

**DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont**

**APPROVED MINUTES
Meeting of TUESDAY, February 18, 2014**

1. The meeting was called to order at 7:00 P.M.

Members present: Robert J. Wernecke, Chairman; Karla Nuissl, Vice-Chairperson; Henry A. LaGue, Jr.; and Paul Irons, Alternate. Absent: Kyle Faye Mooney. (Alida VanDenBerg resigned)

Staff present: Jeffrey Schulz, Town/Zoning Administrator and Carla Preston, Recording Secretary.

Others present: James Manley, Mark Stewart, Jeffrey Olesky, John Connor, Russell Richardson, Robert Townsend, David Wilcox, George Thayer, Mary Thayer, Ronald Lyon and Paul Simon.

The Board explained its Policy and definition of party status and interested persons to attendees. Copies of the Rules and Policies and Procedure were available as handouts. No one present requested party status.

2. Old business

A. 13-069 – Pike Industries LLC submitted an application to install a compressed natural gas system and replace/add recycling bins to the asphalt plant requiring Site Plan Review. The property is located at 165/249 Granger Road, Berlin, Vermont, in the Light Industrial Zoning District, Tax Map R02-009.A00. James Manley was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #7:** February 11, 2013 [sic] letter from the Berlin Volunteer Fire Department Inc. stating no concerns with the Department's ability to provide service subject to the condition that training is provided; **Exhibit #8:** January 31, 2014 Memo from the Berlin Highway Department stating that the proposed application would have no adverse impact on the Highway Department; and **Exhibit #9:** January 29, 2014 Memo from the Berlin Police Department stating that the proposed application would have no adverse impact on the Police Department.

Zoning Administrator Schulz advised that impact statements from the Berlin Police, Fire and Highway Departments have been submitted. The Berlin Police and Highway Departments advised that the project would have no adverse impact. The Berlin Volunteer Fire Department requested training which the Applicants already agreed to provide.

Based on the additional information provided, Mr. Irons made a motion, seconded by Ms. Nuissl, to close the hearing with respect to Application 13-069. The question was called and the motion passed unanimously.

B. 13-073 – RHTL Partners, LLC (Capital City GMC) submitted an application to construct a 17,620 square foot car dealership to replace existing facility requiring Flood Hazard Area and Conditional Use Review. The properties are located at 1162 US Route 2 and 1189 US Route 2, Berlin, Vermont, in the Highway Commercial Zoning District, Tax Map U6-2 and U6-4. Mark Stewart, Architect, Jeffrey Olesky, P.E., and John Connor were sworn in to give testimony on this matter. In addition Russell Richardson, Robert Townsend, PE, George Thayer and Mary Thayer were sworn in to give testimony on this matter.

Mr. Stewart advised that other persons representing the Applicant were on their way but delayed due to the inclement weather. He asked if the matter could be tabled until their arrival.

Mr. LaGue made a motion, seconded by Mr. Irons, to table this application to later in the meeting. Motion passed unanimously.

Mr. LaGue advised that he is an abutting property owner and would recuse if the Applicants wished. No one expressed any objections to Mr. LaGue serving on the hearing panel.

