

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
MARCH 3, 2004**

MEMBERS PRESENT: Peter Monte, Chair, Eric Brattstrom, Lenord Robinson & Chris Behn.

OTHERS PRESENT: Kenny Blair, Carl Lobel, Alice Cheney, Mark Bannon, Victoria Gadd Eardensohn, Paul Eardensohn, Butch Hartshorn, Lauren Kolitch, Shannon Hill, DRB/PC Assistant.

AGENDA: 1) 7:30 Call to Order
 2) Lobel/Town Hall - Conditional Use for a lighted directional sign on Main Street in the Warren Village Residential District, Hearing Continuation
 3) Eardensohn – 4 Lot Subdivision on Sugarbush Woods Road in the Vacation Residential District, Hearing Continuation
 4) Other Business
 a) Review & Sign Minutes from February 18, 2004
 b) Review & Sign Sugartree Inn Decisions
 c) Discuss Lodge at Lincoln Peak Permit
 d) Discuss potential error in the Lodge at Lincoln Peak Wastewater Facility Permit
 e) Elect Officers

I. CALL TO ORDER

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

II. LOBEL TOWN HALL SIGN – CONDITIONAL USE

#2002-103-CU submitted by the Town of Warren on behalf of Carl Lobel requesting approval to construct a 29” by 40” sign to direct parking for the Town Hall to the Municipal Parking Lot. The property is located on Main Street in the Warren Village Historic Residential District. The sign requires conditional use approval under Article 5, Development Review, of the Warren Land Use and Development Regulations.

STAFF REPORT

Mr. Monte read the legal warning which ran in the Vermont Journal on December 31, 2003. This hearing is a continuation from January 21, 2004.

GENERAL DISCUSSION

Kenny Blair came before the board on behalf of the Town of Warren. He explained that the proposed sign would be used to deter visitors of the Town Hall from parking in Carl Lobel’s parking lot. The town would own and maintain the sign, but it would be on the Lobel property.

Mr. Lobel explained that the sign would be a black frame and lettering with a white background. The sign would be made of high density foam board. He requested the board approve the lighting coming on at dusk and turning off at 10PM. Mr. Blair explained that the Selectboard meetings often run until 11PM, but it is unusual for anyone to arrive past 9PM.

When questioned by the board, Mr. Lobel explained that his business, Warren Antiques, is open whenever he is home and the hours are flexible. He has another sign advertising his business on his barn that is not visible from the street.

Ms. Cheney is concerned about the light on the sign being on every night. She believes the light should only be on when the Town Hall is in use.

Mr. Lobel does not believe a switch in the Town Hall would work because he thinks people using the Town Hall will neglect to turn it on.

Mr. Monte mentioned putting the light below the 2 E911 signs so it only illuminated the Town Hall Sign. He also noted that if this were the only sign for the Town Hall it would be exempt under Table 3.2(A)(2) or 3.2(A)(9). However, there is a sign on the building and another down on Main Street.

The board also discussed having the sign on a motion detector but felt that would not work because people would not see the sign until they were in the driveway.

DELIBERATION/DECISION

MOTION by Mr. Robinson, seconded by Monte, to approve the project subject to the following conditions:

- 1) The proposed light for the sign must be wired such that it cannot turn on unless the Town Hall hallway light is on.**
- 2) The light must be placed on a timer that turns the light off by 10PM.**
- 3) The maximum illumination for the sign will be 40 watts incandescent.**

VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Robinson, pursuant to §3.12(B) that the proposed project meets the criteria for signs. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn, to approve the proposed sign and lighting subject to the conditions contained herein. VOTE: unanimous; motion carried.

III. EARDENSOHN 4-LOT SUBDIVISION – HEARING CONTINUATION

Application #2003-09-SD submitted by Victoria Gadd Eardensohn requesting approval of a four lot subdivision of 16.6 +/- acres into Lot 1 (2.2 +/-), Lot 2 (3.0 +/-), Lot 3 (5.1 +/-) and Lot 4 (6.3 +/- acres). The property is located on the corner of German Flats and Sugarbush Woods Road in the Vacation Residential District. The subdivision requires review under Article 6, Subdivision Review, & Article 7, Subdivision Standards, of the Warren Land Use & Development Regulations.

STAFF REPORT

This hearing is a continuation of the February 18, 2004 meeting.

The board received the following new information:

- 1) 2 large scale updated site plans
- 2) Draft Covenants and Deeds for the shared wastewater and driveways
- 3) Memo from Ms. Kolitch including a letter from Trudell Consulting Engineers, Inc.

- 4) Letter from Donald Wernecke, Regional Engineer for the State of VT, regarding the community spring

HEARING NOTIFICATION

Ms. Kolitch explained that since the grand list for the Town of Warren was published a number of properties adjoining the Eardensohn property have transferred to new owners. She believes that the state statute requires the applicant to mail the hearing notification to the current owners, not just the owners listed in the grand list. Mr. Monte read the local regulations for hearing notification in §9.8 of the Warren Land Use and Development Regulations. The local regulations state that the warning must be mailed to all property adjoiners at their last know address, as determined by the municipal grand list. The state statute §4414 & §4447 relating to notification of a hearing also does not require applicants to send notice to adjoiners except as shown on the grand list.

WELL SHIELD:

Mr. Bannon presented a letter from Donald Wernecke, Regional Engineer for the State of Vermont. Mr. Bannon believes the letter from the state engineer proves that the design for the well shield is accurate as designed. The letter also noted that the Eardensohn property has a state water and wastewater permit and that the state did not require yield testing and monitoring of the surrounding wells.

Ms. Kolitch stated that she had also spoken with Mr. Wernecke and that once she explained the whole situation to him, including the lots that have deeded rights to the well but are not currently using it, that Mr. Wernecke said a water and wastewater design should consider all homes that have deeded rights to the community well and do not have an alternative water system.

Mr. Monte noted that the board has no proof that there are 30 lots that have deeded rights to the well.

Mr. Monte noted that the DRB are not police for the state. He explained that if Ms. Kolitch believes the Eardensohn state water and wastewater permit was issued in error that there are other venues to argue that. He added that there had been numerous hearings on this project and the DRB had to base its decision on the record, not hearsay or unsubstantiated speculations. The DRB must rely on the evidence as presented which includes:

- 1) A letter from Mr. Wernecke stating that the Eardensohn's have received a state water and wastewater permit.
- 2) A design by a Professional Engineer, Mark Bannon, indicating a well shield that he certified as accurate.

Ms. Kolitch thinks that is the applicants' burden to prove that they have an adequate well shield. Mr. Bannon stated on order for an additional home to hook up to the existing well they would need a permit from the state, regardless of whether they have deeded rights or not.

Mr. Robinson and Mr. Behn don't believe that the state would approve additional hookups to a well that is inadequate for the current users. Ms. Kolitch explained that although the current well is inadequate, she believes there are 2 wells approximately 30' apart. She stated that if the second well has a greater yield the additional properties may hook up to

that well. She also noted that she found a deed reference that referred to the water supply as “wells” rather than ”well” which leads her to believe there is more than one.

Mr. Monte clarified that even if there is a second well and the second well is 30 ‘ closer to the leach field it would still be far outside of the well shield.

EMERGENCY ACCESS:

Mr. Hartshorn, the Warren fire chief, explained that the end of the driveway must be 85’ wide with 30’ radius in order for emergency vehicles to make the corner coming up the hill from the east. He thinks the slope of the west end of the loop should be reduces but believes there is ledge and the applicant will not be able to do it.

THE ROAD:

Ms. Kolitch referred the board to the letter she submitted from John Pitrowiski, P.E. of the Trudell Consulting Engineers, Inc. Ms. Kolitch explained that in the letter Mr. Pitrowiski writes that cutting into the road to reduce the slope will affect the Bren property. He also thinks making the road a one way would create a blind drive at the Bren driveway. The engineer ultimately recommended moving the access to the 2 upper Eardensohn lots to the east. Ms. Kolitch also noted that moving the driveway to the east would reduce the glare from headlights in the Bren driveway. She explained that if the Eardensohn’s excavate the road and find ledge they may not be able to use explosives to reduce the slope of the road because the site is within 100 feet of the community well.

Mr. Kolitch noted that she had Reta Goss, the Warren Town Clerk, researches the deed for the Sugarbush Woods Road and said it appears that the road is a 25’ easement or right of way. She has contacted an attorney to conduct a title search but she will need 30-40 days to have the results.

Mr. Monte explained that the road is listed on the highway map and is maintained by the Town road crew. He noted that Ms. Kolitch has provided no evidence to support the statement she is making about the road.

Mr. Monte invited a motion to reconsider the earlier vote regarding the requirements for Sugarbush Woods roadway grade change (he could not make the motion under Robert’s Rules since he voted against the earlier conditions). No one offered a motion.

THE CULVERT:

Ms. Kolitch explained that her client, Ms. Bren, is concerned because the culvert the town put in under the road is draining onto her property. Ms. Kolitch believes that the town put in the culvert to divert water and sediment from the Eardensoh driveway and that it is saturating the Bren leach field and preventing them from being able to develop their vacant lot.

In response, Mr. Hartshorn stated that the culvert drainage runs about 8 feet from the traveled lane which is well within the town right of way.

STORMWATER MANAGEMENT:

Mr. Bannon has re-thought the additional berm he agreed to incorporate into the plans at the last meeting and decided it was not necessary.

Mr. Robinson, the former Warren Road Commissioner, explained that culverts are usually installed every 200 to 300 feet. The Eardensohn plans show a culvert every 100 feet which according to Mr. Robinson should be more than enough to accommodate the stormwater runoff. Mr. Bannon further explained that the majority of the stormwater is being diverted to the east onto the other Eardensohn lots.

DELIBERATION/DECISION

MOTION by Mr. Behn, seconded by Mr. Brattstrom, to find that the Eardensohn notice to property adjoiners complies with the Warren Land Use and Development Regulations and therefore the board will continue with the hearing. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Brattstrom, they find no evidence that more than 9 lots have deeded rights to the well, 4 of which have abandoned the well for another source. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn, that the Eardensohn subdivision is not likely to have an effect on the community water source and therefore there will be no conditions placed on the project relating to the community well. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Brattstrom, that the board retracts the requirement for the excavation of an additional berm to the west of the Eardensohn driveway accessing the two upper lots. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Brattstrom, pursuant to §7.2 (F) that in addition to the no cutting area condition placed on the project during the February 18, 2004 meeting, there shall be no tree or brush cutting within 100' of the southern property boundary (or edge of the road right of way) on Lot #4. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn, pursuant to §7.8 that the project satisfies the criteria for water supply and wastewater disposal. VOTE: unanimous; motion carried.

MOTION by Mr. Behn, seconded by Mr. Robinson, pursuant to §7.9 that the project satisfies the criteria for utilities. VOTE: unanimous; motion carried.

MOTION by Mr. Monte, seconded by Mr. Behn, pursuant to §7.10 that the project is not applicable to the criteria for signs. VOTE: unanimous; motion carried.

MOTION by Mr. Robinson, seconded by Mr. Brattstrom, to approve the 4-Lot subdivision of 16.6 +/- acres into Lot 1 (2. 2 +/-), Lot 2 (3.0 +/-), Lot 3 (5.1 +/-) and Lot 4 (6.3 +/- acres) subject to the conditions contained herein. VOTE: unanimous; motion carried.

IV. OTHER BUSINESS

a) The board discussed the opinion of Steve Stitzel, the town's zoning attorney, regarding ownership of the Lodge at Lincoln Peak, LLC and Summit Ventures, LLC ability to apply for and receive a permit on behalf of the Lodge at Lincoln Peak, LLC. Mr. Stitzel advised the board that as long as the Lodge at Lincoln Peak, LLC is a wholly owned subsidiary of Summit Ventures, LLC than the permits # 2002-01-CU-AM & #2002-14-PUD-AM are valid as issued. He suggested the DRB request the following items from Sugarbush:

- Request a letter from The Lodge at Lincoln peak, LLC stating that they accept the amended permit and will comply with all of the conditions
- Request a copy of the Articles of Incorporation stating that the Lodge at Lincoln Peak, LLC is a wholly owned subsidiary of Summit Ventures, LLC

The board decided to take Mr. Stitzel's advice and requested Ms. Hill contact Summit Ventures to request the information.

b) Review & Sign Sugartree Inn Decisions

The board reviewed and signed the Sugartree Inn Notice of Decision.

Due to the late hour, the board decided to wait until the next meeting to conduct the rest of the other business.

V. ADJOURNMENT

MOTION by Mr. Monte, seconded by Mr. Robinson, to adjourn the meeting.

VOTE: unanimous; motion carried.

The meeting adjourned at 10:30 PM.

Respectfully submitted,
Shannon M. Hill
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Peter Monte (date)

Chris Behn (date)

Lenord Robinson (date)

Eric Brattstrom (date)