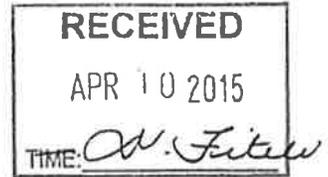


TOWN OF CALAIS
DEVELOPMENT REVIEW BOARD



Re: Permit Application #2014-32
Mohamed Ben Ali / Jennifer Ferguson
273 Franklin Avenue, Apt #1,
Brooklyn, NY 11205

Conditional Use Permit review

Proposed reconstruction of an existing camp at 310 Worcester Road, Calais
(PID # CP0310) in Shoreland District and Flood Hazard Overlay District

FINDINGS AND ORDER

Introduction:

Mohamed Ben Ali submitted an application on November 11, 2014 with the Zoning Administrator for the Town of Calais to reconstruct a deteriorated existing camp on the southern end of Curtis Pond at 310 Worcester Road.

Elements of the proposal were presented by Mr. Ali and his agent, Aaron Fuller. These elements were described as:

- 1) New septic system for which a Waste Water permit (# WW-5-6750, PIN = BR14-0268) was granted by the State of Vermont. A copy of the permit was provided. The proposal is for a water-tight holding tank that is pumped out; there is no disposal field. Location information for this septic system was described in site plan dated 10/25/2014, prepared by Aaron Fuller.
- 2) New frost wall foundation system. A schematic section drawing prepared by builder Sterry Leno was provided showing a 3'-0" crawl space below a wood framed floor system.
- 3) A second story on what is presently a single story structure. On two pages, an exterior elevation sketch, several orthographic sketches and a sketched floor plan prepared by the applicant suggested a proposed design in which a portion of an existing open porch would be developed as part of the reconstructed building's thermal envelope.
- 4) Its use will remain as a "Seasonal Dwelling" (as defined by the *Calais Land Use and Development Regulations*) as it presently is.

It was the DRB's opinion that per Section 5.4, D, 9 of the *Calais Land Use and Development Regulations*, the proposal represented a substantial improvement and is subject to the requirements of Section 5.4 with regard to construction standards in the Calais Flood Hazard Overlay District. Base Flood Elevation (BFE) information would be required to evaluate compliance with Section 5.4. The DRB expressed concern regarding water quality issues related

to the depth of the excavation required for the foundation and the holding tank. As proposed, both excavations are lower than 1001' (mean water level at Curtis pond (DuBois & King)).

At a second meeting, Aaron Fuller presented BFE of 1003.0' for Curtis Pond (as determined by DuBois & King, Inc., engineers, as part of that firm's study of Curtis Pond dam replacement). A revised foundation plan was presented showing a finish floor elevation at 1003.1'. Also presented were copies of sections of The Low Risk Site Handbook for Erosion Prevention and Sediment Control (VT DEC - Water Quality Division) and a site plan (Aaron Fuller, 12/18/2014) showing the scope of silt fencing, specifications relating to filtering water during de-watering of excavations, more specific building footprint information, and BFE info.

Upon review of submitted information the exact footprint of the proposed reconstructed camp was still unclear; several floor plans had been presented. The DRB asked that the applicant provide:

"...a clear and easily readable drawing showing the dimensions of the proposed foundation system and the top of concrete for the slab(s). Also, we ask to have a section through the foundation that clearly shows the intended maximum depth of excavation (use 1001' as pond elevation for datum) and a site plan that shows the horizontal projection of that excavation and any other site disturbances, including cutting and planting of vegetation. Also, we request a dimensioned building plan showing proposed "conditioned spaces", "enclosed porches", "open porches" etc. so that the DRB can understand the enclosed/conditioned space footprint of the proposal, and compare it to the existing enclosed/conditioned space. For example: converting an open porch to a three-season porch or to a conditioned space. (We do not need detailed space planning information within the proposed conditioned space envelope). Please indicate the proposed foundation and floor/deck construction of any proposed porch spaces. "

This information was provided by Aaron Fuller and reviewed by the DRB in deliberative session.

Finding of facts

Section 3.4 Damaged Structures

The existing building is severely deteriorated/ damaged. Per 3.4, it may be rebuilt, but proposed dimensional changes require a Zoning Permit per 3.4(A), 1). Further, the existing building is a noncomplying structure and section 3.4(A), 3) requires compliance with the requirements of 3.8.

Section 3.8 Nonconforming Uses & Noncomplying Structures

Per 3.8, (A), there is no proposed Change of Use
Per 3.8 (B), 4):

A noncomplying structure also may ... be repaired, rebuilt, restored or expanded in accordance with this subsection.... be moved, enlarged, or expanded horizontally or vertically only with approval of the DRB, subject to conditional use review under Section 5.3, and a finding by the DRB that the move, enlargement, or expansion will have no adverse effect on the public health, safety or welfare. The DRB shall only allow the move, enlargement or expansion to increase the degree of noncompliance if it finds that the change better satisfies the purpose of the district.

The DRB finds that the proposal does not increase the degree of noncompliance with respect to horizontal dimensions. That is, there is no increase in area of impervious surfaces and the distance to the water's edge remains as it is currently. While the proposed overall enclosed (conditioned space) is greater than that of the existing structure, the overall impervious surface area of the proposed reconstruction is less than the existing by the reduction in length of the roof eave overhangs and developing an existing porch space as conditioned space.

The overall height of the proposed structure represents an increase from the height of the existing structure, and so represents an increase in the level of noncompliance in a noncomplying structure. Per Section 3.8,(B),4, this increase in level ^{the} ^{of} noncompliance is considered with regard to Required Standards and Discretionary Standards (Sections 5.3, Conditional Use Review, D & E).

Section 5.3 Conditional Use Review

Per 5.3, (A),(B), (C) requirements met

Per 5.3, (D), Required Standards

5.3, (D), 1) there is no impact on municipal services

5.3, (D), 2) the proposal is consistent with the character of the neighborhood/area (shoreland seasonal dwellings).

5.3, (D), 3) there is no impact on traffic

5.3, (D), 4) Consistent with current Calais bylaws regarding existing structures

5.3, (D), 5) no energy impacts

Per 5.3, (E) Discretionary Standards

5.3, (E),1), No adverse health or environmental impacts associated with the proposal.

The DRB acknowledges that the proposed septic design has a positive impact on water quality.

5.3, (E),2), No adverse impacts on Access or vehicle circulation

5.3, (E),3), A description of proposed Landscaping and Screening as requested by the DRB was provided. Per the Site Plan (Fuller, 3/3/2015) two 12" spruces will be removed as well as dead trees at the east side of parcel. All other trees are to remain.

5.3, (E),4), The DRB does not impose any additional buffers.

5.3, (E),5), A description of proposed Storm Water and Erosion Control as requested by the DRB was provided. Per the Site Plan (Fuller, 3/3/2015), the extent of proposed silt fencing has been defined. Previously submitted specifications regarding filtration during dewatering and the reference to The Low Risk Site Handbook for Erosion Prevention and Sediment Control are also accepted by the DRB as part of the overall Storm Water and Erosion Control strategy. Additional Storm Water and Erosion Control measures required by the DRB are included in **DRB Conditions on the Project.**

The DRB finds that the increase in the level of noncompliance due to the increase in the building's height is acceptable per the standards of Section 5.3.

Section 5.4 Flood Hazard Area Review

Section 5.4, (A) The project is not exempt from review

Section 5.4, (B) & (C), BFE (1003.0') as determined by DuBois and King accepted.

Section 5.4, (D), 1) & 2) No risk to public utilities or facilities

Section 5.4, (D), 3) Condition met

Section 5.4, (D), 4) not applicable- proposal is not adjacent to water course or stream flood way.

Parcel is not on state map of Fluvial Erosion Hazard Areas or River Corridors.

Section 5.4, (D), 5) & 6) Water and Septic Permits have been issued by the state

Section 5.4, (D), 7) & 8) Proposed finish floor elevation above BFE. Proposal is for top of slab finish floor aligning with top of frost wall foundation at 1004.0'; there is not floodable crawl space.

Section 5.4, (D), 9), Condition 5.4, (D), 8 met

Section 5.4, (E), Water and Waste Water Permits have been issued by the state. Structure was in legal existence before State Shoreland regulations went into effect, and so is exempt from these regulations.

DRB Conditions on the Project:

In granting Conditional Use, the DRB may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of the Calais Land Use and Development Regulations, and the Calais Town Plan. The members of the DRB have been very concerned with development on the ponds and lakes in the town and each project is considered very carefully in conforming to high protection of the shoreland prior, during and after construction.

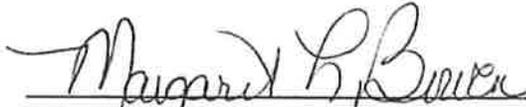
After a complete review of the application, documentation submitted by Applicant or Engineer Aaron Fuller, the land use and development regulations we are required to implement in our review or decision of any proposed project, **the DRB is setting forth herewith conditions on this project which are required to be completed.**

- 1. The DRB is also very concerned with any pollution of the lake waters or any undue erosion into the lake or stream during construction. The applicant will adhere to and put all the required construction erosion controls in place prior to and during excavation for the structure foundation, in ground septic holding tank, and drilled well as required under the storm water management and erosion construction practices outlined in the submission materials. This will require the proper installation of silt fence, hay bale lines, immediate seeding and mulching of areas disturbed and backfilled. Further the DRB requires that the silt fence be backed up on the water side by hay bales anchored to the ground with grape stakes. The Calais Zoning Administrator (ZA) shall visually monitor the construction process with regard to pond water quality and will require all construction to stop and remediation measures taken immediately in the event of mud / silt discharges into the pond. Construction shall not resume until it has been demonstrated to the satisfaction of the ZA that such discharges have been controlled.**
- 2. The Vermont Wastewater System and Potable Water Supply Permit filed with the permit application to the DRB indicates the project shall not deviate from the plans stamped in a manner that would change or affect the exterior water supply or wastewater disposal system, building location or the approved use of the building without prior review and written approval from the Wastewater Management Division. Any changes in the plans stamped and previously approved will also require the applicants to come back before the Calais DRB for additional approval as well prior to making any changes on the site.**
- 3. Under the Vermont Wastewater System and Potable Water Supply Permit the designer Engineer Aaron Fuller will be required to submit to the state certification that the installation of the drilled well is located as shown on the permitted plans and meets or exceeds the isolation distances required in the Water Supply Rule. During the drilling of the well the DRB is requiring that Engineer Fuller make sure that the sludge pit and washout area required in the drilling process does not in any way flow towards the lake or brook area and that the proper erosion control measures are in place to prevent any runoff by the applicant, contractor or sub-contractor.**
- 4. The DRB has a major concern with the location of the proposed well and the plan to get the well drilling unit to the site marked by the Applicant. The DRB is requiring all erosion control measures be installed around the drilling site and along the waterline trench during the work and seeding and mulching of the site be done promptly.**
- 5. The DRB is requiring that a copy of said water and sewer certifications submitted to the State also be filed with the Zoning Administrator for the Town of Calais to be put into the project file.**

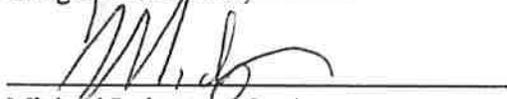
DECISION AND ORDER:

The DRB hereby GRANTS the Conditional Use Permit as required to move forward with this project as follows: the Applicant and Engineer Aaron Fuller shall adhere to and complete ALL CONDITIONS noted and set forth above as #1 through #5 of this document.

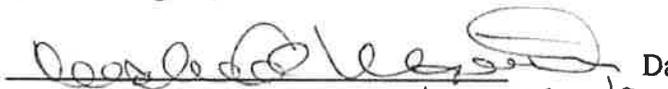
Members of the Calais Development Review Board:


Margaret L. Bowen, Member

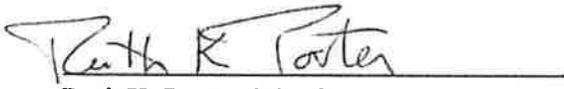
Dated 4/10/15


Michael Loignon, Member

Dated 4/10/15


~~Jane English, Alt Member~~ Nedene Martin

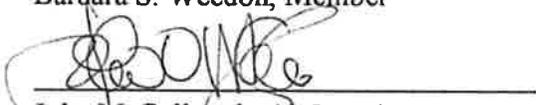
Dated 4/10/15


Ruth K. Porter, Member

Dated 4/10/2015


Barbara S. Weedon, Member

Dated 4-10-15


John McCullough, Alt Member

Dated Apr 10, 2015

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.