

# BARRE TOWN DEVELOPMENT REVIEW BOARD

## MINUTES FOR FEBRUARY 10, 2021

The Barre Town Development Review Board held their regular meeting and public hearings on **Wednesday, February 10, 2021** beginning at 7:00 p.m. by video and tele conference. There was no physical meeting place for this meeting under Covid-19 legislative authority.

### **MEMBERS ZOOM**

Cedric Sanborn, Jim Fecteau, Mark Reaves, Jon Valsangiacomo, and Chris Neddo  
Alternate: Mike Gilbar

### **MEMBERS ABSENT:**

Angela Valentinetti

### **STAFF PRESENT -ZOOM**

Chris Violette and Cindy Spaulding

### **OTHERS PRESENT:**

Craig Chase (representative for Poulin, Ducharme and Schiller), Richard Schiller, Sharron Russell, Ellen Poulin and Jeff Perkins (dba: East Barre Auto Sales).

### **CALL TO ORDER**

Mr. Reaves called the meeting to order at 7:00 p.m. and swore all participants in for testimony.

### **CHANGES TO THE AGENDA:**

There were no changes to the agenda.

### **APPROVE MINUTES**

January 13, 2021

On motion by Mr. Sanborn, seconded by Mr. Gilbar, the Development Review Board approved the minutes of January 13, 2021 as amended. Vote 6-0-0.

### **NON-AGENDA ITEMS**

Mr. Violette asked to provide an update on Mr. Thygesen under Other.

### **SUBDIVISION REVIEW (Continued from January 13, 2021)**

**APPLICANT:** Ellen Poulin/ 3 lot subdivision  
Preliminary (continued from January 13, 2021)

**Request by Ellen Poulin for preliminary review of a three-lot subdivision located at 136 Nichols Road; Parcel ID: 009/009.00; Zoned medium density residential: P-20000018.**

Consultant: Chase & Chase

Date: February 3, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

This is a preliminary review of a 3-lot subdivision of land (was continued from January 13, 2021) by deferral that proposes to take a 26.62-acre parcel of land and create 3 lots (2 new). The subject lot has road frontage on Nichols Road and Farwell Street, and is located in a medium-density residential zone with a minimum lot size of 2.0 acres and 200' of road frontage. The development in this area is mostly residential along with agricultural, industrial, and the Montessori School is close by. Final approval, which was also continued from last month, is warned on this month's meeting agenda as well.

The proposal calls for the creation of lot 2 & 3. As proposed, Lot 2 will be 18.71 acres (revised) in size and will consist mostly of wooded and undeveloped land. Lot 2 will have over 824' of road frontage along Farwell Street. The proposed parcel will be encumbered by several existing springs with rights belonging to various abutters.

Lot 3 is proposed to be 2.91 acres (revised) in size with open and wooded undeveloped land. Lot 3 will have 580' of road frontage along Nichols Road and 197' along Farwell Street.

Lot 1 will decrease in size to 5 acres and contains the applicant's homestead, a single-family dwelling and detached garage. Lot 1 will retain 604' of road frontage along Nichols Road. Onsite water and sewer serve lot 1.

Last month the plan presented had the property line between proposed lots 2 & 3 going through a metal garage. The result is that this garage would have been located on both parcels which of course does not meet setback. To complicate this further, the garage does not belong to the applicant. The garage is owned by abutter Malcom Hayward and was placed (unpermitted) with permission on the applicant's land.

We learned last month that the applicant has directed (via her attorney) Mr. Hayward to remove the garage. The problem is that the deadline to remove the garage is a few months away and the relationship between the applicant and Mr. Hayward may not be what it once was. There was/is concern that the garage may not be removed which would leave an unfortunate situation of non-compliance and likely make these lots hard to sell.

The DRB asked the applicant and her consultant to look at alternatives. As a result of the discussion last month, a new plan has been submitted that relocates the shared line between proposed lots 2 & 3. The new configuration eliminates the issue with the garage. Any issue related to the garage can now be handled by the applicant and Mr. Hayward, but the subdivision can be approved.

With the relocation of the shared line, the proposed lots change size slightly. Last month lot 2 was proposed to be 19.2 acres, it is now proposed to be 18.71 acres. Lot 3 goes from 2.33 acres to 2.91 acres. Lot 1 is unchanged.

The applicant has not indicated intent with either new parcel, no onsite septic system has been designed at this time, so it is likely to stay undeveloped, at least for now. As a result, this subdivision will be considered deferred, meaning the lots cannot be developed until more detail is provided.

As proposed, all lots conform to both minimum lot size and road frontage standards within the Zoning Bylaw and requirements of the Subdivision Ordinance.

**SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

This is now a relatively simple subdivision by deferral of permit with no new development proposed. All three lots as proposed conform to the minimum standards within both the Zoning Bylaw and Subdivision Ordinance. The one issue regarding the property line and the garage has been resolved.

I recommend preliminary approval be granted for the proposed 3-lot subdivision and that it be moved to a warned public hearing.

**MEETING DISCUSSION:**

Mr. Violette provided an overview of his staff report above.

***On motion by Mr. Fecteau, seconded by Mr. Sanborn, the Development Review Board move the request by Ellen Poulin for a three-lot subdivision located at 136 Nichols Road; Parcel ID: 009/009.00; Zoned medium density residential: P-20000018 to final review. Vote 6-0-0..***

CONDITIONS Yes\_\_ No X

MOTION BY: GILBAR  
SECOND BY: SANBORN

**ROLL CALL:**

Mark Reaves	<u>YES</u>	Jon Valsangiacomo	<u>YES</u>
Jim Fecteau	<u>YES</u>	Chris Neddo	<u>YES</u>
Cedric Sanborn	<u>YES</u>	Angela Valentinetti	<u>ABSENT</u>
Charles Thygesen, Sr.	<u>ABSENT</u>		
* Mike Gilbar	<u>YES</u>		

**APPLICANT:** Pierre Ducharme/ 2 lot subdivision  
Preliminary (continued from January 13, 2021)

**Request by Pierre Ducharme for preliminary review of a two-lot subdivision located on Baptist Street; Parcel ID: 013/002.00; Zoned high density residential: P-20000019.**

Consultant: Chase & Chase

Date: February 4, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

The applicant has requested another continuance, date certain to March 10, 2021.

The applicant asked last month for a continuance to this meeting while they tried to finalize property lines.

This is preliminary review of a 2-lot subdivision of land that proposes to take a 54.9-acre parcel of land and create two lots. The subject lot has approximately 1,500' of road frontage along Baptist Street, in a high-density residential zone with a minimum lot size of 1/3 acre (with municipal water and sewer) and 110' of road frontage. Final approval is also warned on this month's meeting agenda.

The proposal calls for the creation of lot 2 which will be 2.6 acres in size with 140' of road frontage along Baptist Street. The proposed parcel is entirely wooded and undeveloped. No plans are shown for development thus requiring a deferral of development be placed on the lot. Future development will have to come back to the Development Review Board for approval.

There appears to be spring rights located on the proposed new parcel in favor of abutter Newton.

Lot 1 will decrease in size to 52.3 acres and will retain over 1,300' of road frontage along Baptist Street.

As proposed, both lots conform to both minimum lot standards within the Zoning Bylaw and requirements of the Subdivision Ordinance.

**SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

Continue date certain to March 10, 2021.

**MEETING DISCUSSION:**

Mr. Violette reported that Mr. Ducharme has requested the prelim review for his request for a **two-lot** subdivision located on Baptist Street; Parcel ID: 013/002.00; Zoned high density residential: P-20000019 be postponed until the March 10<sup>th</sup> meeting.

***On motion by Mr. Sanborn, seconded by Mr. Gilbar, the Development Review Board moved to continue the preliminary review of a request by Mr. Ducharme for a two-lot subdivision located on Baptist Street; Parcel ID: 013/002.00; Zoned high density residential: P-20000019 be continued to March 10, 2021. Vote 6-0-0.***

CONDITIONS \_\_ No X

MOTION BY: SANBORN  
 SECOND BY: GILBAR

**ROLL CALL:**

Mark Reaves	<u>YES</u>	Jon Valsangiacomo	<u>YES</u>
Jim Fecteau	<u>YES</u>	Chris Neddo	<u>YES</u>
Cedric Sanborn	<u>YES</u>	Angela Valentinetti	<u>ABSENT</u>
Charles Thygesen, Sr.	<u>ABSENT</u>	* Mike Gilbar	<u>YES</u>

**WARNED PUBLIC HEARING (CONTINUED FROM January 13, 2021)**

**APPLICANT: Ellen Poulin/ 3 lot subdivision  
Final warned public hearing (continued from January 13, 2021)**

**Request by Ellen Poulin for final review of a three-lot subdivision located at 136 Nichols Road;  
Parcel ID: 009/009.00; Zoned medium density residential: P-20000018.**

Consultant: Chase & Chase

Date: February 3, 2021

**STAFF REPORT /REVIEW COMMENTS FROM CHRIS VIOLETTE,  
PLANNING OFFICER**

This is a warned public hearing for final review of a 3-lot subdivision of land (was continued from January 13, 2021) by deferral of permit that proposes to take a 26.62-acre parcel of land and create 3 lots (2 new). The subject lot has road frontage on Nichols Road and Farwell Street, and is located in a medium-density residential zone with a minimum lot size of 2.0 acres and 200' of road frontage. The development in this area is mostly residential along with agricultural, industrial, and the Montessori School is close by. Final approval, which was also continued from last month, is warned on this month's meeting agenda as well.

The proposal calls for the creation of lot 2 & 3. As proposed, Lot 2 will be 18.71 acres (revised) in size and will consist mostly of wooded and undeveloped land. Lot 2 will have over 824' of road frontage along Farwell Street. The proposed parcel will be encumbered by several existing springs with rights belonging to various abutters.

Lot 3 is proposed to be 2.91 acres (revised) in size with open and wooded undeveloped land. Lot 3 will have 580' of road frontage along Nichols Road and 197' along Farwell Street.

Lot 1 will decrease in size to 5 acres and contains the applicant's homestead, a single-family dwelling and detached garage. Lot 1 will retain 604' of road frontage along Nichols Road. Onsite water and sewer serve lot 1.

Last month the plan presented had the property line between proposed lots 2 & 3 going through a metal garage. The result is that this garage would have been located on both parcels which of course does not meet setback. To complicate this further, the garage does not belong to the applicant. The garage is owned by abutter Malcom Hayward and was placed (unpermitted) with permission on the applicant's land.

We learned last month that the applicant has directed (via her attorney) Mr. Hayward to remove the garage. The problem is that the deadline to remove the garage is a few months away and the relationship between the applicant and Mr. Hayward may not be what it once was. There was/is concern that the garage may not be removed which would leave an unfortunate situation of non-compliance and likely make these lots hard to sell.

The DRB asked the applicant and her consultant to look at alternatives. As a result of the discussion last month, a new plan has been submitted that relocates the shared line between proposed lots 2 & 3. The new configuration eliminates the issue with the garage. Any issue related to the garage can now be handled by the applicant and Mr. Hayward, but the subdivision can be approved.

With the relocation of the shared line, the proposed lots change size slightly. Last month lot 2 was proposed to be 19.2 acres, it is now proposed to be 18.71 acres. Lot 3 goes from 2.33 acres to 2.91 acres. Lot 1 is unchanged.

The applicant has not indicated intent with either new parcel, no onsite septic system has been designed at this time, so it is likely to stay undeveloped, at least for now. As a result, this subdivision will be considered deferred, meaning the lots cannot be developed until more detail is provided.

As proposed, all lots conform to both minimum lot size and road frontage standards within the Zoning Bylaw and requirements of the Subdivision Ordinance.

**SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

With consideration to the conditions below, I recommend approval of this 3-lot subdivision of land, creating 2 new lots and revising the existing homestead lot of the applicant to 5.0 acres. All 3 lots as proposed conform to the minimum standards within both the Zoning Bylaw and Subdivision Ordinance. The one issue regarding the property line and the garage has been resolved.

When approved I suggest the conditions below:

- 1) This subdivision is approved by deferral meaning that to fully comply with the subdivision ordinance, any proposed development of lot 2 & 3 must come back to the Development Review Board for review and approval.
- 2) One (1) (18" x 24") recording plat must be submitted to the Planning office for filing in the Town of Barre land records in accordance with Barre Town subdivision regulation and state statute within 180-days of approval.
- 3) Three (3) sets (24" x 36") paper copies of the final approved plan must be submitted to the Planning Office within 90-days of approval unless a request to extend is made and approved by staff.
- 4) An electronic copy of the final approved plan provided to the Planning and Zoning Office within 30-days of final approval.
- 5) No changes to the approved plan can be made unless first reviewed by either the Town Planning Officer, or the Town Engineer for a determination of significance. If it is determined that a proposed change is significant, the plan will be required to go back before the Development Review Board for approval of the proposed change.
- 6) Failure to comply with any conditions as stated herein, could lead to nullification of this subdivision.

**MEETING DISCUSSION:**

Mr. Violette pointed out condition 1 (above) is deferred for final approval for development of the additional two lots. Mrs. Poulin was asked if she had anything to add. She stated no.

***On motion by Mr. Sanborn, seconded by Mr. Fecteau, the Development Review Board approved a request by Ellen Poulin for final review of a three-lot subdivision located at 136 Nichols Road; Parcel ID: 009/009.00; Zoned medium density residential: P-20000018, contingent upon conditions 1-6. Vote 6-0-0.***

CONDITIONS Yes X No \_\_\_

MOTION BY: SANBORN  
SECOND BY: FECTEAU

**ROLL CALL:**

Mark Reaves	<u>YES</u>	Jon Valsangiacomo	<u>YES</u>
Jim Fecteau	<u>YES</u>	Chris Neddo	<u>YES</u>
Cedric Sanborn	<u>YES</u>	Angela Valentinetti	<u>ABSENT</u>
Charles Thygesen, Sr.	<u>ABSENT</u>	* Mike Gilbar	<u>YES</u>

**APPLICANT: Pierre Ducharme/ 2 lot subdivision  
Final warned public hearing (continued from January 13, 2021)**

**Request by Pierre Ducharme for final review of a two-lot subdivision located on Baptist Street; Parcel ID: 013/002.00; Zoned high density residential: P-20000019.**

Consultant: Chase & Chase

Date: February 4, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,  
PLANNING OFFICER**

The applicant has requested another continuance, date certain to March 10, 2021.

The applicant asked last month for a continuance to this meeting while they tried to finalize property lines.

This is a warned public hearing for a 2-lot subdivision of land that proposes to take a 54.9-acre parcel of land and create two lots (one new). The subject lot has approximately 1,500' of road frontage along Baptist Street, in a high-density residential zone with a minimum lot size of 1/3 acre (with municipal water and sewer) and 110' of road frontage. Final review assumes preliminary approval was granted earlier on this agenda.

