

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, January 19, 2016

1. The meeting was called to order at 7:04 P.M.

Members present: Robert J. Wernecke, Chair; Karla Nuisl, Vice-Chair; Henry A. LaGue, Jr.; John Friedrich and Paul Irons, Alternate.

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

Others present: Donald Marsh, PE, Elliott Curtin, Jason Merrill, Jerome Goss, Shawn Isham, Brian Emmans, Helen Bryan, Shawn Bryan, Martin Kelley, Julie Pryce-Kelley, Michael Stridsberg, Corinne Stridsberg, Michael Vaupel, Mary Stridsberg, Bernie Chenette and Michael Chenette.

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. The Board granted party status to abutters and neighbors regarding Junction Associates LLC (15-092) which included: Jerome Goss, Shawn and Helen Bryan, Martin and Julie Kelley, Corrine and Michael Stridsberg. Party status was also granted to Bernie Chenette and Michael Chenette, abutters with respect to Applicants Michael Vaupel and Mary Stridsberg (16-001).

2. New business

A. 15-092 – Junction Associates LLC submitted an application to construct a 15,000 square foot commercial building and associated improvements requiring Site Plan, Conditional Use and Flood Hazard Area review as well as a request for a variance. The property is located at 671 Junction Road, Berlin, Vermont, in the Industrial Zoning District, parcel ID SA2-021. Donald Marsh, PE, Elliott D. Curtin, and Jason P. Merrill with Junction Associates LLC were sworn in to give testimony on this matter. In addition, abutters and neighbors were also sworn in to give testimony on this matter as follows: Jerome Goss, Shawn Isham, Brian Emmans, Helen Bryan, Shawn Bryan, Martin Kelley, Julie Pryce-Kelley, Michael Stridsberg and Corinne Stridsberg.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-092, dated 09/25/2015; **Exhibit #2:** Site Plan, C-1, prepared by Marsh Engineering Services, PLC, dated 08/17/2015 with revisions on: 10/05/2015, 10/13/2015, 11/23/2015, and 01/04/2016; **Exhibit #3:** Site Plan, C-2, prepared by Marsh Engineering Services, PLC, dated 01/11/2016; **Exhibit #4:** Lighting Plan, L-1, prepared by Marsh Engineering Services, PLC, dated 01/18/2016; **Exhibit #5:** Aerial views of existing conditions, vacant lot, provided by Zoning Administrator; **Exhibit #6:** Aerial View of site with Flood Hazard Zone mapping, provided by Zoning Administrator; **Exhibit #7:** Aerial View of site including proposed building footprint, provided by Zoning Administrator; and **Exhibit #8:** Applicant's Narrative addressing the review criteria; **Exhibit #9:** Email dated 12/15/2015 from Rebecca Pfeiffer with the Agency of Natural Resources, Watershed Management Division discussing the Special Flood Hazard Area; **Exhibit # 10:** Cut sheets for RAB Lighting; **Exhibit #11:** Memo dated 09/30/15 from the Berlin Police Department advising that the proposed project would have no adverse impact on that department; **Exhibit #12:** Letter dated 01/18/16 from the Berlin Volunteer Fire Department Inc. commenting on the lack of information regarding fire suppression or fire alarm systems and requesting a lock box.

Overview: Don Marsh and Jason Merrill advised that they were present to represent the owner/applicant. (Elliott Curtin, member of Junction Associates, LLC, arrived a bit later.) Mr. Marsh pointed out the project location on the plans describing it as the open parcel behind the Cedars. It is a four acre parcel, two acres of which are fairly level and the remaining property is steep up toward Green Mountain Power's Right-of-Way. They are proposing to construct a 15,000 square foot commercial building which would serve three to four tenants. They anticipate 15 employees because they expect about two thirds of the building's use to be rented to contractors, and have therefore provided 20 parking spaces located in the front and side. There would be a loading dock located at the back of the building as well. They have provided a 75 foot vegetated buffer to the small stream which is located on the neighbors land. They have provided stormwater treatment and collection along the north side of site. The Cedars in the front will remain. There are currently two access points but they propose to close off the western access point. Mr. Marsh explained that generally the area next to the river is in the floodplain which is shown in blue on the plans. He advised that due to the topography, the area in the middle is not within the floodplain but it is shown on the plans. He noted that the front portion of the building would be within the floodplain but the rear portion of the building would not be within the floodplain. Based on their calculations the project would add more storage within the floodplain with a net result of diminished impact on flooding in the area. They have a modest landscaping plan to add River Birches and a Willow tree in the front as well as maintain much of the existing landscaping.

The Board entertained comments from neighbors and abutters.

Jerome Goss, abutter to the west, advised that he has lived in the area all of his life. He feels that he is the most affected by the proposal as he is the closest to the proposed building at 57 feet. It was later determined that the setback is actually 105 feet to the property line. He was concerned that the Applicants did not know the actual number of tenants or the proposed uses. He was also concerned that the proposed development would negatively impact his property with respect to flooding.

Mr. Marsh advised that the Applicants have not yet secured tenants, thus it is difficult to be exact. According to their calculations the project would diminish the impact on the floodplain, but noted that because it is a large river it would not be measureable or noticed. He was confident that the proposed project would not increase Mr. Goss's chances of being flooded as they are providing 10 times more (storage) space than exists now. He confirmed that the building would be 105 feet from the property line in question.

Mr. Goss advised that safety is his biggest concern and mentioned the additional tractor trailer truck traffic as well as other vehicles. He advised that Junction Road is highly used by runners, bicyclist, adults and children walking their dogs, and so on. He also mentioned concerns about noise, and dirt and dust created by the additional traffic. He believed that 6:00 AM to 9:00 PM is a lot of hours of operation. He believes that the project would have an adverse affect on him and others in the neighborhood. He acknowledged that the area is zoned industrial which raised questions about how it was zoned. He believes that allowing the commercial building in the area does adversely affect the neighborhood. Mr. Goss was also concerned about potential reduction or depreciation in property values as a result of the proposed project.

Mike Stridsberg advised that he and his wife are abutters on the east side. He provided some history about the parcel in question noting that it was changed dramatically over the years. He explained that the area used to be a pond which was lower in elevation than their property. When the property was purchased by Mr. Tucker he slowly filled it in and it is now several feet higher in elevation due to the fill

brought in. The fill was scooped from the hillside and rock was brought in. He advised that there are two streams as a result of that change. He noted that the damage had been done but felt that adding a large commercial building added insult to injury to this area. He too, acknowledged that the area is zoned industrial but advised that from the train station down is all residential. He agreed with Mr. Goss that this area should be changed to residential as well.

Mr. Marsh noted that as an example, research found that landfills do not depreciate property values. He does not believe that this proposed commercial building would depreciate property values for residences in the area. Mr. Marsh added that he found no research to suggest any reduction in property values based on these circumstances.

The Board advised that the Development Review Board does not have the authority to change zoning. The DRB considers applications based on existing statutes and regulations. The Board noted that the Berlin Planning Commission is looking at changing zoning and encouraged attendees to participate in that process. It was noted that according to the new maps it would become mixed use. The Board advised that a potential impact on property value is not one of the criteria considered.

Ellen Bryan, abutter, advised that one of her concerns pertained to the height of the building at over 30 feet. She referred to the size of the nearby Capital Steel building which she believes is greater than was originally approved. She also mentioned concerns about exterior lighting, increased traffic on the road, particularly during the spring with mud season. She asked whether tractor trailer trucks (18 wheelers) would be permitted on the road during the spring. She asked if the Applicant had a plan to limit truck traffic when the roads are posted to certain weight limits. Ms. Bryan feels that the proposed development would change the nature of the neighborhood.

Mr. Merrill advised that the 32 foot maximum height mentioned on the application was simply as a placeholder. He advised that based on the truss system the building would actually be only 25 feet high. He also confirmed that the size of the building would be 15,000 square feet, not 20,000 square feet as originally mentioned on the application and in the narrative.

Shawn Bryan, abutter, advised that his biggest concern is safety. He reiterated how much pedestrian and bicycle use Junction Road receives. He advised that the bike path leads to Junction Road which is considered a recreational area.

Mike Stridsberg added that it is part of the Cross Vermont Trail.

Mr. Marsh advised that based on his discussions with the Berlin Road Commissioner there are plans to reconstruct the road. He acknowledged that it is subject to receipt of a grant. He further explained that the size of the building had to be reduced by 5,000 square feet based on the state's recommendations. The size of the building was changed from 20,000 square feet to 15,000 square feet and pushed further back.

The applicants addressed Site Plan, Conditional Use, and Special Flood Hazard Area Review Criteria.

- a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Mr. Marsh advised that the parcel currently has two access points and that the existing western drive would be eliminated. The driveway would be constructed to meet B71 State standards. There is plenty of room for large trucks to maneuver on site. A culvert would be replaced that is located at the beginning of property, a shared project between

the Town and Applicants. With respect to traffic concerns, Mr. Marsh advised that they understand the high recreational use of Junction Road. They do not anticipate a significant increase in traffic, perhaps one tractor trailer a day. Although it is a well used road, it is a Class III road. They do not feel that there would be a significant impact on safety. They expect that between employees and trucks traffic would increase by about 17 or 18 round trips per day [34 or 36 trip ends]. This would not be a facility that is open to the public. They do not know who tenants will be but mentioned a fulfillment type business that redirects shipments brought there. It would not be a retail establishment that is open to the public.

Mr. Marsh advised that they are not proposing to pave the parking areas at this time. He mentioned the grant that the Town is applying for and the improvements to be made if received. The grant is to remove existing material, add fabric and gravel and pavement, re-shoring the river bank and so forth. He noted that guardrails were added last year.

Mr. Goss was concerned that review and approval would be based on estimates regarding traffic. He is worried that more than one tractor trailer truck would soon be needed and that there is no limit. He noted that upgrading roads typically leads to faster moving and more traffic on the road. Other neighbors agreed that more information regarding traffic was needed.

The Board advised that the permit issued to the Applicant will stipulate specifics. Chairman Wernecke explained that the Board does see speculation when applicants do not have tenants. Certain changes in use would require approval from the town.

Mr. Stridsberg advised that he is more concerned about the size of the vehicles on the road and less about the increase in traffic mentioned. He advised the road is narrow and does not believe that the road will support it. He noted that meeting large vehicles now is dangerous and more concerning when it could occur on a daily basis. He advised that the Cross Vermont Trail is a published route and highly used.

Ms. Bryan explained that traffic increases significantly when other routes are closed. For example, when the Exit 8 ramp was closed for bridge repairs it created a lot more traffic. She was also concerned about losing her front yard if the road were to be paved.

The Board asked if anyone knew the average daily traffic (ADT) for Junction Road. The Board also advised that the mentioned improvements to the road will be up to the town and are not related to or because of this project.

Mr. Marsh advised that he did not have ADT data but would be willing to contact the Regional Planning Commission for that information.

Martin Kelley, abutter, advised that he works for the Vermont Agency of Transportation as a bridge inspector. He guessed it to be around 350 and noted that he could also find that information.

Mr. Stridsberg offered to measure the width of the Junction Road. He confirmed that it is narrow.

In response to concerns about spring conditions, attendees confirmed that the road is posted during the spring.

Mr. Marsh advised that if the road is posted deliveries would have to be rescheduled or otherwise modified. He advised that the Applicants would be willing to limit tractor trailer traffic to normal business hours. Other vehicles might be returning to the site later on.

- b. Adequacy of circulation, parking, and loading facilities.** Mr. Marsh advised that it is anticipated that the building's tenants may have a maximum of 15 employees and have provided for 20 parking spaces. As much of the building would be used for storage they believe parking based on staffing is appropriate and sufficient. The parking area consists of gravel thus neither access lanes nor parking spaces would be striped. There would be eight parking spaces on the west side of the building and 12 parking spaces in the front of the building. A four foot high loading dock would be located in the middle of the western side of the building. There is sufficient space for trucks to access the site and turn around on site. There is a designated area next to the loading dock for recycling and refuse storage. Small trucks may enter the building from two locations on the eastern side of the building via ramps and exist via a ramp out the western side of the building. There would be no parking to the east due to the stream buffer.

In response to questions from the audience, Mr. Marsh explained how trucks would enter and exit the building and pointed out those locations on the plans. He indicated that they anticipate a small contractor tenant would drive their pickups into the building, load or unload, and exist on the other side. The dumpsters would be located on the west side. Since this is a commercial building there would be no food waste issues, only construction debris.

- c. Bicycle and Pedestrian Access.** The Applicants do not anticipate much pedestrian or bicycle traffic but have provided a bike rack for employees. There are no sidewalks along Junction Road. Pedestrians would utilize the accessible ramp and the doors adjacent to the truck ramps along the eastern side of the building.
- d. Adequacy of landscaping.** Mr. Marsh referred to the plans and pointed out the area in green. All areas outside the limits of gravel will remain vegetated, grass. East of the driveway will remain undisturbed. In the green shaded area there would be ferns and River Birches. They propose to add a Willow tree in the wetter areas in front as shown on the plans. The Cedar hedges will remain and the native vegetation will remain.

Mr. Goss mentioned the open area at the property border where the row of Cedars end and asked the Applicants if they would be adding more plantings as a buffer. He also asked if they would be willing to put an eight foot high fence along the property line to add privacy and buffer noise.

Mr. Merrill elaborated further where the approximate 50 foot gap in the cedars was located. He was not necessarily in favor of a fence but agreed that both parties would benefit from adding Cedars along that property line to close the gap.

- e. Hours of Operation.** Mr. Marsh advised that the Applicants requested the hours of operation from 6:00 AM to 9:00 PM to encompass returning traffic from other locations. They anticipate the hours of operation to be 7:00 AM to 5:00 PM but want flexibility with contractors returning late.

Mr. Merrill advised that there would not be specific hours of operation at the site and does not expect to see anyone working in the building full time. The building would be used more for

storage but could also be used for shipping and receiving during those hours, no manufacturing.

In response to questions regarding proposed uses from the Zoning Administrator, Mr. Marsh advised that it is a commercial building located in an industrial zone. He indicated that it could be warehouse storage and noted that the front portion might be a fulfillment center where large deliveries arrive for redistribution in smaller quantities. Mr. Marsh explained that they do not want to be specific since they have not secured tenants and do not really know for sure. The Applicants do not want to be overly constrained so that they have to keep returning to change the use. He reiterated that it is a commercial building that would not be open to the public.

Zoning Administrator Badowski suggested that the Applicants review all permitted uses for the district and come up with some limitations.

The Board noted that testimony thus far had been directed toward loading and unloading therefore it is not anticipating that people would be working on site or that manufacturing would occur. The discussion pertained more to a warehouse function or contractor's yard. The Board noted that a gas station or a welding business would be examples of other uses that would need a new permit. It is the Board's sense that the hours of operation are nearer regular business hours with expanded hours to allow access to the building.

Mr. Marsh noted that the Applicants recognize that this commercial project is being proposed in a residential area although zoned industrial so they are trying to tiptoe around. He noted that the Board could set limits if needed.

Elliott Curtin, member of Junction Associates LLC advised that his employees typically arrive at 7:00 AM and return by 7:00 PM. He noted that most of the work is performed offsite at other job locations.

*f. **Setbacks.*** Mr. Marsh advised that they more than exceed setback requirements and referred to Site Plan C-1 which showed the front yard setback at 127 feet, the east side at 73 feet, the west side at 105 feet, and the rear yard setback at 245 feet. There is a 78 foot vegetated buffer from the closest side of the building to the stream. He noted that the driveway is within the buffer. The stream has a gravel bottom and increases significantly in the spring which meets the standards to be considered a stream.

*f. **Adequacy of Exterior lighting.*** Mr. Marsh provided copies of their Lighting Plan, L-1 which indicated locations of the fixtures on the building, types and photometric plan. The proposed wall mounted fixtures would consist of full cutoff, light emitting-diode (LED), lights. The fixtures would be mounted 18 feet high off of the building and cannot be seen from the road. The proposed lighting meets Darksky criteria. According to the photometric plan the light stays within the site and does not spill on to the neighbors' properties. Mr. Marsh advised that the lights would be on timers.

For the benefit of neighbors, Mr. Marsh elaborated further regarding the type of fixtures. He noted that the lights would not be motion activated and would shut off at 9:00 PM and stay off the rest of the night.

Mr. Bryan expressed concerns about lighting on the east side noting that they enjoy star gazing and did not want their view compromised with a lot of lights. He advised that if the lights were

shut off at 9:00 PM it should be fine. He advised that they do not object; they just wanted to be sure lighting was not spilling over the Applicants' site.

- h. Stormwater and Drainage.** Mr. Marsh advised that since the development involves less than one acre (0.85) a state permit is not required. However they wanted to provide reasonable conveyance and treatment so they have provided for a swale and culvert now 18 inches to be upgraded to a 24 inch culvert (to be sized by VTrans) under Junction Road. They are providing a grassed swale area that will catch most of the runoff. On the east side runoff will flow to the buffer area. He explained that they do not need an operational permit from the state because of the one acre threshold but will need a permit for the low-risk project during construction. The contractor must meet the requirements which may include a silt fence, mulching, and other tools that can be used for stabilizing the developed area. They are aware that it is more than one acre that is being disturbed. The total square footage of impervious area is 0.85 acres.

Mr. Kelley asked for further clarification about there being two streams on that property and was advised by other neighbors that it is really one continuous stream. The stream on the west side consists of a dry culvert off season.

- i. Utilization of renewable energy resources.** The project will not interfere with future potential uses of renewable energy and will not preclude the neighbors from developing renewable energy sources.
- j. Municipal Services Impact Evaluation.** Mr. Marsh advised that letters requesting an impact statement were sent to the Berlin Police, Fire and Highway Departments. The project has been discussed with the Berlin Highway Department with an agreement to share costs to replace an existing culvert. He advised that they received a letter from the Berlin Volunteer Fire Department noting concerns related to uses if there is a potential for high fire load since no information was provided regarding a fire suppression system or fire alarm system. Mr. Marsh advised that the Applicants will need approval from the Fire Marshall's office which is subject to fire safety code. They anticipate that a sprinkler system would not be required. He advised that a fire alarm keyed into the Berlin Voluntary Fire Department and a lock box would be provided.

Zoning Administrator Badowski confirmed that Tim Davis, Road Foreman, did have a conversation with the Applicants about the culvert and construction with respect to shared responsibility.

- k. The Character of the area affected; neighboring uses.** Mr. Marsh advised that the Applicants share the concerns raised about this commercial building located in a residential area although it is zoned industrial. The existing 10 to 12 foot high Cedar hedges will remain. The proposed building was pushed back away from the road and was reduced in size. He noted that the building would be higher than most homes but it is low based on commercial standards. The Applicants know that the project is in a residential area and feel that those issues have been addressed. The proposed uses are low traffic which they feel minimizes the impact on the neighborhood.

In response to the Board's question concerning their heating source, Mr. Merrill advised that they have not yet made that determination. He noted that heat pumps have been mentioned but he does not know for sure yet. They do have an underground propane tank located at the back southwest corner. The septic tank and pump station are located in that area too. The

Applicants agreed that the tank should be properly anchored but noted that it is outside the floodplain.

Mr. Goss advised that he wanted to go on the record that in his opinion the project does create adverse impacts on the neighborhood which is different than Applicants' position. He feels that that the project would have a tremendous impact and that the parcel should not be used commercially in light of all the houses in that area.

Ms. Bryan advised that she appreciates the changes made to the site to be above the floodplain. She advised that they were flooded a while ago. She believes that the project will change the character of the small neighborhood. She noted that they have not seen any proposed building design and wondered if it could be made to fit better with the residential community versus a commercial look.

Mr. Merrill advised that some of the building construction materials are dependant upon the state noting that the state is likely to require the building to be composed of noncombustible materials. He advised that they are looking at steel versus brick but indicated that brick is not out of the question. They have not really addressed the outside material but agreed they could dress it up to fit better within the neighborhood.

Ms. Stridsberg noted that the recreational uses in this residential area are important to many noting that it does not just serve the residents there. She advised that she would also like to see a nice looking building versus a commercial building. She noted that the Cedars might mask or screen it from the road but it would not mask it for them. When they moved there 23 years ago it was wetlands.

Ms. Bryan advised that 35 years ago when she moved there the area was zoned as Rural Residential, not Industrial. She noted that things crept in that were different.

Mr. Bryan acknowledged that the Applicants were taking the differences in zones into consideration and addressing those differences while trying to stick a commercial building into a residential area. He advised that he would also like to see it look better.

Mr. Marsh suggested that the abutters go to the Berlin Planning Commission to address the issue.

l. Bylaws then in effect. Covered in above discussion.

m. Flood Hazard Review. Mr. Marsh referred to Site Plan C2 and explained that due to the unusual topography a portion of the area near the river is not in the floodplain. He acknowledged that it could be due to the incremental filling of the site spoke of earlier. The darker blue area reflects land in the floodplain. The rear of the building is above the floodplain. This information is based on Federal Emergency Management Agency (FEMA) mapping. Mr. Marsh advised that land surveyors took elevations which are shown on the plans. With removal of earth and regrading the pad would be 1.4 feet above the base flood elevation (BFE). The Plan reflects areas that would be within the BFE. The building footprint and surrounding area will displace water. He explained their calculations which result in a net 2500 cubic yards over existing conditions with a slightly improved flood situation. He referred to the cross section and pointed it out on the large scale plans. He confirmed that a portion of the area is within the floodplain but they are

providing more compensatory storage so there is a net positive. The town's road is located within the floodplain. He advised that this is based on the requirement for a 100-year flood, or one percent chance of occurring. He noted that Tropical Storm Irene was closer to a 500 plus year event.

Mr. Marsh referred to the email response from Rebecca Pfeiffer with the Agency of Natural Resources, Watershed Management Division. Ms. Pfeiffer indicated that because the project includes fill and locates a portion of the building within the floodplain that it would violate the Town's regulations which do not allow new non-residential structures in the Special Flood Hazard Area except within the Highway Commercial District. Mr. Marsh believes that Ms. Pfeiffer misinterpreted the drawing to read over five feet of fill when it is only three feet and overstates the impact. He noted that it is up to Board to interpret.

Mr. Goss asked if or how often the DRB ruled against the state's recommendation. He and other members of the audience were given a copy of the December 15, 2015 email from Rebecca Pfeiffer.

The Board advised that it has not always adhered based on certain circumstances. Ms. Pfeiffer/the State, could view it as a violation of trust with FEMA, which issues flood insurance. In addition, the federal, state and town regulations are not in agreement with respect to what is allowed and what is prohibited and under what circumstances.

In response to Mr. Kelley's request for further explanation, Chair Wernecke advised that the ordinance or regulations state that grading is allowed but does not define it. Fill as needed to elevate structures.

Mr. Stridsberg advised that the parcel is at least seven to eight feet higher than it was years ago before fill was added. It was his understanding that Mr. Tucker wanted the land to perk which is why he added fill.

Zoning Administrator Badowski doubted that the fill was permitted or required to be at that time. He noted that the regulation regarding Special Flood Hazard Area is relatively new and just passed in 2013. He noted that fill was previously allowed in the floodplain but not allowed in the floodway.

Mr. Marsh advised that there was a permit issued in 1993 that allowed a pole barn. There is no mention of fill in that permit. He advised that the septic system is 80 feet in elevation above the building thus the system will require a pump. He noted that they had approval for wastewater in the area but when the building was moved back it would not work.

Mr. Marsh asked if the DRB needed any additional information in order to make a decision. He referred to the definition of commercial with respect to uses and noted that they are not proposing a gas station, retail outlet, manufacturing, etc. There would be no public access. He believes that the project falls way below the criteria for a traffic study but would research the ADT. He agreed that there would be an increase in traffic but not a significant increase in traffic or municipal services. He believes that Junction Road is a well maintained third class road.

The Board noted that typically an applicant would ask for articulated uses. The regulations indicate 14 permitted uses for that district. If a use or uses are not specified the Board would have to consider all of

them which could add limitations.

Mr. Marsh asked for a continuance so that the Applicants can better define the proposed uses. He advised he would also obtain the data regarding the average daily traffic (ADT) on that road.

The Board agreed to recess the hearing and also advised the Applicants to consider the design of the building so that abutters and neighbors can see the type of construction. In summary, the Applicants must narrow down the uses, provide the design and appearance of the building, and gather the ADT for Junction Road.

Mr. LaGue made a motion, seconded by Ms. Nuissl, to recess the hearing with respect to Application 15-092 to February 2, 2016. The Applicants and anyone requesting party status were advised to submit any new information to all attendees regarding this application. The question was called and the motion passed unanimously.

B. 16-001 – Michael Vaupel and Mary Stridsberg submitted an application for Access Review to allow development of a Single Family Home off a Class IV Road (Belknap). The property is located at 235 Belknap Road, Berlin, Vermont, in the Highland Conservation District, Parcel ID 65-003. Michael Vaupel, Mary Stridsberg, and abutters Bernie Chenette and Michael Chenette were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 16-001, received 01/01/2016; **Exhibit #2:** Site Plan, C1 for Claire and Frank Gross, prepared by Dufresne Group Consulting Engineers, dated 12/02/2011; **Exhibit #3:** Map of site showing proposed driveway, location of house, setbacks, etc.; **Exhibit #4:** Copy of Wastewater Permit (#WW-5-6980) from the State of Vermont, Department of Environmental Conservation, Drinking Water & Groundwater Protection Division, dated 09/14/2015; **Exhibit #5:** Section 68 Definitions re Class 4 Road Policy (Draft), provided by the Zoning Administrator; **Exhibit #6:** Letter dated 01/18/2016 from the Berlin Police Department expressing concerns about the condition of the road and its maintenance to allow for emergency services, especially during the winter months; and **Exhibit #7:** Letter dated 01/18/2016 from the Berlin Volunteer Fire Department Inc. expressing concerns about the condition of the road and its maintenance. The Fire Chief also requested that the driveway be upgraded such that two fire engines (pumpers) could pass each other since there is no water supply at the site.

Overview: Mike Vaupel said he and his girlfriend Mary Stridsberg want to build a house on their 8.43 acres parcel. Access to the proposed house site is at issue because it would be off a Class IV road, Belknap Road. There is a stream along the road. The Chenettes' property is about 30 feet to the east. Mr. Vaupel explained where the property is located and noted that the town stops plowing at 115 Belknap Road which is where the Class III Road ends. The parcel in question is located another 1500 feet further up off the Class IV road. He advised that there is another house off that road which is in use year round. They maintain the road but noted that about once a year the town does some maintenance.

Zoning Administrator Badowski advised that DRB approval is required for access off a Class IV road pursuant to Section 3.02. The concerns pertain to emergency access. He referred to the letter from Fire Chief Miles Silk, Jr. noting that the department recommends that the driveway be constructed and maintained to allow emergency vehicles access. The Chief requested that the driveway be wide enough for two fire engines (pumpers) to pass each other. Mr. Badowski also referred to the Policy regarding Class IV roads (§ 68 Class 4 Road Policy) which was not adopted by the Select Board but does include recommendations. He provided it to use as a guide.

Mr. Vaupel advised that they have no objections to providing a wider driveway.

The Board mentioned that creating maintenance agreements among the residences on such private roads is strongly recommended. Such agreements go with the property so that new owners are aware of the requirement. The Police and Fire Departments are asking that Belknap Road be properly maintained year round.

The Applicants explained that they would share about 155 feet of driveway with the existing resident off Belknap Road and then branch off at that point with a brand new driveway. They noted that the existing house was originally built in the 1930's and is located on a one acre parcel. It was built as a camp and got converted. They do not have legal right of way.

Mr. Vaupel advised that he thought the Fire Chief's letter mentioned upgrading the Class IV road and driveway. He acknowledged that it would be in their best interest to have trucks be able to pass on their driveway and on the road. He advised there is a pull off point where the town stops plowing. He believes that there are two points on that road where fire trucks could pass each other. He noted that Belknap Road has a stream on one side with a bank, ledge, boulders, etc.

The Board noted that both the Police and Fire Departments expressed concerns from an emergency services point of view and both recommended that Belknap Road be upgraded. The regulations restrict land development off Class IV roads but there are no standards on which to base a response. The Class 4 Road policy is a model but has not been adopted. The Board noted that some of the provisions mentioned in the policy are in statute.

The Applicants advised that it is their intention to maintain the driveway year round. They will cooperate with the resident of the camp. They noted that it would be cost prohibitive to upgrade the road to Class III standards. There is no other possible access because of Interstate 89.

Mike Chenette, abutter, advised that the road is relatively narrow and steep but is in good condition up to the gate. He advised that removing some of the trees on each side of the road could bring in more sunlight. It is not a very long stretch of road and the ditches are relatively small. There is not much drainage because the runoff gets cut off from above. He noted that Road Foreman Tim Davis discussed redirecting the runoff away from the driveway, to which they agreed would be an improvement.

Zoning Administrator Badowski confirmed that Bernie Chenette, Tim Davis and he met near that driveway to evaluate the situation. They discussed putting in a culvert to redirect water.

The Board reiterated that the Applicants have to accept full responsibility to maintain the road which goes with the property. The Board agreed that it is in their best interest to have access for emergency services.

Mr. Vaupel advised that they have read the draft policy regarding class 4 roads. He understood that he should obtain permission before making improvements.

Bernie Chenette advised that he and his brother (Mike) have access to their property which is above the Applicants. They are logging it and do not want to interfere with the Applicant's ability to build. Mike Chenette advised that they have to cross the stream to get to their 25 acre parcel which they would like to avoid.

Zoning Administrator Badowski asked for clarification regarding future applications in the event an access permit is granted. He wanted to be sure that the Applicants would not have to again request access in the future if they wished to build a shed or some other permitted use in the Highland Conservation District.

The Board believed that once access is granted future applications for permitted uses could be granted by the Zoning Administrator but wanted to research that issue further before opining since development is defined rather broadly.

There being no further testimony, Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 16-001. The question was called and the motion passed unanimously.

3. Review and approval of the Minutes.

The Chairman called for approval of the Minutes of the January 5, 2016 meeting. On page 2, the first paragraph was clarified to reflect that the proposed driveway was added along the side of the building. The last paragraph was amended to clarify that eight parking spaces were relocated to the front of the building. On page 3, the second paragraph under "b" was corrected regarding the square footages of the building: 62,360 sf total consisting of 36,800 sf of warehouse, and 25,560 sf of state laboratories and offices. The fourth paragraph under "b" was corrected to show that deliveries were made to the warehouse on the east side. On page 5, the second paragraph under "j" was corrected to reflect that the property is off town highway, not state. A few other minor corrections were suggested to add clarity.

Chair Wernecke made a motion, seconded by Mr. Friedrich, to approve the Minutes of the January 5, 2016 meeting as corrected. 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 9:54 P.M. and out at 10:17 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 2, 2016.**

8. There being no further business, the meeting was adjourned at 10:20 P.M.

Respectfully submitted,

Carla Preston

Carla Preston

Recording Secretary, Town of Berlin