

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
WEDNESDAY OCTOBER 5, 2005

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**Members Present:** David Markolf, Chris Behn, Eric Brattstrom, Lenord Robinson and Virginia Roth.

**Others Present:** John Roth, Erin & Peter Cozzi, Mark Bannon, Larry Auer, Bob & Patti Kaufmann, Myrtle Geiger, Dan Reicher, Carole Parker, Dexter Lefavour, Miron Malboeuf and Ruth Robbins.

**Agenda:** Call meeting to order, 7:00 pm

- 1- Application #2005-12-SD, formerly approved as #2004-02-SD, (Members: Peter, Dave, Lenord, Chris & Eric) for Preliminary (6.3) and Final Approval (6.4), submitted by John Roth, for parcel ID #028005-300, seeking approval for a 6-Lot Subdivision of 115 +/- acres on the Plunkton Road in the Rural Residential District
- 2- Application #2005-09-CU submitted by Lawrence C. and Karol A. Auer, seeking conditional use approval to develop a primary dwelling within the Forest Reserve District. (Members: Chris, Dave, Lenord, Virginia & Eric) The property 9.2+/- acres, parcel Id# 001011-710, is located on Roxbury Mountain Road in the Forest Reserve District.
- 3- Application #2005-02-SD, submitted by Erin Chase Cozzi for a 3 lot Subdivision on a 16.1 acre parcel (B) of a 29.3 acre parcel, # 001005-000 (Members: Chris, Dave, Lenord, Virginia & Eric), in the Rural Residential and Meadowlands Overlay Districts, (Article 2 Tables 2.2 and 2.13 respectively) for Preliminary Plan Approval.
- 4- Other Business:
  - a) Review and approve minutes of September 21, 2005
  - b) Review and sign Findings of Fact & Notice of Decision for Application # 2005-11-SD, Slater 2-lot Subdivision.

TOWN OF WARREN, VT  
Received for Record Oct 19 2005  
at 9:00 o'clock A M and Received in  
Vol 178 Page 180-185  
Clairne E. Fuller  
Assistant TOWN CLERK

Mr. Markolf called the meeting to order at 7:06pm.

- 1- **MOTION** by Mr. Markolf to approve the minutes of September 21, 2005.  
**SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed. (Mr. Behn did not vote as he was not in attendance at that meeting) The Board also reviewed and signed the Findings of Fact and Notice of Decision for application # 2005-11-SD, 2-lot subdivision submitted by Geoff and Lauren Slater.
- 2- **Application #2005-12-SD**, formerly approved as #2004-02-SD submitted by John Roth, for parcel ID #028005-300, seeking approval for a 6-Lot Subdivision of 115 +/- acres on the Plunkton Road in the Rural Residential District. (**NOTE:** Virginia Roth, an Alternate Member of the DRB, recused herself from the deliberations on this application.)

Mr. Roth has requested "re-approval" for his 6-lot subdivision which had been approved but became invalid when the mylar could not get filed in time. Mr. Markolf asked if anything had changed since the original approval. Mr. Roth replied that nothing had changed but that he had secured additional approval from the Army Corps of Engineers to place fill in an approximate .11-acre wetlands area on the property. (Such approval, in the form of a one page letter dated June 10, 2005 from the Department of the Army was submitted for the file).

**MOTION** by Mr. Markolf that the Board deem this a major subdivision, the application complete and that they combine both Preliminary and Final Review in one meeting. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Markolf that the Board approve the subdivision request subject to the Findings of Fact and Conclusions of Law and the conditions under Notice of Decision for permit # 2004-02-SD signed by the Development Review Board on October 27, 2004 and the stipulations outlined in the Department of Army letter dated June 10, 2005. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed. The mylar was then signed by the Board.

- 3- **Application #2005-09-CU** submitted by Lawrence C. and Karol A. Auer, seeking conditional use approval to develop a primary dwelling within the Forest Reserve District.

