

**TOWN OF BERLIN
DEVELOPMENT REVIEW BOARD
108 SHED ROAD
BERLIN, VT 05602**

Findings of Facts and Conclusion

A. Background

1. Application Number: **07-067**
2. Property Owner(s): **Peggy Irons and Paul Irons d/b/a Acorn Properties**
3. Applicant (If Different):
4. Brief Description of Request: The applicant submitted an Application for Site Plan Review to re-configure the front entryway of an existing building to include new stairs and an elevator.
5. Date Application Filed: **July 16, 2007.**
6. Publication and Posting Information: Posted: **July 30, 2007.**

B. Hearings, Witness Testimony, Evidence

1. Hearings, Site Visit and Public Meeting Information: **A hearing was held on August 14, 2007.**
2. List of Persons Present at the Public Hearing(s): **August 14, 2007:** Members present and voting: John Hurley, Vice-Chair; Muriel Morse; Robert G. Manley; and Henry A. LaGue, Jr.

Staff present: Peter E. Noyes, Interim Zoning Administrator, and Carla Preston, Recording Secretary.

Others present: Paul Irons, Peggy Irons, Bradley Tubbs, Debbie Wolf, and Henry A. LaGue, Jr.

3. List of Witnesses Who Gave Testimony: **August 14, 2007:** Paul Irons
4. List of Documents Presented as Evidence by Any Person:
 - a. Application submitted by the applicant on July 16, 2007.
 - b. Warnings of Public Hearings as follows: Posted July 30, 2007.
 - c. Appeal Notice to Zoning Administrator: Not applicable.
 - d. List of Plans: Site Plans showing existing and proposed floor plan, building entryway reconfiguration, location of proposed elevator, etc.

The following Exhibits were submitted and admitted as evidence:

- Exhibit #1:** Application For Zoning Permit dated July 16, 2007;
Exhibit #2: Plans showing existing and proposed floor plan, building entryway reconfiguration, location of proposed elevator, etc., prepared by David Blosser Designs, Inc., dated July 18, 2007;
Exhibit #3: The Applicant's Narrative addressing Site Plan Review Criteria;
Exhibit #6: Several photographs of the site;
Exhibit #7: Lighting specification cut sheet;

- e. Written Comments from Other Municipal Boards:

- Exhibit #4:** July 31, 2007 letter from the Berlin Volunteer Fire Department stating minimal impact;
Exhibit #5: July 26, 2006 [sic] letter from Berlin Police Department stating minimal impact;

- f. Written Comments from State or Federal Agencies: None.
- g. Written Comments of any Other Witness:

Exhibit #8: Zoning Administrator's Report for DRB meeting August 14, 2007.

5. Testimony:

Mr. LaGue said he is an officer and shareholder in a corporation that abuts the applicant's property and would recuse himself if the applicant wished. No one expressed any objections to Mr. LaGue serving on the Board regarding this matter.

Mr. Irons said he wants to improve the exterior stairway and access for the handicapped to this building. He said the existing stairway would be replaced and an elevator added. The new stairway, elevator and the existing portico would be enclosed. He said the existing handicap "switchback" entrance ramp would remain. He described several pictures of the building and entranceway and explained the proposed improvements to site. He said the entrance would be ground level with stairs and an elevator to the upper levels of the building. He stated the building would not extend further into the parking lot.

Mr. Noyes said impact letters from the Berlin Police and Fire departments have been submitted. He said the Highway Department had not submitted an impact statement, however no changes to access are being proposed. He said the existing building meets all setbacks and the uses are permitted in this district.

The Board asked the applicants to address the Site Plan Review Criteria.

- a. ***Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.*** Mr. Irons said there would be no change in access or in vehicular or pedestrian circulation. He said visitors to the site would be able to enter weather-tight space at the parking lot level, chose between the stairs or the elevator, and then proceed to their destination with greater safety and comfort.
- b. ***Adequacy of circulation, parking, and loading facilities.*** Mr. Irons said no changes are contemplated regarding parking or driveway connections. He said parking spaces for the handicapped would be increased from three to four and placed between the new entrance and the existing ramp. He indicated that the loading and delivery areas, refuse and recycling storage areas, snow removal and emergency access are all adequate and would not be altered.
- c. ***Bicycle and Pedestrian Access.*** Mr. Irons indicated no changes are being proposed, but believes that this criterion is not applicable for this site.
- d. ***Adequacy of landscaping.*** Mr. Irons said there are numerous plantings in front of the building, grass and trees are currently around the perimeter of the parking lot. The landscaping is adequate and would be maintained. He said trees/shrubs by the existing stairs would be removed and replaced after construction.
- e. ***Hours of Operation.*** Mr. Irons said the hours of operation would remain the same, 6:30 AM to approximately 9:30 PM. He said those hours of operation do not adversely affect anyone's reasonable expectations.
- f. ***Setbacks.*** Mr. Irons said there would be no change in setbacks based on this project. All setbacks are met for this district.

5. **Witness Testimony, Evidence** - continued

- g. ***Adequacy of Exterior Lighting.*** Mr. Irons said he is proposing to add one exterior sharp cut-off light fixture that would be mounted over the new entrance door. He referred to the lighting specification cut sheet. Otherwise, exterior lighting is adequate and would not change.
 - h. ***Stormwater and Drainage.*** Mr. Irons said stormwater and drainage would not be affected by this project. No changes are being proposed.
 - i. ***Utilization of renewable energy resources.*** Mr. Irons said this criterion is not applicable.
 - j. ***Municipal services Impact Evaluation.*** Mr. Irons said he has received impact statements from the Berlin Police and Fire Departments. He said both departments stated no impact based on his proposed project. He said there would be no impact on highway or schools from this project.
 - k. ***Flood Hazard Review.*** Mr. Irons said the property is not located within a flood hazard area.
6. Minutes of Meetings/hearings held on August 14, 2007 were prepared and filed with the Town Clerk and Zoning Administrator (copy for file).

C. Applicable Law and Criteria

- 1. Applicable ordinances in effect at time of Application are the Town of Berlin Zoning Regulations, latest revision June 21, 2005.
- 1. Town/City Plan: Town of Berlin Municipal Plan adopted June 21, 2005.
- 2. Criteria that must be met under all applicable Ordinances or Plan. Town of Berlin Zoning Regulations: Article II, Establishment of Zoning Districts, Table 2.08 Light Industrial (LN) District; Article III, General Regulations, Section 3.02 Access, Driveways & Frontage Requirements; Section 3:08 Landscaping Requirements; Section 3.17 Outdoor Lighting; and Article V, Development Review Process, Section 5.05, Site Plan Review – Permitted Uses.

D. Findings of Fact

- 1. The property is located at 652 Granger Road, Berlin, in the Light Industrial (LN) District, Tax Map R2, Lot 19B.
- 2. The applicant submitted an application for Site Plan Review to re-configure the front entryway of an existing building to include new stairs and an elevator.
- 3. The current uses for this site are permitted in this district. No change in use is proposed.
- 4. The existing access would be utilized. The proposed project would not have an adverse impact on the adjacent street network, adequacy of circulation, parking, loading facilities, bicycle and pedestrian access or stormwater and drainage.
- 5. The applicant has demonstrated that the proposed landscaping and exterior lighting would meet the minimum zoning requirements.
- 6. All setbacks would be met for the district.
- 7. This project would not adversely impact state or municipal services.

F. Conclusion of Law

1. Reference applicable ordinance: The Town of Berlin Zoning Regulations, latest revision June 21, 2005.
2. Reference applicable sections: Town of Berlin Zoning Regulations: Article II, Establishment of Zoning Districts, Table 2.08 Light Industrial (LN) District; Article III, General Regulations, Section 3.02 Access, Driveways & Frontage Requirements; Section 3:08 Landscaping Requirements; Section 3.17 Outdoor Lighting; and Article V, Development Review Process, Section 5.05, Site Plan Review – Permitted Uses.
3. Address any interpretations made: None

F. Decision

1. Apply Findings of Fact and Conclusions of Law: Based upon the evidence presented, the Board concluded that the applicant has met the requirements under the provisions pertaining to this application.
2. State Decision: Based on evidence presented and testimony heard, the Development Review Board hereby **APPROVES** Application number 07-067 as submitted.
3. Signatures:

Appeal rights:

You have the right to appeal this decision to the Vermont Environmental Court, pursuant to 24 V.S.A. § 4471 and V.R.C.P. 76, in writing, within 30 days of the date this decision is issued. The fee is \$150.00. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 V.S.A. § 4472 (d) (exclusivity of remedy; finality).

Town of Berlin
Development Review Board
108 Shed Road
Berlin, Vermont

**Findings of Facts and Conclusion
In the matter of 07-067
Paul Irons and Peggy Irons
d/b/a Acorn Properties**

SIGNATURE PAGE:

Date:

For the Development Review Board

John Hurley, Vice-Chairman