

**WATERBURY DEVELOPMENT REVIEW BOARD
MEETING
APPROVED MINUTES, FINDINGS OF FACT & DECISIONS
Thursday, June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Jeff Whalen, Dave Rogers and Rick Boyle

Staff Present: Steve Lotspeich, Patti Spence, Clare Rock

The meeting was called to order by Jeff Larkin at 6:00 p.m.

The following applications were warned and presented. The minutes and decisions are documented separately:

Application #25-12-V, Hands Off My Cheese

Application #37-12-T, Scott and Mary-Ellen Lamson

Application #33-12-T, Michael Lafayette

Application #33-12-V, Terry and Peggy Gates

Application #40-12-T, Andrew and Mary Ellen Gordon

Application #34-12-V, Pilgrim Partnership, LLC (withdrawn)

Application #39-12-V, State of Vermont Dept. of Buildings and Gen'l Svcs.

REVIEW OF MEETING MINUTES

The minutes, findings of fact, and decisions from June 21, 2012, were reviewed.

MOTION:

Rick Boyle moved and Joel Baker seconded to approve the minutes, findings of fact, and decisions from June 21, 2012 as amended.

VOTE:

The motion passed unanimously.

REVIEW OF MEETING MINUTES

The minutes, findings of fact, and decisions from June 28, 2012, were reviewed, with the exception of the Hands Off My Cheese and Gordon applications.

MOTION:

Joel Baker moved and Jeff Whalen seconded the motion to approve the following findings of fact and decisions from the hearings on June 28, 2012

Application #37-12-T, Scott and Mary-Ellen Lamson

Application #33-12-T, Michael Lafayette

Application #33-12-V, Terry and Peggy Gates

Application #39-12-V, State of Vermont Dept. of Buildings and Gen'l Svcs.

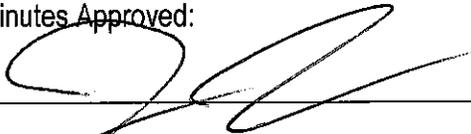
VOTE:

The motion passed unanimously.

ADJOURNMENT

The meeting was adjourned by the Chair at 11:00 p.m.

Minutes Approved:


_____, Chair

Date: 7-17-12

NOTICE. This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON July 17, 2012

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Rick Boyle; Jeff Whalen; Dave Rogers

Staff Present: Steve Lotspeich; Clare Rock; Patti Spence

First Order of Business: Application for Site Plan Review, Findings and Decision

Permit Application #25-12-V:

Applicant: Hands Off My Cheese, LLC

Landowner: SAME

Location of Project: 1 South Main St.

The following interested parties were previously sworn in:

Mark Frier, Georgeanne Baker attended and was sworn in at the hearing on June 7, 2012

TESTIMONY:

1. Consideration was given to parking and a revised plan with 4 parking spaces was presented as Exhibit E

Testimony was closed at 6:34 pm.

EXHIBITS:

- | | |
|-----------|-------------------------------------------------------|
| Exhibit A | Zoning Permit Application |
| Exhibit B | Site Plan |
| Exhibit C | Photo of Privacy Fence Detail |
| Exhibit D | Notice Sent to Adjacent Landowners dated May 21, 2012 |
| Exhibit E | Revised site plan, dated 6/28/12 |

FINDINGS OF FACT

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Development Review Board makes the following findings:

This project is Site Plan Review for expanding the use of the Reservoir Restaurant located at 1 South Main St. with the creation of a "beer garden".

The property is located on a 0.22 acre parcel in the Downtown Commercial Zoning District, Tax Map No. 19-303.000. The typical hours of operation for the "beer garden" will be 11 am to 1:30 am, seven days per week.

The 20' 8" x 22' beer garden will be located in front of the existing deck and will be surrounded on three

Approved Minutes App. #25-12-V, Hands Off My Cheese, LLC

sides by a 6" tall wooden privacy fence, as shown on Exhibit B, the Site Plan, and Exhibit C, Photo of Privacy Fence Detail. There will be a maximum of 5 tables without chairs or stools on the crushed stone portion of the garden area. Drinking beverages will be allowed in the "beer garden" however there will be no food service in the area. There will be no changes to the existing deck area that will continue to have five outdoor tables with a total of 20 chairs. The existing restaurant has a total of 79 seats and bar stools. When the deck is in use for dining there will be a total of 99 seats.