Mr. Markolf started out by stating that a site visit had taken place prior to the meeting that was attended by Chris Behn, Eric Brattstrom, Virginia Roth, Larry Auer, Miron Malboeuf and himself. He went on to state that they walked the driveway and switchback, viewed the house site and made notes regarding various trees that the DRB might want to consider stipulating be retained.

Mr. Markolf then went on to say that there were two items from the previous meeting; an erosion control plan and the issue of clearing. Mr. Lafavour, the engineer for the applicant, produced an amended site plan that now included erosion control features for the Board to review. Mr. Behn then spoke to the issue of clearing. He stated that they had identified several trees along with the applicant that they specifically wanted to preserve. These were trees that might be tempting to cut down as they were between the building site and the view. (see Exhibit A, dated 10/5/05). In total there were nine trees, five maples, two beeches and a silver birch and yellow birch.

During the site visit they also discussed limiting the area directly below the building envelope to the clearing of only dead or dying trees or those trees 6' or less in diameter at breast height. The balance of the property would be subject to a "no clearing" stipulation except for what was necessary for the installation of the driveway, wastewater system and well. It was also discussed that the driveway needed to be a minimum of 12' in width and maintained (plowed) to a minimum of 10'.

Mr. Markolf suggested that before the Board started going through the criteria that they discuss the issue of building color and materials. Mr. Auer referred

them back to his application where he described the design of his proposed home in detail: a "L" shaped Cape with clapboard siding, in a greenish/gray or gray color, roofing will be asphalt shingles of a slate blend color, double hung windows with those on the western side with either non-reflective glass or exterior mounted full sized year-round screens.

Mr. Behn then brought up the issue of setbacks. The setback from the northern property line to the building envelope is noted as 140' where as the requirement in the Forest Reserve is 150'. The discussion revealed that to move the building envelope to comply would then take out a couple of the preserved trees, as well as put the dwelling closer to the edge of the existing plateau.

**MOTION** by Mr. Behn that the Board grant a variance in the setback requirement for the north side of the building envelope to be 140' as shown on the site map, as allowed under *Article 3, § 3.6 Height & Setback Requirements (C) (1)*.  
**SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Markolf that *Table 2.1, Forest Reserve District Supplemental Development Standards* have been satisfied. **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Markolf that *§ 5.3 Conditional Use Review Standards (A) 1-5 and (B) 1-11* are satisfied by the applicant. **SECOND** by Mr. Behn.  
**DISCUSSION:** Mr. Markolf reminded the applicant that outdoor lighting was limited to 75 watt incandescence downward lighting only. Mr. Behn asked if any accessory structures were planned. Mr. Auer replied that he was aware of the lighting ordinance and that he had no plans for any accessory structures. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Behn that *§ 5.3 Conditional Use Review Standards (C) 1-4 and (D) 1-12* are either satisfied or found not applicable for this application. **SECOND** by Mr. Brattstrom. **VOTE:** all in favor, the motion passed.

**MOTION** by Mr. Markolf to grant the application subject to the conditions herein. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

- 4- **Application #2005-02-SD**, submitted by Erin Chase Cozzi for a 3-lot Subdivision on a 16.1 acre parcel (B) of a 29.3 acre parcel, # 001005-000 in the Rural Residential and Meadowlands Overlay Districts, for Preliminary Plan Approval.

Mr. Markolf began by stating that a site visit had taken place two weeks ago at which he along with Mr. Robinson, Mr. Brattstrom and Mr. Malboeuf were all in attendance. Mr. Malboeuf also went out to the site with Mr. Behn on a separate occasion. Ms. Robbins read the notes from the last meeting that summarized that visit. A Sketch Plan Review hearing was held on May 25, 2005. Mr. Bannon brought the members up-to-date stating that the site plan had changed since the Sketch Plan Review hearing but that what they observed at the site visit was the current plan. Mr. Bannon also noted that he had had some visits and conversations with several of the neighbors, mostly with concerns about the driveway locations and one question about the effect of the proposed leech fields

on the neighbor's wells. In response to the comments about driveway locations, Mr. Bannon pointed out to the Board where he had added some proposed options on the site plan.

