

TOWN OF WESTFORD
DEVELOPMENT REVIEW BOARD MINUTES
Minutes for Wednesday, July 27, 2016
Approved on August 10, 2016

Board Members Present: Wayne Brown, William Cleary, Sara DeVico, Lisa Fargo, Jason Hoover, Tony Kitsos, Matt Wamsganz (Chair)

Also Present: Sue Adams, Michelle Pelkey, Jeffrey Kershner, Brian Welch, Thomas White, Mike Blair, Maurice Rathbun

The meeting began at 7:15 p.m.

Subdivision Amendment to enlarge a building envelope – Theodore and Michelle Pelkey property

Matt opened the meeting. Michelle explained that Jeff (Pelkey's engineer) would be her spokesman.

Jeff gave an overview of the proposal plus additional background information beyond what was included in the staff report. Specifically, Jeff wanted the Board to know that the existing storage building/garage along the southern boundary was approved by the town despite being less than 2 feet short of the 25ft set back; the hoop house behind the house was approved by the town (permit #10-012) as was the home occupation permit (10-012) that is housed in said hoop house. In addition, Jeff wanted the Board to know that in 2012 the town approved a 2-lot subdivision on the property plus site plan and conditional use approval for a non-residential building with parking lot in the front lot and an expanded home occupation in the back lot. Jeff explained that the neighbors appealed the DRB's subdivision approval in Environmental Court and that although the judge upheld the DRB's decision, the Pelkey project never came to fruition for various reasons. Jeff stated a survey of the 2-lot subdivision was submitted for recording in the Westford Land Records, however, because the DRB chair at the time did not sign it, Jeff recognizes that the Town considers said subdivision null and void.

In Jeff's opinion, there was a significant shift in the 2010 Town Plan that encouraged development along paved roads in the ARFII zoning district. He believes the 2015 Town Plan and the newly adopted 2016 Regulations are consistent with the 2010 Town Plan vision of keeping development along paved roads while preserving open space. He also believes the Pelkey's proposal fits the current Town Plan vision and the new regulation standards. Specifically, their proposal keeps development closer to the road while maintaining significant open space with all its natural resources toward the back of the subject parcel, by the river. Jeff explained that the proposed building envelope essentially follows the same lines that were used for the 2012 subdivision building envelopes (which are now null and void). Furthermore, Jeff pointed out that the southern boundary purposely does not conform to the 25 ft set back in one specific area for the sole purpose of capturing the town-approved storage building/garage there.

Jeff further explained that the Pelkeys are fully aware that any future development must comply with the new regulations. He conceded the Pelkeys asked for too much last time (in 2012) and it backfired on them. Therefore, the Pelkey's plan this time is to "baby step" their way toward future development and that asking for an enlarged building envelope is the first step in this process.

Matt asked the Board if they had any questions before reviewing the staff report.

Bill wondered whether the Pelkeys intend to put up a decent sized building out front, by the road.

Jeff answered "I believe so." He then qualified that by saying the Pelkeys do not have a definite plan at this time - they may one day decide to put up a building with the purpose of moving their existing home occupation out of the temporary storage structure (hoop house), or, they may one day decide to put up a shed or garage for the purpose of parking his pick-up truck.

Matt began a review of the staff report, focusing on the underlined sections.

With Issue #2, Matt stated that while it's helpful to know the previous subdivision history, those subdivisions were reviewed by a different Board under different regulations. This Board must review the proposal strictly under the new regulations.

Tony reiterated this point, adding that what is more helpful than history is knowing what permits the Pelkeys have in place today and knowing why Pelkeys want to expand their building envelope.

Regarding the R5 setbacks and the building envelope's southern boundary line, Jeff reiterated the line was purposely drawn that way to capture the existing storage building/garage and that the Pelkeys would formally ask for a waiver if that is what they need to do.

Matt stated the DRB would have to deliberate whether they could approve a building envelope that did not conform to the setback standards.

There was much discussion of the Subdivision Criteria R5 Point System (Figure 3) and how it applies to this proposal.

Bill asked how to apply the point system when there is no proposed building.

Tony replied that the Board will have to deliberate on how and if to apply the point system to this proposal. He added that when you talk about siting buildings and siting infrastructure in a building envelope, and if you bring that envelope to the edge of all the setbacks, what you're essentially saying is that you would allow a building to be sited anywhere in the envelope, so it definitely behooves the Board to consider all of the objectives that apply within the planning and design standards.

Jason added that what makes this proposal tricky to review is that any future development is unknown at this time. He went on to explain that certain types of development in the R5 would not need the point system, i.e. a shed or garage requiring only a zoning permit, while other types of development, such as a commercial building, would require development review under the point system.

Jeff replied that what the Pelkeys are asking is approvable – that is, if the DRB grants them their enlarged building envelope, the Pelkeys know they will likely have to come back to the DRB with a future development proposal. Jeff is confident any such development proposal would meet the R5 point requirements. Jeff reiterated that Mr. Pelkey is currently unsure of future

development plans, however, by enlarging the building envelope now, Jeff contends that he would have options for the future.

Regarding subdivision criteria (Figure 24) and topography, Jeff took issue with the wording of a recommended condition that topography not be altered. He considers this heavy handed. He said the new regulations do not prohibit changes in topography but rather state that proposals “will not require excessive or unreasonable” modification of topography.

Tony agreed with Jeff, adding that these staff reports provide an angle for review. Sometimes the recommendations are ‘boiler plate’ items that apply and sometimes they need a little tweaking, and that any time something is recommended as a condition, it needs review and discussion.

