

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OFFACT AND NOTICE OF DECISION  
CONDITIONAL USE REVIEW  
#2006-23-CU TAYLOR

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April Davies Taylor and Zachary Taylor request the re-issuance of a Conditional Use permit that accompanied an approved subdivision yet was never exercised, thus it expired. The Conditional use is for the construction of a development road where the parcel is comprised of both the Rural Residential District and the Meadowland Overlay District. The applicant is also requesting approval for the construction of an agricultural structure (barn intended for horses) on the portion of the property that is designated as common land. The property is located on East Warren Road and is identified as parcel id # 002000-400 in the Warren grand list.

A duly warned hearing was held on December 6, 2006 and attended by the following DRB members: Peter Monte, Lenord Robinson, Bob Kaufmann, Chris Behn and Virginia Roth. Others in attendance were: Sandy Lawton, Bill Westvang, Shelia Getsinger, Cindy Carr, Brooke Cunningham, Zack Taylor, Bob & Louise Messner, Megan Moffroid, Chris Jones, Anna Whiteside, Miron Malboeuf and Ruth Robbins.

**Findings of Fact & Conclusions of Law:**

1. The applicant submitted a completed application, Conditional Use Worksheet, abutter notification and proof of mailing.
2. The applicant stated that nothing had changed from the original approval other than the compliance with condition # 9 of the original approval that called for the conveyance of three lots to adjoining property owners.
3. The site plan shows the proposed road following the tree line through the Meadowland.
4. The Board noted that this subdivision had undergone strenuous review back when it was originally approved.

**Notice of Decision:**

The Development Review Board hereby re-issues the Conditional use permit for parcel id # 002000-400 with the following conditions:

- 1- 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
  - All findings of fact and conclusions stated in this decision.
- 2- The use of the proposed agricultural structure (barn for horses) is precluded from being used for residential purposes.
- 3- All other findings and conditions from the previously approved Subdivision/Conditional Use permit(s) are hereby readopted and restated below:

***Findings of Fact and Conclusions of Law (#2000-08-SD signed 10/18/00):***

1. In addition to a complete application the following were submitted: Richard Saltzman 7-Lot Subdivision Site Plan, dated August 24, 1999, last revised 8/22/00; survey titled R & H Saltzman Homestead Property by Newton Surveyors Inc., dated July 10, 1974, revised 7/3/00; proposed Tree Buffer Language and Merger Language, dated 8/23/00; draft Covenants and Restrictions, dated

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October 3, 2000; Warren Fire Department recommendations, dated 8/27/00; and Proposed House Screening Language, dated 10/4/00.

2. A site visit was conducted at 6:45 p.m., on August 23, 2000 before the public hearing. Chris Behn, Eric Brattstrom, David Markolf, Peter Monte, Lenord Robinson, Gunner McCain, Bob Messner, Ron Webster, and Margo Wade attended. The group inspected the proposed location of the barn, development road and driveways, house sites on Lots A, B & C, common septic disposal area, western boundary for Lots A & B, existing open meadowland, and general location of the western meadowland boundary, which is within the forested portion of the parcel.
3. Lots D, E, and F are proposed as "out parcels", which will be merged with the adjoining Messner and Webster lots respectively. "out parcel" deed language requires the merger of the out parcels with the grantee's parcel. The board added language requiring DRB approval if the grantee(s) wish to sell, divide or develop an "out parcel". Though the proposed "out parcels" are smaller than the three acres minimum size requirement for a major subdivision, the lots are allowed to be created because they will be transferred and merged with abutting properties and are not created for development within the proposed subdivision.
4. The existing open meadowland will be maintained and kept open in its current meadowland state. The edge of the tree line, as of 1996, and the existing tree clumps, as indicated on the site plan, will be the demarcation of the open meadowland. The allowed development, within the meadowland, will include the proposed development road and driveways, barn, and pond.
5. It is the applicant's intent to harvest the marketable timber on the parcel, achieve possible eastern view on the lots, and to clear 1 to 2 acres house sites. It is not the applicant's intent to clear cut the proposed lots.
6. The board discussed the possible need for a buffer along the north, south and west boundaries of the parcel. The purpose of the "out parcels" is to create forested protection area between the proposed subdivision and the Messner and Webster parcels. The tree line along the Wadhams and northerly properties will remain undisturbed and intact.
7. The applicant requested an extension of the 90-day mylar filing requirement in case the Act 250 permit was not issued in a timely manner. The board discussed their ability to waive the requirement. The board agreed to grant an extension, but prefaced that it is in the best interest of the applicant that the applicant research and determine legality of the extension.
8. Pursuant to the Warren Zoning Bylaws, Article III, § 2. E. 4. the board found that the parcel on which development is proposed contains developable land which is not meadowland, as well as land which is meadowland, and that the placement of the proposed development on the parcel will: a) minimizes the disruption of the scenic quality of the site; b) retains the maximum possible meadowland for agricultural use; c) utilizes the least productive land and protects primary agricultural soils, and that the development will not conflict with existing agricultural uses in the area.
9. Pursuant to the Warren Zoning Bylaws, Article V, § 3. *Conditional Uses*, the board found that proposed subdivision will not adversely affect:
  - the capacity of existing and planned community facilities;
  - the character of the area;
  - the traffic on roads and highways in the vicinity;
  - the Bylaws in effect;
  - the utilization of renewable energy resources; and
  - will not result in the discharge of harmful wastes into surface or subsurface water systems; nor will the development
  - will not violate any of the standards in Section 7 of this Article; and

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- that Article V, § B – Specific Standards, criteria are not applicable.
10. Pursuant to the Subdivision Regulations, Article II, §.2 – Discussion Phase to board:
- classified the project as a major subdivision;
  - found that the project conforms to the Town Plan;
  - found that the proposed project appears to conform with the zoning regulations and meadowland restrictions, and is low density therefore is not in conflict with the zoning or capital budget and program; and
  - deem the application complete.
11. Pursuant to Subdivision Regulations, Article IV – *Planning and Design Standards* the board found that:
- Section 1 – *General Planning Standards* have been satisfied;
  - Section 2 – *Roads*, is satisfied;
  - Section 3 – *Parking*, is not applicable;
  - Sections 4 – *Pedestrian Access* is not applicable;
  - Section 5 – *Sidewalks*, is not applicable;
  - Section 6 – *Utilities*, is satisfied;
  - Section 7 – *Drainage and Erosion Control*, is satisfied;
  - Section 8 – *Fire Protection*, is satisfied;
  - Section 9 – *Lighting*, is not applicable;
  - Section 10 – *Signs*, is not applicable;
  - Section 11 – *Provision of Buffer Areas*, is satisfied;
  - Section 12 – *Site Preservation and Improvements*, is satisfied; and
  - Section 13 – *Disclosure of Subsequent Development Plans*, is satisfied.

***Notice of Decision (#2000-08-SD signed 10/18/00):***

Based on the forgoing Findings of Fact and Conclusions of Law, the application #2000-08-SD submitted by Richard Saltzman seeking approval for a 7-lot subdivision of 50 +/- acres located off the west side TH#2 (East Warren Road) in the R-2 (Rural Residential) District is hereby approved with the following conditions:

- 1) No pond may be constructed without prior approval by the DRB of the location and engineering, design, and construction methods of the pond.
- 2) Lot G shall be used for agricultural purposes only, which includes the proposed barn. Lot G shall be maintained as a pasture and/or hayfield including annual brush hogging.
- 3) No residential structure may be built on Lot G.
- 4) Lot G shall at all times be owned by one or more of the other lot's owners.
- 5) The Warren Fire Departments recommendations are incorporated into this approval, and upon sale of the first developable lot, or sale by the applicant of the project to another owner, the owner shall pay \$500 to the Town of Warren Fire Department (to defray a part of the cost of a hydrant at the Parker pond).
- 6) Lots A, B, C, and G may not be further subdivided.
- 7) No structure may be constructed on lots A, B, C or G except in the area located outside meadowland as shown on the official meadowland map and in compliance with the other dimensional requirements of the zoning regulations.
- 8) The existing hedgerow of trees along the northern property boundaries will be maintained including, replacement, in the future, of dead or diseased trees on the subject property with similar species.
- 9) Before the sale of any other lot, Lot D shall be transferred and merged with the adjoining lot owned by Messner, and Lots E and F shall be transferred and merged with the adjoining lots now owned by Webster.
- 10) The owners of Lots A, B, and C shall be legally required to share equally the maintenance costs of the common road from the East Warren Road to the point of entry for Lot B,

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including, but not limited to, grading, gravel, culverts, and plowing to sufficiently meet the Warren Fire Department requirements.

- 11) All utilities shall be routed underground except within 100 feet of the eastern property boundary.
- 12) All road improvements and placement of underground utilities shall be completed within three years of final approval unless a written request for an extension is submitted to and approved the DRB.
- 13) If clearing of the wooded land results in an uninterrupted view of the proposed house sites, on Lot A, B, and C, that trees shall be planted between the house sites and the East Warren Road to break up the line of site between the house sites and the road. The end result shall be that each house will have a maximum of 25 feet of unbroken façade facing the East Warren Road (i.e. trees on the house lot not less than 10 feet high growing a 25 feet center to center in front of the building). Trees shall be maintained and/or replaced whenever necessary to satisfy the foregoing standard.

The above permit, #2000-08-SD was re-approved with permit #2001-02-SD on 3/21/01 due to the mylar not being filed within the prescribed 90 day period. That re-approval is restated below and part of this current permit.

***Findings of Fact and Conclusions of Law ( from permit #2001-02-SD signed 3/21/01):***

1. In addition to a complete application all documentation submitted for permit #2000-08-SD is re-submitted for re-approval.
2. The Board found the application material complete, deemed the project a major subdivision and granted the request for waiver of the hearing requirements by way of combining the initial meeting with the warned public hearings.
3. The Board found no changes between this application (#2001-02-SD) and the original application (#2000-08-SD).
4. The Board adopted all previous findings and conditions as documented in permit #2000-08-SD, approved 10/18/00.

***Notice of Decision (#2001-02-SD signed 3/21/01):***

Based on the forgoing Findings of Fact and Conclusions of Law, the application #2001-02-SD submitted by Richard Saltzman seeking re-approval for a 7-lot subdivision of 50 +/- acres located off the west side of East Warren Road in the Rural Residential District is hereby approved with the following conditions:

- 1) All findings and conditions as stated in #2000-08-SD are hereby incorporated into this re-approval.

