

**Town & Village of Waterbury  
Development Review Board  
Approved General Meeting Minutes  
Date: March 16, 2016**

**IN ATTENDANCE:**

Board Members Present: Jeff Larkin, Chair; David Frothingham; Nat Fish; Martha Staskus

Staff Present: Steve Lotspeich, Community Planner; Dina Bookmyer-Baker, Zoning Administrator; Patti Spence, Secretary

The meeting convened at 6:30 pm. See separate decisions for the following projects:

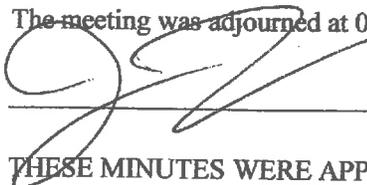
- 6:30 p.m.**      **Application #10-16-T, J.T.J. LLC**, Continuation of the Site Plan and Flood Hazard Area Review for a 35' x 54' pavilion including a restroom facility at the existing flea market site located in the Medium Density Residential Zoning District at 1901 U.S. Route 2, Waterbury, VT 05676 (Tax Map #12-020.000).
- 7:15 p.m.**      **Application #11-16-T, Gayle Oberg, Sean & Holly Ryan**, for Ridgeline, Hillside, Steep Slope (RHS) Overlay District review for a proposed a single-family house and related site work on previously approved Lot #6, Dundalk Rd., in the RHS Overlay District, Waterbury Center, VT 05677 (Tax Map #10-018.600).
- 7:45 p.m.**      **Application #02-16-V, Main Street Cottages, LLC**, Flood Hazard Area review for constructing eight single-family houses in the previously approved development located in the Village Residential Zoning District on O'Hear Ct., Waterbury, VT 05676 (Tax Map #19-237.000).

**APPROVAL OF PRIOR MINUTES & DECISION:**

Nat Fish moved and David Frothingham seconded the motion to approve the hearing decision for Application #09-16-T, dated March 2, 2016.

Vote: Passed unanimously.

The meeting was adjourned at 08:40 p.m.

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

Date: 4-6-16

THESE MINUTES WERE APPROVED ON: April 6, 2016

**Town & Village of Waterbury  
Development Review Board  
Approved Hearing Minutes – March 16, 2016**

Board Members Present: Jeff Larkin, Chair; David Frothingham; Nat Fish; Martha Staskus

Staff attending: Steve Lotspeich, Municipal Planner; Dina Bookmyer-Baker, Zoning Administrator; Patti Spence, DRB Secretary

**Application #10-16-T, J.T.J. LLC**, for Site Plan, Conditional Use and Flood Hazard Area Review for a 35' by 54' pavilion including a restroom facility at the existing flea market site at 1901 U.S. Route 2, Waterbury, VT 05676 (Tax Map #12-020.000). The parcel is located in the Medium Density Residential (MDR) zoning district and the Special Flood Hazard Area (SFHA) overlay district.

**INTRODUCTION**

This project is to construct a pavilion that includes restroom and shower facilities, to be located at the existing flea market/farmer's market site, in the 100-year floodplain near the Winooski River. The site improvements include a paved driveway apron at the end of the existing gravel driveway access to US Route 2.

**PRESENT AND SWORN IN:**

John Farr, Applicant  
Laura Hardie, Neighbor

**EXHIBITS**

- A: Application #10-16-T (6 pages: Zoning Permit, Site Plan Review, Overlay District), submitted 2/5/16
- B: Referral letter to Rebecca Pfeiffer, Asst. NFIP Coordinator
- C: Sanitary Plan/Site Plan (C2-01), prepared by Trudell Consulting Engineers, revised 2/29/16
- D: Existing Conditions (C1-02), prepared by Trudell Consulting Engineers, dated 11/23/15
- E: Pavilion Elevation, North
- F: Pavilion Floor Plan, including bathhouse
- G: Pavilion Elevation, West
- H: Site Map—SFHA and Floodway limits, compiled by Trudell Consulting Engineers, dated 3/30/15
- I: Site Map—Sensitive environmental features, compiled by TCE, dated 2/27/15
- J: Highway Site Map, compiled by TCE, dated 5/19/15
- K: Notice of Public Hearing, published 2/25/16
- L: Letters to Adjoining Landowners, dated 2/18/16