The proposal calls for the creation of lot 2 which will be 2.6 acres in size with 140' of road frontage along Baptist Street. The proposed parcel is entirely wooded and undeveloped. No plans are shown for development thus requiring a deferral of development be placed on the lot. Future development will have to come back to the Development Review Board for approval.

There appears to be spring rights located on the proposed new parcel in favor of abutter Newton.

Lot 1 will decrease in size to 52.3 acres and will retain over 1,300' of road frontage along Baptist Street.

As proposed, both lots conform to both minimum lot standards within the Zoning Bylaw and requirements of the Subdivision Ordinance.

**SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

Continue date certain to March 10, 2021.

**MEETING DISCUSSION:**

***On motion by Mr. Gilbar, seconded by Mr. Sanborn, the Development Review Board moved to continue the final review of a request by Mr. Ducharme for a two-lot subdivision located on Baptist Street; Parcel ID: 013/002.00; Zoned high density residential: P-20000019 be continued to March 10, 2021. Vote 6-0-0.***

CONDITIONS Yes \_\_\_\_\_ No  X

MOTION BY:  GILBAR   
SECOND BY:  SANBORN

**ROLL CALL:**

Mark Reaves	<u> YES </u>	Jon Valsangiacomo	<u> YES </u>
Jim Fecteau	<u> YES </u>	Chris Neddo	<u> YES </u>
Cedric Sanborn	<u> YES </u>	Angela Valentinetti	<u> ABSENT </u>
Charles Thygesen, Sr.	<u> ABSENT </u>	* Mike Gilbar	<u> YES </u>

**Variance**

**APPLICANT: Perkins (dba: East Barre Auto Sales)/ Variance  
(continued from January 13, 2021)**

**Request by Jeffrey Perkins (dba: East Barre Auto Sales) for a 21' variance of Article 2, table 2.2 (dimensional standards) to allow a 4' setback (25' required) for the construction of a commercial storage building attached to existing building located at 864 East Barre Road; Parcel ID: 006/057.00; zoned Highway Commercial; V-20000007.**

Consultant: None

Date: February 4, 2021



**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

This is a warned public hearing (continued from January 13, 2021 meeting) for the purpose of hearing a variance request in accordance with Article 7, section 7.9 of the Barre Town Zoning Bylaw whereas it was determined after the applicant filed a building permit request that the proposed project will not meet the required side setback.

Mr. Perkins came before the DRB on December 9, 2020 and again last month to seek a variance for an addition he has constructed to his existing commercial building located on East Barre Road (US Rt. 302). See below for previous details about this.

Mr. Perkins stated the purpose of building the addition was for extra vehicle storage; an inside area where potential buyers could view vehicles, especially in the winter months. He states that he built the addition to be aesthetically appropriate for the area.

During discussion last month here are some important notes:

- Legal Opinion with town attorney with a suggestion with a waiver offer if a boundary line adjustment could be agreed to.
- Waiver only allows 50% of standard to be waived, in this case it would be 12.5 feet and Mr. Perkins needs 21 feet.
- Abutter Quero is not interested in a boundary line adjustment as owns a car wash business and is concerned it would negatively impact his business and future plans.
- Mr. Perkins mentioned in talking with Mr. Quero, the only option he would have would be potentially purchasing the carwash, even though he did not want to. If this were to happen, then the two properties could be merged making the property line in questions go away.

**Previous discussion included:**

Mr. Gilbar inquired if Mr. Perkins was aware there were zoning ordinances, that required an application and a permit to be issued? Mr. Perkins responded he was not aware of the 25' setback, and he had submitted a permit application, but he did not get a response, he wanted to get the structure up before winter. He felt it was a benefit to all. It is important to note that while Mr. Perkins states he applied for a permit without a response, no permit application was received or issued. Mr. Perkins did not follow-up regarding the permit before beginning construction without one.

Mr. Sanborn asked, if it was a stick-built addition with poured concrete and frost wall? Mr. Perkins answered, yes, he had poured concrete and a 4' frost wall on the east side. He did it the right way, so it looks the same as the other side of the building.

I asked how confident was Mr. Perkins was regarding the 4' setback that he showed on the building permit application? I asked whether there was any chance that the addition may be located on the abutting property? Mr. Perkins replied no. He has looked at the pins, spoke with the abutting property owner and checked it out. I believe there is some question about the accuracy of this and should be investigated further. I have an old survey of the lot as well as a much new one. Determining the location of the property line should not be difficult but I will not rule out the need for a surveyor.

Mr. Fecteau asked, how many display parking spaces would have been lost if the addition would have been built in another location on the property? Mr. Perkins answered, he would have lost twelve display spots for vehicles.

Mr. Fecteau asked how many vehicles are displayed total? Mr. Perkins stated about seventy vehicles. Mr. Fecteau asked, twenty percent of outdoor display vehicle inventory would have been lost if building was place elsewhere? Mr. Perkins confirmed.

Mr. Valsangiacomo expressed his concerns that the building was bult without a permit and that Mr. Perkins did not speak with Mr. Violette. If he (Perkins) had called, he would have been provided information on the setbacks. Mr. Valsangiacomo further stated that variances are given in certain situations. Everyone has to be treated the same no matter a business or homeowner—cannot give special privileges to a business over a homeowner. Mr. Valsangiacomo went on to say it could cause legal ramifications. He provided scenarios of various questions that are posed to an applicant during perspective meeting. He is concerned with the building was built without a permit and coming to the DRB after the fact, as the questions could be asked but not answered with no action. The questions asked and criteria are based on state law.

Ms. Valentinetti has the same concerns as Mr. Valsangiacomo, especially with structure built without a permit. She provided an example of a denied variance request. She is also concerned that Mr. Perkins was aware that a permit was needed. There were potentially other locations on the property for placement of the structure.

The possibility of a boundary line adjustment was discussed. However, there is not much if any room for a boundary line adjustment with abutter Quero that would not negatively impact that property. In fact, I have spoken to Mr. Quero and as suspected he is not interested in doing a boundary line adjustment with Mr. Perkins because of the impact to his property.

The hearing was continued to this month so that I could discuss the matter with Town Attorney, Jim Barlow, which I have done. Mr. Barlow acknowledges and understands the boards concern about whether this application qualifies for a variance. I have included the email from Mr. Barlow.

Mr. Barlow went a little further suggesting maybe a waiver would be a viable option. Waiver is a tool allowed within the Zoning Bylaw for properties that are in existence prior to the current Zoning Bylaw. A waiver is intended to provide “reasonable expansions of existing uses because of limitations on the property due to lot configuration, topography, or structure placement and was in conformance to the Zoning Bylaw in effect at the time”.

The problem with considering a waiver is that only 50% of the dimensional standard can be waived. In this case that means 12.5' is what would be allowed to be waived, 21' is needed. Again, a boundary line adjustment could help with that but does not appear to be a viable option at this time.

**Below for are my original comments that provide a timeline of events:**

On September 21, 2020 I wrote a letter to Mr. Perkins advising him that I had noticed that an addition had been constructed to his existing commercial building at 864 East Barre Road. I pointed out that a permit had not been received for the work and certainly one had not been issued. Mr. Perkins contacted me and said that he had submitted a permit application in July. The Zoning Office had no

record of receiving a permit application from Mr. Perkins. Regardless, I questioned Mr. Perkins as to why he would have begun construction without a permit and even if he had.

Mr. Perkins submitted a permit application shortly after my September 21st letter to construct a 52' x 20' addition to his existing commercial (car sales and repair) business. I sent the application back to him on October 1, 2020 because it was incomplete. The addition sketch and identification of property line setbacks were insufficient for me to make a decision on compliance. Shortly thereafter Mr. Perkins resubmitted his application with an updated sketch and setback showing a right-side property line setback of 4'. A highway commercial zone requires at a minimum a 25' property line setback. This means, the building is 21' out of compliance.

Based on the setback being only 4' from the right-side property line I was forced to deny the permit which I did with my letter dated October 30, 2020. I told Mr. Perkins that at this point he had two options, to appeal my denial or to ask for a variance. That is what brings Mr. Perkins before the DRB this month to seek a variance.

Along with Mr. Perkins variance application in which he answers all the variance criteria in the affirmative, he submitted narrative. His narrative seems to indicate justification for the variance request of 21' being because he operates an existing "long term" business and that the addition doesn't change any of the dynamics of his lot, his building, neighboring businesses or the Town of Barre. He notes that the addition is a significant benefit to his business. None of the actual variance criteria below are answered to justify a variance.

It should also be noted that Mr. Perkins submitted a letter from the impacted abutter Rick Quero, owner of the car wash business next door.

#### **New Comments for February hearing:**

After reopening this hearing last month and discussing a little further with Mr. Perkins, the board went into deliberative session. Before doing so they voted to continue the January 13, 2021 hearing date certain to this meeting. Mr. Perkins still needs to be asked the variance criteria below before the board can render a decision.

Below are the five variance criteria as you all know much be answered in the affirmative and the Development Review Board must agree that the property is impacted by them.

- 1) Are there unique physical circumstances or conditions as to.
  - a. Irregularity, narrowness or shallowness of lot size or shape;
  - b. Exceptional topography or physical conditions peculiar to a particular property;
  - c. Unnecessary hardship due to the above?
- 2) Are there physical circumstances or conditions that prevent conformity to zoning regulations; And, a variance is necessary to enable "reasonable use" of the property?
- 3) Is it true that no unnecessary hardship was created by the applicant?

- 4) Is it true that a variance will not.
- a. alter the essential character of the neighborhood?
  - b. substantially or permanently impair appropriate use or development of adjacent property?
  - c. reduce access to renewable energy sources?
  - d. be detrimental to the public welfare?
- 5) Is it true the variance represents the minimum deviation from regulation and plan to provide relief?

**SUMMARY, RECOMMENDATIONS & CONDITIONS:**

Unfortunately, there are no good options for the board in this case in my opinion. The testimony that we have heard does not support what I suspect will be affirmative answers to the criteria above. Further, if any of the answers are not in the affirmative then there is no choice but to deny. A waiver is not an option without a boundary line adjustment.

I recommend the board deny the request for a 21' variance of side yard setback. Mr. Perkin's best option is to purchase the abutting property and merge it. Anything less than a merger will require that the property come into compliance or enforcement action will have to be initiated.

Typically, the DRB makes motions in the affirmative and if the wish is to deny, the vote would be NO.

**MEETING DISCUSSION:**

Mr. Reaves invited Mr. Chase to sit on the board as an alternate in the absence of Ms. Valentinetti and he is familiar with the variance request. Mr. Chase accepted. Mr. Violette provided an overview of his staff report above.

Mr. Reaves asked the following questions and Mr. Perkins answered them in the affirmative:

Reaves asked:

- 1) Are there unique physical circumstances or conditions as to.
  - a. Irregularity, narrowness or shallowness of lot size or shape;
  - b. Exceptional topography or physical conditions peculiar to a particular property;
  - c. Unnecessary hardship due to the above?

Perkins stated that he did not understand. Mr. Reaves explained that the questions needed to be answered in the affirmative. He then restated question 1 a-c. Mr. Perkins answered, Yes.

- 2) Are there physical circumstances or conditions that prevent conformity to zoning regulations; And, a variance is necessary to enable "reasonable use" of the property?

Perkins answered, Yes.

3) Is it true that no unnecessary hardship was created by the applicant?

Perkins answered, Yes.

4) Is it true that a variance will not.

- a. alter the essential character of the neighborhood?
- b. substantially or permanently impair appropriate use or development of adjacent property?
- c. reduce access to renewable energy sources?
- d. be detrimental to the public welfare?

Perkins answered, Yes.

5) Is it true the variance represents the minimum deviation from regulation and plan to provide relief?

Perkins answered, Yes.

Mr. Reaves asked if anyone from the board had questions. Mr. Valsangiacomo stated for procedural purposed if the motion can be in the negative or made with no second. It was discussed that the motion should not be a negative.

***Mr. Gilbar made a motion to approve the request by Jeffrey Perkins (dba: East Barre Auto Sales) for a 21' variance of Article 2, table 2.2 (dimensional standards) to allow a 4' setback (25' required) for the construction of a commercial storage building attached to existing building located at 864 East Barre Road. The motion FAILED FOR LACK OF A SECOND. Parcel ID: 006/057.00; zoned Highway Commercial; V-20000007.***

Mr. Reaves called for a second on the motion twice. No one second the motion. Motion failed for lack of a second.

**The variance is not approved. The general consensus of the board is that they disagreed that the none of the variance criterion where affirmative and as such a variance is not applicable**

#### **Conditional Use**

**APPLICANT: Russell/Conditional Use**

**Request by Keith and Sharon Russell for Conditional Use approval to set a camper for seasonal residence on property located at 210 Beckley Hill Road owned by Wayne Russell; parcel ID: 008/035.02; zoned high density residential; CUP-21000001.**

Consultant: N/A

Date: January 24, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,**  
**PLANNING OFFICER**

This is a warned public hearing for the purpose of conditional use review in accordance with the Barre Town Zoning Bylaw, article 5, sec. 5.4 whereas the applicant would like to conduct a use that is only allowed by a Development Review Board (DRB) issued Conditional Use Permit. The proposed use is a camper located in a high-density residential zone. Article 4, Section 4.4 identifies placing a camper beyond 14-days as temporary dwelling as being allowed by Conditional Use Permit.

The applicant is proposing set up a camper for seasonal residence on property located at 210 Beckley Hill Road owned by Wayne Russell.

The subject parcel is .92 acres in size with 110' road frontage on Beckley Hill Road. There is currently a single-family dwelling on the property served onsite potable water and municipal sewer. The property is owned by the applicants' brother.

The applicant is proposing to place a camper (30') on a portion of the subject lot behind the existing dwelling, approximately 100' away. The camper and the dwelling will share the access from Beckley Hill Road. The applicant has indicated in writing and on plans that the camper will share utilities: onsite potable water, municipal sewer, and electrical service. How those actually connect is unclear.

Below are the standards used when considering a conditional use request in accordance with our Zoning Bylaw Article 5, Sec. 5.5-

"No permit shall be issued by the Zoning Administrator for any use, structure, or development which requires a Conditional Use Permit in this bylaw until the DRB grants that approval. In considering its action, the DRB shall make findings on the general and specific standards contained herein, hold hearings, and attach conditions as provided for in 24 V.S.A. 117 §4414(3), §4460(4), and §4464.

The DRB shall determine that the proposed use, structure, or development conforms to the following general and specific standards and shall not result in an undue adverse effect on any of the following".

The applicant's narrative addressing the review standards were minimal but given the nature of the request I can adequately provide information that will be helpful in bold.

Conditional use review requires the following criteria to be used to help the DRB decide and apply conditions if necessary.

1. The impact on the capacity of existing or planned community facilities, to include but not limited to:
  - a. Emergency services:

**Little impact, no different than any other single-family dwelling and the Town's emergency services can serve.**

b. Educational facilities:

**Applicant states they do not have children so no anticipated impact.**

c. Water, sewer, or other municipal utility systems:

**Potable water supply is proposed to utilize the drilled well that serves the existing dwelling, no impact to municipal water supply.**

**Sewer is proposed to use the municipal sewer connection currently serving the existing dwelling. Applicant will likely have to obtain sewer allocation for the additional part-time camper use. This will be up to the Town Engineer but could potentially be done in half unit increments. It is also likely that a State of Vermont Wastewater Permit may be required as well.**

d. Recreational facilities: N/a

e. Conservation or other designated natural areas: N/A

f. Solid waste disposal facilities: N/A

2. The character of the area affected as defined by the purpose(s) of the zone within which the project is located, and specifically stated policies and standards of the municipal plan;

**The area affected by the proposed use is heavily residential on various but generally medium sized lots. The proposed use is seasonal residential.**

**The section of zoning being used for this proposed use was added to allow this, but at the same time giving the Town more control, ensuring proper health measures were being adhered to. Camper use as a seasonal or temporary dwelling is not unprecedented and if not done certain measures in place can be a health hazard and nuisance. As such with the applicant following the rules, this proposed use should be in character with the area it affects.**

3. Traffic on roads and highways in the vicinity.

**The proposed location is off Beckley Hill Road which is a Class III paved Town road. The proposed use will not generate any more traffic than an ordinary single-family residential use. The addition of this one dwelling should not negatively impact Beckley Hill Road, surrounding roads, or cause any traffic issues. The existing driveway will be used, no new curb-cuts are being proposed.**

4. Bylaws and ordinances then in effect.

**Article 4, section 4.4 allows the use if a Conditional Use Permit is issued by the DRB.**

5. Utilization of renewable energy resources. N/A

6. Minimum lot size:

**The minimum lot size for high density residential zone is 1/3 acre when both municipal water and sewer is used. The lot size increases to 1.0 acre when onsite water is used instead of municipal as is the case here. The subject parcel, along with several others adjacent parcels, is .92 acres. When these lots were created these lots conformed to the minimum lot size and as such are grandfathered or pre-existing, nonconforming lots. Pre-existing lots are allowed to be developed within current Zoning Bylaw's allowances.**

7. Distance from adjacent or nearby uses;

**The closest adjacent uses are residential and are 100' or further away.**

8. Criteria (as needed) adopted relating to site plan review pursuant to Article 5, Sec. 5.6 of this bylaw; N/A
9. Any other standards and factors (as needed) that the bylaw may require; N/A
10. Off-street parking requirements in accordance with standards outlined in Article 3, Sec. 3.9 of this bylaw;

**Each dwelling unit is required to have sufficient parking for two vehicles. While there may not be a gravel area suitable for four vehicles there is room for four on the property.**

11. Loading/unloading facilities. N/A

#### **SUMMARY OF RECOMMENDATIONS & CONDITIONS:**

The Zoning Bylaw was amended during the 2008 rewrite to include allowing campers to be used for temporary purposes or seasonal dwellings. This was in response to numerous issues over the years where people were using campers as dwellings without sanitary measures in place. The thinking was that if this type of use were allowed by Conditional Use Permit, that the review on a case-by-case basis would be able to ensure the greatest concern, sanitary sewer, was being handled properly.

While the applicant is proposing to use the existing municipal sewer of her brothers, exactly how this is being accomplished should be explained. Water supply can be as simple as a hose from the house supplying the camper.

The Town of Barre requires individual living unit to have stand-alone sewer allocation. While the physical connection can be common, such as an apartment house, each living unit must have at least one sewer unit. A Town sewer permit will have to be obtained and at the discretion of the Town Engineer, given the nature of this use, could possibly be done in ½ unit increments. A full sewer allocation for 300 gallons a day is \$1,500.

In addition to the Town sewer permit, a State of Vermont Wastewater permit is also likely. The applicant will need to contact a State of Vermont Permit Specialist.

In addition, while not specifically required within the Zoning Bylaw, a proper foundation would be helpful to have the camper sit on. This can be as simple as a gravel pad just like would be the case at a campground.



**With consideration to the conditions below, I recommend approval of this request to allow a camper to be used by the applicant for seasonal residential purposes:**

1. This permit is granted to the Keith and Sharon Russell and is nontransferable. If the applicant's camper is sold or intended to be used by somebody other than the applicant, or if the landowner wishes to continue the use after the applicant is no longer using it, another Conditional Use Permit will be required.
2. The camper use approved herein shall not be used between \_\_\_\_ and \_\_\_\_ each year.
3. A Barre Town Sewer Permit will have to be obtained. Consultation with the Town Engineer regarding the number of units should be done prior to the application being filed.
4. A State of Vermont Permit Specialist shall be consulted at 802-505-5367 or email at [pete.kopsco@vermont.gov](mailto:pete.kopsco@vermont.gov)

**MEETING DISCUSSION:**

Mr. Violette provided an overview of this staff report above.

Highlights of discussion:

- Criteria impact question Education
- Foundation or slab requirements: dwelling and mobile home vs camper
- Suggestion for applicant to put the camper on a gravel surface so it is level and solid
- Sewer will be connected from the camper and run under ground to the municipal sewer.
- Need additional sewer allocation, unsure of half unit or whole: TBD Town Engineer
- Waste Water Permit from State of Vermont will be needed.
- Time frame for seasonal occupancy: April 15<sup>th</sup> to Nov 14 each year
- Yearly review of Change of Use as stated in Zoning Bylaws
- Potential consideration of an accessory dwelling

***On motion by Mr. Sanborn, seconded Mr. Gilbar, the Development Review Board approved the request by Keith and Sharon Russell for Conditional Use approval to set a camper for seasonal residence on property located at 210 Beckley Hill Road owned by Wayne Russell; parcel ID: 008/035.02; zoned high density residential; CUP-21000001., subject to the following:***

- 1.) *This permit is granted to the Keith and Sharon Russell and is nontransferable. If the applicant's camper is sold or intended to be used by somebody other than the applicant, or if the landowner wishes to continue the use after the applicant is no longer using it, another Conditional Use Permit will be required.*
- 2) *The camper use approved herein shall only be used between April 15<sup>th</sup> and Nov 15<sup>th</sup> each year.*
- 3) *A Barre Town Sewer Permit will have to be obtained. Consultation with the Town Engineer regarding the number of units should be done prior to the application being filed.*
- 4) *Obtain and provide a State Water/Wastewater permit prior to occupancy.*
- 5) *Camper to be placed on gravel pad or similar.*
- 6) *One-year conditional use permit reviewed annually.*

*Vote 7-0-0*

CONDITIONS Yes X No \_\_\_

MOTION BY: SANBORN  
 SECOND BY: GILBAR

**ROLL CALL:**

Mark Reaves	<u>YES</u>	Jon Valsangiacomo	<u>YES</u>
Jim Fecteau	<u>YES</u>	Chris Neddo	<u>YES</u>
Cedric Sanborn	<u>YES</u>	Angela Valentinetti	<u>ABSENT</u>
Charles Thygesen, Sr.	<u>ABSENT</u>		
* Mike Gilbar	<u>YES</u>	*Craig Chase	<u>YES</u>

**Conceptual Review**

**APPLICANT: Schiller – Conceptual review 3 Lot Subdivision**

**Request by Richard Schiller for conceptual review of a three-lot subdivision located at 50 Silver Circle, Parcel ID: 027/018.00, Zoned high density residential.**

Consultant: Chase & Chase

Date: February 4, 2021

**STAFF REPORT/REVIEW COMMENTS FROM CHRIS VIOLETTE,  
 PLANNING OFFICER**

This is a conceptual review. The applicant or the applicant’s consultant will present their plan.

**MEETING DISCUSSION:**

Mr. Chase recused himself as a DRB member participant to represent Mr. Schiller. Mr. Chase presented Mr. Schiller’s conceptual review of a three-lot subdivision which would consist of two lots on either side of the existing single-family dwelling. Discussion ensued regarding access curb cuts for each lot, it was proposed to have Lots 1 & 3 keep the road frontage and Lot 2 with existing single-family dwelling have a right of way. Due to the location of access is on a sharp corner off Silver Circle, it was suggested to have a common curb-cut and each lot branch off some of it may be in the town’s right- of -way. All three lots are below the grade of the road; Lot 3 will be a challenge as its topography includes a ravine.

Mr. Chase and Mr. Schiller will review the comments and come back at a later date.

**OTHER:**

Mr. Violette announced that Mr. Thygesen has submitted a letter of resignation from the DRB and the Planning Commission. Discussion ensued as Mr. Thygesen has been a member for 40 plus years, it is suggested to proposing to the Selectboard to make Mr. Thygesen an honorary member. The consensus of the Board is to support the honorary member.

Mr. Thygesen will continue to receive the Board’s packet to keep him up to date with activities.

**FOLLOW-UPS**

No follow ups.

**ROUNDTABLE**

No round table discussion

**ADJOURN!**

***On motion by Mr. Gilbar, seconded by Mr. Sanborn, the Development Review Board adjourned at 8:18 p.m. All voted in the affirmative.***

Respectfully submitted,

Cindy Spaulding, Clerk for DRB

\_\_\_\_\_  
Mark Reaves, Chair

\_\_\_\_\_  
Angela Valentinetti

\_\_\_\_\_  
Cedric Sanborn

\_\_\_\_\_  
Jim Fecteau

\_\_\_\_\_  
Jon Valsangiacomo

\_\_\_\_\_  
Chris Neddo

\_\_\_\_\_  
Michael Gilbar (Alternate)