

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

**APPROVED MINUTES**  
**Meeting of TUESDAY, January 2, 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 via phone.

Others present: William (Bill) Warren, Mark Bannon, Gary Richardson, Ricky Richardson, and Paul Irons.

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. Gary Richardson, Ricky Richardson and Paul Irons requested and were granted party status.

2. New business

**A. 17-102 – William Warren and Constance Warren** submitted an application for Concept Plan and Final Plan Review of a Minor three (3) lot residential subdivision involving a 43-acre parcel. The property is located at 2607 Crosstown Road, Berlin, Vermont, in the Rural Residential (R-40) and Highland Conservation (AR) Districts, Parcel ID: 40-073. William (Bill) Warren and Mark Bannon, P.E., Wastewater/Water System Designer were sworn in to give testimony on this matter. In addition, Abutters Gary Richardson, Ricky Richardson, and Paul Irons were also sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 17-102, received on 11/30/2017; **Exhibit #2:** Proposed 3-Lot Subdivision, S-1, prepared by Mark C. Bannon, PE, Wastewater/Water System Designer, with Bannon Engineering, dated 11/27/2017; **Exhibit #3:** Soils Data; and **Exhibit #4:** Narrative addressing subdivision criteria.

Bill Warren indicated that he is proposing to subdivide a large parcel off Crosstown Road into three lots. He noted that soils testing has been performed and that septic systems are possible on the new lots being created.

Zoning Administrator Badowski advised that the plan has been revised slightly since it was submitted. The proposed boundary line near a spring that supplies water to Lot #1 was changed by about 100 feet and one boundary on Lot #1 was changed from 165 feet to 200 feet.

Mark Bannon confirmed that the dimensions of the lots were modified slightly but no material changes were made. The parcel being subdivided is located within two districts. The existing house and garage are located within the Rural Residential District and the two new lots being created are within the Highland Conservation District. Lot #3 would be served by a Right-of-Way via Lot #1 and Lot #2 would be served by a new curb cut to the northeast off Crosstown Road. The driveways serving Lot #2 and Lot #3 would be at a maximum 15 percent grade. He confirmed that both new lots would have onsite water and wastewater.

In response to the Board's questions regarding a proposed stormwater velocity reduction discharge structure, Mr. Bannon explained that the grades are steep on the hillside and the proposed structure is designed to avoid water coming down and washing out the driveway. They have added several stone-lined dams to help prevent washouts. Water will go into the ditching and end up in the swales. The velocity reduction discharge structure would be located just before the highway system to slow down the water. He advised it is designed to meet state requirements but noted that it would be up to the homeowner to maintain it by cleaning out the silt and other debris.

Mr. Bannon advised that a proposed 50-foot Right-of-Way off Lot #1 would provide access to Lot #3 and is shown on the plans with a dotted hatch line in red. The proposed driveway to Lot #3 continues along an existing logging road. Although there are no specific requirements regarding maintenance of the drainage swales and discharge structure, he advised they would provide recommendations for cleaning out the silt.

Mr. Bannon advised that with respect to soils, 13 test pits were performed. He noted the criteria used and referenced the log report submitted with the application. He advised that mound septic systems would be required due to the amount of ledge (greater than 48 inches) and due to the high water table for runoff.

The Board reviewed the criteria for Concept Plan review and noted that the names of abutting property owners had not been provided. The Board also noted that the plan submitted was not a boundary survey stamped by a licensed land surveyor, thus could not be considered as a Plat or Mylar.

Mr. Warren identified the abutting property owners and their location. Lot #1 (2.0 acres) is located in the Rural Residential District which requires a minimum of one acre. Lot #2 (5.6 acres) and Lot #3 (36.6 acres) are located in the Highland Conservation District which requires a minimum of five acres. All three lots meet the size requirements for the district in which located.

Mr. Bannon advised that they have not yet submitted applications to the state for onsite wastewater systems. He believes that approval will be granted by the state for mound systems based on the amount of ledge and runoff.

The Board revisited lot requirements to verify that each lot had the required amount of frontage. Lot #3 does not have frontage off Crosstown Road, but would be served via a Right-of-Way through Lot #1 that does have the required frontage. The Board advised that new curb cuts must be reviewed by the Road Foreman and approved by the Berlin Selectboard. The Board asked the applicants to comment further on the steepness of the driveways and whether the proposed driveways would meet state standards.

Mr. Bannon advised that the driveways will meet B71 State standards with respect to sight distance and grades. He acknowledged that the proposed new curb cut required approval by the Selectboard.

Gary Richardson, abutter recalled a prior subdivision application by Paul Irons which received opposition from neighbors and asked whether this proposal was any different.

The Board advised that Mr. Irons's proposed subdivision met the criteria and was approved by the DRB. Persons granted party status have the right to appeal a decision made by the DRB.

Mr. Badowski recommended that a maintenance agreement be established for the shared access. Such agreements are beneficial to current residents and new owners as properties change ownership over time. It is best that maintenance agreements be included in applicable deeds.

The group discussed the location of the proposed Right-of-Way and whether it should be located on the other side of the existing garage. Mr. Bannon advised that regardless of which side of the garage access would be provided, persons responsible for plowing and other maintenance needed to be addressed and understood by the parties involved.

Gary Richardson noted that access onto town roads require a 35-foot flat section, not angled, so that vehicles can stop and look both ways. He opined that the proposed driveway to Lot #2 would meet B71 State standards.

The Board confirmed that the state standards are specific and encouraged the applicants to review the criteria in detail. The Board also asked whether any of the property was preserved or in the Current Use program.

Mr. Warren advised the property is not currently in any preservation or Current Use program. Lot #3 is large enough should the future owner wish to apply for it.

Mr. Irons asked for more detail about abutters because he was worried about the location of his well or spring. The well has a deep concrete base and is near a small brook with a culvert. He advised that the well is mentioned in applicable deeds.

Mr. Bannon pointed out the location of abutters and landmarks on the large drawings presented noting the school bus turnaround, old logging road, access, stone wall, and so forth. He indicated what he believed was the approximate location of the well in question. In the end, it was unclear whether the well was located on the subject property or on the other side of the property being subdivided.

The Board advised that without a boundary survey, Final Plan review could not be considered. The Board could make a determination with respect to Concept Plan review. Abutters were identified but not shown on the plans and soils data was provided. The proposed lot sizes meet the criteria for the district in which located.

Mr. Warren asked for further clarification about the lots being created without meeting the frontage requirement. He wanted to be sure the proposal was practical and possible before investing more time and money.

The Board responded by voting on Concept Plan Review. Mr. Fitzhugh made a motion to approve Concept Plan review classifying the proposal as a Minor Subdivision. No roads are proposed, however there will be a Right-of-Way for access to Lot #3 in the back. Mr. Friedrich seconded the motion, and the motion passed unanimously.

After further discussion, it was revealed that a boundary survey had been recorded with the town. The Board advised that it could not consider Final Plan approval of the subdivision without seeing the survey or plat. The survey needs to state the boundaries as proposed and be stamped by a licensed land surveyor. If permits by the state for onsite wastewater systems have not been granted, it would be a condition of approval by the DRB. Once the permit is issued, a Mylar with all

required information must be filed within 180 days as well as applicable Deeds. The surveyor will research water rights and other easements that may be in effect regarding the subject property and document those findings on the plat.

Based on the discussion that ensued, Final Plan review of the proposed subdivision will be recessed to allow the Applicant sufficient time to gather the information needed (wastewater permits, curb cut approval, water rights/springs or wells, and final plat showing required data). The application would not require re-warning, but will be mentioned in the newspaper as an agenda item. Abutters will be notified as well.

Chair Wernecke made a motion, seconded by Ms. Nuissl, to recess Final Plan Review of application 17-102 to the April 17, 2018 meeting subject to receipt of required information discussed above. 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 November 21, 2017 meeting. On page 3 under 17-096, the third paragraph was amended to clearly state that the setbacks would not be met if the 50-foot easement were to be designated as a road.

Chair Wernecke made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the November 21, 2017 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 **Tuesday, January 16, 2018.**

8. There being no further business, the meeting was adjourned at 8:07 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin