

**Town & Village of Waterbury
Development Review Board
Approved General Meeting Minutes
Date: February 4, 2015**

IN ATTENDANCE:

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

Staff Present: Ryan Morrison, Zoning Administrator; Steve Lotspeich, Community Planner

6:30 p.m. Meeting convened on the second floor of the Main Street Fire Station located at 43 S. Main St.

6:30 p.m. **Application #01-15-T, Kelley Hackett**, for a Zoning Permit and Site Plan Review to establish a home childcare program with an after school program at 340 Fuller Acres, Waterbury Center, VT 05677 (Tax Map #09-028.500).

The application was heard and recorded under separate minutes and decision.

APPROVAL OF MINUTES:

MOTION:

Mike Bard moved and Nat Fish seconded the motion to approve the minutes of hearing #35-14-V and the general minutes of 1-21-14 as presented.

VOTE:

The motion passed unanimously.

The meeting was adjourned at 7:25 p.m.

 Chair

Date: 2-18-15

THESE MINUTES WERE APPROVED ON *FEB - 2 - 15 *

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
Approved Hearing Minutes & Decision
February 4, 2015**

IN ATTENDANCE:

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

Staff Present: Ryan Morrison, Zoning Administrator; Steve Lotspeich, Community Planner

Application for a Zoning Permit and Site Plan Review Permit to establish a home childcare program with an after school program within the Conservation Zoning District.

Permit Application #: 01-15-T

Applicant: Kelley Hackett

Property Owner: SAME

Tax Map #: 09-028.500

Location of Project: 340 Fuller Acres Drive, Waterbury Center, VT

Jeff Larkin opened the site plan review for Application #01-15-T, Kelley Hackett, at 6:30 p.m.

Present and sworn in:

Kelley Hackett, landowner/applicant

Tom Buonomo, adjacent landowner

Mark Fuller, adjacent landowner

INTRODUCTION

Ryan Morrison gave an overview of the project. The applicant is seeking approval for the establishment of a home childcare program with an after school program for up to 6 full-time and 4 part-time children at 340 Fuller Acres Drive, Waterbury Center, VT 05677 (Tax Map # 09-028.500)

EXHIBITS

Exhibit A: Application # 01-15-T

Exhibit B: Site Plan

Exhibit C: Floor Plans

Exhibit D: Elevation Drawings

Exhibit E: ANR Atlas Map of Property

- Exhibit F: Email from Kelley Hackett, dated January 5, 2015
Exhibit G: Notice of Public Hearing, dated January 8, 2015
Exhibit H: Letter to Adjoining landowners, dated January 10, 2015

TESTIMONY:

A question was raised regarding the limit of six children in our Zoning Regulations for the Conservation District. Kelley Hackett stated that state statute has provisions for home day care centers that can have six full time children and four part time children in an area. This state statute trumps our zoning regulations. There is also precedent of the day care that was permitted in Pinnacle Ridge in 2010 that has the same number of children allowed.

Tom Buonomo raised a concern about the traffic on Fuller Acres Dr. with the drop off and pick up of children. Fuller Acres is a private road and he is concerned about people speeding on the road and wants to make sure there is not a safety issue with people walking on the road. The road is approximately 14' wide and it is difficult for two cars to pass, especially in the winter. It is approximately 2/3 of a mile to the Hackett's house from Gregg Hill Rd.

Kelley Hackett said that some of the children in her day care are siblings which helps limit the traffic generated.

A question was raised about the on-site septic system and if it can handle the daycare in addition to the three-bedroom house. The system was designed under the prior state regulations that had a somewhat higher number of gallons per day per bedroom. There are two leach fields and a distribution box that can be controlled to alternate between the two leach fields. State licensing for home day care centers does not include the review of the on-site septic system.

Regarding drop off and pick up of the children, there is typically a maximum of two cars at one time. The question was raised regarding events Kelly's day care is a four-star day care that includes two events per year with all the day care families and their children. Kelley will communicate with the neighbors when these events occur.

Regarding any requirements for a fenced play area for the children. The state licensing reviewer will decide if a fenced in area will be required. Kelly carries additional insurance that covers her daycare and all associated liability.

