

**Town of Warren
Development Review Board
Minutes of Meeting
Monday November 18, 2019**

Members Present: Peter Monte, Devin Corrigan, Virginia Roth, Jeff Schoellkopf, Chris Behn

Others Present: Ruth Robbins, Amy Scharges, Gerald Jones, Don Marsh, Emily Leighty, Levi Leighty

Agenda: Meeting Called to order at 7:00 p.m.

SITE VISIT @ 3:00 AT 1186 SUGARBUSH ACCESS RD. WILL CONFIRM MEETING LOCATION.

- 1) **THIS APPLICATION WAS CONTINUED FROM THE NOVEMBER 4TH HEARING.** The applicant, **MacLaren Holdings, LLC [DBA West Hill House B&B]**, is requesting to replace a pre-existing non-conforming shed with a two-car garage that would extend back over a terraced slope and measure overall 21' x21'. The property, located at 1496 West Hill Road, grand list number 016003-5, is in the Rural Residential District. This application # **2019-09-CU** 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. 3.8 Nonconforming Structures & Uses and Article 5 Development Review Sec. 5.3 Conditional Use Review Standards].
- 2) Application #**2019-05-SD** by applicants **Levi & Emily Leighty** and Landowners **Norm & Ginger Etkind**, are requesting a 3-lot subdivision of a 12.1 acre lot located 1186 Sugarbush Access Road in the Rural Residential District. The parcel, grand list # 005004-901 is proposed to be divided as follows: lot #1: 3.2A, lot #2: 5.2A, and lot #3: 3.7A. 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 7, Subdivision Standards, Article 3, Sec. 3.4 Erosion Control & Development on Steep Slopes, and Article 5 Development Review Sec. 5.3 Conditional Use Review Standards].
- 3) Review/sign minutes/decisions
- 4) Old/new business

Meeting called to order at 7:00 p.m.

The Applicant, **MacLaren Holdings, LLC (DBA West Hill House B&B)** continued the hearing from November 4th to decide if the conversion of the woodshed into a garage is allowable with the Statute of Limitations contributing to the status of it being legal. Mr. Schoellkopf recuses himself from the Board as he is a consultant for the Applicant.

Prior to the meeting, Mr. Monte had circulated a memo to the Board Members sharing that he feels the Statute does not help the Applicant. The building was required to be lawful at the time of the adoption of the Ordinance, more than 19 years ago. The structure was not lawful when it was constructed having been built inside of the setback. Mr. Monte referenced Sect. 3.8 on pg. 36 of the Ordinance which states, a pre-existing structure can be enlarged if it was legally in existence as of the effective date of the regulations.

Mr. Monte continued that the Board is not authorized to approve the application. Whether the shed is temporary or permanent is not relevant to the Zoning requirements, they both are subject to the same zoning regulations.

Mr. Schoellkopf suggested a possible avenue of considering a variance but it would be difficult to show that it meets the requirements. Ms. Robbins asked if the Applicant attempted to attain a permit, would he be eligible. Mr. Monte claimed that there is not enough space within the setback to consider this option.

Mr. Monte **MOVES** to find that the proposed structure does not qualify under Sect. 3.8 A because it was built 20 years ago without a permit and it was not legal when the Zoning Ordinance was adopted. Mr. Behn **SECONDS**, all in favor **MOTION PASSED**.

Mr. Monte **MOVES** to deny the proposed application. Ms. Corrigan **SECONDS**, all in favor, **MOTION PASSED**.

Mr. Schoellkopf rejoins the Board.

A site visit was scheduled for 3:00 p.m. at 1186 Sugarbush Access Rd for the Applicant's Levi & Emily Leighty, who request a 3-lot subdivision. In attendance were Ms. Robbins, Mr. Monte and Ms. Corrigan. Mr. Behn and Mr. Schoellkopf visited the property on their own time.

Mr. Monte mentioned the 2 upper lot sites that are relatively flat with drop offs, but he did not visit the lower site. DK-the lowest site is most accessible and best for development, drops to the access road as the lowest impact site with minimal amount of clearing. Mr. Monte noticed the deer tracks and inquired if the land was a designated deer yard.

Mr. March found no information or reference on national resource issues on state agency mapping indicating that it is a deer yard, endangered species, wetlands, etc. Mr. Monte followed with a comment stating that it is essentially open forest and not really considered a habitat area.

Mr. Schoellkopf asked if there were any mapped streams or drainage areas, while Mr. March stated that there are wet areas on the property but no real surface water flow. Mr. Behn noticed a shallow trench where supposedly a backhoe operator created ruts.

Mr. Schoellkopf asked what the pitch proposal was for the drive. Mr. March responded with a profile of 11'9.5" and the last section is 12'. It is consistently steep but not excessively so. There will be a hammerhead at the top with 2 pull offs for fire department access as required in the Ordinance. The Applicant has data to demonstrate that they can meet V-71 Stds. as to whether they could make a 30' radius, however it was not available for this meeting. Applicant requested a consideration for a condition for this requirement.

Mr. Behn suggested the Applicant have an easement discussion with the Applicant's neighbors. Mr. Behn identified other areas on the map provided for further consideration for development by the Applicant primarily due to the steep slopes.

