

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

UNAPPROVED MINUTES
Meeting of TUESDAY, February 20, 2018

1. The meeting was called to order at 7:00 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: Gary Laroche, Henry A. LaGue, Jr., Samantha Allen, and Doreen Lane.

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. Abutters Samantha Allen, Henry LaGue and Doreen Lane requested and were granted party status. In addition, the Board acknowledged a letter from abutters Mark and Melissa Taft.

2. New business

A. 18-003 – Gary M. Laroche and Kathy A. Laroche submitted an application for Concept Plan Review of a Minor Two (2) Lot Residential Subdivision involving a 36-acre parcel that envisions a modification from District lot size minimum by incorporating a Planned Unit Development (Section 4.10). The property is located at 174 East Road, Berlin, Vermont, in the Highland Conservation (HC) District; Parcel ID: 64-008.200. Gary M. Laroche, P.E. was sworn in to give testimony on this matter. In addition, abutters Samantha Allen and Doreen Lane were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 18-003, received on 02/01/2018; **Exhibit #2:** Overall Site Plan, 1.1; Site Plan, 1.2; and Details, 1.3; prepared by Jeremy T. Salvatori, Class B Licensed Designer, dated 12/20/2017; **Exhibit #3:** Survey and Subdivision of the Lands of Gary Laroche and Kathy Laroche, prepared by Nicholas P. Nowlan, LS, dated 02/10/2018; **Exhibit #4:** VT Agency of Natural Resources, Natural Resources Atlas showing wetland areas; **Exhibit #5:** Image from VT ANR Atlas; **Exhibit #6:** Google Earth Map showing access and property line; **Exhibit #7:** Narrative Description; **Exhibit #8:** PUD criteria addressed; **Exhibit #9:** VT Agency of Transportation 2013 traffic data for East Road; **Exhibit #10:** Email from abutters Mark and Melissa Taft, stating their concerns about the proposed project; and **Exhibit #11:** Applicant's response to written comments from Mark and Melissa Taft.

Overview: Mr. Laroche advised that he wishes to subdivide his 36-acre parcel into two lots creating a 1.7-acre lot and a 34.3-acre lot. On the new 1.7-acre lot created he proposes a two-dwelling (duplex) unit; the remaining land of 34.3 acres would be used for a single-family dwelling. Both lots would be accessed via a 60-foot wide strip of land from East Road. He provided the proposed layout for septic systems, leach fields, test pit data, and so forth.

The Board indicated that very few applications for Planned Unit Developments had been before it. The purpose of concept plan review is to review the proposal, use of the land, restrictions, feasibility of the proposed project, and whether it is in conformance with the zoning and subdivision regulations.

The Board asked Mr. Laroche to explain his rationale for a PUD on two lots with a multi-family dwelling on one lot.

Mr. Laroche indicated that the Berlin Town Plan encourages cluster housing in areas which is more efficient to develop and build, and has less of an environmental impact. He explained that it seemed to be the best use for the property.

Zoning Administrator Badowski indicated that he found nothing in the regulations that defines Planned Unit Development. The property is within the Highland Conservation District with a five-acre minimum and could be subdivided into multiple lots which he and the Applicant discussed as a possibility as well. They acknowledged that the proposed changes to the zoning regulations contemplate allowing smaller lot size minimums.

Mr. Laroche described the natural features of the property which includes wooded area and a distinguished finger of ledge about eight feet high. The property then drops off to a flat area making it suitable for a home. This proposal takes benefit of the terrain. There are currently no structures on the property; it is all open land. He noted that he serves on the Berlin Planning Commission, thus is familiar with the future plans for Berlin subject to approval of the People of Berlin. He advised that his response to the Taft's written comments offers further explanation.

The Board indicated that it was struggling with the PUD concept. The regulations allow for a single-family home and two-family (duplex) home with minimum lot size and access. The Board noted that it would be possible to create seven lots out of the 36-acre parcel that meet the lot size minimum for the district. The PUD type development was compared to that of a condominium development which includes an area of conserved or open land shared by all. In this situation because the 1.7-acre lot does not meet the minimum size for the district, 3.3 acres of the other lot would have to be set aside and held in common for both parcels.

Doreen Lane, abutter, asked why such a small amount of acreage for the structure. She felt that the proposal was out of character and did not fit with the surrounding area or with the neighborhood.

Mr. Laroche advised that he considered green areas for each lot without fragmenting the forestland. He indicated that neighboring properties had approximately one and half or two acres of green space. The proposed lots are designed to accommodate setbacks, except where the DRB can modify the lot size for a PUD. He explained that one proposed structure would be a duplex unit, and the other structure would be a house and garage with living space over the garage; two-family with the possibility of six-bedrooms. He showed a picture of the proposed house and garage design which would not be out of character.

Samantha Allen, abutter, asked if the Applicant would be restricted from further development on the balance of the land.

Mr. Badowski advised that the current regulations would allow this parcel to be divided into seven lots to meet the minimum five-acre lot size requirement. He noted that zoning could change in the future.

Mr. Laroche advised that his intention is for two dwellings as proposed. He would not stipulate to no further development and reserves the right to change his plans.

The Board mentioned that an easement or right of way may only serve two lots. Since frontage is not met, approval by the Select Board for a private road would be required if more than two residences were to be served. The private road must be designed to meet town standards.

The Board reiterated that the Highland Conservation District requires a minimum of five acres. The Applicant proposed a 1.7-acre lot with a PUD seeking approval of the smaller lot. The Board agreed that further interpretation of the regulations was needed. In general, a PUD is considered clustered housing with a balance of land in conservation. It would appear that 3.3 acres would be required to be put into conservation. Common land needs to be accessible but it is unclear whether it needs to be within the minimum acreage for the district. A duplex (two-family dwelling) is a permitted use in this district.

Mr. Laroche advised he did consider a five-acre lot but it would have had to have been down further into the woods. He wanted to minimize the impact to the land and stay away from the woods and ledge. There are also steeper slopes and a wetland delineation there too.

In response to the Board's request, Mr. Laroche described the documents that were handed out tonight. He submitted a written response to the concerns raised by Mr. and Mrs. Taft and provided supporting documentation for some of the points made regarding access. He provided data regarding traffic counts on East Road as well as maps showing wetland delineations. He provided an aerial photograph showing the clearing up to the wood-line which was taken in 2015 before any of the work had begun. The redlines on the Agency of Natural Resources Atlas show trees that were cut and the property line on both sides. He advised that the red lines are close but not correct and is working with Mr. Badowski to correct them. The blue line on the photo represents his property line which is 60 feet to the left of the blue line. In response to the Tafts' comment about snow drifting, he indicated the access has ample space to prevent drifting of snow. He noted that they do not install snow fence and reside most of the winter in the Florida. Mr. Laroche advised that any roads would be designed to meet state standards.

Ms. Lane noted that the condition of East Road is concerning particularly during mud season. Additional traffic would make it worse.

The Board indicated that the distance between the two driveways might not be met if state standards were to be met.

Mr. Laroche advised that a survey was also provided by Land Surveyor Nicholas Nowlan showing boundaries, sketch of proposal, natural features, test pits, water table, and so forth. He is not aware of any other restrictions. He advised that there is a small stream near the bottom of the property.

In response to questions regarding a Wetland Advisory, Chair Wernecke explained that Wetland advisories are not classified or delineated as a Class I or II wetland, thus no buffer is required. According to the ANR map provided the only Class II wetland is near Jet Envelope.

Mr. Laroche referred to his narrative with respect to his proposed housing and on what data he based it. He noted that the biggest point is to construct dwellings that the workforce can afford. One family might live in the house and rent the living space over the garage to make it affordable.

Ms. Lane commented on the duplex housing design, number of bedrooms, and location. She advised it was important to her to understand the concept including the number of buildings being proposed.

Mr. Laroche explained the isolation distances with respect to septic systems. He indicated that the proposed buildings are not shown on the subdivision plan.

The Board confirmed that building design or type was not being considered at this time. The Applicant was asked if it were possible to create a five-acre lot versus 1.7-acre lot, and still place the house where he wanted it.

Mr. Laroche indicated that if that strip of land counted in the total acreage he could take the back portion of the lot with the septic system and make it part of the first lot, and have an easement for the septic system as designed.

Board Members asked the Applicant to explain why he would propose a PUD versus two or more lots that meet the acreage for the district. Since he was only proposing two structures, and duplex dwellings are permitted in this district, it could be accomplished with two five-acre lots. The parcel could be subdivided further into at least seven five-acre lots. The Board agreed that the definition regarding "units" needed further review; seven units or if a duplex unit on seven lots it could be considered 14 dwelling units.

The Board revisited the distance between the driveways noting that turning movements are the issue for drives too close. As proposed it would not meet the standards. The Board and Agency of Transportation have leeway in that regard, however that decision must be based on the number of lots being proposed. If seven lots, traffic would be greater. In addition, standards must be met if deemed a private road serving multiple residences.

Mr. Laroche advised that sight distance is very good along that stretch of road. He received a permit for the curb cut in 2014.

Based on further discussion, the Board concluded that additional information was needed before approving the proposed subdivision in concept with a Planned Unit Development. Further review of the regulations is needed to determine whether this proposal fits the definition of a Planned Unit Development, which would allow a lot less than the five-acre minimum with additional acreage dedicated in common. The Board noted that the application had been warned thus could be continued. The application must be warned for Final Plan review of a proposed subdivision.

Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to recess application 18-003 for Concept Plan review to Wednesday, March 7, 2018. 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 6, 2018 meeting. The total acreage of the parcel was corrected to show it at 1109.5 acres of which only 342.2 acres were in the Town of Berlin. On page 2, the reference to 1400 feet pertains to the length of the Class IV road to the driveway, not to elevation. On page 3, the reference to Class IV wetland was corrected to read Class II wetland.

Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to approve the Minutes of the February 6, 2018 meeting as amended. 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'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 **Wednesday, March 7, 2018.**

8. There being no further business, the meeting was adjourned at 8:38 P.M.

Respectfully submitted,

Carla Preston
Recording Secretary
Town of Berlin