FINDINGS OF FACT:

1. The applicant is seeking approval of a home childcare and after-school program at a private residence located on a 10.3 acre lot in the Conservation Zoning District (10 acre minimum lot size).
2. The 1,928 sq ft residence at 340 Fuller Acres Drive is currently under construction. The residence consists of a first and second floor, and a daylight basement.
3. The applicant currently runs a home childcare program and after school program out of her home at 11 Elm Street. It will be transferred to the applicant's new residence on Fuller Acres Drive.
4. Fuller Acres Drive, a private road off of Gregg Hill Road, currently serves 5 residential properties.
5. Nursery/day care uses of up to 6 children are permitted uses within the Conservation Zoning District. The Conservation Zoning District does not permit Nursery/day care uses of 7 or more children.
6. The childcare program will have up to 6 full-time children and 4 part-time children. Hours of operation will be from 7:30 a.m. to 5:00 p.m., Monday-Friday.
7. 24 V.S.A. § 4412(5) states *"A 'family child care home or facility' as used in this subdivision means a home or facility where the owner or operator is to be licensed or registered by the state for child care. A family child care home serving six or fewer children shall be considered to constitute a permitted single-family residential use of property. A family child care home serving no more than six full-time children and four part-time children, as defined in 33 V.S.A. § 3511(7) shall be considered to constitute a permitted use of property but may require site plan approval based on local zoning requirements..."*.
8. 33 V.S.A. 3511(7) states *"Family child care home' means a child care facility which provides care on a regular basis in the caregiver's own residence for not more than 10 children at any one time. Of this number, up to six children may be provided care on a full-time basis and the remainder of a part-time basis. As used in this subdivision, care of a child on a part-time basis shall mean care of a school-age child for not more than four hours a day. These limits shall not include children who reside in the residence of the caregiver, except:*
 - A. *These part-time school-age children may be cared for on a full-day basis during school closing days, snow days, and vacation days which occur during the school year.*
 - B. *During the school summer vacation, up to 12 children may be cared for provided that at least six of these children are of school age and a second staff person is present and on duty when the number of children in attendance exceeds six. These limits shall not include children who are*

required by law to attend school (seven years of age and older) and who reside in the residence of the caregiver.”

9. The Use Regulation Table that is part of the Waterbury Zoning Regulations, April, 2013, identifies this use as a Nursery/day care (<7 children). This use is not further defined in the Zoning Regulations. It is the intention of the Zoning Regulations that the two Nursery/day care uses listed in the Use Regulation Table correspond with the two categories of licensed day care facilities in state statute and regulation. In the absence of a definition in the Zoning Regulations, the Nursery/day care (<7 children) use category corresponds to a family child care home with six or fewer full-time children and four part-time children as defined in state statute above.
10. The Zoning Regulations require 1.5 parking spaces per dwelling unit. The regulations do not specifically address parking requirements for Nursery/day care uses. The applicant’s site plan (Exhibit B) shows the driveway and parking area that will serve both the residential use and the childcare use.
11. Excerpts from “Site Plan Review” 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.

CONCLUSION:

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that the establishment of a home childcare program with an after school program for up to 6 full-time and 4 part-time children at 340 Fuller Acres Drive, Waterbury Center, VT 05677 (Tax Map # 09-028.500), meets the criteria in Section 301, Site Plan Review.

MOTION:

On behalf of the Waterbury Development Review Board, David Frothingham moved and Tom Kinley seconded the motion to approve Application #01-15-T the establishment of a home childcare program with an after school program for up to 6 full-time and 4 part-time children at 340 Fuller Acres Drive, Waterbury Center, VT 05677 (Tax Map # 09-028.500), with the following conditions.

1. The applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits;
2. Exterior lights will be downcast and shielded.
3. The applicant shall report back to the Zoning Administrator with assurance that the on-site septic approval from the state is adequate for the residential and day care uses.

VOTE:

The motion passed unanimously.

Decision Approved,

 , Chair

Date: 2-18-15

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 * FEB-18-15 *