

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

**APPROVED MINUTES**  
**Meeting of TUESDAY, January 20, 2015**

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

Members present: Robert J. Wernecke, Chair; Karla Nussli, Vice-Chair; Henry A. LaGue, Jr.; Harvey Golubock; and John Friedrich.

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

Others present: Fred J. Connor, III; Jeffrey Olesky, PE; and Paul Putney, owner S&W Rental.

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.

2. New business

**A. 15-001 – Connor Realty, LLC** submitted an application to remove existing buildings, merge two lots and construct a 7,320 square foot commercial office building requiring Conditional Use Review. The property is located at 309 and 327 US Route 302, Berlin, Vermont, in the Modified Residential District. Fred J. Connor, owner and Jeffrey Olesky, PE with Wilson Consulting Engineers, PC, were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-001, received on 01/01/2015; **Exhibit #2:** Site Plan – Existing Conditions, Sheet C1.0, prepared by Wilson Consulting Engineers, PLC, dated 10/31/2014; **Exhibit #3:** Site Plan – Proposed Conditions, Sheet C2.0, prepared by Wilson Consulting Engineers, PLC, dated 10/31/2014 with revisions on 12/10/2014 and 12/19/2014; **Exhibit #4:** Site Plan – Proposed General Site Details, Sheets C3.0, C3.1 and C3.2, prepared by Wilson Consulting Engineers, PLC, dated 10/31/2014; **Exhibit #5:** Conceptual Floor Plan, A-1 and Conceptual Elevations, A-2 and A-3; **Exhibit #6:** Letter dated 12/23/2014 from Jeffrey Olesky, PE with Wilson Consulting Engineers, PLC addressing Conditional Use Review criteria; **Exhibit #7:** Proposed exterior lighting cut sheets; **Exhibit #8:** Copy of applicable Flood Insurance Rate Map (FIRM); **Exhibit #9:** Copy of Hydrology Evaluation provided to the VT Agency of Transportation; **Exhibit #10:** Email communication dated 12/24 and 12/29, 2014 between Sacha Pealer, Central Vermont Floodplain Manager and the Applicant re floodplain matters; **Exhibit #11:** Letter of Intent from the Agency of Transportation, Utilities & Permits Unit, dated 01/13/2015; and **Exhibit #12:** Memorandum dated 12/30/2014 from the Berlin Police Department, stating that the proposed application would have no adverse impact on that Department.

Mr. Connor advised that the project includes two existing properties (previously Fisherman's Galley), one commercial use and one mixed use. He owns both properties and noted that the lots would be merged into a single lot.

Mr. Olesky advised that there are currently three existing curb cuts which would be reduced to one. The existing curb cuts would be removed and reclaimed and replaced with one single two-way curb cut on the east side of the proposed building. They propose to demolish both of the existing buildings and construct one new office building. There would be multiple entrances into the building from the sides and back. They do not yet know about a specific use but anticipate commercial mixed use.

Mr. Olesky noted that the existing conditions include non-conforming issues such as lot size and setback requirements. He noted that by combining the two lots most of the issues were rectified with the exception of lot depth. They have received a Letter of Intent (LOI) from the Vermont Agency of Transportation (VTrans) with respect to work within the highway Right-of-Way. VTrans had requested the supplemental information regarding hydrology which has been provided to the Town. There would be a minor increase in the amount of impervious area. In the past, runoff would drain into VTrans's Right-of-Way. He noted that by reclaiming it and sheet flowing off site stormwater runoff would get some treatment and infiltration from that perspective. Ultimately the changes in drainage are a net benefit versus existing conditions. They provided one overlay for the floodplain and have coordinated with Sacha Pealer, Central Vermont Floodplain Manager. He advised that Ms. Pealer is comfortable with the proposed plan which is out of the floodplain except a small portion in the corner.

Zoning Administrator Badowski confirmed that he received a copy of Ms. Pealer's email concerning the project. He also confirmed receipt of the LOI from the State of Vermont.

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.** The Applicants advised that they will reduce the number of curb cuts and size. There is an 85 foot wide curb cut serving the lot located at 309 US Route 302 and two curb cuts (24 feet and 26 feet wide) serving the lot located at 327 US Route 302. The lots will be combined and would have one standard 24 foot wide curb cut with lanes in both directions. Mr. Olesky noted that the finished product is combined work with VTrans. There would be a five foot wide sidewalk around the building. The plans show hatched out areas for access to and from property. They have not provided pedestrian access to the existing roadway since there is no existing sidewalk off U.S. Route 302. There would be an entrance from the building on the front, west, and north sides of the building and two entrances on the south side of the building. Primary access to the building is from the back. They were uncertain as to the number of vehicles trips based on use but anticipate that it would be less than the prior use as a restaurant.

Mr. Connor advised that he is asking for three potential uses, retail, office space and business services which are all conditional uses in this Modified Residential District. He noted that the existing building (2,127 sf) located at 327 U.S. Route 302 on a 0.44 acre lot was used as an office. The existing building (2,210 sf) located at 309 U.S. Route 302 was mixed use on a 0.41 acre lot. He advised that he has a pre-lease agreement for 4,800 square feet of the proposed building to an office tenant.

**b. Adequacy of circulation, parking, and loading facilities.** Mr. Olesky advised that they are proposing 40 parking spaces, two of which are handicap accessible along the sides and rear of the building. He noted that VTrans wanted the parking areas designed this way.

**c. Bicycle and Pedestrian Access.** The Applicants advised that pedestrian access is provided on site with a sidewalk around the building and crosswalks. They did not specifically provide for bicycle access but would put in a bicycle rack if needed.

**d. Adequacy of landscaping.** The existing vegetative buffer around the perimeter of the parking area will be retained and two new landscaped areas are proposed for the east and north corners

of the proposed building. The existing trees on the east side will remain. Mr. Olesky noted that VTrans did not want any vegetation along the property line that would interfere with sight distance. They may add some small shrubs. He noted that areas not shaded on the plans would be grass which is now pavement.

In response to questions concerning views from other areas, the Applicants shared elevation plans of the proposed buildings from the roadway and back. The building would be a wood frame structure with shingled roof. The elevation plans showed the main entrance doors at the back by the parking area. Mr. Connor noted that any plantings (perennials and small shrubs) would be low so as to not block the windows.

- e. Hours of Operation.** Mr. Connor advised that he does not want any restrictions with respect to the hours of operation. He indicated that since he does not know of specific uses for all tenants he does not want restrictions as it makes it more difficult to secure tenants.
- f. Setbacks.** Mr. Olesky referred to Sheet C2.0 for the review of setbacks. He noted that many of the existing issues were resolved by combining the two small lots and merging the curb cuts. The district requires 250 feet in lot depth but the lot is only 170 feet in depth. The size of the lot at 30,000 square feet is now in conformance with the regulations. Setbacks would be met for the proposed new building.
- g. Adequacy of Exterior lighting.** Mr. Olesky advised that they are proposing three 15 foot high pole lights on three foot high pillars to illuminate the main parking area. There would be six wallpacks placed periodically around the exterior. All fixtures would be light-emitting diode (LED), downcast and shielded. There would be one light fixture over the doors and over the emergency exit. He advised that to the rear of the proposed building is the railroad and the mobile home park, River Run Manor. The wallpack fixtures, which are at a lower elevation, would stay on all night for security reasons. After further discussion, the Applicants advised that the pole lights would either be motion sensitive or on timers. They noted that the swath of vegetation does provide some screening. Mr. Olesky noted that lighting cut sheets have been provided.
- h. Stormwater and Drainage.** Mr. Olesky advised that they do not need an operational or construction permit from the State of Vermont. Stormwater runoff is currently discharged onto VTrans property. As part of their work permit and reclamation, VTrans wanted hydrology calculations to evaluate the amount of stormwater runoff on both the existing and proposed conditions. He confirmed that they met the needs of VTrans and included the hydrology based on the one year and ten year models which showed the same result and is less than what's existing. Although there is a small increase (200 square feet) in total impervious area due to the proposed site layout, drainage patterns and stormwater design techniques, there would be a net reduction in the proposed runoff from the site which is accomplished by having greater vegetative buffers between the impervious areas and the site discharge locations allowing for more on-site infiltration and longer flow paths of stormwater. Stormwater will flow toward VTrans' Right-of-Way and then to the Stevens Branch of the river. The southwest half of the proposed building would be piped and the parking lot would sheetflow. There would be at grade downspouts in the front of the building. They would be removing the blacktop shown in the shaded area which is impervious. The parking area will be paved.

- i. Utilization of renewable energy resources.* The Applicants advised that the project is substantially a redevelopment with a minor amount of expansion. There would be no adverse impact to the potential for utilization of renewable energy resources.
- j. Municipal Services Impact Evaluation.* Mr. Olesky advised that they have received a Letter of Intent from VTrans concerning work within the highway Right-of-Way. The Berlin highway is not impacted since the project is off a State highway. They have also received a response from the Berlin Police Department noting no adverse impact based on the proposed project. He noted that impact statements were sent out around December 23, 2014.

The Board noted that it allows 30 days for response. Chair Wernecke indicated that the Fire Department often requests a lockbox from businesses to which the Applicants agreed to provide. There are no hydrants there.

Mr. Olesky advised that they applied for a sewer allocation which was approved by the Berlin Sewer Commission. There are no septic tanks; it is a direct municipal connection. The existing water supply will be retained.

- k. Flood Hazard Review.* Mr. Olesky advised that there would be no development within the floodplain. The floodplain limits are delineated on the site plans and correlate to the 564 foot contour as determined by the Flood Insurance Rate Map (FIRM).
- l. Character of the area; neighboring uses.* The Applicants advised that the neighboring area uses consist of a combination of residential and commercial businesses. They anticipate office use but another use could be a small retail store. They are asking for approval of three proposed uses consisting of business services, office building, or retail store.

Mr. Connor confirmed that they have a five year lease for 4,800 square feet of that project. He advised that limits on uses affect the appraisal when businesses are considering lease space. Securing tenants is difficult when advised a proposed use would require returning to the DRB for approval. He advised that he wants the uses to be compatible. He acknowledged that the difference in traffic generation between retail and office space is considerable but noted that one of the prior uses was for a restaurant. All abutting property owners were notified.

In response to Zoning Administrator Badowski's request for further explanation regarding proposed uses, Mr. Connor advised that real estate appraisers find properties are more valuable with multiple uses. He noted that it is best with permitted uses because applicants can come in before the ZA and obtain approval. He advised that it was his understanding that any one of the proposed uses approved would be acceptable exclusively or together. Mr. Connor advised that they are not proposing any signage at this time. They may request ground mounted signage and additional signage in the back for the different businesses in the future.

The Board noted that approved uses (conditional or permitted) could be permitted, however if the Applicant chose 100 percent retail it would be considered a change of use requiring DRB approval. The Board elaborated further noting changes that could be approved by the Zoning Administrator (permitted or DRB approved conditional), and those requiring DRB approval (change of use and conditional).

***m. Bylaws then in effect.*** Proposed changes correct issues currently not in compliance with the regulations such as setback requirements, lot size, and multiple curb cuts. This is accomplished by merging the two small lots.

Mr. Badowski noted that as the area gets more commercialized area businesses could petition the Town to get the uses permitted versus conditional. The Berlin Planning Commission is currently in the process of reviewing the zoning regulations.

There being no further testimony, Mr. Golubock made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 15-001. Board will deliberate and issue its findings. 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 6, 2015 meeting. The first sentence of the 4<sup>th</sup> paragraph under 14-087 was amended to read: Chair Wernecke explained that Price Chopper chose to have several smaller signs (Bagel Factory, Bottle Return, Custom Meat, etc.) in addition to a large wall sign. On page 3, the first two sentences of the 1<sup>st</sup> paragraph were amended to read: The Board has consistently interpreted the regulations to allow the greater of the two provisions up to a maximum of 300 square feet. The Board has informed the Zoning Administrator and the Planning Commission that this inconsistency must be addressed when the regulations are revised.

Mr. Friedrich made a motion, seconded by Ms. Nuisl, to approve the Minutes of the January 6, 2015 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 7:50 P.M. and out at 8:10 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 3, 2015.**

8. There being no further business, the meeting was adjourned at 8:13 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin