

**Town of Warren
Development Review Board
Minutes of Meeting
Monday February 3, 2020**

Members Present: Peter Monte, Jeff Schoellkopf, Virginia Roth

Others Present: Ruth Robbins, Amy Scharges, Daniel Johnson, Joseph Guevara, Willem Jewett, Mark Bannon, Mark Conroy, Joanne Hall, Marjorie Peff

Agenda: Meeting Called to order at 7:04 p.m.

Meeting called to order at 7:05 p.m.

1. Application **2020-01-SD-AM**, submitted by Daniel **Johnson** & Joseph **Guevara**, requests to extend the existing approved building envelope 45 feet southerly. The proposed expansion area was originally contemplated to be used as the driveway and parking area in the original subdivision approval in 2004. The applicants would like the ability to utilize solar renewable energy which this amended building envelope will allow them to do. The property is Lot 3 on Sugarbush Woods Circle, 4.15 acres, and listed as parcel id 006001-900 in the Warren grand list and is in the Rural Residential District. 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 6, Sec. 6.7 (A) (2); Article 7, Sec. 7.2 General Standards]

The applicants purchased Lot 3 permitted with a building envelope, the proposal from the applicants is to extend the building envelope 45' southerly to allow better access for planned solar energy and to avoid cutting mature trees since lot was permitted.

Mr. Monte confirmed that letters to the Board regarding this application had been seen by all attendees. The letters will be part of the record and in the file with this application.

Mr. Jewett, representation for the abutters to the applicants, claimed that the application for permit states a requested extension of 40'. Mr. Jewett also asked for background on the proposed solar resource maximization. Mr. Bannon asked about site attendance. Described the area as on an easterly slope. Driveway up from the south from lot 3 to lot 4, idea to move house site closer to the road to give it more southern exposure

Mr. Jewett inquired if there has been any analysis for the proposed solar. The applicants responded by describing that the architectural firm came for a site visit and analysis for house replacement for solar gain. The applicants have switched to a local architect and they are now in planning phases. Mr. Guevara could not recall the technical details of the initial analysis. The applicant's primary goal is not to disturb any growth or trees. The existing ledge does not have trees and they plan to put solar on the proposed house.

Mr. Jewett asked if the plan was for PV solar. The applicant said yes, but it was still early in the plan. The applicants clearly stated that they do not want to excavate any tree growth areas. What they are proposing will minimize this type of a disturbance and impact.

Mr. Jewett shared that the original approval had a no cut zone of 50' around all boundaries with some exceptions. Some concern was that logging had been done prior to when this was in the no cut zone, arguably a violation issue. The question was then presented, how will this proposal interact with the previously set no cut zone pursuant to the original permit?

Mr. Bannon stated that originally, lot was clear cut prior to development except on steep portion with not many trees left over 20 years ago. On the survey/approved mylar, it identifies a no cut zone surrounding the lot. On lot 3, the no cut zone goes through the building envelope. Mr. Monte states that the verbiage identifies the building envelope as exempt. Note 10 and 11 define cutting requirements on the lot.

History of this area was supposed to be the sewer line to serve lot 4. It is shown on the approved plan that ledge was encountered during installation, therefore the contractor chose to install around the ledge. Now, the sewer line is in back of the lot. This area becomes their drive, no sewer underneath. The proposal is that it is already a disturbed area, allowed to be cut under definition of a sewer line or driveway. In regards to cutting in this area, none exist there now.

Mr. Jewett clarified that his clients deed used in the as-built location, no longer have an easement. The driveway on original map was a narrow. Upon review with his clients they want to try to find a solution. Lot pin locations were sent to Mr. Jewett, 3 pins but put flag with wire. Locating on map/photo provided. Marked extension of the building envelope not where the house was to sit.

Mr. Conroy and Ms. Hall purchased lot with assumption that the building envelope dictated in the lots would be adhered to. The question was presented, with movement of home, does it meet setback requirements? The cut zone was done 2 years ago by the Gadds, not 20 and the applicants were not aware of this. Approved lot 3 illustrates original building envelope, no cut zones, tree growth and trees that were burned and buried in the berm from the original lot. Mr. Monte asked Mr. Conroy to identify the location of reference on the map provided. The applicants clarified the locations of discussion and Mr. Conroy tried to present no cut zones towards their lot and the west side of the property.

Mr. Schoellkopf indicated that there was not a no cut zone showing on the mylar, while Mr. Conroy sourced a larger map for Mr. Schoellkopf to reference accurately. Once provided, Mr. Schoellkopf claimed it did not look near the area and he requested an accurate scale map or in the text of the Act 250 requirements. An additional map for reference was provided, however, Mr. Schoellkopf identified that it was not to scale and did not appear to have a no cut zone near the area of discussion. Mr. Jewett stated that the obligation is on the applicant who wants to extend the zone and show where it does not interact with it. Mr. Schoellkopf agreed however, he clarified that the presented info was not accurate. Mr. Monte understood that if the building envelope was enlarged, no cut becomes an allowed cut area. Mr. Schoellkopf claimed the Board would be required to find that the applicants are allowed to extend that exemption.

Mr. Conroy do we agree there was a sewer line? 25' sewer line. Mr. Monte claimed that the exemptions stated allowed to cut in that area to install utilities. However, when sewer line was moved, it encroached in other no cut areas which have now been cut and open. Mr. Conroy verified the cut zone for sewer and also for their driveway, which is also exempt from no cut.

Mr. Monte-why total amount of no cut zone isn't reduced? Revised drive not long enough to accommodate parking. Probably requires adequate space for parking, if all that happens the no cut zone being affected and reduced. Understand the concern preserving and be aware of how much cutting back on the no cut zone. Not persuasive about the act of sewer cut zone because it became a bigger cut zone.

Mr. Monte asked if the driveway location was on the original. The sewer line is not an issue but the area cut by drive is back in play. Mr. Jewett said there was an intrusion to a certain degree into no cut zone and the cutting that occurred 2 years ago, portion was in the no cut zone. These could be potential violations. Mr. Monte stated that the relevance of unlawful cutting is what provides the solar gain the applicants are proposing.

Mr. Conroy provided a helioscope analysis. Solar resource gets worse as it gets closer to lot 4. They do believe there was encumbrance that they did not know about. Mr. Conroy identified flat area for parking created prior to them owning property. Willing to concede if the applicants move 40' up on flats, they will allow the extension. They do want setbacks and zones for no cut zones adhered to.

Ms. Hall stated that the problems happened with sellers that ruined lot and sold under false pretenses. Her request is that the applicants follow the rules. Mr. Conroy if it becomes more than 40' it becomes an issue for them.

Mr. Monte verified that the abutters do not object to the extension of the building envelope. Mr. Conroy stated they do not object. Mr. Jewett requested a formal process for marking locations that would be acceptable to abutters.

Mr. Schoellkopf asked for visual clarification on the material presented. Mr. Bannon identified the original survey was a logging road and the property line was placed on the centerline of road. Mr. Schoellkopf claimed that the excerpt from the actual survey provided was not clear as to where the no cut zone is on the mylar. It is not a no cut zone as interpreted. General discussion was had regarding what is allowed relative to the 50' no cut zone, if they need conditional use review or another approach.

Mr. Monte stated that the Board should review this under original standards of the subdivision approval process.

Ms. Hall proposed potential direction for landscaping options. The applicants made it very clear that they do not want to cut down any trees or disturb land. Mr. Conroy stated the applicants will have to cut or trim trees 40-50 years down the road.

Ms. Hall asked how many cars will fit with their plan. The applicants stated that they have not moved that far with architect yet, however this is a concern of theirs as well. The existing road does not accommodate pull over, width, required for safety and accessibility.

Mr. Monte stated that the DRB needs to reflect that the burden is on the applicant to show good cause to undo what was initially done. He was not persuaded that it has been shown yet since they are altering the no cut zone and not persuaded to change the original terms of the subdivision. The Applicants solar location options reason for this meeting, the larger concern is no cutting. Having the no cut clearly defined would be helpful. The Applicants do not want to bring in excavation, etc. Mr. Bannon stated there will be some disturbance bringing in longer drive. Could be more intrusive with side slopes, etc. assuming this is least impactful. Mr. Monte responded by stating that this was built into the original process and nothing has changed in this process since 2004. It does not appear to be a reason for the Board to now make a change.

Mr. Schoellkopf said he does not mind reworking the building envelope with amicable neighbors. If a compromised solution as long as it does not offend any other ordinances, it suffices with him. Ms. Robbins asked if it is a possibility to reduce the enlargement of 40' to 20'? Is there a compromise? Mr. Conroy described transformer utility access relative to the extension.

Mr. Schoellkopf led the discussion on the scale of the contour map to determine if the house can stay, possibly change extension layout, exclude issue of no cut zone, etc. perhaps the other option is more intrusive. The Board, Applicants and attendees continued with a detailed review of maps provided with discussion. Favorable direction for discussion would be to minimize width of the envelope and extend it back.

Mr. Monte asked about the enlarge parking opportunity. How do we ensure generous amount of parking? Ms. Hall and the applicant identified reasonable areas to park and reasonable layout for the proposed drive.

Mr. Schoellkopf suggested the Applicants and abutters discuss amongst themselves and come back to the Board. A changed site plan will be needed, identify the number of bedrooms and relative parking spaces. Mr. Monte expressed more concern with traffic on the vicinity. The Applicant clarified having 4 cars and appropriate landscaping are concerns they need to address.

Mr. Monte suggested the Board could vote on a series of conditions and have the applicants prepare a revised plan. It is recommended the applicants narrow up extension for the purpose of the no cut zone. Mr. Bannon attempted to understand the driveway, Mr. Monte enlargement enough to discourage approval of the permit. Mr. Conroy's question is are the applicants able to get enough parking with road not being impacted. With proper stakes in for their observation, they are willing to work with the applicants. Mr. Monte feels that the preservation is enhanced by limiting the size of the building envelope and he did not feel it was necessary to review the no cut zone. Also, only the southern boundary needs to marked with pins. Mr. Schoellkopf made clear that there is recourse if there is a violation of placement of the building envelope.

Mr. Schoellkopf asked the applicants what their preference was on how to proceed. He suggested discussion with the abutters and coming back to the Board most likely will increase possibilities they might vote in favor of the application and to eliminate opposition. The applicants expressed that they also want to talk to builder and architect to be better informed. The applicants agree to show location of driveway, adjustment of the building envelope and will take this into consideration and meet with the architects.

Mr. Monte MOVES to continue hearing to March 2. Mr. Schoellkopf SECONDS, all in favor, MOTION PASSED.

Meeting adjourned at 8:17 p.m.

Additional decisions were signed and future meeting details were discussed.

**Town of Warren
Development Review Board
Minutes of Meeting
Monday February 3, 2020**

Respectfully submitted,

Amy Scharges
Recording Secretary
Development Review Board

Peter Monte date Jeff Schoellkopf date

Virginia Roth date

