

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
AUGUST 8, 2001**

**MEMBERS PRESENT:** Chris Behn, Eric Brattstrom, David Markolf, Vice Chair; Lenord Robinson.

**OTHERS PRESENT:** Sheila Getzinger, Larkin Attorney; John & Judy Phelon, Edwards Abutter; Steve Dollmeyer, Applicant; Margo Wade, DRB/PC Assistant.

**AGENDA:**

- 1) 7:30 p.m. Call to Order
- 2) Public Hearing: Larkin/Edwards – Conditional Use Amendment & Ruling on Pre-Existing Status of a Two-Lot Subdivision
- 3) Public Hearing: Steve Dollmeyer – Variance Review for encroachment into road and river setbacks
- 4) Public Hearing Continuation: Laure McGuire – Conditional Use Review of dog kennel
- 5) Other Business:
  - a) Signing of minutes & decisions

---

**I. CALL TO ORDER**

Mr. Markolf called the meeting to order at 7:40 p.m.

**II. PUBLIC HEARING: LARKIN/EDWARDS – CONDITIONAL USE AMENDMENT & RULING ON PRE-EXISTING STATUS OF A TWO-LOT SUBDIVISION**

Ward Larkin and Charles & Elizabeth Edwards seek approval to amend a condition of a May 16, 1986 Conditional Use Approval, and a ruling on the pre-existing status of a two lot subdivision of the same approval. The project is located on 21.4 +/- acres off the north side of West Hill Road in the Rural Residential District and requires review under Article V. §3. – *Conditional Uses*, of the Warren Zoning Bylaws.

Ms. Getzinger came before the board on behalf of the applicant.

**STAFF REPORT**

Mr. Markolf read the public notice, which ran in the July 19, 2001 issue of the Valley Reporter.

**APPLICANT COMMENTS**

Ms. Getzinger explained the requests and the permit history of the parcels, which was also submitted in writing - titled Addendum to Application for Amendment to Conditional Use Permit and Request for Ruling on Subdivision.

Applicant requests a ruling on the status of a two-lot subdivision of the subject property. Where the two lots (Parcel 1 consisting of 10 acres and Parcel 2 consisting of 11.4 acres, as depicted on a plan prepared by Drown & Marsh, Inc. dated January, 1986 and last revised April 29, 1986)

created prior to the adoption of Town of Warren Subdivision Regulations so that they constitute a subdivision pre-existing the adoption of the regulations, free from any requirements to obtain further subdivision approval prior to conveyance as separate lots.

At the time the 1986 permit was issued (and currently) State approval was not required because the both lots are larger than 10 acres. Therefore, applying the current State requirements and definitions is unwarranted.

The applicant further seeks to amend the 1986 Conditional Use Permit by deletion of Condition #2. Applicants seek such amendment because they feel Condition #2 imposes an unreasonable burden on the developer of the property and is a condition, which may be impossible to satisfy.

At the time of the 1986, review the ZBA did not specifically identify the abutters whose water supplies may be impacted during construction of the road. Applicants seek to identify Phelon and Plewak (then Fleming), who have water supplies at greatest risk. Only the Phelon and Fleming water supplies were referenced in the 1986 meeting minutes.

Ms. Getzinger proposed submittal of an erosion control plan or such other agreement reached between the applicant and abutters, for DRB approval, before road construction to prevent contamination of water supplies, in lieu of testing the water supplies after construction. She pointed out that the Plewak spring is under the paved portion of West Hill Road and Mr. Plewak is unsure if the spring is even in use, and there is a possibility that the abutters would not grant the developer access to water supplies for testing. She also questioned how to test for quantity when that fluctuates throughout the year.

Mr. Behn raised concerns with identifying only the Plewak and Phelons as abutters with water supplies, which could be effected during road construction because other downhill abutters may exist. Ms. Getzinger replied that there are three uphill abutters whose water supplies could not be effected by the construction of a road downhill and that the ZBA in 1986 could not have intended that these water supplies be tested.

There was discussion of abutter notification. The current regulations only require that public notice be posted in the paper and in one prominent location in town, which was the same requirement in 1986. Mr. Markolf requested that all abutters be notified of the amendment.

#### PUBLIC INPUT

Mr. & Ms. Phelon questioned the validity of the subdivision given that it did not meet some of the State subdivision definitions and requirements. Ms. Getzinger replied that no mylar was filed because one was not required to be filed at the time of approval. Town Building and Health permits have been kept alive therefore the owner's intent to develop is clear.

#### DELIBERATION/DECISION

**MOTION by Mr. Behn, seconded by Mr. Robinson given that Town subdivision review was not required in 1986, State subdivision was not required because both lots are larger**

than 10 acres, and Conditional Use approval was granted to create two lots and build a single-family dwellings on each of the lots, therefore these two lots qualify for pre-existing status and require no town subdivision review. VOTE: unanimous; motion carried.

MOTION by Mr. Brattstrom, seconded by Mr. Robinson to amend paragraph 8 of the Zoning Board of Adjustment 1986 Conditional Use Review to specify the testing of downhill abutters' wells (water supplies) before road building to provide a basis for water quality tests after construction. VOTE: 3 yes, 1 no (DM); motion carried.

MOTION by Mr. Behn, seconded by Mr. Brattstrom to waive the testing requirement if an alternative written agreement between the downhill abutting property owner(s) and developer is reached and submitted to the DRB. VOTE: unanimous; motion carried.

### **III. PUBLIC HEARING: STEVE DOLLMMEYER – VARIANCE REVIEW**

Steve Dollmeyer seeks approval to replace and expand an existing non-complying structure. The property is located on the south side of Brook Road in the Warren Village Commercial District and requires review under Article IV. §3.C. – *Variance* in accordance with Article VI §10. – *Streams*, of the Warren Zoning Bylaws.

Steve Dollmeyer came before the board.

#### **STAFF REPORT**

Mr. Markolf read the public notice, which ran in the July 19, 2001 issue of the Valley Reporter.

A site visit was conducted at 7:15 p.m. prior to the hearing. Steve Dollmeyer, David Markolf, Eric Brattstrom and Margo Wade attended. The group toured the site and inspected the existing garage.

#### **APPLICANT COMMENTS**

Mr. Dollmeyer explained that the garage is used as a storage shed and is in need of replacement due to deterioration and rot. The structure sits on pilings, which will also be replaced. The dimensions of the existing structure are 20 feet long by 15 feet wide by 10 feet high with a shed roof. The proposed dimensions are 22 feet long by 18 feet wide by 16 feet high with a gable roof. The existing and proposed dimensions include roof overhangs. The footprint of the pilings will not be changing. The existing structure is set back approximately 10 feet from the edge of Brook Road and is less than 100 feet from the Freeman Brook. The floor of the proposed structure will be level with the road or possibly one foot higher. The floor of the existing structure is greater than 10 feet above the elevation of the stream.

The age of the structure is unknown. It was in existence when Mr. Dollmeyer purchased the property from the Westons in 1990.

#### **PUBLIC INPUT**

There was no public input.

DELIBERATION/DECISION

**MOTION by Mr. Behn, seconded by Mr. Robinson, pursuant to Article IV, §3. – *Variance*, C.1., to find that there are unique physical circumstances or conditions, including existing location of the structures in relationship to the road and stream, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions created by the provisions of the zoning regulation in the neighborhood or district in which the property is located. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Brattstrom, pursuant to Article IV. §3. – *Variance*, C.2., to find that because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by, Mr. Behn, pursuant to Article IV. §3. – *Variance*, C.3., to find that the unnecessary hardship has not been created by the applicant. VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Behn, pursuant to Article IV, §3. – *Variance*, C.4., to find that the variance, will not alter the essential character of the neighborhood or district in which the property is located; will not substantially or permanently impair the appropriate use or development of adjacent property; will not reduce access to renewable energy resources; nor be detrimental to the public welfare. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn, pursuant to Article IV, §3. – *Variance*, C., to find that the variance will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan, because the increase in the size of the proposed structure is minimal. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Markolf to find Article VI, §10. – *Streams*, A.2. a. through c. satisfied, and §10. B. through D. not applicable. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn to grant the road and stream setback variance with the following conditions:**

- 1) The size of the proposed structure will not exceed the overall dimensions of 22 feet long by 18 feet wide by 16 feet high.**
- 2) The location of the proposed structure will be at least 10 feet from the edge of the Brook Road or at the existing setback, which ever is greater.**
- 3) The location of the proposed structure may be relocated no more than one-foot easterly of the existing structure.**

- 4) The exterior finish of the proposed structure will be consistent with the existing dwelling in color and texture.
- 5) During construction, proper erosion control methods will be employed, namely hay bales and/or silt fence, to prevent runoff from entering the Freeman Brook.
- 6) An accurate site plan of the existing structure, including overall dimensions, road and river setbacks, shall be submitted to the DRB assistant prior to demolition.

**VOTE: unanimous; motion carried.**

Because stream setback review was not properly warned and the incorrect zoning district was identified in, the July 19, 2001 notice a second notices will be published and posted by Ms. Wade. DRB signing of the decision will occur at the next possible DRB meeting, in accordance with warning requirements.

#### **IV. PUBLIC HEARING CONTINUATION: LAURE MCGUIRE – CONDITIONAL USE REVIEW FOR A DOG KENNEL**

Laure McGuire seeks approval for a Kennel use designations for a dog day care and overnight boarding facility and a freestanding sign. The project is located on 3.3 +/- acres off Pike Hill Road in the Rural Residential District. The project requires review under Article 3, Section 3.12 - *Sign Requirements*, and Article 5 - *Development Review* of the Warren Land Use and Development Regulations.

Ms. McGuire contacted Ms. Wade, by phone, last week requesting a continuation to allow more time for her to gather the information requested by the board at the last meeting. The next opening on the schedule is September 12, 2001.

**MOTION by Mr. Markolf, seconded by Mr. Behn to continue the McGuire hearing until the evening of September 12, 2001. VOTE: unanimous; motion carried.**

#### **V. OTHER BUSINESS**

- a) Signing of minutes & decisions

Mr. Markolf reviewed the Black/Kronick and Sugarbush Village Transit, Inc. decisions and the July 18, 2001 meeting minutes. The Black/Kronick and Sugarbush Village Transit, Inc. decisions were approved and signed.

**Motion by Mr. Behn, seconded by Mr. Robinson to approve the August 18, 2001 meeting minutes. VOTE: unanimous; motion carried.**

#### **VI. ADJOURNMENT**

**MOTION by Mr. Behn, seconded by Mr. Brattstrom to adjourn the meeting. VOTE: unanimous; motion carried.**

The meeting adjourned at 10:10 p.m.

Respectfully submitted,  
Margo B. Wade  
DRB/PC Assistant

**DEVELOPMENT REVIEW BOARD**

---

Chris Behn (date)

---

Eric Brattstrom (date)

---

Lenord Robinson (date)

---

David Markolf, Vice Chair (date)