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TOWN OF WARREN  
DEVELOPMENT REVIEW BOARD  
FINDINGS OF FACT AND NOTICE OF DECISION  
CONDITIONAL USE REVIEW

**2012-33-CU 3209 GERMAN FLATS LLC aka COMMON MAN RESTAURANT**

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The applicant, 3209 German Flats Road LLC (dba Common Man) has submitted a Conditional Use application to the Development Review Board for the reconfiguration of a non-conforming existing parking lot and setback relief for a proposed new deck and patio adjacent to German Flats Road. The property is located in the Vacation Residential District at 3209 German Flats Road (parcel id # 006002-100).

A duly warned hearing was held on Monday September 17, 2012 and attended by Board members Chris Behn, Peter Monte, Jeff Schoellkopf and Virginia Roth. Others also in attendance were Adam Longworth, Lorien Wroten, Desiree Trahan, Mike Trahan, Jim Edgcomb, Miron Malboeuf and Ruth Robbins.

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

1. The applicant submitted a complete application with an overall site plan, a restaurant floor plan, notice of abutters and proof of mailing. The site plan and floor plan were created by The Design Group.
2. The applicant is requesting to do two things: one, bring the parking lot into conformance which will also make it more efficient, and add a deck and patio. The first item they would like to do this fall and then assuming the winter business is good for them, would like to add a deck/patio in the spring.
3. The Board found that this application includes two distinct projects; the parking lot improvements and the deck/patio addition and though the parking lot project is not dependent on the deck/patio project [parking lot can be done w/out the deck/patio project ever being done] the parking lot improvements must be done in order to go forward with the deck/patio part of the application.
4. The applicant has acquired a new Road Access permit from the Warren Select Board which will allow them to decrease the size of the entrance, and create a compliant parking lot.
5. The applicant stated that one dead tree will be removed, all others would remain.
6. The stormwater on the site flows from the northwest corner of the parcel to the southeast corner across the current parking lot. It works well as there are never any puddles anywhere and the applicant has had both Kingsbury and the town DPW look at the situation who were ok with the conditions as they were.
7. The state DEC has been contacted and since the overall total disturbance of the project is under the 5,000 foot threshold, no state permitting is required. This determination is in the form of an email which the applicant said he would get a copy to the DRB.
8. The Common Man Restaurant is currently a 96 seat restaurant and will remain a 96 seat restaurant. The maximum number of employees is 18 and thus the parking space calculation would come out to 42 required parking spaces. The submitted plan shows is a total of 44 spaces with an ADA compliant space included. When the deck is built for outside dining, that number of seats will be subtracted from the interior seats so as not to exceed the total number of 96 seats.
9. While the proposed deck will accommodate dining, the new patio is intended to be used as a waiting area during the summer months. This patio will be built on the existing grade

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with a couple steps up to the proposed deck which will be level with the door to the restaurant.

10. As part of the deck/patio project, the stairs to the main entrance are currently not to code and will be replaced with code compliant stairs and additionally a handicapped ramp will be constructed.
11. The Board found that the only residential neighbor who would be affected by the outdoor operation of the restaurant and potential noise would be the Drumleys Condominiums which all have decks/balconies facing away from the proposed deck on the Common Man Restaurant property and are thus shielded from any noise; and that a 70 decibel noise limit[at the property line] for activities on the deck including music would satisfy the requirements of the ordinance with the condition that any music or other added noises were terminated at 11 pm but meal service can continue beyond that hour.
12. The outdoor lighting shown on the plan would be of a low level, ordinance compliant and that candles would be utilized on the tables.
13. With the decrease in the road cut opening additional fencing will be added along the road [a condition of the revised road cut issued by the Select Board] and there will be a small increase in earth material along that same area.
14. In reviewing the setback relief request the Board found that any other location would either be an imposition on the neighbors, next to the dumpster, take away parking spaces, is occupied by mechanicals or other structures. The Board agreed and found that there was no other option available that made sense.

**Notice of Decision:**

Having found that the applicant has satisfied the requirements of Article 5 Development Review, Sec. 5.3 conditional Use Review (A) General Standards, the Development Review Board approves the application subject to the following conditions:

- 1) That the project be constructed as per the plans submitted;
- 2) Any outdoor music will cease at 11 pm with a reminder that the maximum noise level at the property boundary shall not exceed 70 decibels as stated in the ordinance;
- 3) The addition of the deck, patio, entry cannot be done [nor is it required to be done] without the completion of the parking/curb cut changes;

The Board also finds that the applicant satisfies the requirements of Article 3 General Regulations Sec. 3.6 Height & Setback Requirements and hereby grants approval of a **maximum of 10 feet** in setback relief [structures must have a 30 foot or greater setback from the right-of-way] for the addition of the patio and the deck in the dimensions as shown on the plans.

***The applicant is advised to submit a zoning application [if they haven't already] for the construction of this project within 30 days of the execution of this approval.***

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DEVELOPMENT REVIEW BOARD

Chris Behn \_\_\_\_\_ date  
*Peter Monte 11/5/12*  
Peter Monte \_\_\_\_\_ date

*Virginia Roth 11/5/12*  
Virginia Roth \_\_\_\_\_ date  
*Jeff Schoellkopf 11/6/12*  
Jeff Schoellkopf \_\_\_\_\_ date

TOWN OF WARREN, VT

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*Richardson*  
TOWN CLERK