

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

**APPROVED MINUTES  
Meeting of TUESDAY, July 17, 2018**

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

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

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

Others present: Donald Marsh, Jason Merrill, Robert Grandfield, and Jerome Goss

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. Jerry Goss requested party status with respect to 18-040. In addition, abutter Corinne Stridsberg, submitted written comments and requested party status also regarding 18-040. The Board granted party status to those abutters.

2. Old business

**A. 18-030 – J & H Properties LLC** submitted an application for a Site Plan Review associated with the construction of an 8,830 square foot new commercial building. The property is located at 6451 VT Route 12, Berlin, Vermont, in the Commercial District; Parcel ID: VT12-001. Donald R. Marsh, P.E. and Jason P. Merrill were sworn in to give testimony on this matter. This meeting was continued from June 19, 2018.

The following documents were submitted and admitted as exhibits: **Exhibit #7:** Site Plan, C-1, Proposed Storage Units, prepared by Grenier Engineering PC, dated 05/22/2018 and revised on 07/16/2018; and **Exhibit #8:** Rendering showing buildings.

Mr. Marsh advised that they had made changes to the site plan based on comments made by the Board at the last hearing. He presented updated plans revised on July 16, 2018 to the Board. He advised they have added "Do Not Enter" signage where needed to show that vehicles would enter the site off from VT Route 12 and exit the site onto Dog River Road. Mr. Marsh reiterated the clockwise traffic circulation onsite with "Do Not Enter" signage to prohibit counterclockwise traffic.

Mr. Marsh advised that with respect to landscaping, they have added a 16-foot split rail fence and four-foot high evergreen shrubs to break up the view of the buildings. Existing power poles are now shown on the plans. The plans have also been corrected to show that the distance between the previously approved storage buildings will be 20 feet. He mentioned the long swale along VT Route 12 and how stormwater runoff is discharged.

Mr. Merrill confirmed that there will not be a truck wash available to the public. A non-machine operated truck wash will be available for company use. He presented a rendering showing the two proposed new buildings.

Mr. Marsh advised they did not amend the plans with respect to exterior lighting. There will be downcast light fixtures over the doors along the front of the building. They provided cut sheets for the proposed fixtures.

The Board asked the applicants to verify their hours of operation noting that employees would be exiting the back of the building where no lighting is proposed.

After further discussion, Mr. Merrill agreed that for security and safety purposes, they would add a light fixture over the door in the back of the building. The hours of operation are from 6:00 AM to 9:00 PM, therefore employees would be exiting the building in the dark, particularly in the winter months.

The Applicants submitted the large size site plans presented for discussion and will provide reduced site plans for filing purposes. Mr. Marsh agreed to submit revised plans in advance in the future.

Based on documents presented and testimony heard, Mr. Mispel made a motion, seconded by Mr. Fitzhugh, to close the hearing with respect to Application 18-030. The question was called and the motion passed unanimously.

### 3. New business

**A. 18-040 – Grandfield Masonry** submitted an application for Site Plan Review and Conditional Use Review associated with the construction of an 8,900 square foot commercial building with a two-bedroom apartment. The property is located at 671 Junction Road, Berlin, Vermont, in the Light Industrial (LN) Zoning District; Parcel ID: SA2-021.100. Donald R. Marsh, P.E. and Robert Grandfield, owner, were sworn in to give testimony on this matter. In addition, abutter Jerome Goss was sworn in to give testimony on this matter. Abutter Corinne Stridsberg was unable to attend but submitted a written statement regarding the proposed application. The Board granted the abutters party status.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 18-040, received on or before 06/29/2018; **Exhibit #2:** Site Plan, Granfield Masonry, prepared by Grenier Engineering PC, dated 06/27/2018; **Exhibit #3:** Sketches of proposed building showing views from the north, east and west; **Exhibit #4:** Email dated 05/23/2018 from Ned Swanberg, Central Vermont Floodplain Manager, CFM with the Department of Environmental Conservation, noting that the plans show a net reduction in volume below the BFE; **Exhibit #5:** Lighting Specifications; **Exhibit #6:** Narrative addressing the site plan, conditional use, and flood hazard review criteria; and **Exhibit #7:** Email dated 07/17/2018 from abutter Corinne Stridsberg commenting on the proposed project.

Donald Marsh explained where the subject property, consisting of four acres, is located and referred to the location map. The purpose of the proposed commercial building is to provide shop storage space in the rear of the building and a 30 foot by 30-foot office space in the front. The proposed building is outside of the flood plain. The existing entrance off Junction Road would be utilized for access. Mr. Marsh noted that a 75-foot stream buffer is required but they are providing for a 50-foot stream buffer thus will need a waiver and DRB approval. There is plenty of space for vehicles including tractor trailer trucks to navigate the site. Since all employees are not at the site at all times, five parking spaces are provided including one handicap space.

Mr. Grandfield explained that he owns an excavation business thus may be hauling a backhoe or other equipment. Tractor trailer trucks would not visit the site very often; it would more likely be a truck towing a trailer.

Mr. Marsh advised that the entire building is outside the floodplain. He pointed out the areas and base flood elevations on the map provided. He noted that onsite grading would be necessary to bring up the grade for the parking area which amounted to about 170 cubic yards of fill in the floodplain. They would be excavating about 1200 cubic yards and the end result is an added 1000 cubic yards of increased storage area. There would be a grass swale for stormwater even though permitting is not required by the Agency of Natural Resources. Mr. Marsh referenced the email from Ned Swanberg regarding floodplain issues and concurred that the project would result in a net reduction in fill. It was noted that a prior application by Jason Merrill with Junction Associates LLC in early 2016 was denied by the DRB and by the state.

Mr. Marsh indicated that there would be light-emitting diode (LED) lights over the doors. They may not need all three of the spotlights shown on the plan if the wall lights are sufficient. There would be one 15-foot high pole light over the parking area.

The proposed uses are commercial and residential based on the proposed two-bedroom apartment above the office area which is part of this application. Mr. Grandfield advised that he operates a masonry business and currently rents space. He wants storage area which would include inside and outside storage on pallets. He is proposing a 50-foot by 100-foot storage building and a 30-foot by 30-foot office space with 16-foot high walls. The truss rafter design will allow storage space above in the attic area. The height of the building at the peak will be 30 feet. He referred to the sketches showing elevations. Mr. Grandfield advised he currently has five employees.

Mr. Badowski noted the subject property is in the Light Industrial District. Most of the neighbors abutting this property and within the area are residential.

Mr. Grandfield explained his drawings with elevations. He advised that the reason for the two-bedroom living space is for him to have a place for retreat and noted he is often out late plowing snow in the winter.

The Board advised that it will need to revisit the request for a residential use in that district.

In response to questions from the Board, Mr. Grandfield advised that he will store heavy equipment on site and in the shop but will not perform mechanical work or any detailed maintenance on that equipment.

Mr. Marsh advised that they propose bringing up the grade of the parking lot 1.5 feet which will bring it above the 100-year base flood elevation. He advised that the area will be graded to the north and noted the green area shown on the plans is the drainage swale. The parking area slopes and the building is higher which directs runoff toward the swale.

Jerome Goss, abutter, noted that the Berlin Police Department had asked him to remove his cars from the area that would likely be flooded. He was worried that the water would build up higher due to this development and flow toward his house. He again mentioned that the previous application was denied by the state.

Mr. Marsh explained that the project is designed based on the standard 100-year flood event for the industry. Flood maps indicate an event likely to occur one percent of the time.

In response to questions from the Board, Mr. Marsh advised that the first-floor elevation of the building is at least 516.5. He noted that the floodplain is 515.5 feet and the building will be a minimum of one foot above it. The parking lot at grade will be a bit lower at 516 feet. He acknowledged that finish grades and elevations were not noted on the plans.

The Board asked the applicants to address the Site Plan, Conditional Use and Special Flood Hazard Area review criteria. These criteria were also addressed in writing.

**a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Mr. Marsh advised that the existing westerly access drive, which is next to Mr. Goss' property, will be eliminated. The existing easterly drive will be constructed to B71 state standards at 26 feet wide. Vegetation will be maintained to ensure 450-foot sight distances in both directions. No sidewalks are being proposed since there is no sidewalk along Junction Road. A new 18-inch culvert is also proposed to help manage runoff.

Mr. Goss advised that the brook or stream on that side of the site does flow all of the time. He was pleased that the driveway next to his property was being eliminated.

**b. Adequacy of circulation, parking, and loading facilities.** Mr. Marsh advised that there is adequate space for tractor trailers and trucks towing trailers to maneuver the site. There are several overhead doors and man doors to the building. Since employees arrive, gather materials, and the leave the site, minimal parking spaces (5) are provided. One space is designated as handicap assessable. Less parking spaces allows the project to reduce the amount of impervious surface which reduces the overall stormwater impact and allows the grassed treatment swale to be more effective. There will be loading doors on the east and north sides of the building. Snow will be plowed to the perimeter of the site outside the limits of the drives and parking.

Mr. Grandfield advised he has seven vehicles but they would rarely be there all at the same time. Vehicles would be parked in the building during the winter months.

The proposed residential use, two-bedroom apartment, requires two parking spaces per dwelling. There is room for more parking on the graveled surface. Parking spaces will not be striped, however there will be signage for the handicap assessable space.

Mr. Goss questioned why so many doors on the building. He also questioned the amount of parking spaces if vehicles are parked in front of the doors.

Mr. Grandfield explained that he needs multiple doors for easier access to materials stored inside the building.

**c. Bicycle and Pedestrian Access.** A bicycle rack will be provided at the front of the building. The Applicants do not anticipate many pedestrians visiting the site. No sidewalks are being proposed.

Mr. Goss argued the Applicants' statement that the site was not located near a populated area because Junction Road is heavily used by bicycles and pedestrians. He mentioned that he assisted a woman who had been struck by a vehicle a few weeks ago on that road. He reiterated the large number of pedestrians, bicyclists, dogs, and children utilizing the road.

**d. Adequacy of Landscaping.** The Applicants advised the existing Cedar hedges along the western property line and the northern property line along Junction Road will remain. Cedars will be planted to close the existing western entrance to the parcel. White Pines and Birches will be planted to minimize the view from the neighbors' properties.

The Board referred to the email from Corinne Stridsberg which mentioned a "zoning required tree line," noting that damaged trees had not been replaced.

Mr. Marsh advised he is not aware of any prior permit that required a maintained tree line along that property line. To his knowledge no permit has been granted for this the property in the last 15 years.

Mr. Grandfield advised he was not aware of any downed trees on the property. He noted that there are no real trees by the brook. They are adding more trees to break up the building.

**e. Hours of Operation.** The Applicants advised the hours of operation would be from 6:00 AM to 9:00 PM. Exterior lights will be on timers as well as some lights with motion sensors.

**f. Setbacks.** The Applicants advised that all setbacks to the building are met: front yard at 217 feet, east side yard at 30 feet, west side yard at 155 feet, and rear yard setback at 237 feet. They are providing for a 50-foot buffer to the stream and will not remove any vegetation within the 50-foot buffer. The site is designed to keep the building and parking area out of the buffer. Mr. Grandfield pointed out on the plans the area that is mowed.

The Board explained that the bylaws have specific requirements for stream buffers. A stream is defined as a watercourse depicted on a USGS map. This is a very small drainage area and likely considered intermittent.

**g. Adequacy of Exterior Lighting.** The Applicants referred to their lighting plan noting that all fixtures would be full cut off LED security lights over the doors. They have removed the proposed three spotlights. There would be a pole light in the middle of the parking area which is shown on the plans. They will submit revised plans showing the additional lights being proposed.

**h. Stormwater and Drainage.** Mr. Marsh advised that since the project will not create more than one acre of impervious surfaces (0.85 acres), an Agency of Natural Resources Operational Stormwater Permit is not required. He advised that runoff from the roof and parking area will be directed to a grass lined treatment swale along the western and northern perimeter of the property and then to an existing 18-inch town culvert. Stone check dams will be maintained at 50-foot intervals in the swale until the grass is well established. The stone check dams will not remain there permanently because they fill up with silt.

In response to Mr. Badowski's question about potential impact on Mr. Goss' property, Mr. Marsh advised that the project will have no impact on his property. He noted that the property is pretty close to being level. They will comply with the state's requirements.

**i. Utilization of renewable energy resources.** The Applicants advised that 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. Badowski advised that Police Chief Wolfe stated no impact as a result of the project. The Highway Department was in favor of the elimination of the second driveway leaving just one access point. He did not hear back from the Fire Chief.
- k. *Flood Hazard Review.*** Mr. Marsh advised that as shown in the flood mapping and project site plan the center portion of the project is within the floodplain, with the base flood elevation (BFE) at 515.6 feet. The proposed building is not within the floodplain. The site will be graded so that the final grade surrounding the building will be at least one foot above the BFE. The excavation of the swale for stormwater management will remove 1200 cubic yards of fill. The net result is the flood storage will be increased by 1060 cubic yards – a net reduction in fill. He referred to the email from Ned Swanberg, Central Vermont Floodplain manager, who supports the project.

Lowering the elevation of the parking area was discussed as well as prohibitions from storing equipment in a floodplain.

Mr. Grandfield advised that most equipment will be stored inside the building and higher ground.

Mr. Marsh advised that in response to comments from Connie Stridsberg, he understood that fill may have been brought in to raise the level of the site at some point in the 1990s but he does not know for sure. He noted that the building, parking, and driveway were all included in the calculation for impervious area.

Mr. Badowski advised that new fill is prohibited in the flood plain. The Board and state have allowed it in the past under certain conditions. According to Mr. Swanberg, this is a better project because of the additional capacity (1060 cubic yards), not a decrease in capacity.

The Board agreed that the regulations state no fill in the floodplain. In this situation the Applicants are not bringing in fill, only regrading onsite. The plan is to create the grade needed and not to bring in fill. There is cut (excavation) in the project with a net reduction in fill. The project has been approved by the state. Members noted another project with *de minimus* fill which was approved by the state. This would be minimal, no impact on conveyance, just storage. The Board noted the building needs to be at least one foot above the base flood elevation of 515.6 feet or at 516.6 feet.

Mr. Marsh advised that the state is considering it grading versus fill. The end result of the grading is a net reduction in fill. He confirmed that the building would be one foot or more above the base flood elevation.

The Board noted that the regulations do not clarify grading and that additional storage is better. Possible benefits to lowering the grade of the parking area were discussed.

- l. *The Character of the area affected; neighboring uses.*** The project is located within the Light Industrial Zoning District but is bordered by single-family dwellings. The building has been set back from the front of the property and will be screened from abutting properties by existing and proposed plantings. The proposed small commercial building with limited traffic and limited public use should not have an adverse effect on the character of the area.

- m. *Bylaws then in effect.*** The Applicants referred to the description of the Industrial District in

the Town Plan which is addressed further below.

In response to the Board's request for the Applicants to address the proposed residential use, Mr. Marsh advised they are interpreting it as an accessory dwelling use.

The Board advised that based on the definition of accessory use, the accessory use must be to an existing dwelling use such as a single-family home with an in-law apartment.

Mr. Badowski pointed out that the regulations allow for discretion under conditional use review criteria. He mentioned the standards, 1) same general character as those permitted or conditional, and 2) the use will not be detrimental to other uses within the district.

The Board noted it would have to find that both standards are met. Other examples were given. Although zoned Industrial, the whole neighborhood is residential. The closer one gets to the Junction, the greater the industrial use. All of the homes are pre-existing and this section is more residential than industrial. The Board does not anticipate neighbors objecting to a residential use but have raised concerns about the proposed commercial or industrial use even though the area is zoned industrial.

Mr. Grandfield advised that in addition to the proposed commercial project, he would really like the apartment including a kitchen. The area is mixed use. The building is set back from the road and he has made efforts to minimize the impact on neighbors on each side. The building would be wood frame construction and masonry/wood siding (board and batten). It is not a steel box-store type building design.

The Board noted that it meets the intent and partially the character of the area.

With respect to impact on other uses, Mr. Marsh advised that the project will not generate fumes, gas, smoke or odors and noise will be limited to that of a typical small commercial building. The cut off lights will ensure no light leaves the site. The project will not create a discharge and will not impact the existing flow in the small stream along the eastern part of the site. The stream buffer will be maintained as a vegetated buffer. The site will have onsite wastewater in the rear of the property and the rest of the area in the back will be undeveloped. The wastewater system has not yet been submitted to the state but test pits have been done and he is confident it will be approved. He noted that access, parking, and landscaping have been addressed above. They hope to begin construction this summer with a completion date in the winter of 2019. He agreed to submit the full-size plans being reviewed.

Mr. Badowski noted that Mr. Goss may also submit written comments. Party status has been granted to both Ms. Stridsberg and Mr. Goss.

The Applicants advised that they had no objections if the Board required additional parking or recommended relocating proposed parking.

The Board advised it must rule on the proposed residential use, fill in the floodplain, and whether a waiver was needed regarding the stream buffer. Findings of Facts and Conclusion will be issued.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Mispel, to close the hearing with respect to Application 18-040. The question was called and the motion passed unanimously.

4. Review and approval of the Minutes.

The Chair called for approval of the Minutes of the July 3, 2018 meeting. On page 2, the last sentence in the 3<sup>rd</sup> paragraph was amended to read: Their existing buildings are within the front yard setback to the road. On page 4 under k, Flood Hazard Review, the last sentence was deleted.

Mr. Mispel made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the July 3, 2018 meeting as amended. The question was called and the motion passed unanimously.

5. Public Comment

Persons present participated in the meeting as noted above.

6. Other Business

7. Status of Findings.

The Board voted to go into deliberative session at 8:54 P.M. and out at 9:15 P.M. to discuss the status of Findings. The Board's decision with regard to (closed) adjourned applications will be reported in its Findings.

8. The next meeting of the Development Review Board is scheduled for **Tuesday, August 7, 2018.**

9. There being no further business, the meeting was adjourned at 9:16 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin