

**TOWN OF WESTFORD  
DEVELOPMENT REVIEW BOARD MINUTES  
Minutes for Monday, October 23, 2017  
Approved on November 13, 2017**

**Board Members Present:** Wayne Brown, William Cleary, Sara DeVico, Jason Hoover and Matt Wamsganz (Chair).

**Board Members Absent:** Dennis Angiono and Lisa Fargo.

**Also Present:** Melissa Manka (Planning Coordinator), Loreen Teer, Stephen Weston, Brian Monaghan, Jeffrey Kurshner, Michelle Pelkey, Ted Pelkey, Thomas White and Mike Blair.

The meeting began at 7:15 p.m.

**Amendments to Agenda**

There were no amendments proposed.

**Sketch Plan for a 2-Lot Subdivision– Bernice Weston & Esther McLaughlin Property Applicants: Loreen Teer & Stephen Weston (35.2 acres)**

Loreen Teer and Stephen Weston were present and gave a brief explanation of the proposal. They hope to subdivide the existing single-family dwelling from the multi-family dwelling.

The DRB began going through the staff report.

The DRB agreed that a condition could be placed in the decision requiring that an after the fact wastewater easement be recorded in the land records when the mylar is recorded which grants an easement on the Quimby property to the applicants' property for a wastewater system.

The DRB was fine with the existing access points and number of accesses, but asked that the width and length of the existing driveways be shown on the plans.

The DRB asked that parking spaces be depicted on the plans.

Loreen stated that the multifamily dwelling has 5 spaces.

The DRB will not require street trees along Route 15.

Melissa asked about the street light on Rabbit Run.

Loreen stated that the electric company believes it to be 8000 lumens.

Melissa stated that the light will need to conform to the regulations by either being replaced with the light less than 2000 lumens or fully shielded and extinguished at 9pm.

The DRB discussed this issue with the applicants at length.

Loreen said the light has been in place for over 60 years as requests the DRB to grandfather it.

The DRB reviewed the R5 point system and made the following comments:

- 1) 1 pt.
- 2) 2pts
- 3) 5pts
- 4) 0 pts
- 5) 3pts
- 6) 0

- 7) 3 pts
- 8) 5pts
- 9) 0 pts
- 10) 4pts
- 11) 0 - questionable
- 12) 2 pts

Total:25 pts

The DRB informed the applicants that they will need to reach 27 points. They suggested looking into screening along the roadway or screening the parking areas, but it is up to the applicant to determine how the application will reach the required number of points.

Loreen and Stephen asked the DRB to consider grandfathering the light, driveways and screening and determine them to be acceptable.

The meeting was opened to the public and no comments were heard.

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

Theodore Pelkey, Michelle Pelkey, Brian Mongehan (attorney) and Jeffrey Kurshner (engineer) were present.

Brian stated that he was informed of an outburst by the chair at the last hearing and asked for Matt's recusal.

Matt stated that he sought the advice of the Town Attorney and does not believe recusal is necessary. He added that he believes he can be fair and balanced. He asked Brian if he had listened to the recording of the last meeting.

Brian said no.

Matt suggested he listen to the recording.

Brian asked how the court stipulation was being considered.

Matt said this was discussed at length at the last meeting and the DRB needs to go through the staff report at this point.

The DRB began by asking the use of the structure and stating they need to determine whether the use/structure are principal or accessory.

Jeffrey questioned whether square footage determines whether something is principal or accessory to a residential use. He said the regulations do not define the word "size" and therefore size is objective. He added that the property has an active home occupation permit and that use may move to the proposed structure, but that is not what is being proposed at this time. He added that he does not believe this proposal will create more traffic. Jeffrey stated he does not need to describe a home occupation because one is not proposed and the garage will be used to store big toys as an accessory to a residential use on the property. He added that if his clients want to change the use they will apply for DRB approval.

The DRB then went through the site design and engineering standards.

Jeffrey stated again that the use of residential and noted that zoning permits aren't required to meet the site design and engineering standards.

The DRB agreed the driveway appeared to be fine.

Jeffrey said he could provide a letter from the Fire Department confirming that the existing construction of the driveway is sufficient to provide emergency access.

Jeffrey stated that there is a swale between the dwelling and proposed structure that will adequately address storm water and there will be no runoff from a 1-year storm event.