The following documents were submitted and admitted as exhibits: **Exhibit #10:** Set of Proposed Site Improvements Plans submitted by Wilson Consulting Engineers, PLC, dated 10/14/2013 with revisions dated 01/28/2014 as follows: Existing Conditions Site Plan, Sheet C1.0; Erosion Prevention and Sediment Control Site Plan, Sheet C1.1; Demolition Plan, Sheet C1.2; Overall Proposed Conditions Site Plan, Sheet C2.0; Proposed Utilities Plan, Sheet C2.1; Proposed Grading Plan, Sheet C2.2; Proposed Surface Treatment Site Plan, Sheet C2.3; Proposed Landscaping Site Plan, Sheet C2.4; Proposed Lighting Site Plan, Sheet C2.5; Proposed Stormwater Drainage Site Plan, Sheet C2.6; Proposed Stormwater Management Plan, Sheet C2.7; Proposed Water Service Profile Plan, Sheet C3.0; Proposed Erosion Prevention and Sediment Control Details Plan, Sheet C4.0; Proposed General Site Details Plan, Sheet C4.1; Proposed General Site Details Plan, Sheet C4.2; Proposed Water Details Plan, Sheet C4.3; Proposed Sewer Details Plan, Sheet C4.4; and Proposed Stormwater Details Plan, Sheet C4.5; **Exhibit #11:** Architectural Plans prepared by Mark G. Stewart, Architect as follows: Overall Main Level Plan, A.1.1.; Overall Upper Level Plan, A.1.2; Proposed Elevations, A.6 and A.6.1; **Exhibit #12:** Signage Details prepared by Pattison Sign Group Inc., Knoxville, TN, dated May 21, 2012 and revised December 9, 2013; **Exhibit #13:** February 4, 2014 cover letter addressing site plan review criteria submitted by Jeffrey Olesky, P.E. with Wilson Consulting Engineers, PLC; **Exhibit #14:** Lighting Details; **Exhibit #15:** Copy of February 4, 2014 cover letter and the Applicant's Stormwater Discharge Permit Application to the Vermont Department of Environmental Conservation, Watershed Management Division;

Mark Stewart advised that the project is essentially the same as it was previously presented. He noted that stormwater and drainage has been updated and their lighting design is now complete. They also made a few tweaks to the former Ribolini lot across the road with respect to unloading vehicles.

Jeff Olesky provided an overview of the project noting that the existing dealership, Capital City Auto, is being reconstructed. The rendering showed existing and proposed changes. The existing building will be removed and a new retail and service building will be constructed. The project also includes redevelopment of the property across the street (formerly Ribolini). He confirmed that nothing too substantial has changed from their prior submission.

Zoning Administrator Schulz mentioned that the proposed improvements to Marvin Road needed further discussion as well as the proposed landscaping at the corner of U.S. Route 2 and Marvin Road. He asked for confirmation about which large existing trees would be removed noting concerns raised about impacts on the corner. He also noted that concerns about lighting had been mentioned at the prior meeting.

Mr. Olesky advised that they met with the Berlin Select Board on February 17, 2014 and received approval with respect to water. The proposed new six inch water line under the river would only serve the building on that side of the road. There would be no fire hydrant or expansion to serve multiple properties. The proposed six inch water line would only have the capacity to serve that building including fire suppression (sprinkler system). He advised that they are also asking the City

of Montpelier to formally approve those allocations. They have submitted to the Agency of Natural Resources their wastewater plan. They will submit plans to fire safety around the first of April. They have also provided for a 75 foot stream buffer which is shown on the plans. He noted there is a small triangular portion of the proposed new building within the buffer area but that it was a gravel surface anyway.

Mr. Olesky referred to the landscaping plan for the former Ribolini lot and noted that they have added three or four trees in that corner to create a visual break to Marvin Road in an attempt to address that issue. He advised they are proposing 3-4 inch caliper Red Maple deciduous trees. They will retain one of the large existing trees that are within the U.S. Route 2 Right-of-Way and will retain and save a couple of the other large trees along Marvin Road. He noted that some of the existing maple trees will be removed. He indicated that they are filling the site to get parking up to grade and improve stormwater. He referred to Sheet C2.2 for the proposed grading plan showing grading limits, parking, drainage swales, and so on.

Mr. Olesky advised that they are proposing a change to the Ribolini site with respect to how/where vehicles would be unloaded. He advised that based on further discussions with the Agency of Transportation (VTrans) and the town they have revised onsite circulation from one way to two-way by reconfiguring parking to allow delivery trucks to drive in and turn around. He advised they will not use Marvin Road for commercial uses. Trucks would enter from U.S. Route 2, perform a three point turn and exit. He noted that VTrans is satisfied with that proposal.

Zoning Administrator Schulz followed up with questions concerning contracts and unions and whether that procedure for unloading vehicles would be receptive.

Mr. Olesky advised that the grade onto Marvin Road is steep. He spoke with representatives for the Applicant and drivers about the curb cut at that angle. They propose to not utilize that road as it is not functional for them. Ultimately transport vehicles will pull onsite and unload vehicles there. He advised it would be coordinated with the owners and delivery vehicle operators which will become standard practice. Drivers will be instructed to not park on U.S. Route 2 for unloading. There will be adequate turning radius on site. They will not modify Marvin Road.

Mr. Olesky advised that letters describing the proposed project were sent to the Berlin Fire, Police and Highway Departments as well as VTrans requesting an impact statement. He indicated they were sent out a couple of weeks ago.

The Board noted that a response from the Berlin Police Department had been received. Municipalities have thirty days in which to respond.

Mr. Olesky acknowledged that stormwater and drainage was one of the biggest concerns raised by the Board, VTrans and abutters. He referred to Sheets C2.6 and C2.7 of the plans and advised that since the development pertains to more than one acre, a Stormwater Discharge Permit is required from the Agency of Natural Resources (ANR). He noted that since the properties are linked under the same ownership, the state will allow them to utilize a site-balancing technique which requires treatment of areas not being treated. As an example, he noted that on the existing site a parking lot would be turning into building space, and the existing building space would be turned into parking. He noted that there would be new impervious areas in the back and some in the front. ANR will require them to treat 100 percent of the new impervious areas and 20 percent of what they are redeveloping. They would be treating more than two thirds of the existing parking lot on the

existing site. He noted that some of ANR's criteria are waived for the existing site because it is adjacent to, and discharges directly to the Winooski River. They are not proposing any treatment on the former Ribolini property. He noted that runoff sheet flows off that property and goes to VTrans' collection system. The stormwater permit application has been prepared, a copy of which was sent to the Board as requested. Mr. Olesky advised that no issues were expressed in concept when they met with Christina Clark from ANR to discuss the proposal. Their application is being evaluated.

Mr. Olesky described the flow of stormwater for each site. He indicated that water flows north toward the river on the car site through an existing five foot wide vegetated depression swale. He noted that it is missing from the plan but is described in the narrative. He advised there are four discharge points including VTrans' drainage system with five catch basins. He noted that the southern portion of U.S. Route 2 gets discharged by the bridge. He referred to the plans with respect to drainage on the Ribolini property indicating where it collects in the grass lined swale which is 36 inches wide at base, Sheet C.45. Mr. Olesky advised that it is not being designed to meet water quality treatment by state standards. There are existing catch basins. There will be a collection system which will function better than what is in existence. He noted that the impervious area will be less than what exists. Runoff will be collected versus sheet flowing across the parking area. They are not proposing to add any new catch basins on either property. The drainage manhole is on the property and will be maintained. He advised that parking lot flow is captured and taken to a catch basin. The plan will not increase the flow on Marvin Road, Sheet 2.6. The amount is decreasing from area to area. They are matching predevelopment conditions. There is a 24 inch culvert under U.S. Route 2. The average grade change on the Ribolini lot would be around two feet. It needed to be raised to accommodate the turning radius for delivery trucks. Mr. Olesky advised that they want to retain the existing curb cut off Marvin Road but noted they could reduce the scope of the drive. They do plan to pave it as soon as it is financially feasible.

George Thayer advised that they reside at 12 Marvin Road and expressed concerns about existing trees (screening), runoff and flooding, and lighting. He asked the Applicants about the culvert which has caused flooding (2-3 feet in the spring) in the past. He mentioned that paving it could make it worse especially with the grade raised as there would be less room for storage. He was concerned that if the culvert was opened up it would discharge onto their property, not onto the VTrans' Right-of-Way.

Mr. Olesky advised that opening up the lines with a direct path might be better to direct the water to the river. He noted that the triangular piece would be reduced. He advised there would be swales along the side to the front. He indicated that none of the parking area would be draining to that area; it would be collected first.

Mr. Olesky pointed out which of the existing large oak trees would be retained and removed. He advised two trees would be removed and that they are proposing to add Red Maples with a 3-4 inch caliper. The trees would not block their view or adversely impact sight distance. They would be located about 50 feet off the corner.

Mr. Thayer also expressed concerns for safety about the alignment of the curb cuts for the two lots. He noted that drivers are coming up to speed at that point and not paying attention to turning vehicles ahead.

With respect to the concern about lighting, Mr. Olesky advised that lighting will be much improved. He referred to their lighting plan, Sheet 2.5 which included the photometric plan from the manufacturer. He referred to the grid shown on the parking areas for both properties. They have a variety of downcast and shielded fixtures which are specified on the plans. He noted that the lighting levels on the Ribolini property would be low for security purposes. They are proposing several pole lights which are lower and uniform and not bright. The existing fixtures are 25 feet high with four flood lamp heads tilted up on each pole. He noted that they will further research computer software to tell lights what illumination is desired. The proposed pole lights would be about 23 feet high but consist of LED illumination, downcast and single head. They are confident that this proposal will remedy some of the issues regarding light pollution. There will also be downcast fixtures mounted on the building. He confirmed that there would be some security lighting on all night. He noted that motion sensors were not being proposed at this time. Mr. Olesky referred to the cutsheets for further details.

Zoning Administrator Schulz noted that an impact statement has been received from the Berlin Police Department which had no concerns about the project. No other municipal impact statements have been received.

Chairman Wernecke advised the Applicants that permits for any satellite storage facilities for their vehicles are needed from the property owner. The property owner needs to obtain a permit to store vehicles on the lot. The Applicants were advised that a permit was needed even if only temporary during construction.

Mr. Stewart advised that the only other off site storage is on the Rouleau property which has been leased for a while. He advised that they will research it further and obtain proper approval.

The Applicants were also advised that the plan for securing their proposed propane tank must meet the design standards established by the Federal Emergency Management Agency (FEMA).

Mr. Olesky advised that he has discussed that point with Sacha Pealer. He advised that there is a tie-down plan. There has been some email correspondence regarding that issue.

The Board advised that it is reluctant to close the hearing without receipt of all required impact statements or the passage of thirty days after the request has been made. The hearing could be recessed subject to receipt of the impact statements. If no concerns were raised, the Applicants would not need to return and the hearing would close. If concerns were raised, the Applicants must be present to address those concerns.

The Applicants were in favor of closing the hearing subject to receipt of those statements. They will follow-up with the Zoning Administrator and agreed to return before the DRB to address any concerns raised.

Ms. Nuisl made a motion, seconded by Mr. LaGue, to recess Application 13-073 subject to receipt of impact statements from VTrans, Berlin Highway Department and the Berlin Volunteer Fire Department. The question was called and the motion passed unanimously.

A. 13-074 – George Wilcox, Virginia Wilcox and Geoffrey Wilcox and David Wilcox submitted an application for Final Plan review of a minor two-lot subdivision. The property is located at 1458 West Hill Road, West Berlin, Vermont, in the Rural Residential (RR) Zoning District, Tax Map R11-002-000. David Wilcox and Robert Townsend were sworn in to give testimony on this matter. Concept approval of the proposed two-lot subdivision was granted on January 21, 2014.

The following documents were submitted and admitted as exhibits: **Exhibit #8:** Subdivision Survey for H. George and Virginia N. Wilcox, David L. Wilcox and Geoffrey G. Wilcox prepared by Robert Townsend, LS, dated November 13, 2013.

David Wilcox provided a copy of the final survey of the 21-acre lot that they had prepared by Wayne Lawrence which was shown incorrectly on the tax map. He pointed out the location of the lot and explained that a boundary adjustment will be filed soon. They were waiting for Mr. Lawrence to make the changes. In addition, the other property owner (Howard Lund) resides out-of-state and needed to be in Vermont to complete the necessary paperwork. Mr. Wilcox advised that the 21-acre parcel is shown on the tax map as perpendicular to the road but it is actually parallel to his property lines. The 5-acre parcel would not be parallel to his property lines. He confirmed that the map has been finalized but it has not yet been recorded with the town.

Mr. Wilcox advised that the curb cut for the 5-acre lot was reviewed by the road foreman and has been approved by the Berlin Select Board. The location of the proposed curb cut is shown on the plans. The driveway is below the level of the road and meets requirements.

Zoning Administrator Schulz advised that the Final Plan has no significant changes from Concept. The proposed lot meets the requirements with respect to frontage, size, and so forth. He noted that the signature block is needed on the Mylar but found no other deficiencies. The onsite wastewater system has been submitted and approved by the State of Vermont.

Mr. Wilcox advised that Rob Townsend who prepared the survey is also present. The Final Mylar is very close to being filed.

The Board requested a copy of Wayne Lawrence's survey of the 21-acre parcel for this file. The Board advised that in addition to other requirements, the signature block should reflect the Berlin Development Review Board, not the Berlin Planning Commission. Findings of Facts & Conclusion will be issued.

Based on documents presented and testimony heard, Mr. LaGue made a motion, seconded by Mr. Irons, to close the hearing with respect to Application 13-074. The question was called and the motion passed unanimously.

B. 14-003 – Northfield Savings Bank submitted an application to Amend its Site Plan with respect to stormwater and drainage, wetland buffer encroachment, and height requirements for the proposed 20,800 square foot two-story office building. The property is located at 1021 Paine Turnpike North, Berlin, Vermont, in the Rural Residential Zoning District, Tax Map R07 - Lot 051. Paul Simon and Ronald C. Lyon, PE were sworn in to give testimony on this matter. The application was previously presented to the DRB on November 5, 2013.

Paul Irons recused himself due to a conflict of interest. Mr. LaGue advised that he owns abutting property and would also recuse if the Applicants preferred he do so. No one expressed any objections to Mr. LaGue serving on the hearing panel.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 14-003, dated January 28, 2014; **Exhibit #2:** Site Plans prepared by DuBois & King, Inc. as follows: Site Plan, Sheet C1 dated October 2013; Site Plan, Sheet C1 dated January 2014; Proposed Improvements Site Plan, Sheet C-2.0, dated January 2014; and **Exhibit #3:** January 28, 2014 cover letter explaining the need for amendments.

Paul Simon, Landscape Architect with White + Burke and Ronald C. Lyon, PE with DuBois & King, Inc. presented the proposed changes to the previously approved site plan. They advised that there are two main changes compared to their prior submission which pertain to the height of the proposed building and the stormwater retention pond.

Mr. Simon advised that they want an exemption under Section 3.06 regarding the height of the proposed building. He noted that 35 feet is permitted but they want up to another 18 inches for the installation of the mechanical equipment located on the roof of the proposed structure. He shared plans for the building and elevations completed thus far but noted that it is still in the design phase. He advised that the building as a whole will be higher due to the equipment and solar panels located on the roof at about 36.5 feet. They are currently working with Efficiency Vermont and want to be sure the allowance is approved if necessary. At this point in time, the architect feels that the height of the building would exceed 35 feet.

Zoning Administrator Schulz advised that typically they look for the average between the lowest elevation point and the highest elevation point. The plans show the lowest elevation at 928 feet on the southeast corner and 934.10 feet as the highest elevation on the southwest corner.

Mr. Simon advised that according to their architect's analysis 36.5 feet would be the average. The main structure would not exceed 35 feet but a good share of the roof could increase the height up to 18 inches for the mechanical equipment. He noted that under Section 3.06 of the regulations the height can exceed the maximum with DRB approval under conditional use review criteria.

The Board advised that the reasons stated to allow it do not mention Heating, Ventilating, or Air Conditioning. Examples mentioned included church steeples, flagpoles, elevator shafts, chimneys and so forth. The Board believes that it could be approved under the ordinance regarding HVAC or other equipment.

Mr. Lyon advised that their mechanical engineer indicated that it would be close in getting the height within the floors. It would help during the design phase to have the additional height if it is needed. He noted that the request is driven by the architects and floor elevations. Mr. Lyon advised that they are within two weeks of having design development drawings.

The Board advised that it would be better to have some parameters with a clear definition of what the Applicants are requesting. The Board would like to see the actual elevations for a reasonable representation of what it is being asked to consider for approval under conditional use review.

Mr. Lyon advised that they are also proposing a change in the location of the retention pond to provide a gentler slope on the side slopes of the pond. Mr. Lyon explained that the original

retention pond was located between a very steep ledge and the Right-of-Way which served as the buffer to the wetlands. During the stormwater design for the state permit they realized they could not do much for stabilization due to the steep banks. They looked at shallower slopes about 30 feet away from the ledge which was recommended by the stormwater regulators. The proposed relocation of the pond also provided an increased buffer between the pond and the face of the ledge between Paine Turnpike North and the pond. This would improve stabilization and provides a more aesthetically pleasing view of the project from Paine Turnpike North and access to the building.

Mr. Lyon advised that the relocation of the pond would result in a reduction of the wetlands buffer in that area from 50 feet to 10 feet. He noted that much of the buffer area proposed to be occupied by the pond is a previously disturbed area that was historically used for dumping and contains refuse and debris. They had to balance the water flow into the wetlands which was a concern of the Burke's, abutters. This proposal provides better drainage and control of water flow in and out of the wetlands. He noted that this is a better solution with shallower slopes and addresses the wetlands with protection of the buffer zone. He advised that the more natural 2/1 slope is better for habitat than the 1/1 slope originally proposed. The plan was discussed with environmentalists who prefer this solution. Mr. Lyon confirmed that they have met with stormwater regulators who wanted to review the plan prior submittal of their application. An application to address the reduced buffer has been submitted to the State Wetlands Program. It is their understanding that it meets the criteria and would be approved.

The Board noted that the proposed revision to the stormwater plan makes more sense. They would be encroaching into the buffer area with a retention pond, an area currently filled with debris that would be cleaned up, but would not be encroaching into the wetland.

The Board advised that no additional information was needed with respect to stormwater however a better sense of the elevation and the height of the proposed building was needed. The Board requested accurate numbers for the proposed height and a better representation of what the Applicants needed.

The Applicants advised they should have that specific information within two weeks. They understood the Board needed the information a week in advance of the meeting, and that if they were not ready it would be recessed to the March 18, 2014 meeting. They will provide copies of the revised plans to the abutters (Raymond Burke and Renee Burke).

Ms. Nuisl made a motion, seconded by Mr. LaGue, to recess Application 14-003 to the March 4th or March 18th meeting dependant upon the Applicants' readiness. The question was called and the motion passed unanimously.

4. Review and approval of the Minutes.

The Chairman called for approval of the Minutes of the January 21, 2014 meeting. At the top of page 3, under 13-069, the sentence which read "The trailers weigh less than the steel trailers loaded less than 80k pounds." was amended to read: The trailers would weigh less than a fully loaded oil truck. On page 5, under number 4, it was made clear that Mr. Daniels was denied party status.

Chairman Wernecke made a motion, seconded by Ms. Nuisl, to approve the Minutes of the January 21, 2014 meeting as corrected. The question was called and the motion passed unanimously.

5. Pubic Comment

Persons present participated in the meeting as noted above.

6. Other Business

7. Status of Findings.

The Board voted to go into deliberative session at 9:06 P.M. and out at 9:19 P.M. to discuss the status of Findings. The Board's decision with regard to (closed) adjourned applications will be reported in its Findings.

8. The next meeting of the Development Review Board is scheduled for **Tuesday, March 4, 2014.**

9. There being no further business, the meeting was adjourned at 9:20 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin