

Town of Warren
Development Review Board
Minutes of Meeting
Wednesday April 6, 2005

TOWN OF WARREN, VT
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at 12:25 o'clock PM and Received in
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Daine E. Feeder
assistant TOWN CLERK

Members Present: Peter Monte, Lenord Robinson, Chris Behn

Others Present: Rick Patterson, Mark Bannon, Lauren Kolitch, Shelia Ware, Tim Williams, Dick King, Harriet King, Andrew Cunningham, Miron Malboeuf, Ruth Robbins

- Agenda:**
- 1) Call meeting to order, 7:00 pm
 - 2) PRD Application, 2005-01-PRD, Chisel Tooth Group, Inc., continued from March 9, 2005, for Final Plan Approval, Article 6.4. Application was submitted by Richard Patterson on behalf of the Chisel Tooth Group seeking approval of a 5-lot PRD/Subdivision of 98 +/- acres. The property is located off of Cider Hill Road in the Forest Reserve District. The project requires review under Article 5, Development Review, Article 6, Subdivision Review, Article 7, Subdivision Standards & Article 8.
 - 3) Other Business:
 - a) Review Minutes of March 23, 2005
 - b) Discuss schedule for May 2005

I. Call Meeting to Order

The meeting was called to order by Chairman Monte at 7:10pm

II. PRD Application, 2005-01-PRD, Chisel Tooth Group, Final Plan Approval

The following documents were submitted in conjunction with this application:

- Letter from Mark Bannon of Bannon Engineering addressing Underground versus Overhead Power Costs (received 3/28/05)
- Letter from Dick King regarding Erosion Control and Monitoring Standards for this project (received 4/6/05)

Chairman Monte reviewed the zoning criteria that had been satisfied in the last meeting and those that had been tabled and still needed review. Discussion ensued regarding the proposed Erosion Control & Monitoring Standards submitted by Mr. King. In this submission, Mr. King took into account objections Mr. Bannon expressed at the last meeting. Mr. Monte reviewed the seven items, and asked for the applicant's comments. Ms. Kolitch responded that they had no problem with number one or number two, with the provision that "federal authority" be stricken. She stated that they had an objection to item three and four. As there have been no violations issued by Act 250 to date, though there have been assertions of such, she felt the applicant should not have to incur any additional cost nor should the Board be deemed a separate enforcement agency. She went on to say that the Act 250 board has enforcement capabilities, as does the DRB if there has been any violation of the permit substantial enough for the Board to consider. Item four, which basically states that if a control measure doesn't work or "breaks", it must be fixed, was "ok" with Ms. Kolitch providing it was understood that with major road construction there would be ongoing activities. Regarding item five, Ms. Kolitch stated that the applicant was fine with it, except that she felt a three-week germination period for seeding was arbitrary and unreasonable. Items six and seven she was opposed to as she felt they were basically duplication of existing powers already possessed by the DRB and the Environmental Commission.

Mr. King, who authored the seven items, stated that the whole premise behind his proposed standards was that if erosion occurs it is harmful. He went on to say that if in

fact the project does not produce any erosion that causes a violation of the standards, then this document imposes absolutely no restrictions. Mr. King was fine with item five calling for a "reasonable" amount of time for seeding/vegetation regrowth instead of the three-week time frame. He felt that item three was really just calling for regular inspections which he believed was in the original decision made by the board.

Mr. Monte commented that he thought you really couldn't totally prevent erosion, but that the purpose of an erosion control plan was to put forth a best effort to prevent/control/minimize any erosion that might take place.

He went back to discuss further how to handle item three, as Mr. King had commented that he thought he remembered that there was some sort of reporting required in the original decision. Though none was found, Mr. Monte asked the applicant if a yearly report, due on the first of September and submitted to the Zoning Administrator, detailing the status of the erosion control measures in place, until the road work is complete would be acceptable. Potentially, this requirement could be a one-time deal. Mr. Bannon replied that he did not see a problem with that but questioned the value of it. Mr. Monte also asked if six weeks seemed more reasonable in item five than the three weeks originally stated. It was found acceptable by the applicant.

MOTION by Mr. Monte to amend Item #3 to read (first line) " *Annually on September first in each year until the completion of the common access road to the project is complete, a physical inspection of the road construction area shall be conducted*" ... (last line) " *A copy of the report shall be filed by September first with the Warren Zoning Administrator.*"
SECOND by Mr. Behn. **VOTE** unanimous, motion carried.

MOTION by Mr. Monte to delete items six and seven, and adopt these measures presented by Mr. King as additional provisions to supplement the erosion control plan submitted by the applicant. **SECOND** by Mr. Behn. **VOTE** unanimous, motion carried.

MOTION by Mr. Monte to incorporate the Findings of Fact from December 4, 2003 along with any corrections/modifications that may be made during this process. **SECOND** by Mr. Behn. **DISCUSSION:** Ms. Kolitch brought up that there were corrections due to inaccurate information provided by the applicant regarding the acreage noted in numbers four, six, and seven. She went on to state that the 98+/- acres should be 90.2 acres in numbers four and six, and that the acreage acquired from Jane Austin referred to in number seven should be ten acres. Those ten acres will give the Chisel Tooth Group a total of 100.2 acres. Mr. Monte **AMENDED** his **MOTION** to include the changes outlined by Ms. Kolitch. Mr. Behn **SECONDED** the amended motion. **VOTE** unanimous, motion carried.

Article 7.5 Stormwater Management & Erosion Control, A through J

MOTION by Mr. Monte that with the previous conditions voted on and the applicant's plans on file, that this criteria is satisfied. **SECOND** by Mr. Robinson. **VOTE** unanimous, motion carried.

Article 7.9 Utilities, A & B

DISCUSSION: As per a request from Mr. Monte at the last meeting, Mr. Bannon supplied a letter outlining the difference in cost between taking the utilities overhead from the last pole on Cider Hill to the project (where it will go underground) or go underground the entire way. Mr. Monte asked if the layout was the same as originally proposed, and Mr. Bannon answered that yes, it was. Mrs. King pointed out that it is a given that placing the utilities underground will always be more expensive than putting them above ground. She went on to ask if the numbers provided were site specific or just the standard

deviation. Mr. Bannon replied that he would let the letter stand for itself. Mrs. King went on to point out that the ordinance (§ 7.9 (A) (1)) calls for placement of utilities underground unless deemed unreasonable and prohibitively expensive by the Board. Mr. Robinson asked for clarification that the utilities would only be going above ground for a relatively short distance after which point they would be placed below ground once into the project. Mr. Bannon added that it was his understanding that the Board had approved above ground power from the starting point to the Austin property, and that they were just doing the same here. Both Mr. Monte and Mr. Robinson commented that if blasting was involved in putting the lines underground that the cost differential would increase. Mr. Monte felt that with approx. \$10,000 more per house to go underground that he might view that as "unreasonable". If it were in fact only \$5,000, he'd have to reconsider. Mr. Robinson stated that he thought they were debating a non-issue. Mr. Behn also noted that the previous decision had approved the utilities as proposed. Mr. Monte was not sure they were committed to the previous decision.

MOTION by Mr. Robinson that the project is in compliance with Article 7.9, Utilities, A and B. **SECOND** by Mr. Behn. **VOTE:** Mr. Robinson, Mr. Behn, YEA, Mr. Monte, NAY. Motion carried two to one.

Article 7.4 Open Space & Common Land

DISCUSSION: Mr. Monte asked Mrs. King if she had submitted her concerns regarding the Conservation Agreement. Mr. King spoke up and said that that was his assignment, and no, they had no submissions.

MOTION by Mr. Robinson that the project meets the requirements. **SECOND** by Mr. Monte. **VOTE:** unanimous, motion carried.

Article 8.3 Planned Residential Developments (PRDs) (C) General Standards

DISCUSSION: Mr. Monte began by stating that if there were a "hot spot" it would be regarding the density bonus of an building lot. He referred back to the original decision that allowed the bonus with 60 acres being set aside for public access and non-motorized recreation. Mr. Monte asked if there was still an issue as to whether or not the density bonus had been earned. Mr. King felt that since construction began (the road) prior to obtaining permission that the Board should not reward an action that was a blatant violation. Mrs. King also questioned if it had been demonstrated that the land could be subdivided into lots in accordance with the standards for the district in which the land is situated. She also added that if the conserved 60 acres couldn't be built on anyway, was it truly being left undeveloped. Mr. Monte stated that ten percent is ten percent, and that each lot will have to undergo review which will result in additional set asides due to the Forest Reserve criteria, and that the requirement of maintenance for public access was an asset to the town that would not normally be afforded them. Mr. Monte also added that in his opinion and with what he knew the situation surrounding the premature building of the road was one of an honest mistake, and did not call for a penalty such as denying the density bonus.

MOTION by Mr. Robinson to support granting the bonus. **SECOND** by Mr. Monte. **VOTE:** unanimous, motion carried

MOTION by Mr. Monte that Article 8.3, (C) is satisfied. **SECOND** by Mr. Behn. **VOTE:** unanimous, motion carried.

Article 8.5 Open Space & Common Land Standards for PRDs & PUDs

MOTION by Mr. Monte that Article 8.5 is satisfied. **SECOND** by Mr. Robinson. **VOTE:** unanimous, motion carried.

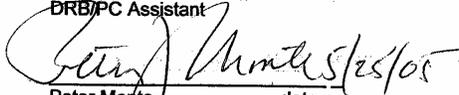
MOTION by Mr. Monte that based on the findings and conclusions that the Board grant a permit, that we approve the application subject to the conditions that we have voted upon as well as customary conditions usually imposed. **SECOND** by Mr. Behn. **VOTE:** unanimous, motion carried.

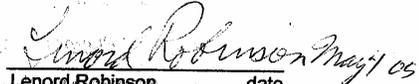
III. Other Business

Minutes from March 23, 2005 were reviewed, but the Board wanted more time before signing. The meeting was adjourned at 8:50pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant


Peter Monte date


Lenord Robinson date


Chris Behn date