

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
AUGUST 23, 2000**

- MEMBERS PRESENT:** Chris Behn, Eric Brattstrom, David Markolf, Vice Chair; Peter Monte, Chair; Lenord Robinson.
- OTHERS PRESENT:** Gunner McCain, Saltzman representative; Bob Messner and Ron Webster, Saltzman abutters; Russ Bennett, applicant; James Plumpton, applicant; Margo Wade, DRB/PC Assistant.
- AGENDA:**
- 1) 7:30 p.m. Call to Order
  - 2) Public Hearing Continuation: Behn 2-Lot Subdivision
  - 3) Public Hearing: Saltzman 6-Lot Subdivision
  - 4) Public Hearing: Bennett – Change of use – Cond. Use Review
  - 5) Initial Meeting: Plumpton 2-Lot Subdivision
  - 6) Other Business:
    - a) Monteverede First Corp – petition for conditional use review
    - b) Keir mylar – extension request
    - c) Sugarbush Meadow – landscaping condition - extension request
    - d) Woods Lot Line Adj. mylar – approval
    - e) signing of 8/9/00 minutes and Behn Decision

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**I. CALL TO ORDER**

Mr. Monte called the meeting to order at 7:45 p.m.

**II. PUBLIC HEARING CONTINUATION: Behn 2-Lot Subdivision**

Peter and Pam Behn seek approval for a 2-lot subdivision of 19.5 +/- acres, and waiver of subdivision hearing requirements, by way of combining the initial meeting and warned public hearing. The subdivision consists of Lot 1 (10.5 +/- acres), and Lot 2 (9 +/- acres). The property is located off the east side TH#25 (Behn Rd.) in the R-2 (Rural Residential) District.

Mr. Behn & Mr. Monte recused themselves, but were present in the audience. Mr. McCain and Mr. Behn came before the board on behalf of the applicants.

**STAFF REPORT**

Mr. Markolf stated that this was a continuation of the August 9, 2000 meeting.

**APPLICANT COMMENTS**

Mr. Behn submitted suggested changes <<**in bold**>> to the conditions as approved at the 8/9/00 meeting, which included:

- 1) The house site on Lot-2 will be setback at least 80' from the stream, which also includes 40' "no cut / no grading change" buffer measured from the centerline of the stream (in a northerly direction) towards the proposed house site. << **I would prefer that the 40' "no cut" zone be defined as: 'no cutting of trees larger in diameter than 2.5" unless dead or diseased'**>>

- 2) The house site in Lot-2 will be setback 75' from the northerly boundary with the Cunningham lot, which will also include a 50' "no cut" buffer measured from the northerly boundary (in a southern direction) towards the proposed house site. <<**I would add to "no cut" zone: 'unless dead or diseased'**>>
- 3) The clearing of Lot 2 is limited to one acre to accommodate the house site and septic disposal areas. A one-acre clearing limit is not acceptable, there is approximately 4 acres of soft wood timber that is ready to be harvested and we intend on doing so. <<**I don't believe that this restriction would prevent me from the agricultural use of harvesting trees, none the less I would prefer for it to read: 'clearing shall not exceed ½ of the total acreage of the lot and shall have a minimum 25' no cut except dead or diseased zone on all boundary lines'**>>
- 5) There will be no further subdivision of Lot 1 or Lot-2 due to poor access and the added burden placed on the Town to improve the access if more development was allowed. <<**Lot #1 is currently under contract with a closing imminent. There was no proposal to restrict further sub division on lot #1. Placing a restriction on lot #1 at this late date would jeopardize the validity of the purchase contract and consequently the sale of the property. I have investigated lot #1 for subdivision potential. There is very little chance that further septic disposal could be found, thus unlikely that any further subdivision could occur. On a further note, I am personally not in favor of placing these types of restrictions on large properties. This town is moving rapidly toward the point of not having any affordable property (i.e. smaller size lots) and we have to be very cautious not to further aggravate this trend.**>>

Mr. McCain pointed out that a 25' "no cut" buffer zone on the common boundary between Lot 1 and Lot 2 would inhibit the placement of the proposed structure on Lot 2 in the northwest corner of the lot, which is the boards preferred location. Therefore he recommended that the "no cut" buffer not be placed on that common boundary between the two lots. The placement of the house would abide by the 25-foot setback. In all likelihood the Lot 1 owner would probably not cut the trees down to the common boundary with Lot 2.

#### PUBLIC INPUT

There was no public input.

#### DELIBERATION/DECISION

The board agreed to amend the conditions as suggested including the removal of the Lot 1 and Lot 2 common boundary from the 'not cut' buffer zone. The 25-foot setback on that boundary will be honored.

**MOTION by Mr. Robinson, seconded by Mr. Brattstrom to amend the Behn subdivision conditions as discussed. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Brattstrom to approve the Behn 2-Lot subdivision as amended. VOTE: unanimous; motion carried.**

**III. PUBLIC HEARING: Saltzman 7-Lot Subdivision**

Richard Saltzman seeks approval for a 7-lot subdivision of 50 +/- acres located off the west side TH#2 (East Warren Road) in the R-2 (Rural Residential) District. The lots range in size from 1.5 +/- acres to 20.5 +/- acres. The project has been classified as a major subdivision and will be review under provisions of the Warren Permanent Subdivision Regulations.

Gunner McCain came before the board on behalf of the applicant.

**STAFF REPORT**

Mr. Monte read the public notice, which ran in the August 3, 2000 issue of the Valley Reporter.

A site visit was conducted at 6:45 p.m. before the public hearing. Chris Behn, Eric Brattstrom, David Markolf, Peter Monte, Lenord Robinson, Gunner McCain, Bob Messner, Ron Webster, and Margo Wade attended. The group inspected the proposed location of the barn, development road and driveways, house sites on Lots A, B & C, common septic disposal area, western boundary for Lots A & B, existing open meadowland, and general location of the western meadowland boundary, which is within the forested portion of the parcel.

**APPLICANT COMMENTS**

Mr. McCain explained that the out parcel would be divided into 3 lots, which will be merged with the adjoining Messner lot and two Webster lots.

Mr. McCain submitted proposed out parcel deed language, which requires the merger of the out parcels with the grantee's parcel. The board added language requiring DRB approval if the grantee(s) wish to sell, divide or develop the out parcel.

The existing open meadowland will be maintained and kept open in its current meadowland state. The edge of the tree line, as of 1996, and the existing tree clumps, as indicated on the site plan, will be the demarcation of the open meadowland. The allowed development, within the meadowland, will include the proposed development road and driveways, barn, and pond.

It is the applicant's intent to harvest the marketable timber on the parcel, achieve possible eastern view on the lots, and to clear 1 to 2 acres house sites. It is not the applicant's intent to clear cut the proposed lots. The board requested that the applicant work on language specifying appropriate screening for the proposed houses, which will minimize the possible visual impact from the East Warren Road.

Visual impact of the project will be minimal from the East Warren Road, but greater from the Roxbury Road and ridge.

The board discussed the possible need for a buffer along the north, south and west boundaries of the parcel. Mr. Messner pointed out that the purpose of the out parcels is to create forested protection area between the proposed subdivision and the Messner and Webster parcels.

The tree line along the Wadhams and northerly properties will be maintained.

The Webster and Messner boundaries will be indicated on the site plan.

The board determined that the project also requires Conditional Use review for development in the meadowland.

The final hearing and Conditional Use review was scheduled for October 4, 2000 at 7:45 p.m.

When and if the pond is constructed a permit application will be submitted the ZA.

Further submittals include:

- barn drawings
- fire dept. recommendations
- proposed deed language indicating that no further subdivision will be allowed on the lots
- proposed house screening language
- open space provisions
- common land and barn agreement

**IV. PUBLIC HEARING: Bennett Change of Uses - Conditional Use Review**

Russell Bennett seeks approval to expand an existing use and increase the number of permitted uses at the property formerly known as Little John's. The project is located on 1.25 +/- acres off TH#5 (Sugarbush Access Road) in both the R-5 (Vacation Residential) and R-2 (Rural Residential) Districts. The project requires review under Article V § 3 – *Conditional Use Review* and Article V § 4 – *Site Plan Approval* of the Warren Zoning Bylaws.

Russ Bennett came before the board.

**STAFF REPORT**

Mr. Monte read the public notice, which ran in the August 3, 2000 issue of the Valley Reporter.

**APPLICANT COMMENTS**

Mr. Bennett explained the project. Currently the building is permitted for two uses – retail and professional office. The size of the parcel is 1.24 acres. In 1996 the Planning Commission approved a 100' adjustment of the R-5/R-2 District boundary partially enabling the mixed use of the building.

Mr. Bennett initial requested an expansion of the retail use into the second floor and the creation of a residential apartment on the third floor. To allow for the apartment would required a variance from the current allowable uses in the districts. This hearing was not warned for a variance review. Mr. Bennett respectfully withdrew the request for the apartment.

Mr. Bennett stated that the expansion of the retail use will not change the current traffic patterns from the existing uses, nor will it increase the intensity of uses.

PUBLIC INPUT

There was not public input.

