

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Jon Anderson, Agent for Robert & Evelyn Greene**

Applicant(s) Mailing Address: **Burak, Anderson & Meloni, PLC, PO Box 787, Burlington VT, 05402-0787**

Owner(s) Mailing Address: **PO Box 243, Wilmington VT, 05363**

Address of the entity to be served: **19 Merrill Drive and 97 East Main Street, Wilmington, VT 05363**

Tax Map #**021-22-051.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-026

Description of Case per Public Notice:

Application # 2012-026; owner: Robert & Evelyn Greene; Agent: Jon Anderson. Application being made for subdivision with right-of-way to allow division of a 22 acre parcel into two lots of 4 acres and 17 acres with an existing Single-Family Dwelling and Shopping Center; Zoning Ordinance Section 10.D.1; location: 19 Merrill Drive and 97 East Main Street.

Notice for a public hearing was published in the Valley News on: **3/30/2012**

Notice was posted in three public places on: **3/30/2012**

A copy of the notice was mailed to the applicant on: **3/30/2012**

A copy of the notice was mailed to the abutters on: **3/30/2012**

The public hearing was held on: **4/16/2012**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Environment Court.

Appeal period for this Case expires on: _____

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator
John Greene, Abutter

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

Application (2 pages)

- A ALTA / ACSM Survey showing lot #2 by Holden Engineering & Surveying for Cross Point Assoc., 02-23-12, (2 pages) revised 4/6/12.
- B Tax Map showing incorrect road frontage
- C Abutters List
- D Zoning Administrator's summary
- E Subdivision Plan Cross Point Assoc. by Holden Engineering & Surveying, 11/23/11.

1. The subject 21-acre (+/-) property is in the Commercial and Residential Districts of the Town of Wilmington. The lot is improved with structures consisting of a shopping plaza (four tenants), parking area and a single-family dwelling with accessory buildings.
2. Applicant wants to subdivide this property creating two parcels of approximately 4 acres and 17 acres respectively. The smaller parcel would contain the shopping plaza and parking area while the larger parcel would contain the single family dwelling.
3. There are two access points to the property from Route 9, a 50 foot right of way to Merrill Drive on the western edge of the subject property and a driveway to the shopping plaza on the eastern edge. The latter access passes over property owned by John and Beth Greene. The western access serves the Greene residence and two other properties. These other properties have existing rights of way that continue past the Greene residence.
4. As noted in the Zoning Administrator's summary (exhibit D) the property has evolved over the years prior to zoning. The driveway to the shopping plaza is incorrectly noted on the Wilmington Tax Map as part of Shaw's, but in fact is part of John and Beth Greene's property.

5. Under the subdivision plan, the Greenses will reserve a 20 foot wide easement that would lead across the newly created four acre parcel to their residence on the west. The 40 foot wide easement over the John/Beth Greene property would be rewritten to include sewer, water, signage and access/egress from the plaza.
6. All buildings on both parcels will meet Wilmington Ordinance setback requirements.
7. Abutter John Greene supports the subdivision of the parcel and the expanded uses of the easement that crosses his property.

II. The Board CONCLUDES:

With regards to the request for a subdivision with right-of-way approval the Board concludes that this proposal **will** conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

Section 6: Permitted Uses and Minimum Requirements of Districts

A. Residential Districts

2. Minimum Requirements in Residential Districts. All residential buildings and structures permitted in the Residential District shall be erected and used in conformity with the following minimum requirements:

Lot Size: A lot used for such building or structure shall be at least one acre in area, except that accessory uses shall also be permitted on such lot.

Frontage: Each lot which abuts upon a public road shall have at least one hundred fifty (150) feet frontage on such public road. No land development may be permitted on lots which do not have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. [Subchapter 7, §4412(3)]

B. Commercial Districts

Lot Size: A lot used for such building or structure shall be at least one acre in area, except that accessory uses shall also be permitted on such lot.

Set Back: A building shall be placed on a lot at least forty (40) feet from the public road limits and forty (40) feet from any other property line.

Frontage: Each lot which abuts upon a public road shall have at least one hundred fifty (150) feet frontage on such public road. No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the *Development Review Board* access to such a

road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. [Subchapter 7, §4412 (3)]

The Board concludes that both parcels will meet the requirements for minimum lot size, setbacks for buildings and for access to parcels without frontage on a public road.

III. CONDITIONS:

This is granted subject to the following restrictions, requirements, limitations or specifications:

1. That a Right-of-Way of at least 20 feet in width, the location of which may be changed from time to time, providing access to Robert & Evelyn Greene's house and remainder lot, a portion of Lot #021-22-051.000, shall be reserved in the deed for the transfer of the 4 (+/-) acre piece, and that a copy of the deed shall be submitted to the Zoning Administrator within 10 days of recording the deed in the Wilmington Land Records.
2. That a Right-of-Way of at least 40 feet in width providing access to the 4 acre portion of Lot #021-22-051.000, over land of John & Beth Greene, Lot #021-22-041.000, shall be provided and recorded in the Wilmington land records at the same time as the deed for the transferring of the 4 acre piece, and that a copy of the deed shall be submitted to the Zoning Administrator within 10 days of recording the deed in the Wilmington Land Records
3. The subdivision of the parcel shall be essentially as presented in Exhibit E.
4. All buildings on both new parcels shall meet required setbacks.

Thus, the Development Review Board does **approve** the application for **Subdivision approval to allow a 21 acre piece to be divided into two lots of 4 acres and 17 acres in the Commercial and Residential Districts.**

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval *does not relieve you*, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

David Kuhnert
Nicki (Polly) Steel
Paul Tonon
Gil Oxley

OPPOSED: None

For the Board: Polly Steel, Chairperson

Date: 4/26/2012

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.