

**Town of Warren
Development Review Board
Minutes of Meeting
Monday November, 7, 2016**

Members Present: Peter Monte, Virginia Roth and Tom Boyle.

Others Present: Jacob Mushlin, Reta Goss, Jas Smith, Mike Crowley, Claire Gear, Miron Malboeuf and Ruth Robbins.

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

1. Appeal of Zoning Administrator's **Notice of Violation** of the conditions of \permit **2016-61-ZP**. Which states "ACCESSORY DWELLING (CONVERT EXISTING SHED TO ACCESSORY DWELLING (20' L X 20' W X 18')". The notice states that the property owner relocated the foot print of non-complying structure to a location on the property which increase the degree of non-compliance. Mr. James S. **Smith** III has file an appealed with the Warren Development Review Board. This appeal will be reviewed under Sections: 3.6, Height & Setback Requirements; 3.8, Non-Complying Structure and 9.7, Violations & Enforcement.
2. Mylars to be signed, Groom two lot subdivision; Gardner/Schaffran - two lot

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

- 1) Appeal of Zoning Administrator's **Notice of Violation** of the conditions of \permit **2016-61-ZP**. Which states "ACCESSORY DWELLING (CONVERT EXISTING SHED TO ACCESSORY DWELLING (20' L X 20' W X 18')". The notice states that the property owner relocated the foot print of non-complying structure to a location on the property which increase the degree of non-compliance.

Mr. Monte began the hearing asking the applicant what specifically he was appealing in regards to the violation that had been issued. Mr. Smith stated that at the time the violation had been issued he did not know or understand the dimensions or specifics about the setback. His reference point at the time was the pre-existing shed. It was his understanding that the corner of the pre-existing shed encroached into the setback from the right-of-way by approx. three (3) feet therefore in violation of the setback. Mr. Monte asked if it was a right-of-way as the map indicated it was owned by Kathan. Ms. Goss spoke up and said it was owned in common by her family members and Mr. Smith. Mr. Monte clarified that based on the map the underlying property was owned by Kathan and Mr. Smith had a right-of-way over it. Mr. Smith said that according to his deed it is part of his property. Ms. Goss said she could get a copy. Mr. Monte noted that the boundaries on the map in front of them indicate his lot and not the boundaries of the right-of-way which is outlined separately and not included in Mr. Smith's property. Mr. Monte stated for the record that the map submitted shows acreage of 15.8 acres which does not include the land under the right-of-way. Ms. Goss returned with a copy of Mr. Smith's deed that states the metes and bounds of his land. The conclusion was that the metes and bounds in Mr. Smith's deed show that the strip of right-of-way is not included as part of his parcel.

In continuing to review the map, Mr. Mushlin from Yestermorrow, explained to the Board how they went about their measurements. He said they used the center of the improved way and measured 25 feet plus added 5 feet for good measure. Despite what the building permit said about converting the structure from a shed to an accessory dwelling, Mr. Muslin said that they requested to locate the building further uphill and were told that so long as they maintained the existing degree of non-conformity or two thirds of the conforming setback it would be permissible. Mr. Monte asked how they ended up even closer to the road.

Unfortunately the road you can see, but the under lying boundaries only are evident with a survey which we did not have. Mr. Monte said how they got there was a mistake and we forgive you however you got there. Ms. Goss said that at some point her family would be selling the adjacent property and how would construction vehicles, firetrucks and the like be able to maneuver. Mr. Monte also noted that in order to take advantage of a pre-existing non-conforming structure you have to rebuild that structure thus carrying it forward to avoid waste. But if you tear it down you still have to rebuild it in the correct location according to the setbacks. Mr. Monte asked again what was incorrect in the notice of violation. Mr. Mushlin replied that he felt that the violation was correct.

Mr. Monte said that sometimes when these violations occur there is a way to “cure” the violation with an “after-the-fact” application that remedies the situation. This situation doesn’t seem to provide that option. Mr. Monte suggested that the Zoning Administrator may have some suggestions to share outside of this hearing. Ms. Goss asked about the change of use in a non-conforming structure and Mr. Monte noted that the word “structure” was the broader term that “dwelling” would fall under. For example you could create an accessory dwelling in an old barn that was pre-existing, non-conforming. [Sec. 3.8 item #3].

MOTION by Mr. Monte that in light of the stated position of the appellant that the Zoning Administrators issuance of the violation is correct, the DRB dismisses the appeal of the violation. **SECOND** by Mr. Boyle.
VOTE: all in favor, the motion passed.

- 2) Mylars to be signed, Groom two lot subdivision; Gardner/Schaffran - two lot subdivision

The DRB reviewed and signed the mylars for both the Groom and Gardner/Schaffran two-lot subdivisions.

Respectfully submitted,
Ruth V. Robbins
DRB/PC Assistant
Development Review Board

Peter Monte date

Tom Boyle date

Virginia Roth date