

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
MAY 26, 2004**

**MEMBERS PRESENT:** Peter Monte, Chair, David Markolf, Vice Chair, Eric Brattstrom, Lenord Robinson & Chris Behn.

**OTHERS PRESENT:** Robin Ashley, James Macisaac, Miron Malboeuf, Alice Cheney, Sue Carter, Lisa Miserendino, Virginia Roth, John Roth, Ardis and Ken Beauchemin, Shannon Hill, DRB/PC Assistant.

**AGENDA:**

- 1) 7:00 PM Call meeting to Order
- 2) 7:00 PM Roth Family Partnership – Change of Use to an office, restaurant and retail. The proposed project is located on Main Street in the Warren Village Commercial District.
- 3) 8:00 PM Beauchemin Conditional Use for an accessory dwelling. The proposed project is located in the Rural Residential District on the Sugarbush Access Road.
- 4) Other Business
  - a) Sign minutes from May 12, 2004
  - b) Sign minutes from April 28, 2004

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**I. CALL TO ORDER**

Mr. Monte called the meeting to order at 7:30 PM.

**II. ROTH FAMILY PARTNERSHIP – CHANGE OF USE**

#2004-01-CU submitted by John Roth on behalf of the Roth Family Partnership seeking conditional use approval for a mixed use of their property including retail, offices, and a restaurant. The project also requires conditional use review for a reduction in the stream setback to 70+/- feet to accommodate a new deck. The property is located on Main Street in the Warren Village Commercial District. The project requires review under Article 5, Development Review of the Warren land Use and Development Regulations.

**STAFF REPORT**

Mr. Monte read the legal warning which ran in the Valley Reporter on May 6, 2004. He noted that there was a site visit just prior to the hearing at 6:30 PM where the board members discussed the location and number of parking spaces, the location of the proposed deck and the setback from the stream.

**GENERAL DISCUSSION**

Mr. Roth described the proposed project. He explained that they do not have a signed lease with any tenants to rent the building, so they are requesting approval for a mixed use. The only new development is a proposed deck off the back of the stream, with a 70' setback from the Mad River.

Mr. Markolf found an error in Mr. Roth's calculations. He noted that the parking calculations should be as follows:

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<u>Use</u>	<u>Area</u>	<u>Parking Spaces Required</u>
Retail	325 ft <sup>2</sup>	1.3 spaces
Personal Services	755 ft <sup>2</sup>	2.0 spaces
One Employee		1.0 space
One hair station		1.0 space
Offices	800 ft <sup>2</sup>	2.7 spaces
Restaurant	32 seats	8.0 spaces
Restaurant employee*		2.0 spaces
	<b>TOTAL</b>	<b>16 spaces</b>

\* Notes the correction to the parking calculations made by Mr. Markolf.

Mr. Roth explained that when he came before the board for the Alta Spa conditional use permit that he had offered to convert the entire green space behind the building into parking. However, the board preferred to have fewer spaces and maintain some green space in the village. The prior permit required 10 parking spaces for the Alta Spa permit, including the two spaces in front.

The DRB decided that the Roth's can accommodate the required 16 spaces using the existing parking configuration. They would like an updated site plan showing the 16 parking spaces.

Mr. Roth noted that the building is being hooked up to the municipal wastewater system.

The property abutter across the river, James Macissac, noted that he would prefer the deck not be approved because his property will be visible from the deck. He feels the deck will infringe on his privacy.

The board explained that the stream setback is in the ordinance to prevent the stream from encroachment and flooding problems and to protect the view from the stream. The ordinance does not mention anything about privacy. The adjoiner asked the board for similar leniency from the DRB regarding the stream setback. The board explained that the same rules would apply to him and they can reduce the stream setback by up to 50' under the conditional use review.

Ms. Cheney was concerned about the runoff from the parking lot into the stream. The board noted that the parking lot is preexisting and will not be increased. Mr. Robinson noted that the vegetation between the parking area and the stream will help reduce the sedimentation of the stream.

The Roth's noted that any new lighting will be in conformance with the Warren Land Use and Development Regulations.

Ms. Miserendino expressed concern about the DRB granting a blanket approval and not knowing the specifications of the project.

The board discussed the proposed deck. They decided that they do not object to the deck, but if the deck were going to be part of the restaurant they would like to have a chance to review the lighting, hours of use and other implications on the mixed use neighborhood of

the deck. The Roth's agreed to come back before the board to review the use of the deck, should it be used as a restaurant. The board also noted that they believe if the deck were located in the corner of the building, where it would not encroach on the stream setback and would be further away from homes.

Ms. Carter, Ms. Cheney and Ms. Miserendino were all concerned about the hours of operation of a restaurant, since this is a mixed use area with residences.

The board proposed requiring the restaurant to close by 7PM, or come back to the board for further approval once they have a finalized plan for the use of the building. The Roth's objected saying they do not want the hours to be that restrictive.

The Roth requested the board place similar conditions on their proposed restaurant as are placed on the Pitcher Inn. Mr. Behn believes that the Pitcher Inn does not have the same proximity to homes.

The board noted that the restaurant could serve alcohol. Ms. Carter objected to the restaurant being able to serve alcohol. Mr. Behn reviewed the definition of restaurant and noted that the definition would allow for a bar. Therefore, he proposed limiting the hours of operation to prevent the property from being open until 1-2AM.

Mr. Monte noted that they have tried to set generic limits on the restaurant without any specific plan of operation and to leave the door open to changes should the operator of the business have different ideas. He wanted to clarify that having restaurant seating on the deck was not a bad idea; it just has to be reviewed with a more detailed plan.

The applicant will use the existing sign for the new uses.

