

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MARCH 27, 2002**

MEMBERS PRESENT: Chris Behn, Chair Pro Tem; Eric Brattstrom, Lenord Robinson, Virginia Roth, Jeff Schoellkopf.

OTHERS PRESENT: Sheila Ware, U of T Attorney, Gunner McCain, U of T & USBPD Consultant, Tim Williams, Alice & Peter Tenbeau, Harriett King, U of T abutters; Lauren Kolitch, Attorney for Shulevits (USBPD abutter); Bill Elliott, Brian Shea, David Dion, Margo Wade, DRB/PC Assistant.

AGENDA:

- 1) 7:30 p.m. Call to Order
- 2) Public Hearing: University of Toronto 3-Lot Subdivision
- 3) Public Hearing: Fernandez 2-Lot Subdivision
- 4) Other Business:
 - a) Signing of minutes & decisions

I. CALL TO ORDER

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

MOTION by Mr. Robinson, seconded by Mr. Brattstrom to appoint Mr. Behn chair for this meeting. VOTE: unanimous; motion carried.

II. PUBLIC HEARING: UNIVERSITY OF TORONTO 3-LOT SUBDIVISION

University of Toronto (U of T) seeks approval of a 3-lot subdivision off the west side of Cider Hill Road in the Rural Residential District. The project requires Subdivision Review under Articles 6 & 7 of the Warren Land Use & Development Regulations.

Sheila Ware and Gunner McCain came before the board on behalf of the applicant.

STAFF REPORT

Mr. Behn read the public notice, which ran in the March 7, 2002 issue of the Valley Reporter and acknowledged the receipt of Harriett King's 3/22/02 memorandum.

A site visit was conducted at 9:00 a.m. on February 25, 2002. Gunner McCain, David Dion, Chris Behn, Lenord Robinson, Eric Brattstrom, and Margo Wade attended. At the site visit the group walked the location of the location of the proposed driveway to serve Lot 2 and viewed the proposed house site, topography in the area of the proposed building envelope, and location of Lot 2 septic disposal area, and existing meadowland. Mr. Schoellkopf conducted an individual site visit.

APPLICANT COMMENTS

Mr. McCain described the project, which includes:

- Subdivision of 50 +/- acres into 3 lots: Lot 1 (30.7 +/- acres), Lot 2 (18.2 +/- acres), and Lot 3 (2 +/- acres)
- Lot 1 has an existing dwelling, septic disposal system, and driveway

- Lot 2 has a proposed house site, septic disposal area, building envelope, and separate driveway
- Lot 3 is intended for conveyance to the adjoining landowner (Williams) with no development proposed
- A waiver of the initial meeting is requested
- The existing 50-acre parcel has two frontages on Cider Hill Road, the first is approximately 600' and the existing driveway is located on this frontage, the second is 50' and is part of the proposed Lot 3 to be conveyed to Williams
- Tree cutting will be limited to what is necessary for construction of the road, house and to achieve views to the west from the proposed house site
- The proposed driveway for Lot 2 will be 50' wide by approximately 1200' long and will traverse designated meadowland. The initial 200' of the proposed driveway will run along an existing row of trees and is currently owned by William, which will be subsequently subdivided and conveyed to U of T.
- The estimated average grade of the proposed driveway is 10%.
- The slope contained within the proposed Lot 2 building envelope varies with some grades above 25%

There was significant discussion about the proposed driveway. The applicant argues against creating a shared driveway because the existing driveway is steep and narrow and could not handle additional traffic, and the only possible location for the Lot 2 driveway would impact the privacy of the existing dwelling. Running the Lot 2 driveway off the west side of the existing driveway is impractical because of steep topography and ledge. In 1998, this property went through review for a 5-lot subdivision, which was denied by the Planning Commission. At the time, the Warren Fire Department did not support using the existing driveway to service the additional lots because of its steepness, narrowness and poor emergency vehicle access.

Applicant argues that proposed configuration of the Lot 2 driveway creates the least impact on the meadow by using the least productive land. The existing septic disposal area is located at the edge of the meadow closest to the house and Mr. McCain feels the driveway should be at least 50' away from the system. There is a low damp area located between the diagonal portion of the proposed driveway and the existing septic disposal area and would not be an inappropriate location for the driveway. There is a hedge of trees running parallel to Cider Hill Road along the Williams/U of T common boundary, which will effectively screen the diagonal portion of the proposed driveway. Applicant further argues that the land swap between Williams and U of T will effectively put segmented meadowland back together.

It is noted that the submittal material has omitted mention of the location of part of the parcel within the meadowland overlay district.

There is access to the property via East Warren Road. It is uncertain if there is a right-of-way or owned land.

PUBLIC INPUT

Ms. King stated that Mr. King is representing the Williams for the property transfer with University of Toronto. No one raise concern with conflict of interest.

Ms. King raised concern that the proposed development will fragment meadowland and take usable land out of production. The meadow is currently used, with permission from U of T, to pasture horses by the Kings and the Williams. She feels there are other access routes to consider (i.e. improve and share existing, or using E. Warren Road access). She stated that the benefit of the proposed new driveway to the existing dwelling is financial, while the residents of Warren bear the burden of the impact to the meadowland.

Mr. Brattstrom suggested moving the existing disposal system. Mr. McCain replied that moving the disposal area would further impact the meadowland.

Mr. Behn stated that the primary concerns with the existing driveway are vehicle safety, ability to provide municipal services, and emergency vehicle access.

Mr. Schoellkopf reviewed the meadowland criteria and subdivision criteria pertaining to primary conservation areas, of which meadowland are identified. There was discussion about how the subdivision criteria are more restrictive in that subdivisions shall avoid any adverse impacts to primary conservation areas.

MOTION by Mr. Robinson to grant the request for waiver of the initial meeting. Motion was not seconded and FAILED. Therefore, the waiver request is denied.

Mr. Schoellkopf suggested the following conditions, if the board grants approval: no further subdivision of the lots, leaving the surface of the proposed driveway unpaved, screening of proposed driveway, scenic mitigation measures. Applicant representatives generally agreed.

For the next meeting Mr. McCain will update the site plan to include:

- revised building envelope, include topography & slopes 15% to 25% and above
- % grade and topography of existing driveway
- % grade and topography of proposed driveway
- % grade and topography of E. Warren access and ownership determination

Review of this application will first be under the meadowland criteria §2.13 (A) in conjunction with §7.3(B), and second under subdivision criteria under Articles 6 and 7.

MOTION by Mr. Behn, seconded by Mr. Brattstrom to continue the University of Toronto 3-Lot subdivision review to 6:30 p.m. on April 10, 2002. VOTE: 4 ayes, 1 nay (JS); motion carries.

Mr. Schoellkopf will be out of town on April 10 therefore, a replacement DRB member will be needed to take his place for the evening.

III. PUBLIC HEARING: GERMAN FERNANDEZ 2-LOT SUBDIVISION

German Fernandez seeks approval of a 2-lot subdivision off the east side of East Warren Road in the Rural Residential District. The project requires Subdivision Review under Articles 6 & 7 of the Warren Land Use & Development Regulations.

Mr. McCain came before the board on behalf of the applicant. Ms. Kolitch came before the board on behalf of abutters Shulevits.

STAFF REPORT

Mr. Behn read the public notice, which ran in the March 7, 2002 issue of the Valley Reporter.

A site visit was conducted at 9:00 a.m. on February 25, 2002. Gunner McCain, David Dion, Chris Behn, Lenord Robinson, Eric Brattstrom, and Margo Wade attended. At the site visit the group walk the property and viewed the locations of the proposed driveway, house sites, existing meadowland, topography in the areas to be developed, wooded areas to be clear and/or selective cut, and existing road and abutting properties. Mr. Schoellkopf conducted an individual site visit.

APPLICANT COMMENTS

Mr. McCain described the project, which includes:

- Subdivision of 10.2 +/- acres into Lot 7A (6.3 +/- acres) and Lot 7B (3.9 +/- acres)
- Lots will be served by individual drilled wells and individual septic disposal systems
- Lot 7B will have a replacement disposal area easement on Lot 7A
- Access will be along an existing right-of-way from East Warren Road then serviced by a new road for the two lots
- Utilities will provided underground
- After this subdivision no further subdivision of either lot is allowed due to an existing deed restriction
- The deed restriction also identifies the location of the two house sites, and one no tree cutting zone
- updated site plan includes additional limited cutting zones, topography and edge of western bank
- Lot 7 was created in 1980, prior to the Town's adoption of both meadowland and subdivision regulations

Approximately 2 acres of the proposed Lot 7B is within the meadowland overlay district and the house site is located within the meadowland. The question was raised whether the town is bound by the deed restriction identifying the location of the house or by the meadowland regulations. Ms. Wade spoke with Glenn Howland, the town's attorney, who said the town was bound by the meadowland regulations.

Mr. McCain stated that the board did not raise the issue meadowland as a major concern at the initial meeting. He believes the strip of meadowland in not valuable agricultural land, and the development would not be of significant impact to the meadowland overlay district as a whole.

Ms. Kolitch read portions of the Shulevits deed pertaining to Lot 7, which states “may be subdivided into two lots,” identified the house sites as “primary” and “secondary,” and referenced a 1980 survey map by Richard Keller, which was also submitted with the application material. Ms. Kolitch stated that there is development potential for Lot 7 without the subdivision, but also outside the meadowland if the creation of Lot 7B were allowed.

There was some discussion about the location of the house sites and how accurately the sites can be transferred to the site plan map. Mr. McCain stated that the accuracy of the transferred information on a new survey is 5 feet +/-.

The applicant believes the proposed house site on Lot 7B is the only portion of developable land given the deed restriction. Mr. McCain stated that getting a deed language change approved by all deed holders would be difficult.

There was discussion about how the proposed subdivision conformed to the meadowland criteria and the subdivision criteria specifically pertaining to the preservation of primary conservation area; and the applicants wish to maximize the value of the property. Applicant argues that the property has no scenic quality, the strip of meadowland had no agricultural potential, and the proposed development does not conflict with the adjoining uses. The neighbors argue the property is developable without the subdivision and is a valuable property even without the subdivision.

Mr. McCain believes it is possible to relocate the driveway to skirt the edge of the meadowland.

Pursuant to Table 2.13 – *Meadowland Overlay District*

MOTION by Mr. Behn, seconded by Mr. Schoellkopf to find §2.13(E)(1)(a) applicable to the proposed development. VOTE: unanimous; motion carried.

MOTION by Mr. Brattstrom, seconded by Ms. Roth, pursuant to (a)(i), to find the proposed development will minimize the disruption of the scenic quality of the site. VOTE: unanimous; motion carried.

MOTION by Mr. Robinson, seconded by Mr. Behn, pursuant to (a)(ii), to find the proposed development retains the maximum possible meadowland for agricultural use because the property is not currently being used of agricultural purposes and has not been for the past 40 to 50 years. VOTE: 3 ayes, 2 nays (EB, JS); motion carried.

MOTION by Mr. Robinson, seconded by Ms. Roth, pursuant to (a)(iii), to find the proposed development utilizes the least productive land and protects primary agricultural soils because the property has no agricultural activity. VOTE: 4 ayes, 1 nay (EB); motion carried.

Mr. McCain proposed an amendment to the plan by adding an alternate house site for Lot 7B located outside the meadowland. Ms. Kolitch objected to the amendment because she argues the Town knows there are deed restrictions and therefore cannot approve the alternate house site prior to deed changes.

MOTION by Mr. Brattstrom, seconded by Ms. Roth to accept the proposed amendment to add a second house site to Lot 7B. Motion was WITHDRAWN after discussion.

Mr. McCain respectfully withdrew the application.

IV. OTHER BUSINESS

a) Signing of minutes & decisions

MOTION by Mr. Robinson, seconded by Mr. Brattstrom to approve the March 13, 2002 meeting minutes as corrected. VOTE: unanimous; motion carried.

The Austin/Menke/Strong decision was approved and signed. Per the decision, Ms. Roth submitted and updated site plan showing the new building envelope and topography within new the envelope.

VI. ADJOURNMENT

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

The meeting adjourned at 10:45 p.m.

Respectfully submitted,
Margo B. Wade
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Chris Behn, Chair Pro Tem (date)

Eric Brattstrom (date)

Lenord Robinson (date)

Virginia Roth (date)

Jeff Schoellkopf (date)