

**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION
SUBDIVISION REVIEW
#2009-06-SD FCC LLC d/b/a FCC Property Holdings LLC**

The applicant, **FCC LLC d/b/a FCC Property Holdings LLC** requests a five lot subdivision of parcel ID # 002003-700 located at 662 Ridge View Rd in the in the Rural Residential and Meadowland Overlay Districts. The parcel currently has a dwelling on it but the owners are looking to subdivide the excess acreage as allowed under the Land Use Regulations.

A duly warned hearing was held on Monday January 18, 2010 and attended by members: Peter Monte, Lenord Robinson, Chris Behn and Virginia Roth. Others in attendance were: Judy, Ken and Erich Proulx, Jason Lisai, Loretta & Peter Menkes, Jeffrey Resnick, Margo Wade, Brian Resnick, Gunner McCain, Paul Gilles, Dana Haskin and Miron Malboeuf and Ruth Robbins.

A site visit was held on Friday January 22, 2010 and attended by Board members Mr. Monte, Mr. Robinson, and Mrs. Roth. Mr. Malboeuf was there as was Mr. McCain, Mr. and Mrs. Proulx and Mr. Resnick (Brian).

Additional hearings were also held. The hearing on February 1, 2010 was attended by members Peter Monte, Virginia Roth, Lenord Robinson and Jeff Schoellkopf. Others in attendance were Gunner McCain, Brian Resnick, Miron Malboeuf and Ruth Robbins. The hearing on March 15, 2010 was attended by members Peter Monte, Virginia Roth, Bob Kaufmann and Lenord Robinson. Others there were: Dana Haskin, Gunner McCain, Brian Resnik, Tina Scharf, Craig Klofach, Miron Malboeuf and Ruth Robbins.

Findings of Fact and Conclusions of Law:

- 1) The applicant submitted a complete application, application narrative, subdivision worksheet, site plan [dated 11/3/09 and revised 1/5/10, 3/29/10 & 4/5/10], GIS map depicting nearby mapped Class II wetlands and mapped deer wintering areas, notice to abutters and proof of mailing.
- 2) Copy of Homeowners By-laws and Declaration of Covenants.
- 3) The former Shulevitz property is currently owned by an entity called FCC Property Holdings who is seeking to subdivide the property consisting of approx. 21 +/- acres with an existing 4500 square foot dwelling.
- 4) All lots have been designed with their own on site water and wastewater systems. [all wastewater systems will be mound systems and will not require replacement areas.]
- 5) Mr. McCain noted that there were no wetlands issues.
- 6) The general layout has the dwelling that sits on a knoll with ten acres and then four smaller lots surrounding it of two to four acres each.
- 7) Mr. McCain stated that there were some slopes over 15 % and that they have avoided anything over 25%. He continued to say that they have avoided anything in the 15 % to 25% range "where practical" and where not practical will treat them accordingly as to erosion control measures.
- 8) This project would trigger the need for a State CGP (construction general permit).
- 9) All the lots will have deed language requiring the participation in the maintenance of the common road.

- 10) The comments from the abutters ranged from concern about the change from a tranquil view to that of a rooftop; that the lots proposed were too small and denigrated this coveted area of East Warren, even to the degree of putting a proposed home in the view shed of the existing home which is on the market for over one million dollars, to the concern about possible contamination of a brook by the development nearby.
- 11) At the request of the Conservation Commission the applicant had an inspection done by a wildlife biologist, Tina Scharf who submitted a report {dated March 3, 2010} as well as testimony {hearing date of March 15, 2010}.
- 12) Ms. Scharf told the Board that she did not find or observe any critical wildlife habitat. She also reviewed both the VT Fish and Wildlife winter deer yard maps as well as the Arrowwood Natural Heritage maps and found no points of interest in the subject area. Ms. Scharf's definition of critical habitat was "that which is absolutely needed for the well being of the animal". She added that deer can be considered "habitat generalist" as they are everywhere and their needs are not as specific as those for bear or bobcat.
- 13) Lot 5 was reconfigured to meet the road frontage requirement and they are providing a 100 foot not cut zone along the south boundary of Lot 1 (easterly of Resnik) to aid in breaking up any of the development clearing.
- 14) Mr. McCain met with the Fire Dept who the following: 1) a widening of the road across from the proposed driveways for Lot 2 and Lot 4 to facilitate the passing of two fire trucks; 2) a 70 by 70 foot hammerhead turnaround where the road leaves the property; and 3) a wet hydrant, that will be gravity fed from the existing pond. Mr. McCain has included these requests in the revised site plan of 4/5/10.
- 15) The abutters, the Proulx, have requested some screening along their boundary with lot 4 as the installation of the wastewater system will require the cutting of some trees.
- 16) It was noted that this plan will be subject to a Vermont State Stormwater permit. As such, Mr. McCain pointed out how they were meeting the requirements by the State with some dry stormwater ponds incorporated into the plan.

Notice of Decision:

The Development Review Board approves the application for a 5-lot subdivision as allowed under the standards of Article 7 of the land Use and Development Regulations subject to 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
 - b. All exhibits furnished by the applicant
 - c. The Subdivision Plat as approved by the Development Review Board [DRB]. All findings of fact and conclusions previously stated above in this decision.
2. A condition of this approval will be that after the leach field is constructed on Lot #4, ten (10) nursery stock softwood trees of not less than six feet when planted, shall be placed in the area designated on the final plat as the "septic system screening area"; these trees are to be replaced should they become diseased or die; further, this requirement may be

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modified to be less than ten trees, but at least five trees, and may be not of nursery stock if agreed to by the land owner of parcels 002003-800/900 and such modification is filed with the Warren Zoning Administrator. The "septic system screening area" is all land located north of the northerly line of the water course buffer area on Lot #4.

- 3. The establishment of a No Cut Zone located on that portion on lot #4 that is north of the southern boundary of the 50 foot water course buffer, with exception of any cutting necessary for the leach field installation.
- 4. The final mylar include sufficient information to be able to locate each boundary corner of the designated building envelope within each lot and before construction on any lot the building envelope will be marked for inspection by the Warren Zoning Administrator.
- 5. The driveway designs and pond hydrant as shown on the site plan (revised 4/5/10) satisfy the Fire Department requirements.

In Accordance with Section 6.5 and the Act[§ 4416], within 180 days of the receipt of final plan approval under Section 6.4 (C), the applicant shall file 4 copies of the final subdivision plat, 1 mylar copy and 3 paper copies, for recording with the town in conformance with the requirements of 27 V.S.A., Chapter 17. Approval of subdivision plats not filed and recorded within this 180-day period shall expire. Prior to plat recording, the plat must be signed by at least two authorized members of the Development Review Board.

The surveyed site plan to be recorded in the Warren Land Records shall include a separate sheet that shows only the following information: Lot Lines, Lot Line Dimensions, Parcel Area Text, Building and Out Building Locations, Boundary Information such as fences, stone walls, boundary markers, and additional sheet(s) that show the same information plus all other detail required by this approval.

Not later than ten (10) days after the date the surveyed site plan is filed for record in the Warren Land Records, the applicant shall caused to be filed with the Town Zoning Administrator a certificate by a Vermont registered land surveyor or a Vermont licensed professional engineer that the certifier has delivered a readable digital copy of the site plan as filed in the Warren Land

Records in AutoCAD drawing format release 2000 or later format to the Warren Lister's office. In addition the drawing should be referenced to Vermont State Plane Feet Coordinates. The deadline for filing this certificate may be delayed to a latter date with either (a) approval of the DRB (b) the written permission of the Warren Lister's Office. Such DRB approval or Town Lister's permission may be given at any time before or after the deadline.

DEVELOPMENT REVIEW BOARD

Peter Monte 6/21/2010
 Peter Monte date

Virginia Roth 6/21/2010
 Virginia Roth date

Lenord Robinson 6/21/2010
 Lenord Robinson date

TOWN OF WARREN, VT

Received for Record 6/22 2010

at 10:50 o'clock A M and Received in

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Rebecca
TOWN CLERK

