

**TOWN OF WESTFORD  
DEVELOPMENT REVIEW BOARD MINUTES  
Minutes for Monday, September 25, 2017  
Approved on October 23 2017**

**Board Members Present:** Dennis Angiono, Wayne Brown, William Cleary, Sara DeVico, Lisa Fargo and Matt Wamsganz (Chair).

**Board Members Absent:** Jason Hoover.

**Also Present:** Melissa Manka (Planning Coordinator), Claudine Safar, Michelle Pelkey, Ted Pelkey, Eric Jacobsen, Thomas White, Mike Blair, Sue Thibault, Paul Kolbenson, Daniel Strobridge and Louella Strobridge.

The meeting began at 7:18 p.m.

**Amendments to Agenda**

Due to the Strobridges absence, the DRB agreed to move the Sketch Plan Review for a 2 Lot Subdivision for Daniel and Louella Strobridge to the end of the agenda and place the Theodore and Michelle Pelkey's Appeal of a Zoning Administrator Decision at the beginning of the agenda.

**Public Hearing for Appeal of Administrative Officer Decision– Theodore & Michelle Pelkey Property**

Theodore Pelkey, Michelle Pelkey and Claudine Safar (attorney) were present.

Matt stated that he and the appellant had a history and the appellant sent him threatening texts in the past.

Claudine requested Matt's recusal, stating he attacked her client's character at the onset of the hearing.

Matt stated that the town attorney advised him to acknowledge the incident at the beginning of the hearing.

Claudine stated that regardless of the town attorney's advice Matt may not be conflict free and again requested his recusal.

Matt declined.

Lisa asked whether he could participate, but not vote.

Claudine said he would need to leave.

The DRB began review of the appeal.

Kate explained that the zoning permit application lacked sufficient information necessary to approve the permit.

Claudine stated that the appellant's applications are governed by a stipulated judgement order and Section 3E states "any new building may vary in scale...". It also grants the client the points outlined in the order regardless of submission.

Sara stated that Claudine is referencing Section 244 of the regulations concerning aesthetic characteristics of a building. However, the proposal would still need to conform to the accessory structure requirements in order for a zoning permit to be issued.

Matt stated that the court order states “revised as follows” meaning the court approved site plans must be revised to conform with the items listed in #3 in order to allow the Zoning Administrator to approve the application.

Claudine argued that the order does not state that and if it meant to it would say “future applications shall comply with the following criteria”. However, that is not what it says and “revised as follows” legally makes no sense.

Lisa asked if Claudine believes the regulations do not matter in this case because the lawyers didn’t write the judgement order correctly.

Claudine said yes. She added that the judgement order is written strangely.

Sara asked how the order could be interpreted other than the appellant must meet the regulations and criteria spelled out in paragraph 3 given paragraph 5 of the order.

Matt began going through the staff report and point system. He stated the proposal clearly met a, b, and c but lacked a professional landscaping design as required in d and lacked the information required in e and f.

Ted said his engineer submitted information proving conformance with the point system with the zoning permit application.

Melissa said the DRB had a copy of the complete zoning permit application.

Ted was asked what the use of the structure would be.

Ted said he would move his home occupation to the new building to house large equipment with access to heat and electricity. He added that he was not totally sure of the use because has many options.

Claudine said different uses would need to go before the board.

Dennis said he wanted to get more information from the attorney to ensure decisions are made correctly. He added that it couldn’t hurt.

Claudine said it could hurt if the town’s position got aggressive.

Bill said they need the town attorney’s opinion regarding the order as well as how to proceed. He said he will make up his own mind after hearing all positions and opinions.

Dennis asked if the wording in the order could be rectified if something were wrong with it.

Claudine stated that it’s a contractual agreement and cannot be reengineered.

Matt asked what Claudine thought the 23 points were scored on if the judge and attorneys were willing to grant the points regardless of submission of an application proving conformance.

Claudine said the points must have been granted during mediation and the individuals involved must have known what her client proposed to do.

Lisa said she believes the intent of the order was that the appellant would need to meet the criteria listed. Lisa asked the appellant’s attorney if she would like the DRB to review the rest of the staff report since they are stuck on the point issue.

Wayne asked whether Ted was proposing a type 2 home occupation. He also noted that an 8,000 sf building appears to be a principal structure as opposed to an accessory structure housing a home occupation.

Finally, he asked for an honest description of the use of the building.

Ted said he's not completely sure what the future use will be as he has many irons in the fire and the use may expand over time. However, he said he does plan to move his home occupation from the temporary structure on the property to the proposed structure. He said the proposed structure would house commercial trucks and trailers, excavators, bobcats and other vehicles that would be brought to the site.

Ted said the Mathieu's structure is bigger than what he is proposing and Richard uses it for whatever he wants. He added that issuing violations and going to court with the Mathieu's was a waste of tax payer money. Ted said he wants an accessory structure too.

Sara stated that the DRB is working with completely rewritten regulations which were adopted in 2016. Therefore, past approvals and/or structures approved under past regulations are irrelevant.

Claudine commented that there may be issues with inequity.

Claudine added that further appeals would be unproductive and it's in everyone's best interest to work together.

Lisa MOVED to continue the public hearing until October 23<sup>rd</sup> at 7:15pm.

Dennis SECONDED the motion.

The motion PASSED: 6 – 0.

The DRB opened for public comment.

Tom White said it's good the DRB is doing its job by getting more information. He said the attorney present is representing the Pelkeys not the Town and the Town should be receiving opinions from its counsel. He added that the Mathieu situation was different and under different regulations. He ended by saying he felt the fear of spending money was being used as a tactic to change the town's opinion in the case.

Lisa suggested that the DRB seek a 3<sup>rd</sup> legal opinion prior to making a decision.

Michel Blair stated the proposal was a covert way of turning previously subdivided residential lot into a commercial lot and avoiding Act 250. He added that Ted wants to build a structure and then bring in businesses. He said Act 250 review would safe guard abutters and the town more so than local approvals.

Claudine said bringing in a business would require a change of use.

### **Sketch Plan Review for 2 Lot, 1 Unit Subdivision – Owner: Daniel & Louella Strobridge**

Daniel and Louella were present.

Daniel explained that they would like to subdivide 44 acres from their parcel as a deferred development lot and retain the remaining 42 acres with existing dwelling and infrastructure.

The DRB went through the staff report.

The DRB agreed that at least one of the lots will need to be surveyed but the Strobridges may decide which lot.

The Strobridges said the property was enrolled in the Current Use Program and, therefore, the building envelope would extend as far as the 2 acre exclusion area.

The DRB stated that the building envelope would need to conform to minimum district setbacks and exclude the WRO, steep slopes and ledge outcroppings as well.

The Strobridges stated that the Pouliots would continue to hay the property retained by them.

The DRB agreed that the existing driveway could adequately serve the fire department's needs with regard to emergency access.

The Strobridges stated that they do not have mechanical equipment, dumpsters, fuel tanks, etc. on the property.

The DRB informed the applicants that a follow up letter would be sent to them outlining the items that need to be addressed and submitted prior to scheduling a final plat public hearing.

**Other Business, Citizens to be Heard & Announcements**

No other business to discuss or citizens to be heard.

**Minutes of the September 11, 2017 Meeting**

Wayne MOVED to approve the minutes as amended.

Bill SECONDED the motion.

The motion PASSED: 5 – 0.

Lisa abstained.

The meeting adjourned at approximately 9:14 p.m.

Submitted by,

Melissa Manka, Planning Coordinator