

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
AUGUST 4, 2004**

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

**OTHERS PRESENT:** Jack Lindner, Anneliese Lindner, Rosemarie White, Bill White, Ted Geiser, Heidi Geiser, Jay Kempf, Charles Booher, Karen Van Gilder, DRB/PC Assistant.

**AGENDA:**

- 1) Call meeting to Order 7:00 PM
- 2) **2004-37-CU White** – Change of Use on Wildfire Drive
- 3) **2004-01-SD Booher** – 2-Lot Subdivision on Plunkton Road (cont)
- 5) Other Business
  - a) Review final plan **2004-02-CU Kempf** – Accessory Dwelling in Forest Reserve on Roxbury Mountain Road (final plan review)
  - b) Review Decision 2004-02-CU Kempf

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**I. CALL TO ORDER**

Chair Peter Monte called the meeting to order at 7:10 PM.

**II. 2004-37-CU WHITE – CHANGE OF USE ON WILDFIRE DRIVE**

Application #2004-37-CU submitted by William White seeking approval for a conditional use permit changing the use from Bed & Breakfast to Inn. The property is located at 64 Wildfire Drive in the Rural Residential District. This project requires Conditional Use Review under Article 4, *Specific Use Standards* and Article 5, *Development Review* of the *Warren Land Use and Development Regulations*.

**STAFF REPORT**

Ms. Van Gilder reported that the public warning had run in the Valley Reporter on July 15, 2004.

**PUBLIC INPUT**

Mr. & Mrs. Lindner and Mr. & Mrs. Geiser participated as noted below.

**GENERAL DISCUSSION**

Mr. White came before the board to present the proposed change of use. He stated that he and his wife would like to add more space to their living area for their family. He stated that the property currently is permitted as a Bed and Breakfast and that, as he understands it, the definition has changed and that the definition of Inn fits his property more closely at this time. He stated that he has no plans to do anything differently from what he has done for the past 16 years.

Mr. Brattstrom asked why the property had been classified as a bed and breakfast. Mr. White stated that Miron Malbeouf, Zoning Administrator, had suggested it, but that he did not think it was a particularly good fit. Mr. Monte asked if there were cooking facilities in the rental units. Mr. White said yes.

Mr. Monte asked Mr. White to clarify the uses that are currently on the site. Mr. White affirmed that there were boarders and his rib-smoking/catering operation, which has a home occupation permit.

Mr. Monte read the definition of "Bed and Breakfast" which says, "*A single family dwelling occupied by the owner or operator, in which not more than 5 rooms within the dwelling and/or in an accessory structure located on the same lot, are rented out to provided overnight accommodations to transient travelers. Individual cooking and eating facilities shall not be provided; breakfasts shall be the only meals served and shall be limited to overnight guests. The bed and breakfast shall function as a private home with house guests. (For establishments with greater than five lodging rooms see Inn).*" Mr. Monte also stated that the definition of "Lodge" implies a private club, which does not fit the situation here. Mr. Monte also stated that an "Inn" is less than 15 rooms, while a hotel is greater than 15 rooms.

Mr. Monte asked Mr. White how many rooms were for rent. Mr. Brattstrom submitted the advertisement for the property from the internet, which included one studio, one 5-bedroom chalet, and one 4-bedroom chalet. Mr. White stated that the 5-bedroom chalet is on a separate parcel and that he did not consider it part of this application. He stated that on this property there were 5 bedrooms rented as 2 units.

Mr. Monte confirmed that all of the proposed addition is for the White's personal use.

Mr. Markolf asked if it would be better to bring the 5-bedroom chalet into this application as long as the purpose was to clean up the situation. Mr. Monte stated that since it was contiguous, it could be dealt with as one property. Mr. White stated that the lot the 5-bedroom chalet is on is part of a different subdivision and therefore, with a separate deed. Mr. Monte asked if there was a recorded mylar. Mr. White replied that he assumed there was.

Mr. Monte asked if the proposed changes were only to the residential portion, why the DRB was reviewing the application. Ms. Van Gilder stated that he had applied to the zoning administrator for a permit and that the zoning administrator had denied the application because the property no longer conforms to the definition of a Bed and Breakfast. She stated that the zoning administrator cannot issue a permit for an expansion of a non-conforming use and that the Whites no longer have a "residential" use; they have a bed and breakfast that they live in.

Mr. Markolf asked if there was sufficient septic capacity for the 10 bedrooms on the property (9 rooms and a loft). Mr. White presented the septic permit from the original 10-room lodge, which has since burned down. Mr. Robinson stated that the septic system should be sufficient because it has a bullrun valve.

Mr. Markolf asked for public input.

Mr. Lindner stated that his property abuts the White property and that he has lived there since 1973. He stated that his comments would be a follow up to the letter he submitted to the Town

on July 22, 2004. He stated that he has no objection to the White's enlarging their own home for their own use, but that he wants to make sure that there is no impact on his property. He requested that if the permit were granted that two conditions be included, 1) that there be no outdoor events with amplified music or alcohol, and 2) that there be an adequate vegetative buffer installed between the two properties.

Mr. Monte asked if Mr. Lindner would be disturbed by a barbeque party with a radio playing or if he meant a public music event. Mr. Lindner stated that he would be disturbed in both instances.

Mr. Monte asked if there currently was a buffer between the properties. Mr. Lindner replied that there was not enough there and that the buffer would have to be enhanced with the change of use. Mrs. Lindner stated that she did not have a problem with the White's enlarging their home, but that she is concerned with the Inn designation. She asked what would happen if he sold it and the future owners could use it for parties, music and drinking. Mr. Lindner stated that Burlington has a noise ordinance that includes any music from a party that is audible through walls, on the street, or on another property. Mr. Brattstrom stated that Warren has its own noise and nuisance ordinance.

Mr. Geiser stated that he also had no objection to the Whites expanding their home for their own use but that he had concerns about the Inn designation. He stated that Wildfire Drive runs by his house and that there are often trucks going by to Mr. White's business. He stated that he had concerns about the value of his home being affected by having an Inn next door. He stated that he feels that the conditional use section of the Land Use and Development Regulations does not allow mixed uses with an Inn.

Mr. Monte stated that the White's Bed and Breakfast is grandfathered in as long as there is no increase. He also stated that it is his plan to define the number of rental units and to designate the addition as residential in the permit if it is issued. Mr. Markolf added that if the property is sold, the conditions will run with the property. Mr. Monte stated that any subsequent owners would have to come back before the board to change the conditions and that the adjoiners would be notified.

Mr. Markolf asked if there were any shared mechanical systems between the two properties. Mr. White stated that they were built completely separately.

Mr. Geiser stated that he did not see any of the information in Table 5.1 of the regulations on the application and that he would like to see more information.

Mr. Monte asked Mr. White if he planned to change the exterior lighting. Mr. White said no.

Mr. Monte stated that it appeared that if the property were limited to its existing uses that there would not be a problem and asked the rest of the board how they would like to treat the 5-bedroom chalet. Mr. Brattstrom asked if the properties were treated as one business. Mr. White

said yes. Mr. Markolf asked if there was separate access. Mr. White said that the properties were accessed by different roads and drives. Mr. Brattstrom stated that there would only be extra traffic during construction. Mr. Markolf asked if guests ever drove up to make reservations. Mr. White stated that there is no sign and that people make reservations through the internet and by phone.

Mr. Monte asked the Lindners if they were still interested in screening if there was a limit on noise. Mrs. Lindner stated that there was not a need for additional screening if the usage does not change. Mr. Markolf asked the Whites if they have or plan to have outdoor events. Mr. White said they have family parties. Mr. Monte asked if the guests have parties. Mr. White stated that there were no stereos in the rooms but that people sometimes bring boomboxes with them and that there was a notice asking guests to be quiet after 10 pm.

#### DELIBERATION/DECISION

**MOTION by Mr. Monte, seconded by Mr. Markolf, to impose a condition prohibiting noise from amplified devices after 10 pm and a condition that the new addition shall be for private use only. Only the studio and the 3-bedroom with loft with in the owners' residence will be available for rental. There shall be no commercial use of the owners' residence. VOTE: unanimous; motion carried.**

Mr. Makolf asked what the materials would be. Mr. White said that they would match the existing. Mr. Monte asked what the status of the buffer was. Mr. White stated that there were 50 feet of trees and brush and a fence.

**MOTION by Mr. Monte, seconded by Mr. Markolf , to impose a condition prohibiting cutting trees with a diameter over 4" at chest height except diseased or dying trees on the south boundary. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Brattstrom, to impose a condition prohibiting the owner from providing alcohol to rental guests. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Brattstrom, to find the application complete. VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Markolf, to find that the project complies with §5.3(A)(1). VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Robinson, to find that the project complies with §5.3(A)(2-5). VOTE: unanimous; motion carried.**

Mr. Markolf stated that there would be no changes in the exterior lighting, but that if there were, all exterior lighting in Warren must be shielded.

Mr. Geiser asked if there would be any signs. Mr. Markolf stated that you cannot have off-premise signs in Vermont. He added that the Whites could put a sign on their building but that for any other sign they would have to re-apply.

**MOTION by Mr. Monte, seconded by Mr. Brattstrom, to designate the use of the property as “Inn” subject to the previously stated conditions and to approve the application as submitted. VOTE: unanimous; motion carried.**

Mr. Monte stated that there would be a 30 day appeal period after the decision is signed.

**III. 2004-05-CU BOOHER – 2-LOT SUBDIVISION ON PLUNKTON ROAD (CONT)**

#2004-01-SD submitted by Charles and Sue Booher seeking approval for a 2 Lot Subdivision of 3.0 +/- acres on Fuller Hill Road in the Warren Village Historic Residential District. The applicant would like to subdivide the property into Lot 1(1.5 +/-) and Lot 2 (1.5 +/- acres). This project requires Review under Article 6, *Subdivision Review* and Article 7, *Subdivision Standards* of the WARREN LAND USE AND DEVELOPMENT REGULATIONS.

**STAFF REPORT**

Ms. Van Gilder stated that the project had been continued from May 12, 2004 and June 9, 2004. Ms. Van Gilder stated that on May 12, 2004 the DRB asked Mr. Booher to submit an erosion control plan, note the setback from the stream, and locate the stream on the Ketchel property on the plans.

**PUBLIC INPUT**

There was no public input.

**GENERAL DISCUSSION**

Mr. Booher came before the board to present the project. Mr. Booher stated that the spring is marked on the large plat and the shield is shown in the detail. Mr. Monte stated that the shield is shown on the spring on the southerly side of Fuller Hill on the northeast corner of the property on the plans that Mr. Booher provided. Mr. Booher stated that the “stream” is more of an intermittent water course or drainage ditch.

Mr. Monte stated that Mr. Booher should show the location of the well and the intermittent water course on the final mylar.

**DELIBERATION/DECISION**

**MOTION by Mr. Markolf, seconded by Mr. Brattstrom, to approve the subdivision. VOTE: unanimous; motion carried.**

Mr. Monte stated that the applicant has 90 days to submit the mylar for signatures from the day the DRB signs the decision.

**IV. OTHER BUSINESS**

- a) Review final plan **2004-02-CU Kempf** – Accessory Dwelling in Forest Reserve on Roxbury Mountain Road (final plan review)  
Mr. Kempf came before the board and stated that he was displeased with the work his engineer had done. Mr. Monte stated that the DRB wants to see plans that show a fixed point and tie lines to key corners or trees indicating the dimensions and angles.

**MOTION by Mr. Monte, seconded by Mr. Brattstrom, to approve the project after seeing a final plan showing the key corners of the clearing tied to the boundary pins or some other fixed point within 60 days and subject to signing a mylar. VOTE: unanimous; motion carried.**

- b) Review Decision 2004-02-CU Kempf  
The decision was not reviewed because the final plan had not been satisfactory.

- c) Amend June 9, 2004 minutes  
*This item was not on the agenda.*

**MOTION by Mr. Monte, seconded by Mr. Markolf, to amend the June 9, 2004 minutes to reflect the correct continuation date for the Booher project of August 4, 2004. VOTE: unanimous; motion carried.**

**VI. ADJOURNMENT**

**MOTION by Mr. Monte, seconded by Mr. Behn, to adjourn the meeting. VOTE: unanimous; motion carried.**

The meeting adjourned at 9:00 PM.

Respectfully submitted,  
Karen Van Gilder  
DRB/PC Assistant

**DEVELOPMENT REVIEW BOARD**

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Peter Monte, Chair (date)

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Chris Behn (date)

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David Markolf (date)

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Lenord Robinson (date)

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Eric Brattstrom (date)