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**TOWN OF WARREN
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION
CONDITIONAL USE REVIEW
#2010-10-CU MACLAREN HOLDINGS LLC dba WEST HILL HOUSE**

Peter and Susan MacLaren, owners of the West Hill House B&B, request permission to alter condition nine (9) of the Findings of Fact & Notice of Decision -Kyle #2006-05-CU. This project is located at 1496 West Hill Rd in the Rural Residential District (Parcel Id# (016003-500).

A duly warned hearing was held on Monday August 16, 2010 and attended by the following members: Lenord Robinson, Peter Monte, Chris Behn and Jeff Schoellkopf. [NOTE: Mr. Schoellkopf is an Alternate for the DRB and is representing the applicant for this hearing and thus has recused himself as a deciding Board member for this hearing.] Others in attendance were: Peter MacLaren, Susan MacLaren, Miron Malboeuf and Ruth Robbins.

Findings of Fact & Conclusions of Law:

- 1) The applicants submitted a complete application, project narrative, notice to abutters and proof of mailing.
- 2) The DRB Chairman began the hearing saying that it was not clear as to why they limited the use of the room in the barn in the 2006 decision. As it stands under the current permit, the decision precludes the room as being used as a traditional inn room and is limited to use by the staff of the inn, family of the owners of the premises or rentals with written leases for not less than three months.
- 3) Under the ordinance an Inn is defined as having no more than 15 rooms and the West Hill House current has eight so adding one more is allowed.
- 4) Mr. Schoellkopf, representing the applicants, said that this additional room will not affect the parking at the B&B and showed the members where the parking was located on the site [a total of twelve]. He also emphasized that there were no other changes to the existing permit – only the change of use for this one room.
- 5) There is no change in the wastewater usage.
- 6) The applicant told the Board that he felt it would be a beneficial addition to the existing inn rooms that during ski season, since it was more like a suite with two rooms [two adjoining rooms with 450 total square feet], could be rented out for a week or more to skiers.
- 7) The Board determined that this would be best issued as a “re-stated” approval with the Findings from approval #2006-05-CU listed below with the following exceptions:
 - a) The Board found that condition #3 of permit #2006-05-CU, “At any of the previously defined six annual **events** two (2) port-a-lets will be required unless the applicant has demonstrated the adequate expansion of the existing wastewater system and received Development Review Board approval of such” had been altered by Administrative Review 09/04/09 which verified the owners had received an updated ANR permit, WW-5-0654-2 which permits up to 84 guests at special event functions.
 - b) The Board also found that condition #7 of the current permit has been satisfied with the removal of the eave and now finds that the structure is conforming.
- 8) In addition to a completed application, the following was also submitted for the 2006 permit #2006-05-CU:

TOWN OF WARREN, VT

Received for Record 10/5 20 10

at 12:20 o'clock P M and Received in

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Ruth Robbins

TOWN CLERK

- abutter notification and proof of mailing
 - site plan of 10/17/02 by Jeff Schoellkopf Design
 - map showing the barn setback by McCain Consulting dated 2/17/06 with accompanying letter dated 3/1/06
 - floor plan of the barn
 - letter from Robert K. Mackin, Assistant State Fire Marshal dated 3/31/06
 - letter from Gunner McCain regarding the wastewater system capacity dated 4/12/06
 - numerous photographs of the barn and the surrounding property
 - letters from the following neighbors: Arnold Livingston, Joan Foster, June Sardi, and Jeff Swann
 - copy of wastewater permit from the State for the addition of a 1-bedroom caretakers apartment in the barn dated 5/31/05
 - copy of a letter from the State Department of Agriculture, Food & Markets regarding the setback waiver request dated 12/05/02
- 9) The Barn was built in 2002 on the site of an old barn that had collapsed.
- 10) As stated by the applicant, due to some miscommunications, the foundation was installed using the incorrect setback measurement per Town regulations.
- 11) The new barn was permitted as an agricultural equipment building and in addition granted a waiver of zoning setback requirements by the State Department of Agriculture, Food & Markets.
- 12) Historically, six or fewer outdoor events have taken place at the West Hill House in any given year.
- 13) Allowing the barn to be used for events will not increase the number of events, but rather offer an additional location which actually accommodates less people than if the event were held in a tent by the Inn.
- 14) There is both a State wastewater permit (WW-5-3197) and a Town Health permit (2006-04-HP) for the bedroom in the barn.
- 15) *Article 10 Definitions* states that the measurement for setbacks is made “to the nearest part of a building...” The eaves overhang of the roof is the part of the barn building nearest the road. Accordingly, it is from the eaves that the barn’s front yard setback distance is to be measured.
- 16) Several neighbors objected to approving the application because of concerns about traffic safety and pedestrian safety.
- 17) Several neighbors expressed support for the proposed changes for the use of the barn.
- 18) Testimony was given that stated that the Inn’s stone wall was replaced in about 2002 moving it back approximately two feet from the west side of the road.
- 19) Witnesses testified that the road passing by the Inn and Barn was narrow and that the posted speed limit is 25 miles per hour.
- 20) There is a bedroom and bath in the barn but there is no food preparation facility (kitchen). The bedroom in the barn measures 10 x16 feet and has historically been used for family when an Inn room is not available as the owner’s quarters has only one bedroom.

