

# TOWN OF SHOREHAM ZONING BOARD OF ADJUSTMENT

## Findings of Fact and Notice of Decision

**Permit Application Nos.** 19-015A and 19-015B  
**Application for Hearing No.** 19-015  
**Property Owner:** Otelco, Inc. (c/o Trina Bragdon)  
**Applicant:** Shoreham BTS Retail, LLC  
**Property Address:** 3167 Vermont Route 22A, Shoreham, VT  
**Parcel Number:** 09-01-24  
**Subject:** Conditional Use – Construction of 7,545 square foot retail building and associated infrastructure

### INTRODUCTION AND EVIDENCE:

1. This proceeding involves review of an application for a conditional use review under the *Town of Shoreham Zoning Regulations*, dated May 22, 2019, (hereafter referred to as “Zoning Regulations”) for the subject property to provide for the following:
  - a) New curb cut off Route 22A at location of existing access easement.
  - b) Construction of 7,545 square foot retail building on a new parcel subdivided from the existing Shoreham Telephone, LLC (also known as OTT Communications) lot at 3167 Vermont Route 22A.
  - c) Associated parking and utility infrastructure.
2. The application for two zoning permits were received at the Town Office on June 12, 2019, which requested 1) the conditional use described above and 2) a subdivision of land. The application(s) are on-file at the Town Office.
3. The application for hearing was received at the Town Office on June 12, 2019. The application is on-file at the Town Office.
4. Completed application was forwarded to the ZBA Chair on June 27, 2019, and forwarded to the ZBA members on July 3, 2019.
5. The request for a conditional use was considered by the ZBA at a hearing on July 25, 2019, warned in the *Addison Independent* on July 8, 2018. The ZBA reviewed the application under the Zoning Regulations.
6. Present at the hearing were the following members of the ZBA:

John Kiernan	Jim Ortuno
Linda Oaks	Bob Fisher
Brandon Streicher	

Also present:

Matt Casey, representing Applicant	David Cooper, representing Applicant
Abby Dery, representing Applicant	Arlene Stanley
Robin Conway, Zoning Administrator	
7. At the outset of the hearing, the ZBA afforded an opportunity for persons wishing to achieve status as an interested person under *24 V.S.A. § 4465(b)* to demonstrate that the criteria set forth in that subsection are met. The ZBA granted interested person status to the following persons:

Matt Casey (as Applicant)
Abby Dery (representing Applicant)
David Cooper (representing Applicant)
Arlene Stanley (as adjoining landowner)

8. Board Chair requested disclosure of any conflicts of interest or ex-parte communications related to this application. None were revealed.
9. During the course of the hearing the following exhibits and testimony were submitted to the ZBA:
  - a) A copy of materials submitted with the application including the following:
    - Stormwater Design Brief, dated May 2019
    - Letter from David Cooper dated June 12, 2019 with narratives to address specific standards in the Zoning Regulations
    - Updated Building Elevation and Construction Notes
    - Updated Lighting Plan
    - Reference to and including Application Materials submitted with the 2017 application
    - Updated Site Plans, including Landscaping Plan with Plant List
  - b) A memo from the Zoning Administrator dated June 27, 2019.
  - c) Matt Casey provided an overview of the project, including the following points:
    - Matt indicated Shoreham BTS Retail has submitted a new, independent application for the project, with most elements of the application similar to the proposed project which was permitted in March 2018. John indicated all of the ZBA members present were also present for the hearing and deliberation on the prior permit. (Although not discussed, it is noted Arlene Stanley was also present at the 2018 hearing). Matt explained the differences in the project elements, most notably the new orientation of the building. The building was mirrored so the entrance faces north, due to the inability to obtain a permit from VTrans for a new curb cut on Route 22A on the southern boundary of the parcel. The revised site plan shows the entrance will now use an existing 60-foot wide access easement on the north side of the property owned by Otelco (formerly Shoreham Telephone Company). Site access and other maintenance activities will be conducted by Dollar General as part of a lease agreement with Shoreham BTS Retail.
    - Shoreham BTS Retail plans to purchase a 1-acre parcel subdivided from the surrounding parcel owned by Otelco, and construct the planned project and lease the building to Dollar General for its retail operation. The zoning permit application includes an application for the subdivision.
    - Operating hours are expected to be 7 days per week, 8am to 10pm. Dollar General will assess the activity after a couple of months and may consider revising the hours of operation if warranted.
    - Matt indicated store operating hours are expected to be 8 a.m. to 10 p.m., 7 days per week, which may be adjusted based on store traffic. Anticipated deliveries will be one (1) tractor trailer delivery per week, plus various smaller truck deliveries from local distributors.
    - Abby presented the site plan changes required due to the building orientation change. The building meets all required setbacks and includes the required 30 parking spaces. She explained the expected circulation pattern of truck deliveries, and explained the landscaping plan, including the plants proposed along the northern easement boundary.
    - The new application is subject to the new design standards in the Village Commercial Design Overlay District, adopted by the Selectboard in November 2017, and incorporated into the latest Zoning Regulations (May 22, 2019). The only major impact of the new guidelines to the project is the parking area requires a 50-foot landscaping buffer from the Route 22A Right-of-Way, which is shown on the site plan.
    - Abby indicated the application presents a lighting plan with no illumination at the property line. There was a discussion about the lack of lighting at the driveway

entrance, and the Board noted some problems which the Shoreham Service Center had experienced without any lighting at the entrance.

- Arlene Stanley stated she believes the shed is on her property. Abby indicated that Trudell Consulting Engineers used survey information available at the Town Office to survey the property as depicted on the site plan. Matt indicated that BTS will make every effort to not impact the shed, and if it does need to be temporarily relocated during construction BTS will restore the shed to its original location. Matt stated that BTS would not be a party to a property line dispute, as the property in question is owned by Otelco.
- The ZA noted the parcel is not square and wanted to confirm the total acreage of the new subdivided parcel. Abby confirmed the survey calculations indicate a 1.0 acre parcel.
- The ZA inquired about the size of the cupola and orientation of the landscaping which Abby and Matt explained.
- Brandon asked about the project schedule. Matt indicated pending receipt of permits, BTS would like to break ground as soon as practical this fall.

## FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the ZBA makes the following findings:

- 1) The subject property is in the Village Commercial (VC) District, and is considered a retail facility requiring a conditional use permit.
- 2) The proposed improvements will have no undue adverse effect on the following *General Standards* (§5.4):
  - *Capacity of Existing or Planned Community Facilities*
  - *The Character Of The Neighborhood, Area, Or District*
  - *The Utilization Of Renewable Energy Resources*
  - *Traffic On Roads And Highways In The Vicinity*
  - *Zoning Regulations and Ordinances Currently In Effect*—Project meets all required set-backs for the district where located
- 3) The proposed plan will have no undue adverse effect on the following *Specific Standards* (§5.5):
  - *Traffic And Pedestrian Circulation*
  - *Outdoor Storage And Display*
  - *Water And Wastewater*
  - *Lighting*
  - *Natural And Cultural Resources*
  - *Noxious Odors Or Emissions*
  - *Noise Levels*
  - *Municipal Services and Public Safety*

The following *Specific Standards* may be subject to mitigation:

- *Parking And Service Areas*
  - *Stormwater And Erosion Control*
  - *Landscaping And Screening*
- 4) The proposed plan meets all Village Commercial applicable standards (§5.8)
  - 5) The proposed plan meets all Village Commercial Design Overlay District Standards (§5.10)

## DECISION

Based upon these findings, the conditional use to construct a 7,545 square foot retail building with associated infrastructure as described above and in the application materials is hereby APPROVED by the ZBA.

Dated at Shoreham, Vermont, this \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_ John Kiernan, Chair

Decision to approve the application was motioned by Jim Ortuno, seconded by Bob Fisher.

Voting in the affirmative: Bob Fisher, Brandon Streicher, Jim Ortuno, Linda Oaks, John Kiernan

Voting in the negative: None

Abstaining: None

Absent: Gail Wood, Kurt Suchomel

**APPEAL**

Pursuant to *Title 24 V.S.A. §4471* and *§4472*, an interested person who has participated in the review of this application may appeal this decision by filing a Notice of Appeal directly to the Environmental Division of the Vermont Superior Court, 2418 Airport Road, Barre, VT 05641, by certified mail within thirty (30) days of the date this decision is issued. A copy of the notice must also be sent to the Zoning Administrator or the Municipal Clerk who is required to provide a list of interested persons to the appellant within five days of receipt of this Notice. The appellant is required to send a copy of the Notice, via certified mail, to each interested person.

***Note:***

No construction may begin until the 30-day Appeal Period has expired. The applicant is encouraged to seek a building/use permit from the ZA within 15 days of the issuing of this Decision so that the Permit Appeal Period expires in conjunction with this Decision’s Appeal Period, thus eliminating additional delay.