Jeffrey stated that utilities are not shown but they will be underground.

Jeffrey stated that due to the use being residential they have not shown parking as is typical for residential uses. He said parking will occur in the gravel drive.

Jeffrey said there will be security lighting which will be down-shielded and probably motion activated.

Jeffrey said no signs are proposed.

The DRB discussed the fact that state permits were not addressed.

Jeffrey stated that Kate never asked for state permits or made them a condition of approval but rather denied the application.

Kate said she used the stipulation to review the application and that she is adamant that due to the use and scale of the development the Administrative Officer does not have the authority to approve the permit. She said size and future uses deem this a principal structure by definition.

Jeffrey asked the definition of size.

Sara said subordinate and incidental to the principal structure.

The DRB went through the R5 point system and made the following comments:

- 1) 1 pts
- 2) 5 pts
- 3) 5 pts
- 4) 1 pts
- 5) 1 pts
- 6) 2 pts
- 7) 2 or 0 pts
- 8) 2 pts
- 9) 0 pts
- 10) 3 pts
- 11) 2 pts
- 12) 1 pts

Total: 25 points

The DRB asked whether site, elevation or architectural plans were reviewed during mediation.

Jeffrey said no but everyone knew that was being proposed at mediation.

Kate stated that there are dimensional standards and noting the height as less than 35 feet is just stating the upper limit without providing adequate information.

Jeffrey said the building is in flux.

Jason stated that less than 35 feet is not specific and an 8000-square foot structure or 80 ft by 100 ft by 34 ½ ft begs the question of whether this is accessory or principal structure. He added that the description provided is not explicit and more information would be helpful to make the accessory versus principal determination.

Jeffrey stated that elevations were not provided but they were not required and said they should have been required if they were necessary. He noted that he brought drawings submitted for previously to the court which show no negative visual impacts and presented them to the DRB.

Melissa stated that the DRB should not be taking new information on the application but rather making a determination on what was submitted to the Administrative Officer.

Kate noted that (e) of the stipulation is very specific with regard to what is required of the building and the applicant has not proved conformance with what was submitted.

Kate said that she was willing to work with the applicant but more information is needed. She noted that less information was present during mediation and the stipulation required additional information to be submitted to the town prior to receiving any approvals. However, she again noted that she does not believe this proposal to be an accessory use/structure and as proposed she does not have authority to take action on this application.

Jeffrey said his client received 25 points without needing to submit additional information.

Brian said he does not want to see this remanded to the Administrative Officer but rather approved by the DRB.

Jason questioned whether this should have been deemed an incomplete application versus a denial.

Kate stated that Mr. Pelkey regularly called for status updates on the application where she stated she needed more information and questioned whether he was being forth coming about the use and he invited her to deny the permit. She said she would have liked more information about the proposal.

The hearing was opened to the DRB and no additional questions were raised.

The hearing was opened to the appellant and no additional testimony was given.

The hearing was opened to the public.

Tom White stated that the building as proposed is not subordinate in the view of a normal person but rather this is a principal structure. He agreed that the structure would be screened from the north but said the screening from the south is ineffective. He added that the garage doors would be visible from Route 128 and the view from the driveway access should not be the only one considered. He said the doors should be placed on the east side of the building for the least visual impact to abutters. He ended by saying the pictures submitted are deceiving.

Mike Blair said the proposal was commercial and should require 27 pts. He then asked how the Pelkeys will meet all the other regulations with after the fact approval if the building is not built to standard now. He stated the big toys that will be stored on site are in fact commercial vehicles. He added that he echoes Mr. White's observations that the doors should be placed on the eastside of the building and additional screening should be placed to the south. He ended by saying this development as proposed will cause the neighbors to suffer and reduce property values in the area.

Kate said the DRB has awarded these points based on hearsay with no assurances that the proposal meets the regulations and in her review of the application the proposal does not meet the regulations.

Wayne MOVED to close the public hearing.

Sara SECONDED the motion.

The motion PASSED: 5 – 0.

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

There were no citizens to be heard.

**Minutes of the September 25, 2017 Meeting**

Sara MOVED to approve the minutes as amended.

Bill SECONDED the motion.

The motion PASSED: 4 – 0.

Jason abstained.

The meeting adjourned at approximately 9:56 p.m.

Submitted by,

Melissa Manka, Planning Coordinator