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- 21) Applicant has not yet obtained Certificates of Compliance for previously issued building permits.
- 22) The Assistant State Fire Marshal determined that no more than 80 people total (guests and staff) could occupy the first floor level of the barn for events.
- 23) According to McCain Consulting, Inc. who designed the wastewater system, the current system would need to either have the leach field expanded or the owners would have to employ the use of port-a-lets, to accommodate usage during events.
- 24) It was stated by the applicant that the parking area below the barn could accommodate 40 +/- cars and that an upper lot adjacent to the Inn could hold 35 +/- cars.
- 25) Any grassy areas utilized for parking must be mowed to typical lawn height as per the Fire Department.
- 26) Signage during events indicating "no parking on road" and "valet parking" directional signs were discussed as means to controlling vehicular congestion and providing pedestrian safety.
- 27) Pedestrian pathways around the Barn will be inviting, clearly marked and easily navigated whenever an event is held on the east side of West Hill Road.
- 28) For all events in the barn, parking (except for guests of the Inn) will be on the west side of West Hill Road.
- 29) The Board concludes that the use of the barn for events will not make traffic or pedestrian safety worse nor create an undue danger. There will be no increase in the number of events held on the property overall. Except for those few guests who will be staying at the Inn, parking for all events at the barn will be on the barn side of the road and by valet parking only. The conditions of this approval also impose new signage requirements and limits on parking in front of the barn that will improve pedestrian and traffic safety.
- 30) The applicant was informed to investigate whether they may need to obtain a road cut permit from the Town of Warren Select Board for the access to the back parking area behind the barn that is currently considered an agricultural access. Said access is to be enhanced in such a way as it is inviting and distinct.

Notice of Decision:

The Board, finding that the application has satisfied the requirements under Article 5, Sec 5.3 Conditional Use Review hereby approves the applicants request for the change of use of the barn room and is still subject to the findings and conditions of permit #2006-05-CU unless otherwise noted in this document. This approval is subject to:

1. The inn and barn structures being retained in common ownership and that the property may not be subdivided without review and approval by the DRB that such action meets all current local and state regulations for each parcel.
2. The project shall be operated and used only in accordance with the terms, plans, procedures and specifications stated:

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- a) In the application
 - b) All exhibits furnished by the applicant, and
 - c) All findings of fact and conclusions stated above in this decision.
3. For the purposes of this application an **event** will be defined as any function where there is a plan for more than 30 attendees where the **event** is located anywhere on the East side of the road (Barn side, inside or outside) or outdoors on the West side of the road (Inn side, outdoors only). The applicant is limited to a total of six (6) **events** in a calendar year. No **event** held outside the barn may have more than 125 attendees. No **event** held in the barn may have more than 80 occupants or such lesser number as may be the maximum capacity approved by the State Fire Marshal.
 4. During any of the previously defined six annual **events** the following will be required: **1)** temporary "no parking on road signs" on the adjacent roads for a distance of 500 feet from the front of the barn; **2)** directional Valet parking signage; **3)** parking must be excluded from the front of the barn when the **event** is being held in the barn.
 5. Before the first event is held in the barn, applicant must install a permanent barrier to prevent parking close to the road at the west end of the two rows of parking between the barn and the road. The plan for these barriers must be reviewed and approved by the Board before installation.
 6. For each of the previously defined six **events** the applicant must park all guests' vehicles using valet parking. Transfer to the valet will occur at the existing parking area located on the West side of the road.
 7. As allowed by § 3.6 (C) (1), the Board waives 30% of the 40-foot setback requirement for the barn's front yard. Accordingly, the barn's setback from the edge of the right of way for West Hill Road shall be 28 feet. Before the first **event** is held in the barn, the applicant must remove any portion of the barn that encroaches within the 28' front yard setback. The setback shall be measured from the nearest point of the barn (including the eaves) to the edge of the Right-of-way for West Hill Road as shown on the McCain plan dated 02/17/06.
 8. No temporary structures placed between the barn and the West Hill Road Right-of-Way shall encroach into that right-of-way.
 9. This decision will not be signed until the Zoning Administrator has determined, within ten days, that a Certificate of Compliance is issued for all existing improvements.
 10. Based on and subject to the conditions contained within the forgoing Findings of Fact and Conclusions of Law, the Board finds that the standards under Article 5 Development Review, Section 5.3 Conditional Use Review Standards, are satisfied, and the application hereby is approved.

DEVELOPMENT REVIEW BOARD

Peter Monte Oct 4, 2010

Peter Monte date

~~Jeff Schoellkopf~~ date

Chris Behn 10/05/2010

Chris Behn date

Lenord Robinson Oct 4 2010

Lenord Robinson date