

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MONDAY NOVEMBER 18, 2013

Members Present: Peter Monte, Lenord Robinson and Tom Boyle.

Others Present: Dave Olenick, Deb and Gary Johannesen, Jackie Coates, Giles Smith, Sarah Wright, Jeff Lu, Miron Malboeuf and Ruth Robbins.

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

1. **Application 2013-02-ZP/CU**, 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 4, 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.
2. **Application 2013-55-CU-AM**: Request for modification of findings of Permit 2009-10-CU: Conditional Use for substitution of a Yurt for originally proposed structure (The proposed dwelling is planned to be a 24 by 32 foot chalet with a walk-out basement finished in earth toned colors.)" A revise site plan will be reviewed for setback relief and development on steep slopes. The applicants, Jefferson Lu and Kelly Lu, request a conditional use modification. The property, owned by Steve **Butcher**, is located at 92 Dump Rd and Brook Rd in the Rural Residential District (parcel ID # 022000-400).
3. **Application 2013-71-CU**: Revision to Inn/Hostel Configuration (2009-03-CU). Applicant, **TWO ROMANS LLC** request permission to revise the Restaurant & Inn Configuration. Currently the hostel is allotted 24 beds and 74 restaurant seats. They wish to reduce the number of restaurant seats to allow for 6-8 more beds. The property is located at 203 Powderhound Rd in the Rural Residential District (parcel ID # 0100002-001).
4. Sketch Plan Review, V-Dat Plan For Roth Properties
5. Other Business:

Mr. Monte called the meeting to order at 7:07 pm.

- 1) **Application 2013-02-ZP/CU**, 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.

Mr. Johannesen submitted to the Board the documentation they requested: from the State Agency of Natural Resources, the Project Review sheet completed and executed, various photos of the site with the deck and retaining wall, email and site plan from engineer Peter Lazorchak stating the elevation as 848.8 feet with the base flood elevation being 852.2 feet, site plan prepared by the applicant Mr. Johannesen and an email from Angela C. Repella of the US Army

Corps of Engineers stating that Mr. Johannesen's project does not require a permit from the Corps of engineers. After a brief discussion of the materials the following finding was made:

MOTION by Mr. Monte that the Board finds that the reconstruction of the deck does not increase in the direction of the river and therefore is not a new encroachment on the river. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

A discussion then took place about the use of lighting at the deck site. Though there has been use of some electrical lighting down by the river in the past, Mr. Johannesen told the Board that the wiring for that has been disconnected at the house. Mr. Malboeuf said that it was his suggestion that the Board require that any electrical wiring that goes down to the deck area be removed as it has been an issue with the nearby neighbor. Mr. Johannesen did tell the Board that a Coleman lantern had been used this past summer season.

MOTION by Mr. Monte that all lighting fixtures and wiring be removed within 90 days of the effective date of approval and that there will be no future electrical illumination allowed at the sight. This does not disallow the use of torches or flash lights. **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the applicant is to give notice to the Zoning Administrator [ZA] as to when the project is complete, including the removal of the electrical lighting materials, and an inspection be conducted by the ZA for the issuance of a Certificate of Compliance. **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Boyle that based on findings from previous hearings and those during this hearing the Board approves the issuance of a permit for an "as-built" structure. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

- 2) Application **2013-55-CU-AM:** Request for modification of findings of Permit 2009-10-CU: Conditional Use for substitution of a Yurt for originally proposed structure (The proposed dwelling is planned to be a 24 by 32 foot chalet with a walk-out basement finished in earth toned colors.)" A revise site plan will be reviewed for setback relief and development on steep slopes. The applicants, Jefferson Lu and Kelly Lu, request a conditional use modification. The property, owned by Steve **Butcher**, is located at 92 Dump Rd and Brook Rd in the Rural Residential District (parcel ID # 022000-400).

Mr. Butcher, the parcel owner, had come before the DRB in September to renew his conditional Use approval #2009-10-CU. Since that time a buyer [Mr. Lu] has come forth to purchase the land but is proposing the building of a yurt as a single family residence. The conditional Use permit however specifically indicates that the structure approved is for a "24 by 32 foot chalet with a walk-out basement finished in earth toned colors".

A site visit was conducted at 6pm prior to the hearing at 7 pm. In attendance at the site visit were DRB members Mr. Monte and Mr. Boyle, the potential buyer Mr. Lu, his attorney Mr. Olenick and the Zoning Administrator Mr. Malboeuf. Mr. Malboeuf also noted that he had conducted a site visit with Mrs. Coates earlier in the day. Mr. Monte reported that during the site visit they observed the apparent water line for Mrs. Coates spring which is located on the Butcher property, and the proposed yurt placement which looked like it would be a tight fit for construction.

Mrs. Coates asked to comment and told the Board that for the last 40 years and for many years prior to that the spring on Mr. Butcher's land has provided water for her home. Due to a very bad experience with the owners prior to Mr. Butcher which entailed a freezing of her water line due to

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some of the earth covering the line being removed and threatened tampering, Mrs. Coates wants to make sure that her spring rights are protected and not damaged in any way with any proposed development. She also noted that she very much wanted to have clear communications with any new land owners so that issues can be discussed before a problem occurs. After some conversation about how to best address Mrs. Coates' concerns the following motion was made:

MOTION by Mr. Monte that before construction of any dwelling on this property begins the applicant must submit a plan by an engineer to the Zoning Administrator [ZA] that locates the existing cistern with the best estimate of the location of the water line; a bright color surveyors tape is to be strung in a NW/SE line from the cistern to Dump Road and 10 feet Northeasterly of the cistern and the tape is to be maintained and left in place until the ZA has issued a final Certificate of Compliance. In addition, there will be no construction or disturbance along the marked water line 10 feet on either side or inside a 10 foot circle around the cistern. Hand raking, seeding and placement of mulch is allowed within the "no disturb" area if necessary. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that any approval will not allow for the placement of a shed/accessory structure or a parking area within the 20 feet "no disturb" area that encompasses the water line. Relocation of the parking or any accessory structures must a) conform to the setback requirements for the zoning district and b) must be shown on the plan submitted to the ZA prior to construction. **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board hereby amends the original permit #2009-10-CU which was renewed with permit #2013-55-CU to include the conditions voted on at this hearing and to substitute "yurt" for "24 by 32 foot chalet with a walk-out basement finished in earth toned colors" under item number #6 of the Findings of Fact. **SECOND** by Mr. Robinson. **VOTE:** all in favor the motion passed.

- 3) Application **2013-71-CU**: Revision to Inn/Hostel Configuration (2009-03-CU). Applicant, **TWO ROMANS LLC** request permission to revise the Restaurant & Inn Configuration. Currently the hostel is allotted 24 beds and 74 restaurant seats. They wish to reduce the number of restaurant seats to allow for 6-8 more beds. The property is located at 203 Powderhound Rd in the Rural Residential District (parcel ID# 0100002-001).

Mr. Malboeuf summarized the applicant's intent to decrease their allowed restaurant seating to in turn be able to increase the number of beds they use for their hostel. He told the Board that the abutting neighbors had been notified and that he had heard from some of the residents at the Powderhound condos about their concern over noise [primarily music] late at night. Giles Smith and Sarah Wright, the proprietors, told the Board that they had live music only on Friday nights and holidays such as New Years Eve and Martin Luther King Day, and that they usually end between 12:00 and 12:30am. The President of the PowderHound condo Association also weighed in via a letter (dated 11/18/13) stating that the "majority Association ownership who have responded have no opposition to the approval of the application of Two Romans, LLC, to reduce the number of restaurant seats proportionately to the number of beds it wishes to increase, so long as the current allocation of total gpd usage does not increase."

MOTION by Mr. Monte that the Board finds 1) Hostel Tevere operated by the applicants is a member of the same association as the PowderHound condominiums and it is through the condo Association that any noise issues should be addressed; 2) present day use of the facility is the same as it was when originally established many years ago and the condo owners bought units; and 3) the proposed modification of reduced restaurant/bar seats may contribute to mitigating the noise issue. **SECOND** by Mr. Boyle. **VOTE:** all in favor, the motion passed.

