

**Town & Village of Waterbury
Development Review Board
Approved General Meeting Minutes
June 15, 2016**

In Attendance:

Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, Mike Bard, Rob Dombrowski

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

At 6:30 p.m. the meeting convened in the Steele Community Room in the Municipal Center at 28 North Main Street, Waterbury, VT.

6:30 p.m. #33-16-T: Robert Sprague and Alison Scileppi (owner/applicant)
250 Little River Road, Waterbury, VT (CNS/ SFHA zoning and overlay districts)
Setback waiver request and Flood Hazard Area review to construct a residential addition.

Hearing minutes and decision prepared under separate cover.

7:00 p.m. #07-16-V: Stephen Van Esen (owner), **Danielle Nichols** (applicant)
40 Foundry St, Waterbury, VT (IND/DMU zoning and overlay districts)
Site Plan and Conditional Use review to change the use of existing commercial space to restaurant and retail.
—Continued from June 1

Hearing minutes and decision prepared under separate cover.

7:30 p.m. #29-16-T, Bonnie & Dave Tominack (owner),
Bob Petrichko/Stowe Remodeling (applicant)
773 Maggies Way, Waterbury Center, VT (LDR zoning district)
Setback waiver request to construct a residential addition (deck).
—Continued from June 1

Hearing minutes and decision prepared under separate cover.

Approval of Minutes and Decisions for June 1, 2016:

Mike Bard moved and Rob Dombrowski seconded the motion to approve the general minutes of 6/1/16 and the hearing minutes for applications #04-16-V and #05-16-V, as amended.

Vote: Passed unanimously.

Adjournment:

The meeting was adjourned at 8:15 pm.



(Chair) (Vice Chair) (Acting Chair)



(date)

**Town & Village of Waterbury
Development Review Board
Approved Hearing Minutes & Decision #33-16-T
June 15, 2016**

In Attendance:

Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, Mike Bard, and Rob Dombrowski.

Staff Present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), Patti Spence (Secretary)

| | |
|-------------------|---|
| Owner/Applicant: | Robert Sprague and Alison Scileppi |
| Address/Location: | 250 Little River Road, Waterbury, VT |
| Zones: | Conservation (CNS), Special Flood Hazard Area (SFHA) overlay |
| Application # | 33-16-T Tax Map # 12-006.000 |

Present and sworn in:

Alison Scileppi, Applicant

Louisa Nufield, adjacent landowner

Applicant Request

The applicant seeks approval to construct a residential addition (deck) within the front and side yard setback in the Special Flood Hazard Area at 250 Little River Road.

Exhibits

- A: Application #33-16-T (3 pp: Zoning Permit, Conditional Use), submitted May 10 & 18, 2016.
- B: Site plan of the south end of the existing dwelling and the location of the proposed addition.
- C: Aerial photo of the parcel showing the Special Flood Hazard Area overlay. (staff)
- D1: Referral letter to Rebecca Pfeiffer, requesting comment, dated May 27, 2016. (staff)
- D2: Reply letter from Ned Swanberg, Central Vermont Floodplain Manager, with comments regarding flood hazard review, dated June 10, 2016. (staff)
- E: Letters to adjoining landowners, dated May 31, 2016
- F: Photoshop of proposed deck design, submitted June 15, 2016

Testimony

1. The house is about 14 feet to the edge of the road right-of-way.
2. The deck will be app. 22 feet from the road right-of-way.
3. The Setback Waiver request is to encroach into the front yard setback by approximately 82' and the side yard by approximately 32'.
4. The existing dwelling is app. 14 feet from the front right-of-way and 62 feet from the nearest property line.
5. The applicant agreed to the recommendations in Exhibit D2.
6. An adjacent landowner who was present stated they had no problem with the deck.

