

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING
WEDNESDAY JULY 9, 2008**

Members Present: Peter Monte, David Markolf, Lenord Robinson, Bob Kaufmann and Chris Behn [arr. 7:40pm].

Others Present: Joan Foster, Jane Lolax, Peter Lazorchak, Andrew McMann, Miron Malboeuf and Ruth Robbins.

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

- 1) Applications, **2008-06-SD**, Two Lot Subdivision-158 West Hill Ext., Applicant, Joan M **Foster** request approval for a two lot submission for a 2.4 ± acre parcel, ID No 016003 300 located at 158 West Hill Ext in the Rural Residential District (Rescheduled from June 18th, 2008: 7:00 PM Warren Municipal Building:

- 2) Application **2008-05-VR**, Applicants request a Variance to locate a residential addition within the Sugarbush Village Residential District setback of Upper Village Rd.: Andrew and Angela **McMann** request a variance to construct a residential addition on their property, located 149 Upper Village Rd, parcel id. #210013-000, within the setback to the edge of the right of way. This application requires review under Article 3, §6.1 & §.3.6; in addition, Article 5, Development Review and Article 9, Administration and Enforcement, §9.6, Variances, of the Warren Land Use and Development

- 3) Other Business
 - a) Review & Sign Minutes from June 4th, 18th 2008; mylar for Wheeler Brook
 - b) Scheduling

Mr. Monte called the meeting to order at 7:06 pm.

- 1- Applications, **2008-06-SD**, Two Lot Subdivision-158 West Hill Ext., Applicant, Joan M **Foster** request approval for a two lot submission for a 2.4 ± acre parcel, ID No 016003 300 located at 158 West Hill Ext in the Rural Residential District. *[Note: Mr. Behn did not vote on this application as he was not present for the deliberations]*

Mr. Monte reminded the Board that this was the second hearing on this application, that a site visit had been conducted and that they should be reviewing the reconfigured lots that would be addressing the frontage issue discovered at the last meeting. Mr. Lazorchak confirmed that they had redrawn the lots so that the 200 foot frontage requirement was now satisfied for Lot #1. Also now included on the site plan is Ms. Ware's existing drilled well and a building envelope for Lot #1 which contains Ms. Foster's existing home. Mr. Lazorchak continued to explain to the Board the changes to the septic lay out, specifically the replacement field and the inclusion of a septic easement along Lot #2's property line for Lot #1 to hook-up to the replacement field once it is deemed necessary. In addition, Attorney Grosby drafted covenants covering the easements and road maintenance which Mr. Lazorchak submitted to the Board for their review.

Mr. Monte had a couple of observations regarding the contents of the covenants. He put those concerns in the following motion:

MOTION by Mr. Monte that the proposed covenants be amended by either a) 60 days from this hearing or b) prior to the recording of any deed transferring either lot from Ms. Foster, whichever should come first, as follows: 1) add a provision that allows the recovery of attorney fees in any court action to enforce the covenants, 2) the owner(s) of any one lot may file a notice of lien and 3) the unincorporated association will be formed upon filing of the covenants rather than being

deferred however Ms. Foster can retain the voting control so long as she owns either lot. **SECOND** by Mr. Markolf. **VOTE:** all in favor, the motion passed.

After discussing the proposed building envelopes, the following motion was made:

MOTION by Mr. Markolf that the building envelope for Lot #2 be revised with the southeast line moved northerly to the 1640 contour line to minimize the encroachment into the secondary conservation area. **DISCUSSION:** Though there are secondary conservation areas located in the building envelope of Lot #1, it contains a pre-existing structure. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

Mr. Markolf offered the input from the fire department. He said that there has been conversation about the possible installation of a hydrant line going up West Hill Extension in light of the development that has taken place in the area. The Fire Dept. is requesting that “if” & “when” such work takes place that the property owners on that stretch of road contribute \$250 towards the improvement.

MOTION by Mr. Monte that if a community water/hydrant system for the purpose of fire protection is installed and reaches the boundary of the subject property and is either a private or municipal project, each lot’s owners will be required to pay \$250 towards the cost of the system. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that the Board finds the application complete. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Markolf that any approval of this application is subject to a State wastewater permit. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte that the Board finds that the applicant has satisfied the standards as required under *Article 7 Subdivision Standards § 7.2 General Standards, § 7.3 Protection of Primary & Secondary Conservation Areas, § 7.4 Open Space & Common Land, § 7.5 Stormwater Management & Erosion Control, § 7.6 Community Services and Facilities, § 7.7 Roads & Pedestrian Access, § 7.8 Water Supply & Wastewater Disposal, § 7.9 Utilities, and § 7.10 Signs* with the conditions as already voted on during the review of this application. **SECOND** by Mr. Kaufmann. **VOTE:** all in favor, the motion passed.

MOTION by Mr. Monte the Board approves the application for a two-lot subdivision subject to the standard conditions and the conditions already voted on. **SECOND** by Mr. Robinson. **VOTE:** all in favor, the motion passed.

- 2- Application **2008-05-VR**, Andrew and Angela **McMann** request a Variance to locate a residential addition within the Sugarbush Village Residential District setback of Upper Village Rd.

The McMann’s obtained a Conditional Use permit earlier this year that granted 30% setback relief for their intended addition. The McMann’s are now requesting additional setback relief by asking for a Variance as the proposed addition exceeds the 30% maximum allowance under §3.6 (C) (1). Mr. Monte, Mr. Markolf, Mr. Malboeuf and Mr. McMann attended a site visit prior to the hearing. Mr. Monte explained that the request was for an additional nine (9) feet encroachment into the setback and that it would be 35 feet from the edge of the traveled way. Mr. Monte continued to point out that the standards of a variance were quite stringent and that the requirement that the “variance is necessary to enable the reasonable use of the property” was typically the most troubling one [§ 9.6 (A) (2)].

Mr. McMann presented the Board with an updated site plan that showed the surveyed property line for Sugarbush, the top of bank and the setback lines. He also provided elevation drawings as requested by his Conditional Use permit. Mr. McMann described the architect's renderings, adding that the proposed building was within the context of the neighborhood. He pointed out that he felt he had met the criteria of § 9.6 (A) (2) , "reasonable use of the property" by way of a safety issue – currently the only access is via uncovered stairs which especially in winter is hazardous. The proposed design brings the living area and the dwelling with the garage up to the level of the driveway eliminating the previous safety issue.

Mr. Markolf made note in discussion that he felt the house could be expanded within the setback limits without having a variance. It would still leave some distance between the building and the bank. It was discussed whether or not adding fill to close the gap was acceptable versus bringing the dwelling to the bank. Mr. Markolf reiterated that he felt that there was current reasonable use of the property, and that expansion could be accomplished within the setbacks. He appreciated the design and agreed that the living area should be moved up one level from where it currently is. However, design should not take precedent over the zoning regulations.

Mr. Behn expressed his opinion that the safety issue could be used as a means to satisfy the "reasonable use" standard. He also felt that since the request to the Planning Commission to have the setbacks reduced in this district was hopefully not too far off in the future, that some leniency could possibly be provided. Mr. Monte added that the Board has split on past decisions on whether or not the addition of a garage was necessary for "reasonable use" of the property. Mr. Behn asked if a retaining wall was put in along with a bridge/walkway to a house that was within the setback, how was that construction [the retaining wall & walkway] that was encroaching on the setback any different from construction part of the dwelling in that same area. Mr. Monte said he understood Mr. Behn's argument but didn't buy into it. Mr. Monte did agree that the current access to the dwelling was not "reasonable" but that what was proposed was not necessarily the "minimum" amount needed to satisfy solving the problem.

The discussion continued for awhile centered around how the project could be redesigned and if the problem would be solved and satisfy the regulations. The Board kept coming back to the variance requirement of "minimum encroachment for reasonable use" and indicating that the design submitted did not meet that standard. After some additional discussion Mr. Monte asked for a "straw" vote to get an idea of where the members stood. The vote came out three opposed to granting a variance and 2 in favor of the variance. Mr. Behn felt that the regulations in this case did not conform with the reality of what has and is taking place in this part of town. Both Mr. Markolf and Mr. Kaufmann felt that something could be designed that had less encroachment on the setback requirement. Mr. McMann said they had tried other designs but that the topography of the lot was limiting as to what could be done. Mr. McMann countered that to expand where the Board was suggesting was the dark, had no views and would not maximize any solar benefits. Unfortunately, the ordinance doesn't address what is more "desirable" in a situation such as this one.

The Board asked Mr. McMann if he wanted a formal vote or hopefully he would want to revisit the plan with his architect before a final decision was rendered. The Board asked the applicant to either request a continuance or ask for a final vote. The applicant asked for a continuance.

MOTION by Mr. Monte to continue the hearing on application #2008-05-VR until Wednesday August 20, 2008. **SECOND** by Mr. Behn. **VOTE:** all in favor, the motion passed.

3- Other Business

In other business the Board signed the minutes from the previous meeting and signed the mylar for Wheeler Brook. They discussed a type of window treatment as an alternative way to reduce glare and decided that it would not satisfy the requirement under the ordinance.

The next scheduled meeting of the DRB is Wednesday July 23, 2008 at 7:00 pm.

The Board adjourned at 9:02 pm.

Respectfully submitted,

Ruth V. Robbins
DRB/PC Assistant

DEVELOPMENT REVIEW BOARD

Peter Monte date

David Markolf date

Chris Behn date

Lenord Robinson date

Bob Kaufmann date