**MOTION** by Mr. Markolf to deem the application complete and classified as a minor subdivision. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

Mr. Bannon also stated, as best he could, concerns for one of the neighbors that couldn't be there, Laurie McGuire. As previously mentioned, she was the one who expressed concern about the leech fields and possible contamination of her well. She also was concerned about the potential buyers of these new homes complaining about the dogs from her dog care facility barking. Mr. Bannon said he would clearly label her adjoining property and the dog kennel so that any potential buyer would be aware of its existence. The Board cautioned him about doing that as it wasn't actually a "kennel" but a home based business.

The main concern however was the locations of the road cuts. Mr. Bannon felt that the driveway for Lot #3 was necessary in order to utilize the back portion of the lot. He went on to say that he felt that a bridge was really not an option due to cost and possibly not permitable by the State. Mr. Bannon also stated that he thought Option A for Lot #2 was the most desirable since it was the most direct, least expensive, least amount of impact on the wetlands and it was adjacent to a utility pole for easy access in bringing the lines underground into the project. He also designed the driveway to minimize how car headlights would impact the neighbors across the way on Galloping Wind Drive.

The question was asked as to whether or not the Road Commissioner had weighed in on his preference. Mr. Bannon said that Mr. Butcher had liked Option B, mainly due to the sight lines in relationship with Plunkton Road. The downside was that it bisected the meadowland and would make bringing in the utilities more costly. Mr. Markolf said that he thought Mr. Butcher was only suggesting a move of 50 yards south of Option A, not as far down as indicated on the site plan. Mr. Robinson stressed that ever since the Meadowlands district was enacted, they have made a point to keep any roads or driveways along the edge if not completely out of that area. Mr. Markolf then asked what he safety issues were that might justify crossing the meadowland. Mr. Bannon stated that they went by the VTRANS B71 requirements and that the standards for stopping distances and sight lines were either met or exceeded.

Mr. Behn stated that one of his concerns was the visual impact from Brook Road across the meadowland to either Option A or Option B driveways, and how exposed they would be. Mr. Bannon agreed that the situation was ripe for some landscaping to minimize the driveway. Mr. Markolf asked why the drive couldn't be located directly across from Galloping Wind Drive. Mr. Bannon said it could, but that it comes very close to the 100' stream setback mark. Mr. Markolf summarized by saying that the site lines were in order in all three options, therefore not an issue in the final decision.

Mr. Markolf then asked for public comment and recognized Mr. Reicher who read a statement that represented the feelings of the neighbors across the street on Galloping Wind Road; Mr. And Mrs. Reicher, Mr. Smith, Mr. And Mrs. Goldman, and Mr. Mrs. Dillon. The essence of their statement was that though they were not in opposition to the proposed development, they were very much opposed to the placement of the proposed curb cuts (Option A and B) for safety reasons citing two serious accidents on that stretch of road. (NOTE: contained in the statement was reference to a site visit that included Mr. Schoellkopf, who is also an alternate to the DRB. It was made clear that he was there only in the capacity as a "friend" of the Reichers, and not as a DRB member.) Mr. Reicher stressed that they were not in favor of either Option A or Option B, and that Option C was the solution.

The next person who spoke was Bob Kaufmann, who started out by stating that he had grown up adjacent to the subject property and was therefore intimately acquainted with it. He related some history about a road that was located in the general area of the proposed Option C and how it was wet, and also had safety issues associated with it. As a result, it had been abandoned. Mr. Kaufmann stressed that to put in Option C would only bring back all the same problems. In addition, Mr. Kaufmann reminded the Board that in the 1970's the section of Brook Road where Option A and Option B are located was much busier, with a trailer park of several homes and a convenience store where now there is only five homes. In contrast, the section of Brook Road between Plunkton and Behn Road has had a marked increase in road cuts and residential traffic. (Behn Road has recently had a 5-lot subdivision approved by the DRB).

Both Mr. Behn and Mr. Robinson commented that having lived in that general area for many years, that they had serious concerns about Option C from a safety standpoint. Mr. Markolf then asked Mr. Bannon if there was any documentation to support the non-viability of putting in a culvert or bridge over the brook, an option that would solve a lot of problems. Mr. Bannon started by saying that the State rules call for a waterway crossing to be placed from top of bank to top of bank. That then eliminates the use of a culvert. Even a box culvert, the largest being 12', may not be adequate and also involves costly engineering. (\$50,000 +/-) Beyond a box culvert would require structural steel.

Mr. Markolf then asked to move on to any other issues with this application. The discussion then turned to the community mound wastewater system. Mr. Bannon pointed out that in using the location they had indicated on the site plan for the community mound system that the natural topography lent itself to blending in the mound so as not to impact the aesthetics of the area. Mr. Kaufmann pointed out a well Mr. Bannon did not have marked, but Mr. Bannon also noted that it still met the 200' setback requirement.

Mr. Markolf asked if there was any concern about the Meadowland overlay district requirements and how the lots are situated. It was determined that in this case since the meadowland had been maintained, there was not a question as to the boundaries and that the site plan had been done accordingly. Mr. Kaufmann brought up the closeness of the building envelope to the Geiger's house and that

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maybe the Board would consider shifting the building site or requiring some screening. The conversation then turned to wildlife, specifically moose habitat. The residents voiced comments that they had frequently seen a moose in that area, and Mr. Robinson said there was a puddle he (the moose) liked due to the salt content. Mr. Bannon showed the Board the State Resource map that indicated some deer yards in the area but not in the subject parcel. Unfortunately moose habitat is not documented. Mr. Robinson commented that he did not see any deer or moose browsing during the walk at the site visit.

Mr. Markolf then summarized the list of items to be further researched and/or provided for the next meeting:

- private road agreement for the shared road to Lot 1 and Lot 2.
- Verification that the distance between the Geiger's leach field and Lot #2's well meets the requirement
- Verification that the distance between the Kaufmann's well and the proposed community mound leach field meets requirements.
- Attempt to resolve Options A, B & C with the Select Board Road Commissioner.
- Visual impact of Lot # 2 on the Geiger property – is screening required.
- Mr. Bannon to investigate moose habitat.
- Mr. Bannon to provide documentation as to the feasibility of crossing the stream.

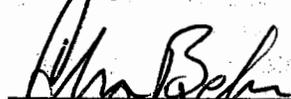
**MOTION** by Mr. Markolf to continue this hearing to a Site Visit with Mr. Butcher on Saturday October 15<sup>th</sup> at 9am and for Final Plan Approval on Wednesday October 19<sup>th</sup> at 7pm. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

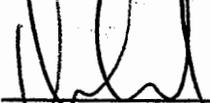
The meeting was adjourned at 9:55 pm.

Respectfully submitted,

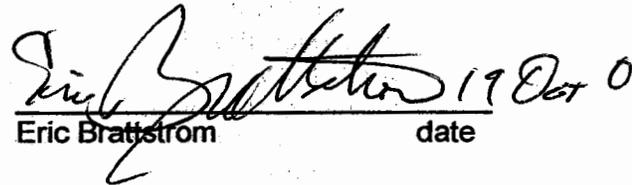
Ruth V. Robbins  
DRB/PC Assistant

Development Review Board

  
Chris Benn 10-19-05  
date

  
David Markolf 10/19/05  
date

  
Virginia Roth 10/19/05  
date.

  
Eric Brattstrom 19 Oct 0  
date

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Lenord Robinson date