

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, August 15, 2017

1. The meeting was called to order at 7:02 P.M.

Members present: Robert J. Wernecke, Chair; Karla Nuisl, Vice-Chair; John Friedrich; Josh Fitzhugh; and Shane Mispel.

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

Others present: Jeremy Salvatori, Devon Craig, Evan Hughes, Brian Bailey, Kevin Benway and Jason Merrill.

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. 17-046 – Barre Fish and Game Club, Inc. submitted an application for the construction of range safety structures requiring Conditional Use Review. The property is located at 31 Gun Club Road, Berlin, Vermont, in the Rural Residential District. Parcel ID: 24-001. Brian Bailey, President; Jeremy Salvatori, Vice President; Devon Craig, Secretary, and Evan Hughes were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-046, received on or before 07/28/2017; **Exhibit #2:** Survey of the Lands of Barre Fish and Game Club, Inc. showing the site as well as the location of four existing berms, prepared by Nicholas P. Nowlan, LS, dated 08/31/2012; **Exhibit #3:** Schematic showing design of proposed 12 foot by 18 foot structure around existing berms; **Exhibit #4:** Topographical Location Maps, printed on or about 07/12/2017; **Exhibit #5:** List of Abutters; and **Exhibit #6:** Narrative from Applicant describing the project and addressing Conditional Use Review criteria.

Jeremy Salvatori introduced himself and the other officers of the Club present. He advised that they propose to add safety structures around four of the existing berms at the gun range. The structures would consist of pressure-treated (PT) wood products, 12 feet by 18 feet, with a hinged roof. He referred to the Survey provided showing the location of the four berms. He explained that the purpose of the structures is to improve safety and keep dirt in place which will ease maintenance. As shown on the schematic, the walls are flared outward with a roof design that will open and close for maintenance purposes.

Devon Craig added that the purpose of a roof is to help contain the berms. It will also help lower velocity rounds that tend to tumble, stay in the area. The roof structure would be only five feet high, just over the dirt. They also wish to discourage members from placing targets on top of the berm. The proposed structures will also contain all of the bullets in one area. He indicated that these proposed safety improvements follow the best management practices for shooting ranges adopted by the Vermont Department of Environmental Conservation (Title 10 V.S.A. § 6081).

Mr. Salvatori confirmed the direction for shooting noting that the structures are flared to catch wild shots. The structures will make lead reclamation easier and neater. It will also be much easier for them to maintain the berm because it helps contain the dirt. They acknowledged that maintenance to the structures would be performed as needed.

In response to additional questions about the structures, Mr. Salvatori explained that the roof structure is not solid and is not intended to keep the dirt dry. The roof will be hinged for maintenance purposes. The Applicants advised that they are building the structures to state specifications. The state currently recommends sifting the dirt for reclamation of lead every 15 years.

Zoning Administrator Badowski advised that the application was warned under conditional use review because it is not a permitted use in the Rural Residential District. The Club has been in existence for many years at this location.

Mr. Craig advised that the Club has been in existence since 1919.

The Board asked the Applicants to address the Conditional Use Review Criteria and noted that they had also been addressed in writing.

- a. *Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.*** There would be no change in access or vehicular or pedestrian circulation on site as a result of this project. They do not anticipate any changes in traffic. They confirmed that the access off Route 2 is closed during the winter and spring, approximately November 15th to May 15th. Access is available year-round through Barre Town.
- b. *Adequacy of circulation, parking, and loading facilities.*** The Applicants advised that there would be no change in parking. Based on the square footage of the Club House, 48 parking spaces are required and currently available. A few events draw larger crowds but there is parking space available on the lawn areas. They advised that the Club is open every day to pass holder members who enter through a locked gate. The range is only open to the public when range masters are present.
- c. *Bicycle and Pedestrian Access.*** There would be no change in bicycle and pedestrian access.
- d. *Adequacy of landscaping.*** There would be no changes in landscaping as a result of this project.
- e. *Hours of Operation.*** The Applicants advised there would be no change in the hours of operation for the range, 8:00 AM to sunset, seven days a week. They also mentioned the hours of operation for the skeet fields which have not changed.
- f. *Setbacks.*** There would be no change in setbacks. All setbacks are met for the Rural Residential District.
- g. *Adequacy of Exterior lighting.*** No additional exterior lighting is proposed as a result of this application. There are two existing pole (street) lights owned and maintained by Green Mountain Power in the parking area.

- h. Stormwater and Drainage.** There would be no change in stormwater and drainage. As mentioned above the roof structures are not solid, therefore drainage is not affected. The Applicants advised that the proposed changes to improve safety are recommendations by the state. All gun clubs in the state are going through the process. They indicated that in the future they will be purchasing equipment to properly handle the hazard regarding lead.
- i. Utilization of renewable energy resources.** There would be no change that would have any impact on neighbors.
- j. Municipal Services Impact Evaluation.** Mr. Badowski advised that he reached out to the Berlin Police, Highway and Volunteer Fire Departments for comment. The Chief of Police had no concerns. No responses were yet received from the Berlin Highway or Volunteer Fire Departments.
- k. Flood Hazard Review.** The property is not located within a flood hazard area.
- l. The Character of the area affected; neighboring uses.** The Applicants advised that there is no change in use. The Club has been operating at this location for decades. There would be no negative impact on neighbors as a result of the proposed application.
- m. Bylaws then in effect.** Not applicable.

The Applicants were advised of the timeframe for issuance of a permit as well as the appeal period after its issuance.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 17-046. The question was called and the motion passed unanimously.

- B. 17-049 – Berlin Automotive H1, Inc. d/b/a 802 Honda** submitted an application for newly illuminated wall signs totaling 217.5 square feet. The property is located at 224 Paine Turnpike North, Berlin, Vermont, in the Light Industrial District. Parcel ID: SA1-051. Kevin Benway with 802 Honda was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-049, received on 07/17/2017; **Exhibit #2:** Site Plan showing existing structures, access, parking, location of proposed signage, etc.; **Exhibit #3:** Sign specifications, details and elevations prepared by Pattison Sign Group, Knoxville, TN, dated 01/16/2017; and **Exhibit #4:** Memorandum from owner Dave Birmingham (802 Cars.com) describing the proposed signage, locations, and square footages for each.

Kevin Benway with 802 Honda advised that Dave Birmingham was unavailable so he is presenting the application for signage. They want to illuminate five new signs on their renovated facility with road frontages on Paine Turnpike North and on VT Route 62 which would allow up to the maximum of 300 square feet. Four of the new illuminated signs are on the north side facing VT Route 62 which consist of: *Service Center* (42 square feet); two oval shaped *Service Reception* signs (16 square feet each), and the Honda logo "H" (43.5 square feet). The fifth new oval shaped sign faces Paine Turnpike North (west) which consists of *Vehicle Delivery* (16 square feet).

Mr. Benway explained that Honda initially proposed an additional *Honda* sign (HLS-30) for the side of the building facing Paine Turnpike North but it was later eliminated which is why it is crossed off on the plans. He advised that the blue tower with the "H" logo in the middle of it is a sign. Neither the blue lines nor the tower are illuminated, just the Honda logo, "H" is illuminated. They will reinstall the existing *802* and *Honda* signs that were removed during construction. There is no change in the freestanding sign. The total of all of the proposed wall or building signs is 217.75 square feet which is stated in their Memorandum.

Mr. Benway confirmed that the building facing Paine Turnpike North measures 141 feet and the building facing VT Route 62 measures 187 feet for a total of 328 of building frontage which allows for the maximum amount of wall signage at 300 square feet. He indicated that measurements for the old signs are shown on the plans.

In response to questions concerning the type of illumination being proposed, Mr. Benway advised that the freestanding sign has florescent tubes and is not light-emitting diode (LED). He also believed that the existing *802* and *Honda* signs were florescent. He noted that parking lot lights and interior lights were all being changed to LED. He was unaware of the lumens but did not expect any light pollution from the proposed illuminated signs.

The Board noted that the sign specifications indicated that the proposed new signs would have LED illumination. The Board asked Mr. Benway how long the lights would be on.

Mr. Benway advised that currently the lights all shut off at midnight. The illuminated signs for Service and Delivery are on when those areas are open, 7:30 AM to 7:00 PM. The *802*, *Honda* and freestanding signs are on timers and photocells and shut off at midnight.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Mispel, to close the hearing with respect to Application 17-049. The question was called and the motion passed unanimously.

C. 17-042 – Brian Morse (BM Properties LLC) submitted an application for Preliminary Plan Review and Final Plan Review of a Major Two Lot Subdivision involving a 25.52 acres parcel. The property is located at Dog River Road, Berlin, Vermont, in the Commercial District, Parcel ID: SA8-005. Jason Merrill was sworn in to give testimony on this matter on behalf of the Applicant. On July 18, 2017, the Board approved the Concept Plan and classified the proposed subdivision as a Major Two Lot Subdivision on the basis that the property is located in the Commercial District.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 17-042, received on 06/29/2017; **Exhibit #2:** Survey – Subdivision of Lands of BM Properties, LLC, prepared by Richard W. Bell Land Surveying, Inc., Richard W. Bell, LS, dated May 2017; **Exhibit #3:** Survey – Subdivision of Lands of BM Properties, LLC, prepared by Richard W. Bell Land Surveying, Inc., Richard W. Bell, LS, dated May 2017 and revised on 07/26/2017 to show new Right of Way and Parcel; and **Exhibit #4:** Overall Site Plan, OA-1, Topographical Survey Map, prepared by Marsh Engineering Services, dated 03/27/2017.

Jason Merrill advised that he is representing the Applicant, Brian Morse, who owns the property. Pursuant to the application he has authority to do so. He advised that the parcel being subdivided is 25.52 acres. The subdivision would create two lots consisting of Lot #1 with 9.61 acres, and Lot #2 with 15.20 acres. He noted that the boundary line adjustment would ultimately change the lot

sizes. He advised that both lots have road frontage. There are no existing structures and they have no immediate plans for development.

