

**Town of Warren
Development Review Board
Minutes of Meeting
Monday April 15, 2019**

Members Present: Peter Monte, Chris Behn, Charlotte Robinson, Virginia Roth and Devin Corrigan

Others Present: Gunner McCain, Nick Logan, Chuck Thibault, Shannon Kellerman, Chris Saunders, Ruth Robbins and Amy Scharges.

Agenda: Meeting Called to order at 7:05 p.m.

1. A **Conditional Use approval and Variance consideration** is requested by applicant, *Allan Spector Retirement Trust, Application #2019-01-CU-VR*, who is proposing the development of a single-family home each on lots 54 and 55 on Upper Village Road, parcel id # 210042. The lots will be accessed through a shared drive through lot 55. The ability to develop the lots is constrained due to naturally occurring steep slopes including both those of 15+% grade and very steep slopes of 25+% grade. This application will be reviewed under the Warren Land Use and Development Regulations as adopted by the Warren Select Board on March 25, 2008 and last amended November 11, 2012. [Article 3 Sec. 3.4 Erosion Control & Development on Steep Slopes; Article 9 Sec. 9.6 Variances and Article 5 Development Review Sec. 5.3 Conditional Use Review Standards].
2. A **Conditional Use approval and Variance consideration** is requested by applicants, *Nick, Christopher and Kathryn Logan, Application #2019-02-CU-VR*, who are requesting an approved Building Envelope and Access Drive for the future development of a single-family dwelling on Two Ponds Road parcel id # 006003-600. Careful site evaluation has determined that the only feasible building area will have impact on both "steep" 15+% and "very steep" 25+% slopes. Additionally, the applicants are requesting 30% front setback relief. A VT State water/wastewater permit for this site has been obtained. This application will be reviewed under the Warren Land Use and Development Regulations as adopted by the Warren Select Board on March 25, 2008 and last amended November 11, 2012. [Article 3 Sec. 3.4 Erosion Control & Development on Steep Slopes; Sec 3.6 (B) Height & Setback Requirements; Article 9 Sec. 9.6 Variances and Article 5 Development Review Sec. 5.3 Conditional Use Review Standards].

Site visits were conducted at 5:30 SPECTOR: UPPER VILLAGE RD – 6:15 LOGAN: TWO PONDS RD

Applicants Christopher and Kathryn **Logan** were considered first on the agenda. Mr. McCain described that the 4-acre lot was in place before any land use regulations existed and by today's standards this lot would not be buildable with the current rule structure. Under his evaluation the configuration for an on-site leach field can be completed relative to proposed house site and drainage requirements. The applicant is proposing a 3,500 sq. ft. building envelope and Mr. Logan's intention is to sell the property, not to build. The variances they are requesting are 1) building envelope on slopes over 25%. They made every attempt to keep the envelope in the most reasonable location and 2) property line setback waiver of up to 30% of a 40' requirement to bring that to 28'.

Ms. Robbins added that the site visit concluded that the site development is doable with the variances. Mr. McCain added that there is no upper watershed to contribute to runoff. Mr. Saunders asked about the property line moving by 12' instead of out of the slope.

Mr. McCain continued stating that existing cisterns were found that served the adjoining condos, but were on the Logan land. There would be a trade easement for the cistern and the new well for the

Logan's. Mr. Behn asked if a flat piece of land was needed for septic over the house site while Mr. McCain indicated that they would be using a pretreatment system to fit the parcel. Mr. Behn asked what the benefit would be to the town and Mr. McCain clarified that there is no requirement in the Variance section of the Ordinance, the lot was created before the rules existed and this was what variances are for.

Mr. Monte asked if the leach field could be contained and Mr. McCain said it could not. Also, Mr. McCain clarified that the 3,000 sq. ft. was for the building envelope, not the square footage of the house. McCain made every attempt at other options for the leach field with Briar Cliff and potentially connecting to their system, but was unsuccessful. As anticipated, Mr. McCain expects that a condition may be in place that requires the applicant to return with a detailed envelope and house design for the DRB for the building approval.

Discussion continued regarding wildlife activity on or near the parcel and possible tree removal requirements. Mr. McCain indicated that the proposed house is in between two existing houses while Ms. Robbins added that there is an avenue for wildlife to move in this area. Mr. Behn asked if the complete septic system would be in place in order to make the property marketable or not. Mr. McCain said they would not build the septic system prior to marketing the property, they would only remove a few trees to open views. Mr. McCain clarified that this lot was created around 1960 and it is not part of an association.