**TESTIMONY:**

1. Changes to be noted on the site plan include removal of the mobil concession stand and the Rotary stage.

2. The applicant has some existing agricultural uses occurring on the property.
3. Based upon Exhibit B, page B3, the applicant agrees to the pavillon structure requirements as detailed. As well as the requirement to remove the picnic tables after the season and to stake out the flood area.
4. There will be some soft lights for the bathrooms and the pavillon. There will be no lighting on the exterior. Any lighting will be downcast and shielded.
5. The concession stand will be open from May to November, during the flea market open dates.. It will be removed after the flea market closes for the season. It will be fully licensed and ready for highway use.
6. There is adequate parking on the parcel for the flea market traffic.

Tesimony was closed at 07:24 p.m.

### FINDINGS OF FACT

1. J.T.J. LLC owns an 8.2± acre parcel located at 1901 U.S. Route 2. The parcel lies within the MDR zoning district and Special Flood Hazard Area overlay district.
2. The property is currently developed with two sheds, one of which is portable, a driveway, and a network of travel lanes that serve the existing flea/farmers market use. The property has also accommodated special events, such as Independence Day festivals and motorcycle rallies, over the years.
3. While a small portion of the parcel's south-westerly corner lies within the Floodway, the entirety of the proposed project will lie within the SFHA. The area has a flood zone designation of AE, with a base flood elevation of 412' above sea level. (Exhibits C & D)
4. The existing use of the parcel for a flea market, farmer's market, and community garden was approved in zoning permit # 17-15-T as a temporary use, as no permanent structures or infrastructure improvements were included. No change in use is proposed, however, the site will now include permanent structures and infrastructure improvements, so the temporary use designation does not apply. The proposed use most closely fits the definition for outdoor recreation, which is: **Recreation, Outdoor:** *Includes, but is not limited to, golf driving range, golf course, hunting reserve, trap, skeet and archery range, outdoor swimming pool, outdoor skating rink, park, outdoor tennis court, skiing facility, and beach.* Outdoor recreation is a conditional use in the MDR zoning district. The Board finds that the propose use meets the definition of outdoor recreation. The general and specific standards found in §303(e)(1-4) apply.
5. The subdivision of the subject parcel of 8.2 acres from the 46.7 acre parcel was approved in zoning permit #36-15-T.
6. The pavilion will be 35' by 54' by 21' high and will include restroom and shower facilities. The proposal includes developing water supply and waste-water systems, lighting, and utilities. The lowest floor of the pavilion will be built at an elevation of 410' above sea-level; the bathhouse facilities will be elevated on a deck to be 414', which is 2' above the base flood elevation of 412'. The bathhouse level will be accessed by stairs and a ramp. (Exhibit E)

7. Lighting not shown on the site plan or elevations. There will be some soft lights for the bathrooms and the pavilion. There will be no lighting on the exterior. Any lighting will be downcast and shielded. (Applicant testimony)
8. A concession stand is being proposed. The concession stand will be open from May to November, during the flea market open dates.. It will be removed after the flea market closes for the season. It will be fully licensed and ready for highway use.
9. The vehicular access to the site is via the existing curb cut US Route 2. A 24' driveway access apron is proposed to be constructed and paved per AOT B-71 standards (Exhibit J). Access to Route 2 is not on this parcel, but connects to and is provided by a 50' ROW to Route 2 on the adjacent parcel to the West. (Subdivision zoning permit #36-15-T.)
10. Parking and/or vehicular circulation not shown on the site plan. There is adequate parking on the parcel for the flea market traffic. (Applicant testimony)
11. This project was referred to the DRB for Site Plan and Conditional Use Review under Article III, and Flood Hazard Area Review under Article VI.

## **Conclusion**

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #10-16-T J.T.J. LLC, for Site Plan, Conditional Use and Flood Hazard Area Review for a 35' by 54' pavilion including a restroom facility at the existing flea market site at 1901 U.S. Route 2, Waterbury, VT 05676 (Tax Map #12-020.000) meets to standards under section 301 site plan and section 303 (e) conditional use and section 605 (a) Flood Hazard Area Review.

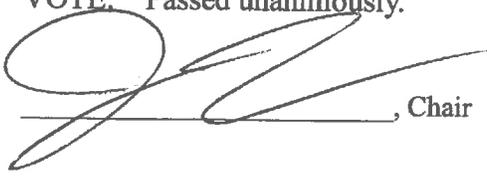
## **Motion**

On behalf of the Waterbury Development Review Board David Frothingham moved and Nat Fish seconded the motion to approve application #10-16-T 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. *Any lighting be downcast and shielded.*
3. *Prior to construction, the applicant shall provide plans stamped by a VT Professional Engineer (PE) which certifies that the pavilion is designed in conformance with the most current FEMA Technical Bulletin #2.*
4. *Prior to construction, the applicant shall provide a copy of the VTrans Access Permit Letter of Intent.*

- 5. *The concession stand water and wastewater connections shall be sealed when not in use to prevent the entrance of flood waters.*
- 6. *The applicant will provide an elevation certificate certifying that the pavilion floor is constructed at least 2-feet above the base flood elevation.*

VOTE: Passed unanimously.

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

Date: 4-6-16

THESE MINUTES WERE APPROVED ON 4-6-16

*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.*

**Town & Village of Waterbury  
Development Review Board  
Approved Hearing Minutes & Decision #11-16-T  
March 16, 2016**

Board members present: Jeff Larkin (Chair), David Frothingham, Nat Fish, Martha Staskus

Staff present: Steve Lotspeich (Municipal Planner), Dina Bookmyer-Baker (Zoning Administrator), Patti Spence (DRB Secretary)

Application to construct a proposed a single-family house and related site work on previously approved Lot #6, on Dundalk Rd./Tamarack Ln., in the Ridgeline, Hillside, Steep Slope (RHS) overlay district, Waterbury Center, VT 05677 (Tax Map #10-018.600).

Permit Application #: 11-16-T

Applicant: Gayle Oberg

Landowner: Sean & Holly Ryan

Location of Project: Lot #6 Dundalk Rd./Tamarack Ln., Waterbury Center, VT

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Present and sworn in: Gayle Oberg, the Applicant.

This is a 2.1 acre lot on Dundalk Rd, previously approved as Lot #6, Dundalk Rd. The application is for the house and related site work.

**EXHIBIT LIST:**

- Exhibit A Permit Application #11-16-T
- Exhibit B Site Plan, rev. Jan 30, 2008 to show clearing limits on Lot 5A and change of title
- Exhibit C Building Elevations and Floor Plans dated July 20, 2015
- Exhibit D Zoning Board of Adjustment Decision re: Subdivision dated September 25, 2007
- Exhibit E Parcel Map of Property
- Exhibit F Notice of Public Hearing, dated February 22, 2016
- Exhibit G Notice to Adjacent Landowners, dated February 23, 2016

**Testimony:**

1. Any lighting will be downcast and shielded.
2. There was an email from a neighbor, Willie White, who was concerned with the address. That concern was addressed and there is no problem.

**Findings of Fact:**

The applicant is seeking approval to construct a new single-family residence on a 2.31 acre property located on Lot #6, Dundalk Rd./Tamarack Ln., Waterbury Center, VT (Tax map # 10-018.600).

1. The existing 2.31 acre parcel is Lot #6, Dundalk Rd. and lies within the Medium Density Residential (MDR) zoning district, and also within the Ridge line, Hillside, Steep Slope (RHS) overlay district.
2. Lot #6 of the Dundalk Rd./Tamarack Ln. Subdivision was approved under Permit #65-07-T (Exhibit D).
3. The MDR zoning district requires a minimum lot size of 2 acres, a maximum height allowance of 35 feet, a front setback of 60', and rear and side yard setbacks of 50'. The lot and the proposed house meet these dimensional requirements.
4. The property lies within the RHS overlay district, with elevations ranging from approximately 1330 feet in elevation (FIE) to 1370 FIE. The elevation at the future house site is at approximately 1350 to 1360 FIE. Section 1001(b) states that development at or above 1,200 FIE but below 1,500 FIE shall be considered "minor" development.
5. The home site on the lot was previously cleared under Permit #65-07-T (Exhibit D) with driveway access from Tamarack Ln.
6. In addition to the site plan, the applicant has included floor plans and elevation drawings (Exhibit C).
7. Section 1003(a) states that a site development plan for a minor development shall include information as required pursuant to Section 301(b) with the exception of a grading plan unless otherwise determined by the Development Review Board.
8. Development projects in the RHS District are also subject to review under the conditional use criteria.

### **Conclusion**

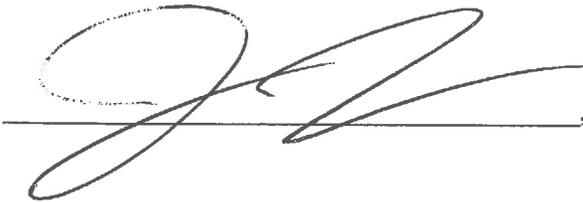
Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #11-16-T, Gayle Oberg, Sean & Holly Ryan, to construct a single-family dwelling and conduct related site work on previously approved Lot #6, Dundalk Rd./Tamarack Ln., in the Ridge line, Hillside, Steep Slope (RHS) Overlay District, Waterbury Center, VT 05677 (Tax Map #10-018.600) meets the standards in sections 1003(a), 301(b) and 303(e) conditional use criteria.

**Motion**

On behalf of the Waterbury Development Review Board, David Frothingham moved and Nat Fish seconded the motion to approve application 11-16-T 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. *Any lighting shall be downcast and shielded.*

VOTE: Passed unanimously.

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

Date: 4-6-16

THESE MINUTES WERE APPROVED ON 4-6-16

**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.*

**Town & Village of Waterbury**  
**Development Review Board**  
**Approved Hearing Minutes and Decision #02-16-V**  
**March 16, 2016**

Board members present: Jeff Larkin (Chair), David Frothingham, Nat Fish, Martha Staskus

Staff present: Steve Lotspeich (Municipal Planner), Dina Bookmyer-Baker (Zoning Administrator), Patti Spence (DRB Secretary)

Application to construct eight single-family houses in the previously-approved development located at O'Hear Court, Waterbury, VT 05676 (Tax Map #19-237.000). The parcel is located in the Village Residential (VR) zoning district and the Special Flood Hazard Area (SFHA) overlay district.

Permit Application #: #02-16-V  
Owner/Applicant: Main Street Cottages  
Location of Project: O'Hear Court, previously-approved development

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Present and sworn in: Bruce Baker, representing the Applicant.

**Introduction**

Applicant seeks to complete the construction of the eight remaining single-family dwellings in the 11 dwelling-unit development currently known as Main Street Cottages located at O'Hear Court. Applicant received Development Review Board approval in 2012 (permit # 11-12-V) to rebuild the 11 mobile homes located in the former Whalley Mobile Home Park site that were destroyed by the flood associated with Tropical Storm Irene. Applicant subsequently received DRB approval in 2014 (permit #25-14-V) to construct one home within the setback and to modify the finished grade elevations for the overall property. The parcel lies within Flood Zone AE and the 100-year floodplain. Both prior applications were found to meet the standards for the SFHA.