Mr. Merrill presented an official topographical survey of all properties owned by Brian Morse and/or his limited liability companies. He advised that the lots have been tested for onsite wastewater but nothing has been designed. They intend to join the municipal water and wastewater systems by Weston's Trailer Park that will serve the bus station and others along VT Route 12. They plan to have their own pump station and will pump to Weston's Trailer Park.

Mr. Merrill advised that neighbors and abutters were notified twice since the application was re-warned as a Major subdivision. He explained that the 50-foot Right-of-Way provides frontage and access to the back parcel, Lot #2.

The Board noted that some of the plans/surveys submitted with these applications (subdivision and boundary adjustment) showed the proposed 50-foot wide Right-of-Way and some did not. None of the plans submitted mentioned the 50-foot Right-of-Way in the notes on those surveys. That easement must be shown on the plans and Final Plat and referenced in the notes. The Board also expressed concerns that the exact location of the Right-of-Way had not been determined.

Mr. Merrill explained that further investigation into sight distances is needed to determine the best location for access. He advised that access does exist there now. He understood that the curb cut must be approved by the Berlin Highway Department and Select Board.

Mr. Badowski confirmed that the properties are located in the Commercial District.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to close the hearing with respect to Application 17-042. The question was called and the motion passed unanimously.

D. 17-051 – Brian Morse (Dog River Properties LLC) and Brian Morse (BM Properties LLC) submitted an application for Boundary Line Adjustment involving 0.71 acres. The properties are located on Dog River Road, Berlin, Vermont in the Commercial District. Parcel ID: R07-012.000 and R07-012.D00. Jason Merrill was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Boundary Adjustment, 17-051, received on 07/20/2017; **Exhibit #2:** Survey – Subdivision of Lands of BM Properties, LLC, prepared by Richard W. Bell Land Surveying, Inc., Richard W. Bell, LS, dated May 2017 and revised on 07/26/2017 to show new Right-of-Way and parcel; and **Exhibit #3:** Survey – Boundary Line Adjustment BM Properties LLC and Dog River Properties, LLC, prepared by Richard W. Bell Land Surveying, Inc., Richard W. Bell, LS, dated May 2017 and revised 07/26/2017 to show new Right-of-Way and parcel.

Jason Merrill submitted new survey maps today referencing the proposed Boundary Line Adjustment. He advised that Mr. Morse will retain Lot 2 to be sold at a future date. The parcel owned by Dog River Properties LLC (2.4 acres) will increase by 0.71 acres for a total of 3.11 acres. The proposed 50-foot Right-of-Way extends through this parcel and provides access to Lot #2. The parcel owned by BM Properties LLC (15.91 acres) will decrease by 0.71 acres.

The Board understood the rationale for determining the exact location of the Right-of-Way upon construction when sight distances could be evaluated effectively. The Final Plat must include

reference in the Notes to the Right-of-Way. The Applicant was reminded that proposed uses or development were subject to review by the DRB and Select Board if applicable.

The proposed boundary line adjustment does not create any new lots or cause any existing lot to become nonconforming.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to close the hearing with respect to Application 17-051. The question was called and the motion passed unanimously.

3. Review and approval of the Minutes.

Discussion regarding Minutes of July 18, 2017. While reviewing draft Findings of Facts & Conclusion regarding application 17-034, J & H Properties, LLC, it was revealed that only eight (8) separate buildings were actually being proposed. The application and Applicant's testimony indicated nine (9) buildings. Permits issued by the State of Vermont reference only eight (8) separate buildings. The Minutes of the July 18, 2017 meeting will be corrected to show that only eight (8) buildings were proposed, referenced as A through H on the plans submitted.

The Chair called for approval of the Minutes of the August 1, 2017 meeting. The Board found the Minutes to be accurate although the proposed wall signs did not appear to be located on the drawings as represented by the Applicant's testimony. Mr. Badowski agreed to contact the Applicant to verify the location of the proposed wall signs. The Applicant may be asked to resubmit corrected drawings.

Mr. Friedrich made a motion, seconded by Mr. Mispel, to approve the Minutes of the August 1, 2017 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. Mr. Badowski asked the Board about combining meetings with respect to applications for Major subdivisions which require Concept Review, Preliminary Plan Review, and Final Plan Review. The Board had no objections provided the application(s) were complete with all required information and neighbors and abutters were well informed since the number of warnings would be reduced to only one.

B. Chair Wernecke mentioned that the state references specific plans and submittal dates in its Findings and asked members how they felt about doing the same. This would require proposed projects to be developed or built in accordance with the plans submitted.

Mr. Badowski explained that all of the plans, application, and Findings of Facts & Conclusion become the Permit and the entire packet is sent to the Applicant. He asked whether submittal of a record drawing should be a condition of the permit.

Ms. Nuisl noted that if there are any changes, it would require the applicant to return to the DRB for approval. Currently, the regulations do not permit minor changes administratively. That may change in future revisions.

Chair Wernecke noted that the state has to warn any changes. Warnings should require notice to abutting property owners.

The matter was tabled for further consideration.

6. Status of Findings.

The Board voted to go into deliberative session at 8:07 P.M. and out at 8:16 P.M. to discuss the 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, September 5, 2017.**

8. There being no further business, the meeting was adjourned at 8:28 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin