

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
JULY 18, 2001**

MEMBERS PRESENT: Chris Behn, Eric Brattstrom, David Markolf, Peter Monte, Chair; Lenord Robinson
OTHERS PRESENT: Sheila Getzinger, Black Attorney; Tom Clark, Black Contractor; Patti Lewis, MBRE; Bennett Norman, Kronick abutter; Ron Zschaler & Miron Malboeuf, Sugarbush Village Transit; Laure McGuire, Applicant; Don Swain, McGuire abutter, Don & Lois Kaufmann, McGuire abutter, Dick King, Sahlman Attorney; Kevin D'Arcy, Margo Wade, DRB/PC Assistant.

AGENDA:

- 1) 7:30 p.m. Call to Order
- 2) Public Hearing: Charles & Wendy Black and Howard & Judith Kronick – Conditional Use Review for a single-family dwelling
- 3) Public Hearing Continuation: Sugarbush Village Transit, Inc. – Conditional Use Review for a Public Storage Facility
- 4) Public Hearing Continuation: Laure McGuire – Conditional Use Review for a Kennel and Sign
- 5) Other Business:
 - a) Signing of minutes

I. CALL TO ORDER

Mr. Monte called the meeting to order at 7:35 p.m.

II. PUBLIC HEARING: BLACK/KRONICK – CONDITIONAL USE REVIEW

Charles & Wendy Black and Howard & Judith Kronick seek approval to construct a single-family dwelling located on 10 +/- acres off the south side of Roxbury Mountain Road in the Interim Forest Reserve District. This application requires Conditional Use Review under Article V, §3. of the Warren Zoning Bylaws.

Sheila Getzinger and Tom Clark came before the board on behalf of the applicants.

STAFF REPORT

Mr. Monte read the public notice, which ran in the May 28, 2001 issue of the Valley Reporter.

A site visit was conducted at 7:00 p.m. before the hearing. Chris Behn, David Markolf, Peter Monte, Lenord Robinson, Sheila Getzinger, Tom Clark, Patti Lewis, Bennett Norman, and Margo Wade attended. At the site visit the group inspected the proposed driveway, septic disposal areas, house site, and selective cutting area.

APPLICANTS COMMENTS

Ms. Getzinger described the project. The Blacks propose to construct a residential dwelling on Lot-1 of the Kronick 2 lot subdivision. The project will conform to the Planning Commissions 1998 subdivision approval in that the dwelling will be located outside the 100 feet Roxbury Mountain Road setback. A “selective cut” area has been identified on the submitted plan. The applicants do not wish to clear cut this area, but rather cut trees selectively while achieving a view and maintaining privacy and protection. They anticipate maintaining more trees lower in the selective cut area. No cutting is proposed outside the selective cut area, except to accommodate the driveway, house site and septic disposal area.

The design of the structure has not been finalized. The height of the structure will no exceed 28 feet from lowest grade to highest elevation. Mr. Monte suggested a condition requiring submission and DRB approval of final plans including structure dimensions, elevations, exterior finish and color, and site location once this

information has been finalized. A warned hearing will no be necessary for the board's review of the plans, but Mr. Norman will be notified, by the applicant, of the submittal.

There was discussion about how to clearly define the proposed cutting and no cutting areas. There will be no cutting of trees with in 200 feet of the westerly boundary; 60 feet of the southerly boundary; and 100 feet of Roxbury Mountain Road, except to accommodate the driveway and a 20 foot radial area to the north of the structure as indicated on the amended plan. A 50-foot clear-cut area is allowed around the southerly side of the structure as indicated on the amended site plan.

A stream exists on the property, but has not been included on the site plan, nor on the Planning Commission subdivision site plan. The stream is identified on the USGS topographic map and may form part of the southern boundary line.

PUBLIC INPUT

Mr. Norman raised concerns with the amount of clear cutting. Ms. Getzinger assured Mr. Norman that the applicants wish only to clear around the proposed structure and selective cut in the area indicated on the submitted plan.

DELIBERATION

MOTION by Mr. Monte, seconded by Mr. Markolf to establish a no cutting area 200 feet from the western boundary; 60 feet from the southern boundary; and 100 feet from the edge of the Roxbury Mountain Road right-of-way, except as necessary to install the septic disposal area, driveway, including a 20 foot radial area around the northerly side of the proposed structure, to allow access for construction equipment and excavation around the house site, as located on the 2-Lot Kronick Subdivision site plan and subject to final approval by the Development Review Board of the precise building site. The no-cut area is further defined as no cutting of vegetation unless diseased or fallen. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. to establish the remainder of the property as a selective-cut area, except within 50 feet radially of the southern side of the structure where clear cutting is allowed. The selective cutting area is further defined as the cutting of vegetation except trees with a diameter of 10 inches or greater measured at a height of 5 feet from ground level. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Markolf to require the applicant to submit, to the DRB for approval, final plans including structure dimensions, elevations, exterior finish and color, and site location. The applicant will also copy Mr. Norman with this submittal. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Markolf to vary the 150 foot Roxbury Mountain Road setback as specified in the Interim Forest District Zoning and allowed under §(F)(6), to allow the proposed structure to have a setback of 100 feet, which conforms with the approved 1998 2-Lot Kronick Subdivision site plan. VOTE" unanimous; motion carried.

To require the building to be placed further down hill will increase the environmental impact by placing the structure closer to the stream, require more clearing and may also increase the visual impact.

CONDITIONAL USE REVIEW – ARTICLE V, § 3

Motion by Mr. Markolf, seconded by Mr. Robinson, pursuant to Article V, § 3. A. 1., to find the proposed development will not adversely affect the capacity of existing and planned community facilities. VOTE: unanimous; motion carried.

Motion by Mr. Robinson, seconded by Mr. Markolf, pursuant to Article V, § 3. A. 2., to find the proposed development will not adversely affect the character of the area. VOTE: unanimous; motion carried.

Motion by Mr. Markolf, seconded by Mr. Behn, pursuant to Article V, § 3. A. 3., to find the proposed development will not adversely affect traffic on roads and highways in the vicinity. VOTE: unanimous; motion carried.

Motion by Mr. Markolf, seconded by Mr. Robinson, pursuant to Article V, § 3. A. 4., to find the proposed development will not adversely affect bylaws in effect. VOTE: unanimous; motion carried.

Motion by Mr. Markolf, seconded by Mr. Monte, pursuant to Article V, § 3. A. 5., to find the proposed development will not adversely affect utilization of renewable energy resources. VOTE: unanimous; motion carried.

Motion by Mr. Markolf, seconded by Mr. Monte, pursuant to Article V, § 3. A. 6., to find the proposed development will not result in the discharge of harmful wastes into surface or subsurface water systems because a certified waste water disposal system has been permitted. VOTE: unanimous; motion carried.

Motion by Mr. Markolf, seconded by Mr. Robinson, pursuant to Article V, § 3. A. 7., to find the proposed development will not violate any of the standards in Section 7 of Article V. VOTE: unanimous; motion carried.

MOTION by Mr. Markolf, seconded by Mr. Brattstrom to find Article V, § 3. B. specific standards criteria satisfied with the above stated conditions. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Markolf to find the proposed development conform to the corresponding Land Use & Development Regulations criteria. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn to grant conditional use approval to the Black/Kronick application subject to conditions contained herein. VOTE: unanimous; motion carried.

III. PUBLIC HEARING CONTINUATION: SUGARBUSH VILLAGE TRANSIT, INC. – PUBLIC STORAGE FACILITY - CONDITIONAL USE REVIEW

Sugarbush Village Transit, Inc. seeks approval to construct four storage buildings, a freestanding sign, and a variance from setback requirements. The project is located on 1 +/- acres on the south side of the Sugarbush Access Road in the Vacation Residential District. The project requires review under Article 3, Section 3.12 - *Sign Requirements*, Article 5 - *Development Review*, and Article 9, Section 9.6 - *Variances* of the Warren Land Use and Development Regulations.

Miron Malboeuf and Ron Zschaler came before the board.

STAFF REPORT

Mr. Monte stated that this meeting is a continuation of the June 27, 2001 hearing.

APPLICANTS COMMENTS

Mr. Zschaler submitted an updated site plan, which included the information requested on June 27th and a lighting schedule from Green Mountain Power specifying the type of security light that will be used on the northeast side of the project.

The site plan was further updated to include the existing lighting on the northwest end of the existing building, the building number and dimensions of the proposed structures, and the corrected owner of the abutting structure.

PUBLIC INPUT

There was no public input.

DELIBERATION

MOTION by Mr. Monte, seconded by Mr. Behn to grant conditional use approval for the Sugarbush Village Transit, Inc. storage facility application subject to the conditions imposed at the July 27, 2001 hearing, and subject to the updated site plan and security lighting schedule (both dated 7/18/01). VOTE: unanimous; motion carried.

MOTION by Mr. Monte to find that the proposed project also satisfied the corresponding Site Plan and Conditional Use criteria under the Warren Zoning Bylaw. MOTION: withdrawn.

IV. PUBLIC HEARING CONTINUATION: LAURE MCGUIRE – KENNEL – CONDITIONAL USE REVIEW

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.

Laure McGuire came before the board.

STAFF REPORT

Mr. Monte stated that this meeting was a continuation of the June 27, 2001 hearing.

DISCUSSION

As requested by the board a second notification was sent to all abutters on July 1, 2001 including a clearer description of the applicant's request along with the date of this hearing.

Ms. McGuire stated that she has been in contact with Susan Baird at Act 250 and will be speaking with her the following day. Ms. Baird's initial reaction is that no Act 250 permit is necessary for the kennel.

Mr. King, representing Bob Sahlman, submitted a copy of Ms. McGuire's deed which references the State Land Use Permit #EC5-0453, and a copy of the EC permit. The permit requires further review and approval for public buildings, duplexes and condominium units.

Ms. McGuire understood that the use was allowed as a home occupation. Mr. Monte explained that the application was submitted for a kennel, which is considered a commercial use, not a home occupation. Ms. McGuire would have to re-submit the application if she wanted to apply for a home based business (under the Land Use & Development Regulations) or amend her current home occupation permit (under the Zoning Bylaws).

Ms. Swain stated that the Pike Hill Road is the shared boundary between Pike Hill Association property and Ms. McGuire's property. The Pike Hill subdivision is covered by Act 250 and Ms. McGuire's parcel is subject to that permit due to the road, which is located partially on her property.

The Pike Hill covenants, which is incorporated in the Act 250 permit, do restrict commercial uses. Mr. Monte questioned whether the Pike Hill covenants are applicable to Ms. McGuire's property or just the access road. Mr. Swain stated that they are applicable to the access road and therefore to Ms. McGuire's property because the access road is partially located on Ms. McGuire's property.

Six homes, including Ms. McGuire's, are serviced by the access road. Ms. McGuire stated that she is willing to require pick-up and delivery if the use of the road is a problem. Mr. King replied that a trip is a trip and pick up and delivery does not necessarily reduce the number of trips on the road.

There was discussion about the review criteria as specified for home occupation [§4.8(A)], and performance standards [§3.11].

Mr. Monte questioned whether it was prudent to go further with the review until a response from the state was received regarding the LaBonte and Pike Hill permits.

Ms. McGuire asked if she could apply for her own road. Mr. Monte stated that a curb cut permit would be needed, which requires review by the Selectboard.

Mr. Monte asked what kennel standards were available to assist the board with the review process. Ms. McGuire researched kennel standards in Vermont and found no State standards for boarding, though she was referred to Title 13 pertaining to cruelty to animals. The American Boarding Kennels have guidelines, but Ms. McGuire's facility is different from a traditional kennel in that the dogs are penned together in large fenced-in field areas with small shelters and overnight boarding is in the sunroom attached to the dwelling.

Mr. Markolf asked how Ms. McGuire would address the noise issue relating to dogs barking. Ms. McGuire replied that she will be installing stockade fencing and vegetation, and is looking at other sound barriers and methods to mitigate the barking. She has borrowed a decibel reader to determine a decibel level. Her initial readings, taken from her driveway, have indicated levels between 55 and 60 decibels.

In the second notification Ms. McGuire stated that she would have no more than 20 dogs at the facility at any given time, but is willing to discuss that number if it is too high. She is willing to discuss her application with her neighbors to accommodate their concerns.

Mr. Swain stated that he is okay with the original business, but is uncomfortable with the new application for a larger facility, along with the traffic and noise associated with a larger facility. He has no problem with the sign, but feels there is information available regarding kennels and specifically noise generated by a 20-dog kennel.

Ms. McGuire is willing to withdraw the request for the sign.

For the next meeting the following information will be submitted in writing:

- how to mitigate the noise;
- published report or information on how much noise (in decibels) is generated by 5, 10, and 20 dogs;
- State requirements concerning the Pike Hill Road – Act 250 permit and LaBonte – Land Use permit;
- number of dogs agreed upon between the applicant and neighbors if possible;
- number of trips generated per day and method to limit trips;

- hours of operation for the facility; and
- report from Kennel Association, or similar association, regarding acceptable kennel layout and design.

Mr. Swain questioned why the Fredricks were not notified as an abutter. Ms. Wade replied that the tax map does not indicate the Fredricks property as abutting Ms. McGuire's therefore they were not included on the notification list. Ms. McGuire will contact the new owners of the Fredricks property to inform them of her kennel application.

DELIBERATION

MOTION by Mr. Monte, seconded by Mr. Brattstrom to continue the hearing until the evening of August 8, 2001. VOTE: unanimous; motion carried.

V. OTHER BUSINESS

- a) Signing of minutes

MOTION by Markolf, seconded by Behn to approve the June 27, 2001 meeting minutes with corrections. VOTE: unanimous; motion carried.

VI. ADJOURNMENT

MOTION by Monte, seconded by Markolf to adjourn. 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 (date)

Peter Monte, Chair (date)