Jeff stated that to his knowledge, there are no issues or violations with local or state permits regarding vehicular access.

Regarding Basic Subdivision Design and placement of the proposed building envelope at the front set back, Jeff reiterated that the Pelkeys cannot build in their current building envelope because it’s too small, and they cannot build out back because of steep slopes and the WRO. They therefore have nowhere else to go but out toward VT Route 128.

All existing trees are depicted on the site plan but not labeled. Jeff said he would label them on the amended site plan. He also confirmed no trees or shrubbery would be removed, however, he questioned what happens if vegetation must be removed to bury a utility line or a build a septic system within the front or side setback?

The Board referred to Section 313.B (9). The regulations do in fact state that non-agricultural or non-silvicultural disturbances outside of building envelopes should be minimized, not prohibited. Tony reiterated that this condition language might be another ‘boiler plate’ situation that needs some tweaking. Tony did caution that if any removed vegetation was serving the purpose of a screen for development, that vegetation would need to be replanted. Jeff agreed.

There was discussion about view sheds and development that is sited away from roads and under ridge lines, versus development that is sited up front along roads. Jeff shared an enlarged photograph taken from a neighbor’s property (Thomas White) looking toward the subject property. He pointed out a 41ft utility pole in the right of way on Pelkey’s property that provides an easy reference in which to envision the scale of a 35 ft high (or less) building and whether development would impact a view of Mt. Mansfield and the ridgeline. From this vantage, both the mountain and ridgeline are not obstructed.

The Board made the point that that vantage is only from Mr. White’s property, and while neighbors’ view sheds certainly matter, so does the view shed of motorists on VT Rt. 128 and Westford Milton Rd. The scale and view shed changes depending on one’s location. It was agreed that the view shed would be impacted most if you are travelling north on VT Rt.128.

Jeff agreed the site plans do not show all steep slopes in their entirety. He argued the steep slopes labeled and depicted were previously surveyed by his firm. It didn’t make sense to him

to survey the rest of the land and depict all the steep slopes because the building envelope does not include any steep slopes and the Pelkeys are not proposing development where there are steep slopes.

Sue pointed out that if steep slopes are present and close to the proposed building envelope line, perhaps they should be included on site plans.

The Board decided they are comfortable with Jeff's affirmation that the proposed building envelope contains no steep slopes and they are comfortable with the site plan as is.

Jeff's concluding remarks stressed that if the proposed building envelope is not approved, the Pelkeys would never have a chance to meet these new regulations. The Pelkeys would like the opportunity to show they can come before the Board again with a future development plan that meets the new regulations.

At 8:52pm Matt opened the floor to public comment.

Thomas White took issue with Jeff's assertion that development hugging VT Rt.128 is the intent of the town plan and fully complies with town regulations. Thomas considers this a "paid opinion" on Jeff's part; that the rural character of the area should not be dismissed; and that there are plenty of properties along VT Rt.128 in which development does not hug the road. Thomas contends there is no harm done by the applicant with this proposal. Instead, there is potential harm to the town and neighbors with this proposal. He does not think the town should approve an enlarged building envelope without knowing what development is being planned. Thomas contends the town and neighbors have a right to know what the Pelkeys plan to build. He cautioned that if this proposal is allowed, then everyone would have to be afforded the same opportunity to enlarge their building envelopes to the setbacks. He stressed that Jeff gave a paid interpretation of development suitable for Westford. Tom's personal interpretation of development suitable for Westford does not include building right along the road.

Michael Blair stated that the open space in front of Pelkey's house is what is important. If you look at the last development along VT Rt.128 (Hutchins), you'll see the house and outbuildings are all set back, away from the road. Michael thinks development close to the road would look ridiculous. If Pelkeys are allowed to do this, anyone else would be allowed to do this and this would certainly change the character of Westford.

Maurice Rathbun introduced himself as the former Zoning Administrator of Westford. He said with a proposal like this, you have to ask yourself for what purpose is the applicant enlarging his building envelope. Regarding the storage building/garage that does not conform to the side set back, Maurice stated that Mr. Pelkey told him it was 25ft from the boundary line and that Maurice believed him at the time. Maurice noted that the Pelkeys did not have a permit for the hoop house when it first went up. He also contends there should be a notice of violation from the State for widening the driveway. Lastly, Maurice commented that he did not see the Permit sign in the right of way for a full 15 days before the public hearing. Michelle answered that it was up but fell down after a rain storm.

Before closing the public hearing, Tony asked Jeff if he had anything to add to the proposal. Specifically, was there a plan to be shared and if so, whether the DRB should continue the public hearing? Jeff answered there is no plan at this time beyond enlarging the building envelope.

Tony MOVED to close the public hearing.

Jason seconded.

The motion passed 7-0.

The DRB then deliberated on the R5 point system and how to use it to score this proposal. It was decided to continue deliberative session after the August 10, 2016 public hearing.

Other Business

Lisa agreed to take minutes for the August 24, 2016 public hearing. In preparation for that hearing, the Board asked Sue to check that the Hall's attorney, Joe Cahill, received a copy of Melissa's June 23rd email.

Minutes

Sara MOVED to approve the June 22, 2016 as amended.

Bill seconded.

Motion passed 4-0.

Tony MOVED to approve the July 13, 2016 minutes.

Bill seconded.

Motion passed 5-0.

The meeting adjourned at 10:45p.m.

Submitted by,

Sue Adams

Interim Planning Coordinator