The creation of the beer garden will reduce the number of parking spaces on the site from five to four as shown on Exhibit B, the Site Plan. There will be no additional parking spaces required for the new beer garden because there will be no additional seating. The overall parking requirement for the building will be as follows: The requirement for the existing restaurant/bar space on the first floor is 33 spaces for the 99 seats plus 8 spaces for the 8 employees at the maximum shift, for a total of 41 spaces. The approximately 2,900 sq. ft. of business professional office space on the second floor requires ten parking spaces. The parking for the apartment on the third floor is two spaces. The total parking requirement for the building is 53 spaces.

There are no changes to the vehicular access to the site. A pedestrian walkway along the southeast side of the building will be marked with paint and signage. There will be a bike rack on the side of the building. There will be flower beds in the beer garden as shown on Exhibit B, the Site Plan. Other landscaping and screening on the site will remain unchanged.

The Development Review Board finds that the application addresses the Site Plan Review Criteria in Section 301 of the Waterbury Zoning Regulations as follows:

(1) Adequacy of traffic access. Considerations shall include:

- (A) Traffic flows at the intersection of driveways or access roads with public roads and at other affected streets and intersections.
- (B) Location of driveway entrances and exits so as to have sufficient sight distances.
- (C) The need for turning lanes, traffic-control devices, or special provisions for emergency vehicles.
- (D) Pedestrian safety and convenience.

(2) Adequacy of circulation and parking. Considerations shall include:

- (A) Assurance that the criteria of Section 414 of this bylaw are met.
- (B) The need for additional off-street spaces beyond the number required in Section 414.
- (C) The adequacy of surfacing and provisions for the runoff and discharge of stormwater.
- (D) The provision of appropriate buffer space and landscaping to insulate parking areas from adjoining properties and public streets.
- (E) Placement of trees and shrubs around the periphery of parking lots and in the interior so as to break up large parking areas. Large parking lots of 20 or more spaces shall include at least 1 tree for every 8 spaces.
- (F) The adequacy of parking, loading, refuse, and service areas.
- (G) Provisions for clearing snow for maintaining parking areas.

(3) Adequacy of landscaping and screening. Considerations shall include:

- (A) Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility with and protection for adjacent properties and public roads.

- (B) Preservation of attractive or functional existing vegetation.
- (C) The adequacy of landscaping materials to meet seasonal, soil, and topographical conditions.
- (D) Reduction of lighting and glare to the necessary minimum, including provision of appropriate landscaping to reduce the impact of lighting and glare on adjacent properties.
- (E) Screening of unloading zones, trash bins, storage, and other service areas.
- (F) The need for landscaping buffers, fences, or berms to reduce noise.

CONCLUSION

The Development Review Board concludes that the application meets all of the criteria set forth and discussed in the site plan review for the beer garden location at 1 South Main Street.

DECISION AND CONDITIONS

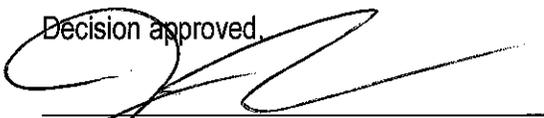
MOTION:

Jeff Whalen moved and Rick Boyle seconded the motion to approve application 25-12-V, Hands Off My Cheese, under Site Plan Review for expanding the use of the Reservoir Restaurant located at 1 South Main St. with the creation of a "beer garden", with the following conditions:

1. This permit is granted on the condition that the applicant complete the project consistent with the Development Review Board's findings and conclusions and the approved plans and exhibits.
2. Any lights on the interior of the building that are designed or directed so as to increase the amount of light outside of the building require a revision of the site plan.
3. Prior to the issuance of the permit the applicant will have attained approval for the allocation of one additional on-street parking space by the Village Trustees, pursuant to section 414 (c) (1).

VOTE: Passed unanimously.

Decision approved,

 _____, Chair

Date: 7-17-12

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON 7-17-12

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
RIDGELINE/HILLSIDE/STEEP SLOPE REVIEW
APPROVED FINDINGS AND DECISION
Date: June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Rick Boyle; Jeff Whalen; Dave Rogers

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Public present: Constance Lilley

The second order of business was opened at 6:35 p.m.

Applicants: Scott and Mary Ellen Lamson

Landowners: SAME

Permit Application #37-12-T:

The following interested parties were present and sworn in:

Scott and Mary Ellen Lamson

Constance Lilley

TESTIMONY:

Scott and Mary Ellen Lamson presented their project to build a house and garage on a previously approved lot in the Ridgeline, Hillside, Steep Slope Overlay District. They testified that the building area on the lot has already been cleared and the covenants on the lot require that these areas remain open.

EXHIBITS:

Exhibit A	Zoning Permit Application #37-12-T
Exhibit B	Site Plan for Lots 6, 7, and Revised Lot 5A dated August 2007
Exhibit C	Site Plan for Lot 7
Exhibit D	Floor Plan for House
Exhibit E	Perspective View of House and Attached Garage
Exhibit F	Aerial Photo of Site showing existing trees
Exhibit G	Notice Sent to Adjacent Landowners dated June 12, 2012

FINDINGS:

Project Description:

The applicant and landowners Scott and Mary Ellen Lamson seek approval to construct a house on Lot 7, 97 Tamarack Ln. in the Ridgeline, Hillside, Steep Slope Overlay District. The lot is located at an elevation of approximately 1,400' above sea level therefore the construction of the house is determined to be Minor Development requiring review under the Conditional Use Criteria. The Lamson Lot 7 was previously approved in subdivision Permit #65-07-T, Felix & Geraldine Callan.

The 2.07-acre lot is located within the Medium Density Residential (MDR) Zoning District, as depicted on the Town of Waterbury Zoning Map. The minimum lot size within the MDR Zoning District is two acres and the dimensional requirements are: Building Height: 35', Front Setback 60', Side/Rear Setbacks: 50'. The proposed house meets and exceeds all dimensional requirements with the maximum height being 22', the front setback is 79', the side setbacks are 160' and 50', and the rear setback is 108. A driveway will be constructed to provide access to the house that is in the approximate location shown on Exhibit B, Site Plan for Lots 6, 7, and Revised Lot 5A.

The existing trees on the site will remain in place except those that must be removed for the construction of the driveway, house, and septic system as shown on Exhibit B, Site Plan for Lots 6, 7, and Revised Lot 5A.

RIDGELINE/HILLSIDE/STEEP SLOPE STANDARDS:

Section 1004 Standards of Review

(a) Development of lands identified within the RHS Overlay District shall comply with all other applicable regulations, including conditional use review standards, within this bylaw and with the standards of review set forth in the following subsections.

(b) Minor Development: Minor development projects shall be subject to conditional use review, as set forth in Section 303, and all other applicable regulations.

CONDITIONAL USE STANDARDS:

1. The subdivision will not have an undue adverse impact on the capacity of existing or planned community facilities.
2. The subdivision will not have an undue adverse effect on the character of the area
3. The subdivision will not have an undue adverse effect on traffic and roads and highways in the vicinity.
4. The subdivision will not have an undue adverse effect on the following bylaws per the Waterbury zoning regulations currently in effect.
5. The subdivision will not have an undue adverse effect on utilization of renewable energy resources.
6. The subdivision will satisfy the requirements of the zoning bylaws.

CONCLUSION: The Development Review Board finds that the application meets and satisfies the conditional use criteria required in the Ridgeline, Hillside, Steep Slope regulations.

DECISION AND CONDITIONS:

MOTION:

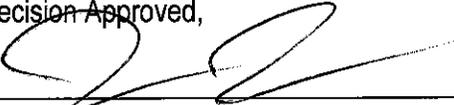
Joel Baker moved and Dave Rogers seconded the motion to approve application 37-12-T, Scott and Mary Ellen Lamson for construction of a single family dwelling on Lot 7, 97 Tamarack Ln., Tax Map #10-018.700, subject to the following conditions:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. Any lights on the interior of the building that are designed or directed so as to increase the amount of light outside of the building require a revision of the site plan. All exterior lights will be down cast and shielded.

VOTE

The motion passed unanimously.

Decision Approved,


_____, Chair

Date: 6-28-12

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON June 28, 2012

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED MINUTES
Date: June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Rick Boyle; Jeff Whalen; Dave Rogers

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Third order of Business: Application for Variance, Findings and Decision

Permit #: 33-12-T

Applicant: Michael Lafayette

Landowner: SAME

Location of Project: 111 Blackberry Lane, Waterbury, VT

Description of Project: Applicant proposes to construct a garage/accessory structure.

The following interested parties were present and sworn in:

Michael Lafayette

EXHIBIT LIST:

- Exhibit A Zoning Permit Application
 - Exhibit B Sketch Plan
 - Exhibit C Context Information
 - Exhibit D Applicants response to Variance Criteria, email attachment dated 6/18/2012
 - Exhibit E 15-day warning to Waterbury Record
 - Exhibit F Notice to adjacent landowners dated June 12, 2012
-

TESTIMONY:

1. It will be a well-built garage with the intention to be consistent with the neighborhood.
2. A motion detector light will be on the garage and will be downcast and shielded.

FINDINGS OF FACT:

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The applicant seeks to construct a 28'x28' (784sf) garage on at 111 Blackberry Lane, Waterbury. Tax Map #13-048.200
2. The property is located in the Medium Density Residential Zoning District as described on the Village of Waterbury Zoning Map.
3. Within the Medium Density Zoning District dimensional requirements are as follows:
 - a. Minimum Lot Area = 2 acres

- b. Setbacks: Front = 60ft, Side = 50ft, Rear = 50ft
4. The project is located on a 2.894 acre lot and proposes the following setbacks:
 - a. Front = 70ft Side = 15ft Rear = 150 ft
5. The applicant seeks the following:
 - a. 35 ft side setback Variance

VARIANCE CRITERIA (Section 308)

1. The following unique physical circumstances or conditions peculiar to the subject property are found [Refers to Section 308 (1) of Waterbury Zoning Bylaws.
Would have to put in an additional road or make a longer driveway.
Swamp and slope limit other locations.
2. Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and authorization of a variance is necessary to enable the reasonable development of the property.[Refers to Section 308 (2) of Waterbury Zoning Bylaws]
Swamp and slope impose limitations.
3. An unnecessary hardship has *not* been created by the applicant. [Refers to Section 308 (3) of Waterbury Zoning Bylaws]
4. For the following reasons, the variance will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare. [Refers to Section 308 (4) of Waterbury Zoning Bylaws] The property is located within a residential neighborhood. The garage will be designed consistent with the neighborhood.
5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan. [Refers to Section 308 (5) of Waterbury Zoning Bylaws]
A 35 foot variance is requested.

DECISION AND CONDITIONS

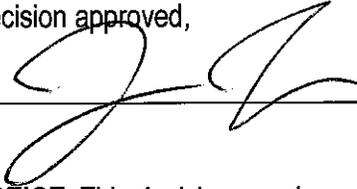
Based upon these findings [and subject to the conditions set forth below], the Development Review Board concludes that this application satisfies the variance criteria and should be approved for a 35' side yard variance.

Jeff Whalen moved and Dave Rogers seconded the motion to approve application #33-12-T for Michael Lafayette for a garage/accessory structure to be located at 111 Blackberry Lane in Waterbury, VT. This approval is subject to the following conditions:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.

2. Any lights on the interior of the building that are designed or directed so as to increase the amount of light outside of the building require a revision of the site plan. All exterior lights will be down cast and shielded.

Decision approved,

 _____, Chair

Date: 6-28-12

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON June 28, 2012

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED MINUTES
Date: June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Rick Boyle; David Rogers; Jeff Whalen

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Fifth order of Business: Application for Variance, Findings and Decision

Permit #: 40-12-T

Applicant: Andrew and Mary Ellen Gordon

Landowner: SAME

Location of Project: 4462 Waterbury-Stowe Road, Waterbury, VT

Description of Project: Applicant proposes to construct rear deck and shed.

The following interested parties were present and sworn in:

Andrew Gordon

EXHIBIT LIST:

- | | |
|-----------|---------------------------------------------------|
| Exhibit A | Zoning Permit Application |
| Exhibit B | Sketch Plan |
| Exhibit C | Context Information |
| Exhibit D | 15-day warning to Waterbury Record |
| Exhibit E | Notice to adjacent landowners dated June 13, 2012 |
-

TESTIMONY:

FINDINGS OF FACT:

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The applicant seeks to construct a rear deck and storage shed at 4462 Waterbury-Stowe Road, Waterbury Center, VT. Tax Map # 09-033.000.
2. The property is located in the Route 100 Zoning District as described on the Town of Waterbury Zoning Map where the dimensional requirements are as follows:
 - a. Minimum Lot Area = 2 acres
 - b. Setbacks: Front = 200ft, Side = 50ft, Rear = 50ft
3. The project is located on a pre-existing non-conforming lot (approx. 0.5 acres)
4. The deck proposes the following setbacks:
 - a. Left Side = 47ft Right side = 45ft
5. The applicant seeks the following Variance for the deck:

- a. 3 ft left side setback Variance and;
- b. 5 ft right side setback Variance
- 6. The deck proposes the following setbacks:
 - a. Rear = 15ft
 - b. Right side = 10ft
- 7. The applicant seeks the following Variance for the storage shed:
 - a. 35 ft rear setback Variance and;
 - b. 40 ft right side setback Variance

VARIANCE CRITERIA (Section 308)

- 1. The following unique physical circumstances or conditions peculiar to the subject property are found [Refers to Section 308 (1) of Waterbury Zoning Bylaws] *Space limitations, existing vegetation and structures limit the placement.*
- 2. Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and authorization of a variance is necessary to enable the reasonable development of the property.[Refers to Section 308 (2) of Waterbury Zoning Bylaws]
- 3. An unnecessary hardship *has not* been created by the applicant. [Refers to Section 308 (3) of Waterbury Zoning Bylaws]
- 4. For the following reasons, the variance will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare. [Refers to Section 308 (4) of Waterbury Zoning Bylaws] *The property is located within a residential neighborhood. The shed and deck are appropriate within this neighborhood.*
- 5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan. [Refers to Section 308 (5) of Waterbury Zoning Bylaws]

DECISION AND CONDITIONS

Based upon these findings [and subject to the conditions set forth below], the Development Review Board concludes that the applicants meet the variance criteria in section 308 in their application for a deck and a shed.

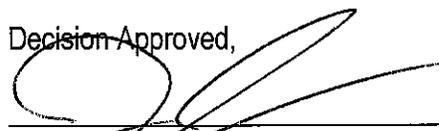
MOTION

Dave Rogers moved and Jeff Whalen seconded the motion to approve application 40-12-T for Andrew and Mary Ellen Gordon for a variance for a new deck, on the back of the house, with as a 3 foot left side and 5 foot right side variance and for the shed of 35 ft rear and 40 ft right side variance at 4462 Waterbury-Stowe Road, Waterbury, VT.

VOTE

Passed unanimously.

Decision Approved,

 _____, Chair

Date: 7-17-12

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON July 17, 2012

**Town of Waterbury
Development Review Board
Approved Minutes
Date: June 28, 2012**

Board Members Present: Jeff Whalen, Chair; Joel Baker; Rick Boyle; Jeff Whalen; Dave Rogers

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Fourth order of Business: Application for Variance and Flood Hazard Area Review, Findings and Decision

Permit #: 33-12-V

Applicant: Terry Gates

Landowner: SAME

Location of Project: 38 Union Street, Waterbury, VT

Description of Project: Applicant proposes to re-construct a garage/accessory structure.

The following interested parties were present and sworn in:

Terry and Peggy Gates

EXHIBIT LIST:

Exhibit A Zoning Permit Application

Exhibit B Sketch Plan

Exhibit C Construction info

Exhibit D Context Information

Exhibit E 15-day warning to Waterbury Record

Exhibit F Notice to adjacent landowners dated June 14, 2012.

TESTIMONY:

1. The garage is replacing the garage which was damaged due to flooding. The insurance company has covered the cost and the mortgage lender requires that they garage be replaced.

FINDINGS OF FACT:

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The applicant seeks to re-construct a garage on at 38 Union Street, Waterbury. Tax Map #19-227.000.
2. The pre-existing garage extended beyond the applicant's rear property boundary. The proposed garage will be on smaller footprint and wholly located within the applicants property boundary. The size of the proposed garage will be 12' x 26' (312 sf.)
3. The proposed garage would be more in conformance with the dimensional requirements than the pre-existing garage.

4. The property is located in the Village Residential Zoning District as described on the Village of Waterbury Zoning Map and within the Special Flood Hazard Area (SFHA) / 100-year floodplain (NFIP).
5. Within the Village Residential Zoning District dimensional requirements are as follows:
 - a. Minimum Lot Area = 10,000 sf
 - b. Setbacks: Front = 30ft, Side = 10ft, Rear = 30ft
6. The project is located on a pre-existing non-conforming lot (approx. 3,700 +/- sf) lot proposes the following setbacks:
 - a. Side = 1ft Rear = 2 ft
7. The applicant seeks the following:
 - a. 9 ft side setback Variance
 - b. 28 ft rear setback Variance
8. The property is located within the Special Flood Hard Area (SFHA) / 100-year floodplain where additional development standards apply. See below for excerpt of Article VI SFHA Regulations and Overlay District)
9. The garage requires Board review due to the size of the appurtenant structure is larger than 200 square feet and is a replacement of a non-conforming structure.
10. The garage is a non-residential, appurtenant structure of less than 500 sf and therefore represents a minimal investment and need not be elevated and an elevation certificate is not required.
11. The applicant proposes to bolt garage structure to new concrete slab to prevent flotation or lateral movement.
12. The applicant proposes to include two 8"x12" flood openings, 12" above the base of garage to allow for the movement of flood water through the structure.
13. The applicant proposes to construct garage with a concrete slab to decrease damage from flood waters.

VARIANCE CRITERIA (Section 308)

1. The following unique physical circumstances or conditions peculiar to the subject property are found [Refers to Section 308 (1) of Waterbury Zoning Bylaws] . *The existing small lot, with an existing structure that takes up most of the lot, prevent any other location. It is the replacement of a flood damaged structure on that property.*
2. Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaw and authorization of a variance is necessary to enable the reasonable development of the property.[Refers to Section 308 (2) of Waterbury Zoning Bylaws]
3. An unnecessary hardship *has not* been created by the applicant. [Refers to Section 308 (3) of Waterbury Zoning Bylaws]
4. For the following reasons, the variance will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare. [Refers to Section 308 (4) of Waterbury Zoning Bylaws] The property is located within a residential neighborhood. The small lot nature of the area and the fact this is replacing a previous structure is within the character of the neighborhood.

5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan. [Refers to Section 308 (5) of Waterbury Zoning Bylaws]
The non conformance is actually being reduced.

SFHA DEVELOPMENT STANDARDS (Section 605)

2) All substantial improvements and new construction (including fuel storage tanks) within the Special Flood Hazard Area shall meet the following criteria:

- (A) Be designed, operated, maintained, modified and adequately anchored to prevent flotation, collapse, release, or lateral movement of the structure;
- (B) Be constructed with materials resistant to flood damage;
- (C) Be constructed by methods and practices that minimize flood damage;
- (D) Be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(H) The fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above the finished floor elevation. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(I) A non-residential, appurtenant structure of 500 square feet or less that represents a minimal investment need not be elevated to or above the base flood elevation in this area, provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 605(a)(6).

(6) Adequate drainage paths shall be required around structures on slopes to guide floodwaters around and away from proposed structures.

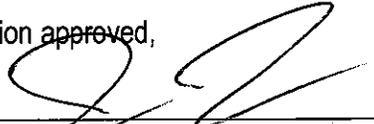
DECISION AND CONDITIONS

Based upon these findings [and subject to the conditions set forth below], the Development Review Board concludes that this satisfies our setback variance criteria so that we can grant a permit for the same and satisfies the criteria for a minimum investment structure for 500 square feet or less and applicable flood area criteria.

Rick Boyle moved and Dave Rogers seconded the motion to approve application 33-12-V for a setback variance for the reconstruction of a garage on the property located at 38 Union Street, Waterbury, VT; granting a 9' side setback and a 28' rear setback variance.

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. Any lights on the interior of the building that are designed or directed so as to increase the amount of light outside of the building require a revision of the site plan. All exterior lights will be down cast and shielded.

Decision approved,


_____, Chair

Date: 6-28-12

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

THESE MINUTES WERE APPROVED ON 6-28-12

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
June 28, 2012**

Board Members Present: Jeff Larkin, Chair; Joel Baker; Rick Boyle, Jeff Whalen; Dave Rogers
Staff Present: Steve Lotspeich; Clare Rock; Patti Spence
Public: Nancy Remson, Burlington Free Press

Sixth Order of Business: Application for Site Plan Review, Findings and Decision

Permit Application #39-12-V:

Applicant: State of Vermont Dept. of Buildings and General Services

Landowner: SAME

Location of Project: 103 South Main St.

The following interested parties were present and sworn in:

Whitney Aldrich, adjoining landowner; Pat Murray, adjoining landowner; Skip Flanders, adjoining landowner, Village Trustee; Kathleen Daye, adjoining landowner; Jeff Kampion, adjacent landowner; Mike and Morgan Griffith, adjacent landowners; Paul Boisvert, Consultant; Stephen Mosman, Architect; John Ostrum, State Architect

TESTIMONY:

John Ostrum, Paul Boisvert, and Steve Mosman presented the demolition phase of the project. Additional letters were submitted and entered as exhibits. Questions were raised by adjacent landowners and other members of the public, and discussed. Testimony was closed at 10:42 p.m.

EXHIBITS:

Exhibit A	Zoning Permit Application
Exhibit B	Site Master Plan dated May 30, 2012
Exhibit C	Existing Conditions Plan dated May, 2012
Exhibit D	Property Plan dated October, 2011
Exhibit E	Section of Tax Map 19 Showing Site and Adjacent Landowners
Exhibit F	Summary Option B dated March 9, 2012
Exhibit G	Letter from Freeman, French Freeman Architects dated May 30, 2012
Exhibit H	List of Adjacent Landowners
Exhibit I	Notice Sent to Adjacent Landowners dated June 12, 2012
Exhibit J	Letter from the Waterbury Trustees and the Waterbury Selectboard to Peter Thomas, dated June 14, 2012
Exhibit K	Letter submitted by Whitney Aldrich and Wade Hodge, dated June 26, 2012
Exhibit L	Letter from Randall Street residents to Peter Thomas re: Draft Environmental Assessment, dated June 13, 2012

FINDINGS OF FACT

General Description:

This project is the demolition of approximately 22 existing buildings at the State Office Complex located at 103 S. Main St. Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Development Review Board makes the following findings:

Exhibit G, Letter from Freeman, French Freeman Architects outlines the demolition phase of the reconstruction of the State Office complex that is the subject of these findings and decision:

Demolition and Recycling Overview:

The State of Vermont, Dept. of Buildings and General Services (BGS) and Freeman French Freeman (FFF) Architects have developed a Master Plan concept for the Waterbury Complex Restoration that is described further in Exhibit F, Summary Option B. Exhibit G states: "It will include LEED Gold or higher certification for the complex. LEED requires projects to go to extraordinary lengths to both recycle construction generated waste and to specify new materials with high percentages of recycled content.

Early this summer, BGS will bid out the Demolition Phase of the project. Approximately 22 buildings will be taken down. These buildings are located between the river and the original historic "Bone" [5 South to 5 North]. The "Bone" buildings will be dry flood proofed to the 500 year flood level [2.5' higher than Irene]. If the necessary permits can be obtained, we hope to begin demolition on August 28th, the anniversary of Hurricane Irene.

Our current conceptual waste plan calls for the following:

1. Collect and recycle all metals;
2. Salvage slate roofing;
3. Selective wood salvage;
4. Salvage concrete and brick waste for reuse into the project. These materials will be crushed on site (crusher will have noise and dust controls) and reused to fill the foundation holes of the demolished buildings and for batching into new low strength concrete for flood proofing. The "Bone" buildings will be 'dry flood proofed' by placing a 3'-0" thick layer of concrete on them to ballast the existing basement floor slabs and to strengthen the foundation walls. The windows will be removed and filled in with granite blocks set back 3-4" from the exterior wall face to retain the historic rhythm of the windows.

This idea for recycling the demolished concrete and brick will significantly reduce demolition waste and 'haul away' truck traffic, as well as reduce the delivery of concrete during the construction phase." The stockpiles of crushed materials will be surrounded on three sides with large concrete blocks.

The Development Review Board finds that the application addresses the Site Plan Review Criteria in Section 301 of the Waterbury Zoning Regulations as follows:

(1) Adequacy of traffic access. Construction traffic will be limited to the hours between 7:00 AM and 6:00 PM, Monday through Saturday during demolition work. Truck drivers will be instructed to avoid the use of engine brakes on site and in the vicinity of the site. Signage will be placed on South Main Street prohibiting the use of engine brakes. Dust will be controlled by application of water, and by wet-sweeping soil from affected areas at the end of each construction day. *Considerations shall include:*

(A) Traffic flows at the intersection of driveways or access roads with public roads and at other affected streets and intersections. For this application (Selective Demolition) access remains as existing with the exception that the South Entry will be the exclusive route for all heavy trucks and construction traffic entering and leaving the site as shown on Exhibit B, the Site Master Plan. Construction traffic will be limited to the hours between 7:00 AM and 6:00 PM, Monday through Saturday during demolition work. Truck drivers will be instructed to avoid the use of engine brakes on site and in the vicinity of the site. Dust will be controlled by application of water, and by wet-sweeping soil from affected areas at the end of each construction day. Relevant to Selective Demolition, Truck and construction worker traffic will be offset by decreased State office building employee traffic.

- (B) Location of driveway entrances and exits so as to have sufficient sight distances.
- (C) The need for turning lanes, traffic-control devices, or special provisions for emergency vehicles.
- (D) Pedestrian safety and convenience.

(3) *Adequacy of landscaping and screening.* In relation to Selective Demolition, reclamation and storage of materials for reuse, noise and dust from processing, the proposed location for these functions is located as remote from adjacent neighbors as feasible as shown on Exhibit B, Site Master Plan, and Exhibit C, Existing Conditions Plan.

Considerations shall include:

- (A) *Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility with and protection for adjacent properties and public roads.*
- (B) *Preservation of attractive or functional existing vegetation.* Specimen trees, such as the large oak trees in front of the complex, will be saved and protected during demolition and reconstruction as identified by the landscape architect.

CONCLUSION

The Development Review Board concludes that the State of Vermont has adequately demonstrated that they would be in compliance with our zoning regulations for their phase I effort that is demolition of a portion of buildings at the State Complex.

DECISION AND CONDITIONS

MOTION:

Joel Baker moved and Rick Boyle seconded the motion to approve application #39-12-V, State of Vermont, Dept. of Buildings and General Services, for the demolition of approximately 22 existing buildings at the State Office Complex located at 103 S. Main St., with the following conditions:

1. This permit is granted on the condition that the applicant complete the project consistent with the Development Review Board's findings and conclusions and the approved plans and exhibits.
2. All temporary structures shall be anchored and elevated and follow flood hazard regulations for temporary structures. The floors of the trailers need to be a minimum of 1 foot above the 100 flood elevation in accordance with Article VI of Waterbury Flood Regulations.

VOTE: The motion passed unanimously

Decision Approved,

 _____, Chair Date: 6-28-12

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THESE MINUTES WERE APPROVED ON 6-28-12