

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

**UNAPPROVED MINUTES
Meeting of TUESDAY, November 21, 2017**

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

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

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

Others present: Brian Lane-Karnas, P.E., Greg Western, and Robert Dindo.

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. Greg Western, abutter regarding 17-096, requested and was granted party status.

2. New business

A. 17-096 – Ellery E. Packard III submitted an application for Concept Plan Review and Final Plan Review of a Major two (2) lot Subdivision involving an approximate 79.04 acres parcel. The property is located on VT Route 12, Berlin, Vermont, in the Commercial and Highland Conservation Zoning Districts, Parcel ID: VT12-008. Brian Lane-Karnas, P.E. with DeWolfe Engineering Associates, Incorporated, and Abutter Greg Western, were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Subdivision Application, 17-096, received on or about 10/30/2017; **Exhibit #2:** Subdivision Plan, C1.01, prepared by DeWolfe Engineering Associates, Incorporated, dated 10/30/2017; **Exhibit #3:** Survey re Subdivision of Lands of Weston Trailer Park, LLC, prepared by Richard W. Bell Land Surveying, Inc., dated 07/2017; **Exhibit #4:** Letter dated 10/30/2017 describing the project; **Exhibit #5:** VT Agency of Natural Resources, Washington County Soils Map and data, printed on 10/27/2017; **Exhibit #5:** VT ANR Natural Resources Atlas showing Project Location, printed on 10/27/2017; **Exhibit #6:** Email dated 10/30/2017 from Richard Colburn III, to Brian McAvoy with the State of VT re the proposed subdivision; and **Exhibit #7:** VT Agency of Natural Resources, Dept. of Environmental Conservation, Wastewater System and Potable Water Supply Permit (WW-5-7390-1), dated 11/20/2017.

Brian Lane-Karnas, P.E. advised that Mr. Packard is proposing a two-lot subdivision of his 76.04 acres parcel, which includes Weston's Mobile Home Park. A Cooperative or Park Owners' Association was formed by the owners to purchase the park itself but not the entire parcel. The existing property would be divided into two lots consisting of 26.39 acres, the mobile home park, and 49.65 acres (Lot #2). Mr. Lane-Karnas highlighted the boundary line on the large plans. He explained that the mobile home park development extends across the full frontage of the existing lot along Route 12 except an area between First Street and Second Street which is occupied by a Right-of-Way for an electrical transmission line, and a Class II Wetland. This meant that frontage for Lot #2 had to be created via three Rights-of-Way consisting of: a 50-foot Right-of-Way along First Street, a 25-foot Right-of-Way along Third Street, and a 25-foot Right-of-Way along Weston Street and Weston Street Extension. No development is being proposed on the new lot (#2) being created. He noted that Land Surveyor Rick Bell did the research and did not find any existing easements.

Zoning Administrator Badowski advised that both lots meet the requirements for the two zoning districts involved, Commercial and Highland Conservation. The majority of Lot #2 is within the Highland Conservation District at the 600-foot contour. The front portion of the existing mobile home park is within the Commercial Zoning District. He noted that under the proposed new regulations, that area will become zoned as commercial.

Greg Western, abutter, advised that he found an easement back in 1927. He indicated that his survey showed an easement from the 1920s.

Mr. Lane-Karnas believes that the transmission lines belong to Green Mountain Power Corp. He noted that elevations and contours are shown. He mentioned the data the State of Vermont had gathered by using airplanes and equipment that senses the elevation of the ground.

Mr. Lane-Karnas advised that the Permit from ANR, Department of Environmental Conservation regarding Wastewater System and Potable Water Supply was just received. He explained that it is a deferral permit since no development is being proposed at this time. They have also received a response from the Vermont Agency of Transportation with respect to access.

Mr. Lane-Karnas explained that the existing property is split between the Commercial and Highland Conservation districts. Since there is a continuous strip of land (106 feet) in the Commercial zone on the easterly edge of proposed Lot #2, they concluded that the required rear setback from the existing homes would be 25 feet. The 50-foot Right-of-Way along First Street is in existence and considered the most favorable location to access Lot #2. He noted that this was negotiated with the Park Owners' Association.

In response to the Board's comments concerning access, Mr. Lane-Karnas advised that he looked at Section 920 E in the subdivision regulations and at the zoning regulations regarding access. He acknowledged that a proposed road in a subdivision must be 60 feet wide. The existing 50-foot wide Right-of-Way is not being proposed as a road, only an easement for access to a lot that does not have frontage. He understood that an easement is limited to serve only two lots and that a road must be 60 feet wide and approved by the Berlin Select Board.

Mr. Lane-Karnas explained that the small parcel with pump house and wells stays with the mobile home park. The soils are good in that location and each mobile home has an individual septic system.

Mr. Badowski noted that there are future plans for a municipal sewer system there. The permitting is now complete but he is not sure about the construction. DeWolfe Engineering Associates did the design work of the proposed municipal sewer system.

The Board considered each step in the subdivision process separately.

With respect to Concept Plan Review, park association owners were involved, however notification was not sent to each mobile home owner within the park. Access was described and identified.

Chair Wernecke made a motion to classify the proposed subdivision as Major, with no roads proposed, only easements. Mr. Fitzhugh seconded the motion which passed unanimously.

With respect to Preliminary Plan review, a survey was completed, which included the required details. Not all test pit results were provided, however data was submitted with respect to soils for the area, and a deferral was requested for Lot #2 since no new development is being proposed at this time. The state has approved the subdivision. Wetland areas and other features were identified. No concerns were raised by the state with respect to access, and no concerns were raised by the Berlin Police or Volunteer Fire Departments. The survey was prepared and stamped by a licensed Land Surveyor.

Greg Western asked for more clarification about the 50-foot easement on First Street for access to the back lot.

The Board explained that the Applicant proposes the use of the existing easement, which is not considered a road for access to the back lot, #2. An easement may only serve two lots. If further development is proposed on the back lot #2, the owner would have to widen the access to meet the standards for a road and obtain approval from the Select Board.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 17-096. The question was called and the motion passed unanimously.

B. 17-097 – Robert Dindo and Mark Knapp submitted an application for concept approval of a boundary adjustment involving 0.393 acres. The properties are located at 2728 and 2672 Paine Turnpike South, Berlin, Vermont, in the Highland Conservation District, Parcel IDs: SA1-081 and SA1-082. Robert Dindo was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Boundary Adjustment, 17-097, received on 11/1/2017; **Exhibit #2:** Survey re Land of Merchants Bank, prepared by Wayne D. Lawrence, LS, dated January 1983; and **Exhibit #3:** Sketch of properties to be exchanged (17,140 square feet or 0.393 acres).

Mr. Badowski explained that the Applicants wanted to know whether this proposal will work prior to going to the expense of having it surveyed. They are asking for concept review of a boundary adjustment.

The Board explained the process and noted that the application would have to be re-warned as a boundary adjustment if it moves forward. The subject properties are located in the Highland Conservation District – minimum lot size of five acres.

Robert Dindo referred to a 1993 survey from Wayne Lawrence and described the location of the parcels in question. He explained that his neighbor, Mr. Knapp, would sell him 30 feet on one side and 58 feet on another side of his property to increase the size of his lot by about 0.393 acres. He explained that his lot preexisted zoning and is only 0.703 acres. He wants to increase the size of his lot to about one acre. The proposed boundary adjustment would decrease Mr. Knapp's lot to about 5.01 acres. He mentioned that another lot (Brimblecombe) in the area is also nonconforming at less than five acres. Mr. Dindo advised he has no plans for further development, he just wants to increase the size of his lot which could be used for a replacement onsite wastewater system.

The Board noted that the drawings provided do not show existing structures which is needed to verify setback requirements. In addition, driveways, exact lot sizes, and other data required must be shown on the plans.

Mr. Dindo advised that the required data would be shown on the Mylar. They just wanted to be sure it would be approvable since his lot is already non-conforming. He understood that that Mr. Knapp's lot cannot be reduced to less than five acres. The boundary adjustment would improve the size of his lot but it would still not meet the minimum five-acre lot size for the district. He confirmed that there would be no improvements in the new acreage, which is wooded.

The Board explained that a survey is needed and mentioned the information that must be provided. The definitions of boundary adjustment must be satisfied. It must be clear that Mr. Knapp's lot will remain conforming.

Mr. Dindo explained that through deed research they found that Wayne Lawrence had previously surveyed the property. He learned that Rick Bell had the records and printed a copy of the survey for him since it had never been recorded. Mr. Dindo advised he has discussed the proposal as well as costs of the survey work with Mr. Bell.

The Board indicated that a formal vote was not necessary in this matter. Mr. Dindo was encouraged to meet with Zoning Administrator Badowski to review the requirements and then return to the Board with a completed application and supporting documentation.

3. Review and approval of the Minutes.

The Chair called for approval of the Minutes of the November 7, 2017 meeting. With respect to Jim Bond, 17-072, the record was corrected to show that three parking spaces (not four) were eliminated in the front.

Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to approve the Minutes of the November 7, 2017 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 7:52 P.M. and out at 7:55 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, December 19, 2017.**

8. There being no further business, the meeting was adjourned at 7:56 P.M.

Respectfully submitted,

Carla Preston
Recording Secretary
Town of Berlin