

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, July 3, 2018

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

Members present: Robert J. Wernecke, Chair; John Friedrich; and Shane Mispel.
Absent: Karla Nuisssl, Vice-Chair and Josh Fitzhugh.

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

Others present: Katherine Fanelli, Peter Burmeister, Jody Carey and Steven W. Carey.

The Board explained its Policy and definition of party status and interested persons to attendees.
No one present requested party status.

2. New business

A. 18-036 – Katherine Fanelli and Peter Burmeister; and Steven Carey and Jody Carey submitted an Application for Boundary Adjustment involving 18.82 acres. The properties are located at 269 Burelli Farm Drive, Berlin, Vermont (Parcel ID: 49-013); and 643 Muzzy Road, Berlin, Vermont (Parcel ID: 49-011), in the Rural Residential (R-40) Zoning District. Katherine Fanelli, Peter Burmeister, Jody Carey and Steven W. Carey were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Boundary Adjustment, 18-036, received on or before 06/15/2018; **Exhibit #2:** Survey – Subdivision, prepared by Richard W. Bell Land Surveying, Inc., dated June 2018; and **Exhibit #3:** Portion of survey highlighted with colored lines showing changes in boundaries.

Steven Carey explained that they are purchasing 18.82 acres from Peter Burmeister and Katherine Fanelli, abutting property owners. He showed the changes in boundaries on the large size plans. The Burmeister/Fanelli parcel (83.97 acres) will decrease by 18.82 acres resulting in 65.15 acres and the Careys' parcel (15.0 acres) will increase by 18.82 acres resulting in 33.82 acres.

Zoning Administrator Badowski advised that Rick Bell, Land Surveyor, submitted the survey dated June 2018 showing the proposed new boundaries. He advised that the lots continue to meet all requirements for the district.

Jody Carey advised that their attorney is working on state approval for septic and water. They will be requesting a deferment since they have no plans to develop the area. The property is all ledge and steep grade.

The Board reviewed the definition of boundary adjustment and confirmed that no new lots were being created, and the changes would not create a nonconforming lot or use. The permitting process and timeline was explained to the applicants.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Mispel, to close the hearing with respect to Application 18-036. The question was called and the motion passed unanimously.

B. 18-037 – Steven W. Carey submitted an application for a Waiver Request to encroach on the Front Yard Setback and Conditional Use Review to encroach on the stream protection boundary in association with the construction of a utility shed. During the application review process, the application was amended to expand a nonconforming structure. The property is located at 643 Muzzy Road, Berlin, Vermont, in the Rural Residential Zoning District; Parcel ID: 49-011. Steven Carey and Jody Carey were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 18-037, received on 06/12/2018; **Exhibit #2:** Tax Map marked up to show property lines and proposed location of shed which was revised on 07/03/2018 to show structure as an addition to the existing garage; **Exhibit #3:** Sketch and measurements of proposed structure; and **Exhibit #4:** Narrative addressing Conditional Use Review criteria.

Steven Carey advised that he wants to build a shed that requires a waiver because the front yard setback cannot be met. If they located the shed as far back as possible it would be 28 feet to the road; the district requires a 50-foot front yard setback. The side yards and rear yard setbacks are equal to or greater than 25 feet. The proposed shed would be 24 feet by 36 feet and used to store farm equipment. Their existing buildings are within the front yard setback to the road.

Mr. Badowski advised that the map used to show the property is a tax map thus the drawing is not to scale. The location of the proposed shed is drawn on this map. He did not measure the distances but acknowledged that the Applicant did measure them. The application must be reviewed under conditional use review.

Mr. Carey described the topography of the land and the proximity of the structure to the stream. He pointed out the small clearing and noted that the shed would be about 6 feet from the stream. In response to questions from the Board, he confirmed that the boundary adjustment just discussed with their neighbors has nothing to do with this project. The 18.82 acres is behind their house which is why they wanted to own it.

Mr. Badowski advised that the existing garage is closer to the road than the proposed shed. If the garage were expanded it would not increase the encroachment. He asked the Board whether adding on to the existing garage would be a better option provided it is not any closer to the road.

The Board referred to the survey presented in the prior application for boundary adjustment for more accurate measurements. The Board reviewed Section 3.11 of the regulations pertaining to nonconforming structures and modifying nonconforming structures. The application submitted is for a new structure.

Mr. and Mrs. Carey confirmed they would prefer the proposed shed to be located near the garage and away from the stream. They believed the garage to be around 14 feet from the traveled portion of the road but agreed to verify that measurement. [The distance from the traveled portion of Muzzy Road to the front of the existing garage was confirmed to be 16 feet.]

The Board acknowledged that it has allowed for expansions of existing structures as long as it does not increase the encroachment. The provision does not mention new structures, only expanding an existing structure. There would be no change in use as an accessory structure.

Mr. Carey amended his application to enlarge a nonconforming structure by adding a 24-foot by 36-foot addition to the existing garage. They are no longer seeking a waiver. After further discussion about the size, he agreed to keep it at 24 feet by 36 feet. He noted that by attaching the shed to the garage he may need to change the style of the shed. Mr. Carey advised that they own the property across the road.

The Board agreed it was a better option with respect to access, traffic flow, and keeping the structure away from the stream. The proposed addition to the existing garage would be further away from the stream although still within 75 feet. Since the application was warned for Conditional Use Review, the Board agreed the change in the application could be made without rewarning it.

Mr. Carey reiterated that the use of the shed would be for storage of farm equipment that is now scattered on the property. The area would remain open and be vegetated to the brook which is about 35 feet. He understood that the addition must be attached to the existing garage. He mentioned the types of trees along the stream bank and confirmed that the existing vegetation will be retained. He advised the bank is steep and that the road does flood but it has never eroded by their garage or their house.

The Board asked the Applicant to address the Conditional Use Review criteria which was also addressed in writing.

- a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Based on the change in location of the proposed structure, which would be attached to the existing garage, there would be no change in access.
- b. Adequacy of circulation, parking, and loading facilities.** There would be no change in circulation since the structures are so close to the road. No loading facilities are proposed.
- c. Bicycle and Pedestrian Access.** Not applicable for a residential application.
- d. Adequacy of landscaping.** The applicants are not proposing any additional landscaping.
- e. Hours of Operation.** Not applicable for a residential application.
- f. Setbacks.** The setbacks are not met, thus existing structures are non-conforming. The proposed expansion to the existing garage does not increase the encroachment or degree of nonconformity.
- g. Adequacy of exterior lighting.** No exterior lighting is being proposed.
- h. Stormwater and Drainage.** Mr. Carey advised that the roof line of the proposed addition will be considered for directional runoff. The use of rain barrels were mentioned as a possible solution.
- i. Utilization of renewable energy resources.** Not applicable.
- j. Municipal Services Impact Evaluation.** There would be no impact on municipal services.

k. Flood Hazard Review. The stream does flood however the property is not within a delineated flood hazard area.

l. The Character of the area affected; neighboring uses. There would be no adverse impact on the character of the area.

m. Bylaws then in effect. Not applicable.

The Board reminded Mr. Carey to submit the actual measurement of the distance from the front of the garage to the traveled portion of the highway (Muzzy Road).

Mr. Carey advised that although the addition would be attached to a structure with power, he was not certain if he would have electricity in the addition. The shed would be of post and beam construction and partially closed in at the front.

Based on documents presented and testimony heard, Mr. Mispel made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 18-037. 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 June 19, 2018 meeting.

On page 6, the second sentence in the 1st paragraph was amended to read: He advised they would be a land/home package and that he will build the homes.

On page 6, the second sentence in the 2nd paragraph was amended to read: He advised that there are no separate drives off VT Route 12 since there is no suitable access.

Mr. Friedrich made a motion, seconded by Mr. Mispel, to approve the Minutes of the June 19, 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 7:55 P.M. and out at 8:00 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, July 17, 2018.**

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

Berlin Development Review Board
Minutes – July 3, 2018
Respectfully submitted,

Page 5 of 5

Carla Preston
Recording Secretary
Town of Berlin