

**WATERBURY DEVELOPMENT REVIEW BOARD  
APPROVED MINUTES  
Thursday, November 1, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen, Martha Staskus, Nat Fish

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

The meeting was called to order by Joel Baker at 6:30 p.m.  
The following applications were heard and decisions made.  
See separate minutes.

**APPLICATION #60-12-V**, Charles and Georgia O'Brien, 21 Hill St. Ext.

**APPLICATION #58-12-T**, Kathryn, Edward & Richard Boschen, for a Final Plat approval at 64 Deacons Way, Waterbury Center.

**APPLICATION #59-12-T**, Faith Bieler, for a subdivision at 48 Branbury Crossing, Waterbury Center, VT.

**APPLICATION #54-12-T**, Matt and Shana Hesser, Special Flood Hazard Review for property at 1553 US Route 2, Waterbury, VT

**APPLICATION #52-12-V**, Deb Talbot, continuation from October 18, 2012.

**REVIEW & APPROVAL OF MINUTES**

Nat Fish moved and Jeff Whalen seconded the motion to approve the findings and decisions for application #31-12-T and for the general minutes of 10-18-12, both as amended.

Vote: The motion passed unanimously.

**PLANNER'S REPORT**

Steve presented information on a Fall Planning and Zoning Forum on December 5, 2012. Any interested board members should let Steve know to reserve space.

**ADJOURNMENT**

The meeting was adjourned by the Chair at 9:45 p.m.

Minutes Approved:

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

Date: 11.15.12

**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 NOVEMBER 15, 2012

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: November 1, 2012**

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Board Members Present: Joel Baker, Acting Chair; Jeff Whalen, Martha Staskus, Nat Fish

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

First Order of Business: Application for Variance Request, Findings and Decision. The public hearing was opened at 6:30 p.m.

Permit Application #: 60-12-V

Applicant: Charles & Georgia O'Brien

Landowner: SAME

Location of Project: 21 Hill Street Extension, Waterbury, VT

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The following interested parties were present and sworn in:

Georgia O'Brien, Applicant

Charles O'Brien, Applicant

Goerge Eget, Neighbor

Betsy Ann Wrask, Neighbor

Martine Lemieux, Adjoining Landowner

Charles E Hughson, Adjoining Landowner

Bob Lucia, Neighbor

Mary Fitz Lucia, Neighbor

Ben DeJohn, Adjoining Landowner

Kristin Wolf, Adjoining Landowner

Justin Hadley, Resident

Alec Tuscany, Town/Village of Waterbury

C. Simmons, Adjoining Landowner (Not present but sent a letter (Exhibit E) and requested to be an interested party.)

**TESTIMONY:**

1. Neighbors stated that the road, which is not a town road, is maintained randomly by the people on the street. There is no association or organized group.
2. According to Alec Tuscany, the sewer line is a mess.
3. Betsy Ann Wrask offered testimony that her home, at 15 Hill Street Ext. has a sewer line that is in poor shape, with 2 identified leaks, there are at least 2 other uphill homes with sewer lines running into their line, these also have identified leaks.
4. The O'Brien's indicated that they would like to begin building as soon as possible.
5. A house was demolished this summer and was filled back in.
6. The road surface is gravel, at best.

7. Alec Tuscany stated that the Town could commit to putting some gravel down on the road prior to winter, with some stipulations, one being that the O'Brien property hook in to the 4" sewer line prior to that being done.
8. Adjacent landowners on High Street have concerns with the setback requests. There is trash and scrap metal on the property from the prior tenants.
9. The concern is the rental home being so close to the other properties. Prior tenants have caused problems in the neighborhood.
10. Moving the proposed building envelope would minimize the requested variance.
11. Due to the many concerns raised by neighbors it was suggested by the DRB that they consider forming an association to address the issues of road maintenance and sewer lines and other neighborhood issues and/when needed.

The public hearing was closed at 7:30 p.m.

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**EXHIBIT LIST:**

- Exhibit A Zoning Permit Application #60-12-V
- Exhibit B Site Plan
- Exhibit C Survey dated August 2012
- Exhibit D Notice sent to Adjacent Landowners dated October 5, 2012
- Exhibit E Letter from adjacent landowners, C & A Simmons, dated October 29, 2012

**Description of Project:**

The applicant is seeking zoning approval of to construct a single-family dwelling located at 21 Hill Street Extension, Waterbury, VT, Tax Map #19-178.000.

