

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
WEDNESDAY APRIL 23, 2008**

Members Present: Peter Monte, David Markolf, Virginia Roth and Lenord Robinson.

Others Present: Mark Grosby, Cathleen Miller, Catherine Dillon, Alan Keefe, Jackie Coates, Linda Lloyd, Jim Sanford, Karen Salvatore, Jim Edgcomb, Miron Malboeuf and Ruth Robbins.

Agenda: Call meeting to order, 7:00 pm.

- 1) Applications, **2007-19-SD, 2007-19-PRD**, (Continued from March 5th, 2008) Revisions to an Approved Plat, **Mad Gap** (Seven Units PRD) to Adjust Building Envelopes & Adjust boundary line between lots 1 & 2 of the Mad Gap Subdivision. Board to review supplemental information (Applicant requests continuance June 4th, 2008)
- 2) Application, **2008-02-CU**, Conditional Use, James **Edgcomb, & Phantom Theater** for a property at 970 Dump RD, Parcel ID 022001-700, .13.1 ± Acres. The applicants request revisions to the conditions and stipulations of permit 2001-19-MM.CU. (this permit granted- Adaptive Reuse in Barn for Phantom Theater Productions) The revisions are :extension of dates of operations: extension of hours of operation; addition of three more private events; allow fund raising events at the facility; eliminate sound barrier at south end of the facility ; revise parking procedures and revise parking directions on signage. This application requires review, under Article 2, Zoning Districts & District Standards, Table 2.2, Rural Residential District, Article 3, General Regulations and Article 5 Development Review.
- 3) Applications, **2008-04-SD**: Sketch Plan Review Two Lot Subdivision Murray Hill Road 33.4 Acres, Applicants, Joan M. Pellerin, Allan L **Keefe**, David C. Keefe and Daniel P Keefe, ask the Board to recognize the existing boundaries created by the class four town road. And request waivers for the following: 1) Setting building envelopes, 2) Showing Elevations and contour lines 3) Showing proposed utilities, 4) Showing location of all conservation resources. This application requires review under Article 2, Zoning Districts & District Standards, Table 2.2, Rural Residential District and Table 2.3 Warren Village Historic Residential District, and Article 6, Subdivision Review § 6.1.Applicability, (E) Waiver Authority and § 6.2, Sketch Plan Approval and Article 7, Subdivisions Standards of the Warren Land Use and Development Regulations
- 4) Application, **2008-03-SD**: (Continued from March 5th, 2008, Applicants **Asch. Rose & Murphy** have requested a further continuance) Revision to an Approved Plat, 701 Boulder Pass of the Lincoln Ridge Subdivision, Construction of a Pond in an Thinning Zone: (Applicant requests a continuance)
- 5) Other Business
 - a. Review & Sign Minutes
 - b. Review & Sign Mylars (Wing & Spector)
 - c. Lloyd Site Plan Conditions

Mr. Monte called the meeting to order at 7:02 pm.

- 1- Applications, **2007-19-SD, 2007-19-PRD**, (Continued from March 5th, 2008) Revisions to an Approved Plat, **Mad Gap** (Seven Units PRD) to Adjust Building Envelopes & Adjust boundary line between lots 1 & 2 of the Mad Gap Subdivision. Board to review supplemental information (Applicant requests continuance June 4th, 2008)

MOTION by Mr. Monte to grant the applicant's request to continue the hearing on the Sugar Pond Hollow application (aka MadGap) until the June 4th DRB meeting. **SECOND** by Mr. Markolf.

VOTE: all in favor, the motion passed.

2- Application, **2008-02-CU**, Conditional Use, James **Edgcomb, & Phantom Theater** for a property at 970 Dump RD, Parcel ID 022001-700, .13.1 ± Acres. The applicants request revisions to the conditions and stipulations of permit 2001-19-MM.CU.

Mr. Sanford represented the Phantom Theater and started by informing the Board that the list of requested changes had been modified since submission as a result of conversations with some of the abutting property owners. The Board and Mr. Sanford then proceeded to go down the list.

The first item was a request for allowing the prescribed "season" to be lengthened. It currently is allowed to operate from July 1st through Labor Day. Though Phantom Theater had requested it be extended to start June 1st, they agreed upon a compromise of June 16th. The concern of the neighbors was that this was in a residential neighborhood and that additional performances were not appropriate. This will allow for two additional weekends and thus more flexibility in scheduling performances. It was clarified that the extended season did not mean more performances.

The next item was the issue of hours of operation. Mr. Sanford explained that during the summer months with it staying lighter later, that they were hoping to run a little later but in conversation with the neighbors have agreed to delete this request of an additional half hour of operation.

Currently, the Phantom Theater is allowed 24 events, including no more than 3 private events to be held in the barn during the prescribed season of July through Labor Day. Mr. Sanford said he thought there might be a bit of a "loophole" here in that the owners have no restrictions on private functions outside of the Phantom Theater season. With this application they would however like to increase the number of "private events" from three to five. It was clarified that a "private event" was defined as one that is held for the personal and household use of James Edgcomb to which the general public is not invited. Mr. Monte asked if the request of five could be reduced to four since the "season" was only being extended by two weeks. Mr. Sanford said that would be acceptable.

The permit does not allow fundraising activities on the premises at any time. The Phantom Theater is requesting that this stipulation be deleted. Mr. Sanford explained that fundraising was essential to the success of Phantom Theater and that to be able to do so in the Theater itself was important to them. It was clarified that any proposed fundraising would be as one of the 24 allowed "events" and would be limited to the same time / hours of operation as any of the theater events.

A member of the public asked about the State Environmental Court's Decision and if the proposed amendments were even allowable. Mr. Monte explained that the Court's decision automatically becomes part of the Town's permit. The Town is allowed to amend such permit which in turn is then subject to appeal in Environmental Court.

In regards to the "sound" requirement, Mr. Sanford explained that they were seeking a modification that would allow the Theater to continue to use the heavy curtains on the south side of the building as their "sound barrier". There have not been any complaints about noise over the past six years and to install any other sort of sound barrier would impede the flow of theater goers in and out of the building as well as conflict with egress requirements. It is Phantom's request that the curtain be accepted as the required acoustical barrier for the south side of the building.

Mr. Sanford then brought up the issue of parking, the current requirements and the changes they were proposing. The designated areas for parking were not an issue and Mr. Sanford noted that

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they were very well marked and there had been no problems to date with patrons parking in the right locations. What the Phantom Theater was requesting was to eliminate the need for the hiring an individual or finding a volunteer to direct parking as the signage seemed to be more than adequate. He continued to say that one of the main reasons for the parking attendant is to keep the theater patrons from going down the Dump Road and to instead stay on the paved road. All of their programs and mailings state what the required access and exit direct is supposed to be used. They also make announcements at the performances and have a new sign that will be utilized at the exit. With these things in place, Mr. Sanford felt that a parking attendant was no longer needed. When asked about those that ignore the directions, the response was that a parking attendant would not necessarily be able to control those individuals either.

The current requirement for signs calls for access and exit instructions to be included along with the general announcement about a performance being held at the Phantom Theater. Mr. Sanford stated that this was impractical as that was too much information for the average sized sign. It would detract from the utility of the sign and if included could confuse event goers and possibly cause traffic issue. Mr. Sanford emphasized that they would continue to include this information on mailers, the programs and make announcements during the performances. He said it was his understanding that most patrons had been respectful of this request.

Traffic was the next item. It currently requires what has been discussed about the use of announcements and the inclusion of access/exit instructions on all printed material. The traffic section also includes the requirement of a sheriff, Town Constable or the employee of a private security company to direct cars away from use of the dirt roads at the end of each event. Mr. Sanford felt with the added signage as proposed earlier that the use of traffic personnel could be omitted. Comment was made by both the public and DRB members that there will always be a handful of people that even with signage and an individual directing traffic that will insist on using Dump Road.

The last item was the port-o-let requirements. Mr. Sanford asked that that be deleted as a new public toilet facility had been installed and thus a port-o-let was no longer needed.

In closing Mr. Sanford said that it seemed strange to be back with requests for changes after all the time that was spent on the current agreement that involved many of the neighbors. He stressed however, that several of the items, such as the port-o-let, were "housekeeping" items and not substantive changes.

The DRB reviewed the requests of Phantom Theater with the neighbors present and took questions, comments from the members as well.

MOTION by Mr. Monte that the use of heavy curtains satisfies the requirement of an "acoustic barrier" as long as it is effective to avoid violation of Sec. 3.11 (A) (1). **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the following modifications to the current conditions of operation of the Phantom Theater are approved by the DRB: 1) The Performance Season shall be from June 16th through Labor Day; 2) Under Maximum Number of Events delete "no fundraising activities shall be permitted on the premises as any time" with the understanding that any fundraising event will be considered an "event" and subject to the same conditions as events are and that private events will be increased from three (3) to four (4); 3) under Parking and Access the requirement for a "parking attendant" is to be deleted; 4) under Signage the requirement for access/exit directions be included on the event notice signs be deleted and add the requirement for an exit sign directing patrons to use the paved road to the right; 5) under Traffic delete the requirement for a sheriff, Town Constable or employee of a private security firm to direct traffic; and 6) under Waste delete the requirement for port-o-lets. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

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Mr. Monte suggested that it would be best to totally restate the permit instead of just having the changes listed as an amendment. It was also noted that the proof of mailing notice needed to be submitted by the applicant.

3- Applications, **2008-04-SD**: Sketch Plan Review Two Lot Subdivision Murray Hill Road 33.4 Acres, Applicants, Joan M. Pellerin, Allan L **Keefe**, David C. Keefe and Daniel P Keefe, ask the Board to recognize the existing boundaries created by the class four town road.

Mr. Grosby appeared before the DRB representing the applicants for this application. Though class 1, 2 and 3 roads automatically constitute a natural subdivision of property, Murray Hill Road is currently listed as a class 4 road. Waivers have been requested by the applicant and a letter was submitted by a neighbor stating they saw no compelling reason to allow those waivers to be granted. Mr. Grosby started his presentation by citing the August 2004 decision by the DRB that stated though class 1, 2 and 3 roads automatically constitute a natural subdivision of property as per a Vermont Supreme Court ruling that class four roads were not included as they may be just a trail, not a recognized road. He continued to say that in this case, Murray Hill Road, a class 4 road, was a regular town road, servicing five homes, not any thing close to being considered a "trail". He therefore questioned if a Subdivision application was indeed necessary. Mr. Grosby also informed the Board that the 20 +/- acre lot south of the road was currently under contract while the other lot of approx. 13 acres has been listed for sale. Both properties would be subject to deferral language under the current State wastewater regulations.

Mr. Grosby understood the concern that each class 4 road may need review as not all are as established as this one. Mr. Malboeuf express concern about the establishment of building envelopes, conservation areas, road maintenance and such if this didn't go through the normal subdivision process, thus he wanted the Board to make the determination. Mr. Monte said it was appropriate for Mr. Malboeuf to have the applicant come before the Board. However, he was leaning towards the applicant not needing subdivision approval.

MOTION by Mr. Markolf that the application for Subdivision approval from the DRB is not required for the division of parcel id # 023001-500 currently owned by Joan Pellerin, Alan Keefe, David Keefe and Daniel Keefe as it is naturally divided by Murray Hill Road , an improved class 4 road that is recognized as a Warren Town road. In addition, the right-of-way which, because of location and function, effectively separates the parcels that it physically connects, so they cannot be used in the ordinary manner as a single "lot", may render those parcels separate. **SECOND** by Mr. Robinson. **VOTE**: all in favor, the motion passed.

4- Application, **2008-03-SD**: (Continued from March 5th, 2008, Applicants **Asch. Rose & Murphy** have requested a further continuance) Revision to an Approved Plat, 701 Boulder Pass of the Lincoln Ridge Subdivision, Construction of a Pond in an Thinning Zone: (Applicant requests a continuance)

MOTION by Mr. Markolf that the Board continues the hearing of application #2008-03-SD, Asch, Rose & Murphy, until July 23, 2008. **SECOND** by Mr. Monte. **VOTE**: all in favor, the motion passed.

5- Other Business:

a) Lloyd Conditional Use

Ms Lloyd asked for the Board's time in determining what was needed in order for her accessory structure on her property to be in compliance and thus get a certificate as such. She had been approved for a detached one car garage with additional storage space but has constructed just the storage space as a separate structure. When asked if she intended to build a garage, she

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said no, as she was leaving for Texas for a new job. The question, as Mr. Monte saw it, was whether the Board needed to be involved if someone built something smaller than what was approved. It was not in conformance with the site plan that was approved thus it could be a problem upon transfer of the property. After discussion amongst the members it was determined that for clarity and accuracy an application for an amended conditional use permit that recognizes the modified site plan was in order. Mr. Monte pointed out that though it was *smaller* than what was approved it was *different* from what was approved.

b) The Board reviewed and signed the previous minutes, the McMann decision, the Spector and Wing mylars.

The meeting was adjourned at 9:03 pm. The next scheduled meeting of the DRB is for Wednesday May 7, 2008.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

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Peter Monte date

David Markolf date

Lenord Robinson date

Virginia Roth date