

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
WEDNESDAY JULY 20, 2005**

Members present: Peter Monte, David Markolf, Eric Brattstrom, Virginia Roth and Lenord Robinson.

Others Present: John Donaldson, Jim Trihy, Mark Bannon, Brian Shea, Don Swain, Dotty Kyle, Kenneth Friedman, Kathleen Friedman, Lenore Budd, Margo Wade, Miron Malboeuf and Ruth Robbins.

Agenda:

- 1) Call meeting to Order 7:00 pm
- 2) Amendment to permit 2004-01-CU Conditional Use – Mixed use of Roth Retail Property, submitted by Virginia Roth, parcel ID 004001-501, 242 Main Street, Commercial Dwelling. Applicant is requesting removal of restaurant use. This project requires review under Articles, 2. (Table 2.10 Warren Village Commercial) and Article 5, Conditional Use, of the Warren Land Use & Development Regulations.
- 3) #2005-05-SD submitted by Land Plan Inc. & Lincoln Ridge LLC on behalf of Ward Properties, approved 20-Lot subdivision of 170 +/- acres, continuation requested by applicant to allow for legal opinion from the board's Attorney Steven Stitzel regarding reconsideration of the public access permission granted to the Catamount Trail Association.
- 4) Application #2005-02-PRD, 5-Lot PRD for Sketch Plan Review (6.2), submitted by James R. Trihy, seeking review of a Five Lot PRD at the Corner of Brook Road and Behn Road, Parcel ID.001003-102, 22 acres in the Rural Residential District. This project requires review under Article 2, Table 2.2, Article 6, Subdivision Review, and Article 7, Subdivision Standards Article 5, PRD Review, of the Warren Land Use & Development Regulations
- 5) Application 2005-04-CU Conditional Use – Accessory Dwelling, submitted by Robin Ashley, parcel ID 023005-400, 2505 Fuller Hill Road, 140 ± acres, Dwelling, garage and barns. Accessory Dwelling is located in the second story of Garage presently now under construction. This project requires review under Articles, 4.1 Accessory Dwellings and Article 5, Conditional Use, of the Warren Land Use & Development Regulations.
- 6) OTHER BUSINESS
 - a. Review and approve Minutes from July 6, 2005
 - b. Review and sign Findings of fact & Notice of Decision for application #2005-06-SD, Kenyon Boundary Line Adjustment.

TOWN OF WARREN, VT

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Christine E. Fuller
Chairman TOWN CLERK

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obtained an opinion from Town counsel in response to a legal opinion submitted by the applicant that stated that the Board's action was not permitted under the Town Land Use Regulations and was "unconstitutional". The legal opinion submitted by Stitzel, Page & Fletcher essentially agreed that the Board was not authorized to require the applicant to provide access to their property to the CTA.

MOTION by Mr. Monte to amend the Board's approval and remove the condition that calls for the applicant to extend the Catamount Trail over their property and to replace that with a request that the applicant and the CTA work cooperatively together to extend the Catamount Trail over the applicant's property at such a location, if any, as the parties may mutually agree. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

Mr. Monte then brought up the issue of the number of fire hydrants. The applicant submitted plans calling for one (1) hydrant where the Warren Fire Department had requested three (3). Mr. Monte said that it might have been an item that had inadvertently missed by the Board. Mr. Markolf asked the applicant where they stood with getting their Act 250 approval. Mr. Donaldson said that they were close. He went on to say that as far as the hydrants were concerned that the Board had adopted some of the recommendations of the Fire Department, but not others. Mr. Swain added that he felt the hearing was closed and that this was a settled issue. Mr. Monte clarified that in signing the decision, which they anticipated doing, that the Board could consider and debate any and all information that has been submitted. Mr. Malboeuf asked Mr. Markolf if he knew if the Fire Dept. had submitted material to Act 250 regarding the hydrants. Mr. Markolf replied that they had. Mr. Malboeuf went on to say that as a procedural matter that if Act 250 ended up agreeing with the Fire Dept. that the two permits would be out of sync, and that they would have to come back before the DRB to amend their permit.

Mr. Monte then reviewed with the Board the draft of the final decision with the corrections concerning the fire hydrant (only one (1)) and the deletion of their original condition for the Catamount Trail which will be replaced with the request voted upon earlier in the evening. The Board then took a few minutes to sign the decision.

3. Amendment to permit #2004-01-CU Conditional Use – Mixed use of Roth Retail Property, submitted by Virginia Roth, parcel ID 004001-501, 242 Main Street, Commercial Dwelling. Applicant is requesting removal of the restaurant use in the permit.

In June of 2004, The Roth Family Partnership received a Conditional Use Permit that allowed for mixed use of 242 Main Street for retail, office and restaurant use. This permit was appealed by a neighbor specifically regarding the restaurant use. The Roth Family Partnership agreed to withdraw their request for the restaurant use. It was also agreed that all other aspects of the permit would remain in full force and effect. Mrs. Roth appeared before the Board asking to have the specific restaurant use removed from her permit. *(NOTE: Mrs. Roth was not acting as a voting member of the Board for this hearing)*

MOTION by Mr. Markolf to grant the applicant's request to delete the restaurant use from the permit issued June 9, 2004. **SECOND** by Mr. Brattstrom. **VOTE:** all in favor. the motion passed

4. Application #2005-02-PRD, 5-Lot PRD for Sketch Plan Review (6.2), submitted by James R. Trihy, seeking review of a Five Lot PRD at the Corner of Brook Road and Behn Road, Parcel ID.001003-102, 22 acres in the Rural Residential District.

Mark Bannon of Bannon Engineering presented the particulars of the project for Mr. Trihy. He started out by stating that though it was originally submitted as a PRD application, that after conversation with Mr. Malboeuf have decided to change the application to a straight Subdivision request with a slight property line adjustment. Mr. Bannon described the project, which is a straightforward 5-lot subdivision, with no real issues —no problem with maintaining the required setbacks, no significant habitat issues, some steep slopes, but can work around/with them. He also stated that the old gravel pit would be used as the location for a common septic system for lots # 1 and # 5, and that they would soften the edge of the pit. Mr. Bannon also told the Board that they had spoken to the abutters and had not gotten any negative reactions to the proposed project.

The Board members looked at the two roads into the project. One indicated a 15% grade for about 50 feet. Mr. Monte asked Mr. Markolf how he thought the Fire Dept. might view that. Since it was only for about 50 feet and was a straight shot, no turns, he didn't think it would be a problem. The second road followed an old logging road and would cut into some slope, one that was created by the old gravel pit. Mr. Markolf also asked if there were any conservation areas that they needed to be concerned about. Mr. Bannon pointed out a few areas that he recommended remain undeveloped. As far as any potential recreation areas, Mr. Robinson pointed out that access to the brook was best made from the road, as has been currently the practice.

Mr. Markolf asked about the condition of Behn Road. Mr. Bannon said that as a town road it looked good. He also added that during the time that some affordable housing had been proposed for this site, the integrity of the bridge had been raised. At the time it had been checked out and appeared to be in decent condition. Mr. Brattstrom said he thought he remembered that the width of the bridge had been questioned. Mr. Bannon said that the previous proposal called for more units, and that with this project of only five, it shouldn't be an issue. The minutes from September 17, 2003 were looked at and the only information regarding the bridge was a concern from an adjacent property owner who questioned where the bridge could handle the increased traffic. The minutes also noted that the Central Vermont Community Land Trust would research the issue.

Mr. Malboeuf asked the Board if they wanted the applicant to meet with the Fire Department first or schedule a site visit. Mr. Monte suggested that the applicant go to the Fire Dept. first. He continued and asked if there was any reason why they couldn't combine the next two stages of review into one meeting. Pending any unforeseen adversaries, he felt that the project was certainly straightforward and didn't contain any large issues. Mr. Monte suggested that Mr. Bannon send an additional notice to all abutters when the next meeting had been scheduled.

Mr. Markolf seemed to feel it was "ok". Mr. Monte said he would defer to the Fire Department as to their feeling. Mr. Markolf also informed the applicant that they would need to have a Homeowners Road Maintenance Agreement for their final approval. He also asked how they were going to deal with the bridge issue. Mr. Malboeuf said he would check with the Town Administrator to see if she had any information. Mr. Monte asked if they could tentatively schedule the next hearing date. Mr. Malboeuf said that August 17th could be a target date but that he wanted to check the calendar.

MOTION by Mr. Monte to adjourn this hearing until August 17th at which time they would combine the Preliminary Plan Review and Final Plan Approval. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

5. Application **2005-04-CU** Conditional Use – Accessory Dwelling, submitted by Robin Ashley

Mr. Bannon, on behalf of Robin Ashley, presented the applicant's request to obtain Conditional Use approval for the second floor of their newly built garage to be utilized as an Accessory Dwelling. Mr. Malboeuf said that it was a small apartment situated above the garage, 24x27 feet in size, and the 40% rule is not an issue as the main house is over 4,000 sq. ft. Mr. Markolf asked about the total bedroom count and if the wastewater system was adequate. Mr. Bannon said that the system was originally designed to be able to accommodate this additional living space. (note: The bedroom count for the main dwelling is currently four as per the lister) Conversation took place about how the space was to be used, family, staff, or as a rental space. Mr. Monte pointed out that there were two sets of standards, the Town's and the State Labor & Industry Standards. As such, he wanted the applicant to be aware that State permits might be required for an accessory dwelling and its use.

Mr. Monte asked if the setbacks were satisfied, and they were; Mr. Malboeuf stated that the structure was not considered in the Meadowland; Mr. Monte also asked if the rule calling for no more than 40% of the main dwelling be allowed for an accessory dwelling was met, and it was; and if there was adequate parking to which Mr. Malboeuf replied yes.

MOTION by Mr. Monte *Section 4.1, (B) Accessory Dwelling*, is satisfied providing that the permit includes the language contained in Section 4.1, (B) (4). **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that *Section 5.3 (A) Conditional Use Review Standards, General Standards*, is satisfied by the addition of a 400- foot accessory dwelling on the property. **SECOND** by Mr. Brattstrom. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that *Section 5.3 (B) Conditional Use Review Standards, Specific Standards* is satisfied. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board approves the applicant's request for a Conditional Use

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