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TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
WEDNESDAY MARCH 22, 2006

Members Present: David Markolf, Lenord Robinson and Virginia Roth

Others Present: Wayne Kathan, Laura Crandall, Dorothy Kyle, Eric Brattstrom, Trafton Crandall, Jim Groom, Peter & Susan MacLaren, David Sellers, Tom McHugh, Ken Friedman, Jeff Schoellkopf, Miron Malboeuf and Ruth Robbins.

Agenda Call the meeting to order 7:00 pm

- 1) Review Notes of Site Visits:
 - a. West Hill House, 8:30 AM, 1496 West Hill Road
 - b. Marcia Cohen, 9:30AM, Roxbury Mountain Road
- 2) **Applications #2006-05-CU:** The applicant, Dorothy Kyle seeks a modification of an existing Conditional Use, Inn, Article 2, and Table 2.2(C) (15) and §4.16 (B) Special Events. The applicant seeks to add an Accessory Dwelling by converting an existing structure now permitted by the Department of Agriculture as an Agricultural Use. The applicant also seeks relief from a Front Yard Setback on West Hill Road The property, parcel Id 016003-500, is located at 1496 West Hill Road on 9.0 Acres in the Rural Residential Zone. This project requires review under Article 3, §3.6, (C), (1) Height & Setback Requirements and Article 5 Development Review of the Warren Land Use and Development Regulations.
- 3) **Applications #2006-04-CU:** The applicant, Marcia Cohen, seeks a modification of an existing Sub-division Permit #2002-13-SD and is requesting a Conditional Use to relocate a Single Family Residence located in the Forest Reserve District. The property, parcel Id 001011-903, is located off the Roxbury Mountain Road on 3.6 Acres. This project requires review under Article 2, (Zoning Districts & District Standards), Table 2.1(Forest Reserve District), C (7) and Article 5 (Development Review) of the Warren Land Use and Development Regulations.
- 4) Other Business:
 - a. Review and approve Minutes from February 22, 2006, & March 8, 2006

Mr. Markolf called the meeting to order at 7:08 pm.

- 1- Application #2006-05-CU submitted by Dorothy Kyle seeks a modification of an existing Conditional Use, Inn, to add six special events to the barn. The applicant also seeks to add an Accessory Dwelling by converting an existing structure now permitted by the Department of Agriculture as an Agricultural Use and relief from a Front Yard Setback on West Hill Road.

Mr. Markolf began the hearing for this application by summarizing the site visit that had taken place earlier in the day. He stated that along with himself the only other DRB member was Mr. Robinson as well as Mr. Malboeuf, the Zoning Administrator, neighbor Mrs. Crandall, and the property owners. He recounted how they viewed first hand the stonewall and its proximity to the road, the setback of the barn from the road and did a walk through of the barn's interior.

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 Received for Record 4/20 2006
 at 9:30 o'clock A M and Received in
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Ruth G. Le...
 TOWN CLERK

Mr. Markolf then asked Ms. Kyle for a summary of her application request. Ms. Kyle stated that they had built a new barn on the site of an old barn that had fallen down. Due to timing issues and miscommunications the foundation was installed in compliance with what they believed to be the proper setback of 40 feet from the edge of road, not from the right of way. Since the foundation had already been poured at the point of discovering the error, they went to the State Agricultural Dept and obtained a permit for the barn as an agricultural use structure with an accompanying waiver for the setback requirement.

Ms. Kyle went on to say that she was now requesting approval for a change of use to an accessory dwelling with mitigation from the setback requirement. She also asked a question about the point at which the setback is measured. If the setback is measured from the "bulk" of the building, then there was no problem, stated Ms. Kyle.

As to the change in use, Ms. Kyle pointed out that six or fewer outdoor events have taken place at the West Hill House over the years. The only change would be having a permit to allow those events to take place in the barn. Ms. Kyle added that the barn held less people than an event held on the inn grounds with a tent. The bedroom in the barn is permitted by the State for wastewater purposes but needs a permit from the Town. Ms. Kyle asked if it really should be considered an accessory dwelling as the definition of such indicates a full apartment with kitchen and this was just a bedroom and bath. Mr. Malboeuf said that the defining factor that has been used in the past is whenever the structure includes the capacity for sleeping and since the ordinance did not have an "accessory bedroom" option that it fell into the category of accessory dwelling.

Mr. Markolf then said that the Board would take one issue at a time with the Board's comments first then comments from the public. He started with the setback issue and read the definition of "setback" from the ordinance. The discussion centered on the setback measurement being to the building or to the eave of the building. [the definition states "to the nearest part of a building"] Mr. Robinson said he felt that it should be to the building. Mr. Markolf asked Mr. Schoellkopf, an architect who is also an alternate to the DRB on occasion and familiar with the property, what his interpretation was. After reviewing the definition Mr. Schoellkopf stated that it was the bulk of the building that created the visual impact from the road, and to cut off the overhang just to comply with the ordinance would be a disservice to the Town as it would only make the building less attractive.

Mr. Markolf then asked for any input or questions from the public and limited it to just the issue of the setback. Mr. Crandall spoke up identifying himself as a neighbor who lived about a half mile away. He asked if the change in use request affected the permitted parking? Mr. Malboeuf answered that if they were increasing the number of bedrooms or were going to increase the occupancy of the barn on a regular basis such as an office with staff or as an Inn employee, then the parking would come into play. Mr. Crandall also asked for clarification on the additional apartment. He was told it was only a bedroom that was used for family – not an additional bedroom for the purposes of the Inn – since the owners quarters didn't have a spare bedroom for family they used the bedroom in the barn for visiting kids or relatives. Mr. Sellers spoke up and stated that as a neighbor (next door) and architect that he thought the barn was visually proportionate and typical for barns in Vermont.

The Board then discussed the holding of events in the barn. Events for no more than five (5) days within a calendar year are permitted and permission can be granted by the DRB for events for more than five days [§ 4.16 (B)]. Ms. Kyle explained that historically ceremonies have taken place on the barn side of the property and the reception on the Inn side. With gaining a permit to hold reception type events in the barn, that will keep an event contained to one side of the street.

Ms. Kyle went on to say that holding events on the barn side was more attractive aesthetically and would be smaller as the barn held less people than the tent used on the Inn side. Mr. Malboeuf suggested to the Board that if the barn were to be used for such events that the parking currently in front of the barn should be regulated to some other location during events for safety and congestion reasons. Ms. Kyle replied that the parking could go behind the barn. She also suggested that they could prohibit parking on West Hill Road during events as well. Mr. Markolf asked for any other comments from the Board members. Hearing none, he asked if there were any comments from the public regarding the issue of holding events in the barn and the parking and safety issues involved.

Mrs. Crandall asked for clarification of the number of people the barn could hold. Ms. Kyle stated that they were asking for a maximum of 80 people, which would be for a "stand up" event, otherwise, they could seat eight tables of eight (64) comfortably for a sit down event. Mrs. Crandall asked what the distance was from the road to the barn, and was told it was 28 feet 7 inches. Mrs. Crandall went on to say that in the past she had observed as a neighbor, events taking place in the barn (not permitted?) where people had spilled out into the parking area and were even in the street with a plate in their hand. As such, she was greatly concerned about the safety of events taking place in the barn. Ms. Kyle responded that the event she was referring to was a staff member's wedding. She went on to add that they have an easily erected 20x20 foot tent that they set up in front of the sliding barn doors where they set up the buffet tables. Guests can then move from the food serving area in to the barn with ease.

Mr. McHugh, another neighbor, spoke up and said he believed he witnessed the same event as Mrs. Crandall as he remembered seeing people milling about in the road as if it were the quiet country lane it once was. He also added that he was concerned about safety with the amount of traffic that flows through there. Mr. Markolf asked if this was perhaps an isolated incident. Ms. Kyle said yes, and Mrs. Crandall felt the safety would be an issue anytime you allowed 80 people in the barn as there would naturally be some spilling out into the roadway.

Mr. Friedman, also a neighbor, spoke up and said that with the exception of that one event he had not seen a problem with people in the road. Mr. Sellers, who lives next door, stated that the gardens that have been created between his house and the barn was a natural area for milling that may just need some more management. Mr. McHugh asked how easily accessed the gardens were from the driveway and/or barn as he was not familiar with the grounds. Ms. Kyle stated that there were pathways from both the front and back parking areas as well as the barn. Mr. Schoellkopf stated that he traveled that area frequently and had also done some work on the property. His observations were that with the narrowness of the road, the old tree as a visual clue, that traffic naturally slowed down in that area. He went on to say that the valley needed these kinds of venues. Mr. Brattstrom commented that the intersection of West Hill Road Ext. was going to be improved with the advent of the Lincoln Ridge development and as such the level of the road and resulting sight distance will be improved and will increase safety.

Mr. Robinson asked what the speed limit was on that section of road by the barn and was told that it was 25 mph. With that being the case, Mr. Robinson felt there shouldn't be a problem. Mr. Schoellkopf suggested that maybe additional signage would be in order during events. Ms. Kyle added that it was customary for them to post staff members to aid in directing traffic and to keep people from parking on the road. Mr. Crandall noted that even with the road improvements that with a 25 mph speed limit you still needed to have a minimum 200-foot site distance as per AOT. He went on to suggest that parking in front of the barn might want to be decreased (by two vehicles) to help increase the site lines. In clarifying, Mr. Markolf asked if this was in addition to disallowing any parking in front of the barn during events as suggested earlier. Mr. Crandall said yes, that even if they are already permitted for such parking, that in a "give and take" for some other issues, such as the setback requirement that decreased parking in this area might be justified.

Mr. Markolf then asked for some background on the road, the width of the road, the stonewall, and how it all came about. Mr. (Wayne) Kathan, former Town Garage Foreman and long time Town resident, was asked to speak to the issue. Mr. Kathan stated that back before the Stetson's owned the property the south end of the wall was two feet closer to the road than it is now and the north end was a foot closer. A few years back, [2002?] the old wall was dug up and replaced with a lower wall and a second one behind. The lower wall, as Mr. Kathan explained, made it easier for the plow crew to put snow up over it. Ms. Kyle added that they had spoken with Mr. Kathan when they had planned to replace the wall to get his input. It was also noted that prior to the wall being replaced/moved, the snowplow would frequently knock parts of it down. Since it has been redone the wall has not been disturbed by the plow.

Mr. Sellers noted that the visual signal of the stonewall and flowerbeds was a natural traffic calming cue – it indicated that this was a residential area. Mrs. Crandall brought up that two cars were unable to pass at that point in the road as it was so narrow. Mr. Markolf agreed that it was narrow, but added that if it were widened then it might invite people to drive faster and not slow down.

For the record, Mr. Markolf wanted it noted that a letter was submitted by Mr. Swan stating his concern about traffic and safety with the addition of events in the barn.

The Board then considered the issue of the additional bedroom in the barn. Ms. Kyle stated that the bedroom [10x16] was used exclusively for family whenever there wasn't a room available in the inn. Mr. Malboeuf added that it was not permitted as a bedroom under the Inn permit. Mr. Markolf said he was surprised that the State wastewater division would issue a permit for a bedroom in an agricultural building. Mr. Malboeuf commented that the two divisions don't communicate with one another. He went on to say though, that the Agricultural division clearly states in their regulations that once a structure has a bedroom in it it is no longer considered an agricultural building. In summary, Mr. Markolf said that in essence, the bedroom currently shouldn't be there as it is not legally permitted despite the wastewater permit. Mr. Markolf asked how the situation should be handled. Mr. Malboeuf said he saw two options: either disallow a bedroom in the barn, or consider it an Accessory Dwelling minus a kitchen. Ms. Kyle added that the owner's section of the Inn has only one bedroom. The new owners-to-be have a college aged son who when he comes home will be at the same time (holiday vacations) as potential peak times of the Inn usage, thus the need for another "family" bedroom.

On a side note, Mr. Markolf informed the applicant that there were some outstanding Certificates of Compliance that needed to be taken care of as well. Ms. Kyle said she would be happy to take care of them.

Mrs. Roth asked the question of what the impact was on the wastewater system when they held an event in the barn for 60 to 80 people? Is the system designed for such a use? Mr. Brattstrom answered that though it was one system between the Inn and the barn, that the barn had it's own holding tank purposely for the situation Mrs. Roth just brought up. Ms. Kyle added that even when they have had large groups at the Inn location that even with the addition of port-a-potties that most people came inside the Inn and the system was never over burdened. Mrs. Roth asked if there was any limitation or ruling in their permit that addresses this issue. Mr. Brattstrom replied that he did not know. Mr. Malboeuf suggested that McCain render a professional opinion under his engineer's license that not only covered the time during an event but also full capacity at the Inn.

Mr. Markolf asked if Labor and Industry had reviewed the barn. Mr. Brattstrom answered that yes, Dave Macken had been out to review the property. Mr. Markolf if the Board could get a couple of questions answered: one being Mrs. Roth's question about the wastewater system handling large events, and the second being Mr. Markolf's question as to Labor & Industries report specifically on the barn and it's intended use (all uses).

MOTION by Mr. Markolf that the Board continues this hearing until Wednesday April 19th. At that time the Board will want the answer to the wastewater question, Labor & Industry question and the Certificate of Compliances taken care of. The items discussed that will need some final determination are:

- Parking restrictions, parking during events, two spaces in front of barn relocated
- Signage during events
- Driveway to back lot improved, made more inviting, used as primary parking
- Pedestrian flow indicated on site plan
- “No parking on road” signage

SECOND by Mrs. Roth. **VOTE:** all in favor, the motion passed.

- 2- Applications #2006-04-CU: The applicant, Marcia Cohen, seeks a modification of an existing Sub-division Permit #2002-13-SD and is requesting a Conditional Use to relocate a Single Family Residence located in the Forest Reserve District.

After Mr. Markolf read the warning, Mr. Malboeuf gave a brief history. He pointed out to the Board that this was a pre-existing lot of 3.6 acres located in the Forest Reserve District that was established before the Forest Reserve was enacted. As such, applying the current setback requirements do not really work. He suggested that the Board use *Table 2.1 Forest Reserve District (F) Supplemental Development Standards – Conditional Uses (5) Setbacks* that allows the Board to waive the minimum setbacks if the Board determines that such a waiver would allow for the placement of a structure in a location which more fully complies with the standards set forth in subsection (F)(3) notwithstanding the minimum setback requirements that are set forth in subsection (D).

Mr. Markolf added that they had visited the site and seen where they had cleared based on the original approval; how they had discussed the need for an erosion control plan and a landscaping plan. What specifically needed to be addressed was the inadvertent encroachment on a 100-foot buffer between the previously approved building envelope and the neighbor’s property line. Due to restrictions by the location of the wastewater system and driveway, a slight shift of four to six feet to the West seemed to be the best that could be done.

Mr. Groom, representing the applicant, spoke about the landscaping plan consisting of 31+/- conifers [balsam fir, white spruce and Norway spruce] as agreed upon with the neighboring property owner. He went on to describe the creation of an eight-foot tall retaining wall with the trees planted on the top that would provide the screening requested. It was also discussed that the retaining wall be “stepped” to aid in erosion control, and mix the materials used, such as timber and rock.

MOTION by Mr. Markolf that the Board grants the request for a building envelope modification with the following conditions:

- The applicant shall abide by the landscaping plan as presented in L-4
- An erosion control plan will be submitted and approved by the DRB prior to any further development on the property
- The existing approved building envelope to be extended six feet in a north westerly direction; move four feet in a south westerly direction to maintain driveway and to include the garage and breezeway as shown in the

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modified building envelope (Note: the proposed building moves simultaneously with the movement of the building envelope)

- The retaining wall as shown to be stepped with the lower four feet +/- being constructed of stone and the upper section be landscape ties
- The exterior of the dwelling be the color of natural cedar with a gray, brown or black roof
- All other conditions of the original Garafollo Subdivision approval
- The westerly elevation to be as submitted

SECOND by Mrs. Roth. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that the application satisfies the applicable requirements under Article 5 Development Review and the Conditional Use Standards (B)(1), (6), and (7). **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

3- **Other Business:**

In Other Business the Board reviewed and signed minutes from February 22, 2006, & March 8, 2006.

The meeting was adjourned at 9:35 pm.

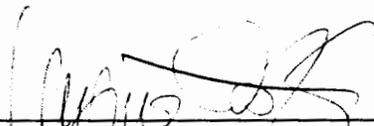
The next two DRB meetings are scheduled for Wednesday April 19th and Wednesday May 3rd.

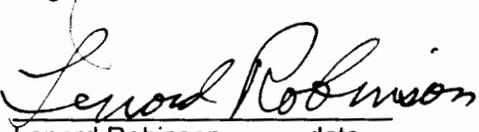
Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

Development Review Board


 David Markolf 4/19/06
 _____ date


 Virginia Roth 4/19/06
 _____ date


 Lenord Robinson 4/20/06
 _____ date