

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

**APPROVED MINUTES**  
Meeting of April 16, 2019

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

Members present: Robert J. Wernecke, Chair, Karla Nuissl, John Friedrich and Josh Fitzhugh

Staff present: Thomas J. Badowski, Zoning Administrator and Kristi Flynn, Recording Secretary

Others present: Jim Bond, Mack Gardner-Morse, Eriksson Burkholder. Meeting is being recorded by ORCA.

Applicants for all hearings were sworn in at 7:01pm.

2. New Business

- A. **19-014 – Martha Barneau, Shawn Gardner, Mack Gardner-Morse and Meikle Gardner** submitted an application for a Two Lot Residential Subdivision. The property is located at 157 Ayers Road, Tax Map ID: R05-022.000; PID 54-003. The Property is in the Hamlet Zoning District.

Mr. Gardner-Morse stated that a 3-lot subdivision was created years ago by his parents, but after the plat was filed, it was learned that two houses could be built on one lot. The family would like to subdivide off the existing house lot from the existing septic system on Lot 1.

Per the ZA, Chief Wolf and Chief Dufresne did not have any comments on the project.

**Chapter 350 – Subdivision Standards**

**Section 3503 – Suitability of the land** – the bottom part of the property can get flooded, but not where the proposed building

**Section 3504 – Design and Configuration of Parcel Boundaries** – not applicable

**Section 3504.B – Lot Dimensions** – meets district standards

**Section 3504.C – Building Envelopes** – noted on the drawing, includes buildable land outside of wet areas

**Section 3505 – Design and Layout of Necessary Improvements** – not applicable to this project

**Section 3505.B – Pedestrian & Bicycle Facilities** - not applicable

**Section 3505.C – Water & Wastewater Facilities** – the system was designed and built in 1999, have primary and replacement fields and it appears to meet current standards. The onsite water and wastewater has been approved by the State. The ZA suggested that the applicant find out what how many bedrooms the system will support before selling the property.

**Section 3505.D – Firefighting Facilities** – not applicable

**Section 3505.E – Public & Private Utilities** – not applicable

**Section 3505.F – Landscaping** – building lot is on a fairly level part of the land, plenty of landscaping

**Section 3505.G – Erosion Control** – not applicable

**Section 3505.H – Stormwater Management** – not applicable

**Section 3506 – Character of the Area** – project fits in with the character of the neighborhood

**Section 3507 – Soil Preservation** – not applicable

**Section 3508 – Conformance with the Regulations** – projects conforms with all regulations in effect

The ZA reviewed the Sketch Plan with the applicant's engineer, classified the subdivision as Minor and referred it to the DRB for Final Plan review.

**Section 4407 – Final Plan Review**

The applicant must receive a curb cut access approval from the Selectboard.

**Section 2006 – Dimensional Standards**

2006.C – DRB should determine what density the subdivided lots can support, which will be noted on the final plat. Residential density is allowed in the Hamlet Zoning District.

**Motion: I move to close the hearing of Application #19-014, made by Mr. Friedrich, second by Ms. Nuissl; motion passed unanimously.**

- B. **19-015 – Jim Bond** submitted an application for a Site Plan Review for an amendment to existing permit #17-022. The property is located at 625 US Route 302, Tax Map U02-025.000; PID US302-050. The Property is in the Mixed Use Zoning District.

An abutting neighbor, Eriksson Burkholder, requested party status.

Mr. Bond noted that the Town approved the application which then had to go to the State because it is on a state highway. The State changed the access and the retaining wall was added. The Town needs to approve the changes, including the retaining wall

that wasn't part of the original application. He has been working with the state to get a Letter of Intent for the access with the retaining wall. The application was originally for a residential use, but was changed to a commercial operation, which was why the State changed their requirements for access. The Special Conditions review the requirements for the construction of the retaining wall. The applicant has approval from the Town and the State for commercial use, but needs an amendment to the Town permit including the retaining wall, along with some additional changes to the approved application. The Town originally approved a commercial use for the applicant. The State reviewed the commercial use with the addition of some changes to the site plan, including the addition of a retaining wall. The applicant is coming back to the Town to make sure that the Town agrees with the changes the State made to the application. The approvals need to coincide and approve the same site plan. The changes are mainly the retaining wall and the stormwater structure.

Whatever approval is given by the Town is generally predicated on the access approval received from the State. Mr. Fitzhugh would like to focus on the issues that the ZA cannot take care of administratively, which are the retaining wall and the stormwater structure.

Mr. Burkholder is concerned with night-time traffic coming in and out of the property. He is located across Route 302 from the access to the proposed project.

The applicant noted that the State would like a Stormwater management plan because it is on a state highway and water is discharging onto a railroad bed.

#### **Chapter 320 – Site Plan Criteria**

Addressed by the applicant; only changes are applicable to the new regulations

**Section 3202** – Parking and Loading Area – no changes

**Section 3202.H.3** – Erosion and Drainage – at the front of the building water drains east towards Route 302, back side of the building will drain to the railroad bed; there was some discussion regarding impervious surfaces on the property; stormwater management plan that was approved by the State has been provided by the applicant

**Section 3202.H.4 – Snow Storage** – additional note on the map

**Section 3203 – Access and Circulation** – only change is the use determined per the State

**Section 3204 – Landscaping and Screening**

Retaining wall will be constructed with concrete blocks keyed together; the height is 10 feet

**Section 3205 – Outdoor Lighting** – no changes

**Section 3210 – Stormwater Management** – reviewed above

**Section 3211 – Conformance with these Regulations** – project conforms to the regulations now in effect

**Chapter 330 – Conditional Use Standards** – not applicable

Hours of Operation in the original permit were 7am-9pm. For lighting, there are no changes proposed.

**Chapter 300 – General Standards**

**Section 3001.E – Retaining Walls**

Retaining walls over 6 feet tall would require conditional use approval; this hearing was warned as a site plan amendment. The applicant has had a professional engineer reviewed the design of the wall; it is 10 feet tall. The applicant is proposing a safety fence to be built on the top of the retaining wall.

**Motion: I move to close the hearing of Application #19-015, made by Mr. Friedrich, seconded by Mr. Fitzhugh; motion passed unanimously.**

3. Review and approval of the Minutes

The Chair called for the approval of the Minutes of the March 19, 2019 meeting.

**Motion was made by Mr. Friedrich, seconded by Mr. Fitzhugh, to approve the minutes of March 19, 2019 as amended; motion passed unanimously.**

*Amendments: change the sentence regarding the school vote*

**Other Business**

- The ZA brought to the board the fact that a resident was concerned with the lighting standards. The resident's neighbor has a floodlight that is aimed at his house and he wondered if this is against the current regulations. If it is a pre-existing light, the DRB feels that the current regulations cannot be applied in this case. The Chair wondered if a resident needs to come to the Town to apply to add a light at their residence; the ZA noted that there are lumen requirements and must be down-shielded.
- The PC had a hearing on some changes to the draft regulations. The PC agreed to bring these minor changes to the SB for approval; the SB has warned a hearing for these changes.

**Motion was made to go into deliberative session by Mr. Wernecke, seconded Mr. Friedrich.** The DRB entered deliberative session at 8:39pm; DRB exited at 8:51pm.

**4. Motion was made to adjourn by Mr. Friedrich, seconded by Mr. Wernecke; meeting was adjourned at 8:52pm.**

*Respectfully submitted by Kristi Flynn, Recording Secretary*