

000621

TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
WEDNESDAY JULY 6, 2005

Members Present: Peter Monte, David Markolf, Eric Brattstrom, and Lenord Robinson

Others Present: Alice Olenick, Corinne Moulton, Brian Moulton, Katricia Kenyon, Lenore Budd, Tara Hamilton, Margo Wade, John Donaldson, Cindy Carr, Miron Malboeuf, and Ruth Robbins

- Agenda:**
1. Call meeting to order, 7:00 pm
 2. **#2005-06-SD, Kenyon**, submitted by Alice Olenick on behalf of Katricia Kenyon and Corinne Moulton, seeking approval of a 2-lot subdivision of 42.4+/- acres located off VT Route 100, parcel ID # 100005-001, located in the Rural Residential District. Approx. 1.56 acres is to be merged with the adjacent parcel, ID # 100005-300, currently owned by Brian & Corinne Moulton of approx. 2+/- acres.
 3. **#2005-05-SD, Ward Properties**, submitted by LandPlan Inc. & Lincoln Ridge LLC, approved 20-lot subdivision of 170+/- acres, for reconsideration of the public access permission granted to the Catamount Trail Association (CTA).
 4. **Other Business**
 - a) review & approve minutes from 6/22/05
 - b) review & sign Robinson CU decision & Vickers CU decision

TOWN OF WARREN, VT
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Elaine E. Fuller
assistant TOWN CLERK

1. The meeting was called to order at 7:17pm by Mr. Monte.
2. #2005-06-SD, Kenyon, 2-lot subdivision, boundary line adjustment.

Mr. Monte first asked if the Zoning Administrator had received any calls or correspondence regarding this application as he had received a call with a procedural question. Mr. Malboeuf stated no, the office had not received any comments or inquiries regarding this application. Ms. Olenick stated that she had received a call but it was determined that the issue was unrelated to this request.

Ms. Olenick summarized the request, stating that it was simply a boundary line adjustment that was adding approx. 1.56 acres to an existing 2 +/- acre lot. Mr. Monte pointed out to the Board members the two maps that were submitted with the application that clearly showed the current boundary line and the proposed new boundary line. Mr. Monte then asked for verification from the Zoning Administrator as to whether or not any non-conforming lots would be created by this transaction. Mr. Malboeuf verified that both lots would still be conforming.

MOTION by Mr. Monte that under § 6.2 (E) the Board consider this request a boundary line adjustment only, not a subdivision, and proceed to final plat approval. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that the Board finds the application complete and deem it to be a minor subdivision. **SECOND** by Mr. Brattstrom. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that all applicable requirements of *Article 7* are satisfied. **SECOND** by Mr. Brattstrom. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the 1.56 acres be deeded and merged with the Moulton's 2 acres within 60 days of the property transfer. **SECOND** by Mr. Markolf. **DISCUSSION:** Ms. Olenick stated that that was the applicant's intention. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the DRB grant the applicants request for a boundary line adjustment with the conditions that it be deeded and merged into one lot, and that the guidelines from *Table 6.2 (B)* be adhered to with the submission of the mylar. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

3. #2005-05-SD Ward Properties, approved 20-lot subdivision, reconsideration of the public access permission granted to the Catamount Trail Association.

Mr. Monte started by summarizing the issue. When the DRB approved the Ward Properties application, one of the conditions was for the Catamount Trail Association (CTA) to be able to relocate part of their existing trail network through the Ward Properties parcel. Since then the applicant has objected and sought a legal opinion as to the DRB's authority to do such. Ms. Budd, speaking on behalf of the CTA stated that they did not have the resources to challenge the legal opinion, nor was it their intent to put the Town in a position to incur legal expenses or do something that was not proper.

Mr. Brattstrom, speaking as an interested party, not a DRB member, said that he felt the Board was within its rights to place such a condition upon the applicant.

Mr. Markolf asked Ms. Budd why they didn't attend/participate in the Act 250 hearing? Ms. Budd replied that she did not think that Act 250 had any criteria that this issue fit into. She went on to say that they did go as observers.

Ms. Wade spoke up saying she was here representing the Warren Conservation Committee and had a memo that she wanted to submit to the DRB. She summarized the memo by stating that she felt there was support in the regulations to at least put forth some softer language that encourages the applicant to work things out with the CTA. Her memo included a proposed condition: *"Pursuant to Section 7.4, the applicant shall coordinate with the Catamount Trail Association to establish a mutually agreeable location for the Catamount Trail and shall work towards permanent protection of that trail on the project site."*

Mr. Monte asked the applicant (represented by Mr. Donaldson) if he had any response to what was being proposed. Mr. Donaldson said he saw no problem in the applicant trying to work something out with the CTA, yet he felt that this particular language went beyond that by insisting the applicant grant land access to the CTA. He went on to say that the applicant had some concerns, such as parking or driving through the development, and that ultimately an agreement would be reached but most likely with some sort of trial period involved.

Mr. Monte asked if the language proposed by the Conservation Committee was changed to *"...the DRB encourages the applicant to..."* and *"...and encourages them to work towards"* if that would be acceptable. He went on to say that that would make it more of an encouragement, not a directive, and if it doesn't happen it won't be a violation of the permit. Mr. Monte went on to outline what he felt the options were: the DRB could ignore the issue and hope they work things out as good citizens, use some softer, encouraging language that puts the DRB's stand on record, or ignore their legal position and keep the original condition in the permit.

Ms. Wade urged the DRB not to be silent on the issue as she felt that precedent had been set by requiring other applicants to incorporate trails and/or public access into projects.

Mr. Markolf asked Ms. Budd if the CTA had looked at the trail designated by the DRB in their decision and if it even worked for them. Ms. Budd replied that it could be made to work but that when you use property boundaries that has a tendency to ignore contours. She went on to say that even though there are other parts of the trail that are much trickier than this, that you don't want to make it so challenging that it excludes a level of skier.

Mr. Brattstrom stated that he thought the concern about CTA users parking in the development was a non issue, as he and his wife have allowed CTA users to utilize their parking lot and it has barely been used even with the trail going through their property. Ms. Budd also added that in the CTA guidebook they lay out suggested parking areas and in this area the two they have listed are at the end of plowing on the Lincoln Gap and on the Sugarbush Access Road where the old tennis courts used to be.

In discussion amongst the Board members, it was determined that they should get a second opinion since they have done this sort of thing before and will most likely come up against it again. It was pointed out that the 45-day window within which they needed to sign their decision was expiring Sunday July 10th. DRB staff was directed to check on how to deal with the "clock" and then pursue a legal opinion.

MOTION made by Mr. Markolf to recess this hearing until July 20, 2005 at 7pm.

SECOND by Mr. Monte. **VOTE:** all in favor, the motion passed.

The issue of the discrepancy between the applicant providing one fire hydrant and the fire department requesting three hydrants was brought up for discussion. Mr. Donaldson said he thought it was one hydrant as the DRB had adopted some items from the Fire Department letter but not the one requesting three hydrants. Mr. Markolf said that he felt it was an unintentional oversight by the Board. Mr. Monte asked if the Board thought it was an oversight that should be reconsidered. Mr. Markolf said he thought there were those who were concerned about it and that they should have their say.

3. Other Business

The Board reviewed the minutes from June 22, 2005 and signed them. They also reviewed and signed the Findings of Fact & Notice of Decision for application # 2005-03-CU, Vickers and reviewed and partially signed the Findings of Fact & Notice of Decision for application #2005-02-CU, Robinson.

The meeting was adjourned at 8:05 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

Development Review Board

Peter Monte 7-28-05
Peter Monte date

David Markolf 7/20/05
David Markolf date

Eric Brattstrom 7/20/05
Eric Brattstrom date

Lenord Robinson 7/20/05
Lenord Robinson date