

**WATERBURY DEVELOPMENT REVIEW BOARD
APPROVED GENERAL MINUTES
Thursday, June 27, 2013**

Board Members Present: Jeff Larkin, Chair; Jeff Whalen, Nat Fish, Jeff Whalen, Tom Kinley, Jeff Grace, Martha Staskus

Staff Present: Clare Rock, Patti Spence

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

6:30p.m. Re-opening and reconsideration of Application #06-13-V, Alchemy Canning, LTD, Waiver, Site Plan and Conditional Use Review under Section 304(a)(2), *Nonconforming Uses*, or under Section 303, *Conditional Uses*, as the case may be, for an expansion of use including the placement of tractor trailers, construction of a storage building, reconstruction of parking lot and fence at 35 Crossroad, Waterbury, VT (Tax Map #13-043.000).

See separate minutes, findings, and decision.

DISCUSS DRAFT DRB RULE OF PROCEDURE

The Board discussed the need to adopt Rules of Procedure and the need to review recommended zoning changes to present to the Planning Commission. The Board will set aside one hour on the August 1, 2013 DRB meeting to discuss the Rules of Procedure and the list of proposed Zoning Changes prepared by C. Rock.

APPROVAL OF MINUTES AND DECISIONS

Nat Fish moved and Tom Kinley seconded the motion to approve the General minutes of June 6, 2013.

Vote: Passed unanimously.

Jeff Grace moved and Jeff Whalen seconded the motion to approve the minutes, findings and decision for Application #20-13-T, Daniel and Kim Fodor, of June 6, 2013.

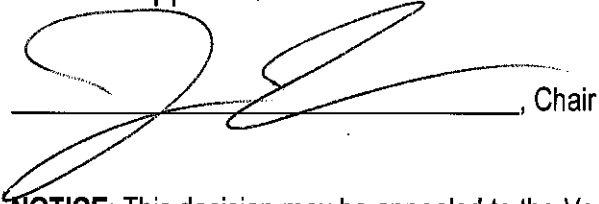
Vote: Passed unanimously.

Jeff Whalen moved and Tom Kinley seconded the motion to approved the minutes findings and decisions of application 06-13-V from June 27th, as amended.

ADJOURNMENT

The meeting was adjourned by the Chair at 8:05 p.m.

Minutes Approved:

 _____, Chair

Date: 7-18-13

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 *July 18, 2013.*

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
SPECIAL MEETING
June 27, 2013**

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

Alternate present: Jeff Grace

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

First Order of Business: Application for Site Plan, Conditional Use under Section 303 or Section 304, Findings and Decision. The public hearing was opened at 6:30 pm

Permit Application #:	06-13-V
Applicant:	Alchemy Canning, LTD
Landowner:	Jeff Hachmann
Location of Project:	35 Crossroad, Waterbury, VT

The following interested parties were present and sworn in at the June 27th meeting:

Richard Darby, Attorney for Applicant

John Kimmich, Applicant

Amy Kinsell, Adjacent Landowner

Greg Haskins, Adjacent Resident

Gail Campagna, Crossroads Resident

Peggy Widmeier, Crossroads Resident

Mary & Don Hebert, Crossroads Resident

Lisa Fisher, Thatcher Brook Inn

Darren Winham, Town Economic Development Consultant

The following interested parties were present and sworn in at the May 2nd meeting:

Richard Darby, Attorney for Applicant

Jen Kimmich, Applicant

Greg Haskins, Adjacent Resident

Amy Kinsell, Adjacent Landowner

Stephen Reynes, Attorney for Amy Kinsell

Darren Winham, Town Economic Development Consultant

TESTIMONY:

1. The site plan was designed to make parking more safe, provide landscaping to make the neighborhood more appealing and enhancements to satisfy the adjacent landowner on the northwest side.
2. The applicant is making an effort to move forward as quickly as possible to get the storage building in place. The storage building also includes a restroom and back-up refrigeration. The restroom will not be plumbed and the sewage will be pumped out by a contractor.
3. The applicant is trying to lessen noise by not using the back-up cooler.
4. The steam from the stack which has been bothersome for the neighbors is being addressed by extending the stack.
5. The fencing being put up is double sided cedar stockade-style. The height is 8 feet and runs along the common boundary line with the Kinsell property.
6. The landscaping is included on the site plan, Exhibit E
7. The brewing operation runs 4 days a week and the canning 2 days a week. There is no intention to expand that schedule. There will be no weekend brewing. All brewing and canning is Monday through Thursday, 6:00am – 9:00pm. Friday 6:00am through 5:00pm is reserved as a back-up brewing and canning day.
8. Retail hours will be until 7:00pm, not 9:00pm as in previous the permit for the applicant.
9. The existing trailer parked directly behind the building is set up so they have cold storage as a back-up should it be needed.
10. The applicant has added a sound barrier around the exterior chiller.
11. The HVAC system, which has been in place since 1988, is planned to be replaced in the fall of 2013.
12. The closest neighbors, whose house is approximately 75 feet from the building, testified that the sound from the chiller is constant and can be heard even when their windows are closed.
13. Another concern is traffic during peak business hours. A request will be made to the Town to install "No Parking" sign on Crossroads to make the parking for the business safer.
14. The owner of the Alchemist has committed to pay for the signs.
15. The work on the parking lot is planned as soon as possible. The contractor will work from 8:00am-5:00pm, Monday - Friday and not on holidays.
16. The facility is working toward the goal of having no organics from the brewing operation flow into the municipal wastewater system. Organics will be salvaged from the brewing operation and trucked off site for animal feed or compost production.
17. Stormwater at the rear of the site will be drained by extending the existing culvert as indicated on the Site Plan, Exhibit E.
18. The applicant is working with the Thatcher Brook Inn on managing stormwater flows.

19. The siding on the building will remain beige with a green roof and the storage unit will match these materials.
20. The applicant is working with the State ANR on wastewater, stormwater and wetland issues.
21. The existing building has not been changed since the 2010 permit, except for the construction of exterior fire stairs, permitted in 2012.
22. The applicant is willing to work with a noise specialist to see what accommodations can be made to improve the noise issue.
23. The neighboring landowner is supportive of having the permit issued as soon as possible so that improvements can begin and to have the noise issue addressed within a specified timeframe.
24. The applicant testified that the proposed site plan was checked by the Town fire chief and found to be adequate.
25. The proposed landscaping was discussed and it was agreed that additional evergreen trees would be planted to provide additional screening for the adjacent property to the north-west.

The public testimony portion of the May 2nd review was closed at 7:39 pm.

The public testimony portion of the re-opened application was opened at 6:40 p.m. on June 27, 2013:

26. Reconsider as conditional use for conforming use as light industrial.
27. The contents of the 2010 decision by the Planning Commission and Zoning Administrator, application #40-10-V, Exhibit J, were reviewed.
28. The "finality principle" of VT zoning, the issue of reliance and fairness were presented by the attorney, Rick Darby.
29. The applicant has built their business, improved the facility, increased employment and intend to stay in Waterbury relying on their permitted property in 2010.
30. Another business is in the same district and has a use outside of the uses for that zone. It was pre-zoning but still the ordinance has changed. They do a similar business in that they have production, tours, sales and packaging.
31. Rick Darby testified that "light" and "general industry" definitions in the Waterbury zoning regulations were written in 1994 and are restrictive.
32. The applicant was asked why the non-conforming use issue is important to overturn. The applicant needs to go to ACT 250 (because of acreage) and to be heard as "non-conforming" would cause delays because one of the ACT 250 criteria is that the business conforms with local zoning.

EXHIBIT LIST:

- Exhibit A Zoning Permit Application #06-13-V
- Exhibit B Site Plan application and Site Plan, dated 3/20/2013
- Exhibit C Site perspective renderings, view #1 and view #2, dated 3/18/2013, and chiller unit dated 4/16/13
- Exhibit D Conditional Use Application and applicant's response
- Exhibit E Applicant's Site Plan Proposal Narrative, dated 4/25/2013
- Exhibit F Letter from Grenier Engineering, dated 4/24/2013
- Exhibit G Lighting Cut Sheets
- Exhibit H Letter from Richard Darby, dated 4/22/2013
- Exhibit I Email correspondence from Alec Tuscany, dated 4/30/2013
- Exhibit J Waterbury Planning Commission Decision, Application #40-10-V, 12/15/2010
- Exhibit K Notice sent to Adjacent Landowners dated 4/12/2013
- Exhibit L Letter from Richard Darby, dated May 23, 2013, Amended Request to Reopen and Reconsider (with Exhibits A – F)
- Exhibit M Letter from William A. Shepeluk dated December 13, 2010
- Exhibit N Notice sent to Adjacent Landowners sent June 11, 2013

Description of Project:

The applicant is seeking a waiver, site plan and conditional use approval for an expansion of light industrial use including placement of temporary trailers, new storage building, expanded parking lot and fence at 35 Crossroad, Waterbury, VT (Tax map #13-043.000).

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 1.34 acre property at 35 Crossroads is located within the Village Commercial Zoning District.
2. Alchemy Canning moved into the facility at 35 Crossroad in 2010. The previous tenant included a chocolate-making facility which was permitted as a light industrial use. In 2010 Alchemy Canning received zoning approval to continue the light industrial use and change the use of 800 sf on the 1st floor from light industrial/business professional offices to retail for the beer brewing and canning operation, see Exhibits J, H, L and M. Parking was previously permitted for 18 spaces.
3. The current facility operates as beer brewing and canning operation which includes an 800 sf retail space in which the brewery sells their beer and a limited amount of beer-related products. Visitors can also take a self-guided tour of the brewing operation.

4. This year the brewery has increased brewing days from 2 days a week to 4 days a week and increased canning from 1 day a week to 2 days a week, Monday thru Friday.
5. Canned beer is available for sale on site; the canned beer is also distributed via truck to wholesale purchasers.
6. The retail shop is open 7 days a week, 11am-7 pm.
7. The applicant's proposal is to expand the current parking lot, build a storage building at the rear of the property, install a fence and undertake landscaping on the property.
8. The parking lot expansion project proposes to extend the surface area to the rear of the property by bringing in fill, paving and striping the parking stalls.
9. The parking lot will have 37 spaces plus 3 handicapped spaces.
10. Under the Waterbury parking requirements, 1 space is needed for 300 sf of retail and 1 space is needed for each employee on site at peak hours.
11. Based upon the regulations, 10 employees, and 800 sf of retail space, the minimum parking requirement is 13 spaces.
12. The site plan indicates turning radius within the parking lot to accommodate 30-foot delivery trucks.
13. Once a month the applicant anticipates a delivery by an 18-wheel tractor trailer truck.
14. Four maple trees will be planted on the northern edge of the parking lot and an 8-ft 2-sided, cedar stockade-style fence will be installed along the full length of the common boundary with insulation between the homes and the building.
15. The applicant and neighbor, Amy Kinsell, have agreed to plant three additional pine trees on the Amy Kinsell property, to be paid for by the applicant.
16. Five 85 watt, area luminaries LED pole lights will be located around the parking area and one 50 watt, wall mounted LED performance sconce light will be located in the new storage building.
17. The lights will be turned off at 8:00pm.
18. An additional fence will be installed around the exterior chiller on the northern side of the building as a sound barrier.
19. The new storage building will be a 1-floor 40 x 60 sf building with 3 garage doors. The building will include a bathroom for visitors. The bathroom will not be plumbed and will function like a port-a-potty.
20. The setbacks for the zoning district are: side: 20 ft rear: 20 ft
21. The storage building will be 28 ft from the rear property line at the closet point and at least 24 ft from the closet side property boundary. The height of the building will not exceed 18 ft.
22. The existing trailers on site have not been previously permitted and have been on-site longer than the threshold for temporary uses and structures under the Waterbury Zoning Regulations.
23. The proposal also includes permitting the 4 existing trailers which are used for storage.

24. The trailer temporarily located directly at the rear of the building is located with the 20 ft side setbacks and will require a waiver of 6 ft.
25. The applicant will remove all the trailers upon completion of the storage building.
26. Excerpts from Site Plan, Conditional Use, and Waivers are listed below:

Section 301 Site Plan Review and Approval

(f) The DRB will take into consideration the following objectives prior to approval or denial:

- (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.*

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.

Section 309 Waivers

(a) Notwithstanding the minimum setback standards set forth in Table 5.2, in accordance with 24 V.S.A. § 4414(8), 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.

CONCLUSION

The Development Review Board concludes that the project meets site plan review under Section 301, conditional use review under Section 303, and waiver provisions under Section 309.

DECISION AND CONDITIONS

MOTION:

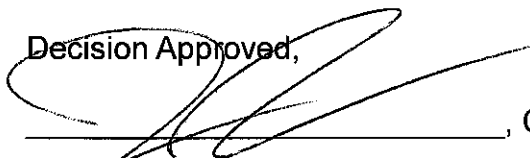
Jeff Whalen moved and Nat Flsh seconded the motion to approve application #06-13-V for a waiver of 6 ft. for the trailer temporarily located directly at the rear of the building at 35 Crossroad, and site plan review and conditional use review under Section 303, for the expansion of use, temporary trailers, new storage building, expanded parking lot and a fence at 35 Crossroads, Waterbury, VT 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. All exterior lighting shall be downcast and shielded.

3. Brewing and canning will only take place between 6:00 am – 9:00 pm, Monday through Thursday and 6:00 am – 5:00 pm, Friday.
4. No canning or brewing will take place between 5:00 pm on Friday through 6:00 am on Monday.
5. Trailers will be removed from the site upon completion of the storage building or no later than one year from the issuance of the permit.
6. No trucks will back out onto Crossroads.
7. The applicant will pay for a municipal highway sign to alert upslope traffic of trucks entering the site and signs as referenced in Exhibit E and "no parking" sign/s to keep vehicles from parking on the travel portion of the road, and an "Exit Right" sign for exiting traffic.
8. The applicant shall hire a sound consultant to evaluate additional noise attenuation for the exterior chiller and HVAC units. A solution shall be proposed to the neighboring property owner, Amy Kinsell, within 30 days from issuance of the zoning permit. The agreed on additional noise attenuation shall be constructed within 90 days from the issuance of the zoning permit.
9. An updated site plan shall be submitted to the Zoning Administrator with the additional three pine trees to be located on the Amy Kinsell property, prior to issuance of the zoning permit.
10. The applicant will obtain and submit a letter from the Municipal Manager for the Town and Village of Waterbury confirming that the project will not cause an unmanageable burden on municipal water or sewer systems as required in Section 303(e)(1)(B), prior to the issuance of the zoning permit.

VOTE: The motion passed unanimously.

Decision Approved,


_____, Chair

Date: 6-27-13

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 FINDINGS & DECISION WERE APPROVED ON June 27, 2013.