

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

**APPROVED MINUTES**  
**Meeting of TUESDAY, September 15, 2015**

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

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

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

Others present: Kristen Martin, Valerie McClure, Jane Benoit, Christopher Lukonis, MD, Deborah A. Hopkins, and Brad Lawson.

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. Valerie McClure, an abutter to the Montessori School of Central Vermont, requested and was granted party status.

2. New business

**A. 15-082 – Montessori School of Central Vermont Inc.** submitted an application to enclose an existing entryway which would alter a nonconforming structure requiring Site Plan and Conditional Use Review. The property is located at 3C Karl Circle, Berlin, Vermont, in the Highway Commercial (HC) District, Parcel ID US002-009. Kristen Martin with the Montessori School of Central Vermont and abutter Valerie McClure were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-082, dated 08/21/2015; **Exhibit #2:** Sketch of entryway showing proposed enclosure; **Exhibit #3:** Photographs of existing entryway; **Exhibit #4:** Aerial views of site showing access, existing structures, etc.; **Exhibit #5:** Letter dated 08/20/2015 from Steve Ribolini with Blueberry Associates, property owner, authorizing the Applicant to pursue the permit for the proposed construction to the entryway; **Exhibit #6:** Applicant's written responses to the site plan and conditional use review criteria; **Exhibit #7:** Letter dated 08/24/2015 from the State of Vermont, Policy, Planning & Intermodal Development Division advising that a Section 1111 permit is required for the proposed application; and **Exhibit #8:** Letter dated 09/04/2015 from the State of Vermont, Policy, Planning & Intermodal Development Division advising that the application was reviewed and found to meet the requirements for work within the highway right-of-way.

Kristen Martin advised that the Montessori School is opening a toddler program for seven young children. They want to enclose the existing entryway leading to the classroom for added warmth. The enclosure would help prevent cold air from coming into the classroom when the door is opened in the winter months. She explained that they want to extend the walls in the area where the two half walls currently exist. The boardwalk itself will not be enclosed.

Zoning Administrator Badowski advised that it is a nonconforming structure because the front yard setback does not meet the 50 foot requirement. The proposed enclosure does not increase the non-conformance because they are utilizing existing space. He advised that the property owner, Steve Ribolini with Blueberry Associates, authorized the Montessori School to apply for and renovate the structure.

Valerie McClure advised she is an abutter to the school and has two concerns about the property but was not sure whether the proposed project would impact her property. She will address them under the relevant criteria.

The Applicant addressed Site Plan/Conditional Use Review Criteria.

**a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** The Applicant advised that there would be no change in access to the property and no impact on the safety of vehicular or pedestrian circulation.

Ms. McClure advised that she had called the property owner multiple times about the shrubs (Sumac) located in the front because it was nearly impossible to see safely coming out of that driveway. She pointed out her driveway and the location of the trees/shrubs on the plans and noted that between the curve on U.S. Route 2 and the trees her view is blocked in that direction. She advised that she had also called the Vermont Agency of Transportation (VTrans) to check the sight distance which resulted in the trees being cut back once. She advised she cannot see oncoming traffic, especially from the edge of the woods. She believed that people dropping off children at the school would also not be able to see to the north toward East Montpelier.

The Board asked if the trees were within the State's Right of Way or on Mr. Ribolini's property. The speed limit has been reduced to 40 miles per hour in that area.

Ms. McClure advised that her home is the only house between Classic Auto and the Montessori School. She believes that the trees are actually on the Ribolini property. She advised that toward the right from the second driveway she can see to the curve by Classic Auto. From the other direction she can see the porch that the Montessori School is talking about remodeling. She advised that the road is not as straight as it appears. She also expressed concerns about snow plowing.

Ms. Martin advised that since they do not own the property there is not much they can do. She admitted that the shrubs are an issue for them as well. They use the other main driveway as an entrance.

**b. Adequacy of circulation, parking, and loading facilities.** The Applicant advised that no change is anticipated from current conditions. There would only be an increase of two vehicles per day since five of the seven children are siblings. All vehicles will use the main entrance and parking area on the other side. She explained that the teachers come out to get the children, parents do not park. Parents for the toddler program will park briefly in another area and bring their children into the classroom via the boardwalk. There would be no increase in staff. Ms. Martin indicated that parking has only been an issue during their events which are held about twice a year however their neighbors have been kind enough to allow parking on their properties. The property was previously used as a business, hair salon, which created more traffic. She advised that the start time is about the same for the school and toddler program (involving around 36 people) which is why the different drop off points.

**c. Bicycle and Pedestrian Access.** The Applicant advised that no change in bicycle or pedestrian access is anticipated with this project.

- d. Adequacy of landscaping.** The Applicant advised that there would be no change in landscaping as a result of this project.
- e. Hours of Operation.** The hours of operation would not change.
- f. Setbacks.** The Applicant advised that the existing structure is non-conforming because it does not meet the required 50 foot front yard setback for the Highway Commercial District. The front yard setback is 10 feet which was measured from the edge of the traveled way. The proposed project does not impact the front yard setback. They hope to enclose a portion of an existing structure as a buffer for cold air. Ms. Martin confirmed that the area to be enclosed would not be used for educational purposes. The children would not be closer to the road. Ms. Martin advised that the proposed project does not increase the degree of noncompliance.

The Board noted it appeared that both the State of Vermont and Mr. Ribolini own areas of property where the trees/shrubs are located.

- g. Adequacy of Exterior lighting.** The Applicant advised that there would be no change in exterior lighting. The existing light will remain. Ms. Martin noted that the young children would not be there at night.
- h. Stormwater and Drainage.** The Applicant advised that there would be no change in stormwater and drainage as a result of this project.

Ms. McClure advised that for 20 years runoff from the neighboring property floods the area where her septic system is located which prevents her from being able to use her washing machine or shower. She was told that they would need an engineered plan to correct the problem. She noted that there is very little land there. She is concerned about adding more structures, etc. on that property that would make runoff worse. She mentioned dirt being piled there at one time which was just flattened out and did not improve the runoff situation. She noted that snow is plowed into piles which melts and runs onto their property. After hearing the proposed project she understands that this project has no impact on the landscape, only the building but is concerned about the runoff and drainage problems that currently exist and are not being addressed.

- i. Utilization of renewable energy resources.** The Applicant advised that there would be no change in this criterion.
- j. Municipal Services Impact Evaluation.** The Applicant advised that letters were sent out to the Berlin Police, Volunteer Fire and Vermont Agency of Transportation describing the project and requesting an impact statement.

Mr. Badowski reported that the Berlin Police and Volunteer Fire Departments had no concerns about the proposed project. He also advised that the State of Vermont had issued a Letter of Intent. He explained that it appeared that the property owner had requested approval for access from the State highway in 1984 but the conditions for approval were never completed. The property owner applied for permission to work within the State's right-of-way and just received a LOI from VTTrans which reiterates what was planned then. Among other things, the State requires the driveway near Ms. McClure's home to be narrowed to 20 feet with an apron and to be paved.

Ms. McClure reiterated that the area drains toward her home and causes flooding. She advised that she had expressed her concerns about the fill brought in and dumped there which was supposed to be removed but was made into a driveway.

- k. Flood Hazard Review.** The Applicant advised that the property is outside of the flood hazard area.
- l. Character of the area affected; neighboring uses.** The Applicant advised that there is no change in use, thus would have no impact on the area or neighboring uses. The property has been used as school since 2006.
- m. Bylaws then in effect.** Not applicable.

There being no further comments, Ms. Nussl made a motion, seconded by Mr. LaGue, to close the hearing with respect to Application 15-082. The Board noted that according to the Letter Of Intent from VTTrans the State would focus on that area so it might be a good opportunity to speak with them to see if something could be done concerning sight distance and stormwater runoff. Mr. Badowski agreed to meet with Ms. McClure to see what could be done about the concerns she raised. The question was called and the motion passed unanimously.

**B. 15-084 – Charles Parker and Ann Parker (Black Ink Property Management LLC)** submitted an application for change of use from office building to medical services (BAART Behavioral Health) requiring Site Plan and Conditional Use review. The property is located at 617 Comstock Road, Berlin, Vermont, in the Light Industrial (LN) District, Parcel ID 14-006.100. Christopher Lukonis, MD with Central Vermont Addiction Medicine (CVAM), Deborah A. Hopkins with Central Vermont Substance Abuse Services, Jane Benoit with the property management company, and Brad Lawson with Lajeunesse Construction Inc. were sworn in to give testimony on this matter.

The following documents were submitted and admitted as exhibits: **Exhibit #1:** Application For Zoning Permit, 15-084, dated 08/27/2015; **Exhibit #2:** Existing Plan showing 3 options, prepared by Lajeunesse construction Inc. dated 06/05/2015; **Exhibit #3:** Proposed Floor Plans prepared by Harvey Hacker Architects, San Francisco, CA, dated 06/26/2015; **Exhibit #4:** Site Drainage Plan, dated October 2009; and **Exhibit #5:** Letter dated 08/31/2015 from Lajeunesse Construction Inc. describing the project and addressing site plan and conditional use review criteria.

Attendees introduced themselves and explained their role. Dr. Christopher Lukonis advised he is a psychiatrist with Central Vermont Addiction Medicine (CVAM). Deborah A. Hopkins advised she is with the Central Vermont Substance Abuse Services. Jane Benoit advised she works for Black Ink Property Management LLC, and Brad Lawson is with Lajeunesse Construction Inc.

Henry LaGue disclosed that he had previous involvement with this organization when they were looking at property he owned and would recuse himself if they wished. No one expressed any objections to Mr. LaGue serving on the hearing panel.

Paul Irons advised that he was on the committee that started the program and would also recuse if anyone objected. No one objected to Mr. Irons serving on the hearing panel.

The Board noted that there was no statement specifically authorizing others to speak on behalf of the property owners. It was noted that the Parkers did both sign the application. A letter of authorization will be submitted to the town for the file.

Dr. Lukonis advised that BAART Behavioral Health has outgrown its current space and needs a much larger space. He estimated that the current space being occupied is about 3000 square feet. The area to be renovated is 5,000 square feet.

Jane Benoit advised that the renovations would be on the inside of the building, not the outside. The space was formerly occupied by the UVM extension service. She also identified the other tenants currently occupying space there.

Mr. Badowski noted that the proposal is for a change of use from office building to medical services which is neither permitted nor conditional in this district. The property is located on Comstock Road in the Light Industrial District.

Dr. Lukonis advised that BAART Behavioral Health works to treat opiate dependants using methadone, suboxone, counseling and so on. They have an average of 450 patients with many counselors. He indicated that the services must be convenient and private for patients to obtain their medications.

The applicants addressed Site Plan/Conditional Use Review Criteria.

- a. Safety of vehicular and pedestrian circulation on site and any adverse impacts on the adjacent street network.** The Applicants advised that the only change to the existing traffic flow is that it will include a bus with a designated pull off area. It is a smaller public bus which is serving the organization at its current location. They have not specifically identified the bus route but are in the process of working out the details. The traffic flow consists of one entrance and one exit and the bus will drop off and loop around. There is a designated walkway from the parking lot to the main entrance to the building which will be utilized by BAART employees.
- b. Adequacy of circulation, parking, and loading facilities.** The Applicants advised that there would be plenty of parking which was believed to total 92 spaces available. They noted that the plans may show only 69 spaces but there is additional space available. Based on the square footage of the building 51 spaces is required plus the 14 employees. They noted that there will be a lot of foot traffic as well, some will arrive by bus or other vehicles for around the 250 to 300 clients served per day. The Applicants explained that patients usually arrive between 5:00 AM and 8:00 AM and are usually gone by 11:00 AM. There would be designated parking spaces for clients arriving by carpool or in their own vehicle. They noted that they have never seen the lot full at the current location which has much less parking. Ms. Benoit noted that the USDA may have seven or eight vehicles for the business there at one time.

The Board confirmed that parking is based on square footage plus the number of employees. All businesses at the facility must be taken into consideration when calculating for parking requirements. The Board concluded that the 69 spaces shown is likely close to what would be needed based on the other businesses, company vehicles, and so on.

In response to Mr. Badowski's question whether the site had too much parking based on the state's move to reduce pavement and impervious areas, Ms. Benoit advised that she did not feel that there was too much parking at the site. She advised that the site will be repaved very soon, perhaps later in the week.

The Board noted that at the prior hearing in May of 2015 the Applicants testified that parking was sufficient based on the hours of operation because most patients have come and gone by 8:00 AM. They have much less parking available at their current location. It was also reported that many clients share rides and the bus would also reduce the number of vehicles.

Dr. Lukonis advised that they currently have over 400 patients now but noted that the visits are very short. They have not quite figured out the best travel route for the bus and will discuss it further with Green Mountain Transit Authority. The Applicants confirmed that there will be security in the parking lot as before to supervise the traffic and people.

- c. *Bicycle and Pedestrian Access.*** The Applicants advised that they will install a bicycle rack which would be located close to the entrance by the Gazebo but not shown on the plans. There are sidewalks in place on the site. Patients would enter the building from the central walkway and exit closer to parking area which is also close to the bus stop. They will submit a revised plan showing the bike rack. Ms. Benoit advised that there would be no change in snow plowing which would be placed up against the cedar trees. She added that snow would be hauled away if there is too much.
- d. *Adequacy of landscaping.*** The Applicants advised that they are not proposing any changes in landscaping. There are existing trees and shrubs.

The Board noted that adding more trees along the perimeter could improve aesthetics and make it more environmentally pleasing (i.e., adding rain gardens).

Dr. Lukonis advised that during the winter months there is a lot of wind which is worrisome about trees blowing over onto parked vehicles. Ms. Benoit advised that there are trees on the west side but there is nothing on the east side. Adding snow fence was mentioned to reduce snow and wind.

- e. *Hours of Operation.*** The Applicants advised that the overall hours of operation for their business is from 5:00 AM to 4:00 PM during the week. Most of the patients would be seen not later than 11:00 AM but counseling sessions would occur in the afternoon. On Saturdays, Sundays and holidays, the hours of operation would end by 10:00 AM. The hours of operation may be later for the other tenants.
- f. *Setbacks.*** Mr. Lawson advised that he stated the setbacks on the plans based on town records. If the side yard is 21.56 feet it would make the structure non-conforming. He advised they will verify that measurement.

The Board noted that it would not impact this application since there are no proposed changes to the exterior of the structure. The owner, however, may wish to verify it for consideration of possible solutions such as a boundary adjustment.

- g. *Adequacy of Exterior lighting.*** The Applicants advised that the existing building currently has adequate exterior lighting consisting of pole lighting in the parking area and walkway bollard lighting on timers. There are also wall mounted lights on the building on motion sensors. They believed that the fixtures were downcast and shielded, particularly since it is close to the airport. They will adjust the timers to accommodate for the early 5:00 AM arrival time.

**h. Stormwater and Drainage.** The Applicant advised that they are not proposing any changes or upgrades based on this application. The existing paved parking area is sloped to provide proper drainage and the culvert at the street entrance was recently replaced.

The Board notified the Applicants that there are changes coming in the future regarding existing parking lots that do not have any treatments in place.

**k. Utilization of renewable energy resources.** The Applicants 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.** The Applicants advised that letters were sent to the Berlin Police, Highway and Volunteer Fire departments describing the project and requesting an impact statement.

Mr. Badowski advised that letters have been received from the Berlin Police, Highway and Volunteer Fire Departments all of which indicated no adverse impact based on the proposed project.

**k. Flood Hazard Review.** The Applicant advised the property is not within the flood hazard area.

**l. Character of the area affected; neighboring uses.** The application must be considered under conditional use because of the proposed use. The Applicants were asked to explain why it should be allowed in this district and to identify similar uses in the area.

Dr. Lukonis explained the real need for this service to offer treatment based on the epidemic. He advised that privacy is a big factor and very much needed. Ms. Hopkins advised that they have already demonstrated management of the medical service in the area from its current location. It is the same general use as many other medical offices, the hospital and so forth. Another tenant in the building is Easter Seals with counselors as well. They believe they are consistent with other neighboring uses and noted that the other tenants had no objections.

The Applicants advised that they are not proposing any signage with this application. Dr. Lukonis noted that BAART is anti-sign but they might do some sort of simple sign in the future. There would be no signage on the building but they would have signs on the doorways in the building as they do now. They will submit an application for signage in the future when they are ready.

**m. Bylaws then in effect.** Not applicable.

There being no further testimony, Mr. Fitzhugh made a motion, seconded by Ms. Nuisl, to close the hearing with respect to Application 15-084. The question was called and the motion passed unanimously.

### 3. Review and approval of the Minutes.

The Chairman called for approval of the Minutes of the September 1, 2015 meeting.

Ms. Nuisl made a motion, seconded by Chair Wernecke, to approve the Minutes of the September 1, 2015 meeting as presented. 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 8:21 P.M. and out at 8:48 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 20, 2015.**

8. There being no further business, the meeting was adjourned at 8:50 P.M.

Respectfully submitted,

*Carla Preston*

Carla Preston  
Recording Secretary  
Town of Berlin