

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

**APPROVED MINUTES
Meeting of TUESDAY, June 16, 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.; John Friedrich; and Paul Irons, Alternate.

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

Others present: John Svagzdys, James Barrett, Patrick Barrett, David Frothingham, Craig Chase, Gail Surrey, Deborah Partlow, Francis Partlow, and Stephanie Hainley.

The Board explained its Policy and definition of party status and interested persons to attendees. Copies of the Rules and Policies and Procedure were available as handouts. No one present requested party status.

2. Old Business

A. 15-026 – Barrett Enterprises LLC d/b/a Stor-N-Lok submitted an application for Site Plan and Conditional Use Review to expand an existing Self-Storage Unit facility. The property is located at 143 Industrial Lane, Berlin, Vermont, in the Light Industrial District, Parcel ID 73-007. James Barrett and Patrick Barrett, owners, and John Svagzdys, PE with DeWolfe Engineering Associates Incorporated were sworn in to give testimony on this matter which was recessed from May 19, 2015.

The following documents were submitted and admitted as exhibits: **Exhibit #6:** Site Plan, C1.02, prepared by DeWolfe Engineering Associates Incorporated, dated 04/07/2015 and revised on 06/09/2015 and 06/17/2015; and **Exhibit #7:** Copy of State of Vermont ACT 250 Proposed Land Use Permit, #5W0441-6, for Stor-N-Lok (project to be completed by 10/01/1991).

John Svagzdys noted that at the prior meeting concerns were raised about interior traffic, turning movements on site, landscaping (existing trees), and lighting, and to include dimensions on the plans. Mr. Svagzdys advised that the plans have been reconfigured to leave the pavement where it was and shift the building over six feet which allows 20 feet on the side versus only 14 feet. He indicated that they looked at the need to expand the pavement to allow trucks to maneuver on the site. The largest U-Haul truck does get around the corner of the building which could be made sharper if needed. He noted that the size truck used in the model was a 26 foot single axel truck that could make the turn. They are showing the same limits of pavement and impervious area. There is 30 feet of turning radius around there which resolves the truck situation.

Mr. Svagzdys advised that there are eight spruce trees of differing types around 10 inches in diameter or larger on the property. The large scale plans presented at the meeting had been modified from the plans submitted to the Board on or about June 9th with respect to grading. He advised that the trunks of trees are 43 feet from the edge of the pavement. The grading plan previously shown is around 95 feet at the trunk of the trees thus the trees would have to have been removed. They wanted to maintain a wide flat area next to the building for drainage purposes. They revised the grading plan to maintain five feet of flat section versus 10 feet and shifted part of the

swale without changing the impervious area. With the grading changes they can still provide the same drainage and swale without coming close to the trees. He advised that they are working with representatives from the state regarding the ACT 250 process. The updated plans will be provided to the Board.

Mr. Svagzdys confirmed that there are four existing pole lights, three of which are Cobraheads, and one is similar to them but has a recessed bulb. He advised that they are not proposing to change the existing lights, but the light replaced would meet the zoning requirements.

James and Patrick Barrett believe that they own the lights but noted that they might be owned by Green Mountain Power. They confirmed that there are currently no lights on the exterior of the building. If the four existing lights are insufficient they would add more in the future. They propose to only change one light which is the one located in the middle of the footprint.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Ms. Nussli, to close the hearing with respect to Application 15-026. The question was called and the motion passed unanimously.

