

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, June 20, 2017

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

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

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

Others present: William Herring.

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. New business

A. 17-027 – Azza’s Farm, LLC and Peter Kelley submitted an application for Boundary Adjustment involving an exchange of 11.53 acres. The properties are located at 129 Vine Street Extension, Parcel ID: 26-030 and at 100 Mount Street, Parcel ID: 26-023, Berlin Vermont, in the Rural Residential District.

Zoning Administrator Badowski advised that this application has been withdrawn. Mr. Kelley did not sign the application.

B. 17-031 – William T. Herring submitted an application to Request a Waiver from property setbacks requiring Conditional Use Review. The Waiver request seeks relief from side and rear yard setbacks as described in Section 5.08. The property is located at 914 Stewart Road, Berlin, Vermont, in the Rural Residential (R-40) District, Parcel ID: 19-019.000. Billy Herring was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-031, received on 05/30/2017; **Exhibit #2:** Drawing showing existing and proposed structures, driveway, well, and so forth; and **Exhibit #3:** Narrative addressing conditional use review criteria;

Mr. Herring advised that he had previously requested a variance to allow greater building coverage and a second driveway for direct access to a proposed additional garage 40 feet by 40 feet. He now wishes to replace the existing 24-foot by 24-foot garage with a new 40-foot by 40-foot garage. He is no longer seeking a second driveway. The existing garage does not meet the rear yard setback. He advised the proposed new garage would also not meet the side yard setback. He cannot move the garage forward due to the location of the septic tank. He advised that by replacing the existing garage, the structures would be within the percentage of building coverage allowed.

In response to questions from the Board about comments from his neighbors, Mr. Herring advised that abutters were notified. He did discuss his prior plans with his closest neighbor, who expressed no concerns, but has not seen him to discuss his new proposal.

Mr. Badowski noted that he met with the Applicant to discuss options for a waiver versus a variance which was denied and believes this is a good solution.

Mr. Herring advised that the proposed structure would be a two-story garage with storage space over the garage. The proposed garage is not for a business operation; it is for utility storage which would include his boat, four-wheeler, snowmobiles, an antique car, and so forth. He pointed out the locations of his well, existing septic tank, piping that goes under the driveway, and leach field. The only location on this small lot for a replacement wastewater system is on his front lawn.

Mr. Herring advised that his existing garage does not meet all setbacks. According to the plans submitted, the rear yard setback measured at 20 feet. The side yard setbacks measured 25 feet. He believes there is a right of way for the neighbor to access his property which has no structures. It was a field but has grown up over the years.

Mr. Badowski confirmed that the right of way mentioned by Mr. Herring is shown on the tax map.

The Board reviewed the waiver criteria under Section 5.08 and asked Mr. Herring to address it. The Board also acknowledged that the criteria had been addressed in writing.

Mr. Herring confirmed that the property and proposed garage is for residential use only. He explained why the garage could not be located such that it would meet setbacks due to the location of the septic tank, water supply (well), and steep grade on the property. He noted that it would obstruct the view from the house if the garage were located in the front. He is requesting a waiver for the rear yard setback (12.5 feet) and left side yard setback (14.1 feet) which are not less than half of the required 25 feet.

- a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Mr. Herring advised that there would be no change in vehicular or pedestrian circulation.
- b. Adequacy of circulation, parking, and loading facilities.** Mr. Herring advised that there would be no changes to parking or driveway connections. Other criteria were not applicable to a residence.
- c. Bicycle and Pedestrian Access.** Not applicable to a residence.
- d. Adequacy of landscaping.** Mr. Herring advised that he is not proposing any changes to existing landscaping.
- e. Hours of Operation.** Not applicable to a residence.
- f. Setbacks.** Three of the existing setbacks are met. The rear yard setback to the existing garage is only 20 feet. The Applicant requests a waiver of the rear yard setback to encroach up to 12.5 feet, and a waiver of the left side yard setback to encroach up to 14.1 feet.
- g. Adequacy of Exterior Lighting.** Mr. Herring advised that there would be a shielded motion light on the proposed new garage. All exterior lighting will be in compliance with the zoning regulations.

h. Stormwater and Drainage. Mr. Herring advised that no changes in stormwater and drainage are being proposed.

i. Utilization of renewable energy resources. Not applicable.

j. Municipal Services Impact Evaluation. The proposed replacement garage would have no impact on any municipal services.

Mr. Badowski advised that he discussed the prior application with the Road Foreman, Berlin Highway Department, who expressed no concerns.

k. Flood Hazard Review. The property is not located within a flood hazard area.

l. The Character of the area affected; neighboring uses. Mr. Herring advised that there is no change in use; the use remains residential.

m. Bylaws then in effect. Not applicable.

The specific standards under Section 5.06 (B) are not applicable to this residential use.

Based on documents presented and testimony heard, Mr. Mispel made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 17-031. 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 6, 2017 meeting. On page 2, the Board noted that the 3rd and 4th paragraphs pertaining to directions were incorrectly noted by the Applicant. The Minutes will be amended to note the error and correct location.

The first sentence in the 4th paragraph on page 2 was separated into two sentences for further clarification about the Fire Marshall's recommendation. It now reads: Mr. Longe advised that there are three entrances to the building, the main entrance in the front, the south side entrance with the vestibule to the bowling center, and the entrance at the northeast [sic] end of the building (northwest). He noted that the Fire Marshall recommended utilizing the existing exit from the restaurant to the patio. The 2nd sentence in the 5th paragraph on page 2 was deleted.

On page 3 under (e), the hours of operation for the restaurant were corrected to read: 11:00 AM to 11:00 PM. Municipal impacts (j), was corrected to reflect that there is access to the property via Midway Avenue, thus an impact statement from the Berlin Highway Department is applicable.

Chair Wernecke made a motion, seconded by Mr. Fitzhugh, to approve the Minutes of the June 6, 2017 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

Mr. Badowski advised that he attended the Spring Zoning conference sponsored by the Vermont League of Cities and Towns held on June 14th. He mentioned topics discussed which included changing permitting requirements for *de minimis* encroachments into the floodplain.

6. Status of Findings.

The Board voted to go into deliberative session at 7:30 P.M. and out at 7:47 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 **Wednesday, July 5, 2017.**

8. There being no further business, the meeting was adjourned at 7:54 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin