

**WATERBURY DEVELOPMENT REVIEW BOARD
APPROVED GENERAL MINUTES
Thursday, May 16, 2013**

Board Members Present: Jeff Larkin, Chair; Jeff Whalen, Nat Fish, Dave Rogers, Martha Staskus, Tom Kinley, Mike Bard

Staff Present: Clare Rock, Patti Spence

The meeting was opened by the chair at 6:30 p.m.

Continuation of Application # 05-13-T, Noah Fishman and Marlana Tucker-Fishman, Site Plan and Conditional Use Review for a daycare center at 538 Guptil Road, Waterbury Center, VT. (Tax Map #13-180.030)

See separate hearing minutes, findings and decision.

Application #16-13-T, Ken & Joanna Bisceglia, for a waiver from setback requirements for a shed at 75 Tamarack Lane, Waterbury Center, VT 05677 (Tax Map # 10-018.400)

See separate hearing minutes, findings and decision.

Application #21-13-T, Peter and Edith Hathaway for a waiver from front setback requirements for a single-family dwelling at 103 Laurel Lane, Waterbury VT 05676 (Tax Map #13-098.000)

MINUTES OF PRIOR MEETINGS/HEARINGS

Martha Staskus moved and Jeff Whalen seconded the motion to approve the general minutes and decisions from May 2, 2013.

Vote: The motion passed unanimously.

Tom Kinley moved and Mike Bard seconded the motion to approve the hearing minutes for application **06-13-V**, Alchemy Canning, LTD.

Vote: The motion passed unanimously.

The hearing minutes for application **# 07-13-V** will be held and merged with the minutes for the continued hearing on May 30th, 2013.

MINUTES OF TONIGHT'S MEETING

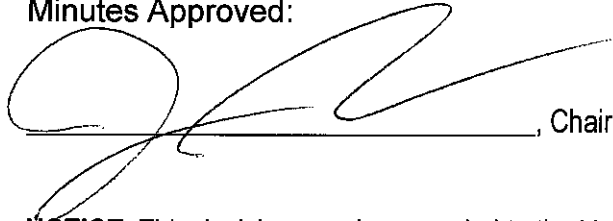
Martha Staskus moved and Tom Kinley seconded the motion to approved the hearing minutes for application #21-13-T Peter and Edith Hathaway.

Vote: Passed unanimously.

ADJOURNMENT

The meeting was adjourned by the Chair at 9:25 p.m.

Minutes Approved:


_____, Chair

Date: 5-30-13

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 May 30, 2013

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: May 16, 2013**

Board Members Present: Jeff Larkin, Chair; Jeff Whalen; David Rogers; Martha Staskus, Nat Fish, Mike Bard, Tom Kinley

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

First Order of Business: Continuation of Application for a home daycare (7+ children) in the Medium Density Residential Zoning District. The public hearing was opened at 6:30 pm

Permit Application #: 05-13-T
Applicant: Marlena Tucker-Fishman and Noah Fishman
Landowner: SAME
Location of Project: 538 Guptil Road, Waterbury Center, VT

The following interested parties were present and sworn in:

Noah Fishman
Marlena Tucker

TESTIMONY:

1. Septic capacity was discussed. There is a 600 gallon septic tank. The capacity maximum is currently at 400 gallons.
 2. The state wastewater permit is for a 4 bedroom house and a one bedroom apartment.
 3. The applicant will submit a municipal water allocation application for the expanded allocation of the public water and pay a one-time fee.
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EXHIBIT LIST:

Exhibit A Zoning Permit Application # 05-13-T
Exhibit B Applicant response to Conditional Use Criteria (as corrected to note the lot is 2.75 acres, not 42 acres)
Exhibit C Floor plan
Exhibit D Site Plan
Exhibit E ANR Atlas map of property, created by C. Rock
Exhibit F Notice sent to Adjacent Landowners dated May 1, 2013
Exhibit G Parking site map
Exhibit H Childcare Permit

Description of Project:

The applicant is seeking approval for a home daycare center in a 1400 square foot first floor, which would serve 6 fulltime and up to 4 part-time after school children at 538 Guptil Road, Waterbury Center, VT (tax map # 13-180.030).

FINDINGS OF FACT:

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

1. The applicant is seeking approval of a home daycare center at a private residence located in the Medium Density Residential Zoning District.
2. The applicant is also seeking approval for an existing accessory apartment which is located on the lower level of the home. This aspect of the project is not subject to review by the Development Review Board and can be approved by the Zoning Administrator.
3. The daycare center will be a Vermont registered home childcare center with up to 6 fulltime daycare children and up to 4 part-time after school children and will be located in the main Fishman residence.
4. A daycare center serving 7 or more children is a conditional use in the Medium Density Residential Zoning District and is also subject to Site Plan review by the Development Review Board.
5. The daycare will be open 8-5 pm, Monday – Friday, year round.
6. Based upon the parking requirements at least 3 parking spaces are needed for the residential use(s) on the property.
7. The daycare proposal anticipates hiring at least one outside employee.
8. The Zoning Regulations' parking requirements do not specify parking requirements for daycare centers. The Applicant has identified 10 parking spaces on site which fall within similar regulations for home occupations or offices that require one space for every 300 square feet.
9. The property is served by the municipal water system with an on-site septic system. The expanded uses would require a change to the municipal water allocation currently approved for the site.
10. Below are excerpts of the Site Plan and Conditional Use criteria:

Section 301 Site Plan Review and Approval

(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.

(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.

Section 303 Conditional Uses

(e) Prior to granting any approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

(1) The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it. The proposed use:

(A) Will not cause the level of service on roads and highways to fall below a reasonable standard;

(B) Will not cause an unmanageable burden on municipal water or sewer systems;

(C) Will not lead to such additional school enrollments that existing and planned school system capacity is exceeded; and

(D) Will not cause an unmanageable burden on fire protection services.

(E) The Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board, or other municipal officials regarding relevant facilities. The Board will also take into account sections of the Municipal Plan and of any duly adopted capital plan which specify anticipated demand growth, service standards, and facility construction plans.

(2) The proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located. Specifically, the proposed use:

(A) Will not result in undue water pollution, undue adverse impacts to downstream properties, and will not cause unreasonable soil erosion or

reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; in making this determination, the Board shall at least consider the elevation, the slope of the land, and the nature of soils and subsoils and their ability to adequately support waste disposal;

(B)Will not result in undue noise, light, or air pollution, including offensive odors, dust, smoke, or noxious gasses;

(C)Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;

(D)Will not be otherwise inconsistent with existing uses in the immediate area; in determining the appropriateness of the use or structure in an area, the Board shall consider the scale and design of the proposed use or structure in relation to the scale and design of existing uses and structures in the same district; and

(E)Will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area.

(3)The proposed use will not violate any municipal bylaws and ordinances in effect.

(4)The proposed use will comply with the specific lot area, setbacks, and lot coverage requirements set forth in this bylaw. The Board may require the proposed use to conform to more stringent lot area, setback, and lot coverage requirements as it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw.

CONCLUSION

The Development Review Board concludes that application #05-13-T for a home daycare in the MDR district meets the conditional uses outlined in Section 303 and site plan review as outlined in Section 301.

DECISION AND CONDITIONS

MOTION:

Dave Rogers moved and Tom Kinley seconded the motion to approve application #05-13-T for a home daycare center, with up to 6 fulltime daycare children and up to 4 part-time after school children at 538 Guptil Road, Waterbury Center, VT (tax map # 13-180.030) 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. A letter be provided by the site engineer, McCain Consulting, stating that the wastewater permit has the capacity for the additional usage of the 10 children.
3. That the water allocation be approved.

VOTE: The motion passed unanimously.

Decision Approved,



Chair Date: 5.30.13

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 May 30, 2013

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: May 16, 2013**

Board Members Present: Jeff Larkin, Chair; Jeff Whalen; David Rogers; Martha Staskus; Nat Fish; Tom Kinley; Mike Bard

Staff Present: Clare Rock, Patti Spence

Second Order of Business: Application for a Waiver for a residential accessory structure (shed) located at 75 Tamarack Lane, Waterbury Center, VT. The public hearing was opened at 7:15 pm

Permit Application #: 16-13-T
Applicant: Ken and Joanna Bisceglia
Landowner: SAME
Location of Project: 75 Tamarack Lane, Waterbury Center, VT

The following interested parties were present and sworn in:
Ken Bisceglia, Applicant

TESTIMONY:

1. To allow for parking and movement of snow by a plow the applicant can not meet the 50' side setback. They are trying to keep a 45' setback but are requesting a maximum of 10'. They would be in the middle of the existing parking area if they shift 10 feet into that parking area. A retaining wall would need to be built if the parking area was moved.
 2. There will be power to the structure.
 3. There is no exterior lighting planned.
-

EXHIBIT LIST:

Exhibit A Zoning Permit Application # 16-13-T
Exhibit B Conditional Use Application with applicant's responses
Exhibit C Site Plan, dated 4/16/13
Exhibit D Photo of shed
Exhibit E Notice sent to Adjacent Landowners dated May 2, 2013
Exhibit F ANR Atlas Map, created by C. Rock

Description of Project:

The applicant is seeking a waiver from the side setback requirements for the construction of a residential accessory structure (shed) at 75 Tamarack Lane, Waterbury Center, VT (tax map # 10-018.400).

