

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
NOVEMBER 6, 2002**

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

OTHERS PRESENT: Steve Fowler, Applicant; Jason Heroux, Applicant; Amy Scharges, Margo Wade, DRB/PC Assistant.

AGENDA:

- 1) 7:30 p.m. Call to Order
- 2) Initial Meeting: Season PRD amendment
- 3) Other Business:
 - a) Rosita's site plan and decision
 - b) Signing of minutes
 - c) DRB Rules of Procedure

I. CALL TO ORDER

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

II. PUBLIC HEARING: SEASONS PRD AMENDMENT

Jason Heroux seeks approval to amend the Seasons PRD by increasing the size of Lot 1, which requires a boundary line adjustment between Lot 1 and the surrounding common land. The applicant also seeks waiver of hearing requirements, notice requirements, and sketch plan requirements and asked the board to approve the amendment because the change is minor and no other changes are requested.

Mr. Heroux came before the board.

APPLICANT COMMENTS

Mr. Heroux explained the reason for the request was due to existence to significant ledge in the center of the lot.

The PRD consists of five lots, the Seasons Condominiums, and 17 acres of common land. Lots 2-4 have dwellings and have been sold by Mr. Heroux. Mr. Heroux has received a building permit to construct a dwelling on Lot 1, but encountered significant ledge during the excavation process. After consultation with blasting and excavating professionals it was determined it would be prudent to relocate the proposed structure. Due to the narrowness of the lot, enlargement of Lot 1 would be necessary to relocate the structure.

Technically, only a small enlargement of the lot is needed. After discussion with Ms. Wade, who suggested creating a "regular" shaped lot vs. an "irregular" shaped lot, Mr. Heroux decided to increase Lot 1 by 45 feet along the southern lot line.

Danyel (formerly Danyel Zuker) and Chris Rodgers own Lot 5 and the existing dwelling. Mr. Heroux owns the common land, the 24 Seasons condominium units, and Lot 1.

Mr. Heroux did not have the time to schedule and hold a homeowners meeting, therefore sent letters to all of the adjoining requesters requesting consent to hold a homeowners meeting in less than ten days (a requirement of the homeowners covenants) or waiver of the homeowners

meeting and support of the project. He has received four of the waivers (including his own waiver as owner of Lot 1). He has not received responses from the Rodgers. The homeowner bylaws (there are 5 homeowners) requires 2/3rd vote to pass a vote. Four of the five owners have to agreed to Mr. Heroux's proposal. He spoke to Ms. Rodgers by phone this afternoon, who was unwilling to sign the waiver request.

When the Zuker/Rodgers reconstructed the dwelling on Lot 5 the new structure encroached on common land. Negotiations between Mr. Heroux and the Zuker/Rodgers, to rectify the encroachment, have been unsuccessful to date.

The board acknowledged the receipt of a faxed letter from Robert Moran, submitted on behalf of Christopher and Danyel Rodgers. Mr. Moran requested the board deny the waivers requested by Mr. Heroux.

Mr. Heroux is willing to accept a condition requiring due notice of the proposal of the adjoining homeowners. Mr. Behn suggested any decision the board makes with out a hearing could be appealed.

In response to Mr. Markolf's question, Mr. Heroux clarified ownership of the PRD. The Seasons Condominium Association, including 24 units and pool, is owned by Mr. Heroux. Mr. Zuker (Danyel's father) created that PRD in 1996 and then sold Lots 1-4, the commonland, and condominiums to Mr. Heroux. He retained Lot 5 and associated dwelling. Mr. Heroux has since sold Lots 2-4, and is in the process of building a dwelling on Lot 1, which will be sold. The homeowners can decide to transfer the 17-acre common land to another entity, such as a homeowners association. Mr. Heroux pays the taxes on the 17-acre common land. Mr. Heroux's attorney recommended notification of the project to the adjoiners. The common land contains water, septic, access and use easements for all homeowners.

Mr. Monte stated there were two different processes. First the PRD amendment that requires town approval and second the agreement by the homeowners, which the town does not get involved in. He feels that board is obligated to review under town regulations and allow adjoiners the opportunity to participate in the hearing. The board needs good reason to forgo the hearing process.

There was discussion about the implications of the request and the review method. The land use regulations give the board the ability to waive subdivision/PRD requirements as requested by an applicant. The applicant cited as reasons the recent discovery of ledge, and the need for an early decision to allow construction to proceed before the winter season forecloses work.

Mr. Monte suggested that the DRB review the request, but allow at least a weeks notice to the Rodgers and accept written objections/concerns from them on or before November 20th. If the board finds sufficient merit in the objections, the board can then call for a hearing.

Ms. Wade will contact the Rodgers and Mr. Moran to give them a heads up and will expedite drafting to the decision.

Mr. Behn pointed out that the Zucker/Rodgers have an outstanding violation of the PRD. The encroachment stands, but the Town will not force the owners to amend because the title to the property is not clear and would cause issue the property transfers. Mr. Behn and the board noted, however, that Zuker/Rodgers have standing to voice their objections at a hearing, whatever may be their permit compliance status.

PUBLIC INPUT

There was not public input.

DELIBERATION/DECISION

MOTION by Mr. Monte, seconded by Mr. Brattstrom to grant waiver of project notice requirements, sketch plan requirements, and public hearing requirement, subject to reconsideration if an adjoining property owner objects before our November 20, 2002 by providing us, in writing, substantive grounds for the objection. VOTE: unanimous; motion carried.

MOTION by Mr. Markolf, seconded by Mr. Robinson to determine the proposed amendment does not offend any of the PRD standards or any of the considerations important to the original PRD approval. VOTE: unanimous; motion carried.

Mr. Behn raised the point that no other changes are being made to the PRD.

MOTION by Mr. Monte, seconded by Mr. Behn to approve the amendment, subject to the opportunity to reconsider that decision on November 20, 2002 if grounds are displayed. VOTE: unanimous; motion carried.

III. OTHER BUSINESS

a) Rosita's site plan

Mr. Fowler submitted an updated site plan including:

- property boundaries and building setbacks
- existing parking
- existing and proposed lighting locations and types of lighting
- existing and proposed landscaping

The board discussed the plan and requested further detail of the lighting, specifically lighting specifications (wattages, type, and height). The board determined that was sufficient information to grant the permit with the exception that phase 2 would not begin until a detailed lighting plan was approved.

MOTION by Mr. Monte, seconded by Mr. Markolf to approve the site plan as presented, except the lighting plan and defer action on the lighting plan until more details are submitted regarding the exterior lights. VOTE: 4 ayes, 1 abstention (CB); motion carried.

b) Signing of minutes and Rosita's decision

MOTION by Mr. Markolf, seconded by Mr. Brattstrom to approve the October 30, 2002 meeting minutes and Rosita's decision as corrected. VOTE: 4 ayes, 1 abstention (CB); motion carried.

c) DRB Rules of Procedure

The board reviewed the draft rules of procedure and made some changes for incorporation and approval at the next meeting.

IV. ADJOURNMENT

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

The meeting adjourned at 9:15 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)