

**Town of Warren
Development Review Board
Minutes of Meeting
Monday November 2, 2020**

NOTE: This meeting was conducted electronically via Google – Meet.

Members Present: Chris Behn, Devin Klein Corrigan, Peter Monte (Chair), Virginia Roth, and Jeff Schoellkopf.

Others Present: Ruth Robbins (ZA), Kurt Bergstrom, Griffin Booher, Helen Bridgewater, Morgan Cate, Sean Flynn, Elizabeth Herrmann, Todd Hill, Matthew LaFiandra, Mark O'Connell, Jon Rickard, Pam Rickard, Mike Timbers, Ann Thomae, and Carol Chamberlin (Recording Secretary).

Mr. Monte called the meeting to order at 7:00 p.m.

Some Board members and applicants had participated in site visits earlier in the day. Mr. Monte summarized those visits.

He explained that the proposed accessory structure on the **Frisk** property on Burnt Mountain Road would be the third accessory structure. There a primary residence a separate relaxation house and a barn-like garage with a gym on the second floor. The proposed building is comparatively small and intended to serve as office space; there is no intention for it to serve as a dwelling, although there will be a ½ bath and a loft area. He noted that the new structure does have some sight exposure, and will be visible from Fuller Hill Road and sections of Plunkton Road.

Mr. Monte then recapped the visit to the current **Sullivan** property on the Roxbury Mountain Road. Currently the only structure on this site is an enclosed gazebo; there is a proposed building site at the top of the elaborate driveway that winds up the hill. That site is mostly cleared and offers views. There is a steep grade on the property, but the house site is relatively level. The property rises steeply to the east and northeast behind the proposed house site. The Fire Department has visited the property and has expressed no overriding concerns, but requests that turn-offs be incorporated due to the length of the driveway. The driveway construction was approved in 1999-2000 under interim Forest Reserve Standards; it was built in 2001.

- 1) Application #2020-09-CU submitted by Patrik & Carin Frisk requests approval for the construction of an Accessory Structure to be used as home office space that requires review by the DRB as it is located in the Forest Reserve District. The property is located at 412 Burnt Mountain Road and is PIO# 001011-741 in the Warren Grand list. Mr. Monte opened the hearing for this Application.

Kurt Bergstrom, the contractor for the construction of the proposed structure, was present as a representative for the Frisks. He explained that the owners have obtained a reclaimed 16 x 20-foot barn, and would like to reassemble this structure behind the current garage to serve as an office space, as Mr. Frisk is spending much time working from home during the COVID epidemic.

There were some questions from Board members regarding considerations such as the cost of the construction, lot coverage, setbacks, septic capacity, and the wastewater protection zone. Mr. Bergstrom explained that the seemingly high cost was due to interior amenities, and that there is no extensive grounds work or clearing planned. It was determined that the maximum lot coverage allowance of 2% was not going to be exceeded by the structure and that the wastewater protection zone was not relevant. Mr. Bergstrom noted that he is working with Gunner McCain to determine if any amendment to the existing wastewater permit will be required but does not think this will be necessary as no bedrooms are being added.

Board members expressed concern that no site plan with elevations, property lines/setbacks, building appearance specifics, or building size and location in relation to existing structures had been included in the application materials. Mr. Bergstrom provided a drawing showing elevations via email during the hearing, but this did not depict forest edge or location of existing structures. It was noted that the site was created before the requirement for depiction of building envelopes was in place, so no envelope is shown on any previous materials related to permitting of

structures on the property. It was also pointed out that Conditional Use Review requires a site plan with dimensions to be included with the application, although there is a provision for the Board to accept a less defined plan.

While it was agreed that the property line setbacks were most likely more than large enough (150'), it was decided that a site plan which depicts all setbacks must still be submitted. There was discussion regarding limiting any further vegetation removal along the tree line near the buildings to be limited to dead or diseased trees, and to require that the tree line also be indicated on the site plan. There had been some discussion at the site visit regarding the possibility of requiring some additional plantings for screening purposes, but the Board determined that this would not be necessary. Mr. Bergstrom explained that the proposed structure has been designed to blend in and will be finished in muted tones to match the relaxation house. There was further discussion of the design of the building, which will include a porch and windows. It was requested that this information be included with the site plan, and it was suggested that some photos of the existing tree line would also be useful to have in the record to be available for future reference.

MOTION by Mr. Monte that the applicant be required to obtain any wastewater permit amendment necessary due to the addition of the ½ bath. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Monte that the exterior of the office space accessory structure be finished with a non-reflective black roof and natural wood siding; south and west facing windows must be non-reflective glass or covered with year-round screening. **SECOND** by Mr. Schoellkopf. Some discussion took place regarding whether the porch overhang might mitigate the need for non-reflective windows; it was decided that because of the nature of the site and the downhill exposure, the overhang might not suffice. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Schoellkopf that the structure is not be used as a dwelling, any future change in use must come back for further DRB Conditional Use review. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carried.

MOTION by Mr. Monte that future cutting of trees is forbidden within 100 feet of the northerly and westerly sides of the site that is currently cleared, except in the case of dead/diseased trees. The current tree line must be depicted on a site plan to be filed with and approved by the Zoning Administrator within 30 days of this Conditional Use hearing. **SECOND** by Mr. Schoellkopf. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Monte to condition approval of this application upon the filing within 30 days of the hearing a supplemental site plan which depicts the dimensions of the area to be cleared for the proposed structure as well as all existing cleared area of the site, the plan shall also show the existing tree line. This plan is required to be dimensionally accurate. **SECOND** by Mr. Schoellkopf. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Schoellkopf that the general standards of Article 5, Section 3 (A) have been satisfied. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carries.

There was agreement that the other standards outlined in Article 5, Conditional Use Review have either been satisfied or are not applicable.

MOTION by Mr. Schoellkopf that the Frisk application for Conditional Use for an accessory structure in the Forest Reserve District be approved subject to the conditions outlined at the hearing. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carries.

The hearing for Application #2020-09-CU was closed.

- 2) Application #2020-11-CU submitted by Sadie Dog Properties LLC for the addition of a 449 sq ft 3-season porch on the south side of the Warren Store located at 284 Main Street, PIO# 004-002 in the Warren Village Commercial District [WVC].

Mr. Monte opened the hearing for this application.

Sean Flynn and Morgan Cate were present to represent Sadie Dog Properties, the owner of the Warren Store. Mr. Flynn explained that the purpose of the proposed three-season porch is to help the Store maintain a certain level of business in colder weather during the COVID pandemic. Drawings were presented, depicting the plan to extend the enclosed area covering a 14' portion of the existing deck and going back to the rear edge of the building. No additional seating is proposed; the porch is designed to provide some indoor space for the existing amount of deck seating. Mr. Flynn indicated that there is no other location at the site to reasonably provide an indoor eating area.

Mr. Flynn noted that there is little soil under the proposed porch, rather there is ledge that will need to be pinned to in order to support the construction. He also explained that there is currently little to no vegetation between the building and the stream, and that the plan includes some plantings in that area as well as a swale to direct runoff to a vegetated area behind the building for filtration before running into the river. There are no plans to change the drainage under the deck area.

Mr. Flynn presented a drawing of the existing building and proposed porch, pointing out that the stream setback encroaches on the 50' required, but that the exact encroachment is difficult to determine without knowing exactly what is considered to be top of bank where Freeman Brook runs alongside the building. He noted that a measurement of 26' to 28' was taken from the edge of the proposed porch to a tree located just before the downslope to the stream. The porch would at no point be closer to the stream than the existing deck.

Mr. Schoellkopf questioned whether this application should be reviewed as a variance request, but there was general agreement that the requirements for the necessity of a variance were difficult to satisfy, and that the proposal should be looked at as a change to a non-conforming structure.

No change in use is proposed so the corresponding language of 'same or more restricted nature' in Article 3 Section 3.8 (B) was determined to not be applicable.

There was some discussion regarding whether enclosing the existing deck would provide the indoor eating area being sought without increasing the degree of non-conformity. It was decided that under the definition provided in the Regulations the enclosure of the deck would not cause an increase, and an application to turn the deck into an enclosed space could be approved and permitted by the Zoning Administrator. The possibility was raised of reducing the size of the deck to result in no or little change to the total degree of non-conformity by addition of the porch. Neither of these options was favored by Mr. Flynn or Mr. Cate.

It was agreed that enclosing the deck is not an optimal solution, and the possibility of adding a space to a different side of the building was proposed. Mr. Flynn explained that the dumpster area might be used, but that created further issues such as a larger increase of impermeable space and relocation of the dumpsters to another level area, of which there aren't many available on site.

Pam and Jon Rickard, abutting neighbors on the other side of Freeman Brook, felt that the porch would lead to increased business which would have a negative impact on village traffic, available parking space, and general congestion.

Board members discussed whether the language in the Regulations would allow for non-compliance with the required stream setback. Ms. Roth expressed that this could be treated similarly to other dimensional non-conformity as long as there were no impacts on stream quality or flood potential. Other members felt that there would be an impact from increased impermeable area and that approving this application based on the nonconformity aspect would set a poor precedent. It was generally agreed that river protection is of utmost importance and the stream setback requirements prohibit the Board from approving the proposal as an increase to a non-conforming structure.

