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TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
RECONSIDERATION OF THE DECISION OF THE APPEAL OF THE ADMINISTRATOR'S
DETERMINATION DATED OCTOBER 22, 2008
SIMPSON - 493 PRICKLY MOUNTAIN ROAD

On August 15, 2008 Warren Zoning Administrator issued a letter to Don and Susan Simpson of 493 Prickly Mountain Road that it had come to his attention that they had a camper/ trailer on their property that was being utilized as an accessory dwelling and thus they needed to apply for a Conditional Use permit.

The Simpson's appealed the Zoning Administrator's determination and was heard by the Development Review Board at a hearing held on Wednesday October 1, 2008. After testimony was given, the Board voted unanimously to uphold the Zoning Administrator's determination. That decision was recounted and signed on October 22, 2008 and recorded in the Warren Town Land Records on October 23, 2008.

The Simpson's attorney, Mr. Alan Solomon, felt that the testimony was not as clear and complete as it could be and requested reconsideration by the Board in order to submit further information. A hearing on January 21, 2009 and a second one on February 19, 2009 were held at which time further testimony and information was given. The DRB scheduled their deliberations for March 5, 2009 only to have to move the deliberations to the date of March 19, 2009.

The Board approached their deliberation as a two step process: one, decide to whether or not to alter the decision previously made, and if not then the sustaining of the Administrator's decision will remain in effect; secondly, if the Board decides to re-open the decision, then they can take what they have on record as evidence and make a change or decide we need to make a change but also need to get more evidence to make that change.

The outcome of their deliberation was that they once again upheld the Zoning Administrator's determination. They did so on two independent grounds:

- 1) the Simpsons have failed to sustain their burden of proof that the camper has been placed on the property each and every summer for the past fifteen years and therefore the statutes of limitations does not apply; and
- 2) the camper's presence on the property before amendments to the zoning regulations that took place in March of 2002 was in compliance with the regulations at that time [apart from its placement in regards to the setbacks] and did not violate the requirements of the zoning ordinance thus the statutes of limitations would not start to run until March of 2002. Given the lack of specificity of the evidence it is unclear whether the trailers on the property before 2002 were "structures" to which the setback requirement is applicable.

DEVELOPMENT REVIEW BOARD

Peter Monte
Peter Monte

5/22/09
date

Bob Kaufmann

date

David Markolf
David Markolf

5/22/09
date

Lenord Robinson
Lenord Robinson

May 20 09
date

TOWN OF WARREN, VT

Received for Record 5/21 2009

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Rebecca

TOWN CLERK