DELIBERATION/DECISION

Article V, § 3 – *Conditional Uses*

**MOTION by Mr. Robinson, seconded by Mr. Behn that the expansion of the retail use will not adversely affect the capacity of existing and planned community facilities. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn that the expansion of the retail use will not adversely affect the character of the area. VOTE: unanimous; motion carried.**

**MOTION by Mr. Robinson, seconded by Mr. Brattstrom that the expansion of the retail use will not adversely affect the traffic on roads and highways in the vicinity. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Brattstrom that the expansion of the retail use will not adversely affect the bylaws in effect. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Behn that the expansion of the retail use will not adversely affect the utilization of renewable energy resources. VOTE: unanimous; motion carried.**

The septic system exists, and will not be changed, which at one time handled the capacity of a 110-seat restaurant.

**MOTION by Mr. Behn, seconded by Mr. Robinson that the expansion of the retail use will not result in the harmful discharge of waste into surface of subsurface water systems VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Brattstrom that the expansion of the retail use will not violate any of the standards in Article V § 7. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Brattstrom that the conditions imposed by the Warren Zoning Board of Adjustment February 7, 1996 Conditional Use/Variance Review, and the Warren Planning Commission January 29, 1996 Site Plan review shall be carried forward with this decision, unless, herein, superseded. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Behn to approve the expansion of the retail use as requested, and to allow the use of the premises for retail and/or profession office use in such proportions as the owner so chooses from time to time. VOTE: unanimous; motion carried.**

**V. INITIAL MEETING: Plumpton 2-Lot Subdivision**

James and Joyce Plumpton seek approval for a 2-lot subdivision of 19.0 +/- acres. The subdivision consists of a 14.3 +/- acre parcel and a 4.7 +/- acre parcel. The property is located off the east side TH#6 (German Flats Rd.) on Hamilton House Drive with the majority of the lot located in the R-5 (Vacation Residential) District and portions in the R-2 (Rural Residential) and C-2 (German Flats Commercial) Districts.

James Plumpton came before the board.

**STAFF REPORT**

Mr. Monte explained that this was the initial meeting for the subdivision request.

**APPLICANT COMMENTS**

Mr. Plumpton explained the project. The 14.3-acre parcel will be sold as a developable lot. The 4.7-acre parcel will be retained by the Plumptons, who have no current plans to develop. The smaller parcel has three existing wells located on it. The rights to one well belongs to the South Face Condominiums, the two remaining well rights belong to the Plumptons. The placement of the proposed interior boundary line aligns with the topography of the land. The 4.7-acre parcel is so configured to allow access to the upper portion of the lot from the existing right-of-way through the Sugarbush Inn parking lot. The lower portion of the 4.7-acre lot is designated wetlands.

Mr. Plumpton is in the process of acquiring the necessary State permits. He is requesting a deferral of permit for the 4.7-acre parcel.

**PUBLIC INPUT**

There was no public comment.

**DELIBERATION/DECISION**

**MOTION by Mr. Monte, seconded by Mr. Behn to classify the project as a minor subdivision. VOTE: unanimous; motion carried.**

The boards concerns with the projects include:

- the access to the upper portion of the 4.7 acre parcel through the wetlands
- if approval is granted with proposed configuration the Town would be forcing the State to allow access across the wetlands
- the shape of the 4.7 acre parcel is convoluted to maintain access

The board recommends that the applicant explore attaining a right-of-way to the 4.7 acre parcel from South Face or allow for a right-of-way across the 14.3 acre parcel.

**V. OTHER BUSINESS**

a) Monteverede First Corp – petition for conditional use review

b) Keir mylar – extension request

In response to Lauren Kolitch’s August 18, 2000 letter, the board requested a memorandum of law that confirms where the board’s authority exists to grant an extension of the mylar filing deadline. The board believes that the 90-day requirement is statutory and questions their ability to grant an extension. They further feel that a formal amendment of the permit would need to be sought to grant that request.

c) Sugarbush Meadow – landscaping condition - extension request

The board determined that the applicant would need to apply for an amendment to change the condition requiring the landscaping be completed in the spring of 2000.

Mr. Behn and Mr. Monte departed at 10:45 p.m.

d) Woods Lot Line Adj. Mylar

The Woods mylar was approved and signed.

e) signing of 8/9/00 minutes and Behn Decision

**MOTION by Mr. Robinson, seconded by Mr. Brattstrom to approve the August 9, 2000 minutes as submitted. VOTE: unanimous; motion carried**

**VI. ADJOURNMENT**

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

The meeting adjourned at 10:50 p.m.

Respectfully submitted,  
Margo B. Wade  
DRB/PC Assistant

**DEVELOPMENT REVIEW BOARD**

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Chris Behn (date)

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Eric Brattstrom (date)

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Lenord Robinson (date)

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David Markolf (date)

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Peter Monte, Chair (date)