Ms. Robbins noted that the stream buffer has always been considered critical for protection, particularly in the village. She offered that this application would need to pass the variance tests to be approved.

MOTION by Mr. Schoellkopf that the application must be denied due to its non-conformance with Article 3 Section 3.13 of the Regulations. **SECOND** by Mr. Behn. **VOTE:** All in favor save Ms. Roth, who voted in the negative. Motion is carried.

The hearing for Application #2020-11-CU was closed.

- 3) Application 2020-12-CU submitted by Todd Hill representing Mark O'Connell and land owner Michael T. Sullivan for the purpose of gaining approval for a modified driveway so that it conforms to current standards [steep slopes] and the establishment of a building envelope with requested set-back relief due to topography. The property is located at 1563 Roxbury Mtn. Road, consisting of approx. 28.4 acres, PIO# 001012 in the Forest Reserve District. The 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 2, Table 2.1 Forest Reserve District and Article 5 Development Review Sec. 5.3 Conditional Use Review Standards].

Mr. Monte opened the hearing for this application.

Todd Hill, Mark O'Connell, and Ms. O'Connell were present. Elizabeth Herrmann, the architect for the O'Connells, was also in attendance. Mr. Hill explained that the O'Connells will potentially purchase the property from Mr. Sullivan, pending approval of this application. He noted that this building site had previously been reviewed by the DRB in 2001, but as a specific house site rather than a building envelope as depicted in this application. The envelope does encroach on the 150' setback required in the Forest Reserve District. The existing driveway was approved in 1999, and then in 2000-01 was reviewed and approved under Conditional Use under the Regulations in force at that point.

The current proposal for the driveway is for increased width at the top, where the proposed building envelope is located, and for construction of pull-outs for safety vehicles. The Warren Fire Department has taken a truck up the road and is satisfied with the proposed driveway plan. A letter from the Department acknowledging this approval was submitted. There was some discussion regarding the need for erosion control and runoff prevention from the construction and maintenance of the wider road section and the pull-offs. Mr. Hill noted that erosion prevention strategies are included in the drawings submitted.

MOTION by Mr. Behn to accept the recommendation of the Fire Department as incorporated into the plan submitted. **SECOND** by Mr. Schoellkopf. **VOTE:** All in favor, the motion carries.

Mr. Hill explained that the setback reduction that is requested allows for building on a more level surface and better south/southwest exposure for the primary dwelling. The area of encroachment is within the 30% allowed for DRB approval and is depicted on the drawings provided. Mr. Hill noted that if the setback reduction is not granted, it would force the house to be located on an increasingly steep grade and provide less protection of the neighboring property's privacy.

Ann Thomae, an abutting neighbor, questioned if this would move the proposed house site closer to her property. It was explained that the property line setback would be at least 105' even with the waiver granted, and that the plan will actually move the house site a little further from her house.

Members of the Board explained that the house construction will also need to come before the Board for Conditional Use Approval, and that there will likely be conditions imposed regarding visibility, such as window glare reduction, screening, and other Forest Reserve District limitations. The O'Connells indicated that they understood the need for this review when they apply for a building permit.

MOTION by Mr. Behn that the Board accepts the recommendations of the Warren Volunteer Fire Department as stated in their letter dated 10/23/2020. Second by Mr. Monte. VOTE: All in favor, the motion passed.

MOTION by Mr. Schoellkopf that the setback reduction be approved as presented; all Conditional Use Standards outlined in Article 5 of the Regulations have been met. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Behn that the driveway alterations and improvements as depicted on the drawings presented to the Board and dated 10.27.20 be approved. **SECOND** by Mr. Monte. **VOTE:** All in favor, the motion carries.

MOTION by Mr. Monte that the Board approves the application for a designated building envelope and the setback relief request. **SECOND** by Ms. Corrigan. VOTE: All in favor, the motion passed.

The hearing for Application #2020-12-CU was closed.

- 4) Application #2020-04-SD: Re-affirmation/re-approval of previously approved application #2016-25-SD, a 2-lot Subdivision, whereas it was recently discovered that the Mylar was filed 9 days beyond the required date. The property is located at 1084 Plunkton Road, PIO 028002-301 and in the Rural Residential District

MOTION by Mr. Schoellkopf to grant the re-affirmation/re-approval as there have been no changes in circumstances and no amendments to the Land Use and Development Regulations that would affect the previous decision. **SECOND** by Mr. Behn. **VOTE:** All in favor, the motion carries.

With no other business before the Board, the meeting was adjourned at 9:49 pm.

Respectfully submitted,

Carol Chamberlin, Recording Secretary

Development Review Board

Peter Monte

Date

Chris Behn

Date

Devin Klein Corrigan

Date

Virginia Roth

Date

Jeff Schoellkopf

Date