

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION
SUBDIVISION/PUD/CU REVIEW
#2012-22-SD/PUD/CU – BOKAY LTD/ O'BRIEN

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The applicant, BOKAY LTD, aka Lucy O'Brien, is proposing a 6-Lot Planned Unit Development [PUD] for 50, 70 & 96 Flat Iron Rd. in the Warren Village Mixed Use District. The properties comprise a total of 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.

The DRB held duly warned hearings as follows:

August 6, 2012 Sketch Plan Review attended by DRB members Peter Monte, Don Swain and Virginia Roth. Others in attendance were: Gunner McCain, Ray La Rochelle, Miron Malboeuf and Ruth Robbins. **November 5, 2012** Preliminary Plan Review attended by DRB members Lenord Robinson, Peter Monte, Virginia Roth and Bob Kaufmann. Others attending were: Gunner McCain, Sue Carter, Marilyn Miller, Raymond and Marcella Gratton, Lucy O'Brien, Alice Cheney, Peter Lazorchak, Dave Olenick, Miron Malboeuf and Ruth Robbins. The applicant requested continuances on both **December 3, 2012 and January 21, 2013**. **February 4, 2013** Final Plan Review attended by DRB members Lenord Robinson, Peter Monte, Tom Boyle, Don Swain and Virginia Roth. Others also in attendance were: Raymond and Marcella Gratton, Sue Carter, Marilyn Miller, Alice Cheney, Gunner McCain, Lucy O'Brien, Miron Malboeuf and Ruth Robbins.

Findings of Fact and Conclusions of Law:

1. The applicant submitted a complete application, worksheet, site plan prepared by McCain Consulting, Inc, notice to abutters and proof of mailing.
2. The Board found this to be a Major Subdivision request with a PUD application with no requested density bonuses.
3. The applicant owns three lots each with a single family home. The applicant proposes reconfiguring the three lots to create a total of six lots for residential development. This proposal was further modified to show seven lots with the seventh being an open space/common lot for the residents to use for passive recreation/enjoyment.
4. Lot 1 consists of a single family residence which will stay as such, and the attached barn is currently being used as an artisan's workshop but will become a two apartment dwelling some time in the future. The rest of the lots will contain single family dwellings, either newly built or renovations of existing buildings.
5. A driveway will need to be constructed to access Lots 5 and 6, with measures being taken for appropriate erosion control.
6. There exists on site water supply for the project with the exception of when the barn is converted to a two apartment dwelling then an additional source will be needed.
7. The Town of Warren Municipal Wastewater system has capacity to take on any additional demand and the applicant will get the required approval.
8. State permitting will be required and obtained for water and wastewater for the project.
9. All the utilities will be placed underground.
10. The proposed six dwellings sit on 2.33 acres which gives a .39 acre average in a district that allows .25 acre minimum lot sizes.

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11. Due to the space restrictions with the road width and the existing structures being so close to the road, Ms. O'Brien might want to consider granting an easement to the Town of Warren for any possible future construction of a sidewalk by the Town if space allows.
12. A ten foot pedestrian path has been planned 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.
13. Currently the Municipal Parking lot that also serves the Warren church drains down across Ms. O'Brien's property. Ms. O'Brien stated 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 or in some other controlled fashion.
14. Abutting and nearby residents voiced concern about the density as it related to use of a sledding hill and dogs accessing the cemetery. The Board found that the cemetery commission should be responsible for posting the parcel and that the neighbor concerned about the sledding hill could make his own decision as to how to handle on his property. Vegetated screening which currently exists between the project and the Warren church will be maintained via a 10-foot buffer.
15. The Board found 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.
16. The Board found that when reviewing the items under Sec. 8.2 G that item (3) called for the buildings to be close to the street but that this 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.
17. The Board found 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.
18. The Board found 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).
19. The applicant submitted a draft of proposed covenants which the Board found to be adequate in providing practical enforcement mechanisms and are compliant with Town ordinances.
20. The Board found that due to the characteristic of the site it does not lend itself to the use of alternative energy and that the applicant is going to amend the covenants to include compliance with energy codes satisfies Sec. 7.2 (G).

Notice of Decision:

The Development Review Board, having found that the applicant has satisfied the requirements under Articles 5, 6, 7 and 8, as well as note 1 of the Warren Land Use and Development Regulation date March 8, 2005 and last amended January 31, 2012: *Note 1* (Planned Unit

Development, approved by the Warren Planning Commission on September 24th, and the Warren Select Board on October 23rd, 2012); hereby approves the application subject to the following conditions:

- 1) Project to be constructed as per the plans and specifications as submitted and approved by the DRB on February 4, 2013.
- 2) Before the workshop in the barn on Lot 1 is converted to residential use that the applicant must demonstrate to the DRB that there is an adequate water supply.
- 3) A 10 foot wide buffer area along the westerly property line of lots 4 and 5 be maintained to offer screening for the church and that there will be no cutting unless there is a diseased, dying or hazardous tree.
- 4) The trees on the common land will be protected by language in the covenants that calls for the retention of the trees [a "no cut" area] unless diseased or dying.
- 5) The applicant is 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).
- 6) The final site plan submitted on mylar to reflect that the proposed dwelling on lot 4 as a 3 bedroom home.

DEVELOPMENT REVIEW BOARD

<u>Lenord Robinson</u> 3/4/13 Lenord Robinson date	<u>Virginia Roth</u> date
<u>Peter Monte</u> 3/4/13 Peter Monte date	<u>Don Swain</u> 3/4/13 Don Swain date
<u>Tom Boyle</u> 3-4-13 Tom Boyle date	

TOWN OF WARREN, VT
Received for Record 3/6 2013
at 9 o'clock A M and Received in
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Robert Goss
TOWN CLERK

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