studio; The applicant, David **Sellers** has requested the use as per Article 2, Table 2.2 ,(C) Conditional Uses(14), Gallery/Artist Studio; to his Single Family Dwelling at 1635 West Hill Rd. The property, 4.2 acres, is located in the Rural Residential District, parcel id # 016003-502.

Mr. Sellers filed an application to satisfy a zoning violation issued regarding the use of his property at 1635 West Hill Road. Though this hearing was previously warned for a Conditional Use permit for a cottage industry use, it has since been determined that the use as an Artist's Studio/Gallery was more accurate. Mr. Monte read the definition of an Artist's Studio – he then asked Mr. Sellers what actually goes on at his house. Mr. Sellers explained that he uses it as a studio/workshop for the creation of "artistic and unusual architectural creations" that are used as components to buildings and homes. He told the board that the projects are all different and that sometimes it may only require one person working on the project where there may be occasion for as many as eight people.

Mr. MacLaren who is the owner/operator of a B&B across the way said he had no problem with that type of activity but that there have been times when there has been more of a party atmosphere that utilized fireworks late at night that disturbed his inn guests trying to sleep. Mr. MacLaren did note that when music has been used there has not been a problem. Discussion continued revolving around the concept of a commercial type activity in a residential zone and how to best find an agreeable balance. Mr. Monte said that despite all the obvious space for parking that Mr. Sellers needed to put on paper a parking plan that would satisfy his using the property as an Artist Studio/Gallery. He also would have to give careful thought to any events he might want to have and how they would be handled. It was suggested by Mr. Sellers that he and Mr. MacLaren spend some time hashing out what might be a fair and amicable agreement that would be in keeping with the neighborhood. Mr. Monte said that the Board would look at any resolution they came up with but that it would not preclude the Board from making additional conditions on any approval.

**MOTION** by Mr. Monte that the DRB continue this hearing until Monday December 2, 2013 at 7:00 pm. **SECOND** by Mr. Schoellkopf. **VOTE:** all in favor, the motion passed.

The meeting was adjourned with no other business brought before the DRB at 9:13 pm.

Respectfully submitted,

Ruth V. Robbins  
DRB/PC Assistant

TOWN OF WARREN, VT

Received for Record 11/19 2013  
at 10:30 o'clock A M and Received in

Vol 226 Page 37-39

*Ruth Robbins*

TOWN CLERK

Development Review Board

*Peter Monte 11/18/13*  
Peter Monte date

Jeff Schoellkopf date

*Lenord Robinson 11/18/13*  
Lenord Robinson date

.....