

WEST WINDSOR DEVELOPMENT REVIEW BOARD

Draft Minutes
November 8, 2011

Present: Glenn Seward, Shannon Harrington, Hal Pyke, Genevieve Lemire, Barbara Truex, Klaus Lubbe, Sally Lubbe, Tom Kenyon, Bill Ley, Martha Harrison

- 1) Call to Order – DRB Chair Glenn Seward called the meeting to order at 6:30 PM.
- 2) Changes or Additions to the agenda – None
- 3) Public Hearing: Glenn opened the hearing on application #2457 by Klaus Lubbe for a 30' variance of the wetland buffer setback to enable the construction of a 12' x 12' gazebo at 504 Brownsville-Hartland Road (parcel #6-5.1). The application is subject to review under Section 2.3-2, 3.14, and 6.8 of the West Windsor Zoning Regulations. Glenn noted that there was a site visit on Sunday, November 6th at 1:00 PM. Glenn asked about conflicts of interest or ex parte communication. The DRB members said there has not been any. Glenn reviewed the definition of an interested party. Klaus Lubbe and Bill Ley were sworn in by Glenn. Glenn said Section 2.3-2 indicates that accessory structures are permitted in the Secondary Growth Residential district. Glenn read a portion of Section 3.14, which states that an "undisturbed vegetated buffer shall be maintained for a minimum of fifty (50) feet from all wetlands currently under federal or state jurisdiction." Glenn noted that the pond on the Lubbe property is a Class 2 wetland. There was brief discussion about how wetlands are classified and included on the state wetland maps. Shannon said open waters are generally considered Class 2 wetlands but she thinks it's possible to ask for a pond to be removed from the map. Tom said he was under the impression that man-made ponds are not considered wetlands. Glenn said the DRB is obligated to use the wetland map provided by the state and this particular pond is on the state wetland map. Tom asked when the town gets to review the maps. Klaus said the definition of "wetland" is vague but seems to mean that there are certain plants or animals present that don't grow or live anywhere else, and a man-made pond wouldn't qualify for that. Shannon said Class 3 wetlands are categorized by their plants and soils, but open waters are generally categorized as Class 2. Bill asked if the pond was just put in. The DRB members said the pond has been there for a long time. Barbara said she gathered, from Martha's letter, that one course of action the applicant could take would be to contact Wetland Ecologist Rebecca Chalmers and attempt to get the pond removed or disqualified. Klaus said he would like to comment on the variance criteria. Klaus said they put the gazebo up as a shelter for the kids swimming in the summer or skating in the winter. Klaus said the land is limiting because there's a pond on one side, a bank on one side, woods on another side and a septic field on the other side; so there's not a lot of space to move it unless he puts it on the septic field and then he might damage the pipes. Klaus said he does not see a serious impact of the gazebo on the biology of the area. Klaus said they plan to add plants and bushes to give it a more natural character and to attract birds and wildlife. Klaus said the gazebo has no impact on the neighborhood because you cannot see it from the street. Klaus said the current location is the least deviation from the regulations because he cannot put it further away and he doesn't want to put it closer to the water. Glenn said at the site visit the DRB noted an alternative location closer to the bank and farther from the pond, where there are a couple of hemlock trees. Klaus said where it is now, he – as a parent – can see what's going on. In the alternative location, he has no clue what's going on and he doesn't like that. Glenn asked Klaus if he has considered contacting the wetland ecologist. Klaus said he did contact Rebecca and she said she's really busy and can't look at every sandbox that people put next to a pond. According to Klaus, Rebecca said she is more interested in the natural habitat around wetlands. Klaus asked Martha if Rebecca talked with her. Martha said no. Klaus said Rebecca was uncommitted as to whether she would stop by or not. Klaus said if Rebecca had an issue with it, he thinks that she would say something. Shannon said she thought the line of questioning for Rebecca was not going to be 'Do you have a problem with it?' but 'Can it be removed as a Class 2 wetland?' Martha said that's one thought that she

had; it wouldn't cause the Lubbes future difficulties if it were removed from the wetlands map. Barbara asked if Rebecca also has the authority to say that the gazebo is fine. Martha said the problem for the town is that it's under state jurisdiction because it's on the map. Martha said she doesn't know what Rebecca would say but she could say that she doesn't have a problem with it, or maybe that it shouldn't be on the map. Klaus said Rebecca was contacted. Tom said the town is not empowered to enforce state laws. Tom suggested granting a waiver subject to review by Rebecca Chalmers. Shannon said a variance is much different than a waiver. Bill said, as a neighbor, he can't see it, has no objection to it, and can't imagine that it's going to impact the environment in any substantial way. Barbara noted that it's not sitting in an "undisturbed buffer;" it's sitting on the lawn. On the other hand, Barbara said, we have to follow the variance criteria. Klaus said he had no further comments. **Glenn made a motion to close the public hearing and move into deliberative session. Hal seconded the motion.** Shannon asked Klaus to clarify the location of the septic field. Klaus said the septic field ends about 22' from the pond. Shannon asked Klaus if he has a map of the leach field. Klaus said he might have a map. **Glenn called for a vote on the motion, which passed unanimously.** Glenn informed Klaus that the DRB is obligated to issue a decision within 45 days.

- 4) Minutes – October 25th: **Barbara made a motion to approve the minutes of October 25th as written. Glenn seconded the motion, which passed unanimously.**
- 5) Other Business – Zoning bylaws: Hal said Tom Kenyon talked to him about the 40-acre minimum lot size in the Conservation district and indicated that the Selectboard is thinking about changing it to 27 acres. Hal said he has no problem with that. Hal and Glenn agreed that 27 acres is defensible due to current use. Barbara said when the Planning Commission talked about this they were concerned about 27 acres because there may be some areas that aren't acceptable for current use; a 30-acre minimum lot size would give the property owner a little bit of a cushion. Regarding accessory structures, Barbara said she thinks it should be acceptable to allow two bedrooms. Glenn said he has no issue with that. Martha said the key is having sufficient wastewater capacity.
- 6) Adjourn – **The DRB adjourned by consensus at 7:18 PM.**

Respectfully submitted,

Martha Harrison