

**DEVELOPMENT REVIEW BOARD**  
**108 Shed Road**  
**Berlin, Vermont**  
**APPROVED MINUTES**  
**Meeting of TUESDAY, May 6, 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.; Harvey Golubock; and John Friedrich, Alternate.

Staff present: Thomas J. Badowski, Assistant Administrator and Carla Preston, Recording Secretary.  
Absent: Jeffrey Schulz, Town/Zoning Administrator.

Others present: Matthew W. White, Maranda L. White, William Lyon, James Kurrle, Alida VanDenBerg, and Kingman D. Penniman.

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. Alida VanDenBerg and King Penniman were granted party status as abutting property owners.

2. New business

**A. 13-071 – White’s Heating, Inc.** submitted an application for a new trucking terminal requiring Site Plan Review. The property is located on Route 12, Berlin, Vermont, in the Industrial Zoning District, Tax Map R11-013.000. Matthew White, Mandy White, William Lyon, and James Kurrle were sworn in to give testimony on this matter. In addition, abutters Alida VanDenBerg and Kingman D. Penniman were also sworn in to give testimony.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 13-071, received on 11/19/2013; **Exhibit #2:** Site Plan (Sheet 1 of 2) prepared by Robert A. Townsend, PE, American Consulting Engineers and Surveying, dated 12/9/2013; **Exhibit #3:** Site Plan – Notes & Details (Sheet 2 of 2), prepared by Robert A. Townsend, PE, American Consulting Engineers and Surveying, dated 12/9/2013; **Exhibit #4:** Letter dated 11/19/2013 from William Lyon, property owner, authorizing Applicant Matt White to submit an application for a permit; **Exhibit #5:** Letter from Matt White, owner, White’s Heating, Inc. describing the project; **Exhibit #6:** Letter from White’s Heating, Inc., received 04/01/2014, addressing Site Plan Review criteria; **Exhibit #7:** Memorandum dated 03/27/2014 from the Berlin Highway Department, Road Superintendent, stating that the proposed application would have no adverse impact on that Department; **Exhibit #8:** Memorandum dated 04/02/2014 from the Berlin Police Department, stating that the proposed application would have no adverse impact on that Department; and **Exhibit #9:** Letter dated 03/31/2014 from the Berlin Volunteer Fire Department, stating that the proposed application would have no adverse impact on that Department;

Matthew White advised that he and his wife, Mandy, own White’s Heating, Inc. and wish to expand their business by adding a trucking terminal that would consist of a 10,000 gallon and 20,000 gallon storage tank set inside a 28 foot by 38 foot dike system. He advised that they plan to purchase the 1.1 acre parcel currently owned by William Lyon for this terminal. He advised that the new terminal would meet the required Spill Prevention, Control and Countermeasure (SPCC) regulations and meet code to load oil trucks for home heating oil. He advised that access to the terminal would be from an existing curb cut off Route 12. He indicated that he has provided copies of the plans to the Vermont Agency of Transportation (VTrans) and has discussed improvements of that driveway with VTrans representatives.

Bill Lyon confirmed that the subject parcel is a separate lot which he has owned since the 1980s. The three abutting parcels are separate lots each with a separate deed. They verified the location of the pins to determine whether the lot would meet the needs of the project.

Assistant Zoning Administrator Badowski advised that the proposed project is located in the Town's Industrial district. He noted that the applicants submitted their application last November of 2013 and have continued to work through some deficiencies. All setbacks would be met for the district.

Mr. White advised that the existing 14 foot by 20 foot building would be removed. He confirmed that they are proposing a 28 foot by 38 foot concrete berm or dike and that the two storage tanks would be located inside that dike or berm. There would also be an at grade concrete pad (12 foot by 20 foot) for vehicles when loading in the event of a spill. He confirmed that the lot is very close, within 100 feet of Route 12. He described the dike as a foundation that would have short walls about 3-4 feet high with the tanks recessed inside it. He noted that to meet SPCC requirements the concrete structure has to be sized large enough to hold the contents of the biggest tank in the event of a leak. The concrete structure would be about two foot below grade. He noted that the plans show the footprint of the berm but do not show the height of the walls. He advised that his engineer will calculate the exact height of the walls.

The Board advised that the lots and property lines need to be shown on the plans. The plans must also show the proposed berm, height of the walls and other details.

Mr. White acknowledged that the site plans are not as detailed as they need to be for approval but explained that he needed to see if the project was feasible before making the investment of purchasing the lot, obtaining complete plans, and so on. He confirmed that once he knows whether the project can move forward he will have his engineer provide all the information needed.

King Penniman noted that he was concerned about truck traffic. Bill Lyon verified which lot and its location that is the subject of the proposed project. He also pointed out the pit and access to it.

The applicants addressed Site Plan Review Criteria.

**a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Mr. White confirmed that access to the site would be via an existing but improved curb cut. He advised that trucks would have sufficient space to enter and turn around within the one acre lot. He explained that they performed turning movement onsite with tractor trailer trucks to ensure there would be sufficient space. They anticipate about 7 to 10 trucks per day. He acknowledged that the grade is pretty steep but confirmed that he and his engineer, Rob Townsend, feel that there is sufficient space onsite for trucks to turn around and would not be backing out into the highway.

Jim Kurrle, fuel supplier, indicated that the transport vehicle, approximately 54 feet, holding about 7600 gallons, would have sufficient space to turn around onsite. He estimated about six trucks per day loading for home deliveries and the transport truck.

Mr. White pointed out the location of an existing Right-of-Way which would remain. The extension shown on the plans is a road that goes to the pit. He advised that the driveway would consist of staymat.

In response to the Board's request for clarification of boundaries, Mr. Lyon pointed out the location of the property lines and pins on the larger sized plans for the 1.1 acre parcel. He noted that the blue line shown on the plans represents the property line. There is a Right-of-Way across his property, a deeded 12 foot easement to the residence shown. He noted that the information was taken from the deed and an existing survey. Another easement shown, 30 feet wide, currently provides access to three lots.

The Board advised that the plans need to show abutting parcels, existing homes, setbacks, easements or Rights-of-Way, and so on. Pins are shown but are not identified as representing a property line. The Board noted that the application and plans are not in agreement with respect to the removal of the existing garage, distances from the edge of the pavement, and so on.

Mr. White apologized to the Board for the lack of information and inconsistencies. This is his first experience with this type of application but advised that he would provide the Board with the information needed. He advised that the slab is shown at grade, 997 feet. The largest tank is 10.5 feet high and would sit on a cradle adding another two feet. The concrete wall must hold 20,000 gallons plus 10 percent more.

The Board advised that the plan is also missing information concerning the berm (description and location), and proposed screening or landscaping.

- b. Adequacy of circulation, parking, and loading facilities.** Mr. White advised they are allowing for two to three parking spaces. They have three oil trucks however those trucks would be parked at his office location, not at this site. He confirmed that this site is strictly for loading and unloading. Trucks would drive in and back down the existing drive to turn around and drive out on to the highway. Trucks would not be backing out onto Route 12.
- c. Bicycle and Pedestrian Access.** Mr. White advised that bicycle and pedestrian access is not applicable for this industrial site.
- d. Adequacy of landscaping.** Mr. White advised they would create a two-foot wide dirt berm along Route 12 which would be covered with grass and shrubs to screen the tanks from the road. The shrubs would be about 8 feet high.

The Board advised that the drawing needs to reflect the proposed dirt berm and plantings or be shown on another drawing. Once the existing vegetation is cleared the tanks would be highly visible. The tanks will be 12.5 feet high and within 50 feet off Route 12. The Board needs to know exactly what plantings are proposed noting that they must be maintained.

Mr. White mentioned the possibility of cedar trees for screening. Even though the slab would be located below grade the tanks would be visible. Mr. Kurrle reiterated that they are aware that the application is deficient but they needed a sense of whether it was even feasible before spending thousands of dollars. Mr. Lyon confirmed that the machine located onsite would be removed.

- e. Hours of Operation.** The hours of operation for the bulk plant would be Monday through Friday, 7:30 AM to 4:30 PM with some extended hours up to 6:00 PM during the busy heating season, November 1<sup>st</sup> to April 30<sup>th</sup>. Mr. Kurrle advised that bulk deliveries would occur during regular hours.

- f. *Setbacks.*** The Applicants advised that setbacks would be met for the district. The plans will be revised to show all setbacks including the front yard setback measured from the edge of the traveled portion of the highway.
- g. *Adequacy of Exterior Lighting.*** Mr. White indicated that exterior lighting would consist of motion lights. There would be no pole lights. The light fixtures would be positioned on the poles of the proposed six-foot high fence which is not shown on the plans. They advised that fencing is required by other regulatory agencies. They estimate three light fixtures that are motion activated. Mr. White advised the lighting is for security only and would be directed downward.

The Board advised that specifics with respect to exterior lighting is needed which should include the number of fixtures, type of fixture to be used, how high they would be placed on the poles and their location. The Applicants were encouraged to provide lighting details or specification sheets.

Mr. Kurrle advised that there would also be a light on top of loading platform for safety reasons. There would be a small platform off the concrete where the driver stands to access pipes, which is separate from the slab. He advised that the lights would be light-emitting diode (LED).

- h. *Stormwater and Drainage.*** Mr. White indicated that there would be a stone lined ditch along the front and back of the lot for runoff which discharges at the lower level of the property and into the ground. He advised that rainfall would be collected in the dike and treated prior to going out on the site. According to SPCC regulations when water needs to be pumped out it is tested first. He noted that they would lose storage space if water built up. He agreed to add those specifics to their narrative as well as describe where the berm is located in relationship to the ditch. He advised it would be rare to have that discharge noting that there is no pump system. Disturbed land during grading would be grassed for erosion purposes. They need a permit from the state as well.

The Board advised that the direction of the water flow must be shown on the plans as drainage should not be directed toward the road. It appeared from the grades shown that if a berm is located between the ditch and the road it would change the flow.

Mr. White advised that there would be power but no running water. The power to operate pumping and lighting would run underground to the tanks.

- i. *Utilization of renewable energy resources.*** The Applicants advised that the project would not interfere with the sustainable use of renewable energy resources nor would it eliminate nearby property owners' access to such resources.
- j. *Municipal Services Impact Evaluation.*** Mr. White advised that they have preliminary approval from VTTrans. He advised that the Berlin Police Department expressed no concerns about the proposed project. The Berlin Volunteer Fire Department requested a lockbox which they will provide.
- k. *Flood Hazard Review.*** The property is not located within the floodplain.

The group revisited information needed and when the Applicants would be ready to return before the Board. Additional information is needed with respect to: property lines, setback dimensions, elevations and depth of grades, rights-of-way, and abutters; proposed fence (height and location); specifications on the berm (height of walls); location of the slab; lighting details (number of lights, location, type of fixture, etc.); and landscaping details including proposed species. The drawing should state that the dark blue line represents a property line.

Mr. White asked the Board if he was headed in the right direction. He requested a “weather report” about the project’s feasibility before making further financial investments. He noted that the project must be designed to meet state, local and federal guidelines.

The Board indicated that no objections to the project had been expressed. It is a permitted use within this district, but more details are needed. The Board advised that documents should be presented a week in advance of the scheduled meeting date. The Board also asked for a copy of the SPCC and any other regulations (state or federal) that are applicable to this type of project.

Ms. Nussl made a motion, seconded by Mr. LaGue, to recess the hearing with respect to Application 13-071 until the June 3, 2014 meeting. The question was called and the motion passed unanimously.

3. Review and approval of the Minutes.

The Chairman called for approval of the Minutes of the April 15, 2014 meeting. On page 5, the first sentence discussing the comparison of other community systems was deleted. On pages 6 and 7, the reference to topographic map was corrected to read photographic map regarding 14-012. The first full sentence on page 7 was corrected to read: He explained there is a natural ridge that runs along the side of the Parker’s property and that they want to move the Parker’s property line to the ridge and move the back lot line to the north which would decrease the Parker’s land (22.39 acres) by 1.9 acres and increase the Wheeler’s parcel.

Chairman Wernecke made a motion, seconded by Ms. Nussl, to approve the Minutes of the April 15, 2014 meeting as corrected. John Friedrich was not present. The question was called and the motion passed.

4. Public Comment

Persons present participated in the meeting as noted above.

5. Other Business

The Board discussed an upcoming Spring Planning and Zoning Forum to be held on Wednesday, June 4<sup>th</sup> sponsored by the Vermont League of Cities and Towns. Members were encouraged to attend. Mr. Badowski agreed to send members more information about the conference.

6. Status of Findings.

The Board’s decision with regard to (closed) adjourned applications will be reported in its Findings.

7. The next meeting of the Development Review Board is scheduled for **Tuesday, June 3, 2014.**

8. There being no further business, the meeting was adjourned at 8:22 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin