

DEVELOPMENT REVIEW BOARD
108 Shed Road
Berlin, Vermont

APPROVED MINUTES
Meeting of TUESDAY, May 19, 2015

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

Members present: Robert J. Wernecke, Chair; Karla Nuisl, Vice-Chair; John Friedrich; and Paul Irons, Alternate. Absent: Henry A. LaGue, Jr

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

Others present: Eric Chase, Crystal Chase, Nate Deschamps, George Wilcox, David Wilcox, Elizabeth (Wibs) Fitzhugh, John Svagzdys, and Paul Simon.

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. Nate Deschamps and Wibs Fitzhugh requested and were granted party status as abutters to applicants as indicated below.

2. New business

A. 15-028 – Eric Chase and Crystal Chase submitted an application for a waiver of a property line setback. The property is located at 73 Paul Avenue, Berlin, Vermont, in the Rural Residential District, Parcel ID 75-006. Eric Chase and Crystal Chase were sworn in to give testimony on this matter. In addition, Nate Deschamps, abutter was sworn in and requested party status.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-028, dated 04/28/2015; **Exhibit #2:** Drawing showing existing driveway, house, current deck and proposed patio, and setbacks; and **Exhibit #3:** List of Abutters.

The Board advised that requests for waivers must meet conditional use approval as well as specific requirements for waivers.

Mr. Chase advised that they have a 12 foot by 9 foot deck that is in poor condition. They wish to remove it and replace it with a larger 20 foot by 10 foot deck (patio) on the back of their house. The rear yard setback requirement is 25 feet. The distance from the house to the property line is 32 feet and the existing deck is nine feet beyond it so it encroaches into the setback by 2 feet now. To replace the deck as proposed they would need a waiver of three feet since it is a foot wider than the existing deck but are asking for the full amount permitted at 12.5 feet.

Zoning Administrator Badowski advised that the Applicants and he discussed requesting the full amount allowed in the event they decide to enlarge the deck/patio. To build the deck as proposed they would not need the full 12.5 feet. The lot within the development is very small, about 100 feet by 100 feet.

The Board noted that the existing shed (7 feet by 8 feet) does not meet the setback requirements. The 50 foot front yard setback must be measured from the edge of the traveled portion of the road or highway, not to a right-of-way. The current deck makes the structure nonconforming because it is within the 25 foot setback.

Mrs. Chase advised that the shed was there when they purchased the property. No changes are being proposed to the existing shed.

Mr. Deschamps acknowledged that the abutting property is actually his mother's, Annette Deschamps. They were notified as an abutter and wanted to know what the Applicants were proposing. He believed that the size of the lot is actually 100 feet by 106 feet when measured by the edge of the road, not at the property marker.

The Board reviewed Section 5.08 of the regulations regarding waivers. The principal use of the lot is a single family dwelling and the Applicant is requesting up to 50 percent of the rear yard setback. The Board asked the Applicants to explain if there was any other location for the deck that would meet setback requirements.

Mr. and Mrs. Chase confirmed that they did request a waiver of 12.5 feet which is half of the required setback, even though they only need three feet. The purpose of that was for latitude in the event they decided to make the deck wider. They confirmed that their plans are to make the deck one foot wider than the existing structure, from 9 feet to 10 feet. They advised that the location of the deck would not make sense anywhere else and again, would not meet setback requirements on this small lot. The Applicants acknowledged that the regulations mention the possible need for a survey but advised that they have a good understanding of where their property lines are based on granite markers and pins.

Mr. Deschamps agreed that the Applicants know where their property lines are because he showed them where the markers were located.

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.** There would be no change in access to this residence.
- b. Adequacy of circulation, parking, and loading facilities.** There would be no change, not applicable for this residence.
- c. Bicycle and Pedestrian Access.** Not applicable.
- d. Adequacy of landscaping.** No changes in landscaping proposed or affected by the proposed larger deck.
- e. Hours of Operation.** Not applicable.
- f. Setbacks.** The Applicants advised that the rear yard setback does not currently meet the 25 foot setback requirement at only 23 feet. The proposed new larger deck is one foot wider, thus would be only 22 feet from the rear yard setback. They requested the full amount of the waiver permitted which is 50 percent or 12.5 feet.
- g. Adequacy of Exterior lighting.** No changes in exterior lighting proposed.
- h. Stormwater and Drainage.** Not applicable.
- i. Utilization of renewable energy resources.** Not applicable.

- j. **Municipal Services Impact Evaluation.*** There would be no changes that would affect municipal services.
- j. **Flood Hazard Review.*** Not applicable.
- k. **Character of area affected; neighboring uses.*** There would be no change in use; it remains a single family dwelling. The Applicants advised that replacing the existing deck in poor condition would be an improvement aesthetically.
- l. **Bylaws then in effect.*** The proposed project meets the goals and objectives of the Berlin Town Plan.

Mr. Deschamps advised that he has no objections to the Applicants proposed structure provided they stay within the boundary.

There being no further testimony, Ms. Nussl made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 15-028. The question was called and the motion passed unanimously.

B. 15-025 – George Wilcox, Virginia Wilcox, Geoffrey Wilcox and David Wilcox submitted an application for Concept Plan Review and Minor Subdivision Final Review of a two lot subdivision. The property is located at 1610 West Hill Road, Berlin, Vermont, in the Rural Residential District, Parcel ID 52-022. George Wilcox and David Wilcox were sworn in to give testimony on this matter. In addition, Elizabeth (Wibs) Fitzhugh, abutter was sworn in and requested party status.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 15-025, dated 04/21/2015; **Exhibit #2:** Survey of H. George, Virginia N., David L., and Geoffrey G. Wilcox showing proposed two-lot subdivision of 222.7 acre parcel, prepared by Robert Townsend, PE, LS, dated 03/03/2015; and **Exhibit #3:** Site Plan showing wastewater disposal design, Sheet 1 of 2 and Notes & Details, Sheet 2 of 2, prepared by Robert Townsend, PE, dated 02/18/2015.

George Wilcox advised that he wants to build a home on a small portion of the property for retirement. They propose to subdivide a 222.7 acre parcel into two lots consisting of 220.9 acres (Lot #1) and 1.9 acres (Lot #3). There is an existing horse barn, garage and apartment there now. The Applicants confirmed that it is the third subdivision of that property within the last few years. David Wilcox pointed out the existing residence along West Hill Road which was created last spring. He advised that his brother lives further down on West Hill Road. The onsite wastewater system has been designed and they have a curb cut permit.

In response to the Board's question concerning proposed access across the road, David Wilcox advised that it has been approved for Andy Wellman and Jen Ingersoll for a single family residence. He noted that the Road Foreman approved it and it was staked out. The proposed driveway to the lot being created is just up the road from that driveway. The Applicants confirmed that they have obtained approval from the State of Vermont regarding wastewater.

Zoning Administrator Badowski advised that both lots would meet all requirements with respect to lot size, frontage, etc. for the districts. He confirmed that the curb cut has been approved by the Berlin Select Board. He has spoken with representatives concerning E911 and noted that other properties in the area were updated as well.

Ms. Fitzhugh advised that she is an abutter and asked for clarification regarding the location of the proposed driveway.

David Wilcox explained that the proposed driveway would be between the two existing driveways, about 150 feet apart but on opposite sides of the road. The proposed driveway is about 300 feet away from the one located on same side of the road. He advised that the area by the driveway is not very steep. The dotted lines shown on the plans reflect the well shield which is within the watershed around the well.

The Board noted that both Concept Plan and Final Plan Review were being considered at the same time. Driveways must meet A76 standards regarding slope, angle and other requirements and be approved by the Berlin Select Board. The Board determined that the draft of the Final Plat, onsite wastewater, and other zoning requirements were met thus the application was complete and could be considered in one meeting. The Final Plat and applicable deeds must be submitted as well within the required time period.

There being no further testimony, Ms. Nuissl made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 15-025 for a two lot Minor Subdivision. The question was called and the motion passed unanimously.

