

**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
MINUTES OF MEETING  
JANUARY 19, 1999**

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

**OTHERS PRESENT:** Jason Heroux, Kier representative; Bob Messner, Warren Selectboard; Jim Sanford, Bill Maclay, Helmut Hietzker, Kier abutters; Margo Wade, DRB/PC Assistant.

**AGENDA:**

- 1) 7:30 p.m. Call to Order
- 2) Public Hearing: Keir 3-Lot Subdivision
- 3) Other Business:
  - a) signing of minutes, Kingsbury decision and mylar
  - b) re-schedule Della Monica hearing to 2/9/00 at 7:45 p.m.

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**I. CALL TO ORDER**

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

**II. PUBLIC HEARING: KEIR 3-LOT SUBDIVISION**

Helen C. Keir Trust, Jack Keir, and Jason Heroux seek approval for a 3-Lot subdivision of 364 +/- acres and waiver of preliminary hearing requirements, by means of combining the initial and warned meetings. The subdivision consists of Parcel 2 (361 +/- acres), Parcel 3 (6.6 +/- acres), and Parcel 4 (1.1 +/- acres). The property is located on Plunkton Road in the R-2 (Rural Residential) District. The project will be reviewed under provisions of the Warren Permanent Subdivision Regulations.

**APPLICANT COMMENTS**

Mr. Heroux detailed the project.

- The submitted map is a site plan. Due to the size of the parcel a survey will be submitted once the subdivision is approved.
- The purpose of the project is to move Blueberry Lake into public hands. The Trust for Public Lands (TPL) will purchase Parcel 2 (approximately 370 acres), who in turn will transfer Parcel 2 to the Forest Service. July 30<sup>th</sup> is the anticipated date of transfer of lands from Kier to TFP.
- Parcel 3 consists of approximately 6.6 acres, the existing farmhouse and services. This lot will not be further developed or subdivided. This parcel will also be transferred to the TPL.
- Parcel 4 consists of approximately 1.1 acres and the dam. This parcel will remain under Keir ownership until a suitable owner is found to undertake the logistics and liability of the dam.
- None of the three parcels will be further developed.
- Amendment of the Act 250 permit is contingent on the approval of the subdivision. An extension of the 90-day mylar submission requirement may be requested if Act 250 proceeding as moving slowly.

- Applicant requests a condition that final approval be contingent on the submission of the final subdivision survey.
- Parcel 1 consists of 130 acres located on Prickly Mountain, which is part of the overall picture but not part of this subdivision. Parcel 1 may at sometime also be sold to TPL and then transferred to the Forest Service or Roxbury State Forest
- Approval shall be conditioned on the transfer of all three parcels should the transfer not occur the 3-Lot subdivision would be invalidated.

Mr. Messner, speaking on behalf of the Selectboard, stated that the Selectboard has been in support of transferring Blueberry Lake into public hands since the late 1980's. The Selectboard is currently researching ownership possibilities for the dam, and is confident that an acceptable solution will be found. The Selectboard has concerns should the dam remain under Keir ownership. The Town is contributing monies to the TPL to assist in the purchase of the lake parcel.

Mr. Heroux stated that the transfer of the lake is contingent on the transfer of the dam. Mr. Keir does not want to retain ownership of the dam. Mr. Heroux is also exploring ownership possibilities for the dam. He is currently exploring possibilities of joint ownership between the Vermont Agency of Transportation, the Town and other conservation groups.

There was discussion about the ownership and liability issues pertaining to the dam; about the owner/entity's ability to maintain the dam as a dam; the Town's interest in the road on the dam; current condition of the dam; and maintenance possibly needed within the next 8-10 years.

#### PUBLIC INPUT

Mr. Maclay, as the down stream abutter, voiced his concern with the continued maintenance of the dam and the need for a suitable owner for the dam.

Mr. Sanford had questions regarding stipulations in his deed concerning the water level of the lake. Whether the requirements ran with the land, and who would be responsible for maintaining the water level. Mr. Heroux replied that the requirements did run with the land, and the new owner of the lake and/or dam would be responsible for maintaining the water level.

#### DELIBERATION/DECISION

##### Article II § (2) - Discussion Phase

**MOTION by Mr. Monte, seconded by Mr. Behn to grant the request to waive the hearing requirements by way of combining the initial meeting with the warned hearing. VOTE: unanimous; motion carried.**

**MOTION by Mr. Behn, seconded by Mr. Markolf to classify the Keir 3-Lot subdivision as a minor subdivision. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn that the project conforms to the Town**

**Plan, Zoning Regulations, and the Capital Budget and Program. VOTE: unanimous; motion carried.**

**MOTION by Mr. Markolf, seconded by Mr. Behn to deem the application complete, subject to conditions contained herein. VOTE: unanimous; motion carried.**

Article IV § (1) - General Planning Standards

**MOTION by Mr. Markolf, seconded by Mr. Monte that the character of the land will be unchanged considering there will be no further development and/or subdivisions, and the land will be used for the intended purposes of a lake, a dam, and a house lot.**

**VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Markolf that the lot layout is appropriate for the project. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Robinson that existing features will be preserved conditioned upon the transfer of Parcel 2 to the Trust for Public Lands within 12 months of this decision. VOTE: unanimous; motion carried.**

**MOTION by Mr. Monte, seconded by Mr. Markolf that we find:**

- 1) The Town Selectboard is committed to preserving the dam
  - a. to retain and preserve the lake, and**
  - b. to assure the safety of its highway on the dam and the properties downstream.****
- 2) The Selectboard has effective control of the transfer of Parcel 2 to the Trust for Public Lands because that transfer depends upon the Town contributing money to the transaction. The Town can withhold its funds at its election.**
- 3) The Town thereby has the power to defeat the transfer of Parcel 2 to the TPL by withholding the Town's financial contribution. The Town will defeat the transfer of Parcel 2 to the TPL if the Selectboard is not satisfied that the dam's ownership is placed in responsible hands, and that the eventual owner will assure the Town's objectives of preserving the lake and the safe maintenance of the dam.**
- 4) If Parcel 2 is not conveyed to the TPL within 12 months, then this permit will become void because of the permit condition approved above by the DRB.**
- 5) It will take additional time to determine what responsible owner will acquire the dam. State and other institutional agencies are actively working to identify that owner. It is likely that all of the details of the dam's ownership will not be decided until the eve of the time deadline for the transfer of Parcel 2 to the Trust for Public Lands. The Warren Selectboard is actively participating in the process to approve who will be the dam's eventual owner, what obligations the owner will assume to**

maintain the dam, and what resources the owner will have to protect to dam's future.

- 6) A delay in the local permitting process may place public ownership of Blueberry Lake at risk because other actions depend on the Warren subdivision permit's granting, and there is limited time available to complete the complex steps required for the transfer.
- 7) The DRB will rely on the Selectboard to assure that the final arrangements to preserve the lake and protect the dam will satisfy the relevant public interest and safety concerns.

**VOTE: unanimous; motion carried.**

Article IV - Planning and Design Standards § (2)-(11)

**MOTION by Mr. Behn, seconded by Mr. Monte that Article IV § (2) through (11) have been satisfied because the ultimate goal of this subdivision is to gain public access to Blueberry Lake. VOTE: unanimous; motion carried.**

Article IV § (12) - Site Preservation and Improvements

**MOTION by Mr. Monte, seconded by Mr. Robinson, to prohibit, before transfer, further removal of peat and/or earth material from the parcel 2 and that finished grading will occur prior to the transfer. VOTE: unanimous; motion carried.**

Article IV § (13) – Disclosure of Subsequent Development Plans

**MOTION by Mr. Behn, seconded by Mr. Monte that Article IV § (13) has been satisfied. VOTE: unanimous; motion carried.**

**MOTION by, Mr. Behn, seconded by Mr. Brattstrom to approve the Keir 3-Lot subdivision subject to the above stated conditions and the submission of a final site plan survey.**

**III. OTHER BUSINESS**

- a) signing of minutes, Kingsbury decision and mylar

**MOTION by Mr. Behn, seconded by Mr. Markolf to approve the December 23, 1999 minutes. VOTE: unanimous; motion carried.**

The Kingsbury decision and mylar were approved and signed.

- b) re-schedule Della Monica hearing to 2/9/00 at 7:45 p.m.

**MOTION by Mr. Markolf, seconded by Mr. Monte to continue the Della Monica conditional use hearing until February 9, 2000 at 7:45 p.m. VOTE: unanimous; motion carried.**

**IV. ADJOURNMENT**

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

The meeting adjourned at 9:55 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)