

**TOWN OF WESTFORD  
DEVELOPMENT REVIEW BOARD MINUTES  
Minutes for Monday, August 14, 2017  
Approved on September 11, 2017**

**Board Members Present:** Dennis Angiono, Wayne Brown, William Cleary, Sara DeVico, Lisa Fargo, Jason Hoover and Matt Wamsganz (Chair).

**Board Members Absent:**

**Also Present:** Melissa Manka (Planning Coordinator), Kate Lalley (Zoning Administrator), Paul Gillies, Benjamin Bornstein, Benjamin Putnam and Tom Yager.

The meeting began at 7:15 p.m.

**Public Hearing for Appeal of Administrative Officer Determination– Benjamin Bornstein Property (+/-161 acres off Goodrich Public Trail)**

Benjamin Bornstein and Paul Gillies (attorney) were present.

Matt began by stating there were a few matters or options before the DRB 1) determine whether the appeal was timely and, if so, hear the appeal with regard to the completeness of the zoning application or 2) hear the entire case and determine timeliness and completeness after the hearing.

Ben began by stating the access permit referred to in the Administrative Officer's letter did not exist and, therefore, he could not produce it. He said he has not been afforded due process. Furthermore, he noted that the appeal process and time limitations were not included in the letter sent to him. Therefore, he was unaware of an appeal deadline.

Paul noted that Ben and he have prepared a response to each issue brought up by staff.

Matt asked Paul and Ben if they agreed with the timeline outlined in the staff report.

Paul stated that there weren't any inconsistencies in the timeline presented by staff. He added that he did email staff within the 15 day time period stating he planned to appeal the zoning administrator's letter and feels that should satisfy the 15 day requirement.

Melissa asked who the email was sent to.

Paul said the Zoning Administrator.

Kate confirmed she did not receive an email.

Melissa confirmed she did not receive an email.

Melissa asked Paul to produce the email.

Paul said he did not have the email with him.

Matt stated that the DRB would need evidence that a notice of appeal was indeed sent prior to the 15 days appeal deadline and lacking that the DRB would need to decide whether to hear the appeal or not due to untimeliness. He stated that he believes deadlines are deadlines and should be adhered to. Matt noted that the appeal wasn't only a day or two late but it was a week late and incomplete.

Jason suggested the DRB hear the whole appeal without making a determination on timeliness until entering deliberations. He added that regardless of the DRB's decision the applicant can

reapply for a building permit with Kate. He noted that the DRB has always valued hearing applicants out. Therefore, he would like to hear the applicant's thoughts regarding timeliness as well as the merits of the case and make a decision afterwards.

Ben stated that he hopes to use the property to help and serve special needs children.

Sarah stated that from the timeline provided there is a continual problem with Mr. Bornstein's applications lacking complete information. She added that this is easy to fix with and one merely must contact Kate for assistance and understanding as to what needs to be provided so she may act on a given application.

Ben stated that all necessary paperwork was submitted and the May submission was supplemental to the 120 page February submission.

Melissa stated that the cover letter on the May submission stated the submission was a new zoning application. Therefore, any documents submitted in February were not reviewed or considered when Kate made her incomplete application determination in May.

Wayne asked if the matter was best dealt with at the appeal level when ultimately the applicant needs to work with Kate to resolve the matter. He added that he doesn't feel the DRB should act on the request as the appeal was not timely.

Jason added that the DRB would merely be determining whether the zoning application was complete or not. Regardless of either decision, the applicant would need to return to the Zoning Administrator to acquire a zoning permit.

Dennis stated that he is willing to go along with hearing the appeal but stated following the letter of the law is important to him.

Paul stated that there is a legal precedent with regard NOV's as opposed to notices of appeal which allows an individual to note that they wish to appeal within the given timeframe and submit the application or fee after said legal timeframe. He added that per 414 of the WLUD the Zoning Administrator must include information on how and when to appeal a decision when approved or denied.

Melissa stated that Kate did not approve or deny the application, but rather informed the applicant that the zoning application was incomplete per 412 of the WLUD.

Paul asked to take a 5 minute recess.

Paul and Ben returned and made a request to withdraw the notice of appeal application.

The DRB accepted the withdrawal.

Kate Lalley (Zoning Administrator) stated she did not deny the application as she is not heavy handed. She stated that she was merely trying to get more information. She noted that the documents submitted seem to propose a number of ideas which would in turn have different local and state permitting requirements and ramifications. She added that the questions warranting more information and clarification are 1) the use of the structure and property and 2) will roadway/driveway upgrades be necessary.

Ben stated that he is not proposing upgrades to the public right of way/driveway.

Kate said she would be pleased to work with Ben.

The hearing was opened to the public.

Ben expressed the importance of access and his concern that imposing restrictions on access could undo court ordered stipulations.

Jason MOVED to close the hearing.  
Dennis SECONDED the motion.  
The motion passed: 7 – 0.

**Other Business, Citizens to be Heard & Announcements**

No public comment to be heard.

**Minutes of the August 7, 2017 Meeting**

The DRB will review these minutes at their next meeting.

The meeting adjourned at approximately 8:16 p.m.

Submitted by,  
Melissa Manka, Planning Coordinator