

**WATERBURY DEVELOPMENT REVIEW BOARD
APPROVED GENERAL MINUTES
Thursday, August 1, 2013**

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

- 6:00 p.m.** **Site walk for Application # 30-13-T, Grant and Mona Eckfeldt**, Setback Waiver Request for a residential building addition at 353 Maggies Way, Waterbury Center, VT. (Tax Map# 09-072.000). Continuation of July 18, 2013 hearing. The meeting was opened at 6:00 pm at the property at 353 Maggies Way for a site walk for application #30-13-T. Chair, Jeff Larkin reconvened the meeting at the Town Office at 6:40 pm. See separate Minutes and Decision.
- 7:00p.m.** **Review and Discussion of *draft* Development Review Board Rules of Procedure** and list of recommended zoning changes. Clare will prepare a draft document of Rules of Procedure for the Waterbury Development Review Board based upon the South Burlington document.
- 7:30p.m.** **Application #34-13-T, Tyler Laundon**, Site Plan Review for an 8ft fence at 249 Maple Street, Waterbury Center, VT (Tax Map # 09-186.000). See separate Minutes and Decision.
- 8:00p.m.** **Application #43-13-T, Schindler Development Corp.**, Subdivision and Ridgeline Hillside Steep Slope Review for a 5-lot Subdivision and Boundary Line Adjustment off Stagecoach Lane, Waterbury, VT (Tax Map #14-065.900) See separate Minutes and Decision

APPROVAL OF MINUTES AND DECISIONS

Tom Kinley moved and Nat Fish seconded the motion to approve the general meeting minutes and the hearing minutes from applications 12-13-V and 13-13-V all from July 18th, 2013, as amended.

VOTE: Passed unanimously.

ADJOURNMENT

The meeting was adjourned by the Chair at 9:35 pm.

Minutes Approved:

 _____, Chair

Date: 8-15-13

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 August 15, 2013.

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
Approved Hearing Minutes, Findings and Decision
August 1, 2013**

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

Board Member Tom Kinley recused himself from this hearing.

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Application for a setback Waiver for the construction of a residential building addition in the Low Density Residential Zoning District.

Permit Application #: 30-13-T
Applicant: Grant & Mona Eckfeldt
Landowner: SAME
Location of Project: 353 Maggies Way, Waterbury Center, VT

This is the continued hearing from July 18, 2013. The meeting opened at the property at 353 Maggies Way, Waterbury Center at 0600 pm and then reconvened at 0640 pm at the Waterbury Town Office.

Attending:

Grant Eckfeldt, applicant
Mona Eckfeldt, applicant
Bud Wilson, Architect
Johanna Wheeler, adjacent landowner

EXHIBIT LIST:

Exhibit A Zoning Permit Application # 30-13-T
Exhibit B Letter from Bud Wilson, Architect, dated June 17, 2013
Exhibit C Context map, created 7/11/2013
Exhibit D Site Plan, dated June 17, 2013
Exhibit E East and North Elevations, dated June 17, 2013
Exhibit F West and South Elevations, dated June 17, 2013
Exhibit G First Floor Plan, dated June 17, 2013
Exhibit H Second Floor Plan, dated June 17, 2013
Exhibit I Notice sent to Adjacent Landowners dated June 24, 2013
Exhibit J Letter from adjacent landowner Johanna Wheeler dated July 10, 2013
Exhibit K Proposed as-built site plan with photos
Exhibit L Landscape screening plan, dated July 25, 2013

FINDINGS OF FACT

Description of Project:

This project proposes to construct a residential building addition located at 353 Maggies Way, Waterbury Center.

1. The property is located within the Low Density Residential (LDR) Zoning District where the minimum lot size requirement is 5 acres.
2. The lot is 3.2 acres and is a pre-existing non-conforming lot.
3. The building addition(s) will accommodate a new master bedroom and bathroom to the north and a new entry, kitchen, dining room and family room addition to the southeast of the existing home.
4. The total new square footage equals 1,500 square feet.
5. Building setbacks in the LDR District are as follows:
 - a. Front: 70' Side: 75' Rear: 75'
6. The proposed building additions do not meet the front and sideyard setbacks.
7. The proposed front yard setback is 63'.
8. The proposed side yard setback is 45'9".
9. The applicant is seeking a 7' front yard setback Waiver and a 29'3" side yard setback Waiver.
10. 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.
11. Below is the Conditional Use Criteria.

Testimony

1. The septic system is located to the west so development to that direction is not possible. The yard significantly slopes away from the house on the south side.
2. The septic system needs to stay where it is, even though it may be replaced.
3. The neighbor, Johanna Wheeler, is concerned with the encroachment on to her property.
4. Pine trees currently divide the properties. The neighbor is asking for additional screening and not on her property. She is requesting the trees be 10 feet from her property line.
5. In order to plant to requested pines, mature fruit trees may need to be removed.
6. Another option was proposed - a privacy fence. The neighbor did not think a fence was an option for her.
7. One version to build to the southeast was not approved by the applicant.
8. One version blocked the view line.
9. The issue of "undue adverse impact" was discussed.

10. A site walk was proposed.

The hearing was continued to today August 1st, 2013 at 6:00 p.m. A site walk was held at the property at 353 Maggie's Way, Waterbury Center, VT.

TESTIMONY ADDED 8/1/13:

11. The applicant presented a landscape screening plan, entered as Exhibit L. The applicant has agreed to have the landscape architect recommend the best time of year for the plantings. The abutting landowner is amicable to the recommendation.

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:

As per application #30-13-T for Grant and Mona Eckfeldt for the property located at 353 Maggie's Way the board finds that a front yard 7' setback waiver and a side yard 29' 3" setback waiver meet the conditional use criteria upon the installation of a 12 planting arborvitae view shed, as per Exhibit L.

MOTION:

Mike Bard moved and Martha Staskus seconded the motion to approve application #30-13-T, Grant and Mona Exkfeldt, to approve the setback request for an addition to their residence tax map ID # 09-072.000 located at 353 Maggies Way in Waterbury Center, VT. The board approves a 7' front yard set back waiver and a 29'3" side yard setback waiver conditioned upon an arborvitae screening as per Exhibit L and 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: Passed with 5 in favor and 1 abstention.

Decision Approved:

 Chair

Date: 8.15.13

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 August 15, 2013.

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
Approved Hearing Minutes, Findings and Decision
August 1, 2013**

Application for an 8 ft fence at 249 Maple Street, Waterbury Center, VT.

Permit Application #: 34-13-T
Applicant: Tyler Laundon
Landowner: SAME
Location of Project: 249 Maple Street, Waterbury Center, VT

Attending and sworn in:
Sage Laundon, representing the applicant

EXHIBIT LIST:

Exhibit A Zoning Permit Application #34-13-T (includes site plan)
Exhibit B Notice sent to Adjacent Landowners dated July 19, 2013

Testimony

1. Neighbors were warned and no concerns have been brought forward.

FINDINGS OF FACT

Description of Project:

This project proposes to construct an 8 foot fence at 249 Maple Street, Waterbury Center.

1. The applicant proposes to construct an 8 foot fence along a section of the side property line.
2. The fence will be 32 feet long and set back 3 feet from the side property line.
3. The fence will be cedar plank with a 2 foot square lattice decorative top.
4. The property is located within the Town Mixed Residential Zoning District.
5. Fences are exempt from the dimensional requirements yet the Waterbury Zoning regulations state the following:
Section 408 Fences
(a) In all districts, fences are restricted to a height of six (6) feet, unless otherwise permitted in site plan approval.
6. The Site Plan Review Criteria are listed below.
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.*
 - (E) Placement of trees and shrubs around the periphery of parking lots and in the interior so as to break up large parking areas. Large parking lots of 20 or more spaces shall include at least 1 tree for every 8 spaces.*
 - (F) The adequacy of parking, loading, refuse, and service areas.*
 - (G) Provisions for clearing snow for maintaining parking areas.*
- (3) Adequacy of landscaping and screening. Considerations shall include:*
 - (A) Adequacy of landscaping, screening, and setbacks with regard to achieving maximum compatibility with and protection for adjacent properties and public roads.*
 - (B) Preservation of attractive or functional existing vegetation.*
 - (C) The adequacy of landscaping materials to meet seasonal, soil, and topographical conditions.*
 - (D) Reduction of lighting and glare to the necessary minimum, including provision of appropriate landscaping to reduce the impact of lighting and glare on adjacent properties*
 - (E) Screening of unloading zones, trash bins, storage, and other service areas.*
 - (F) The need for landscaping buffers, fences, or berms to reduce noise.*

CONCLUSION:

The DRB concludes that application #34-13-T, for Tyler Laundon, a property located at 249 Maple Street, Waterbury Center, VT, for construction of an eight foot fence meets all the criteria set forth in sections 408 and 301 of the Waterbury Zoning Regulations.

MOTION:

David Rogers moved and Mike Bard seconded the motion to approve application #34-13-T for Tyler Laundon for the property location at 249 Maple Street, Waterbury Center, VT, to construct an 8 ft fence along the side property line, 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: Passed unanimously.

Decision Approved:

 _____, Chair

Date: 8.15.13

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**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
Approved Hearing Minutes, Findings and Decision
Date: August 1, 2013**

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Application for Subdivision in the Conservation District and Ridgeline, Hillside, Steep Slope Overlay District.

Permit Application #:	43-13-T
Applicant:	Schindler Development Corp
Landowner:	SAME
Location of Project:	Stagecoach Lane, Waterbury Center, VT

Present and Sworn in:

John Schindler, Applicant
Chris Austin, Consultant

Testimony:

1. Each lot is being considered for 5 bedroom single-family residences.
2. View corridors would be similar to existing properties that have been built within the original parcel and developed by Schindler Development Corporation.
3. Within the proposed clearing limits, not more than 10% of the entire lot area for Lots 9, 10 and 11 will be clear cut. No more than an average of 50% of the remaining basal wooded area within the clearing limits of each lot will be selectively cut.
4. There will be no additional clearing on Lot A.

EXHIBIT LIST:

Exhibit A	Zoning Permit Application # 43-13-T
Exhibit B	Letter from Grenier Engineering, dated July 15, 2013 (description of project)
Exhibit C	Overall Site Plan, dated July 14, 2013
Exhibit D	Site Plan of Lots #9 & Lots #10, dated July 15, 2013
Exhibit E	Site Plan of Lots #11, dated July 15, 2013
Exhibit F	Zoning Board of Adjustment Minutes, dated July 15, 2008 (for previous approval)
Exhibit G	Letter from Frank Piazza, dated July 25, 2013 (requesting to be added to the interested party list)
Exhibit H	Notice sent to Adjacent Landowners dated July 17, 2013

FINDINGS OF FACT

Description of Project:

The applicant is seeking approval for a 5-lot subdivision in the Conservation Zoning District and within the Ridgeline, Hillside, Steep Slope Overlay Zoning District, off Stagecoach Road, Waterbury, VT (Tax map #14-065.900).

1. Schindler Development Corp currently owns a 91+/- acre lot off Ripley Road between Stagecoach Road and Ring Road.
2. The majority of the property falls within the Conservation Zoning District with the exception of the front portion of the property. This portion, which has frontage on Ripley Road, falls within the Low Density Residential Zoning District.
3. The majority of the land which is within the Conservation Zoning District is above 1,200 feet in elevation and therefore also falls within the Ridgeline, Hillside, Steep Slope Overlay Zoning District.
4. While a very minimal area of the land falls at and above 1,500 feet in elevation (see rear of proposed lot 11) the Zoning Administrator determined this project to be classified and reviewed as a "Minor" project within the RHS Overlay District.
5. The project proposes to create 4 new lots from the 91 +/- acre 'mother' lot.
6. The proposed Lot A is located in the Low density Residential Zoning District where the minimum lot size is 5 acres, Lot A will be 15.36 acres and therefore exceed the minimum lot size.
7. Proposed Lots 9, 10 and 11 are located in the Conservation Zoning District where the minimum lot size is 10 acres. Lot 9 will be 10.1 acres, Lot 10 will be 10.1 acres and Lot 11 will be 11.76 acres; all meet or exceed the district's minimum lot size requirement.
8. The remaining lands of Schindler will total 42 +/- acres preceding the subdivision.
9. A minor boundary line adjustment (BLA) is also proposed as part of this subdivision. The BLA between Lot 7 and proposed Lot 10 will not result in a net change to Lot 7 total acreage. The BLA can be reviewed and approved by the Zoning Administrator.
10. Proposed Lots 9, 10 and 11 also fall within the RHS Overlay District.
11. Proposed Lots 9, 10 and 11 are proposed for the development of future single-family dwellings which will be accessed off Stagecoach Road which is a private road.
12. Access to proposed Lot 10 will utilize a 50 ft ROW across existing Lot 7. And access to proposed Lot 11 will necessitate an easement over lands owned by Ripley Spring LLC for a portion of the driveway.
13. Building zones of these proposed residential lots contain pre-existing clearings, and additional clearing is proposed as identified on the site plans.
14. Building setbacks for property within the Conservation Zoning District is 100' from the front, sides and rear. All defined building zones conform to the district's setbacks.
15. All building zones are located above 1,200 FIE but below 1,500 FIE.
16. The areas identified as "natural conservation area" are set aside as a State Permit stipulation.
17. Lots 5, 6, 7, and 8 were approved in 2008 under application #38-08-T. The ZBA minutes are attached. Lots 1-4 were approved by the Zoning Administrator in 2002 under 19-02-T.

18. Subdivisions in the Hillside, Steep Slope Overlay Zoning District are subject to review by the Development Review Board.
19. Development projects in the RHS District are subject to review under the conditional use criteria.
20. Below are excerpts of the Subdivision Review Criteria, RHS Review Criteria for minor projects and Conditional Use criteria:

ARTICLE XII SUBDIVISIONS
Section 1202 Review Criteria

*(c) Any division of land in the Ridgeline/Hillside/Steep Slope (RHS) Overlay District shall conform to the following criteria in addition to the relevant criteria in Section 401, Dimensional Requirements, and Section 504, General Dimension, Location, and Height Requirements:
The standards set forth for development in Article X.*

ARTICLE X RIDGELINES, HILLSIDES, STEEP SLOPES
Section 1004 Standards of Review (RHS)

- (a) Development of lands identified within the RHS Overlay District shall comply with all other applicable regulations, including conditional use review standards, within this bylaw and with the standards of review set forth in the following subsections.*
- (b) Minor Development: Minor development projects shall be subject to conditional use review, as set forth in Section 303, and all other applicable regulations.*

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 DRB concludes that application #43-13-T by Schindler Development for a 5-lot subdivision and boundary line adjustment off Stagecoach Rd. in Waterbury, VT (Tax map #14-065.900) meets the criteria of section 1202 Subdivision criteria, section 1004 RHS Standards of Review and Section 303 Conditional Uses.

MOTION:

Jeff Grace moved and Tom Kinley seconded the motion to approve application #43-13-T Schindler Development for a 5-lot subdivision in the Conservation Zoning District and within the Ridgeline, Hillside, Steep Slope Overlay Zoning District, off Stagecoach Road, Waterbury, VT (Tax map #14-065.900) and a boundary line adjustment with the following conditions:

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
2. Within the proposed clearing limits, not more than 10% of the entire lot area for Lots 9, 10 and 11 will be clear cut. No more than an average of 50% of the remaining basal wooded area within the clearing limits of each lot will be selectively cut.
3. Any required blasting will be done by a licensed blasting company and be done during the hours of 7a-5p, Monday to Friday.

4. Prior to construction of the road on Lot 11 the design shall be reviewed with the Town of Waterbury Fire Department Chief and a letter demonstrating adequacy of emergency access shall be submitted to the Zoning Administrator.
5. This permit is conditioned on receiving all required State permits.
6. The applicant brings copies of the Final Plat to the Zoning Administrator within 150 days so 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:

Passed unanimously

Decision Approved:



Chair

Date:

8-15-13

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