

TOWN OF CALAIS  
DEVELOPMENT REVIEW BOARD

**Re: Dalton Sherman  
2014-23 Application Shoreland District  
Variance Appeal Request  
Lamberton Road Tax ID 05-163.010 now WL0320**

**FINDINGS AND ORDER**

**Introduction:**

Dalton Sherman the "Applicant" submitted an application on September 8, 2014 with the Zoning Administrator for the Town of Calais to develop a lot located at 329 Lamberton Road on the southern shoreline of Woodbury Lake. Mr. Sherman previously submitted an application for development of this lot on October 21, 2010, denied by the Development Review Board ("DRB") without prejudice, allowing the Applicant to submit a new application with accurate and revised documentation. This application was referred to the DRB by the Calais ZA for a variance review permit in the Shoreland District.

Attached to this application was the original wastewater system and potable water supply permit WW-5-5588 dated September 30, 2010 submitted by Kevin McAleer and an amended wastewater system and portable water supply permit WW-5-5588-1 dated October 25, 2012 submitted by Dexter Lefavour with an attached lot map stamped by Vermont Department Environmental Conservation as received 10/18/2012. Also included with the application documents was a copy of the septic design C-1 sheet prepared by Weston & Sampson Engineers, Inc. of Waterbury, Vermont both in letter size and a large size for filing with the town records.

All of these documents reflected the correct lot size of 0.65 Acres combining all four lots the Applicant owns in the Town of Calais on Lamberton Road.

The first hearing was set by the Zoning Administrator on October 9, 2014. Attending the meeting were ZA Renee Carpenter, members of the DRB John McCullough, Jane English, Ruth Porter, Mike Loignon, Steve Duke, Barbara Weedon, Margaret Bowen; Tim Scandale DRB Secretary, Wilson Hughes, Cy Lamberton and John Russell. The Applicant was not present nor was there a representative. Therefore, a brief meeting was held to set a site visit for October 26, 2014 at 9:00 AM and rescheduled meeting for October 30, 2014 at 7:30 PM.

The site visit meeting was held on October 26, 2014 with DRB members present John McCullough, Ruth Porter, Jane English and Margaret Bowen, also Dalton Sherman, Patricia Ludwick, Wilson Hughes and Dexter Lefavour. Property pins were pointed out by the Applicant and Dexter Lefavour; one being located on side of the road near a telephone pole, one on the bank across the road on Russell land boundary (front lawn), one near the Russell stairs leading down to the pond with the lower pin located on the shoreline at the bottom, and back to the site the corner pin located at the inside of the triangle lot between Lamberton and Sherman

boundaries. The house location was staked out as 24 feet x 24 feet. The pond view swath cut on the Applicant's property previously by a neighbor from the house site to the pond appears to be growing in with low brush. There was an indentation of a walking path from the sewer leach field area on the side hill down to the pond in a northerly direction with grown cover 5 feet or less in width. Parking would be driving directly off the access road unto the lot with no turn around.

As some DRB members were unable to make the October 26, 2014 site visit, Margaret Bowen went back to the site with DRB member Mike Loignon on October 27, 2014 and Barbara Weedon on October 28, 2014.

At each site visit the DRB members drove the entire length of the access road to view the structures which are built along the shoreline subdivision showing the character of the neighborhood. It consists of a garage close to the roadway, camps and a few year round homes located down on the lots near the pond, and a few year round homes located at the top of the slopes from the pond close to the roadway. There is a variety of three story, two story, one and one half story and single story structures built over the years in this area.

The road serving all of these lots is a private access road cut through the previous Turner property from Vermont Route 14 to the end lot in this subdivision. All landowners are responsible for the maintenance, plowing and grading of the same.

On October 30, 2014 the rescheduled hearing on application 2014-23 was held at the Town Clerk's Office at 7:30 PM. Attending were DRB members Margaret Bowen, John McCullough, Jane English, Ruth Porter, Barbara Weedon, and Mike Loignon. Nedene Martin served as secretary for the board in Tim Scandale's absence, Wilson Hughes, Cy Lamberton, Dalton Sherman, Patricia Ludwick, Renee Carpenter ZA, Dot Naylor, and Dexter Lefavour.

The DRB informed the Applicant and his engineer Dexter Lefavour that they would be required to secure a permit under the new Vermont Shoreland Protection Act on this project and file a copy with the Town of Calais.

Dexter Lefavour presented that the house size was 24 feet x 24 feet with an entrance from the drive side with steps and a small landing, a full concrete walk out basement on the pond side and no deck anticipated at this time. It was noted that the house staked on site is turned to have one side facing the swath in the trees looking at the pond in the distance.

The Applicant reported he purchased the collection of four lots from Mrs. Turner (former owner of the shoreline lots) in the 1980's. The Applicant indicated Mrs. Turner had subdivided the property and there was a map showing the total lots along this shoreline filed in the Town of Calais records and a copy in the possession of Cy Lamberton an abutting landowner.

Dexter Lefavour clarified the well location which was near the Lamberton property line. Cy Lamberton indicated that he had no problem with the Applicant entering upon his land to allow the drilling equipment, and there are a few trees on his property that could be cut to accomplish the same. The waterline would be dug and buried on the Sherman land from the well to the

house. The Applicant also said there were approximately 5 other trees that were dead and needed to be removed to protect the future house. Although the DRB asked questions with regards to the installation of the water service and sewer system, all required specifications, regulations, location approval and permits are strictly under the Vermont Environmental Conservation Department jurisdiction and issued by the state agency.

The DRB took the application and information provided by the Applicant and Engineer Dexter Lefavour under consideration to see if any additional information would be required. A further clarification was required by the DRB for the Applicant or Engineer to return to the site and install a stake with marking tape at the proposed well site for purposes of location only. This request was done by the Applicant or Engineer and is marked on the site.

There being no further information required the DRB closed the application hearing on December 4, 2014.

**Conclusion:**

The DRB began deliberations on the application filed by the Applicant after the close of the hearing. It was discovered that the Applicant had failed to file for a Conditional Use Review along with the Request for Variance with the Zoning Administrator. All parties were delinquent in not reviewing the application more closely, the Applicant, the Zoning Administrator and the members of the DRB.

An application for development in the shoreland district requires a request for Conditional Use Review by the DRB. Conditional Use approval is required prior to the issuance of zoning permit for development and identified as conditional use in Articles 2, 3, 4; and Sections 3.12, 3.13, 3.14 , 5.3 and review standards in Table 2.4 of the Land Use and Development Regulations for the Town of Calais.

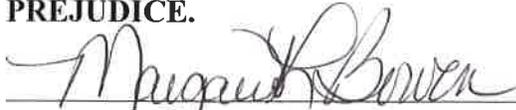
Variance Requests are also required for this project as the shoreland parcel that the Applicant wants to develop cannot meet many of the setbacks required due to the size and shape of lot. The Applicant did file for the Variance Request as required. In reviewing the Variance Request separately and not at the same time with the Conditional Use Review would not provide the Applicant with a complete and final decision on his proposed project.

The Applicant has the right to submit a new application with the requests for both Variance Request and Conditional Use Review in the shoreland district as required by the regulations should he desire to move forward with this project. According to a legal opinion we cannot simply amend or add to the application before the DRB what is missing.

**Order:**

Based upon the foregoing the DRB cannot consider the issuance of a Variance without the Conditional Use Review at this time in Application 2014-23.

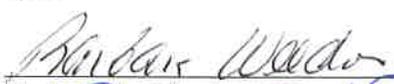
The Development Review Board hereby orders Application 2014-23 is **DENIED WITHOUT PREJUDICE.**

  
Margaret L. Bowen

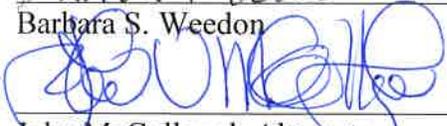
dated 1/8/15

  
Ruth K. Porter

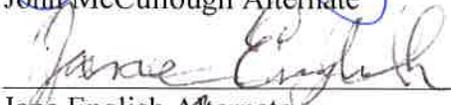
dated 1/13/15

  
Barbara S. Weedon

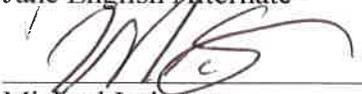
dated 1/13/15

  
John McCullough Alternate

dated 1/12/15

  
Jane English Alternate

dated 1/11/15

  
Michael Loignon

dated 1/9/15

**Notice of Right to Appeal:** In accordance with 24 VSA sections 4471 and 4472, this decision may be appealed within 30 days of the date to the Vermont Environmental Court. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Calais Zoning Administrator and to every interested person who appeared at the DRB hearings. Failure of any interested person to appeal within the specified 30 day period shall result in the interested person being bound by this decision. Thereafter, the interested person shall not contest, either directly or indirectly, the decision of the DRB in any subsequent proceeding, including any enforcement action brought under the provisions of 24 VSA Chapter 117. See also Town of Calais Land Use and Development Regulations, Section 1.7, Appeals.