3. New business

A. 15-045 – Malone Properties Inc. submitted an application to Amend Permit 13-004 for a reduction of onsite parking and retaining wall requiring review under Conditional Use, Amended Site Plan, and Flood Hazard Area. The property is located at 3 Overlook Drive, Berlin, Vermont, in the Highway Commercial Zoning District, parcel ID US302-016. David Frothingham, PE with DeWolfe Engineering Associates Incorporated was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 15-045, dated 05/21/2015; **Exhibit #2:** Site Plans consisting of: Cover Sheet, C0.01, dated 02/25/2013; Legend and General Notes, Sheet C0.02, dated 02/25/2013; Existing Conditions Plan, Sheet C1.01, dated 02/25/2013; Site Plan, Sheet C1.03, dated 03/12/2015 with revisions on 04/14/2015 and 05/13/2015; Grading Plan, Sheet C1.05, dated 03/12/2013 with revisions on 04/14/2015; Erosion Control Plan, Sheet C1.06, dated 02/25/2013 with revisions on 03/12/2015; Construction Details, Sheets C5.01, C5.02 and C5.03, dated 02/25/2013, prepared by DeWolfe Engineering Associates Incorporated; **Exhibit #3:** Project Narrative and addressing conditional use review criteria dated 05/22/2015 and revised on 06/17/2015; **Exhibit #4:** Copy of State of Vermont, Agency of Transportation, Utilities & Permits Unit issued to Fecteau Commercial Inc. dated 06/13/2013; **Exhibit #5:** Copy of State of Vermont, Agency of Natural Resources, Department of Environmental Conservation, Wastewater System and Potable Water Supply Permit (WW-5-0673-2) issued to Fecteau Commercial Inc., dated 06/20/2013; **Exhibit #6:** Copy of State of Vermont, Agency of Transportation, Policy, Planning, Development Review & Permitting Services Section, issued to Fecteau Commercial Inc. re an extension for permit #38195, dated 03/18/2015; **Exhibit #7:** Flood Insurance Rate Map, effective 03/19/2013; **Exhibit #8:** Email dated 06/01/2015 from Sacha Pealer, Central Vermont Floodplain Manager, with comments and recommendations about the project; **Exhibit #9:** Copy of State of Vermont, ACT 250 Land Use Permit, issued to Malone Properties, re Case No. SW1107-8, dated 05/05/2015; and **Exhibit #10:** Copies of letters to the Berlin Police and Fire Departments describing the project and requesting an impact statement.

Mr. Frothingham advised that two years ago the project was approved under different ownership (Fecteau Commercial Inc.). The proposed revised application is to reduce parking and to reduce the size of the retaining wall. The project is within the flood hazard area. The prior application was approved as a 5,040 square foot office building with a specific tenant in mind who wanted 40

parking spaces. The project parcel was most recently used as the Simply Subs II restaurant. Subsequently, the Applicant has purchased the Parcel and the original tenant is no longer involved. Therefore, they propose to remove the excess 15 parking spaces in the rear of the building and reduce the size of the associated retaining wall. Such a reduction increases the pervious area resulting in improved stormwater management. Mr. Frothingham advised 2,100 square feet would be for retail space and the remainder would be used as office space. The layout has not changed since Application 13-004 was originally approved. Since then the project has received approval of the revised layout from ACT 250 which requested a bicycle rack and adjustments to turn lanes.

Mr. Frothingham advised that a traffic study was performed based on this project and a proposed large residential structure. Recommendations from VTrans and ACT 250 review pertained to turn lanes. The State concluded that the new office building and residential units would not have an adverse impact on the adjacent street network. The report did recommend adjustments to the turn lane lengths on US Route 302 to provide more space for left turns into Overlook for westbound travelers. These changes have been agreed to by VTrans and will be changed during the paving/restriping of US Route 302 even though the residential units are not being proposed at the moment.

Mr. Frothingham confirmed that the changes to the site plan included the removal of 15 parking spaces at the rear of the building and reducing the size of the retaining wall. He noted that the location for the dumpster was shifted due to these changes. The proposed building is nearly the same but could be a few feet closer to the northern property line. They are proposing a new drainage system with catch basins in the parking area. The retaining wall would be less than six feet high and is principally for drainage to keep runoff away from the building and direct it toward the basins.

The Applicant addressed Conditional Use Review Criteria.

a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network. Mr. Frothingham advised that a sidewalk in front of the building will be provided. A portion of the proposed parking is located in front of the building which is necessary due to the location of the existing drive and municipally owned pump station on the property. There would be an access aisle adjacent to the handicap parking space. It would be curbed on the lower side and by US Route 302. Traffic will come in and back around to leave. He explained that it is the only access to the lot which is conditioned by VTrans. The Town of Berlin's generator building is also located there for which two parking spaces are provided to service the pump. He pointed out the areas for snow removal and noted that if there is excess snow it would be hauled away. They would not push snow into the pump station area. Mr. Frothingham advised that he has not discussed with Mr. Malone whether he would be willing to plow the pump station parking area but would do so. He advised they are not proposing a sidewalk to US Route 302 but agreed there would be ample room on the State's property within the Right of Way for one in the future. Based on the previous traffic study VTrans will restripe as recommended.

b. Adequacy of circulation, parking, and loading facilities. Mr. Frothingham advised that the prior application was approved for 40 parking spaces and they are proposing only 25 spaces. Based on the proposed uses, retail and office space, and net square footage of the building, 21 spaces would be required. He estimated that about 60 percent of the space would be office use.

They are proposing 25 parking spaces including one handicap accessible space which allows four spaces for employees. He advised that both uses are permitted in this district but noted it falls under conditional use review because part of the parcel is within the floodplain. He advised that deliveries would be made to the front door and be limited to box size trucks only. Trucks would have to drive in and back out onto Overlook Drive which is the most efficient for deliveries.

