

**Town & Village of Waterbury**  
**Development Review Board**  
**Approved Hearing Minutes, #36-14-T**  
**Date: August 20, 2014**

**IN ATTENDANCE:**

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

Staff Present: Steve Lotspeich, Town Planner; Patti Spence, Secretary

**HEARING MINUTES:**

Application for a Zoning Permit, a Conditional Use Permit, and a Site Plan Review Permit to convert the second floor above the existing pizza shop into an apartment within the Route 100 (RT100) Zoning District.

Permit Application #: 36-14-T

Applicant: James Roy LLC

Property Owner: Farmhouse Properties LLC

Tax Map #: 13-137.000

Location of Project: 70 McNeil Road, Waterbury Center, VT

**INTRODUCTION**

*The applicant seeks to convert the second floor of the existing pizza shop into an apartment.*

**PRESENT**

The applicant, James Roy, was present and sworn in.

**EXHIBITS**

Exhibit A: Application # 36-14-T

Exhibit B: Site Plan

Exhibit C: ANR Atlas map of property

Exhibit D: Notice of Public Hearing, dated July 22, 2014

Exhibit E: Meeting Record from Glenn Moore dated June 18, 2014

Exhibit F: Letter to Adjoining landowners, dated July 31, 2014

Exhibit G: Secondary Site Plan, indicating stairway access for apartment over Jimmz Pizza

**TESTIMONY:**

1. The applicant, James Roy, has a condo unit on a property owned by Farmhouse Properties LLC. He pays association dues to Farmhouse Properties, LLC.

2. State fire code requirements for access to the apartment will be met, with planned access on the southeast side of the condo.
3. Additional lighting may be required at the dormer and will be downcast and shielded. Any additional lighting needed at the entrance to the stairway will be downcast and pointed towards the pizza shop entrance.

## **FINDINGS OF FACT**

1. Jimmz Pizza at 70 McNeil Road is one of six condos within Farmhouse Properties LLC's ~15 acre property.
2. The property is in the Route 100 Zoning District, where the minimum lot size is 5 acres. The property is 15 acres in size and is considered a conforming lot.
3. Current uses on the property include Jimmz Pizza Shop, Bisbee's Décor Center, MTB Builders, Choice Strategies and four apartments.
4. The Route 100 Zoning District permits a wide range of uses, including, but not limited to, single/multi-family dwellings, restaurants, retail stores, motels, light industry, offices.
5. Multiple family dwellings are listed as Conditional Uses in the Route 100 Zoning District. Because there are already four apartments existing on the property, staff has directed the applicant to apply for a Conditional Use Permit.
6. The applicant seeks to convert the second floor of Jimmz Pizza Shop into an apartment. The project also includes constructing an outdoor staircase that will provide access to the apartment. Total dwellings on the property would total 5 dwelling units.
7. The applicant has stated that a wastewater permit application for the new apartment was submitted to the State approximately 3 weeks ago. That permit will have to be issued before the apartment can be occupied.
8. The applicant has stated that he has worked with the State of Vermont Assistant State Fire Marshall, who recommended replacing an existing window in the second floor to a more suitable window for egress.
9. Based on previous Zoning Permits for the various existing uses onsite (restaurant, offices, retail and apartments), a minimum of 54 parking spaces were required. The following list shows the parking requirements for the existing uses onsite:
  - Pizza restaurant (30 seats and four employees) – 14 spaces
  - 10,120 sq ft of retail space – 34 spaces
  - 4 apartments – 6 spaces
10. Dwelling units require 1.5 parking spaces. As a result, with this new apartment, the amount of required parking spaces totals 56 parking spaces. The site plan (Exhibit B) shows a total of 66 parking spaces.
11. Excerpts from "Site Plan Review and Approval" and "Conditional Uses" are listed below:



Section 301 Site Plan Review and Approval

(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.*

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.*

(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:**

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application # 36-14-T for James Roy LLC for a Zoning Permit, a Conditional Use Permit, and a Site Plan Review Permit to convert the second floor above the existing pizza shop, at 70 McNeil Rd, into an apartment within the Route 100 (RT100) Zoning Districta district in Waterbury Center meets the standards of Section 301, Site plan review and Section 303, Conditional Uses.

**MOTION:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Mike Bard seconded the motion to approve application #36-14-T 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 must be downcast and shielded.

VOTE: Passed with 5 affirmative and 1 opposed.

Decision Approved,

 , Chair

Date: 8-3-14

**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.

THIS DECISION WAS APPROVED ON 8-3-14



**Town & Village of Waterbury  
Development Review Board  
Approved General Meeting Minutes  
Date: August 20, 2014**

**IN ATTENDANCE:**

Board Members Present: Dave Rogers, Chair; Nat Fish, David Frothingham, Martha Staskus, Tom Kinley, Mike Bard, Jeff Grace  
Staff Present: Steve Lotspeich, Town Planner; Patti Spence, Secretary

**MEETING MINUTES:**

At 6:30 p.m. the meeting convened on the second floor of the Main Street Fire Station located at 43 South Main Street (enter at rear of building), Waterbury, VT.

**At 6:30 p.m. the following application was heard:**

**Application #36-14-T, James Roy LLC**, for a zoning permit, conditional use permit and site plan review to convert the second floor of a pizza shop into an apartment at 70 McNeil Road, Waterbury Center, VT 05677 (Tax Map #13-137.000)

The application was heard and a motion to approve made under separate minutes.

**At 7:15 p.m. the following application was discussed and continued to a future date:**

Continuation of Application #21-14-T, Paul Reed, Subdivision Review for a five lot subdivision (3 residential lots plus 2 remaining land lots) at Guptil Road, Waterbury Center, VT 05677 (Tax Map #09-206.000)

Attending: Aaron Flint, Applicant

Public: Bill and Dawn Mitner

The Chair continued the application to Wednesday, October 1, 2014 at 6:30 p.m.

**At 7:45 p.m. a site plan review waiver discussion was held.**

**Waiver Request of Application #23-14-V** from the full site plan review process to revise the approved site plan for the Ladd Hall project at 36 State Drive, Waterbury, VT 05676 (Tax Map #19-409.000)

Present: Allison Friedkin, Applicant

Allison presented the changes to the previously approved site plan. Changes considered minor in nature can be waived from site plan review.

Tom Kinley moved and Jeff Grace seconded to approve the waiver request for application #23-14-V from the full site plan review process to to revise the approved site plan for the Ladd Hall project at 36 State Drive, Waterbury, VT 05676 (Tax Map #19-409.000).

VOTE: Passed unanimously.

APPROVAL OF MINUTES:

Mike Bard moved and Tom Kinley seconded the motion to approve the meeting minutes of August 6, 2014, as amended.

 , Chair

Date: 9-3-14

THESE MINUTES WERE APPROVED ON 9-3-14.