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 property is located in Medium Density Residential Zoning District where the relative dimensional requirements apply:
 - a. Setbacks: Front: 60' Side:50' Rear:50'
 - b. Height: 35 ft
2. The property is also located within the Ridgeline, Hillside, Steep Slope (RHS) Overlay Zoning District but accessory structures whose footprint is less than or equal to 800 square feet are not subject to review under the RHS Article.
3. The 12'x16' shed is proposed to be located 40' from the side property line and requires a 10' side setback waiver.
4. The shed meets all other setbacks.
5. The height of the shed will be approximately 12'.
6. Under the Waterbury Zoning Regulations, dated 4/15/2013, Section 309 states:

... the Development Review Board may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided, however, that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought.
7. Below are the Conditional Use Criteria.

Section 303 Conditional Uses

(e) Prior to granting any approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

(1) The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it. The proposed use:

(A) Will not cause the level of service on roads and highways to fall below a reasonable standard;

(B) Will not cause an unmanageable burden on municipal water or sewer systems;

(C) Will not lead to such additional school enrollments that existing and planned school system capacity is exceeded; and

(D) Will not cause an unmanageable burden on fire protection services.

(E) The Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board, or other municipal officials regarding relevant facilities. The Board will also take into account sections of the Municipal Plan and of any duly adopted capital plan which specify anticipated demand growth, service standards, and facility construction plans.

(2)The proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located. Specifically, the proposed use:

(A)Will not result in undue water pollution, undue adverse impacts to downstream properties, and will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; in making this determination, the Board shall at least consider the elevation, the slope of the land, and the nature of soils and subsoils and their ability to adequately support waste disposal;

(B)Will not result in undue noise, light, or air pollution, including offensive odors, dust, smoke, or noxious gasses;

(C)Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;

(D)Will not be otherwise inconsistent with existing uses in the immediate area; in determining the appropriateness of the use or structure in an area, the Board shall consider the scale and design of the proposed use or structure in relation to the scale and design of existing uses and structures in the same district; and

(E)Will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area.

(3)The proposed use will not violate any municipal bylaws and ordinances in effect.

(4)The proposed use will comply with the specific lot area, setbacks, and lot coverage requirements set forth in this bylaw. The Board may require the proposed use to conform to more stringent lot area, setback, and lot coverage requirements as it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw.

CONCLUSION

The Development Review Board concludes that application 16-13-T for an accessory structure located 75 Tamarack Lane, Waterbury Center, needing a side setback waiver of 10', meets the conditions as outlined in Section 303, "Conditional Uses".

DECISION AND CONDITIONS

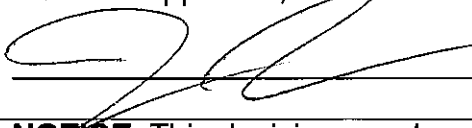
MOTION:

David Rogers moved and Martha Staskus seconded the motion to approve application 16-13-T for a 10' side setback waiver for the construction of a residential accessory structure (shed) at 75 Tamarack Lane, Waterbury Center, VT (tax map # 10-018.400), subject to the following condition:

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 exterior lighting will be downcast and shielded.

VOTE: The motion was passed unanimously.

Decision Approved,

 , Chair Date: 5-30-13

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.

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**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: May 16, 2013**

~~Board Members Present: Jeff Larkin, Chair; Jeff Whalen; David Rogers; Martha Staskus; Nat Fish; Tom Kinley; Mike Bard~~

Staff Present: Clare Rock, Patti Spence

Third Order of Business: Application for a Waiver for a single-family dwelling located at 103 Laurel Lane, Waterbury, VT. The public hearing was opened at 7:49 pm.

Permit Application #: 21-13-T
Applicant: Peter Hathaway
Landowner: SAME
Location of Project: 103 Laurel Lane

The following interested parties were present and sworn in:
Peter Hathaway
Edith Hathaway

TESTIMONY:

1. The applicant testified he is proposing to place that home as far back from the road as possible because they are limited by the septic field and the ledge behind the house.
 2. A move to the side would be close to the neighbors house and the house would be pushed back and twisted and out of character for the neighborhood.
 3. The front setback of the lot is being improved by removing the trailer and putting in the new home.
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EXHIBIT LIST:

Exhibit A Zoning Permit Application # 21-13-T
Exhibit B Variance Application with applicant's responses (for project info only)
Exhibit C Site Plan
Exhibit D Notice sent to Adjacent Landowners, dated 4/29/2013
Exhibit E ANR Atlas Map, created by C. Rock

Description of Project:

The applicant is seeking a waiver from the front setback requirements for the construction of a single family dwelling at 103 Laurel Lane, Waterbury, VT (tax map # 13-098.000).

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 property is located in Medium Density Residential Zoning District where the relative dimensional requirements apply:
 - a. Minimum lot size: 2 acres
 - b. Setbacks: Front: 60' Side:50' Rear:50'
 - c. Height: 35 ft
 - d. Section 401 titled *Dimensional Requirements* includes the following: *Notwithstanding provisions for front yards elsewhere in these bylaws, on streets with less than 50-foot right-of-way, the front yard setback shall be measured from the centerline of the existing roadway and 25 feet shall be added to the front yard setback requirement.*
 - e. Laurel Lane has a *less than 50-foot right-of-way*, so the front setback from the centerline for this property is 85'.
2. An existing single-family dwelling is currently located on the property. The current dwelling is a 1961, 10'x50' mobile home, which is located 30' from the centerline.
3. The applicant proposes to place a new 24'x72' double-wide, manufactured home on the property and remove the old home.
4. The proposed setbacks for the new double-wide are:
 - a. Front setback: 60' from the centerline
 - b. Side setbacks: 50' and 150' +/-
 - c. Rear setback: 150' +/-
5. The new home requires a 25' front setback waiver.
6. The height of the new home will be approximately 14'.
7. Under the Waterbury Zoning Regulations, dated 4/15/2013, section 309 states:

... the Development Review Board may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided, however, that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought.
8. Below is the Conditional Use Criteria.

Section 303 Conditional Uses

(e) Prior to granting any approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

(1) The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities to accommodate it. The proposed use:

(A) Will not cause the level of service on roads and highways to fall below a reasonable standard;

(B) Will not cause an unmanageable burden on municipal water or sewer systems;

(C) Will not lead to such additional school enrollments that existing and planned school system capacity is exceeded; and

(D) Will not cause an unmanageable burden on fire protection services.

(E) The Board may seek or require advisory input from the Municipal Manager, Fire Department, Police Department, School Board, or other municipal officials regarding relevant facilities. The Board will also take into account sections of the Municipal Plan and of any duly adopted capital plan which specify anticipated demand growth, service standards, and facility construction plans.

(2) The proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan and the zoning district in which the proposed project is located. Specifically, the proposed use:

(A) Will not result in undue water pollution, undue adverse impacts to downstream properties, and will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result; in making this determination, the Board shall at least consider the elevation, the slope of the land, and the nature of soils and subsoils and their ability to adequately support waste disposal;

(B) Will not result in undue noise, light, or air pollution, including offensive odors, dust, smoke, or noxious gasses;

(C) Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;

(D) Will not be otherwise inconsistent with existing uses in the immediate area; in determining the appropriateness of the use or structure in an area, the Board shall consider the scale and design of the proposed use or structure in relation to the scale and design of existing uses and structures in the same district; and

(E) Will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area.

(3) The proposed use will not violate any municipal bylaws and ordinances in effect.

(4) The proposed use will comply with the specific lot area, setbacks, and lot coverage requirements set forth in this bylaw. The Board may require the proposed use to conform to more stringent lot area, setback, and lot coverage requirements as it may deem necessary to implement the purposes of the district in which the use is located and other provisions in this bylaw.

CONCLUSION

The Development Review Board concludes that permit application 21-13-T for a front setback waiver for a single-family dwelling location at 103 Laue Lane meets the criteria for conditional use as per section 303.

DECISION AND CONDITIONS

MOTION:

David Rogers moved and Mike Bard seconded the motion to approve application 21-13-T, for a 25' front setback waiver for a new single family dwelling at 103 Laurel Lane, Waterbury, VT (tax map # 13-098.000), subject to the following condition:

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 exterior lighting is downcast and shielded.

VOTE: The motion was passed unanimously.

Decision Approved,

 _____, Chair Date: MAY 16, 2013

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 May 16, 2013.