

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

**UNAPPROVED MINUTES**  
**Meeting of TUESDAY, October 3, 2017**

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

Members present: Robert J. Wernecke, Chair; Karla Nussli, 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 and Mr. Andrea Gallitano

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. 17-072 – 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 Bond was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-072, received on 08/24/2017; **Exhibit #2:** Survey of Land for Bond Living Trust, prepared by Robert Townsend with American Survey Company, dated 11/22/2016; **Exhibit #3:** Aerial Map showing parcel location, roads, and surrounding properties; **Exhibit #4:** Elevation Certificate and Site Plan, prepared by Robert Townsend, LS; **Exhibit #5:** Statement and data from the Berlin Water Company re allocation of 500 gallons per day, dated 07/05/2017; **Exhibit #6:** Narrative addressing Site Plan Review criteria; **Exhibit #7:** Letter from Vermont Agency of Transportation, District 7, re Permit to work within State of Vermont R.O.W. @ L.S. 0067+74RT on US 302 in the Town of Berlin, dated 09/07/2017; and **Exhibit #8:** Copy of previous VTrans Permit #38221 regarding access to the site which was on file with the Town, dated 09/05/2013.

Overview:

Jim Bond indicated that the property is located next to *Dunkin Donuts* on U.S. Route 302. A mobile home is currently on the site which was being used as residence but is now vacant. Since the area is zoned Highway Commercial, he feels the best use of the property would be for commercial purposes. He proposes to remove the mobile home and obtain permitting for a commercial office building or other permitted commercial use.

Mr. Bond advised he is not planning on constructing the building himself but would like to market the property as a commercial building site. Based on the size and shape of the lot, he proposes a 26 foot by 70 foot building, 1,820 square feet. There is municipal/public water supply available as well as the ability to connect to the municipal sewer line which was recently replaced. There are 20 parking spaces shown on the plans. He advised that his most recent approval from the Vermont Agency of Transportation (VTRans) approved access at 24 feet wide which was previously 40 feet

wide when utilized for mobile home sales. He noted that the new owner of the property would be responsible for signage and other issues that may be required based on the commercial use.

Zoning Administrator Badowski advised that this is an existing non-conforming lot due to its size at 0.4 of an acre (17,424 square feet). The minimum lot size for this district is 25,000 square feet. He indicated that the State of Vermont has an extended Right-of-Way through the site. He noted that office building is a permitted use in this district.

The Board asked Mr. Bond to address the Site Plan Review criteria and noted that he had also addressed it in writing.

**a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** Mr. Bond advised that access off U.S. Route 302 was 40 feet wide when used for mobile home sales. He received approval from VTrans reducing the access to 24 feet wide when the property was used as a residence.

The Board asked for further clarification regarding the width of the access because the documents provided did not state it was now 24 feet wide.

Mr. Bond referred to the letter dated September 7<sup>th</sup> from VTrans which confirmed he was in compliance based on their final inspection. He testified that this approval (Letter of Intent) was based on a 24-foot wide access and his having met other special conditions. Mr. Bond feels that sight distance is sufficient in both directions. He noted that some businesses or uses would have higher traffic volume, such as retail, however an office building would be much less.

In response to questions about criteria considered by the state, Chairman Wernecke explained that VTrans considers all aspects regarding traffic including volume based on proposed use, circulation, need for turning lanes, and so forth.

Mr. Badowski provided copies of the previous permit from VTrans that was issued in September of 2013 showing the width of the access at 40 feet wide. VTrans issued Mr. Bond a new permit at 24 feet wide for small business commercial use. He reiterated that the September 7<sup>th</sup> letter from VTrans was issued based on its final inspection of what was built in the Spring at 24 feet wide. The area was all blacktop but now has a green strip; the State's right-of-way is now lawn.

Mr. Bond added that the width of the access was changed to 24 feet wide when the site was dug up to replace the sewer lines. Reducing the width of the access from 40 feet to 24 feet was discussed with VTrans at that time and the final inspection was conducted with access at 24 feet wide and approved by VTrans.

**b. Adequacy of circulation, parking, and loading facilities.** Mr. Bond advised that he proposes 20 parking spaces as shown on the plans. He noted that there are provisions for pedestrian traffic on the other side of U.S. Route 302. He agreed to adding a bicycle rack.

The Board asked for clarification on the size of the building, one story or two (1,820 or 3,640 square feet). The application indicated a proposed two-story structure, but Mr. Bond mentioned only one story. The size of the proposed building determines parking requirements thus it must be clarified.

Mr. Badowski reported that the application fees paid pertained to a single-story building. The total square footage indicated on the application referenced a single-story structure.

Mr. Bond confirmed that he is applying for a single-story building, 1,820 square feet. He does not plan to construct the building; only obtain permitting for a developer. He feels that having 20 possible parking spaces would make it more marketable.

The Board raised concerns about traffic circulation on site, particularly based on proposed parking. There was no striping shown for pedestrian access from the parking area to the building. There did not appear to be sufficient space for a vehicle to back out of a parking space and turn around regarding the three proposed parking spaces along the road. Questions about the size of some proposed parking spaces were also raised.

To address those concerns, Mr. Bond advised that there would be a sidewalk at the entrance of the building on the end. He agreed that the three parking spaces shown in front should be eliminated to allow sufficient space. Based on the discussion that ensued, Mr. Bond further clarified that the two parking spaces only 10 feet deep would be designated for compact cars only. There would be two handicap parking spaces along the building.

The Board informed the Applicant that revised plans must be submitted showing the reduction in parking spaces from 20 to 17 and that special parking spaces must be labeled as such on the plans (i.e., handicap and compact cars only).

Mr. Bond added that he spoke with Robert White in the State's Right-of-Way division about the State's Right-of-Way through his property. During this conversation, he learned that the Right-of-Way is public property and may be used by others and himself. Mr. Bond advised he was not interested in purchasing the right-of-way at the suggested price. The proposed structure would not be within the State's Right-of-Way.

A loading and delivery area is designated next to the building. Refuse storage and disposal as well as snow removal would be at the northern end of the lot.

- c. *Bicycle and Pedestrian Access.*** Mr. Bond advised that he would coordinate a pedestrian walkway with abutter Dunkin Donuts if recommended by the Board. He agreed that by eliminating the parking spaces in the front along the road, pedestrian access was improved. Mr. Bond will install a bicycle rack, six spaces, which would be located in or near the greenspace.
- d. *Adequacy of landscaping.*** Mr. Bond pointed out the greenspace areas shown on the map. He proposes to add low shrubs between the parking area and U.S. Route 302 such that they would not interfere with sight distance. The shrubs would be located within the greenspace along the State's Right-of-Way. The existing tree line in the back will remain. There is an existing row of cedars about six feet high and eight to ten feet apart.

The Board noted that the Applicant's revised map should show the updated landscaping. In addition, Mr. Bond's narrative is a bit unclear as to what trees or shrubs are existing and proposed and should be clarified.

- e. *Hours of Operation.*** Mr. Bond did not specify hours of operation noting the need for flexibility for the business operating at this site. Based on the discussion, Mr. Bond suggested 7:00 AM to 9:00 PM which is consistent with most businesses in that district.

**f. *Setbacks.*** Mr. Bond advised that the setbacks are met for the district and shown on the map.

**g. *Adequacy of Exterior lighting.*** Mr. Bond did not specify proposed exterior lighting but indicated that it would be sufficient to illuminate the parking area and around the building. There are pole lights located across the street.

The Board explained that site plans for proposed building designs and parking must include exterior lighting. It is not practical to impose conditions for such.

Based on the discussion that ensued, Mr. Bond proposed three pole lights in the parking area and one light on the building.

The Board asked the Applicant to submit a proposed lighting plan with specifics that included, height of poles, proposed location of the pole lights, type of illumination, and cut sheets detailing the fixtures.

**h. *Stormwater and Drainage.*** Mr. Bond explained the current drainage path. He advised that the area in question is very small and is proposing crushed aggregate, not pavement. Drainage from his parking area sheet flows toward U.S. Route 302 across the existing greenspace and proposed new greenspace and toward Dunkin Donuts' property. There is greenspace between the parking area and the State's Right-of-Way. He clarified that the greenspace is on the State's Right-of-Way, not on his property. There is a swale or ditch between his property and Dunkin Donuts' property. Mr. Bond advised there is also a catch basin there which discharges to the culvert by the railroad tracks.

The group discussed the area in front along the road where the three parking spaces were eliminated. The Board indicated that it would be best to turn that area into greenspace versus extending the impervious area. It would also provide space to add the proposed low-level shrubs.

**i. *Utilization of renewable energy resources.*** The Applicant's proposal does not interfere with neighbors use of energy resources.

**j. *Municipal Services Impact Evaluation.*** Mr. Bond advised that letters were sent to the Berlin Volunteer Fire and Police Departments for comment.

Mr. Badowski advised that he discussed the matter with the Chief of Police who expressed no concerns. He noted he has not heard from the Berlin Volunteer Fire Department. The Applicant has received approval from VTrans as noted above.

**k. *Flood Hazard Review.*** Mr. Bond advised that the property is not located within a flood hazard area and referred to the Elevation Certificate provided by his PE/LS, Rob Townsend.

The Board reiterated that updated plans were needed that show the reduction in parking spaces by the three in front, identify special parking spaces, landscaping, and a submittal of a lighting plan showing light poles and cut sheets on fixtures. The written text must be corrected to agree with the Applicant's testimony with respect to the size of the proposed building (one or two story), landscaping, and hours of operation.

Mr. Bond advised that from the end of the parking area to the north is greenspace and more greenspace was created by eliminating the three parking spaces. He confirmed he is proposing a single-story building at 1,820 square feet. He prefers to keep parking at 17 spaces regardless of what's needed based on the size of the proposed building so it is more attractive to a potential buyer. He understood that the application would be continued and advised he was fine with the November 7<sup>th</sup> date.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to recess the hearing with respect to Application 17-072 to November 7, 2017. The question was called and the motion passed unanimously.

**B. 17-079 – Andrea & Amanda Gallitano and Vince & Jill Conti** submitted an application for a waiver from property setbacks associated with a conditional use review. The waiver request seeks relief from the front yard setback as described in section 5.08. The property is located at 649 Brookfield Road, Berlin, Vermont, in the Rural Residential (R-40) District; Parcel ID: 43-035. Mr. Andrea Gallitano was sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application for Zoning Permit, 17-079, received on 09/14/2017; **Exhibit #2:** Sketches of the existing and proposed structure noting setbacks; **Exhibit #3:** Copies of Thomas & Susana Williams, prior owners' application and permits to construct the house, dated 02/08/2016; **Exhibit #4:** Portion of Survey re Land of Williams showing 155.2 acres parcel, and locations for two dwellings; **Exhibit #5:** Plot Map; **Exhibit #6:** House with Porches design including elevation and floor plan, prepared by Allen Lumber Co., dated 08/05/2016 with several revisions up to 10/11/2016; **Exhibit #7:** Applicant's written statement addressing Conditional Use Review Criteria, dated 09/21/2017; and **Exhibit #8:** Letter from Applicant describing the project, dated 09/19/2017.

Andrea Gallitano advised he is seeking a waiver of the front yard setback for a front porch that would be attached to his house. He advised the setback requirement is 50 feet. On one end he needs a two-foot waiver and the other end of the porch he needs a seven-foot waiver. He advised that the house is closer to the road than anticipated and noted that they are crunched for space. The area is residential and there is not a lot of traffic, particularly because he is on the Class III portion of the road. He measured the front yard setback from the edge of traveled portion of the road which measured 52 feet. He noted that construction of the house is ongoing and he hopes to prepare for the porch as well. Mr. Gallitano advised he is within the waiver portion allowed.

Mr. Gallitano confirmed that this is a single-family dwelling on an existing lot. He presented photographs showing a great deal of ledge found. He advised the lot is very large but the only practical spot for a house based on the amount of ledge. He is asking for less than 50 percent of the required setback. He described the footprint of the proposed front porch to be eight feet wide by 45 feet long. The porch structure will extend a foot beyond the footprint. He has done his best to minimize the encroachment and needs two feet on one end and seven feet on the other end.

Zoning Administrator noted that waivers require conditional use review. The Applicant addressed the criteria in writing. He confirmed that abutters were notified.

**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. This is a residence.

- b. Adequacy of circulation, parking, and loading facilities.** This criterion does not apply to residential uses.
- c. Bicycle and Pedestrian Access.** Not applicable for a residence.
- d. Adequacy of landscaping.** The addition of the porch changes the location of shrubs, plantings, grass and ground cover.
- e. Hours of Operation.** Not applicable for a residence.
- f. Setbacks.** The application for waiver addresses the issue concerning setbacks. The 50-foot front yard setback would not be met requiring up to a seven foot waiver.
- g. Adequacy of Exterior lighting.** There will be can lights in the porch ceiling. Otherwise not applicable for a residence.
- h. Stormwater and Drainage.** Not applicable for a residence.
- b. Utilization of renewable energy resources.** Not applicable for a residence.
- j. Municipal Services Impact Evaluation.** There would be no impact on municipal services as a result of this application. Not applicable for a residence.
- k. Flood Hazard Review.** The property is not located within a flood hazard area.
- l. The Character of the area affected; neighboring uses.** Area uses are also residential. The home is located on a residential dead-end dirt road. The front porch will enhance the essential character of the neighborhood.
- m. Bylaws then in effect.** No impact.

Based on documents presented and testimony heard, Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to close the hearing with respect to Application 17-079. 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 September 19, 2017 meeting.

Mr. Fitzhugh made a motion, seconded by Mr. Friedrich, to approve the Minutes of the September 19, 2017 meeting as written. The question was called and the motion passed unanimously.

4. Public Comment

Persons present participated in the meeting as noted above.

5. Other Business

The Board reviewed the information announcing the Fall Planning and Zoning Forum to be held on November 1, 2017. Members will review the topics and attend if schedules permit.

Chair Wernecke also mentioned that newsletters from the Vermont League of Cities and Towns was a good resource with interesting information. All DRB members should be on the mailing list.

6. Status of Findings.

The Board voted to go into deliberative session at 8:38 P.M. and out at 8:44 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, October 17, 2017.**

8. There being no further business, the meeting was adjourned at 8:45 P.M.

Respectfully submitted,

Carla Preston  
Recording Secretary  
Town of Berlin