C. 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. John Svagzdys, 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, 15-026, dated 04/21/2015; **Exhibit #2:** Site Plans consisting of: Cover Sheet, C0.01, Legend and General Notes, C0.02, Existing Conditions Plan, C1.01, Site Plan, C1.02, Stormwater Profile & Details, C2.01 and Construction Details, C5.01, prepared by DeWolfe Engineering Associates Incorporated, dated 04/07/2015; **Exhibit #3:** Project Narrative and addressing conditional use review criteria dated 04/21/2015; **Exhibit #4:** Email dated 04/27/2015 from the Berlin Volunteer Fire Department stating no concerns regarding the proposed project; and **Exhibit #5:** Memorandum dated 04/27/2015 from the Berlin Police Department stating that the proposed application would have no adverse impact on the Department.

Mr. Svagzdys advised that the owner currently has three existing storage units (30 feet by 150 feet) and they want to add two new buildings, one at 25 feet by 150 feet in size and the other at 40 feet by 150 feet. The existing paved parking/drive area would be expanded by 4823 square feet to provide access to the proposed new 40 foot by 150 foot building on the north side of the property. He noted that the use is neither permitted nor conditional, thus requires conditional use review. The proposed wider unit would have pavement wrapped around it. He did not know the total number of units, existing or proposed. He confirmed the total size of the existing and proposed buildings but did not know the number of units. He agreed to provide that information to the Board. He did not believe that there were any units on the ends of the structures.

In response to the Board's comment that the site plan lacked dimensions and distances between the structures, Mr. Svagzdys advised that he believes there is about 14 feet of driveway behind the proposed new 40 foot by 150 foot structure, 30 feet between the existing structures, and 24 feet between the ends of the existing structures and the proposed new 25 foot by 150 foot structure.

Mr. Svagzdys advised that they were trying to stay within the setback and proposed area for treatment swale. He agreed 14 feet is not wide enough for a vehicle to pass another. After further discussion noting that many vehicles utilizing storage units are much larger, Mr. Svagzdys advised that the plan could be modified to make more space. He admitted that he does not have a sense about the amount of travel in these storage units but anticipated it to be one or two vehicles at a time.

The Board asked whether trucks could navigate the corners or be able to turnaround onsite within the space shown. Based on the plans submitted it would be very tight at the furthest corner, particularly for larger trucks, moving vans or trucks towing trailers. Traffic circulation is a problem which could be mitigated by modifying the number or size of the storage units.

Mr. Svagzdys agreed that trucks would not be able to turn around but could drive around the site to exit. He noted that access to the units could be changed but they wanted to maintain fire access at the back. He agreed that they could rearrange the units to make them work.

Mr. Badowski noted that the Town's new water line is close and there is a fire hydrant there. The area should be large enough to accommodate other emergency vehicles even if fire is addressed.

Mr. Svagzdys reiterated that the land is there but it is needed for stormwater and drainage. He acknowledged the Board's concerns that one of the proposed units was too large.

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. Mr. Svagzdys advised that there would be no change in access therefore little or no impact on the street network. The Town's Road Foreman visited the site and had no issues or concerns. He does not believe there would be a significant traffic increase but did not consider trip generation. He agreed that turning movements would be difficult as designed for a 24 foot long truck or truck and trailer.

The Board advised that the Applicant needs to address access and turning movements. The group discussed how this could be accomplished, either by narrowing the buildings or eliminating units on the end to make enough room.

b. Adequacy of circulation, parking, and loading facilities. Mr. Svagzdys advised that they are not proposing any specific parking spaces. The lot is designed to allow a vehicle to drive up to the unit, park and load or unload items without restricting access to adjacent storage units. Snow removal would remain the same which would be pushed toward the swale. He advised that no refuse storage is currently provided or would be provided in the future. They are not proposing any curbing. There would be 18 inches of graveled diaphragm for stormwater along the edge to get the first flush of sand off it.

c. Bicycle and Pedestrian Access. Mr. Svagzdys advised there is little pedestrian traffic in this Industrial area. Visitors would park in front of or near their rented unit.

d. Adequacy of landscaping. Mr. Svagzdys advised that there is a mature row of white pines along the westerly and southerly sidelines. No construction is being proposed along the southerly sideline but some clearing and trimming of the existing vegetation along the westerly sideline

will be required for the construction of the new storage unit. He noted that the necessary

grading for the swale would cause some of the pine trees (8 inch diameter) to be removed on the westerly side. He noted that trees could be added but it is located in a light industrial district.

- e. Hours of Operation.** Mr. Svagzdys advised that the hours of operation would not change; unlimited 24/7.
- f. Setbacks.** Mr. Svagzdys advised that all setbacks are met for the district. He noted that since the property is located on a corner, there are two front yard setbacks both of which are at 50 feet. He noted that the setback was shown from the right-of-way, not from the edge of the traveled portion of the highway which would make it about 65 feet when measured correctly. The left side setback is 28 feet, the right side setback is 53 feet, and the rear yard setback is 40 feet.
- g. Adequacy of Exterior Lighting.** Mr. Svagzdys advised that they are not proposing any additional lighting but may relocate one pole light. He was uncertain whether there were lights mounted on to the building or if so, what type they were, but mentioned the possibility of Cobrahead fixtures.

The Board advised that any new lighting must meet current standards. There are no regulations that address security lighting, however the heights of poles, type of fixtures, and so forth is specified and must meet those requirements. The Board advised that a lighting plan must be submitted to show compliance with those standards.

- h. Stormwater and Drainage.** Mr. Svagzdys advised that the additional impervious area is sufficient to require applying for an Operation Stormwater Permit from the State of Vermont. An application was submitted to the Agency of Natural Resources in early April. He explained the flow of the stormwater noting that the site is a local high point and eventually leads to the Stevens Branch of the Winooski River. The project has been designed to meet the treatment and detention requirements of the State Stormwater Management Program. They will apply erosion control measures which are shown on the plans. He agreed to provide a copy of the application submitted to ANR as well as a copy of the permit once issued.
- i. Utilization of renewable energy resources.** Mr. Svagzdys advised that 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. Svagzdys advised that requests were made to the Berlin Fire, Highway and Police Departments for an impact statement. Mr. Badowski advised that responses have been received from the Berlin Volunteer Fire and Police Departments both of which expressed no adverse impact regarding the proposed project. The Road Foreman visited the site and expressed no concerns about the project.
- k. Flood Hazard Review.** Mr. Svagzdys advised that the property is not located within a flood hazard area.
- l. Character of area affected; neighboring uses.** Mr. Svagzdys advised that there is no change in use. The existing storage unit facility has been there since 1983. Storage units are not

specifically listed as permitted or conditional uses but are similar in nature to warehouse.

The Board advised that interior traffic and turning movements on site must be addressed. The plans must show the correct front yard setbacks, the number of units and dimensions on the land and space between the units. The Applicant must submit a lighting plan that shows existing and proposed lighting. Copies of the revised plans must be submitted to the Board. The Applicant must provide a copy of the stormwater application submitted to the State of Vermont and of the permit once issued.

Mr. Friedrich made a motion, seconded by Ms. Nuisssl, to recess the hearing with respect to Application 15-025 to the June 16, 2015 meeting. The documentation mentioned above should be received and distributed around 10 days prior to the date of the meeting. The question was called and the motion passed unanimously.

D. 15-030 – Northfield Savings Bank submitted an application for two illuminated commercial signs. The property is located at 1021 Paine Turnpike North, Berlin, Vermont, in the Rural Residential Zoning District, Parcel ID SA1-023. Paul Simon 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, 15-030, dated 04/22/2015; **Exhibit #2:** Site Plan, C2.0, prepared by DuBois & King Inc., showing proposed locations for the two signs, dated 04/2015; **Exhibit #3:** Revised Submittal Cover Sheet from Lajeunesse Interiors, dated 03/02/2015; **Exhibit #4:** Signs design and details prepared by Lajeunesse Interiors, dated 02/20/2015; **Exhibit #5:** Email from Paul Simon to ZA Badowski describing proposed illuminated and non-illuminated signs, dated 04/22/2015; **Exhibit #6:** List of Abutters; and **Exhibit #7:** Opinion Memo dated 05/08/2015 from Thomas Badowski, Assistant Town Administrator, concerning Applicant's proposed "professional sign."

Mr. Simon advised that they had previously requested two non-illuminated signs, one of which was approved by the Zoning Administrator. This application is for two illuminated commercial signs, the previously approved non-illuminated 29.4 square foot freestanding sign, *NSB Northfield Savings Bank Drive Thru ATM*, and one 4.6 square foot professional sign, *Northfield Savings Bank ATM*. He advised that they are not proposing any building signs at this time.

Mr. Simon advised that the freestanding sign would have a brick masonry base with internal illumination that would appear on both sides of the sign. He referred to the photo simulation showing elevation and noted that the concrete base and brick masonry sides are designed to make the sign appear level since it is on the slope. The size of the freestanding sign is about half (29.4 sf) of the total amount allowed (64 sf). The structure needed to support the sign is 122 inches by 32 inches. Mr. Simon advised that the other sign is a professional sign identifying the Northfield Savings Bank ATM to show the location for the drive through ATM which is toward the back end of the parking area. That sign is 4.6 square feet and stands about six feet high.

Chair Wernecke advised that the Zoning Administrator consulted him about the proposed professional sign. He advised that it appears to be a second freestanding sign which is not permitted. The Applicant considers it a professional sign identifying the Automated Teller Machine use. The regulations mention exempted signs, which include one professional or home occupation sign up to five square feet. A commercial business is allowed one freestanding sign.

Mr. Simon advised that he met with former Zoning/Town Administrator Jeff Shultz regarding this

matter and understood that there would be no restriction for having one freestanding sign and one professional sign. It exceeds the size of a directional sign and includes the name of the business.

The Board noted that professional signs have been reserved for home occupations such as a person's name and their profession (i.e., attorney at law, counselor, etc.). Mr. Simon was asked how the business name and ATM describes it as professional and whether they considered making it a wall sign.

Mr. Simon advised that they are advertising more with a professional sign, including a logo and text of Northfield Savings Bank to highlight the two uses, business office call center and an ATM. He noted that to have the sign approved as a wall sign it would still require Board approval. They want both signs to advertise the two uses.

Mr. Badowski advised that the regulations do not define professional sign. He felt that there are two uses on this property and noted that numerous other examples exist. A professional sign would be exempted except for the fact that the Applicant is requesting illumination.

Chair Wernecke advised that the Board will deliberate and make a determination.

Mr. Simon asked that when reviewing the regulations for changes they consider clarifying the process for signage approval, illuminated signs, in particular. He noted that some of the applicable provisions are not included with the rest of the sign information which makes it difficult for applicants.

Ms. Nussl, also a member of the Berlin Planning Commission, acknowledged that the Board is wrestling with the regulations regarding signage and noted that there are conflicts. They are in the process of rewriting the regulations and making efforts to reconcile the inconsistencies.

Mr. Simon admitted that the signs are on order. He pointed out the proposed location for the signs and noted that they feel it is important to have the second sign as a professional sign, with the name and logo that directs people to the ATM drive through. He advised that the building is 10 feet high. He mentioned that he is a member of a board and presents many applications in other towns. He noted what other towns are considering and recommended that members look at South Burlington's regulations.

There being no further testimony, Mr. Irons made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 15-030. 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 May 5, 2015 meeting. The name of the Berlin Road Foreman was corrected to read Tim Davis. On page 3, the 5th paragraph was amended to clarify the driveway issue by striking the sentence that mentioned trucks backing into the site.

Mr. Friedrich made a motion, seconded by Ms. Nussl, to approve the Minutes of the May 5, 2015 meeting as corrected. 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 8:42 P.M. and out at 9:06 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, June 2, 2015.**

8. There being no further business, the meeting was adjourned at 9:07 P.M.

Respectfully submitted,

Carla Preston

Carla Preston
Recording Secretary
Town of Berlin