

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

**APPROVED MINUTES
Meeting of TUESDAY, November 7, 2017**

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

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

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

Others present: James G. Bond, Steven Wilson, Diane McCarthy, Michael J. Kuhn, Christopher Austin, Fred Connor, Greg Georgaklis and Chip LaGue.

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. 17-072 – James G. Bond submitted an application for conceptual office development including an 1,820-square foot structure requiring Site Plan Review. The property is located at 625 US Route 302, Berlin, Vermont, in the Highway Commercial (HC) District, Parcel ID: US302-050. James G. Bond was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #9:** Survey of Land for Bond Living Trust, prepared by Robert Townsend with American Survey Company, dated 11/22/2016 and revised on 10/10/2017; **Exhibit #10:** Revised Narrative addressing Site Plan Review criteria; and **Exhibit #11:** RAB Lighting design dated 10/06/2017.

This application was continued from a hearing held on October 3, 2017. The Board had requested updated plans showing the changes in parking that was discussed, signage to identify special parking spaces, landscaping, and details regarding exterior lighting.

Mr. Bond presented a revised Site Plan that addressed the issues discussed at the last hearing. The entrance to the site clearly shows that it is now 24 feet wide. The plans are better organized regarding parking and show that three parking spaces in the front have been eliminated. The smaller spaces have been identified for compact cars only and they have added a bicycle rack. Mr. Bond also advised that the plans reflect the adjustments in landscaping or green space areas.

Mr. Bond advised he met with lighting professionals to design a lighting plan that met the needs of the site. It was determined that four 20-foot high poles were sufficient which are shown on the plans. He elaborated further on the proposed lighting which is designed to provide adequate lighting for the area. It is his understanding of the luminaire shown on the design that the area shown within the green circle would receive high illumination and be reduced further out from that point.

Mr. Bond confirmed that he is proposing a single-story 1,820 square foot structure. The written text was corrected to agree with his testimony including landscaping, and hours of operation.

There being no further comments, Mr. Friedrich made a motion, seconded by Mr. Mispel, to close the hearing with respect to Application 17-072. The question was called and the motion passed unanimously.

B. 17-081 – MJM Enterprises, Inc. submitted an application for Site Plan Review and Sign Package Review associated with the redevelopment of an existing restaurant (*Burger King*). The property is located at 1331 U.S. Route 302, Berlin, Vermont, in the Highway Commercial District, Parcel ID: US302-022. Steven Wilson, LEED AP, with Bohler Engineering, Fred Connor abutter, and Diane McCarthy were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #14:** Site Improvement Plans, prepared by Bohler Engineering, Albany, NY, dated 07/06/2017 with multiple revisions up to 10/30/2017; Site Plan #4 revised on 11/07/2017; **Exhibit #15:** Revised Wall Sign Package for Burger King Restaurant, prepared by Federal Heath Sign Company, Tampa, FL, consisting of two Burger King Logos (19.6 sf each) totaling 39.2 square feet; one Burger King logo at 12.6 square feet; and "Home of the Whopper" raceway totaling 27.6 square feet for a total of 79.4 square feet, dated 10/19/2017; and **Exhibit #16:** VT Agency of Natural Resources, Wastewater System and Potable Water Supply Permit (WW-5-7528), dated 10/23/2017.

This application was continued from a hearing held on October 17, 2017. The Board had requested an updated circulation plan to address traffic entering the shared access, lighting and hours of operation, as well as proposed signage because it exceeded the maximum allowed.

Steve Wilson with Bohler Engineering on behalf of Carrols Corporation and *Burger King*, advised that the Board's concerns had been addressed. They have revised traffic circulation, reduced signage and have provided a lighting plan.

In response to Mr. Wilson's question regarding how thoroughfare had been defined, Zoning Administrator Badowski advised that based on the definition in *Webster's Dictionary*, the shared access at issue is not considered a thoroughfare.

Mr. Wilson advised that based on twice the linear frontage of the building (41.5 feet), they are allowed up to a maximum of 83 square feet of signage. They reduced the size of one of the building medallions (logos) from 19.6 square feet to 12.6 square feet which brought the square footage under the maximum allowed. A revised signage package has been submitted totaling 79.4 square feet. He confirmed that there would be no *Burger King* logos on the directional signs.

Mr. Wilson advised that the issue regarding traffic along the shared access was evolving up to yesterday. He indicated that the previously submitted revised site plan (#4) has been slightly modified with respect to traffic circulation. He discussed the matter with abutter Fred Connor who expressed some concerns about their proposal. He explained they had previously proposed three lanes around the bend in the back with an exit at the fence or barriers. To resolve the issue, they brought the intersection up further and created an outside lane for trucks. They eliminated the access to the shared lane further up which is now located nearer the exit/entrance to *Burger King*. They codified the travel lane with striping from *Burger King* down across Mr. Connor's property and the shared access. He noted this will allow trucks to get through as needed, and in the process bumped up the amount of greenspace by another two percent.

In response to questions from the Board about congestion and stacking, Mr. Wilson advised there is plenty of room to stack vehicles if needed. The access point is about 90 feet from the traffic light entrance/exit.

Mr. Connor advised that he wanted to go on the record as supporting the proposed plan. He offered thanks to Mr. Wilson and to Carrols Corporation.

Mr. Wilson reiterated that trucks will go around the back of the building and confirmed that there would be sufficient space for trucks to maneuver and access the site. There would be striping and directional arrows. They will maintain the grassed area which will be curbed. Snow storage would be available within the greenspaces. He acknowledged that additional directional signage may be needed if traffic issues arise. He agreed to submit a revised set of plans since grading and other things will change based on this amendment.

Mr. Wilson advised that they have received a permit from the state regarding wastewater and potable water and the stormwater discharge permit had been issued today. He noted that with respect to their ACT 250 permit, they were waiting for Stormwater, therefore that permit should be issued soon.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 17-081. The question was called and the motion passed unanimously.

2. New business

- A. 17-084 – State of Vermont (Vermont Psychiatric Care Hospital)** submitted an application for Site Plan Review to add an accessory structure (740 square feet). The property is located at 350 Fisher Road, Berlin, Vermont, in the Commercial District, Parcel ID SA6-017. Michael J. Kuhn, Buildings Engineer III with the State of Vermont and Christopher Austin with Grenier Engineering, P.C. were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-084, received on 09/25/2017; **Exhibit #2:** Site Plan, prepared by Grenier Engineering, PC, dated 12/14/2015 with revisions on 03/18/2017, 06/14/2017 and 07/06/2017; **Exhibit #3:** Narrative addressing Site Plan Review criteria; and **Exhibit #4:** Email from Ira Moser, BGS Grounds Supervisor, State of Vermont BGS, to Mike Kuhn, regarding removal of all large trees and replanting with smaller trees, dated 08/05/2014.

Overview: Chris Austin with Grenier Engineering, PC advised they are proposing to add an accessory structure (740 square foot), and eight parking spaces at the rear of the property. The proposed storage shed would be a wooden clad structure. He mentioned the existing and improved access along the property line and noted that currently the lands of LaGue Inc. are undeveloped. They had recently amended the boundary line via a boundary adjustment on the western side of the property. He indicated that some of the existing softwood trees that are more susceptible to blow down would be replaced. Mr. Austin advised that the site is under a State of Vermont stormwater discharge permit which is not impacted by the proposed small structure.

Mr. Kuhn advised that the structure would be for storage of snow removal and lawn care equipment as well as spare parts often needed.

In response to questions about the gravel road, Mr. Austin advised that the gravel road is further down than they originally anticipated. He advised they did not provide plan details, but confirmed there would be no change in grading. They plan to pave the proposed new parking spaces.

- 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/egress, thus no impact on the adjacent street network.
- b. Adequacy of circulation, parking, and loading facilities.** The Applicants are proposing eight additional parking spaces along the edge of the existing parking lot at the rear of the site. There would be no change in traffic circulation.
- c. Bicycle and Pedestrian Access.** There would be no change in bicycle or pedestrian access as a result of this project.
- d. Adequacy of landscaping.** Mr. Kuhn advised that the proposed storage shed is located at the rear of the site. The existing pine trees will be removed on the site and replaced with different plantings to provide screening. He advised that the replacement trees will involve several different species including, Spruce, Balsam Fir, White Pine, Sugar Maple, Apple and Crabapple. Mr. Kuhn indicated that the recommendation in 2014 was to maintain the existing trees, however they will be now be replaced with others that are less susceptible to damage and blow down.
- e. Hours of Operation.** There would be no change in the hours of operation.
- f. Setbacks.** The applicants advised that all setbacks would be met. The only change in setbacks is for the rear yard which will be reduced from 117 feet to 72 feet.
- g. Adequacy of Exterior lighting.** No additional exterior lighting is being proposed. The existing pole light at the proposed location for the storage shed will remain and provide sufficient lighting.
- h. Stormwater and Drainage.** There would be no change in stormwater and drainage as a result of this project.
- i. Utilization of renewable energy resources.** The proposed maintenance shed and eight parking spaces would not cause any interference with the sustainable use of renewable energy resources.
- j. Municipal Services Impact Evaluation.** There would be no impact on municipal services as a result of this project.
- k. Flood Hazard Review.** The property is not located in a flood plain.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to close the hearing with respect to Application 17-084. The question was called and the motion passed unanimously.

B. 17-089 – Connor Realty LLC submitted an application for Conditional Use Review associated with a request to add approximately five (5) cubic yards of fill in a floodplain. The property is located at 1028 U.S. Route 302, Berlin, Vermont, in the Commercial District, Parcel ID: US302-37-035. Fred Connor was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-089, received on 10/03/2017; **Exhibit #2:** Site Plans consisting of: Existing Conditions Site Plan, C1.0, Proposed Site Improvements, Proposed Conditions, C2.0, and Proposed Details Plan, C3.0, prepared by Wilson Consulting Engineers, PLC, dated 09/29/2017; **Exhibit #3:** Letter dated 09/29/2017 describing the project; **Exhibit #4:** Letter dated 10/03/2017 from VT Department of Environmental Conservation, Watershed Management Division, Ned Swanberg, Central Vermont Flood Plain Manager, CFM, acknowledging that the proposal is consistent with the intent of the regulations to avoid adverse impacts on floodplain functions; and **Exhibit #5:** Letter dated 10/12/2017 from Wilson Consulting Engineers, PLC, addressing Conditional Use Review criteria.

Overview: Fred Connor advised that the purpose of the project is to construct new concrete curbing and sidewalk around portions of the existing building to raise the adjacent grades which will eliminate the need to carry flood insurance. He advised that his engineer, Jeffrey Olesky, estimated about five cubic yards of fill would be needed so that the grades around the entire perimeter of the building are at a minimum of 0.2 feet above the base flood elevation (BFE). Once this is accomplished, he would apply for an amendment to get the building out of the flood plain.

Mr. Badowski confirmed that a response was received from the Vermont Department of Environmental Conservation stating that the volume of material proposed represents a *de minimus* impact on flood water storage at that site. The state recommended the Applicant obtain an elevation certificate.

Mr. Connor advised that according to Mr. Olesky, the finished floor elevation of the structure is 559.0 feet, about 0.5 feet above the base flood elevation of 558.5 feet. They need to raise the grade around the building to get out of the flood plain to reduce insurance rates.

The Board made Mr. Connor aware of the upcoming changes in the regulations with respect to stormwater and drainage since he owns properties that might be impacted. The state's requirements have increased regarding the amount of pavement. He was advised to consider the amount of sheet flow between pavement and the river with respect to any new development.

Mr. Connor thanked the Board for the heads-up about the changes in the state regulations. He noted that his tenant, Vermont State Employees Credit Union, will be moving to Waterbury in the near future. He will consider this when approached by new tenants.

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/egress or impact on vehicular or pedestrian circulation as a result of the proposed site modifications.

b. Adequacy of circulation, parking, and loading facilities. There would be no change in circulation, parking, etc. as a result of this project.

c. Bicycle and Pedestrian Access. There would be minor revisions to the sidewalk along the front of the building but no significant changes would be made regarding accessibility.

- d. Adequacy of landscaping.** No changes in landscaping are proposed.
- e. Hours of Operation.** No changes in the hours of operation are proposed.
- f. Setbacks.** There would be no impact on setbacks.
- g. Adequacy of Exterior lighting.** No additional exterior lighting is proposed.
- h. Stormwater and Drainage.** The overall drainage patterns will remain the same although several roof drain leaders and downspouts will be slightly modified.
- 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 purpose of the application is to raise the adjacent grades surrounding the existing building in an effort to further protect the structure from flooding. They propose to raise the grades by adding sidewalk or installing a concrete curb so that the entire perimeter of the building has grades a minimum of 0.2 feet above the BFE. To accomplish this about five cubic yards of fill would be placed within the floodplain limits.

The Board found that the regulation is interpreted correctly with the purpose of getting the structure out of the floodplain.
- l. The Character of the area affected; neighboring uses.** There would be no impact on the character of the area.
- m. Bylaws then in effect.** Not applicable.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Mr. Fitzhugh, to close the hearing with respect to Application 17-089. The question was called and the motion passed unanimously.

C. 17-091 – LaGue, Inc. submitted an application for Site Plan Review associated with the addition of an Accessory Structure for *Farmers To You LLC*. The property is located at 446 Industrial Lane, Berlin, Vermont, in the Light Industrial District, Parcel ID: 73.015. Gregory A. Georgaklis was sworn in to give testimony on this matter. Chip LaGue was also present but did not offer any testimony.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-091, received on 10/10/2017; **Exhibit #2:** Aerial view of existing structures and proposed addition; and **Exhibit #3:** Applicant's Narrative addressing Site Plan Review Criteria, dated 10/11/2017.

Overview: Greg Georgaklis advised that he operates *Farmers To You LLC* at this site which distributes farm fresh produce and meats to families located in Boston, Massachusetts. They want to replace two coolers located inside the building with a large walk-in cooler located outside of the building below the roof line. The proposed cooler is 40 feet long by 15 feet wide and 8 feet high (600 square feet), consisting of foam panels that lock together. The exterior of the cooler would be galvanized steel that can be painted a light color to reflect heat.

Mr. Georgaklis addressed site plan review criteria and noted that it had also been addressed in writing.

- 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/egress as a result of this project. Mr. Georgaklis advised they have plenty of parking and space for vehicular circulation.
- b. Adequacy of circulation, parking, and loading facilities.** There would be no change in circulation parking or loading facilities.
- c. Bicycle and Pedestrian Access.** There would be no change in bicycle or pedestrian access.
- d. Adequacy of landscaping.** No additional landscaping is being proposed as part of this project.
- e. Hours of Operation.** There would be no change in the hours of operation.
- f. Setbacks.** All setbacks are met for the proposed structure. The distance between the proposed addition and the other building is about 60 feet.
- g. Adequacy of Exterior lighting.** There would be no additional exterior lighting.
- h. Stormwater and Drainage.** Mr. Georgaklis advised there would be no impact on stormwater and drainage because the area where the walk-in cooler would be located consists of packed gravel surface.
- i. Utilization of renewable energy resources.** There would be no impact on nearby properties. The cooler is highly efficient but is not renewable energy.
- j. Municipal Services Impact Evaluation.** Mr. Georgaklis advised that letters were sent to the Berlin Volunteer Fire, Police and Highway Departments describing the project and requesting an impact statement. He does not anticipate any adverse impact on municipal services as a result of this project.
- k. Flood Hazard Review.** The property is not located within a flood hazard area.

In response to questions from the Board, Mr. Georgaklis elaborated further on this business. He advised *Farmers To You LLC* is a new model which is better for the farmers than the Community-Supported Agriculture (CSA) model. They just opened two locations in Vermont which serve families mostly in the Boston area. He explained that it is not a retail operation; interested families order fresh products online (vegetables, fruit and meat) which are delivered via refrigerated trucks to an established site where the orders are picked up. He advised that the customer chooses what they want so the demand is consistent which is great for the farmers. He indicated that they are regulated by the Vermont Department of Agriculture, United States Department of Agriculture and towns in which they operate.

Based on documents presented and testimony heard, Mr. Friedrich made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 17-091. 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 October 17, 2017 meeting. On page 7 under 17-81, the 5th sentence under "h: was amended to read: He described the infiltration basin and drainage flow in detail.

Ms. Nuisl made a motion, seconded by Mr. Friedrich, to approve the Minutes of the October 17, 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

6. Status of Findings.

The Board voted to go into deliberative session at 7:58 P.M. and out at 8:10 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, November 21, 2017.**

8. There being no further business, the meeting was adjourned at 8:11 P.M.

Respectfully submitted,

Carla Preston
Recording Secretary
Town of Berlin