

TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT & NOTICE OF DECISION  
APPEAL OF #2005-93-ZP BUCKLEY  
CONDITIONAL USE REVIEW #2006-01-CU

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Scott and Karen Buckley represented by Attorney Shelia Getzinger, appealed the Building Permit that they were issued on November 21, 2005, since it contained a condition for a stream setback that they believed they had met in their application as presented.

A duly warned hearing was held on Wednesday January 4, 2006 at which the following Development Review Board (DRB) members were in attendance: Peter Monte, David Markolf, Chris Behn, Eric Brattstrom and Lenord Robinson. Others in attendance were: Shelia Getzinger, Anna Whiteside, Carol Thompson, Neil Johnson, Joan Langsam, Ted Joslin, Miron Malboeuf and Ruth Robbins. An additional hearing on January 18<sup>th</sup> attended by Peter Monte, David Markolf and Lenord Robinson reviewed the revised submittals and closed the hearing on the appeal.

**Findings of Fact and Conclusions of Law:**

*The following documents were submitted:*

1. Appeal of Permit Condition and Conditional Use Request submitted by Shelia K. Getzinger representing Scott and Karen Buckley dated December 5, 2005.
  2. Notice to abutters of submission of appeal and alternate request for conditional use dated 12/5/05 and certificate of service
  3. Exhibit A showing Examples A, B & C illustrating the setback regulations.
  4. Copy of the approved Road Access Permit #2005-06-RC from the Warren Select Board issued 11/29/05.
  5. Site Plan prepared by McCain Consulting dated 11/7/05 showing a proposed 4-bedroom house and wastewater system.
  6. Memo from Gunner McCain of McCain Consulting attesting that the property is not located within a floodway or flood plain and will therefore not interfere with the ability of Wheeler Brook to carry floodwaters dated 12/5/05.
  7. Power of Attorney for Real Estate Transactions given to Attorney David Olenick by the property owners Mickiewicz, Horton & Horton, executed 11/4/05.
  8. Copy of Building Permit #2005-93-ZP issued 11/21/05
  9. Copy of application submitted by Scott & Karen Buckley for Building Permit #2005-93-ZP.
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10. It was determined by the DRB that no structure shall be erected within 100 feet of the near edge of Wheeler Brook as shown by the high water mark.
  11. It was determined by the DRB that there will be no development, excavation, landfill or grading within 50 feet of the top of the bank.
  12. It was noted by the DRB that the location of the leach field as shown on the site map, falls within the 50-foot buffer zone and thus does not comply.
  13. It was noted by the DRB that it is not clear as to the compliance of other improvements to the property as the "edge of stream" is not clearly noted on the map.

**Notice of Decision:**

Based on the forgoing Findings of Fact and Conclusions of Law, the Development Review Board grants the applicant's appeal with the following conditions:

- 1) A revised site plan must be submitted to the Zoning Administrator for approval that clearly indicates the "edge of stream" as indicated by the high water mark. The revised site plan must clearly show that any improvements to an area of disturbed soil (including but not limited to: wastewater system) to the property comply with the 100-foot [§ 3.13(B)] and 50-foot [§ 3.13(A)] setback requirements as called for in the Land Use Regulations.

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BUCKLEY APPEAL #2005-93-ZP

- 2) The revised plan will also be reviewed by the DRB prior to signing and the subsequent building permit issued will be limited to only those improvements shown on that plan.
- 3) Any revisions to the wastewater system will require the submittal of a revised/updated health permit reflecting those approved changes.

Approval shall become effective when this decision has been signed by at least three members of the Warren Development Review Board who participated in the final decision. Beginning the effective date of the decision, there is a 30-day period during which parties may appeal this decision to the Vermont Environmental Court.

**Development Review Board**

*Peter Monte 2/8/06*  
Peter Monte date

*Lenord Robinson 2/8/06*  
Lenord Robinson date

*David Markolf 2/8/06*  
David Markolf date

Eric Brattstrom date

*Chris Behn 02-08-06*  
Chris Behn date

TOWN OF WARREN, VT

Received for Record Feb 9 2006  
at 9:45 o'clock A M and Received in

Vol 180 Page 626-627  
*[Signature]*

TOWN CLERK