

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

**APPROVED MINUTES
Meeting of TUESDAY, August 16, 2016**

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

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

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

Others present: Randal W. LaGue, Wayne Lamberton, Philip H. Zalinger, Jr., Esq., John D. Grenier, Louis Plude, Brian Grearson, Daniel P. Richardson, Esq., Geoff Farrell, and Michael Foster.

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. Brian Grearson and Louis Plude requested party status. Attorney Zalinger noted for the record that neither of them were abutters. The Applicants had no objections and the Board granted Messrs. Grearson and Plude party status.

2. New business

A. 16-042 – Maplewood Limited of Montpelier submitted an application for site plan amendment for the removal of a convenience store to be replaced with parking spaces. The property is located at 199 Paine Turnpike North, Berlin, Vermont, in the Commercial Zoning District, Parcel ID SA1-046. Randal LaGue and Wayne Lamberton, owners, Philip Zalinger, Esq., and John D. Grenier, PE with Grenier Engineering PC were sworn in to give testimony on this matter. In addition, neighbors Louis Plude, Brian Grearson, Geoff Farrell and Daniel Richardson, Esq. were also sworn in to give testimony.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 16-042, dated 07/22/2016; **Exhibit #2:** Site Plan – New Maplewood Convenience Store, dated 08/14/2016, with multiple revisions up to 07/15/2016 – Added Tesla charging stations, revised large vehicle overflow parking. Added landscaping & signs, prepared by Grenier Engineering, PC; **Exhibit #3:** Site Plan – Comfort Inn Parking Lot Reconfiguration dated 08/16/2016, prepared by John D. Grenier, PE with Grenier Engineering, PC; and **Exhibit #4:** Letter dated 07/21/2016 from Chris Austin with Grenier Engineering, PC describing the project.

Overview:

John Grenier presented a full scale site plan showing the proposed parking reconfiguration for the Comfort Inn. He advised they plan to reconfigure the parking lot for better traffic flow to the Comfort Inn, and add parking spaces upon removal of the existing store and gas stations. They are closing off the southern entrance and will turn it into an island with five large trees. There would also be an island on the edge of the inroad driveway by the Comfort Inn with two Maple trees. The plans show pedestrian access from island to island to the Comfort Inn, traffic circulation, and revised parking. The plans also show the locations of the existing pole lights, existing trees, area to remain paved, and the existing sign for the Comfort Inn & Suites. The lighting fixtures will be changed to light emitting-diode (LED) for efficiency.

In response to the Board's question regarding the number of parking spaces, Mr. Grenier advised that there are currently 70 parking spaces for the Comfort Inn and they would be adding 24 more spaces, 10 of which are shown near the diesel pump. There would be 14 larger spaces to accommodate busses, campers, trucks with trailers for boats or campers, and larger trucks. He advised that the spaces are intended for guests of the Comfort Inn staying the night. He noted that it is the same proposal for parking that was presented with the prior application regarding the charging stations for Tesla.

The applicants addressed Conditional Use Review Criteria.

a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network. Mr. Grenier advised that by defining where people are to park, the site is safer. They needed to replace some parking that was lost with the stormwater pond. The entry configuration shown is based upon the agreement between neighbors/abutters, and the Applicant that was approved by the Environmental Court. Mr. Grenier advised they will reduce access points to one curb cut which is supported and approved by the Vermont Agency of Transportation. Mr. Grenier noted that a different location was discussed during state hearings. He acknowledged that the distance between this curb cut and the one for Applebee's is less than 100 feet thus does not meet town standards. They did look at moving the curb cut further to the south which would have required significant changes and would not have gained a lot in distance. In the end, this layout made the most sense. It is not a high speed area, is very open and flat before heading up the hill, and they estimate that traffic will be significantly reduced by fifty percent or higher. Mr. Grenier advised that even though traffic will enter and exit at this curb cut, it will be much safer. There is sufficient space, approximately 55 feet, for tractor trailer trucks to maneuver on the site. Trucks could park in either direction.

Mr. Grenier noted that Applebee's has its own ingress and egress. Although people visiting the store or restaurant may park in these spaces, it is intended for overnight guests of the Inn. He confirmed that the sign for the Comfort Inn is near the light pole set back off the road. In response to questions concerning parking for Applebee's, Mr. Grenier advised that there will be spaces designated for employee parking which will make more spaces available for the restaurant. The lease agreement addresses employee parking areas.

Brian Grearson, neighbor, asked that the Board question the Applicants about their real intent of this project. He questioned the suggested fifty percent reduction, noting that the intent was to eliminate truck traffic there which is now being spilt between two lots. Truck traffic will increase as a result of the new store. He expressed concerns about tractor trailer trucks crossing traffic at two locations and felt that it could be improved. He does not believe it was presented to the DRB that way and described it being used as a truck stop. If guests were truly staying at the Comfort Inn, then why have a shower facility at the new store. He does not believe the existing permit covers it.

Attorney Phil Zalinger stated that the Applicant was issued site plan approval decades ago and has a right to amend its site plan. They took into account turning radius, site distance and designed a plan. He reiterated discussions that took place regarding curb cuts and understood that the southern access point would be closed with respect to the property at 199 Paine Turnpike North. He noted that Mr. Grearson references changes made at 159 Paine Turnpike North which are irrelevant to the application at this site. He indicated that these criteria have been met, curb cuts were reduced, and includes safe and prudent pedestrian access.

Attorney Dan Richardson also recalled discussions with the state about changing the access point. He indicated that this project is not narrow in scope and has grown into a complex development. He believes that traffic circulation cannot be considered in a vacuum as it is not just serving the Comfort Inn. Because it will also impact Applebee's and the Maplewood Convenience Store, those sites cannot be ignored and should be considered together.

Attorney Zalinger disagreed that it fits with the other sites because traffic, egress and ingress, will drop significantly. He noted that the state (District 5) advised that no site plan amendment was required. Act 250 takes into account dash permits, original and subsequent. He noted that if District 5 found jurisdiction, it would have taken it and required an amendment. Mr. Grenier added that District 5 considers it a parking lot and will review it but does not require an amendment. He did not ask the State for a Letter of Intent to that effect.

In response to questions from the Board regarding whether parked vehicles would be monitored, Mr. Lamberton confirmed there would be some monitoring. He noted that currently parking is all over the place. They need to ensure there is enough room and noted that they have around 2,000 customers at the convenience store and 89 rooms at the Inn. Mr. Lamberton stated that if the lot is full, truckers would not be able to stay at the Inn. He advised that they need that parking for their business.

It was noted that there are state laws that preclude diesel trucks from running/idling overnight. Currently, trucks are parking across the street in the vacant lot previously occupied by Staples.

Mr. Grearson argued that a convenience store with showers, invites all night staying, and is a truck stop. He does not accept the representation that truckers will be staying at the Inn. He requested that the shower facilities be eliminated.

Attorney Zalinger questioned how Mr. Grearson, a neighbor, could ask that that issue be addressed during this site plan review when it applied to the new store application and not this one.

b. Adequacy of circulation, parking, and loading facilities. Mr. Grenier confirmed that parking spaces would be added once the existing Maplewood Convenience Store is demolished. They currently have about the same number of spaces for the Inn as rooms, thus the whole goal is to provide more parking for the Comfort Inn which has been lost due to the stormwater pond and the new site. The additional parking spaces would primarily benefit the Comfort Inn and allow some overflow parking for the Applebee's Restaurant, particularly employee parking.

Attorney Zalinger added that the intense use of this very busy site will be discontinued and become additional parking for the adjacent Comfort Inn.

c. Bicycle and Pedestrian Access. Mr. Grenier advised that they have marked (striped) walkways on site and added a bicycle and pedestrian path along Paine Turnpike North to the entrance of the property. Those improvements will better direct and organize pedestrian and bicycle access.

Geoff Farrell asked if the path along Paine Turnpike was a continuation of the bike path. Mr. Grenier confirmed that that was correct.

- d. Adequacy of landscaping.** Mr. Grenier advised that they are installing five salt resistant trees along Paine Turnpike North. They are proposing installing two Maple trees in an island to the north which will break up the expanse of pavement. The proposed landscaping mirrors the landscaping designed for the adjacent lot which was designed by a landscape architect.
- e. Hours of Operation.** The hours of operation are 24/7.
- f. Setbacks.** All setbacks are met. There are no proposed structures on this site.
- g. Adequacy of Exterior lighting.** Mr. Lamberton advised that they will be utilizing existing light poles which are shown on the larger plans and will change the fixtures to LED. The light poles are placed around the perimeter of the property. He noted that the utility company has its own pole there as well. He believes that with the illumination of the adjacent store and charging stations, that lighting will be sufficient and noted that one to one and a half footcandles are recommended for parking lot illumination. If they determine that additional lighting is needed, they will submit an application to request it. He offered further explanation to neighbors about calculating footcandles to Lumens based on the square feet of area.
- h. Stormwater and Drainage.** Mr. Grenier advised that they are reducing the amount of impervious area thus no new state permit is required. They will utilize the existing stormwater features in place which include catch basins, stormwater pond, drainage ditches, and so forth. He noted that stormwater would be better filtered because it will be going through grass before entering the ditches. There will be no curbs thus the flow will be direct.
- i. Utilization of renewable energy resources.** The Applicants advised the project would not interfere with others ability to utilize renewable energy resources.
- j. Municipal Services Impact Evaluation.** Zoning Administrator Badowski advised that no concerns were raised by the Berlin Police or Highway Departments with respect to this project.
- k. Flood Hazard Review.** The property is not within a flood hazard area.

The Applicants advised that no new signage is being proposed. There is an existing sign for the Comfort Inn & Suites.

Mr. Grearson asked if the Applicants could place a sign stating no overnight parking unless a guest of the Comfort Inn. He feels that the Applicants are taking advantage of the use, and that by offering showers at the new store it will change the use of that facility.

Attorney Zalinger reiterated that the facility with the showers applies to the adjacent site, not this one. He stated there must be evidence or a record upon which the Board rests a decision about restricting overnight parking to only guests of the Inn.

In response to additional questions from the Board, Mr. Lamberton advised that prior to the construction of the stormwater pond, he estimated up to 15 trucks had been parking there or at the hotel parking area. When construction of the pond began that area was barricaded and trucks went across the street to the old Staples parking lot.

Attorney Richardson advised that this lot is intended to serve Maplewood. He feels the suggested signage will help break the habit of parking there and would enforce the use of this site.

Mr. Grearson asked that the Board leave the application open for written comment since Tom Willard could not be present.

Ms. Nuisl made a motion, seconded by Mr. Freidrich, to close the hearing portion with respect to Application 16-042. The question was called and the motion passed unanimously.

B. 16-044 – Malone Properties, Inc. submitted an application to install a freestanding illuminated sign (*Aspen Dental*). The property is located in the Highway Commercial District at 856 U.S. Route 302, Berlin, Vermont, Parcel ID US302.042. Michael Foster, Project Manager, for Malone Properties was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 16-044, received on 07/29/2016; **Exhibit #2:** Site Plan prepared by DeWolfe Engineering Associates Incorporated, dated 02/11/2015 with multiple revisions up to 07/25/2016 re relocate propane tanks, remove portions of curbing and sidewalk, and on 07/27/2016 re revise size of entrance sign; and **Exhibit #3:** Sign design and dimensions for 856 Cherry Hill Plaza (62.5 square feet).

The group confirmed that Mr. Foster had authority to represent the Applicant. Mr. Foster advised that they are proposing a monumental (freestanding) sign with a base. They have space for nine tenants, thus there would be nine spots for tenant signs. The proposed sign would be 66 inches high by 132 inches wide or 62.5 square feet. The two posts would be 10 inches by 10 inches with an aluminum header on top of it. He advised that the address is 856 (US Route 302) and the name of the complex or campus is Cherry Hill Plaza which were included in the measurement.

The Board advised that the regulations allow up to 64 square feet for a freestanding sign. It was noted that the address need not be included but the name of the campus must be included in the measurement. The name of the campus, Cherry Hill Plaza, is 1.7 square feet. The Board questioned whether this fell under the definition of shopping center and will review the regulations further.

Mr. Foster noted that tenants, Barre Electric & Lighting Supply and Rubber Bubbles will have signs on the freestanding sign as well. Both of those businesses have their building signs and will be added to the freestanding sign at some point in the future.

Zoning Administrator Badowski indicated that based on his interpretation of the regulations, he did not believe this complex met the definition of shopping center. He advised that the Applicant had submitted several versions of this sign and noted that one of them did include the height. He confirmed that the hours of operation for the complex is 24/7.

Mr. Foster advised that he believed the proposed sign to be about 14 feet high and testified that it would not exceed the maximum of 25 feet high. The base would consist of bricks about three feet wide. He added that there would be flowers planted in the base. The proposed sign would be illuminated on both sides. It would be internally illuminated with LED, not florescent illumination as mentioned in the application. He advised that the signs would not stay on all night and mentioned going off at least by 2:00 AM. He advised they still have spaces available for tenants so did not want to restrict the hours of operation in any way. Mr. Foster further testified that the proposed

sign would not exceed 16 feet in height. The front yard setback is 10 feet, measured from the setback which is the right of way.

The Board reiterated that the name of the campus, Cherry Hill Plaza measures 1.7 square feet and the rest of the proposed sign measures 60.5 square feet for a total of 62.2 square feet. The address listed, 856 (.3 square feet), does not need to be included in the measurement.

Mr. Foster advised that they are looking to fill the available spaces but may not be able to do so. They may relocate their offices to that site. He confirmed that they are changing the name of the complex to Cherry Hill versus using the name of the previous owner.

Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 16-044. 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 June 21, 2016 meeting. On page 1, the second paragraph was corrected to show that there is no vehicular access from this site to the new Maplewood Store. Under criterion a, the next to the last sentence was corrected to read: The southern curb cut currently serving the Maplewood store would be eliminated pursuant to the new Maplewood store permit by the State. Under criterion b, the following sentence was added: In response to concern expressed by the Board with respect to access to the dumpsters with the new parking, Mr. Austin explained that there was space to the south of the parking area to provide access. Under criterion d, the following sentence was added: There is no screening between the site and the Berlin Town Garage. On page 3, the second sentence of the last paragraph was amended to read: Mr. Karp indicated that the word *Tesla* was necessary to the directional signage since the charging stations are specifically for *Tesla* vehicles. The following sentence was added to the next paragraph for further clarification: Mr. Lamberton indicated that the previous permit specified the existing north access.

Chair Wernecke made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the June 21, 2016 meeting as corrected. The question was called and the motion passed unanimously.

The Chair called for approval of the Minutes of the July 5, 2016 meeting.

Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the July 5, 2016 meeting as presented. The question was called and the motion passed unanimously.

4. Public Comment

Persons present participated in the meeting as noted above.

5. Other Business

6. Status of Findings.

The Board voted to go into deliberative session at 8:24 P.M. and out at 9:00 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 6, 2016.**
8. There being no further business, the meeting was adjourned at 9:02 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin