

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MONDAY FEBRUARY 4, 2013

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

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

Agenda: Call meeting to order, 7:04 pm

- 1) Application **2012-22-SD/PUD/CU**, (continued from January 21st, 2013) 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 as adopted by the Warren Select Board on March 25, 2008 and last amended November 11, 2012.
- 2) Application **2013-02-ZP/CU**, Conditional Use Review, for the construction of an Accessory Structure (Deck) in the Flood Hazard Overlay District (FHO). The Zoning Administrator has referred the application of **Gary & Debora Johannesen** for the re-construction of a deck and adjacent retaining wall on their property located at 59 Main Street, parcel id #004000-200. 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 as adopted by the Warren Select Board on March 25, 2008 and last amended November 11, 2012. Applicant has requested a continuance until March 4th, 2013
- 3) Other Business:

Mr. Monte called the meeting to order at 7:04 pm.

1. Application **2012-22-SD/PUD/CU**, (continued from January 21st, 2013) 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.

Mr. Monte noted for the hearing that in previous hearings two conditions had been voted on should this application be approved: 1) verification of an adequate water supply for the barn on lot 1 prior to its conversion to a residential dwelling and 2) the requirement of a 10 foot buffer along lots 4 and 5 for screening from the church.

Mr. McCain, representing the applicant, Ms. O'Brien, brought the Board up to date on the changes/modifications since the last hearing. He started with pointing out that erosion control requirements were noted on the site plan, most of which is centered on the driveway between lots 3 and 4 up through lots 5, 6 and 7. Lot 7 Mr. McCain noted is an additional lot which is designated as Common Land. The requested vegetated buffer has also been outlined on the site plan on the western boundary. A ten foot pedestrian path has been added between lots 4 and 5 that connect Town owned property to the driveway from Flat Iron Road up to Lot 6 and the

Common Land of lot 7. Mr. McCain said he thought that these items covered any concerns or outstanding requests the Board had. Mr. Monte added that they had also received the proposed declaration for the planned community that states who is responsible for what.

Mr. Robinson asked Mr. McCain about a situation that had been brought to his attention regarding the problem of water draining down from the Town/Church onto the O'Brien property. Mr. McCain replied that he was unaware of any problem. Ms. O'Brien spoke up and told the Board that she had received a call a couple of years ago from the Director of Public Works, Barry Simpson, who told her that an area in front of the church had iced up and could they drain the water from there onto her property. She told him she'd take a look at it upon her return to Vermont. When she got back it was not exactly as described and was more of the whole parking area that was to be drained through her property into a municipal (?) drain below. Ms. O'Brien said her main concern was that the water draining from the municipal lot contained salt and other automotive by-products that might endanger the health of her maple trees. She continued to say that she was happy to help the church solve its ice problem but that the situation had been misrepresented and couldn't they find another solution that would keep the water from harming any of her vegetation. She has had no further conversations about the issue since then. Mr. Robinson said he had been told that the parking lot drainage was a problem by a former road commissioner [and church member] and that it has always been an issue. Ms. O'Brien did add that the stone wall between the church property and hers had had some of the stones removed to what appeared to be to allow the water to drain in that direction. She asked if the wall couldn't be closed up and maybe a pipe installed to direct the water and keep it from her trees but never got a response back. She emphasized that her only concern was the health of her maples trees and did not think it would be a big deal. Ms. O'Brien also said that as long as there was no evidence of her trees being adversely affected she had no problem with the water draining as it is now though it would be nice if it went underground through a pipe. Mr. Monte noted that if at some time in the future she wanted to install a pipe, it would most likely go through the required buffer zone which would be a problem. Mr. McCain said he thought a gentle swale placed along side the buffer might satisfy the situation. Mr. Robinson said his only concern was that the water might be backed up somehow and not allowed to drain.

Having been brought up to date on any changes by the applicant, Mr. Monte asked the other Board members if they had any questions or comments. Mr. Malboeuf and Mr. Swain spoke about their visit to the site and a concern about the location of the building envelope on lot 6 due to the impact on steep slopes. Mr. McCain stated that the location of the building envelope was placed in an area that they thought minimized the visibility of the proposed building. He did however in revisiting the site himself, notice that one of the stakes was mistakenly placed showing more encroachment into the slope than it should be. He continued to say he would further modify the lot and building envelope to even further minimize any impact on the slope.

Mr. Monte then asked if there were any comments or questions from the public. Ms. Carter voiced her concern about the cemetery and the lack of a buffer or controls that help to keep dogs out. Since there is a required buffer for the church, can there be something for the cemetery. Mr. Malboeuf noted that there are some signs disallowing dogs in the cemetery as well as the fact that there is a leash law in town. Mr. McCain said that there were no paths or such that might "invite" someone to take their dog(s) through Ms. O'Brien's property. Ms. Carter also noted that another abutter to the cemetery, Ms. Rodrigues, has some plantings that aid in defining the border. Mr. Monte said they would take her request into account as they review the standards. Ms. Roth asked about what restrictions, if any were levied on the use of the common land [lot 7] in the covenants as to the use of the land. Mr. McCain said that other than no use of motorized vehicles it was just for the enjoyment of the residents of the PUD. Mr. Monte added that the Board of Directors of the PUD will have the authority to adopt rules should they so desire. Mr. Swain asked if the covenants shouldn't include a requirement for the homes to conform to the VT Energy Code. Mr. McCain thought they had included that but will make sure it is made more explicit.

Mr. Monte then suggested that they move on to the review of the project under Article 8, Planned Unit Development.

The first item was Section 8.2 (C) which calls for the DRB to find that the proposed project conforms to the Town Plan. Mr. McCain pointed out that he had referenced the Town Plan in the Conditional Use worksheet, i.e.: "the project meets housing goal 6.B of the Town Plan by offering a diversity of housing types etc. and that the Town Plan supports a project of this type in Objective 10.4 to reinforce existing villages and designated growth centers etc. [Conditional Use Worksheet rec'd 1/31/13].

MOTION by Mr. Monte that the project is consistent with the Town Plan as it offers diversity of housing [Goal 6.B], supports the development of the Village as a growth center [Objective 10.4] and the scale of the buildings appear to promote affordable housing also contained in Goal 6.B. **SECOND** by Mr. Swain. **VOTE**: all in favor, the motion passed.

MOTION by Mr. Monte that the Board finds the General Standards under 8.2 (E) items (1) through (7) are satisfied by the applicant with the exception of item (8) which is not applicable for this project. **SECOND** by Mr. Boyle. **VOTE**: all in favor, the motion passed.

The Board reviewed the items under Sec. 8.2 G and noted that item (3) while calling for the buildings to be close to the street had been addressed by the applicant who instead felt the preservation of the older maple trees took precedent thus placing some of the buildings back from Flat Iron Road.

MOTION by Mr. Swain that the applicant has complied with the standards of Sec. 8.2 (G) items (1) through (7). **SECOND** by Mr. Monte. **VOTE**: all in favor the motion passed.

MOTION by Mr. Boyle that the proposed open space/common land area as represented as Lot 7 on the site plan is sufficient in meeting the requirement of the ordinance. **SECOND** by Mr. Swain. **VOTE**: all in favor, the motion passed.

Prior to going on to a review of the requirements of Article 7, the Board received and briefly discussed the draft of the PUD covenants. The only real particulars the DRB is typically interested in is that they have been created, that there are practical enforcement mechanisms and that they are compliant with Town ordinances. Mr. Monte said he had reviewed them and that they seem to cover the usual and saw no red flags.

MOTION by Mr. Monte that the applicant has satisfied the requirements of Sec. 7.2 General Standards (A) Character of the Land, (B) Conformance with the Warren Town Plan and other Regulations, (C) Compatibility with Existing Settlement Patterns, (D) Density and Lot Lay-out and (E) Establishment of Building Envelopes. **SECOND** by Mrs. Roth. **VOTE**: all in favor, the motion passed.

Sec. 7.2 (F) addresses landscaping and screening. The Board has already required the retention of a vegetated buffer between the project and the Warren church. Two other areas that have been brought up are the boundary with the cemetery and the sliding hill from the Gratton's property. In discussion it was mentioned that the general thought was that the Warren Cemetery Commission should be responsible for signage that keeps dogs out of the cemetery, and that though a chain link fence was requested as screening for the Gratton property, the applicant is opposed to chain link fences but would be willing to consider some plantings if Mr. Gratton decided to put up a chain link fence on his own. Since the covenants require compliance with any town ordinances, then the residences will have to abide by the town's leash law.

MOTION by Mr. Monte that the provision for the 10 foot vegetated buffer between the project and the Warren church; the existence and planned retention of the fence along the boundary with the town and cemetery; and the provision that the common area will retain/maintain certain vegetative areas is sufficient enough to satisfy the landscaping and screening requirements of Sec. 7.2 (F). **DISCUSSION:** Mr. Swain asked if the trees/vegetation on the common land could be notated on the site plan for preservation. Mr. McCain offered to instead have language in the covenants that called for the retention of the trees [a "no cut" area] unless diseased or dying. That satisfied Mr. Swain. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

In discussing Sec. 7.2 (G) Energy Conservation it was discussed that the orientation of the property and proposed development was not conducive for solar application and that the applicant was going to "beef up" the covenant language for the use of energy conservation tools.

MOTION by Mr. Swain that due to the characteristic of the site does not lend itself to the use of alternative energy and the statement that the applicant is going to amend the covenants to include compliance with energy codes satisfies Sec. 7.2 (G). **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Primary and Secondary Conservation Ares are protected by the plan as submitted and therefore satisfy Sec. 7.3. **SECOND** by Mr. Robinson. **DISCUSSION:** Mr. Swain asked to **AMEND the MOTION** to condition the applicant to relocate the building envelope on Lot 6 to avoid any 25% slopes and to limit any encroachment onto 15% grades to less than 1,000 square feet as noted in Sec. 3.4 (B) (1). Mr. Monte accepted the friendly amendment and Mr. Robinson confirmed his second. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board finds Sec. 7.4 Open Space & Common Land and Sec. 7.5 Stormwater Management & Erosion Control are satisfied by the applicant. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the applicant is required to obtain approval for connection to the Warren Municipal Wastewater system. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that Sec. 7.6 (A) and (B) are satisfied, and (C) is not applicable. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that Sec. 7.7 Roads & Pedestrian Access, Sec. 7.8 Water Supply & Wastewater Disposal, Sec. 7.9 Utilities are satisfied and Sec. 7.10 Signs is not applicable. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

The DRB members then reviewed the application under Article 5 , Sec. 5.3 Conditional Use Review Standards.

MOTION by Mr. Monte that Sec. 5.3 (A) General Standards items (1) through (5) are satisfied by the applicant. **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board approve the application with the condition that the project be developed as per the plans and specifications submitted; any and all conditions already voted on by the Board; and the promised modifications to the building envelope in lot 6, lot 4 being notated as a 3 bedroom home and the covenants including additional language regarding energy efficient requirements and compliance with local regulations such as but not limited to the dog ordinance. **SECOND** by Mr. Swain. **VOTE:** all in favor, the motion passed.

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3. In other business the DRB reviewed and signed the minutes of 1/7/13, 1/21/13 and reviewed and signed the decisions for Hayes/Haynesworth and JDMC Realty Trust Properties.

Mr. Monte adjourned the meeting at 8:55 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Lenord Robinson 3/4/13
Lenord Robinson date

Virginia Roth 3/4/13
Virginia Roth date

Peter Monte 3/4/13
Peter Monte date

Don Swain 3/4/13
Don Swain date

Tom Boyle 3.4.13
Tom Boyle date

TOWN OF WARREN, VT

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Robert Boss

TOWN CLERK

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