Findings of Fact

1. Existing conditions: Robert Sprague and Alison Scileppi own a 1.85± acre parcel located at 250 Little River Road. The property is developed with an existing two-story single-family dwelling and a 1 1/2-story garage. The parcel includes approximately 490' of frontage on and has access to Little River Road, a class 3 town road. The parcel is located in the Conservation (CNS) zoning district with portions in the Special Flood Hazard Area (SFHA) overlay district.
2. CNS dimensional requirements: In the CNS zoning district, the minimum lot size is 10 acres, minimum frontage: 300', maximum height: 35'; and the minimum setbacks are: front, sides, and rear 100'. The lot does not meet the minimum lot size. The existing dwelling does not meet the front and side yard setbacks.
3. Waiver Request: The applicant proposes to construct a 140 SF deck measuring 17.5' by 8', elevated approximately 12"-16" above the finished grade. The existing dwelling looks to be approximately 14' from the front and 62' +/- from the nearest side property line. The deck addition will extend 8' from the dwelling on the right (south) side and be located approximately 18' from the front right-of-way and 68' +/- from the nearest side property line. The Setback Waiver request is to encroach into the front yard setback by approximately 82' and the side yard by approximately 32'.
4. Conditional Use/Waiver criteria:

In accordance with Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided 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.

 - a. Section 303(e)(1) Community facilities: The proposal is to replace an existing step and porch with a deck that is slightly longer (17.5'). No change in the residential use and no increase in occupancy is proposed (the deck is not enclosed or conditioned space). The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities.
 - b. Section 303(e)(2) Character of the area: No change of use is proposed; the use of the property will remain residential. The deck addition is appropriate in scale and design in relation to the dwelling and others in the area.
 - c. Section 303(e)(3) Municipal bylaws in effect: The proposed dwelling will continue to be for single-family occupancy and will not violate any municipal bylaws and ordinances in effect.
 - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: No change in the existing residential use is proposed. This provision does not apply.
 - e. Section 303(h) Removal of earth or mineral products conditions: The proposed use does not include earth removal activities. This provision does not apply.

In accordance with Section 303, the Applicant has demonstrated that the proposed addition to an existing residential structure will not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought.

5. Section 304(c)(2) Noncomplying Structures within a designated SFHA: Most of the parcel is shown to lie within the SFHA (Exhibit C). The existing dwelling is noncomplying, as it is less than 100 feet from the front and side property lines, so this provision applies. Accordingly, staff has referred the application to the DRB and Floodplain Manager for SFHA review and comment.
6. Section 604 Special Flood Hazard Area (SFHA) Development Standards: The residence to which the deck will be attached appears to be at least partially within the extent of the SFHA (Exhibit C). The comments from Ned Swanberg (Exhibit D2) state that the DRB can approve the proposed deck with a condition that it be anchored and built with materials to avoid damage from flooding in accordance with Sections 604(a)(1) and (4), concluding that as the proposal will in large part replace an existing porch and step and if constructed on an open foundation i.e., "on posts," then it would appear to qualify for the exemption.

Conclusion:

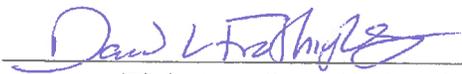
Based upon the findings and conclusions set forth above, the Board hereby grants a front setback waiver of 82' to the road right-of-way to construct a residential addition (deck), and a 32' side yard setback waiver, and flood hazard area approval for development partially located within Zone A of the Special Flood Hazard Area at 250 Little River Road, as presented in application #33-16-T, supporting materials, and public testimony. In accordance with Section 604, the project as proposed will meet the SFHA development standards on the condition that it be anchored and built with materials to avoid damage from flooding.

Motion:

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded the motion to approve application # 33-16-T with the following conditions:

1. The applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits;
2. All future exterior lighting will be downcast and shielded.

Vote: Passed unanimously.



(Chair) (Vice Chair) (Acting Chair)



(date)

Minutes Approved: July 6, 2016

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 #07-16-V
June 15, 2016**

In Attendance:

Board members present: Dave Rogers (Chair), Nat Fish, Mike Bard, and Rob Dombrowski. Note: Board member Martha Staskus recused herself from the hearing.

Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), Patti Spence (Secretary)

#07-16-V: Stephen Van Esen (owner), **Danielle Nichols** (applicant)

Location of Project: 40 Foundry St, Waterbury, VT (IND/DMU zoning and overlay districts)
Site Plan and Conditional Use review to change the use of existing commercial space to restaurant and retail. Tax Map #19-262.000.

Present and previously sworn in:

Danielle Nichols, Applicant

EXHIBITS

- Exhibit A: Application # 07-16-V
- Exhibit B: Site Plan dated July, 1975
- Exhibit C: Photo of Front of Building
- Exhibit D: Prior Decisions for GMCR Coffee Shop dated July 19 and August 3, 2000
- Exhibit E: Letter to Adjoining landowners, dated June 3, 2016.
- Exhibit F: Warning published on May 12, 2016

Testimony

1. Regarding parking, the other tenants at 40 Foundry St. conduct business mostly during morning and daytime hours. The busy times for the Cork Wine Bar are primarily after 5:00 p.m.
2. Due to the parking issues in the Village and the requirements of the Zoning Regulations this application will be referred to the Trustees for the allocation of public parking to meet the requirement of additional parking spaces.

Findings of Fact

The applicant seeks to change the use of the existing 1,200 sq. ft. space that was previously occupied by the Keurig Green Mountain café and retail outlet, to a 20-seat restaurant and small 300 sq. ft. retail space. The building also contains a retail auto parts store, two food preparation businesses, and two small offices.

1. The existing 0.43 acre property is located at 40 Foundry Street and lies within the Industrial (IND) Zoning District, and is also within the Mixed-use Sub-district of the Design Review Overlay District.
2. The property also has frontage along Bidwell Lane.
3. The existing building currently has 9,476 sq. ft. of floor area and supports the proposed 1,200 sq. ft. wine bar space, the retail auto parts space, the food preparation businesses, and two small offices. There are approximately 20 people currently working in the remaining space in the building, excluding the proposed wine bar.
4. The property lies within the Downtown Design Review Overlay District (Mixed-use sub-district). Section 1102 requires review and approval by the Development Review Board for changes of use such as the previous retail use to restaurant/bar.
5. Exhibit B, Site Plan, shows the entire building and the 12 parking spaces that are on-site. There is also space in front of the auto parts store that are used by one or two small delivery trucks or cars at any one given time.
6. The building at 40 Foundry St. is not shown as a contributing structure to the Village of Waterbury Historic District so it does not meet the definition of a historic structure in the Waterbury Zoning Regulations. This project is reviewed under Sub-section 1108(a)(3) as shown below. The Development Review Board may waive these requirements as allowed under Sub-section 1109(a) also shown below.
7. There will be no changes to the outside appearance of the structure, as shown on Exhibit C, Photo of the Front of the Building.
8. The parking requirement for the entire building is as follows: The 20 employees currently working in the building require 20 parking spaces as required for light industrial uses. The proposed wine bar requires seven spaces for the 20-seats, one space for the number of employees normally working on the site, and one space for the 300 sq. ft. of retail space for a total of nine spaces. The total parking requirement for the building with the wine bar included is 29 spaces. The parking requirement under Permit No. 022-00-V as shown in the Planning Commission decision included in Exhibit D was 21 spaces. Eight additional spaces are required as a result of the proposed change of use.
9. The applicable Site Plan Review, Downtown Design Review Overlay District, and Conditional Use criteria apply to restaurant/bars in the Downtown Overlay Mixed-Use Sub-District as stated in Sub-section 503(e).
10. Regarding Conditional Use Sub-section 303(e)(2): "Describe how the proposed use will not have an undue adverse impact on the character of the area affected as defined by the Municipal Plan....", the application states that "I believe moving my business to this location will help develop and expand the vibrant downtown."
11. Regarding Conditional Use Sub-section 303(e)(2)(B): "Methods to control prevent or control fumes, gas, dust, smoke, odor, noise, or vibration", the proposed wine bar will not have a full kitchen with an exhaust hood. Cooking will utilize equipment such as a panini maker.

Conclusion

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application #07-16-V for site plan and conditional use review to change the use of existing commercial space to restaurant and retail at 40 Foundry Street, tax map #19-262.000, meets the standards in Section 301 Site Plan Review, Section 1109, Waiver (from Design Review), Section 414(c)(1) Parking Regulations, and Section 303, Conditional Uses. It was determined that 29 total parking spaces are needed for 40 Foundry Street and 21 were previously approved, which means eight additional spaces are required for this new use. The allocation public parking spaces to fulfill the requirement for the eight additional parking spaces was approved by the Village of Waterbury Trustees on .

Motion

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded the motion to approve application 07-16-V 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. All exterior lighting will be downcast and shielded;

Vote: Passed unanimously.



 (Chair) (Vice Chair) (Acting Chair)



 (date)

Minutes Approved: July 6, 2016

***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 #29-16-T
June 15, 2016**

In Attendance:

Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, Mike Bard, Rob Dombrowski

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

| | |
|-------------------|--------------------------------|
| Owner: | Bonnie and Dave Tominack |
| Applicant: | Bob Petrichko/Stowe Remodeling |
| Address/Location: | 773 Maggies Way, Waterbury, VT |
| Zones: | Low-Density Residential (LDR) |
| Application # | #29-16-T |
| Tax Map #: | 09-061.000 |

Present and sworn in:

Bob Petrichko, Stowe Remodeling, representing the applicant

Applicant Request

The applicant seeks approval to construct a residential addition (deck) within the rear yard setback at 773 Maggies Way.

Exhibits

- A: Application #29-16-T (3 pp: Zoning Permit and Conditional Use), submitted 4/26/16
- B: Site plan of the parcel, existing dwelling, and the location of the proposed addition.
- C: Aerial photo of the site with the tax map boundaries
- D: Photographs (3) of the house, as seen from the road, and close-up view of the proposed location of the deck addition.
- E: Letters to adjoining landowners, dated June 2, 2016

Testimony

1. It is 500 feet south to the closest neighbor's driveway to the south.
2. There is not a house between the Tominack house and Route 100 to the west.
3. The reason for this siting of the deck was to maintain the existing ambient lighting for the lower level of the house.

Findings of Fact

1. Existing conditions: Bonnie and Dave Tominack own a 1.0± acre parcel located at 773 Maggies Way. The property is developed with an existing one-story single-family dwelling with a full finished basement. The property is served by an existing well and septic system. The parcel includes approximately 275' of frontage on and has access to Maggies Way, a class 3 town road. The parcel is

located in the Low-Density Residential (LDR) zoning district. There's no neighbor to the west between route 100 and the house.

2. Dimensional requirements: In the LDR zoning district, the minimum lot size is two acres, minimum frontage: 300', maximum height: 35'; and the minimum setbacks are: front 70', sides and rear 75'. The lot does not meet the minimum lot size and frontage requirements. The existing dwelling meets the setbacks.
3. Waiver Request: The applicant proposes to construct a 100 SF deck, approximately 1-story above the existing grade of the walk-out basement. The existing dwelling is just 75' from the rear property line. The addition will extend some 10' from the dwelling on the rear and right side. The Setback Waiver request is to encroach into the rear yard setback by approximately 10'.
4. Conditional Use/Waiver criteria:

In accordance with Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided 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.

 - a. Section 303(e)(1) Community facilities: No change in the residential use and no increase in occupancy is proposed (the deck is not enclosed or conditioned space). The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities.
 - b. Section 303(e)(2) Character of the area: No change of use is proposed; the use of the property will remain residential. The dwelling addition is appropriate in scale and design in relation to the existing dwelling and those in the area.
 - c. Section 303(e)(3) Municipal bylaws in effect: The proposed dwelling will continue to be for single-family occupancy and will not violate any municipal bylaws and ordinances in effect.
 - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: No change in the existing residential use is proposed. This provision does not apply.
 - e. Section 303(h) Removal of earth or mineral products conditions: The proposed use does not include earth removal activities. This provision does not apply.

Conclusion:

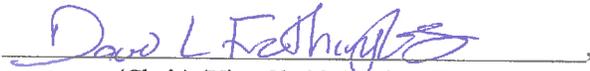
In accordance with Section 303, the Applicant has demonstrated that the proposed addition to an existing residential structure will not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought. Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that application # 29-16-T, as represented by Bonnie and Dave Tominack and Bob Petrichko, to construct a residential addition (deck) within the rear yard setback at 773 Maggies Way, in Waterbury Center, VT meets the conditional use standards as reviewed in accordance with Section 303 and Section 309 in the Waterbury Zoning Regulations.

Motion:

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded the motion to approve application # 29-16-T with the following conditions:

1. The applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits;
2. All future exterior lighting shall be downcast and shielded.

Vote: Passed unanimously.


(Chair) (Vice Chair) (Acting Chair)


(date)

Minutes Approved: July 6, 2016

***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.*