**Exhibits**

- A: Application #02-16-V (5 pages: Zoning Permit and Overlay District), submitted 2/25/16
- B: Referral letter to Rebecca Pfeiffer, dated March 8, 2016 (4 pages, including emails from Steve Lotspeich, March 8, 9, & 15)
- C: Comments from Rebecca Pfeiffer, dated March 15, 2016 (email, 2 pages)
- D1: Cover Sheet/ Dwelling Unit Front Elevation (Sheet 1), prepared by Excel Homes Group LLC, dated 9/24/15
- D2: Dwelling Unit First Floor Plan (Sheet 3), prepared by Excel Homes Group LLC, dated 12/1/15
- D3: Dwelling Unit Second Floor Plan (Sheet 4), prepared by Excel Homes Group LLC, dated 12/14/15
- E: Finished Site Plan (Sheet 1 of 1), prepared by Lakeside Environmental Group, dated 8/19/14 \*
- F: Notice to Adjoining Landowners, two mailings, dated February 26 and March 8, 2016
- G: Notice of Public Hearing, published 2/29/16 in the Times Argus Classifieds.
- H: Copy of previous application #25-14-V decision and site plan for reference to this application.

I: Copy of previous application #11-12-V decision and materials for reference to this application.

*\*Not included in DRB packet*

### **Testimony**

1. The flood hazard area approval is still valid.
2. There are no changes to the original plan.
3. A permit is needed to construct the last 8 units.

### **Findings of Fact**

1. Main Street LLC owns a 0.97± acre parcel located at the end of O’Hear Court, which was the site of an 11 dwelling-unit mobile home park that was destroyed by the flood associated with Tropical Storm Irene in 2011. The parcel is located in the Village Residential (VR) zoning district and the Special Flood Hazard Area (SFHA) overlay district.
2. In 2012, the Development Review Board approved an application (#11-12-V) for the Whalley Mobile Home Park to be reconstructed.
3. The reconstruction project has been underway. During construction, a sewer line needed to be relocated. In 2014, the DRB approved application (#25-14-V) granting a waiver for Unit 9 to encroach on the setback and to modify the finished grade elevations for the overall property.
4. Three homes of the eleven have been completed. Driveways, parking, carports, and dwelling foundations have been completed. The foundation piers for the remaining homes have been installed.
5. Applicant seeks to complete the development of the remaining eight houses. The development as a whole has been approved, and re-approved, under the Flood Hazard Area Regulations previously in effect. However, permit #11-12-V, approving the 11 individual houses, has expired.
6. The prior applications, for the overall development, the setback waiver, and re-grading, were found to meet the standards for the SFHA (Exhibits H & I).
7. This project was referred to the DRB for Flood Hazard Area Review under Article VI.
8. The FHA criteria have been met.

### **Conclusion**

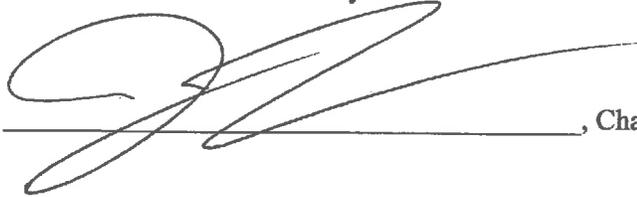
Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #02-16-V, Main Street Cottages LLC, Flood Hazard Area review to construct eight single-family houses in the previously approved development located at O’Hear Court, in the Special Flood Hazard Area (SFHA) overlay district, Waterbury, VT 05676 (Tax Map #19-237.000) meets the standards in Article VI: Interim Flood Hazard Area Regulations and Overlay District. The criteria under Article VI, Flood Hazard Area review as previously approved have been met.

**Motion**

On behalf of the Waterbury Development Review Board David Frothingham moved and Nat Fish seconded the motion to approve application 02-16-V with the following conditions:

1. *The applicant completes the project consistent with the Board's findings and conclusions and with the previous approvals;*
2. *Any lighting be downcast and shielded.*

VOTE: Passed unanimously.

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

Date: 4-6-16

THESE MINUTES WERE APPROVED ON 4-16-16

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