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**TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND NOTICE OF DECISION  
SUBDIVISION REVIEW**

**TOWN OF WARREN, VT**

Received for Record Oct. 19 2005

**2005-12-SD**

Vol 178 Page 186-1

Elaine E. Fuller  
Assistant

TOWN CLERK

This is the Findings of Fact, Conclusions, and Notice of Decision of the Warren Development Review Board ("DRB") approving with conditions application # 2005-12-SD (formerly app # 2003-02-SD) submitted by John Roth ("applicant"). In this proceeding, applicant seeks approval for a 6-lot subdivision of the property, Parcel # 028-005-300, consisting of 115 +/- acres located on Plunkton Road in the Rural Residential District. The applicant seeks to subdivide the property into Lot 3 (3.3+/- acres), Lot 4 (3.5 +/- acres), Lot 5 (4.1+/- acres), Lot 6 (7 +/- acres), Lot 7 (8 +/- acres), and Lot 8 (88 +/- acres). This shall be considered Phase II of the Roth development known as Southview. The DRB reviewed this project under Article 6, *Subdivision Review* and Article 7, *Subdivision Standards of the Warren Land Use and Development Regulations* (the "Regulations").

A duly warned hearing was convened on July 7, 2004 and continued to August 18, 2004 and October 13, 2004. A warning ran in the Valley Reporter on June 3, 2004. A site visit took place on October 12, 2004. Though the application was approved on October 13, 2004, the mylar was not filed within the time allowed by statute, thus allowing the decision to become null and void. A duly warned hearing was convened on October 5, 2005 to reconsider the application as originally presented.

Members present July 7, 2004: Peter Monte, Eric Brattstrom, Lenord Robinson, David Markolf and Chris Behn.

Others present: Val Pinney, Annette Marcinko, Jim Edgecomb, James Hickey, Shannon Hill and Karen Van Gilder.

Members Present August 18, 2004: Peter Monte, David Markolf, Eric Brattstrom, Lenord Robinson, and Virginia Roth. . (NOTE: though present, Mrs. Roth did not vote on this application)

Others Present: Avilda Whittle, Howard Whittle, John Goss, Francis Kathan, Shelia Getzinger, Reta Goss, Ray Montgomery, Bruce Fowler, Shannon Giligan, Val Pinney, John Roth, Annette Marcinko, Jay Kempf, and Karen Van Gilder.

Members Present October 13, 2004: Peter Monte, Eric Brattstrom, Lenord Robinson, Chris Behn and David Markolf.

Others Present: Trafton Crandall, Laura Crandall, Peter Lazorchak, Virginia Roth, John Roth, Matt Sargent, Ron Zschaler, Bob Ackland, Jason Lisai and Karen Van Gilder.

Members Present October 5, 2005: David Markolf, Chris Behn, Eric Brattstrom, Lenord Robinson and Virginia Roth. (NOTE: though present, Mrs. Roth did not vote on this application)

Others Present: John Roth, Erin & Peter Cozzi, Mark Bannon, Larry Auer, Bob & Patti Kaufmann, Myrtle Geiger, Dan Reicher, Carole Parker, Dexter Lefavour, Miron Malboeuf and Ruth Robbins.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. Submittal material includes: Complete application #2005-12-SD; Abutter notification and proof of mailing; permit fee; 11" x 17" sketch plan; Letter from Warren Fire Department dated 10/6/04; 11" x 17" site plan with building envelopes and conservation areas marked received 10/26/04.
2. The applicant subdivided the property with application #2005-12-SD into Lots 1 and 2 and the remainder, known as Lot 3. Lots 1 and 2, known as Phase I, have since been sold.
3. The applicant has received a curb cut permit from the Select board. The DRB discussed the location of the curb cut and decided that while it was not ideal, it was the best option given the applicant's plans for the remainder of the property.
4. The plans submitted meet the recommendations of the Warren Fire Department letter dated 10/06/04. The fire pond, which is in the process of being built, was a requirement of the previous Phase I permit, and meets the Fire Department requirements.
5. A separate homeowners' agreement will be set up for Phase II, Lots 3-8, which will include a statement regarding road maintenance and a statement regarding the payment of attorney's fees.
6. A letter from the Department of the Army dated June 10, 2005, which allows for the placement of fill in an approximate 0.11-acre area of wetlands.
7. Pursuant to ARTICLE 7 – SUBDIVISION STANDARDS, the DRB concludes:
  - §7.2 is satisfied.
  - §7.2(H), the future plans to subdivide the property have been disclosed.
  - §7.3 is satisfied.
  - §7.4 is satisfied.
  - §7.5 is satisfied.
  - §7.6 is satisfied, with the imposition of a condition stating that the driveways will not exceed 15% and the turning radius of each drive and turn will be 30'.
  - §7.8 is satisfied.
  - §7.7 is satisfied.
  - §7.9 is satisfied, with the imposition of a condition that the main utility lines may be above or below ground, but the individual lines must be underground.
  - §7.10 is not applicable because no signs are planned at this time.

**NOTICE OF DECISION:**

Based on the forgoing Findings of Fact and Conclusions of Law, application #2004-06-SD submitted by John Roth seeking approval of a 6-lot subdivision is hereby approved with the following conditions:

- 1) The project shall be constructed and used only in accordance with the terms, plans, procedures and specifications stated:
  - a. In the application, as amended,
  - b. All exhibits furnished by the applicant, and
  - c. All findings of fact and conclusions stated above in this decision.
  - d. Approval of the Subdivision Plat by the DRB.
- 2) No driveway grade shall exceed 15%, curves and driveway turns will maintain a 30-foot turning radius, and exact location of the driveways will be eliminated from the final plan. This is in response to item (g) of the Fire Department recommendations dated 10/06/04.
- 3) The main line for the utilities may be provided either above or below ground, but the individual lines must be underground.
- 4) If the building envelopes/areas of disturbance are changed in size, the applicant must return to the DRB for further review.
- 5) The applicant may omit the abutter information from the final plan but must include a specific reference to the previous final plan for Phase I, on which the abutters were named.
- 6) The development shall conform to the recommendations found in the Fire Department letter dated October 6, 2004, which are summarized as the following:
  - a) All driveways, rights of way, and easement access are to be plowed and maintained at a minimum of 14 ft. in winter. Private and feeder roads are to be plowed and maintained to a minimum of 16 ft. in winter. Normal maintenance, as to not restrict access, shall be expected for the remainder of the seasons.
  - b) All corner radii's including parking areas, turn around, and access from main roads in both directions shall not be less than 30 ft. inside radius.
  - c) A 70'x70' turn-around, suitable hammerhead, or equivalent shall be constructed as indicated on application.
  - d) A 12'x50' turnout on access roads and driveways shall be required for all roads over 400 ft as well as every subsequent 400 ft.
  - e) No zero clearance fireplaces shall be allowed, no combustible materials are to be in direct contact with masonry and only masonry chimney shall be acceptable. Wood-burning stoves are suggested for back-up heat only.
  - f) Pond to be completed on the project shall be connected to hydrant at time of first occupancy with inspection by chief or other appointed officer of the

**WARREN DEVELOPMENT REVIEW BOARD**  
**ROTH - 6-LOT SUBDIVISION**

department. Any future pond development on Lot 3 or 6 shall be tied into another hydrant.

g) Drive for Lot 3 to follow contour of land, not as shown on site map provided to department on 9/21/04.

7) In accordance with Section 6.5 and the Act [§4416], within 90 days of the date of receipt of final plan approval under Section 6.4(C), the applicant shall file 3 copies of the final subdivision plat, 1 mylar copy and 2 paper copies, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. Prior to plat recording, the plat must be signed by at least two authorized members of the Development Review Board, which should take place at a regularly scheduled meeting. This subdivision approval shall expire without further notice unless the final, approved plat is so recorded within this 90-day period.

This approval shall become effective once 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 this decision, there is a 30-day period during which parties may appeal the decision to the Environmental Court.

**DEVELOPMENT REVIEW BOARD**

Lenord Robinson (date)

David Markolf (date)

Eric Brattstrom (date)

Chris Behn (date)