

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

**APPROVED MINUTES  
Meeting of Tuesday, January 16, 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: Jack J. Barnes, III and Donald R. Marsh, P.E.

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. 17-104 – Jack J. Barnes, III** submitted an application for Concept Plan Review and Final Plan Review of a Minor three (3) lot residential subdivision involving a parcel approximately 16.4 acres. The property is located on Dodge Farm Road, Berlin, Vermont in the Highland Conservation Zoning District; Parcel ID: SA4-050. Jack Barnes, III owner and Donald Marsh, P.E., were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 17-104, received on 12/27/2017; **Exhibit #2:** Dodge Farm Community Lot #9 Subdivision, OA-1, prepared by Marsh Engineering Services, dated 12/22/2017; **Exhibit #3:** List of Abutters; **Exhibit #4:** Statement re Berlin Town Plan; **Exhibit #5:** Location Map; **Exhibit #6:** Agreement to the Dissolution and Winding Up of The Doge Farm Community, LLC; **Exhibit #7:** Warranty Deed re Lot #9; and **Exhibit #8:** Select Board Minutes of 05/04/2009 indicating acceptance for a private road regarding Dodge Farm Community.

Mr. Barnes advised that he wishes to subdivide Lot #9 totaling about 16.4 acres into three lots, resulting in Lot #9 being reduced to about 5.5 acres, and the creation of Lot #10 at 5.4 acres and Lot #11 at 5.5 acres. The Dodge Farm Community LLC partnership was dissolved in December of 2017 and ownership of this lot was transferred to Barnes Enterprises, LLC/Jack J. Barnes, III.

Mr. Marsh explained that the Town of Berlin has a Right-of-Way through an easement granted by the Owner up as far as Lot #8 for access to its municipal water supply. Wells, well shields and onsite wastewater systems are shown and described in further detail on the survey prepared by Gregory DuBois. Possible house sites in addition to locations for wells and mound wastewater disposal systems are shown on the overall plan. In addition, easements for access, the airport and beacon are all indicated. Mr. Marsh noted that wastewater permits for Lots #10 and #11 are pending approval from the state. Wastewater has been approved for Lot #9 which is off site as shown on the plans. Lots #7 and #8 have been developed.

In response to questions from the Board, Mr. Barnes explained that the Dodge Farm Community LLC, a partnership with Peter Schober, was dissolved. Mr. Barnes advised that he then formed his own limited liability company, Barnes Enterprises, LLC, to develop these lots.

The Board asked for further clarification about the road serving several lots and whether it was approved as a private road by the Berlin Select Board. A private road is not maintained by the town but must meet design standards as stated in the Section 900 of the Berlin Subdivision Regulations. A maximum of two lots may be served by a right-of-way and this road would be serving seven lots.

Mr. Barnes advised that he thought Dodge Farm Road was accepted by the Select Board when the prior application was presented to the Board. He noted that covenants and deeds address maintenance.

Zoning Administrator Badowski believed that the road had been accepted by the Select Board because the town has a right-of-way, and it is a named road shown on the 911 website. He agreed to research it further. He advised that maintenance agreements for private roads are strongly encouraged but not required.

The Board advised it would proceed on the understanding of the need for a private road recognized by the town under Section 900. Criteria were reviewed for Concept Plan review.

Chair Wernecke made a motion, seconded by Mr. Fitzhugh, to approve Concept Plan Review, classifying the proposed three lot residential subdivision as Minor, and subject to verification that Dodge Farm Road is a private road recognized by the Town of Berlin. The question was called and the motion passed unanimously.

The Board reviewed the criteria regarding Final Plan Review of a Minor three lot subdivision. After further discussion, the Board noted that when proposed buildings are shown it would be helpful to also show the building envelope.

Mr. Marsh advised that his preference would be to not show any proposed location for a house and leave it up to the buyer, but it is required by the state for wastewater and stormwater applications. They have to calculate for impervious area thus have to have the data. He advised that many test pits were performed but ledge was found as they went further up the hill. There would be two mound systems located on one lot. He elaborated further about the topography and why house sites, onsite wastewater, wells and so forth were located as shown. The Mylar was prepared by a licensed land surveyor.

The Board explained that ultimately, onsite wastewater must be approved by the state. The applicant was asked to verify the distance between the two mound systems and questioned whether they were too close.

Mr. Badowski advised that all three lots meet the minimum five acres and other requirements for the district. He will verify whether Dodge Farm Road had been accepted by the town as a private road.

After further discussion, the Board clarified that the subdivision process reviews lot lines, not house site locations. Building permits are issued by the Zoning Administrator which includes verification that all setbacks are met. The DRB does not approve onsite wastewater or wells, but must verify

that test pits and soils data have been performed. The Final Plat must include boundaries, easements, roads and other data stated in Section 610 of the Berlin Subdivision Regulations.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Fredrich, to close the hearing with respect to Application 17-104. 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 January 2, 2018 meeting. On page 3, the last paragraph was amended to clarify that a survey was already on record with the town, the applicant did not file it.

Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the January 2, 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 voted to go into deliberative session at 7:52 P.M. and out at 7:59 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, February 6, 2018.**

8. There being no further business, the meeting was adjourned at 8:00 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin