

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

UNAPPROVED MINUTES
Meeting of TUESDAY, April 19, 2016

1. The meeting was called to order at 7:05 P.M.

Members present: Robert J. Wernecke, Chair; Karla Nussli, Vice-Chair; and Paul Irons, Alternate.
Absent: Henry A. LaGue, Jr.; John Friedrich; and Josh Fitzhugh.

Staff present: Carla Preston, Recording Secretary. Absent: Thomas J. Badowski, Zoning Administrator.

Others present: Kris Jurentkuff, Sandra Vitzthum, Barbara Menard, Roger Novak, JoAnn Perry and Larry Perry.

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. New business

A. 16-009 – David McGraw and Jody McGraw, and Marc Druart and Adeline Druart submitted an application for Boundary Adjustment involving a half acre area. The properties are within the Rural Residential District and located at 65 Widow Moses Road, Berlin, Vermont, Parcel ID 11-013; and at 645 Bartlett Hill Road, Berlin, Vermont, Parcel ID 11-013.100. Kris Jurentkuff with Chase & Chase Surveyors & Septic Designers, Inc. was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Boundary Adjustment, 16-009, received on 03/28/2016; **Exhibit #2:** Boundary Adjustment Plan, prepared by Chase & Chase Surveyors & Septic Designers, Inc., and stamped by William R. Chase, LS, dated 03/23/2016; **Exhibit #3:** Email dated 04/12/2016 from David McGraw authorizing Kris Jurentkuff to represent him and his wife in this matter.

Kris Jurentkuff with Chase & Chase advised that he is representing all four applicants in this Application for Boundary Adjustment. He indicated that Mr. and Mrs. Druart emailed authorization to the Zoning Administrator when they realized they would not be able to attend the meeting. Mr. Jurentkuff explained that the property owned by the Druarts was created by a prior subdivision of the McGraws in 1999. For reasons unknown a small area (about half an acre) was left behind which is still owned by the McGraws. The Druarts have been maintaining that area which is beyond the limits of the boundary line. The boundary line adjustment is to remedy the issue. The McGraws have an easement for a privately owned rope ski tow which is part of the boundary adjustment. There would be no development within the adjusted boundary. Mr. Jurentkuff advised he consulted with Regional Engineer Carl Fuller to verify that the half acre area was exempt from the State's wastewater requirements.

Barbara Menard advised that they own property at the top of the hill off Widow Moses Road and received notice of the hearing. She asked for clarification of the subject property in relation to their home.

Mr. Jurentkuff pointed out the approximate location of Ms. Menard's home on the map even though her property was not shown. It was noted that both applications warned for tonight's hearing were within the same area thus it was likely she received notice because her property abuts Ms. Vitzthum's property.

Mr. Jurentkuff advised that there would be no change in use as a result of this boundary adjustment. The McGraws' lot (28.53 acres) would be decreasing by 0.50 acres resulting in 28.03 acres. The Druarts' lot (1.33 acres) would be increasing by 0.50 acres resulting in 1.85 acres. He advised that no new lots are being created and the adjustment would not create a nonconforming lot. As part of the process the Druarts will merge the two lots to become one parcel.

Based on documents presented and testimony heard, Ms. Nuisl made a motion, seconded by Mr. Irons, to close the hearing with respect to Application 16-009 for boundary line adjustment. The Board advised that a recordable deed and Mylar must be filed with the Town of Berlin within 180 days or six months. The question was called and the motion passed unanimously.

B. 16-010 – Bartlett Hill Company, LLC c/o Sandra F. Vitzthum submitted an application for Concept Plan Review and Final Plan Review of a three-lot Minor Subdivision involving an approximate 83.25 acres parcel. The property is located at 1131 Bartlett Hill Road, Berlin, Vermont, Parcel ID 11-016.100. The property is located within the Rural Residential and Highland Conservation Zoning Districts. Sandy Vitzthum, member of Bartlett Hill Company, LLC was sworn in to give testimony on this matter. In addition, abutters Barbara Menard, Roger Novak, JoAnn Perry and Larry Perry were also sworn in.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 16-010, received on 03/29/2016; **Exhibit #2:** Survey, prepared by Richard W. Bell Land Surveying, Inc., stamped by Richard W. Bell, LS, dated May 2009 with revisions on 06/29/2010, 06/30/2010 and on 01/08/2016; **Exhibit #3:** State of Vermont, Department of Environmental Conservation re Wastewater System and Potable Water Supply Permit #WW-5-5239-1, dated 12/06/2013; and **Exhibit #4:** Narrative regarding the proposed subdivision from Sandra Vitzthum dated 08/10/2009 and updated 03/27/2016.

Sandy Vitzthum advised that this 83.25 acre parcel was her mother's, Carol FitzPatrick. She explained that a subdivision application was submitted in 2009 with a different configuration, two small lots and one large lot. She believed that that subdivision was approved by the town but a Mylar was not filed within the six month period as required. She advised that since then, they have decided to change the configuration of the three lots making them each about the same size. She advised that the State has approved wastewater systems for each lot and they have a permit for the curb cut. She noted that the three parcels are for her children.

In response to questions concerning access, Ms. Vitzthum advised that access to all three lots is shown off one driveway (old logging road) due to the steepness of the area. Each of the three lots have frontage and access is available off Bartlett Hill Road. She advised that access to Lot #3 could be directly off Bartlett Hill Road by the log landing area which is an approved curb cut. There is frontage off Bartlett Hill Road for Lot #2 as well, a natural area which is currently used by log trucks to turn around. Access to Lots #2 and #3 would be possible either off Bartlett Hill Road or higher up via an easement off the old logging road.

The Board noted that the survey plat does not address the easements. The Final Plan (Mylar) must show and describe the easements. The regulations only allow access for up to three residences via one Right-of-Way. The Board summarized the proposed three lot subdivision with easements. As shown, Lot #3 would need an easement from Lots #2 and #1, Lot #2 would need an easement from Lot #1, and Lot #1 would need an easement from Lot #2. The deeds and Final Plat must be filed within 180 days or six months. Each of the three lots being created met frontage, size and other requirements of the regulations for the district. A portion of Lot #1 is located within the Highland Conservation District; the remaining property is all within the Rural Residential District.

Barbara Menard reviewed the survey plan and Ms. Vitzthum described where the lots were located in relation to her home. The properties about a point which is shown on the plans. Ms. Menard agreed that the proposed subdivision would have little impact on her property which has been in her family since 1945.

The Board confirmed that the application was warned for both Concept and Final Plan review. The Final Plan (Mylar) must show easements for access. The Applicant has received approval from the State. The Applicant was again reminded that deeds, easements and Mylar must be filed with the Town Clerk.

JoAnn and Larry Perry, abutters, also received notice of the hearing. They asked whether the property was in land use.

Ms. Vitzthum confirmed that the total parcel was in current use. It was noted that when the property is developed the owner will be subject to pay a higher penalty on the assessed value. Since each lot consists of 27 or more acres, they would still qualify to remain in current use.

Based on documents presented and testimony heard, Mr. Irons made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 16-010 for a three-lot Minor subdivision. The question was called and the motion passed unanimously.

3. Review and approval of the Minutes.

The Chair called for approval of the Minutes of the February 2, 2016 meeting. Chair Wernecke made a motion, seconded by Ms. Nuisl, to approve the Minutes of the February 2, 2016 meeting as written. The question was called and the motion passed unanimously.

4. Public Comment

Persons present participated in the meeting as noted above.

5. Other Business

- a) Election of Officers was tabled.
- b) Members briefly discussed adopting On-the-Record Review which changes how appeals are handled. Reference was made to an article on the subject in the Vermont League of Cities & Towns. Pros and cons of doing so were mentioned. Members agreed to research the topic further and tabled the discussion to a future meeting with the full Board present.
- c) Chair Wernecke asked members to review the proposed changes to zoning districts.

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, May 3, 2016.**

8. There being no further business, the meeting was adjourned at 8:04 P.M.

Respectfully submitted,

Carla Preston
Recording Secretary
Town of Berlin