**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 applicant demolished the existing single-family dwelling on the property and is proposing to build a new single-family dwelling.
2. The property at 21 Hill Street Extension is within the Village Mixed Residential Zoning District where the dimensional requirements are as follows:
  - a. Minimum Lot size: 10,000 sf
  - b. Setbacks: Front: 30' / Side 10' / Rear 30'
3. The property is a 0.16 acre (83'3" x 84'6" x 51'9" x 94'8") pre-existing lot.
4. The proposed new single-family dwelling proposed the following setbacks:
  - a. Front: 26' / Sides: 10' & 48' 8" / Rear: 16'
5. The applicant seeks a 4' front setback variance and a 14' rear 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]  
*This is a pre-existing small lot where a home was demolished.*
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]  
*Putting another single-family, single-story dwelling where a prior similar home was located and demolished. Other homes on the street are the same.*
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]

## **CONCLUSION**

The Development Review Board concludes that they are satisfied that the variance criteria will be satisfied with the conditions that have been set forth.

## **DECISION AND CONDITIONS**

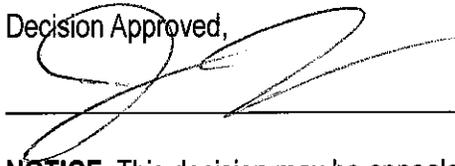
### **MOTION:**

Jeff Whalen moved and Joel Baker seconded the motion to approve application # 60-12-V to construct a single-family dwelling at 21 Hill Street Ext. with a variance of 4' from the front setback, and a maximum of a 14' variance on the rear side, 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. The house location will be moved to the east with the setback of 10 feet to minimize the setback request for the south border.
3. The property will be cleaned up of demolition debris within 30 days of the issuance of the permit.
4. The stormwater runoff will be directed to the front of the lot toward the road/street, versus down slope toward the adjacent house, within 30 days of the issuance of the permit.
5. The new home will be connected to the 4" sewer line which runs down the northly side of Hill Street Ext.
6. A new site plan showing the revised house site location on the lot will be submitted on the survey plan prior to the issuance of the permit.

**VOTE:** The motion passed unanimously.

Decision Approved,



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

Date: 11-15-17

**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 NOVEMBER 15, 2015.

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: November 1, 2012**

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Board Members Present: Joel Baker, Acting Chair; Jeff Whalen, Martha Staskus, Nat Fish

Staff Present: Steve Lotspeich; Clare Rock; Patti Spence

Second Order of Business: Application for Subdivision Review & Final Plat Approval, Findings and Decision

The public hearing was opened at 7:30 p.m.

Permit Application #: 58-12-T

Applicant: Kathryn, Edward & Richard Boschen

Landowner: SAME

Location of Project: 64 Deacons way, Waterbury Center, VT

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The following interested parties were present and sworn in:

Dan McKibben, Adjacent property owner

Chris Austin, Consultant

**TESTIMONY:**

1. There is a State Waste Water permit, #WW5 6021, approving both lots.

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**EXHIBIT LIST:**

Exhibit A Zoning Permit Application

Exhibit B Site Plan dated 9/5/2012

Exhibit C Letter from Grenier Engineering dated 9/28/2012

Exhibit 15-day Notice of Public Hearing dated 10/4/2012

Exhibit Notice sent to Adjacent Landowners dated 10/9/2012

**Description of Project:**

The applicants are seeking zoning approval of to subdivide a 12+/- acre parcel into 2 lots. The property is located at 64 Deacons Way, Waterbury Center, VT, Tax Map #09-012.000

**FINDINGS OF FACT:**

1. The property is located within the Low density Residential Zoning District where the dimensional requirements are:

a. Minimum lot size: 5 acres

b. Frontage: 300'

2. Lot #1 will be 6+/- acres with the existing single-family dwelling.
3. Lot #2 will be 6+/- acres.
4. Both Lot #1 & Lot # 2 exceed the districts' minimum lot size.
5. No development is proposed on Lot #2 under this application.
6. Access to Lot #2 will be located at the entrance to Deacons Way and will utilize a 50' right-of-way across the southern portion of Lot #2.
7. The Applicants are also seeking DRB Approval for the Final Plat in preparation for recording.

### CONCLUSION

The Development Review Board concludes that all applicable dimensional requirements are met for a 2-lot subdivision for application 58-12-T.

### DECISION AND CONDITIONS

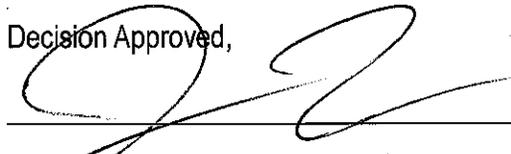
#### MOTION:

Martha Staskus moved and Jeff Whalen seconded the motion to approve application # 58-12-T and to approve the Final Plat for Kathryn, Edward & Richard Boschen for a 2-lot subdivision located at 64 Deacons Way 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:

11-15-12

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THESE MINUTES WERE APPROVED ON NOVEMBER 15, 2012

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: November 1, 2012**

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Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Martha Staskus;  
Nat Fish

Staff Present: Steve Lotspeich; Clare Rock; Patti Spence

Third Order of Business: Application for Subdivision Review, Findings and  
Decision

The public hearing was opened at 7:45 p.m.

Permit Application #:	59-12-T
Applicant:	Faith Bieler
Landowner:	SAME
Location of Project:	48 Branbury Crossing, Waterbury Center, VT

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The following interested parties were present and sworn in:  
Faith Bieler, Applicant  
Dan McKibben, Neighbor

**TESTIMONY:**

1. Setback in the district was discussed with the neighbor who was present.  
There are no issues.

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**EXHIBIT LIST:**

Exhibit A	Zoning Permit Application
Exhibit B	Subdivision Plan dated 10-30-12
Exhibit C	15-day Notice of Public Hearing dated 10-4-12
Exhibit D	Notice sent to Adjacent Landowners dated 10-17-12

**Description of Project:**

The applicant is seeking zoning approval of to subdivide a 149+/- acre parcel into  
3 lots. The property is located at 48 Branbury Crossing, Waterbury Center, VT,  
Tax Map #09-006.000

**FINDINGS OF FACT:**

1. The property is located within the Low Density Residential (LDR) and  
Conservation (CNS) Zoning District where the dimensional requirements  
are:
  - a. LDR Minimum lot size: 5 acres
  - b. CNS Minimum lot size: 10 acres
2. Lot #1 will be 57.7+/- acres with an existing single-family dwelling.

3. Lot #2 will be 45.38+/- acres with an existing single-family dwelling.
4. Lot #3 will be 47.68+/- acres with an existing single-family dwelling.
5. Each lot exceeds the district's minimum lot size.
6. No development is proposed under this application.
7. Access to Lot #2 and Lot #3 will be provided by a 50' right-of-way / private road (Branbury Crossing).
8. Access and use of existing septic and replacement mounds, which are not located on the respective newly created lots, will retain rights via permanent easements as shown on Exhibit B, the Subdivision Plan.

### CONCLUSION

The Development Review Board concludes that all applicable dimensional requirements are met for a 3-lot subdivision for application 59-12-T.

### DECISION AND CONDITIONS

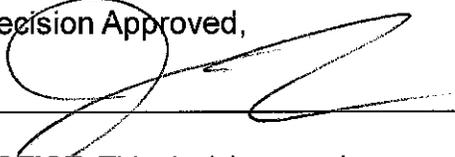
#### MOTION:

Jeff Whalen moved and Martha Staskus seconded the motion to approve application # 59-12-T for Faith Bieler for a 3-lot subdivision from a 149 +/- parcel located at 48 Branbury Crossing 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.

VOTE: The motion passed unanimously.

Decision Approved,



, Chair

Date:

11.15.12

**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 NOVEMBER 15, 2012.

Development Review Board Approved Minutes, 59-12-T Bieler Subdivision

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: November 1, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Martha Staskus;  
Nat Fish

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Fourth Order of Business: Application for Special Flood Hazard Area Review,  
Findings and Decision. The public hearing was opened at 8:00 p.m.

Permit Application #: 54-12-T  
Applicant: Matthew & Shana Hesser  
Landowner: SAME  
Location of Project: 1553 US Route 2, Waterbury, VT

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The following interested parties were present and sworn in:

Matt Hesser, Applicant  
Lloyd Steeves, Father-in-law

**TESTIMONY:**

1. Applicant is improving the property post flood for purpose of flood mitigation.

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**EXHIBIT LIST:**

Exhibit A Zoning Permit Application #54-12-T, dated 9/18/2012  
Exhibit B Letter from Grenier Engineering dated 2/15/2012  
Exhibit C Letter from Grenier Engineering dated 10/5/2012  
Exhibit D Site Plan, dated 10/2/2012  
Exhibit E FIRM Panel  
Exhibit F Notice sent to Adjacent Landowners dated 10/15/12

**Description of Project:**

The property owner seeks zoning approval for an earthen berm /placement of fill  
in the floodplain at 1553 US Route 2, Waterbury, VT (Tax Map # 12-031.000)

**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 Special Flood Hazard Area where placement  
of fill in the floodplain requires Development Review Board approval.
2. The elevation of the floodplain has been determined to be 412.5'
3. The elevation of the walkout basement was determined to be 411.85'

4. The applicant constructed the earthen berm for the purpose of flood mitigation to protect the basement of the single-family house located at 1553 US Route 2.
5. The berm is 70' long, 7.5' wide and averages 1' high and contains 20 yards of fill.
6. The site plan and accompanying consultant letter was prepared by a registered engineer.
7. The flood hazard regulations require any placement of fill not increase flood elevations by more than 0.25'.
8. The registered engineer calculates the fill will increase the flood elevation by 0.032'.
9. 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 all applicable flood hazard area regulations have been met.

## **DECISION AND CONDITIONS**

### **MOTION:**

Nat Fish moved and Jeff Whalen seconded the motion to approve application # 54-12-T for Matthew & Shana Hesser for the construction of an earthen berm /placement of fill in the floodplain at 1553 US Route 2, Waterbury, VT (Tax Map # 12-031.000)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: 11-15-12

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THESE MINUTES WERE APPROVED ON NOVEMBER 15, 2012

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
APPROVED FINDINGS & DECISION  
Date: November 1, 2012**

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Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Martha Staskus;  
Nat Fish

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Fifth Order of Business: Continuation of Hearing from October 18, 2012,  
Application for a Subdivision Review and Variance Request, Findings and  
Decision. The public hearing was opened at 9:00 pm

Permit Application #: 52-12-T  
Applicant: Deborah Talbot  
Landowner: SAME  
Location of Project: 100 Tayer Lane, Waterbury Center, VT

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The following interested parties were present and sworn in:  
Deb Talbot

**TESTIMONY:**

Deborah Talbot presented her revised plan for the two-lot subdivision of her  
property off Route 100 in Waterbury Center.

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**EXHIBIT LIST:**

Exhibit A Zoning Permit Application #52-12-T  
Exhibit B Proposed 2-lot subdivision plan, dated 9/12/2012  
Exhibit C DRB approved minutes, dated 8/23/2012  
Exhibit D Notice sent to Adjacent Landowners dated 10/1/12

**Description of Project:**

This project is a 2-lot subdivision at 100 Tayer Lane, Waterbury Center, Tax Map  
# 05-053.000. On August 23, 2012 the applicant requested and appeared before  
the DRB for a preliminary discussion about the proposed subdivision to gather  
input. The subdivision proposes to subdivide a 32 acre lot into 2 lots.

**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 project proposes to subdivide a 32 acre lot into a 2 lots.
2. The following structures exist on the property: two residential buildings with a total of three apartments, a single-family dwelling above a commercial garage/shop. And a commercial pole barn/garage.
3. The garage/shop underneath the single family dwelling and the pole barn/garage are used for a commercial landscape maintenance business.
4. No new development is being proposed as part of this application.
5. The new 2+ acre lot (Lot A) is located within the RT 100 Zoning District where the following dimensional requirements apply: (there is no RT 100 frontage)
  - a. Minimum Lot size: 5 acres for commercial use / 2 acres for residential use
  - b. Setbacks:
    - i. Front: 100 ft
    - ii. Side: 50ft
    - iii. Rear: 50ft
6. Lot A is proposed to be 2+ acres and contains the two existing buildings with a total of three apartments and the pole barn which is used for commercial purposes (the applicant stores equipment for the applicants' landscaping business and meets the setback requirements.
7. Lot A meets the minimum lot size requirement.
8. Lot B is proposed to be 30 acres in size and contains the applicant's dwelling which is on the second floor above the applicant's commercial garage/shop meet the setbacks to the proposed property boundary.
9. The portion of Lot B with the commercial structure on it is located within the RT 100 Zoning District. The majority of the rear portion of the lot is located within the Low Density Residential (LDR) District. Lot B meets the minimum lot size requirements for both zoning districts and with the adjustment to the new property line in front of the apartment/shop building, all setback requirements are met.
10. Within the RT 100 Zoning District a division of land is subject to site plan review.

## **CONCLUSION**

The Development Review Board concludes that section 301 criteria have been met by virtue of the large amount of open land that will remain untouched and no new building construction as part of the plan, just a subdivision of property that includes existing buildings.

## DECISION AND CONDITIONS

### MOTION:

Martha Staskus moved and Nat Fish seconded the motion to approve application # 52-12-T for a 2 lot subdivision 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. The applicant submit a revised subdivision plan that shows that all setback requirements are met, prior to the issuance of the permit, this will eliminate the need for a variance by showing a plan that meets all setback requirements.
3. The applicant brings a copy of the Final Plat to Zoning Administrator within 150 days so that the Development Review Board can sign off on the Final Plat and meet the 180 day timeline required by 24 V.S.A., Section 4463.

VOTE: The motion passed unanimously.

Decision Approved,



, Chair

Date: 11.15.12

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