

**Town & Village of Waterbury
Development Review Board
Appeal of Permit #24-16-T
Approved Minutes
July 6, 2016**

In Attendance:

Board members present: Dave Frothingham (Vice-Chair), Martha Staskus, Mike Bard, Rob Dombrowski

Staff Present: Steve Lotspeich (Community Planner), Patti Spence (Secretary)

Appellant:	Averill and Joan Laundon, represented by attorney Erin Miller Heins (Langrock Sperry and Wool, LLP)	
Owner/Appellee:	Alice Canton and Kyle Canton	
Address/Location:	112 Windlestrae Lane, Waterbury, VT	
Zones:	Low-Density Residential (LDR) and Conservation (CNS)	
Project:	To construct a residential accessory structure (garage) with an accessory apartment with a deck.	
Application #	24-16-T	Tax Map # 13-257.000

Appellant Request

This is an appeal of the Waterbury zoning administrator's issuance of the above-referenced permit, #24-16-T, for a residential accessory structure (garage) with an accessory apartment with a deck. The appellant seeks the denial and revocation of the issued permit.

Present and Sworn in:

Erin Miller Heins, Attorney for Appellant
Averill & Joan Laundon, Appellant/Adjoining Landowner
Alice Canton, Property Owner and Appellee
Sean Canton, son of property owner
Kyle Canton, son of property owner and Appellee
Gunner McCain, Consultant for Appellees
Chloe Labbe-Thiboubouthot, Friend of Appellees
Kevin LaVanway, Friend of Appellees
Tina Rutledge, Friend of Appellees
Dina Bookmyer-Baker, Zoning Administrator and Appellee

Statements offered by, Erin Miller Heins, the Laundon's attorney:

1. The proposed structure is in the Conservation (CNS) District and should meet the 100' setbacks for structures in the CNS District and not the 75' side and rear setbacks in the Low Density Residential (LDR) District.
2. The waste water capacity is not addressed in the application.
3. The structure is larger than that allowed for an accessory apartment and is not clearly subordinate to the single-family dwelling.
4. There is a water source shared with the neighbors including the Cantons and Laundons, that is a storage tank fed by a number of springs that is located on the Laundon property.
5. Vehicular access to the Canton property is on a deeded right-of-way over the Laundon property and the additional traffic generated by the new dwelling will create an adverse impact to the Laundons in regard to additional maintenance of the shared drive and additional noise.
6. The deed for the Canton property (Exhibit B) states that there can be no more than one principal family dwelling on the property and does not allow subdivision. The dwelling in the garage constitutes a primary dwelling.

Statements offered by Gunner McCain (consultant - representing the appellee):

1. The structure is an accessory structure that that includes a garage.
2. The accessory apartment has 1,396 square feet of living space that is below the 1,400 square foot maximum allowed.
3. The proposed building is actually entirely within the Low Density residential Zoning District and the side yard setback of 75' has been met.
4. The State septic application is being applied for and is a requirement.
5. Concerning the water reservoir - there are 4 properties that have the right to share the water source. However the properties all have switched to water sources that are drilled wells. The reservoir is still available for use by all the properties, however it is not the purview of this local zoning review.
6. The traffic that will be generate by the accessory apartment and associated garage is also not a purview of this local zoning review.
7. The porch is an outdoor, non-heated area and is not living space that would be part of the square footage of the apartment.
8. The garage and the deck also don't qualify as habitable space.
9. The dimensions of 26' x 34' are exterior dimensions and aren't the interior living space dimensions which is slightly smaller.

10. The State wastewater and water supply permit will allow for only one bedroom in the apartment.
11. The State permit submissions are on hold due to this appeal.
12. Exhibit C4 is incorrect in that the exterior garage dimensions will be 34' x 26' not 34' x 20' as stated on the Exhibit.
13. Exhibits D 1 and D 2 were added to the appeal file. They are the Site Plan and Detail sheets for the on-site septic plans for the apartment.
14. The deed in the chain of title is not in the purview of this local zoning review.

There was additional discussion of the project and the associated appeal with those present.

The appeal hearing was closed at 7:15 p.m. It was decided to schedule Development Review Board deliberations at a later date.

Minutes approved: August 10, 2016

