

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
AUGUST 7, 2002**

- MEMBERS PRESENT:** Chris Behn, Eric Brattstrom, David Markolf, Vice Chair; Lenord Robinson, Jason Heroux.
- OTHERS PRESENT:** Annee Hayden, Applicant, Todd Hill, Hayden Planner; Peter & Patricia Hays, Applicants; Matt Sargent, Applicant; Margo Wade, DRB/PC Assistant.
- AGENDA:**
- 1) 7:30 p.m. Call to Order
 - 2) Public Hearing: Hayden – Setback Variance Review
 - 3) Public Hearing: Hays Accessory Dwelling- Cond. Use
 - 4) Discussion: Sargent PRD
 - 5) Other Business:
 - a) Signing of minutes
 - b) Approval of the Warren Store Barn, Hafiz/Trusova & Raston VT/Lerch decisions

I. CALL TO ORDER

Mr. Markolf called the meeting to order at 7:30 p.m.

II. PUBLIC HEARING: HAYDEN – SETBACK VARIANCE

Application #2002-45-ZP: Annee Hayden seeks a variance from setback requirements for new residential construction. The 2 +/- acre parcel is located off the east side of Plunkton Road in the Rural Residential District and requires variance review under Articles 9 of the Warren Land Use & Development Regulations.

Ms. Hayden and Mr. Hill came before the board.

STAFF REPORT

Mr. Markolf read the public notice, which ran in the July 18, 2002 issue of the Valley Reporter.

A site visit was conducted at 6:30 p.m. prior to this hearing. Chris Behn, Eric Brattstrom, David Markolf, Vice Chair; Lenord Robinson, Annee Hayden, Todd Hill and Margo Wade attended. At the site visit the group inspected the proposed building site, driveway location, septic disposal area, northern property boundary, edge of wetlands buffer, and existing silt fence.

APPLICANT COMMENTS

Mr. Hill presented the project, which includes development of a 2 acre parcel, most of which is wetland and wetland buffer. They are trying to squeeze the house site area into a very small area so not to encroach on wetlands or wetlands buffer. The structure is a 24'x36' dwelling located 25-26 feet off northern property boundary with GMNF. The applicant also wishes to construct a 14'x16' screened porch and deck, which encroach on the northern property boundary setback. The applicant and Mr. Hill have done everything to minimize the impact by proposing a modest size dwelling. He feels the impact of the encroachment is

low therefore is a reasonable request. Ms. Hayden added that her architect may convert 6 feet of the porch into interior space. The screened porch will have a slab foundation.

There was some discussion about moving the house location southwest to increase the setback to 17'5" that would allow review of the application under conditional use rather than variance. Mr. Hill stated that he has designed the site to allow the greatest amount of space between the dwelling and the septic system to achieve a properly functioning leach field. He feels a properly functioning septic system is more important than achieving a setback that is 30% of what is allowed. Proper setback between the leach field and dwelling, when the leach field is located up hill of the dwelling, is 75 feet. As proposed, the primary leach field is located less than 45 feet from the dwelling and the replacement is even closer.

The State is less willing to allow further encroachment on the wetland buffer.

There was some discussion about removing the screened porch and/or deck to comply with the setback. Ms. Hayden added that the screened porch is very important to her. When she purchased the property, she had no idea that there were wetland issues and that the buildable area has continued to shrink.

PUBLIC INPUT

The board received a letter from Donna Marks from the Green Mountain National Forest Service, stating that she had no visual concerns with the encroachment and the existing hardwood stand on the forest service land would serve as a vegetative screen.

DELIBERATION/DECISION

MOTION by Mr. Markolf, seconded by Mr. Behn, pursuant to §3.13 – *Surface Water Protection*, to find the proposed structure is not within 100 feet of any body of water, river or stream depicted on the USGS topographic maps. VOTE: unanimous; motion carried.

§9.6 – *Variance*

This is a two-acre lot, of which 1/6th or a third of an acre is marginally buildable, due to the wetlands and not by virtue of the applicant or zoning. The developable area has been reduced to a small portion of the lot.

MOTION by Mr. Robinson, seconded by Mr. Heroux, pursuant to §9.6(A)(1), to find the lot has unique physical circumstances, there is no room for more development and the applicant has minimized the amount of development. VOTE: unanimous; motion carried.

Mr. Robinson feels the proposal is a reasonable use of the property.

MOTION by Mr. Heroux, seconded by Mr. Behn, pursuant to §9.6(A)(2), to find the applicant has proposed a reasonable sized dwelling, that is not unnecessarily big, and has tried to fit a modest size house in a restricted environment; therefore a

variance would enable reasonable use of the property. VOTE: unanimous; motion carried.

Mr. Brattstrom suggested placing the porch on the other side of the structure to eliminate the need for a variance. Mr. Robinson responded that views of the lake would be lost if the porch was placed on the other side of the house.

MOTION by Mr. Markolf, seconded by Mr. Robinson, pursuant to §9.6(A)(3), to find that of the 2 acre lot has approximately 0.3 acres that are reasonably usable, therefore the hardship has not been created by the applicant. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Brattstrom, pursuant to §9.6(A)(4), to find a variance will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare. VOTE: unanimous; motion carried.

There was discussion regarding the size of the screened porch and how the request would be viewed if the dwelling were expanded into the porch space. Mr. Markolf stated that a 36'x24' dwelling with a 14'x16' porch and 8' wide deck is more reasonable than a 36'x36' dwelling. Ms. Hayden stated that a porch and deck smaller than proposed would be less usable.

MOTION by Mr. Heroux, seconded by Mr. Brattstrom, pursuant to §9.6(A)(5), to find that a variance represents the minimum that will afford relief and will represent the least deviation possible from the zoning regulation as presented by the applicant from their plan. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Heroux to find §9.6(B) not applicable to the application. VOTE: unanimous; motion carried.

MOTION by Mr. Markolf, seconded by Mr. Behn to find §9.6(C) not applicable to the application. VOTE: unanimous; motion carried.

MOTION by Mr. Markolf, seconded by Mr. Brattstrom to approve the variance as requested with the following conditions:

- 1) during development, proper erosion control measures will be taken to protect the wetlands, the silt fence will be extended and installed to, and continued along, the northern property boundary with the GMNF parcel;**
- 2) the structure, including drip edge, will encroach no further than presented on the plan towards the northern property boundary; and**
- 3) the applicant will submit "as-built" drawings of the structure when the application for the Certificate of Zoning Compliance is submitted.**

VOTE: unanimous; motion carried.

III. PUBLIC HEARING: HAYS ACCESSORY DWELLING – CONDITIONAL USE REVIEW

Application #2002-48-ZP: Peter & Patricia Hays seek approval for an accessory dwelling. The 4.5 +/- acre parcel is located off the west side of VT Route 100 in the Rural Residential District and requires conditional use review under Article 5 of the Warren Land Use & Development Regulations.

Mr. and Ms. Hays came before the board.

STAFF REPORT

Mr. Markolf read the public notice, which ran in the July 18, 2002 issue of the Valley Reporter.

A site visit was conducted at 7:00 p.m. prior to this hearing. Chris Behn, Eric Brattstrom, David Markolf, Vice Chair; Lenord Robinson, Peter & Patricia Hays and Margo Wade attended. At the site visit the group inspected the site including the driveway, parking areas, existing barn and house, existing well and disposal field location.

APPLICANT COMMENTS

Mr. and Ms. Hays presented the project, which includes: creating a apartment on the second floor of the existing barn, which will have its own septic disposal system and share the primary dwelling's water supply. The apartment could be rented or used to house family and guests. Long term the Hays' also contemplate moving into the apartment when their children are gone and renting out the primary dwelling.

The primary dwelling is approximately 2912 sf, which would allow the accessory dwelling to be up to 1000 sf. The proposed apartment will be 560 sf.

The water is supplied to the property with a new well. A spring with a holding tank indicated on the site plan is not currently in use.

PUBLIC INPUT

There was not public input.

DELIBERATION/DECISION

MOTION by Mr. Markolf, seconded by Mr. Brattstrom to find the proposed accessory dwelling meeting criteria set forth in §4.1 (A) and (B) (1)-(4). VOTE: unanimous; motion carried.

§5.3 – Conditional Use Review

MOTION by Mr. Heroux, seconded by Mr. Behn, pursuant to §5.3(A)(1), to find the proposed project will not adversely affect the capacity of existing or planned community facilities or services. VOTE: unanimous; motion carried.

MOTION by Mr. Heroux, seconded by Mr. Behn, pursuant to §5.3(A)(2), to find the proposed project will not adversely affect the character of the neighborhood or area affected. VOTE: unanimous; motion carried.

The driveway is graveled and graded as needed. The Fire Dept. has driven the tanker truck up the driveway once. Two parking areas are located along the driveway.

A daycare operation has a Town permit for a home occupation. No more than six children are cared for on site at the same time.

MOTION by Mr. Behn, seconded by Mr. Brattstrom, pursuant to §5.3(A)(3), to find the proposed project will not adversely affect the traffic on roads and highways in the vicinity. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Heroux, pursuant to §5.3(A)(4) and (5), to find the proposed project conforms with bylaws now in effect and will not adversely affect the utilization of renewable energy resources. VOTE: unanimous; motion carried.

MOTION by Mr. Heroux, seconded by Mr. Behn, pursuant to §5.3 (B)(1), to find the proposed building design is compatible with the proposed setting and context. VOTE: unanimous; motion carried.

MOTION by Mr. Heroux, seconded by Mr. Brattstrom, pursuant to §5.3 (B)(2), to find the proposed project meeting the traffic circulation and access standards. VOTE: unanimous; motion carried.

MOTION by Mr. Brattstrom, seconded by Mr. Behn, pursuant to §5.3 (B)(3)-(11), to find the proposed project satisfactorily meets the standards. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Brattstrom to find §5.3(C) and (D) not applicable to the proposed project. VOTE: unanimous; motion carried.

MOTION by Mr. Heroux, seconded by Mr. Behn to grant the request for an accessory dwelling as submitted. VOTE: unanimous; motion carried.

IV. DISCUSSION: SARGENT PRD

Mr. Sargent is considering purchase of an 98 acre parcel located off Cider Mountain Road in the Forest Reserve District. The Parcel was subdivided prior to 1986 creating three 25 acre parcels and two 11 acre parcels. The 98 acre parcel is currently owned by Hawkins. The minimum lot size in the FR District is 25 acres; therefore, both of the two 11 acre parcels are effectively merged with other parcels.

Under the PRD provisions, a 25% density bonus could be achieved if 60% of the total acreage is set aside as open space. With the current acreage 3 lots may be created. With the density bonus 3.75 lots may be created; therefore the current bulk acreage is not large enough to achieve an additional lot with the density bonus. A bulk acreage of 100 acres would be necessary to achieve an additional lot in the FR District. (e.g. 100 acres = 4 developable lots; $4 \times 25\% = 1$ additional lot; achieving 5 developable lots).

It was the boards general interpretation of the regulations that 98 acres allows for 3 developable lots in the FR District, each 11 acre lot is effectively merge with an abutting 25 acre lot, and separate transfer of either 11 acre lot for development is not allowed under the Land Use Regs. The board suggested confirmation of the survey to establish if the property is actually 98 acres or possibly 100 acres.

Mr. Heroux departed at 9:20 p.m.

V. OTHER BUSINESS

a) Signing of minutes

MOTION by Mr. Behn, seconded by Mr. Brattstrom to approve the July 24, 2002 meeting minutes. VOTE: unanimous; motion carried.

b) Warren Store Barn, Hafiz/Trusova & Raston VT/Lerch decisions

The Warren Store Barn, Hafiz/Trusova & Raston VT/Lerch decisions were approved and signed.

VI. ADJOURNMENT

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

The meeting adjourned at 9:30 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)

Jason Heroux (date)