Mr. Monte MOVES that if approved it would be conditioned on a requirement that prior to construction the applicant is required to obtain approval of the DRB of proposed improvements and adjustment of the boundaries of the building envelope to minimize the impact on the steep slopes and other conservation considerations on the property. Ms. Roth SECONDS. Mr. McCain asked if that refers to tree removal and earthwork while Ms. Robbins stated that the DRB requirement is in order to review the building itself. Ms. Corrigan stated that the site was on a steep slope while Mr. Behn said it would have the minimal amount of disturbance for variance, limit tree cutting to maintain the existing steep slopes. Mr. McCain stated that there is a 50' buffer from wetlands which protects any cutting. A reasonable limit to tree cutting was discussed for marketability of the parcel. MOTION was continued, the DRB has the ability to review dimensions and placement of the envelope and the structure size. General discussion continued about the variance approval. ALL IN FAVOR, motion passed.

Mr. Monte MOVES that prior to construction, the applicant is required a DRB approval for erosion control and sediment plan. Mr. McCain offered that and erosion control plan for the construction phase currently exists and Mr. Monte withdraws the motion.

Mr. Behn addressed deforestation and how he was concerned with limiting this for the purpose of maintaining the slope area and boundary line privacy buffers. Mr. McCain clarified the practical limits and regulatory limits of the wetlands while he and the Board reviewed areas of the map and potential cut and clearing locations on the parcel.

Mr. Logan expressed his concern with marketability of the property and the ability to sell the parcel. Mr. Monte stated that the DRB is required to address the variance. The DRB has no intention to encumber his ability to sell but must adhere to the Ordinance in order to make the property marketable. Therefore, the discussion on tree cutting applies only to current cutting for marketability. The DRB approval is applied only to structure location, not design. Discussion continued considering the option to specify the building envelope now as opposed to having them come back to the DRB for site and structure approval. Ms.

Robbins added that the forest reserve is the only place to restrict cutting in the building envelope. Mr. Monte concluded that Conditional Use and Steep Slopes will dictate the need for restrictions and conditions and that the regulatory wetlands condition in place are tough. Lengthy discussion was had regarding the option of having the DRB determine a structure requirement now or have the future property owner come back before the DRB and present their application for a structure on the site.

Ms. Robbins offered general discussion on the DRB process based on the decision to limit the building envelope and how buyers search. Mr. Logan decided to have the buyer come back to the DRB for approval on site and structure.

Mr. Behn asked Mr. McCain 490' contour line and setback to the northerly property line. Mr. Behn MOVES that until the DRB has reviewed the application for approval of structures that there will be no cutting of trees east of the 490' contour line and wetlands. Mr. Monte SECONDS, MOVES to amend to allow cutting of anything anywhere smaller than 6" diameter at chest height. Ms. Corrigan SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES to find that there are unique physical circumstances and that steep slopes occupy the only area for building once they take out septic. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. McCain offered that the occupancy dictates septic ability, not number of bedrooms. Most likely this building will be a ski house so that is taken into consideration. It will be up to the buyer what they decide to propose for the structure and size on the property.

Mr. Monte MOVES that no prospective building can be done within these regulations because of the steep slopes. Ms. Roth SECONDS, ALL IN FAVOR, motion passed.

Mr. Behn MOVES to confirm that Mr. Logan did not create the existing steep slopes. Ms. Robinson SECONDS, ALL IN FAVOR, motion passed.

Ms. Robinson MOVES that the variance would not alter the nature or character of the area, Mr. Monte SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that with conditions imposed, upon further review the granted variance is the least deviation from the zoning regulations. Devon SECONDS, ALL IN FAVOR, motion PASSED.

Mr. Monte MOVES that requirement 6 is irrelevant as they are not in the flood district. Mr. Behn SECONDS, ALL IN FAVOR, motion pass

Mr. Monte MOVES to approve the variances subject to conditions voted on during this meeting. Ms. Roth SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte claims that relative to the waiver, Section 3.6, (C), (1) height and setback requirements minimize intrusion and minimizes the extent of the variance that they will have to exercise. Mr. Behn MOVES that General Stds. Sec. 5.3 (A) items (1-3) are satisfied. Mr. Monte SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that approval will not offend existing communities, character of the neighborhood, and traffic on roads. Ms. Corrigan SECONDS, ALL IN FAVOR, motion passed.