The Board questioned the proposed island and tree plantings noting that it could present problems with respect to space. Mr. LaGue advised that it could block the whole area and interfere with access to the pumping station, particularly when the pumps need to be changed every few years.

Mr. Frothingham advised that the island could be removed if it presented an issue. He noted that it was proposed for aesthetics and helps with circulation. He suggested leaving the asphalt there which was proposed to be removed and grassed. They could leave it for now but if it presented a problem in the future it could be changed.

In the end, the Board did not recommend changing the proposal noting that it could be amended in the future if it presented a problem. Such a change could be accomplished administratively.

- c. *Bicycle and Pedestrian Access.*** The Applicant will add a bicycle rack and noted that there is space that would accommodate a future sidewalk along US Route 302. Accessible pedestrian walks are provided from the parking area to the building entrance.
- d. *Adequacy of landscaping.*** The Applicant is proposing landscaping along a portion of the front setback and in front of the building. A combination of trees and shrubs are proposed in the area along the southern portion of the front setback. They are proposing flowering trees near the building entrance to enhance the aesthetics of the site.

Mr. Frothingham advised that the previously approved retaining wall was about eight feet high. There would be a small retaining wall in the back. There is a catch basin behind the pump building and they will add a catch basin at the corner. He noted that the retaining wall is to facilitate the catch basin and get runoff away from the front of the building. He noted that grading would be the same as previously indicated.

- e. *Hours of Operation.*** The Applicant had initially proposed the hours of operation from 7:00 AM 8:00 PM but based on further discussion agreed that the hours should be extended to 10:00 PM. Mr. Frothingham advised that he would discuss the hours of operation with Mr. Malone and submit a revised narrative to confirm. [The Applicant requested unlimited hours of operation in the revised narrative dated 06/17/2015.]
- f. *Setbacks.*** The proposed building meets all of the setback requirements for the Highway Commercial district. Mr. Frothingham noted that the retaining wall was moved forward of the rear property line since the Applicant does not have use of the back lot. The rear yard setback is 25 feet. The front yard setback is unchanged at 50 feet and the side yard setbacks are 25 feet.
- g. *Adequacy of Exterior lighting.*** Mr. Frothingham advised that there would be no change to exterior lighting in the front. The existing lamps of the pole lights are proposed to be replaced with downcast, cutoff, light-emitting diode (LED) luminaries. Building mounted LED lights are

proposed at each of the five entrances to the building. Two lights would be eliminated since they are not utilizing the lot in the back. A light would be added over the double doors.

- h. Stormwater and Drainage.** Mr. Frothingham advised that there would be less impervious area than previously proposed. Currently, the site drains to the closed stormwater system for US Route 302 owned by the state. VTrans will require that the project not increase the peak stormwater discharge to the state system.
- i. Utilization of renewable energy resources.** The project will not interfere with the sustainable use of renewable energy resources by diminishing the future availability of such resources or eliminating nearby property owners' access to such resources.
- j. Municipal Services Impact Evaluation.** Mr. Frothingham advised that letters requesting an impact statement have been sent to the Berlin Volunteer Fire and Police Departments. He believes that the proposed uses for retail and office space would be less of an impact than the prior use as a restaurant. There would not be a significant increase in traffic as a result of this project.

Due to the proximity of the Town's Generator and pumping station the Board also asked the Applicant to address potential impacts on water and wastewater systems. It was noted that access to the generator building and pump station could be an issue.

Mr. LaGue was asked to comment since he is a member of the Berlin Sewer Commission. He opined that there would be little or no impact as a result of the amended project and noted that many of the details were worked out with the previous applicant, Mr. Fecteau.

Mr. Frothingham noted that there is a pre-existing freestanding illuminated sign that reads *Simply Subs II* which may or may not meet zoning requirements with respect to its location. It is a pre-existing sign and the Applicant is not proposing any changes or new signage at this time.

- k. Flood Hazard Review.** Mr. Frothingham advised that a small portion of the proposed parking area is within the 100-year floodplain as shown on the new FRIM, effective 03/19/2013. He noted that at grade parking is a permitted use in the flood hazard zone. There would be no change with respect to the floor level at 551 feet in elevation.

Mr. Frothingham advised that he will discuss with Mr. Malone plowing snow for the town to access the municipal building for the generator, hours of operation, lighting and verify the entrances. He noted that it makes sense that all entrances are in the front but is not sure and noted that an entrance/exit in the rear of the building might be needed as a second means of egress.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 15-045 subject to receipt of documents mentioned. The question was called and the motion passed unanimously.

- B. 15-046 – Gail Surrey and Francis Partlow and Deborah Partlow** submitted an application for a Boundary Adjustment involving about 23 acres. The properties are located at 346 and 260 West Hill Road, Berlin, Vermont, in the Rural Residential District, Parcel IDs 52-010 and 52-006. Craig Chase was sworn in to give testimony on this matter. The property owners were present but were not sworn in and did not offer testimony.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Boundary Adjustment, 15-046, dated 05/26/2015; **Exhibit #2:** Boundary Line Adjustment, Surrey to Partlow, prepared by Chase & Chase Surveyors & Septic Designers Inc., dated 04/22/2015; and **Exhibit #3:** State of Vermont, Agency of Natural Resources, Environmental Conservation, Wastewater System and Potable Water Supply Permit dated 06/09/2015.

Mr. Chase advised that this application involves a significant boundary line adjustment pertaining to 23 acres. He explained that Lot #1, owned by Gail Surrey, consists of about 75 acres from which about 23 acres would be acquired by abutters Francis and Deborah Partlow. The 23 acres, shown as Lot #2, would be merged with other lands owned by the Partlows. He explained that they are given lot numbers because the State of Vermont wants them shown as lots. He advised that they have applied for and received state approval for Lot #1 and noted that Lot #2 is exempt since no development is being proposed. A wastewater permit is needed for Lot #1 but not a replacement field since it is 500 feet or greater away from the property line. Lot #1 will consist of 51 plus/minus acres as a result of the adjustment.

Mr. Chase requested a waiver to not survey the remainder of the property since nothing is happening to it. He noted that they are also requesting a waiver of showing contours on the entire lot. He explained that Ms. Surrey's property is shown as the large area on the map. The Partlows' property has frontage on West Hill Road as well and would be receiving Lot 2 (23 acres) and merging it with their 3.1 acres parcel. The new property line shown on the plans is easterly to the line that will go to the Partlows. He advised that all of Lot #2 was surveyed and noted the plans show the acreage and new parcel with a lot number. He advised that the current boundary is down the fence line. He did not name the roads but advised that Chandler and West Hill are the roads involved in this matter.

In response to why it was not proposed as a subdivision, Mr. Chase conferred with the owners and indicated that the lot is being created and being merged with an abutting lot. They argued that it is a boundary line adjustment since it connects the boundaries and will become part of an existing lot. Mr. Chase believes that the lot would be nonconforming if it was to be subdivided.

The Board reviewed the definition for boundary adjustment and noted that the lots meet size requirements, there are no setback issues, and no new lot is being created. A boundary survey of the Partlow property has been completed. Lot #1 was surveyed in the 1970s but has not been resurveyed. The area to be changed has been surveyed and the pins are set.

Based on documents presented and testimony heard, Ms. Nuisl made a motion, seconded by Mr. LaGue, to close the hearing with respect to Application 15-046. The question was called and the motion passed unanimously.

C. 15-050 – Northfield Savings Bank submitted an application for illumination of a previously approved non-illuminated directional sign. The property is located at 1021 Paine Turnpike North, Berlin, Vermont, in the Rural Residential Zoning District, Parcel ID SA1-023. Stephanie Hainley with White + Burke Real Estate Investment Advisors, Inc. was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-050, dated 05/28/2015; **Exhibit #2:** Site Plan, C2.3, prepared by DuBois & King Inc., showing proposed locations for signs, dated 08/2014; and **Exhibit #3:** Photo simulation of proposed post mounted directional sign, *ATM*.

Ms. Hainley advised that the Zoning Administrator approved the two square foot non-illuminated directional sign that reads: *ATM*. The Applicant wishes to illuminate that sign which is why it is before the DRB. The Applicant also has a wall mounted sign that has been approved.

Zoning Administrator Badowski confirmed that he has approved two signs, one on the façade and this directional sign as non-illuminated. The wall sign is five square feet and reads: *Northfield Savings Bank ATM*.

The Board noted that the two square foot directional sign is exempt as non-illuminated but requires DRB approval to be illuminated. Since "ATM" is generic it can be considered in the category of a directional sign. The location of the sign is indicated on the site plan.

Mr. LaGue made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 15-050. The question was called and the motion passed unanimously.

4. Review and approval of the Minutes.

The Chairman called for approval of the Minutes of the June 2, 2015 meeting.

Ms. Nuisl made a motion, seconded by Mr. Friedrich, to approve the Minutes of the June 2, 2015 meeting as presented. 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 8:21 P.M. and out at 8:46 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, July 7, 2015.**

9. There being no further business, the meeting was adjourned at 8:49 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin