

**WATERBURY DEVELOPMENT REVIEW BOARD  
APPROVED MINUTES  
Thursday, September 20, 2012**

Board Members Present: Jeff Larkin, Chair; Jeff Whalen; Joel Baker, Martha Staskus.  
Staff Present: Clare Rock, Steve Lotspeich, Patti Spence  
Public Present: Kane Smart, Chair, Planning Commission, Dan DeSanto

The meeting was called to order by Jeff Larkin at 6:30 p.m.

**Application #51-12-V**, Ted Brunell, 12 Lincoln Street, Waterbury, Vt.  
The hearing was opened at 6:30 pm. See separate minutes for DRB review and decision.

**Application #53-12-V**, Overtime Management LLC  
The hearing was opened at 7:00 pm. See separate minutes for DRB review and decision.

**Application #46-12-V**, Waterbury-Duxbury Union 45  
The hearing was opened at 7:30 pm. See separate minutes for DRB review and decision.

**REVIEW & APPROVAL OF MINUTES FOR SEPTEMBER 6, 2012**

The minutes, findings and decisions from September 6, 2012 were reviewed and approved.

**MOTION:**

Martha Staskus moved and Jeff Whalen seconded the motion to approve the general minutes and the minutes for application 56-12-V, both dated September 6, 2012.

**VOTE:**

The motion passed unanimously.

**DISCUSSION OF ZONING AMENDMENTS BEING PROPOSED BY THE PLANNING COMMISSION**

The DRB reviewed the proposed zoning amendments, including the subdivision chapter that the Planning Commission has drafted. Recommended suggestions were shared with Kane Smart, the chair of the Planning Commission and will be forwarded to the full Planning Commission.

**REVIEW & APPROVAL OF MINUTES FOR SEPTEMBER 20, 2012**

The minutes, findings and decisions from September 20, 2012 were reviewed and approved.

**MOTION:**

Martha Staskus moved and Joel Baker seconded the motion to approve these minutes of September 20th and the minutes for applications 51-12-V, 53-12-V and 46-12-V, as amended with changes.

**VOTE:**

The motion passed unanimously.

**ADJOURNMENT**

The meeting was adjourned by the Chair at 9:30 p.m.

Minutes and Decisions Approved:

 Chair

Date: 9-20-12

**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 9-20-12

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: September 20, 2012**

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Board Members Present: Jeff Larkin, Chair; Joel Baker; Jeff Whalen; Rick Boyle; Martha Staskus  
Staff Present: Clare Rock; Steve Lotspeich; Patti Spence

First Order of Business: Application for Subdivision & Special Flood Hazard Area Review, Findings and Decision. The public hearing was opened at 6:30 p.m.

Permit Application #: 51-12-V  
Applicant: Ted Brunell  
Landowner: SAME  
Location of Project: 12 Lincoln Street, VT

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The following interested parties were present and sworn in:  
Gunner McCain, Consultant  
Richard Germana, Neighbor

**TESTIMONY:**

1. Proposed cuts and fills are documented on the site plan.
  2. The applicant is requesting a sub-division to create the second lot.
  3. The consultant stated that if moving fill in a flood plain the applicant needs to prove that there will be no increase in the base flood elevation.
  4. Neighbor had concerns;
    - a. property line question/concern
    - b. surface water run-off will not be directed toward the neighboring property at 18 Lincoln St.
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**EXHIBIT LIST:**

Exhibit A Zoning Permit Application #51-12-V dated 7/19/2012  
Exhibit B Letter from McCain Consulting, dated 7/17/2012  
Exhibit C Site Plan, dated 9/18/12  
Exhibit D FIRM Panel  
Exhibit E ANR Project Review Sheet  
Exhibit F Notice sent to Adjacent Landowners dated 9/04/2012

**Description of Project:**

This project proposes to subdivide a 1.25 acre parcel into 2 lots plus undertake site preparation activities (placement of fill and grading) for future development. The property is located at 12 Lincoln Street, Waterbury, VT. (Tax Map#19-068.000)

**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 lot is located within the Village Residential District, where the dimensional requirements are:
  - a. Minimum lot size:           10,000 sf for single family dwelling /  
  15,000 sf for two-family dwelling
  - b. Setbacks:                     Front 30, Sides=10 ft, Rear =30 ft
2. The west lot will be 0.75 acres (32,670 sf) with an existing two-family dwelling building.
3. The existing building on the newly-created west lot meets the setback requirements for the zoning district.
4. The east lot will be 0.50 acres (21,780 sf).
5. The site plan shows the location of a proposed house, which is not a component of this zoning application, but does illustrate how a future structure will meet setbacks.
6. The project proposed under this application also includes site preparation activities which include the placement of fill and site grading.
7. The northern portions of both lots plus the eastern portion of the east lot are located within the mapped 100-year floodplain, where fill and grading/excavation are regulated activities.
8. The site plan states that a total of 3.7 cubic yards of fill will be placed in the floodplain on the east lot and 5.1 cubic yards will be removed/cut to compensate for the fill.
9. As stated on the site plan the cut volume exceeds the fill volume, therefore there will be no increase in the base flood elevation (BFE).
10. Below are excerpts of the Waterbury Special Flood Hazard Area:

Section 605

Development Standards

(a) Special Flood Hazard Areas

(1) All development shall be:

(A) Reasonably safe from flooding;

(D) Constructed by methods and practices that minimize flood damage;

(F) Adequately drained to reduce exposure to flood hazards;

(2) In Zones AE, AH, and A, A1 – A30 where base flood elevations and/or floodway limits have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the base flood elevation more than 1.00 foot at any point within the community. The demonstration must be supported by technical data that

conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

Section 606      Application Submission Requirements

(a) Applications for development in areas of special flood hazard shall include:

- (1) Base flood elevation data for all subdivisions and other proposed new developments;
- (4) Where an application requires Board review under Section 604(d), the application shall include certification by a registered professional engineer or architect demonstrating that the proposed development will not increase base flood elevations more than 0.25 foot. A flood elevation demonstration must be supported by technical data that conforms to standard hydraulic engineering principals and certified by a registered professional engineer. Compensatory storage of displaced flood waters must be above the water table, hydrologically equivalent, and serve to reduce flood and storm water impacts. Development may not result in any adverse affects on existing structures during the occurrence of the base flood.
- (6) A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin.

(b) In addition, the Development Review Board shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:

- (1) Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation;
- (2) Specifications for building construction and materials, floodproofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

**CONCLUSION**

The Development Review Board concludes that the application meets the dimensional requirements for sub-division within the Village Residential Zoning District, and the applicable Flood Hazard Area criteria, as long as the applicant meets the conditions set forth in the motion to approve the project..

DECISION AND CONDITIONS

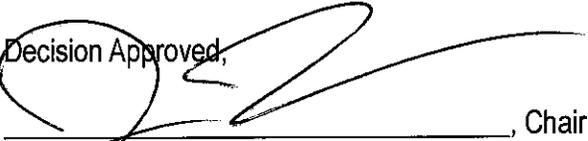
MOTION:

Jeff Whalen moved and Joel Baker seconded the motion to approve application # 51-12-V for Ted Brunell to subdivide a 1.25 acre parcel into 2 lots plus undertake site preparation activities (placement of fill and grading) for future development at 12 Lincoln Street, Waterbury, VT. (Tax Map#19-068.000) with 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. The applicant brings a copy of the Final Plat to Zoning Administrator within 150 days so that the Development Review Board can review, approve, and sign off on the Final Plat and meet the 180 day timeline for recording the plat that is required by 24 V.S.A., Section 4463.
3. The applicant agrees to manage surface water in such a way that it is not directed to the neighbor's property, at 18 Lincoln Street

VOTE: The motion was approved unanimously.

Decision Approved,

 \_\_\_\_\_, Chair

Date: 9-20-12

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 September 20, 2012

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: September 20, 2012**

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Board Members Present: Jeff Larkin, Chair; Jeff Whalen; Rick Boyle; Martha Staskus  
Staff Present: Clare Rock; Steve Lotspeich; Patti Spence

Second Order of Business: Application for Subdivision, Findings and Decision. The public hearing was opened at 7:00 p.m.

Permit Application #: 53-12-V  
Applicant: Overtime Management, LLC  
Landowner: SAME  
Location of Project: Stowe Street & Rolling Meadows Lane,  
Waterbury, VT

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The following interested parties were present and sworn in:

Joel Baker, Applicant  
Gunner McCain Consultant  
Dan DeSanto, Neighbor  
Dorienne Cedeno, Neighbor  
Pauline Hodgdon, Neighbor  
Brad Hodgdon, Neighbor

**TESTIMONY:**

1. The application was previously heard and approved on August 7, 2012 but the warning to adjacent landowners had noticed an incorrect location for the hearing.
  2. The neighbors had questions regarding subdivision procedures.
  3. The final plat was presented and reviewed.
  4. Exhibits H & I were added.
  5. The prior minutes for application 46-12-V from August 7th were reviewed and no changes were made.
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**EXHIBIT LIST:**

Exhibit A Zoning Permit Application #53-12-V  
Exhibit B Letter from McCain Consulting, dated 8/1/2012  
Exhibit C Adjoining Landowners List  
Exhibit D Site Plan, dated 8/20/2012  
Exhibit E Previous Subdivision Map, #42-01-V, showing lot 1

- Exhibit F Previous Site Map from 22-11-V, showing location and setbacks of proposed duplexes  
Exhibit G Notice sent to Adjacent Landowners  
Exhibit H Copy of the Final Plat, dated 8/20/12  
Exhibit I 2nd notice to Adjacent Landowners dated 9/04/12

**Description of Project: (as presented August 7, 2012)**

This project proposes to subdivide a Lot 1 on Rolling Meadows Lane for the creation on Lot 6 at the corner of Stowe Street and Rolling Meadow Lane, Waterbury, VT (Tax Map # 19-079.000)

The project was previously approved by the zoning administrator under application # 22-10-V. The Final Survey Plat was not recorded within 180 days from the issue date #22-10-V.

**FINDINGS OF FACT: ( AS PRESENTED AUGUST 7, 2012)**

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

1. The lot is located within the Village Residential District, where the dimensional requirements are:
  - a. Minimum lot size: 10,000 sf for single family dwelling /  
15,000 sf for two-family dwelling
  - b. Setbacks: Front 30, Sides=10 ft, Rear =30 ft
2. Lot 1 will be 1.03 acres.
3. Two duplexes on proposed Lot 1 have received zoning approval under permit # 22-11-V.
4. Lot 6 will be 0.55 acres.
5. An existing single-family dwelling is located on lot 6 and meets the setback requirements.

**CONCLUSION**

The Development Review Board concludes that all applicable review criteria have been met.

**DECISION AND CONDITIONS**

**MOTION:**

Rick Boyle moved and Jeff Whalen seconded the motion to approve application # 53-12-V and to approve the final plat as presented to the board this evening for Overtime Management LLC to subdivide a Lot 1 on Rolling Meadows Lane for the creation on Lot 6 at the corner of Stowe Street and Rolling Meadow Lane, Waterbury, VT (Tax Map # 19-079.000) with 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.

**VOTE:** The motion passed unanimously.

Decision Approved

  
\_\_\_\_\_, Chair

Date: 9-20-12

**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 September 20, 2012

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED MINUTES  
Date: September 20, 2012**

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Board Members Present: Jeff Larkin, Chair; Joel Baker; Jeff Whalen; Rick Boyle; Martha Staskus

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

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

Permit #: 46-12-V

Applicant: Brad Gresham, Thatcher Brook Primary School

Landowner: Waterbury-Duxbury Union 45

Location of Project: 47 Stowe Street, Waterbury, VT

Description of Project: Applicant proposes to construct roof over delivery ramp.

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The following interested parties were present and sworn in:

Brad Gresham

**EXHIBIT LIST:**

- |           |   |
|-----------|---|
| Exhibit A | Zoning Permit Application                   |
| Exhibit B | Site Plan                                   |
| Exhibit C | Elevation Drawing                           |
| Exhibit D | 15-day warning to Waterbury Record          |
| Exhibit E | Notice to adjacent landowners dated 8-31-12 |

**TESTIMONY:**

The application was previously heard and approved on August 7, 2012. The notice to adjacent landowners had not been delivered in a timely manner and the application is being reconsidered.

The applicant testified that there were no changes in the project since the review on August 7<sup>th</sup>.

**FINDINGS OF FACT: (AS APPROVED ON AUGUST 7, 2012)**

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 roof over the delivery ramp which provides access to the school cafeteria on High Street, Waterbury, VT. Tax Map #19-138.000.
2. The roof structure over the ramp will be 35' long, 6' wide and 105" tall, and will be located within the municipal right-of-way for High St.
3. The total footprint of the ramp will be 210 sq. ft.
4. The property is located in the Village Mixed Residential Zoning District as described on the Village of Waterbury Zoning Map where the setback requirements are as follows:

- a. Setbacks: Front = 40ft, Side = 25ft, Rear = 50ft
5. The school building pre-exists zoning and the existing roof over the entrance into the cafeteria on High St. is located within the right-of-way for High St. and has a front setback of 0 ft.
6. The ramp proposes a south-side front setback on High St. of 0 ft.
7. The applicant seeks a 40 ft. south-side front variance for the roof structure over the ramp.

**VARIANCE CRITERIA (Section 308)**

1. The following unique physical circumstances or conditions peculiar to the subject property are found: The property is a pre-existing school building that was built to the edge of the road right-of-way.
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] . same as #1
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 school has been in this location since the early 1900's.
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**

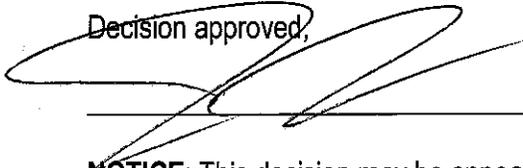
**MOTION:**

Martha Staskus moved and Jeff Whalen seconded the motion to approve Application #46-12-V, Waterbury-Duxbury Union 45, for a 40' front yard variance for a roof over the delivery ramp into the cafeteria for the Thatcher Brook Primary School, located at 47 Stowe Street, Waterbury, VT, with the following condition:

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

**VOTE:** The motion passed unanimously.

Decision approved,



\_\_\_\_\_, Chair

Date:

9-20-12

**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 September 20, 2012