

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
Approved General Minutes  
October 3, 2013**

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

**Application #44-13-T, Dave Lachtrupp/Ripley Springs,**

At 6:30 p.m. David Rogers opened the continuation of Application #44-13-T, Dave Lachtrupp/Ripley Springs, LLC for Final Plat approval for a 2-lot Subdivision off Woods Farm Road, Waterbury, VT (Tax Map # 14-084.080)

**Motion:**

Jeff Whalen moved and Martha Staskus seconded the motion to approve the Final Plat for application #44-13-T, Dave Lachtrupp/Ripley Springs.

Vote: Motion passed, with one opposed.

**6:35 p.m.**

**Application # 55-13-T, Arthur Newhouse III** for site plan review for a change to the site plan (removal of 7 trees) at 2933 Waterbury-Stowe Road, Waterbury Center, VT (Tax map #09-316.000)

Hearing minutes under separate cover.

**7:15 p.m. Continuation of Application #51-13-T, W. Thomas Anderson** for a setback waiver request for the construction of a single-family dwelling at 2081 US RT 2, Waterbury, VT (Tax Map #12-018.000)

Hearing minutes under separate cover.

**7:45 p.m.**

**Continuation of Application #31-13-V, Blush Hill Meadows Ten** for a site plan amendment (for landscaped berm, pressure reducing vault and temporary staging area) at 33 Kimberly Lane, Waterbury, VT (Tax Map # 13-054.000)

Hearing minutes under separate cover.

**Scheduled Discussion**

Project Partners: Paul Reed and Aaron Flint

Attending Public: Mark Sturewalt, John Gallagher, Bill Minter, Scott Benson, Mike Hedges

Paul Reed and Aaron Flint came in to discuss development of a property they have purchased in Waterbury Center off Guptil Road.

The plan is for 10 lots to be developed and built on over time. The intention is to move forward with one lot at a time.

**09:00 p.m.** Motion to reconsider and re-hear Appeal Application #25-13-V, Susan Mehrtens and Appeal Application #26-13-V, Janet Cote

The Board discussed whether new information be gained by allowing a re-hearing. The Board discussed the facts that they already have that led them to uphold the ZA's decision at the September 19th hearing.

**MOTION:**

Jeff Whalen moved and Jeff Grace seconded the motion to approve the formal request that the DRB holds a rehearing for applications #25-13-V, Susan Mehrtens and #26-13-V, Janet Cote.

**VOTE:** The motion did not pass, with 5 opposed and two abstentions.

**REVIEW OF MINUTES:****MOTION:**

Martha Staskus moved and Jeff Whalen seconded the motion to approve the hearing minutes of the ZA appeal of East Street from both September 5th and September 19th, as amended.

**VOTE:** Passed unanimously.

**MOTION:**

Jeff Whalen moved and Martha Staskus seconded the motion to approve the general minutes of September 5th and September 19th, as amended.

**VOTE:** Passed unanimously.

David Rogers adjourned the meeting at 10:15 p.m.

Minutes Approved:

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

Date: 11.7.13

**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 \* November 7, 2013 .\*

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
Approved Hearing Minutes  
October 3, 2013**

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Application for Site Plan Review for a change to the site plan (to remove 7 trees) at 2933 Waterbury-Stowe Road, Waterbury Center, VT.

Permit Application #: 55-13-T  
Applicant: Arthur Newhouse III  
Landowner: Ivy Ventures, Inc  
Location of Project: 2933 Waterbury-Stowe Road, Waterbury Center, VT.

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The applicant, Rusty Newhouse, was present and sworn in.

Testimony

1. The evergreen trees that are proposed to be removed are not necessary to screen the adjacent property as agreed by the applicant and the landowner.
  2. The existing trees are unattractive.
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**EXHIBIT LIST:**

- Exhibit A Zoning Permit Application #55-13-T  
Exhibit B Letter from Arthur "Rusty" Newhouse, dated 9/17/2013  
Exhibit C Site photo  
Exhibit D Revised Site Plan  
Exhibit E Prior PC Site Plan Approvals (#43-05-T & #103-05-T)  
Exhibit F Notice sent to Adjacent Landowners dated September 19, 2013

**Findings of Fact:**

This project proposes to amend the previously approved site plan for 2933 Waterbury-Stowe Road, Waterbury Center, by removing 7 evergreen trees which are located along the southwest property line.

1. The adjacent property owner (the owner of Newhouse Furniture) proposes to remove 7 evergreen trees on his neighbor's property to increase visibility of his commercial building from RT 100. The owner of the property (Ivy Ventures, Inc/George Pierce) consents to the proposal.
2. The property is located within the RT 100 Zoning District and is currently occupied by a commercial building(s) and a theater/playhouse.

3. Most recent zoning approvals for the property include zoning permits #43-05-T & #103-05-T in which the property owner proposed to build the Playhouse structure.
4. The row of evergreen trees were approved as part of the Playhouses' site plan as they served as a screen to buffer the visibility of the grassed parking area from Newhouse Furniture.
5. The applicant is seeking site plan approval for the change to the previously approved site plan.
6. The Site Plan Review Criteria, including additional criteria for the RT 100 Zoning district and Special Considerations for RT 100 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.*

*(g) Any use in the Route 100 District shall be reviewed by the Development Review Board under the standards set forth for planned unit developments in Section 705(c)-(l), and Subsections 705(m)(1)-(3) of this bylaw, in addition to the standards set forth in Section 301. These criteria are to be used in site plan review only and do not require that a planned unit development application be submitted.*

*(h) For any use in the Route 100 District, the Development Review Board may require suitable protection, such as deed restriction, for proposed undeveloped land designated under the criteria in Subsections 705(m)(1)-(3). A minimum of 25 percent of the Route 100 road frontage shall be reserved as undeveloped land with a minimum depth of 250' measured perpendicular to Route 100.*

*(j) Special considerations for uses of property bordering Route 2, Route 100, or Interstate 89:*

*(1) Buildings shall be screened or located on a lot so as to take advantage of significant existing vegetation and topographic features and to enhance the visual impact of the development from the road.*

*(2) Parking and loading areas may be required to be located behind buildings or otherwise screened from the road.*

*(3) Development access roads shall be designed to limit curb cuts in the area. A development will be permitted only one access curb cut, unless the Development Review Board finds that more than one is required for safety or effective traffic flow. The Development Review Board may require that access to properties be limited to secondary, frontage, or common access roads. The Development Review Board may require designation of a portion of a lot as a right-of-way for a frontage or common access road. Where a frontage road or common access road is planned but not yet constructed, temporary access from the main road may be permitted.*

*(4) In the Route 100 District, a continuous strip shall be maintained between the street line, which is the edge of the right-of-way, and the balance of the lot and shall be adequately landscaped to preserve existing vistas and minimize the visual impact of the development from the road. This strip shall extend from the street line to either 75' from the road centerline or 25' from the street line, whichever is greater. The required strip may not include any structure or parking area.*

**CONCLUSION**

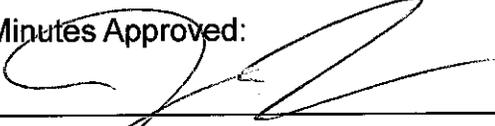
Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #55-13-T meets site plan review and the 7 trees used to screen the parking lot from the Newhouse building can be removed.

**MOTION**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Martha Staskus seconded the motion to approve application #55-13-T, Arthur Newhouse III for site plan review for a change to the site plan (removal of 7 trees) at 2933 Waterbury Stowe Road, Waterbury Center, VT (tax map #09-316.000) 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: Passed unanimously.

Minutes Approved:  \_\_\_\_\_, Chair Date: 11.7.13

**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 \* November 7, 2013 .\*

**TOWN OF WATERBURY  
DEVELOPMENT REVIEW BOARD  
Approved Minutes  
October 3, 2013**

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Present: Tom Anderson, Applicant  
William Chesbrough, Engineer

**APPLICATION #51-13-T, W. THOMAS ANDERSON**

This is an application for a setback Waiver for the construction of a single-family dwelling in the Medium Density Residential Zoning District.

Permit Application #: 51-13-T  
Applicant: W. Thomas Anderson  
Landowner: SAME  
Location of Project: 2081 US RT 2, Waterbury, VT

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In order to give the applicant time submit a revised site plan showing the correct contours, the Chair continued the hearing to October 3, 2013 at 7:15pm.

David Rogers opened the continued hearing at 07:15 p.m.  
Mr. Anderson had previously been sworn in.  
Mr. Chesbrough was sworn in.

**PREVIOUS TESTIMONY:**

Tom Anderson testified that the slab elevation will be approximately 420' in elevation. This is significantly higher than the Base Flood Elevation of 411.3'. This request is for a 25' setback from the front yard setback in contrast to the previously approved 35' setback. The lot is very narrow from front to back. The septic system is on the neighboring property and has been constructed already. The 26' x 48' house will be constructed on a slab and will not have a crawl space.

**TESTIMONY FROM 10/3/13:**

1. Nothing has changed since the prior permit was issued.
2. The septic system was put in place.
3. State permits are in place.

#### EXHIBIT LIST:

- Exhibit A Zoning Permit Application # 51-13-T
- Exhibit B Site Plan, dated 10/3/2013
- Exhibit C Floodplain map
- Exhibit D FEMA Elevation Certificate
- Exhibit E Wastewater System Design Plans
- Exhibit F Notice sent to Adjacent Landowners dated September 3<sup>rd</sup> and 4<sup>th</sup>, 2013

#### FINDINGS of FACT

This project proposes to build a single family dwelling with attached garage at 2081 US RT 2, Waterbury.

1. The property is located within the Medium Density Residential (MDR) Zoning District where the minimum lot size requirement is 2 acres.
2. The lot pre-existed zoning and is 0.9 acres.
3. Building setbacks in the MDR District are as follows:
  - a. Front: 60' Side: 50' Rear: 50'
4. The proposed single family dwelling with attached garage requires a waiver from the front setback requirement to place the building outside the floodplain as the rear of the property is located within the floodplain.
5. The applicant sought and received zoning approval for the construction of a single-family house in 2006 under application #19-06-T but the house was not constructed.
6. The applicant sought and received zoning approval for the placement of fill and for the construction of a single-family house in 2007 under application #38-07-T. The fill was placed but the house not constructed.
7. The existing contour lines on the plans depict current conditions and placing the building 25' from the ROW for Route 2 will require no additional fill and no re-grading.
8. The base flood elevation on the property is 411.3 feet in elevation.
9. Based upon the FEMA Elevation Certificate, the lowest adjacent grade next to the building will be 413.5 feet in elevation and the top of the bottom floor will be 414 feet in elevation therefore the structure will not be located within the flood hazard area.
10. The applicant is seeking a 35' front setback waiver for the construction of a single family dwelling.
11. The new construction meets the districts other dimensional requirements.
12. 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.*

Section 303 reviewed.

**CONCLUSION**

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #51-13-T meets section 303 conditional use and section 309 waivers for a 35' front setback waiver for the construction of a single-family dwelling, in the medium density residential district, located at 2081 US Route 2, Waterbury, VT (tax map #12-018.000)

**MOTION**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Tom Kinley seconded the motion to approve application #51-13-T, W Thomas Anderson, for 35' front setback waiver for the construction of a single-family dwelling 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. Any exterior lighting will be downcast and shielded.

VOTE: Passed unanimously.

Minutes Approved:

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

Date: 11-7-13

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

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

Application for a Site Plan Amendment (to renew previous application #21-11-V for a landscaped berm, pressure reducing vault and temporary staging area at 33 Kimberly Lane (off Blush Hill), Waterbury, VT.

Permit Application #: 31-13-V  
Applicant: Blush Hill Meadows Ten  
Landowner: SAME  
Location of Project: 33 Kimberly Lane, Waterbury, VT

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The Hearing was postponed and continued from Thursday September 19, 2013.

Present and sworn in:  
Dean Salvas, Landowner  
Frank von Turkovich, Developer  
Larry Abrams, Interested party

Testimony

1. Nothing has changed from the prior approved permit #21-11-V.
2. There is no additional fill needed to build the berm.
3. No outside materials will be needed.

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**EXHIBIT LIST:**

- Exhibit A: Zoning Permit Application #31-13-V
- Exhibit B: Background Info on Blush Hill (email from Steve Lotspeich to Alena Schnarr, dated July 28, 2013)
- Exhibit C: Application Materials from previous zoning approval, Application # 21-11-V:
- a. DRB Approved Minutes for Application #21-11-V, dated Aug. 4, 2011 (hearing was continued to Aug. 18, 2013)
  - b. DRB Approved Decision for Application #21-11-V, dated Aug. 18, 2011
  - c. Zoning Permit, dated 7/20/2011, Application # 21-11-V
  - d. Site Plan (tiled over 4 pages)
  - e. landscaped berm details
  - f. Letter from Salvas, dated May 13, 2011 (exhibit D of #21-11-V)
  - g. Letter to adjacent landowners (exhibit E of #21-11-V)

- h. act 250 land use permit (exhibit F of #21-11-V)
  - i. Letter from Shepeluk (exhibit G of #21-11-V)
  - j. Zoning Permit for #21-11-V
- Exhibit D Notice sent to Adjacent Landowners dated 9/24/13

**Findings of Fact:**

This application seeks to gain re-approval of application #21-11-V, which was issued for *Revisions to Site Plan (landscaped berm, pressure reducing vault and temporary staging area)* located at 33 Kimberly Lane (off Blush Hill), Waterbury, VT.

1. The original permit (#21-11-V) became effective on September 15, 2011.
2. The applicant is seeking re-approval of #21-11-V to provide additional time to complete the site work.
3. An explanation of the project details are included within *Exhibit C: Application Materials from previous zoning approval, Application # 21-11-V: a. DRB Approved Minutes for Application #21-11-V, dated Aug. 4, 2011 (hearing was continued to Aug. 18, 2013) and b. DRB Approved Decision for Application #21-11-V, dated Aug. 18, 2011*
4. The Site Plan Review Criteria are listed below:
5. The two year period for the temporary staging area will end October 15, 2015.

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

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #31-13-V for a site plan amendment (for landscaped berm, pressure reducing vault and temporary staging area) at 33 Kimberly Lane, Waterbury, VT (tax map #13-054.000) has not changed since the last permit 21-11-V.

#### MOTION

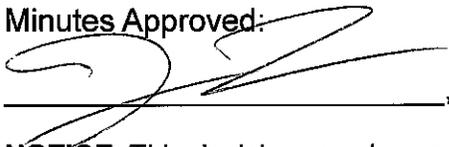
On behalf of the Waterbury Development Review Board, Jeff Whalen moved and Mike Bard seconded the motion to approve application #31-13-V Blush Hill Meadows Ten for site plan amendment at 33 Kimberly Lane, Waterbury, VT (tax map 13.054.000) with the following conditions

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:

Passed unanimously.

Minutes Approved:

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

Date: 11-7-13

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