#### DELIBERATION/DECISION

**MOTION by Mr. Monte, seconded by Mr. Markolf, that if the DRB approves the project, they identify the presently proposed uses and the building allocation for each use and the resulting parking calculations. The approval would also allow changing of uses or re-allocating the uses within the building. If any change is proposed from what is indicated in the application the Roth's must notify the zoning administrator in writing and indicate the proposed use and the number of parking spaces required for the use, in accordance with the Land Use and Development Regulations. If the new uses require more than 16 parking spaces, the applicant must come back before the DRB for further review. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn, that prior to the signing of the Notice of Decision, the DRB must receive and approve of an updated site plan showing 16 parking spaces, one of which must be an ADA compliant handicapped parking spaces. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Markolf, pursuant to §3.13 (B)(1), that the proposed deck will not affect the ability of a stream to carry floodwaters. VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Behn, pursuant to §3.13 (B)(2), that the proposed deck will not affect the water quality of the stream due to potential erosion and runoff. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §3.13 (B)(3), that the proposed deck will not affect the natural beauty of the stream or the historic settlement pattern. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Markolf, that the applicant may build the proposed deck, but the deck may not be used as part of a restaurant until the applicant comes back for further approval from the DRB. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §5.3(A)(1) that the proposed project will not effect the capacity of existing or planned community facilities or services . VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Behn, that the applicant must obtain all applicable local and state permits and licenses, specifically a wastewater disposal permit from the Town of Warren indicating that they have adequate septic capacity. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §5.3(A)(2) that the proposed project, subject to the conditions contained herein, will not adversely effect the character of the neighborhood or area affected. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Behn, that the restaurant must be closed to patrons by 11:00 PM on Sunday through Thursday and by 12:30 AM on Friday and Saturday. VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Monte, pursuant to §5.3(A)(3) that the proposed project will not adversely effect the traffic on roads and highways in the vicinity. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Monte, that any deliveries for the proposed restaurant will park off the Main Street travel lane. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §5.3(A)(4) that the proposed project complies with the bylaws now in effect. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §5.3(A)(5) that the proposed project will have no effect on the utilization of renewable resources. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Monte, to approve the project, subject to the conditions contained herein. VOTE: unanimous; motion carried.**

**III. BEAUCHEMIN CONDITIONAL USE FOR AN ACCESSORY DWELLING**

#2004-15-CU submitted by Ken and Ardis Beauchemin seeking conditional use approval for an accessory dwelling as well as a variance for the setback from Clay Brook. The property is located on the Sugarbush Access Road in the Rural Residential District. The project requires conditional use review under Article 5, Development Review of the Warren Land Use and Development Regulations.

**STAFF REPORT**

Mr. Monte read the legal warning which ran in the Valley Reporter on May 6, 2004. He noted that there was a site visit just prior to the hearing at 6:00 PM where the board members discussed the setback from the preexisting structure to the Clay Brook. The Beauchemin's explained that during the 1998 flood the building was not harmed. After the flood they had rip-rap placed along the stream bank.

**PUBLIC INPUT**

There was no public input.

**GENERAL DISCUSSION**

The applicant explained that the preexisting structure was built prior to 1984, when they purchased the property. It was once used as an office, now is used for storage.

Mr. Monte noted that the structure is 40 feet from the property boundary, and since it is a preexisting structure the DRB does not have any control over its location.

Mr. Markolf felt that the DRB might have some say in the use of the structure because they of the word "expansion" in the Land Use and Development Regulations. He noted that it says "expansion and enlargement" and believes that if the intention of the ordinance were to refer to only structural enlargement that it would only say enlargement. He considers the word expansion to refer to an increase in a use of the property.

**DELIBERATION/DECISION**

**MOTION by Mr. Monte, seconded by Mr. Markolf, to proceed under Article 5, Development Review, because of the change from a storage shed to an accessory dwelling is an expansion of the use of the property. VOTE: unanimous; motion carried.**

**MOTION by Mr. Brattstrom, seconded by Mr. Monte, pursuant to §5.3(A)(1) that the proposed project will not effect the capacity of existing or planned community facilities or services . VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Behn, pursuant to §5.3(A)(2) - (5) that the proposed project is not applicable to the standards for character of the neighborhood or area affected, traffic on roads and highways in the vicinity, bylaws now in effect and the utilization of renewable resources. VOTE: unanimous; motion carried.**

**MOTION by Mr. Makolf, seconded by Mr. Monte, that there shall be no excavation between the existing structure and the stream and that appropriate erosion**

control be implemented during the construction of the water and wastewater disposal system. VOTE: unanimous; motion carried.

MOTION by Mr. Brattstrom, seconded by Mr. Robinson, that the applicant must obtain all applicable state and local permits, specifically a wastewater disposal system form the town. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn, to approve the application, subject to the conditions contained herein. VOTE: unanimous; motion carried.

**IV. OTHER BUSINESS**

a) Approval of meeting minutes

MOTION by Mr. Behn, seconded by Mr. Markolf, to approve the minutes from April 28, 2004 as corrected/amended. VOTE: unanimous; motion carried.

MOTION by Mr. Robinson, seconded by Mr. Monte, to approve the minutes from May 12, 2004 as corrected/amended. VOTE: unanimous; motion carried.

**V. ADJOURNMENT**

MOTION by Mr. Robinson, seconded by Mr. Brattstrom, to adjourn the meeting. VOTE: unanimous; motion carried.

The meeting adjourned at 9:15 PM.

Respectfully submitted,  
Shannon M. Hill  
DRB/PC Assistant

**DEVELOPMENT REVIEW BOARD**

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Peter Monte (date)

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David Markolf (date)

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Chris Behn (date)

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Lenord Robinson (date)

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Eric Brattstrom (date)