Mr. Behn MOVES that 4 and 5 are not applicable. Mr. Monte SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that reason to provide a 30% waiver of the setback requirements for front yard because that waiver would allow the area of building envelope to allow for construction present the least impact on steep slopes and minimize the variance requirements on the property. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES to grant the waiver of 30% reduction of the front yard setback requirement. Ms. Roth SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES to approve the application subject to the usual conditions and items voted on during this meeting. Ms. Roth SECONDS, ALL IN FAVOR, motion passed.

The application for the Allan **Spector** Retirement Trust was then reviewed by the Board.

Ms. Robbins started by describing the conforming lots that share one access to both lots. This is located on top of Village Rd. and it is not zoned Forest Reserve. Mr. McCain added that they decided to go with the viable solution on top of both lots for building envelope. The bulk of the envelope is in the approved area and approval is needed for drive and garage. Sugarbush does have involvement with this application as a result of sewer use, Margo Wade had been contacted but not available.

Mr. Monte inquired on storm water runoff while Mr. McCain described culvert placement, sediment control and gutters with splash pads for storm water run-off management. Also, the primary surface on the slope is rock leaving no vegetation concerns for the slope. Finally, the fringe areas of the building envelope are where they are in need of a variance. Most of the site is 25% and given the driveway options this is their only viable solution.

Mr. Monte expressed concerns about the footprint being under 2,000' and he added a condition that they require a parking area. Relative to Variances, 9.6, 1-5, Mr. Monte MOVES to condition on each lot that area designated as the proposed garage location, the ground floor of the structure must be for vehicle parking. Ms. Corrigan SECONDS, ALL IN FAVOR, motion passed.

Mr. McCain verified that a retaining wall was not required due to the placement of erosion matting and existing vegetation.

Mr. Behn MOVES that the subject parcel meets the standard of Sec. 9.6 (A) (1) which states that *"there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of the zoning regulations in the neighborhood or district in which the property is located"*. Ms. Robinson SECONDS, ALL IN FAVOR, motion passed. ADDED to motion, the only building sites are steep and can only be accessed by crossing grades in excess of 25% and the encroachment is minimal for the development needs of the property.

Mr. Monte MOVES because of these circumstances the property cannot be developed reasonably without a variance. [Sec. 9.6 (A) (2)] Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Behn MOVES that no unnecessary hardship has been created by the applicant [Sec. 9.6 (A) (3)], Mr. Monte SECONDS, ALL IN FAVOR, motion passed.

Ms. Corrigan MOVES it is not altering the essential character of the neighborhood, [Sec. 9.6 (A) (4)]. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES this variance if authorized would represent the minimum that would afford relief and will represent the least deviation possible from the zoning regulations and from the Warren Town Plan [Sec. 9.6 (A) (5)]. Ms. Robinson SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that Sec. 9.6 (B) is not applicable as they are not in a flood area. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that in light of the findings the Board approves the variance request by the applicant. Ms. Roth SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES to find that the Erosion Control Plan is adequate to deal with special hazards on steep slopes on the site. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Monte MOVES that Sect. 5. All General Standards (A) 1-4 are satisfied, 5 is not relevant. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

Mr. Behn and Mr. McCain discussed the need for any specific wording in the approval relative to Sugarbush and their potential involvement. Mr. McCain clarified that any language required exists through Sugarbush.

Mr. Monte MOVES that the application is approved subject to the usual conditions and items voted on during this meeting. Mr. Behn SECONDS, ALL IN FAVOR, motion passed.

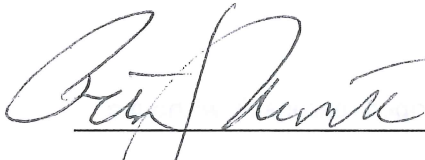
Additional decisions were signed and future meeting details were discussed.

Meeting adjourned at 9:40 p.m.

Respectfully submitted,

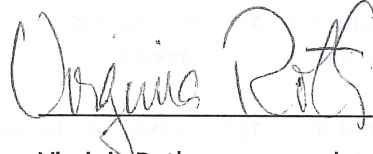
Amy Scharges
Recording Secretary
Development Review Board

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 4/29/19

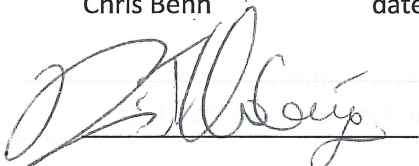
Peter Monte date

Charlotte Robinson date

 4/29/19

Virginia Roth date

Chris Behn date

 4/29/19

Devin Corrigan date