

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND NOTICE OF DECISION  
SUBDIVISION REVIEW & CONDITIONAL USE REVIEW  
#2006-08-SD & #2006-18-CU - RESNICK**

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Jeffrey Resnick of 211 Cider Hill Road, parcel #012003-300 is seeking to subdivide his 51.47+/- acres into four lots: Lot 1 which contains the primary dwelling of 33.4+/- acres, Lot 2 8.90+/- acres, Lot 3 of 7.98+/- acres and Lot 4 of 1.19+/- acres. Lot 4 will be conveyed to adjoining Thomas and Mary Williams who will counter convey a parcel of 1.13 acres making Resnick's Lot 1 a total of 34.53+/- acres [Please see Findings of Fact and Notice of Decision for Subdivision Review for #2006-07-SD – Williams]. The applicant currently has no plans to sell the additional lots or further develop the property.

In addition, Mr. Resnick is seeking a Conditional Use permit to be able to access the two newly formed lots and provide secondary access to his home with a road that will cross the Meadowland Overly District.

A duly warned hearing was held on May 3, 2006 and continued to June 21, 2006. Members attending the May 3<sup>rd</sup> meeting were: Peter Monte, David Markolf, Chris Behn, Virginia Roth and Lenord Robinson. Others also in attendance were: Nicholas Nowlan, Jeffrey Resnick, Tom Williams, Miron Malboeuf and Ruth Robbins. Members attending the June 21<sup>st</sup> meeting were: David Markolf, Lenord Robinson, Virginia Roth and Chris Behn. Others there were: Gunner McCain, Shelia Ware, Jeffrey Resnick, Mary Williams, Mary Alice Bisbee, Clayton Paul Cormier, Miron Malboeuf and Ruth Robbins.

**I. Findings of Fact and Conclusions of Law (2006-08-SD):**

1. Documents submitted for this application include: a completed application, notice to abutters and proof of mailing, five maps: overview of proposal, site plan lots 2 & 3, notes, details, and road profiles, all dated March 3, 2006 by McCain Consulting, proposed subdivision covenants, and proposed warranty deeds.
2. The applicant stated that he had no immediate plans to do any development on the two new parcels, that he was just putting things in place for the "next generation".
3. Applicant understands a Road Cut permit is required from the Selectboard prior to construction of the proposed road.
4. The building envelopes for both Lot 2 & Lot 3 are situated such that visibility to others is not an issue.
5. The applicant feels that due to the steepness of his current drive that a secondary access off of the road to the two new lots, is desirable and a bonus for emergency vehicle access.
6. The applicant proposed clearing restrictions with language as follows: "clearing to create limited views is allowed to a minimum of 16 trees of 4" diameter at breast height (dbh) or larger per acre will be left." The DRB suggested the 4" be changes to 6" and both parties agreed.
7. The site plan shows a vernal pond (pool) that will be protected by a 50-foot buffer zone.
8. The applicant has sent a request for review by the Warren Fire Department but has yet to hear from them.

0. The Board is aware that the building envelope for Lot #3 does encompass some secondary conservation area however the alternative was to place it up on the ridge which would create increased visibility.

I. Notice of Decision (2006-08-SD):

The Development Review Board finds the application meets the criteria of Article 6 Subdivision Review and Article 7 Subdivision Standards and approves the application subject to the aforementioned Findings of Fact and Conclusions of Law listed above and approval of the Subdivision Plat by the DRB with the following additional conditions:

- 1) Any clearing outside of the designated Building Envelope to create limited views is allowed to a minimum of 16 trees of 6 inches at breast height or larger per acre being left.
- 2) Diseased, dead, dying or dangerous trees may be cut but shall be subject to the notice requirement described below:
  - a. No notice shall be required if in any calendar year owner cuts fewer than 10 (ten) diseased, dead, dying or dangerous trees. If owner cuts more than the specified number in any year, however, owner shall conform to the following notice requirements.
  - b. The property owner shall give notice in writing to the Warren Zoning Administrator not less than thirty days BEFORE the cutting of any diseased, dead or dying trees. This notice shall identify the approximate number of trees to be cut and the reason for cutting; and the notice shall state an address to which the Zoning Administrator may reply to the property owner's notice.
  - c. Upon written request of the Zoning Administrator within the thirty-day period of the property owner's notice, the property owner shall flag or blaze all trees the property owner intends to cut in accordance with the property owner's notice.
  - d. No advance notice shall be required from the property owner to cut trees which are dangerous, threaten overhead power lines, or block access roads or drives. Within ten days of cutting such trees, however, the property owner shall give written notice of cutting to the Warren Zoning Administrator (if over the annual cutting limit).
- 3) An erosion control plan be submitted to the Development Review Board PRIOR to any construction.
- 4) An agreed to letter between the applicant and the Warren Fire Department be submitted to the DRB within 45 days of this decision.
- 5) A Road Cut Permit issued by the Warren Select Board be obtained PRIOR to any road construction.
- 6) At minimum, the main feeder road up to where it veers off to Lot # 2 and Lot # 3 is to be 16 feet in width and maintained to 14 feet in winter, ONCE THE HOMES ON LOT 2 & LOT # ARE CONSTRUCTED.
- 7) In addition the project shall be constructed and used only in accordance with the terms, plans, procedures and specifications stated:
  - In the application
  - All exhibits furnished by the applicant, and
  - All findings of fact and conclusions stated above in this decision.

II. Findings of Fact and Conclusions of Law (2006-18-CU):

1. The proposed road from the south side of the property goes through meadowland, however there is a significant section that is heavily treed that will screen a good part of the road.
2. The applicant owns a 50-foot strip of land that runs down to East Warren Road. Though he had been told a road could be put in most of the members familiar with the area felt it was much to steep an approach to the property.

II. Notice of Decision (2006-18-CU):

The Development Review Board finds the application meets the criteria of *Article 5 Conditional Use Standards* and *Article 2, Table 2.13 Meadowland Overlay District* and approves the application subject to the aforementioned Findings of Fact and Conclusions of Law listed above and approval of the Subdivision Plat by the DRB with the following additional conditions:

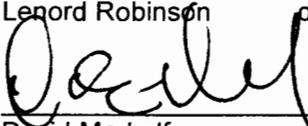
- 1) The area contained in the Meadowland Overlay District be maintained as meadowland in its current state as of this date [6/21/06].
- 2) An erosion control plan must be submitted to the Development Review Board PRIOR to any construction.
- 3) In addition the project shall be constructed and used only in accordance with the terms, plans, procedures and specifications stated:
  - In the application
  - All exhibits furnished by the applicant, and
  - All Findings of Fact and Conclusions stated in this decision

In accordance with Section 6.5 and the Act [§4416], within 180 days of the date of receipt of final plan approval under Section 6.4(C), the applicant shall file 3 copies of the final subdivision plat, 1 mylar copy and 2 paper copies, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. Approval of subdivision plats not filed and recorded within this 90-day period shall expire. Prior to plat recording, the plat must be signed by at least two authorized members of the Development Review Board.

Approval shall become effective once this decision has been signed by at least three members of the Warren Development Review Board who participated in the final decision. Beginning the effective dated of this decision, there is a 30-day period during which parties may appeal the decision to the Environmental Court.

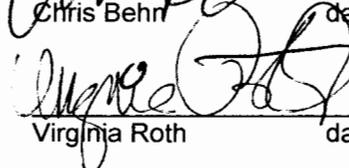
**Development Review Board**

Lenord Robinson date

 8/1/06

David Markolf date

 07-31-06  
Chris Behr date

 8/1/06  
Virginia Roth date