Mr. Schoellkopf mentioned that the Applicant's property does not include a house down below and they currently have an easement that does not restrict them from developing. The Applicant claimed that the property started as a subdivision years ago, owners subdivided the house but they never followed through with the actual subdivision. The Applicants provided the easement for reference.

Mr. Monte asked about the width of the right of way. Given the current dimensions, the Applicant will need to make changes in the Deed to reflect the change in the driveway.

Mr. Monte discussed the need for Covenants for the shared cost and potential attorney fees for all the shared infrastructure such as septic, cable, roadway and underground power.

The Applicant addressed the proposed power line on the property to across the road, smaller stage 1 pole and what the suggestions were from GMP for above and below ground. Mr. Monte asked if there was any concern with 1 pole above ground on the steep slope. The best solution is the option of one pole with the remainder underground. Currently, this would need approval relative to the easement.

Mr. Schoellkopf indicate that there are still some items to clean up on the Deed. Mr. Monte asked if the building envelopes were showing and inquired about the grades on the map. Erosion control plans would need to be associated with this application due to the steep slopes on the map. Ms. Robbins stated that the Applicant still needs a Conditional Use permit for development over 15%. Mr. Monte suggested the Board address steep slopes now and make it a condition if approved so the builders will not have to deal with this when they construct.

Mr. March presented points on erosion control for the property, water flow, check dams, absorption and saturation. Ms. Corrigan was concerned with the level of disturbance to build the road 14 days disturbance might be considered too long and 7 days would be more reasonable given the high-risk area. Mr. March talked about the time of year and state suggested time frames for disturbance.

The Applicant questioned incremental construction while Ms. Robbins referred to the State Handbook on stabilization time frame and inspection schedule on the work site.

Mr. Jones, abutter to the Applicant, claimed there is a lot of water on the property and that the proposed road would be very close to his property line while Mr. Monte clarified that there are no setback requirements on roads. The contours require the Applicant to accurately choose road options. The Board cannot deny the application on the grounds of road location, lights, noise, deer and bear activity. The site has several limitations with the steep grades and minimal options for road placement. Ms. Robbins suggested vegetation along the new road to mitigate lights on the neighbor's home with relative driveway traffic.

Mr. Schoellkopf asked about the septic capacity and Mr. Marsh claimed a total of 3, 3 bedroom homes. Mr. March pointed out the best site for septic given setback requirements.

Mr. Behn asked about the schedule of development of the proposed location. The Applicant claimed that they would build the first house site, the road and continue discussion with the neighbors regarding easement before continuing with the current proposed plan. Details on the driveway design, specifications and implementation options were discussed. Mr. Jones revealed that he was not aware of the lots above and that he would consider a purchase option to avoid building on the lots.

Ms. Roth stated that the proposed driveway would be expensive to put in while Mr. Behn offered that the cost issue is the Applicant's concern, the feasibility is the responsibility of the DRB. Mr. March feels that once the driveway is installed, it becomes a low impact feature of the property. Despite the initial cost the project is feasible for the Applicant.

Mr. Monte asked if there is no final plan to approve at this point, if it would be best to raise the issues of concern for the Applicants, clearing obstacles prior to reviewing the sections in the Ordinance.

Mr. Schoellkopf **MOVES** to find that this is a minor subdivision, pg. 73, Art 6.1(C). Mr. Behn **SECONDS**. All in favor, Ms. Corrigan abstains, **MOTION is PASSED**.

After review of the Article, by consensus, the Board agrees to **AMEND** the **MOTION** to change minor to major subdivision. All in favor, **MOTION PASSED**.

Ms. Robbins suggested a general condition for erosion control on designated building envelopes filed with Mylar. This will provide information for whomever is buying or building on the lot. The need to have own their set of description, erosion control plan and compliance was accentuated.

Mr. Behn asked about a minimum/maximum clearing plan while the Applicant said the need for clearing is minimal. Mr. Monte said the Board can impose a condition that the clearing plan be required in the Covenants.

Mr. Schoellkopf suggested since this is found to be a major subdivision, the Board is obliged to vote on preliminary within 45 days of the close of this hearing, approve with modifications or disapprove. Mr. Monte stated that they do not need to address the Ordinance items during this hearing and impose specific conditions and requirements. Mr. Monte proposed that the Applicant to identify the time frame to complete their punch list. Discussion continued regarding the list of options, potential conditions and requirements so that the Applicant can address them prior to returning to the DRB.

Ms. Corrigan listed potential items the Applicant's can address: Trees, clearing, buffer zones on property lines and steep slopes, stormwater plans per building envelope and erosion control, entrance along existing easement that's not in accordance with the verbiage, fire department turnaround space at the top and changes to the electrical poles if desired.

Mr. Behn **MOVES** to continue the preliminary plan review until December 2nd. Mr. Monte **SECONDS**, all in favor **MOTION PASSED**.

Meeting adjourned at 9:00 p.m.

Additional decisions were signed and future meeting details were discussed.

Respectfully submitted,

Amy Scharges
Recording Secretary
Development Review Board

Peter Monte date

Virginia Roth date

Town of Warren
Development Review Board
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Monday November 18, 2019

 12/2/19

Jeff Schoellkopf date

Chris Behn date

 12/2/19

Devin Corrigan date

