



GOVERNMENT OF BERMUDA

Department of Planning

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Development Applications Board Minutes

Minutes of a meeting held on Wednesday, 20 May, 2020, at 8:45 am via video conference.

PRESENT: Alice Lightbourne (Chair); Wayne Dill (Deputy Chair); David Astwood; Cyniqua Anderson (Corporation of St. George); Dalton Burgess; Patrick Cooper (Corporation of Hamilton); Denis de Frias; Wendy Dunne; Cynthia Millett; Josonne Smith (Bermuda Fire and Rescue Service)

APOLOGIES: Dexter Johnston; Cheryl Packwood

ITEMS FOR DISCUSSION:

No items other than the applications listed below were discussed.

APPLICATIONS

1. PLAN-0212-20

Lindos Market

4 Watlington Road East

Devonshire, BM DV08

Proposed New Warehouse Over New Bulk Sales Floor, Extend Existing Elevators and Fire Exit Stair to New Warehouse Level.

Planner: Tamsyn Doran

Discussion: The technical officer presented the application. Alice Lightbourne did not participate or vote on this application due to late arrival to the meeting.

No questions or comments were posed by the Board.

The Board RESOLVED:

To approve the application, as received February 10, 2020, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.
2. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of the approved building operations an amendment to the building permit B0055/17 must be made and approved.
3. In the interests of visual amenity, two palms (20 - 25 feet tall) shall be planted at the entry off Watlington Road East as shown on the hereby approved plans prior to the issuance of a Certificate of Completion and

Occupancy. If either of these palms are removed, which die or become seriously diseased or damaged, they shall be replaced by palms of similar size and species to those originally required to be planted.

4. For the avoidance of doubt, planning permission is hereby granted for the scope and extent of the use described in the application submission. Any alternative use or change in operational circumstances shall required the prior express permission of the Board.

2. PLAN-0208-20

Timothy & Angela Berry

15 Mission Crescent

Paget, BM PG06

Proposed New Covered Entrance, Covered Porch, Conversion of Existing Garage into Studio Unit via Internal Works, Relocate Pits and Extend Tank.

Planner: Yolanda Bashir-Paige

Discussion: The technical officer presented the application.

The Board queried whether a rebuttal to the comments provided by the Department of Environment and Natural Resources had been submitted. The technical officer confirmed that no rebuttal was provided by the applicant.

The Board RESOLVED:

To approve the application, as received February 10, 2020, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.
2. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.
3. The private outdoor living space shown on the hereby approved plans shall be established for use in accordance with Policies DSN.16 and DSN.17, Chapter 9 of the Draft Bermuda Plan 2018 Planning Statement, prior to the issuance of a Certificate of Completion and Occupancy.
4. Parking and manoeuvring space for 2 cars and 2 cycles shall be established for use in accordance with Policies TPT.20 and TPT.22, Chapter 12 of the Draft Bermuda Plan 2018 Planning Statement, prior to the issuance of a Certificate of Completion and Occupancy.
5. In order to protect lands within the Agricultural Reserve Conservation Area, protective fencing no less than 4 (four) feet in height shall be erected prior to the commencement of building operations, along the boundary line of the Conservation Area as shown on the hereby approved plan. All protective fencing shall be retained in place during the period of building operations. For the avoidance of doubt, there shall be no storage of construction materials, equipment or vehicles within the Conservation Area during the course of building operations.

3. SUB-0014-20

Surrey Hill Trust

Vacant Lot D, Sears Hill Road, Smiths

East of 21 St. mark's Road, Smiths

Proposed Relocation of Approved Right of Way.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application. Cynthia Millett did not participate or vote on this application due to a conflict of interest.

The Board queried whether the land on which the right of way is proposed is owned by the applicant. Technical officers confirmed that all parties with ownership interests have provided their written consent to the application.

The Board RESOLVED:

To approve the application, as received March 25, 2020, subject to the following conditions:

1. Upon registration of the final plan of subdivision hereby granted, the permission shall continue to have effect until superseded by the formal registration of any subsequent plan relating to the same land.
2. For the avoidance of doubt the consent hereby granted for the is for planning permission only. Prior to the commencement of building operations (the installation of the right of way), a separate application for a building permit must be made and approved.
3. A Conservation Management Plan meeting the informational and qualitative standards of Policy ENV.8, Chapter 6 of the Draft Bermuda Plan 2018 Planning Statement shall be submitted for review and approval during the building phase after the road alignment has been cleared to reinstate vegetation, where practical. The Conservation Management Plan shall include a programme for implementation and ongoing maintenance and shall be substantially completed prior to issuance of a Certificate of Completion and Occupancy.
4. In order to avoid the discharge of surface water onto the estate road, provision shall be made for the control and disposal of storm water within the curtilage of the application site. Such measures shall be provided prior to the issuance of a Certificate of Completion and Occupancy.

4. P0242/19

Surrey Hill Trust

21 St. Mark's Road

Smiths, BM FL 06

Proposed New Two Storey Detached House with a Maximum of 2 Units, Building Envelope within which House will be Designed, Access Driveways and Parking Area Layouts, General Cut and Fill Levels for all Proposed Works (In-Principle).

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application. Cynthia Millett did not participate or vote on this application due to a conflict in interest.

The Board queried how this application would be processed if SUB-0014-20 were not approved by the Board. Technical officers advised that the Board would have been asked to defer this application (and P0251/19) in such an eventuality since the right of way alignment was pivotal to these two applications.

The Board suggested that a condition be imposed requiring the revised right of way to be executed in title deed before the development approved by this application (and P0251/19) is implemented. Technical officers agreed that it would be appropriate to add such a condition.

The Board RESOLVED:

To approve the application, as received July 15, 2019, subject to the following conditions:

1. The development hereby permitted shall begin either before the expiration of 2 (two) years from the date of this permission, or the expiration of 2 (two) years from the final approval of reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

2. Notwithstanding the fact that this application seeks in principle approval only, those details relating to use, building height, density and access are hereby approved. The Board reserves for it final approval all details defined as reserved matters, relating to site coverage, siting and layout, building design, building lines, external appearance of the building, parking and landscaping.

5. P0251/19

Surrey Hill Trust

21 St. Mark's Road

Smiths, BM FL 06

Proposed New Two Storey Detached House with a Maximum of 2 Units, Building Envelope within which House will be Designed, Access Driveways and Parking Area Layouts, General Cut and Fill Levels for all Proposed Works (In-Principle).

Planner: Tamsyn Doran

Discussion: The technical officer presented the application. Cynthia Millett did not participate or vote on this application due to a conflict in interest.

The comments relating to P0242/19 noted above were also relevant to this application, no further questions or comments were posed by the Board.

The Board RESOLVED:

To approve the application, as received July 26, 2019, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.

2. Notwithstanding the fact that this application seeks in principle approval only, those details relating to use, building height, density and access are hereby approved. The Board reserve for it final approval all details defined as reserved matters, relating to site coverage, siting and layout, building design, building lines, external appearance of the building, parking and landscaping.

6. PLAN-0019-19

Ottavio F Bioni

14 Shore Lane

St. George's, BM HS02

External Stair Case From Pool Deck

Planner: Yolanda Bashir-Paige

Discussion: The technical officer presented the application. No questions or comments were posed by the Board.

The Board RESOLVED:

To approve the application, as received August 26, 2019, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.

2. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.

7. PLAN-0151-19*Levon Lee**Lot 5 South Road, North of 15 South Road, St. Georges*

Proposed 4 Bedroom Dwelling With Pool & Hot Tub, Pool House, Garage, Concrete Driveway, 8 ft. Max Height Retaining Wall, New 4 ft. Max Height Rock Cut, New Backwash Pit, Tank, New Cesspit, Demolish shed, Demolish Ruin, New Gate, New Columns.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application. Cyniqua Anderson did not participate or vote on this application due to having to leave the meeting early.

The Board queried the use of the lower structure on the east elevation. The technical officer confirmed this is to accommodate a pump room.

The Board RESOLVED:

To approve the application, as received December 09, 2019, subject to the following conditions:

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.
2. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.
3. Details of all borehole locations and specifications (including, but not limited to, depth of borehole, procedure for detecting and reporting voids) and a method for sealing the boreholes if a cave has been penetrated, shall be submitted to and approved, in writing, by the Department of Environment and Natural Resources and such consent shall be submitted with the building permit application.
4. The building permit application must be accompanied by a report, carried out by a qualified structural engineer, demonstrating the use of five (5) exploratory boreholes at locations where excavations greater than 4'-0" are planned are to the structural engineer's satisfaction.
5. The Department of Environment and Natural Resources shall be notified at least 24 hours prior to the commencement of drilling in order to carry out a site visit. At the time of drilling, equipment for sealing a borehole shall be evident on site and ready to use at the time of drilling. The type of equipment used to seal the borehole shall be approved for use by the Department of Environment and Natural Resources.
6. All excavations greater than 4'-0" in depth shall be inspected by Building Control and/or the Department of Environment of Natural Resources once the maximum depth has been reached and prior to the addition of concrete.
7. If during construction a previously undetected cave is discovered, the applicant shall cease all construction operations and contact the Department of Planning and the Department of Environment and Natural Resources within 1/2 hour to re-evaluate building options and agree on a suitable course of action with the Department of Planning. Construction operations shall not recommence until the approved option has been agreed in writing.
8. In the interest of visual amenity, there shall be no deposition or storage of excavated material on site and all excess unused material shall be removed from the site during the course of building operations and prior to the

issuance of a Certificate of Completion and Occupancy.

9. In the interest of visual amenity, the hereby approved wall(s) shall be faced with Bermuda stone or rendered and finished to give the appearance of Bermuda stone, and completed prior to the issuance of a Certificate of Completion and Occupancy.

10. In order to avoid the discharge of surface water onto the estate road, provision shall be made for the control and disposal of storm water within the curtilage of the application site. Such measures shall be provided prior to the issuance of a Certificate of Completion and Occupancy.

11. For the avoidance of doubt, a septic tank with discharge to a sand filter, and backwash pit to receive the discharge from the swimming pool filter pump must be installed.

12. The hereby approved Conservation Management Plan shall be substantially implemented prior to the issuance of a Certificate of Completion and Occupancy. A request for inspection of the planting shall be made in writing to the Department of Environment and Natural Resources and copied to the Department of Planning. Approval of the inspection will be required prior to the issuance of a Certificate of Completion and Occupancy. If any trees or shrubs shown on approved plans are removed, die or become seriously diseased or damaged, they shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.

13. In the interests of visual amenity, the two cedars identified to be retained on the approved plan shall be protected by 4 feet high fencing prior to the commencement of building operations until construction work is ceased. If either cedar is removed or damaged during the course of excavation or construction an Application for Revision, showing details of the size, species and number of new plantings to be installed to replace them shall be submitted.

8. PLAN-0134-19

Craig Ferguson

17 Tamarind Vale

Warwick, BM WK04

Proposed Addition to Existing Cottage Including New Kitchen, Living and Dining Area, New Entrance, Powder Room, Pump Room and Garage, Modify Existing Driveway, New Stepped Rock Cut (8 ft. Max Height), New Path and Steps and Site Works.

Planner: Tamsyn Doran

Discussion: The technical officer presented the application. Cyniqua Anderson did not participate or vote on this application due to having to leave the meeting early.

No questions or comments were posed by the Board.

The Board RESOLVED:

To refuse the application, as received November 22, 2019, for the following reasons:

1. The proposed additions about the Agricultural Reserve boundary and, thus, do not achieve the required 15 foot setback. As such, the proposal will impact soil water retention, result in the removal of a pesticide buffer, result in the removal of space to accommodate the turning of farm vehicles and result in shading which would adversely affect the parcel's farming potential. The application therefore fails to prioritize the protection of the Agricultural Reserve nor conserve the full use of important agricultural land to support farming and horticultural uses and, consequently, in direct conflict with Policy ZON.5, Chapter 3 and Objectives AGR.1 and AGR.2 and Policy AGR.10, Chapter 21 of the Draft Bermuda Plan 2018 Planning Statement.
2. The size, shape and location of the development area of this lot do not impose an exceptional

limitation on the layout and design of a reasonable development without encroachment into the setback to the Agricultural Reserve. The applicant has therefore fails to justify the Board exercising its discretion to allow the proposed encroachment, as required by Policy APC.20, Chapter 5 of the Draft Bermuda Plan 2018 Planning Statement.

Post-Meeting Actions

In respect of applications SUB-0014-20, P0242/19 and P0251/19, it has been brought to the Board's attention that, whilst the agents have spoken, emailed and offered to meet with objectors, keeping them informed of progress on the applications at every step, neither the agents nor applicants actually met with objectors, as claimed in the respective Board Reports. The Board is satisfied that this minor misrepresentation did not affect its decision on either of these applications.



Chairman of the Development Applications Board

Date: 22 May 2020