

TOWN O WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
APRIL 19, 2006

000269

Members Present: Peter Monte, David Markolf, Chris Behn and Virginia Roth

Others Present: Susan & Peter McLaren, Laura Crandall, Dave Olenick, Karin Ware, Jeff Swann, Carol Ackland, Ken Friedman, Kathie Friedman, Eric Brattstrom, Mark Flinn, George Hall, Miron Malboeuf and Ruth Robbins

Agenda: Call meeting to order 7pm

- 1) Review Notes of Site Visit to the Bluetooth Parcel
- 2) Continuation of Application #2006-05-CU from March 22, 2006. 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) Application #2006-04-SD, Boundary Line Adjustment. George E **Hall** Jr., Trustee, requests a minor subdivision for his property, located 544 Anne Burns Road, Parcel Id. # 023002-800. Applicant seeks permission to swap 1,200 Square Feet with an adjacent parcel, Id 3 023002-801 on Anne Burns Road, owned by Christine Goulet. This application requires review under *Article 6, §6.2(D) Sketch Plan Review, (E) Boundary Line Adjustment*, of the Warren Land Use and Development Regulations
- 4) Application #2006-05-SD, #2006-06-CU and #2006-03-PRD, Sketch Plan Review, Bluetooth HLP, for Summit Ventures (Bluetooth Property), To be continued to May 17, 2006 at the applicant's request.
- 5) Other Business:
 - a. Review and approve Minutes from March 22, 2006
 - b. Review and sign mylar for Trihy Subdivision

The meeting was called to order at 7:08 pm by Mr. Monte.

- 1- Continuation of Application #2006-05-CU from March 22, 2006, submitted by Dorothy Kyle, West Hill House, Conditional Use Application and Setback relief.

[Ms. Kyle, property owner and applicant was out of town so her husband, Mr. Brattstrom, attended in her absence]

Mr. Malboeuf, Town Zoning Administrator, started off by giving an update as to the status of the outstanding permits and Certificates of Compliance (COC). He stated that the COC process had been started but that due to time constraints a site visit had not been made yet. He went on to explain the complexity of the process due to the number of changes that had occurred over the years that may or may not have been documented. It was also noted that the barn needed to be permitted as if it were a structure yet to be built. Mr. Malboeuf added that the health permits at both the State and Town level were up to date. Mr. Monte asked if the barn wasn't already permitted as an agricultural building. Mr. Malboeuf replied yes, but that a zoning fee need to be paid and a permit issued as a new structure if it was going to be considered under a Town use.

Mr. Brattstrom brought to the attention of the Board the two letters he had acquired and submitted from the last meeting: one from Robert Mackin of the State Division of Fire Safety regarding the use of the Barn for groups of no more than 80 people, and second, a letter from Gunner McCain regarding the capacity of the existing wastewater system for 80 guests. In the letter from Mr. Mackin, he addressed the importance of keeping certain doors clear in case of an emergency and that the bedroom, being used for family, needed as a minimum a smoke and carbon monoxide detector. He also noted that the East floor level is required to have a portable fire extinguisher. Mr. McCain stated in his letter that the existing system does not have the capacity for an additional 64 guests (16 Inn patrons plus 64 equals 80 for a wedding type event) He suggested that either the leach field be expanded to allow for the additional use or that port-a-lets be utilized. Mr. Brattstrom also referred to the map he had brought that illustrated the parking area behind the barn.

Mr. Brattstrom then asked if the Board would allow the soon-to-be new owner of the Inn to take part in the discussions. Mr. Monte said yes, and Mr. MacLaren came forward and made a brief statement. He summarized what it was Ms. Kyle was asking for in her application and highlighted the key aspects. He emphasized that by permitting the barn for events that it was not increasing current operations, just providing an alternative, and that it would allow for the event and the parking to be contiguous on the same side of the road. Mr. MacLaren also noted that their plan was to use the bedroom in the barn solely for either family or Inn staff. It was his hope that the Board would consider using the "bulk" of the building in measuring for the setback, as that would meet the requirement if the Board so granted. They would continue to manage parking during events and utilize portable "lous" as per the suggestion in McCain's letter.

The Board then had a discussion about the letter from McCain and whether to require an expanded leach field or port-a-lets. Mrs. Roth asked about the bathrooms in the barn – it was remarked that even though those could be utilized, that they potentially could be overtaxed and should the system fail it would benefit no one. Mr. Monte asked if the Board had any strong feeling one way or the other – expanded leach field or port-a-lets. Questions continued as to what if any State standards might exist as to how many port-a-lets for how many people and at what size event they should be required.

Mr. MacLaren then summed up his comments by saying that he felt they had received a good level of support from many of the immediate neighbors and that the general feeling was that the West Hill House had done a good job of handling events and made a positive contribution to the Town of Warren. He hoped that the Board would find it in their wisdom to issue the permits requested.

Mr. Monte then asked for questions from the Board after which he would invite questions from the public. Mr. Markolf asked about the Board's request from the previous meeting to illustrate where the pathways were from the parking area to the barn so as to keep guests from wandering back out to the road. Mr. MacLaren answered by going over a map and sharing some photographs with the Board members that showed where the walkways were. Mr. Brattstrom added that there was more than one option, one of which was handicap accessible. Mr. Markolf stressed that it

was equally if not more important that the various pathways be clear and obvious in "real life" so that they are actually utilized. Mr. MacLaren replied that appropriate signage directing guests would not be a problem. Mr. Monte asked where the handing off of keys would take place when valet parking was used. Mr. Brattstrom spoke of what they had done in the past and pointed out a couple of other options. Mr. Markolf wanted to be sure they would not be creating problems they were trying to avoid with traffic congestion and people in the road. Mr. Brattstrom assured him that historically they had always had sufficient staff to keep the cars moving and not create any backups. Mr. Brattstrom also indicated that the lot below the barn held 40+/- cars and that there was an upper lot adjacent to the Inn that held 35+/- cars as well.

Mr. Behn asked whether they were talking about a limit of the number of people for any given event. With the discussion of parking it seemed only reasonable to consider the maximum number of guests that could be accommodated. Mr. Markolf brought up the topic of the parking that was located right in front of the barn. He went on to say that at the last meeting discussion had taken place about relocating two of the spaces to move the parking allocation closer to the barn and away from the road. He added that making the opening off of the road narrower would also be a positive move. Mr. Brattstrom commented that though the area holds six parking spaces that there is actually room for eight cars, thus allowing for some modification to the parking arrangement. Mr. Markolf added that he felt they needed to eliminate the "near street" parking as people have walked out from between cars without being seen in time thus creating a safety hazard. It was discussed that the intent was not to restrict parking but to create a safer environment for pedestrians. A solution that was mentioned was to install planters that would narrow the opening and keep any cars from parking right next to the road.

Mr. Markolf then went on to comment about signage wanting to make sure it was clear as to what may be required. Three areas were noted as needing signage: 1) "no parking on road" signs during events, 2) "valet parking" signs with directional signage as necessary during events and 3) clear designation for walkways from parking lot to barn area during events. Mr. Behn asked if it made sense to limit the events seasonally. Mr. MacLaren replied that with the weather in Vermont being so unpredictable that they would prefer to not be tied to the calendar and maintain some flexibility.

Mr. Markolf added that any grass parking areas needed to be mowed as per fire department regulations – long grass only created a possible fire hazard. Mr. Markolf also asked for clarification that setback requirements also include any parking area yet in this case the parking in front of the barn was permitted prior to the barn being built.

Mr. Monte then asked for comments from the public. Mr. Swann, a neighbor, expressed concern about pedestrian traffic going across the road between the Inn and the barn during events. Another neighbor, Mrs. Ackland, echoed Mr. Swann's sentiments. Mrs. Crandall spoke next wishing the "owners-to-be" the MacLarens well but in turn expressing serious concern about allowing the barn to be utilized for events. She questioned the access to the side gardens from the barn as not being inviting nor easily navigated (especially if wearing wedding attire and women in high heels) and noted that the natural flow appeared to be from the barn out onto the road and presented photos to illustrate her concerns. Mrs. Crandall continued to stress her point noting the narrowness of the road and the ruggedness of the paths around and through the gardens next to the barn. Mrs. Crandall concluded by stating that the current owners built the barn under an agricultural permit yet it houses a bedroom, has been granted septic capacity and the Inn's website clearly advertises the barn's use for something it is currently not permitted for (wedding events). She was especially horrified that a member of the DRB would have such disregard for the Town's zoning regulations and if the Board grants this permit request then they are sending a message that "you can do what you want and then come back and we will give you a permit" which she felt was the wrong message to send.

Ms. Ware and Mr. Friedman, both neighbors, expressed support for the requested permit change allowing events to be held in the barn. They emphasized that it was only six events per year and

they most people seem to know to slow down when passing through that area. Ms. Ware, who has lived in the neighborhood for 35 years said she had never witnessed anything that would cause a safety issue.

Since Mr. Monte was not at the last meeting he asked for further discussion regarding the setback issue. Discussion took place as to whether the measurement should be from the "bulk" of the building or the "nearest part" of the building. Mr. Monte seemed to think that the definition of "setback" that actually refers to the distance measured was the appropriate way to go. As Mr. Markolf pointed out, any flexibility or "gray" area was provided for with the 30% allowable setback relief under Section 3.6 (C) (1) which was already being requested. Mr. Malboeuf, the Town's Zoning Administrator added that for enforcement purposes it was important to be consistent and that the Board has always used the "nearest part of the building" as it's measuring point. Mr. Behn asked when the barn was built. Mr. Brattstrom answered in 2003. It was further offered that the building was permitted as an agricultural building and thus the Town setback regulations did not have to be adhered to.

Mr. Monte stated that he had a problem with approving a traditional use for a non-conforming building. He said he believed it encroached on the setback and was not sure what the possible remedies might be. Mr. Monte did say that he didn't like trashing the appearance of a building just to conform to a numerical regulation, but unfortunately that was their job. Mr. Brattstrom said that was why they were asking to measure to the "bulk" of the building, to which Mr. Behn responded by pointing out that Mr. Brattstrom had been a member of the DRB for many years during which time they had always used the "nearest part of the building" when determining setback measurements. Mr. Brattstrom noted that there was an exception with the buildings built by Riverwatch next to the Seasons where the "bulk" of the building was used for measurement purposes. Mr. Monte clarified that that instance was not an apple-to-apple comparison as that was for a PRD.

Mr. Markolf asked what the intention was for the bedroom in the barn. Mr. MacLaren replied that it would be used solely for family or staff. (The owners quarters in the Inn contains only one bedroom and the MacLaren's have a college age son) Mr. Behn asked when the bedroom was added to the Barn and Mr. Brattstrom said it was in 2003 to which Mr. Behn asked "under an ag use?" Mr. Brattstrom replied that he had gotten permission for it to. Mr. Monte asked "from whom" and was told "the State" (wastewater permit) Mr. Monte asked if it considered zoning issues or just wastewater. The answer was wastewater. Mr. Monte commented that he had never seen a zoning permit from the State and Mr. Behn added that he had never heard of an agricultural bedroom, either. Mr. Monte said maybe a "hired hand" would be allowed to sleep in the barn, but Mr. Malboeuf confirmed that he had verified with the State Agricultural Dept. and they do not allow bedrooms in agricultural structures.

Mr. MacLaren stated that though past history is certainly interesting, the key issue is getting approval under the current Town regulations to improve what he believes is an asset to the town. Mr. Monte said he had some concerns about cutting corners in a situation that arose from the actions of a Board member. He went on to clarify by saying if the applicant was a stranger in front of the Board with the same set of circumstances it could have a different effect on the public perception of how we deal with the application. This makes no assumption of ill motive or intentional bad acts, he added. Mr. Brattstrom replied that the barn had been designed by an architect that is also on the Board and if the application hadn't sat on the Zoning administrator's desk for two weeks then maybe the issue of measuring from edge of road or edge of right-of-way would have been discovered sooner.

Mr. Olenick, attorney for the MacLarens, interjected that the Board had a permit application before them and asked the Board to focus on that and not on who said or did this that or whatever. Mr. Monte concluded by saying that he did not assume bad motives and instead assumed that this was all an innocent mistake on everyone's part. However, that did not change the fact that this was not an appropriate case to be looking to cut corners or vary any from the

strict definition of the ordinance. Mr. Monte added that he didn't know how they could ignore the encroachment, no matter the amount, into the setback.

Mr. Markolf added that he felt there was another possible "loose end" in that the road cut leading into the back parking area was an agricultural curb cut and might need an actual road cut approval from the Select Board. After some brief discussion it was determined that the access was incidental and did not need any further action. Mr. Markolf also raised the question about the status of the Certificates of Compliances on open permits and asked if it were true that they were going to be taken care of the following day. Mr. Olenick also offered that the outstanding Certificates of Compliance could be made a condition of any permit the Board agreed upon. Mr. Monte asked if the Board's action that evening mattered as to the closing or transfer of the property. The answer was yes, as a closing was scheduled for the next day. Mr. Monte said he was unaware of that but that it shouldn't have any effect on the outcome of the hearing.

It was suggested that the Board temporarily recess the hearing on this application and open the hearing on another application that had been patiently waiting. It was determined that all issues had been covered and that the Board could close the public portion of the hearing, recess, hear the next applicant, and then reopen for final deliberations. [NOTE: three letters in support of the requested changes were submitted for the record]

MOTION by Mr. Monte to close public comment and recess the hearing on application #2006-05-CU until later in evening. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

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- 2- Application #2006-04-SD, Boundary Line Adjustment. George E Hall Jr., Trustee, requests a minor subdivision for his property, located 544 Anne Burns Road, Parcel Id. # 023002-800.

Mr. Malboeuf started the hearing by explaining that this application was for a boundary line adjustment for the purpose of adding on to an existing house. The proposed is an equal amount of land being swapped with the adjacent land owner in the amount of approximately .06 acres, each piece to be no greater in size than 25feet wide and 75 feet long unless otherwise agreed to in writing between both parties.

Mr. Flinn, the designer/builder representing the applicant, reviewed the surveyor's map that depicted the proposed boundary line adjustment. The lot numbers were incorrect and would be correct prior to submitting the final mylar and copies. Mr. Markolf asked if there were any dwellings or development on the adjacent lot (#17) to the applicants (#13) and was told no, Ms. Goulet's lot was currently vacant. Mr. Flinn pointed out where the proposed addition and garage would be situated necessitating the boundary line adjustment to allow for conformance with the setback regulations.

In reviewing the required documents it was discovered that the application was not signed by the other party in the land swap, Ms. Goulet.

MOTION by Mr. Monte that a condition on any permit granted by the Board is that within 15 days of said permit, Ms. Goulet must acknowledge her participation in the application in writing. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board finds that the application meets the requirements of *Article 6 Subdivision Review* with the condition that the final plat submitted shows the corrected lot numbers. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board approves the application as submitted subject to the conditions already voted. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte to re-open the hearing on application # 2006-05-CU, Ms. Kyle and the West Hill House Inn barn. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

Mr. Monte began by stating that the hearing would now be closed to further public comment and limited to Board deliberation. Mr. Olenick stated that he hoped the Board would not take an up or down vote without an opportunity to satisfy any remaining concerns. To that comment Mr. Markolf asked how they may propose to deal with the setback issue. Mr. Olenick said that it was their preference that the Board fashion a permit with the condition that they demonstrate compliance by either a revised survey or plans to alter the barn.

Mr. Monte then asked the Board members if any of them saw a reason not to entertain the maximum 30% (or some lesser percentage) setback relief as allowed under *Section 3.6 (C) (1)*. Without much feedback, the Board decided to forge forward with review of the criteria and deal with it when it came up. The Board began with Section 5.3 Conditional Use Review Standards.

MOTION by Mr. Monte that the application would not interfere with the capacity of existing or planned community facilities or services. [*§ 5.3 (A) (1)*] **SECOND** by Mrs. Roth. **VOTE:** all in favor, the motion passed.

Mr. Monte commented on *Section 5.3 (A) (2) Character of the neighborhood or area affected* and said that he didn't feel the application altered the character but did have some effect on *Section 5.3 (A) (3)* which spoke to traffic on roads, specifically Mr. Monte added the pedestrian traffic crossing the road during an event. He went on to say that he really did not think it was a major problem though he did understand the neighbor's concern. It was pointed out that pedestrian traffic may not be a factor for all six events – it was dependent on size and location. Mr. Behn asked for a specific definition of "event". Mr. Markolf offered that it should be anything over twenty people, which was the capacity of the Inn. Mr. Roth asked if there was a definition in the ordinance for "event" or "special event" and was told there wasn't that it was only described under *Section 4.16*.

MOTION by Mr. Monte that for *the purposes of this application* an **event** will be determined as any function where there is a plan for more than 25 attendees and that the applicant is limited to a total of six **events** in a calendar year to be held anywhere on the property. **SECOND** by Mr. Markolf. **DISCUSSION:** The Board then discussed what to do if the owners had a private party, say an anniversary celebration or birthday party of more than 25 people. As Mr. Markolf pointed out, private or not, the Board was trying to mitigate a potential traffic problem. Mr. Malboeuf said he felt that from an enforcement perspective that 25 was too low a number – that might constitute only a dozen cars or so. If you used a higher number it would be obvious. Mr. MacLaren added that their intent was to have the six events primarily during the good weather months and most likely outdoors. **MOTION MODIFIED** by Mr. Monte that an **event** will be determined as any function where there is a plan for more than 30 attendees where the event is located anywhere on the East side of the road (Barn side, inside or outside) or outdoors on the West side of the road (Inn side, outdoors only). **SECOND** maintained by Mr. Markolf. **DISCUSSION CONTINUED:** Mr. Behn asked if there should be a cap as to the overall size of any event. **MOTION MODIFIED** to also limit any **event** to no more than 125 attendees and no more than eighty occupants should the event be held in the barn or a lesser number as per the State Fire Marshall. **SECOND** maintained by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that at any of the previously defined six annual *events* then two (2) port-a-lets will be required unless the applicant has demonstrated the adequate expansion of the existing wastewater system and received Board approval of such. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that during any of the previously defined six *events* the following will be required: 1) temporary "no parking on road signs" on the adjacent roads for a distance of 500 feet from the front of the barn; 2) directional Valet parking signage; 3) parking to be excluded from the front of the barn when the *event* is being held in the barn; and 4) a permanent barrier to be installed at the west end of the two rows of parking between the barn and the road, the plan for which to be reviewed and approved by the Board and then installed prior to the first *event* being held in the barn. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that for each of the previously defined six *events* valet parking will be provided and the point of transfer to the valet will occur at the existing parking area located on the West side of the road. **SECOND** by Mrs. Roth. **DISCUSSION:** Mr. Brattstrom recommended some versatility since no ^{two} low events are the same. Mr. Monte replied that the Board would be willing to consider other approaches when they had the luxury of more time. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that any grassed area utilized for parking will be mowed to normal lawn height. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the vote passed.

Note to the applicant: you *may* need to obtain a curb cut permit from the Warren Select Board for the current agricultural cut that leads to the parking area behind the barn. It is strongly urged that you follow up on this issue.

MOTION by Mr. Monte that with the conditions previously approved the Board finds § 5.3 (A) (3) *Traffic on Roads and highways in the vicinity* as satisfied. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mrs. Roth that § 5.3 (A)(4) *Bylaws and ordinances then in effect* is satisfied by the applicant. **MOTION AMENDED** by Mr. Monte to include the provision that the final decision will not be signed until the Zoning Administrator has determined, within ten days, that a Certificate of Compliance is issued for the existing improvements. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that there is no issue with this application in regards to § 5.3 (A) (5) *The utilization of renewable energy sources*. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that in satisfying § 5.3 (B) (1) *Building Design* the applicant must bring the barn into conformance (prior to the first *event* being held in the barn) with the setback requirement of 40 feet minus the 30% allowable waiver {28 feet} [§ 3.6 (C) (1)] as measured from the nearest point of the building (to include the eaves) to the edge of the Right-of-way as shown on the McCain plan dated 02/17/06. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that §5.3 (B) (2) *thru (11)* is satisfied based on the already voted on conditions. **SECOND** by Mr. Markolf.

MOTION WITHDRAWN by Mr. Monte.

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MOTION by Mr. Behn that no temporary structures placed between the barn and the Town Right-of-Way can encroach into that right-of-way. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that §5.3 (B) (2) thru (11) is satisfied based on the already voted on conditions. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the use of the Accessory Dwelling be confined to 1) staff of the premises, 2) family of the owners of the premises or 3) rentals under written leases for not less than a three (3) month term, and may be only rented after kitchen facilities have been installed to the satisfaction of the Town Zoning Administrator. This Accessory Use only remains in effect as long as the Inn and the barn are in common ownership. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board approves the application subject to those conditions already voted on and the standard conditions. **SECOND** by Mr. Markolf. **DISCUSSION:** Mr. Markolf wanted to make sure it was noted that the drive to the back parking area be made inviting and distinct. **VOTE:** all in favor, the motion passed.

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MOTION by Mr. Markolf that Application #2006-05-SD, #2006-06-CU and #2006-03-PRD, Sketch Plan Review, Bluetooth HLP, for Summit Ventures (Bluetooth Property), be continued until May 17th at the applicant's request. **SECOND** by Mr. Monte. **VOTE:** all in favor, the motion passed. [**Note:** Mrs. Roth recused herself from voting on this application]

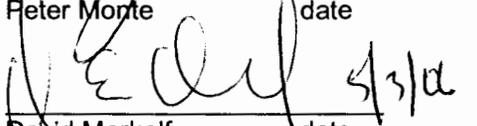
The Board reviewed and signed the Minutes from March 22, 2006 and reviewed and signed the mylar for the Trihy Subdivision.

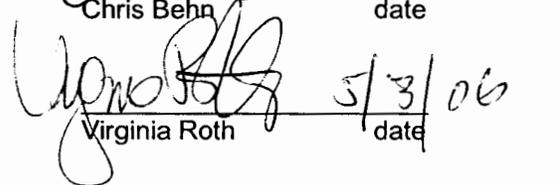
The meeting was adjourned at 10:48 pm.

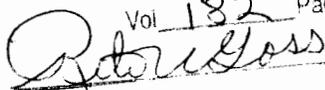
Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

Development Review Board


Peter Monte date 5-3-06

David Markolf date 5/3/06


Chris Behn date 05-04-06

Virginia Roth date 5/3/06

TOWN OF WARREN, VT
Received for Record May 4 2006
at 10 o'clock A M and Received in
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TOWN CLERK