

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Meeting Minutes
Wednesday, August 10, 2016

Attending Board Members: David Rogers (Chair), Tom Kinley, David Frothingham, Martha Staskus, Nathaniel Fish, Mike Bard, and Rob Dombrowski.

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

The public meeting convened at 6:45 p.m. in the in the Steele Community Room in the Municipal Center at 28 North Main Street, Waterbury, VT.

Notice: The **Grange Hall Cultural Center LLC** zoning permit application **#40-16-T** was withdrawn. Therefore, the site visit, warned for 5:45 p.m. at 317 Howard Avenue, and the continued review, warned for 6:45 p.m. at the Municipal Center, have been canceled.

6:45 p.m. #40-16-T: Peter Holm (applicant), **Grange Hall Cultural Center LLC** (owner)
The applicant has withdrawn the application and there will be no review on this application.

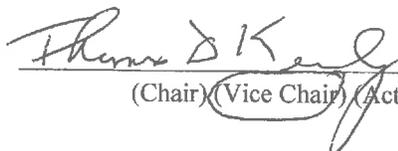
7:05 p.m. Deliberative Session (closed) regarding #24-16-T, Laundon appeal of zoning permit issued to Canton for a garage with an accessory dwelling at 112 Windlestrae Lane. The Board will issue its final decision in writing.

7:30 p.m. #47-16-T: Aaron Flint (applicant), **Winter Woods LLC** (owner)
Three-lot subdivision at 1790 Guptil Road, Waterbury, VT (TMR zoning district)
Applicant requested the DRB to recess this application to August 24 due to a *scheduling* conflict. The Chair continued the hearing, without opening the review, to August 24, 2016 at 8:00 p.m.

Approval of prior meeting minutes and decisions:

Motion: Tom Kinley moved and Mike Bard seconded a motion to approve the July 20, 2016 general minutes, the decision for application #15-16-V, and the July 6, 2016 minutes for Appeal Permit #24-16-T from, as amended. Vote: Passed unanimously.

Adjournment: The meeting was adjourned at 8:00 p.m.



(Chair) (Vice Chair) (Acting Chair)

8-24-2016
(date)

Minutes approved: August 24, 2016

**Town & Village of Waterbury
Development Review Board
Decision for Appeal of Permit #24-16-T
August 10, 2016**

Attending Board Members: David Frothingham (co-Vice Chair), Martha Staskus, Mike Bard, Rob Dombrowski

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

Appellant:	Averill and Joan Laundon, represented by attorney Erin Miller Heins (Langrock Sperry and Wool, LLP)
Owner:	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.
Appeal of:	Permit #24-16-T Tax Map # 13-257.000

Introduction and Procedural History

1. This proceeding involves a Notice of Appeal dated May 10, 2016 by Averill and Joan Laundon (Appellant), represented in this matter by attorney Erin Miller Heins (Langrock Sperry and Wool, LLP), appealing 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 relief requested by the Appellant is the denial and revocation of the issued permit.
2. The notice of public hearing was published in the *Waterbury Record* newspaper on June 16, 2016, posted at the municipal offices, the Waterbury Post Office, and at a local bank in the Village of Waterbury. The subject parcel and adjoining landowners were notified by certified mail sent on June 16, 2016. The hearing notice poster was placed on the subject parcel, 112 Windlestrae Lane, on June 21, 2016, and a second poster was placed on private property near the intersection of Windlestrae Lane and Perry Hill Road.
3. On July 6, 2016 the Development Review Board conducted a warned public hearing. Members present who participated in the review: Dave Frothingham (Vice-Chair), Martha Staskus, Mike Bard, and Rob Dombrowski. Staff Present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary). Others present and sworn in: Erin Heins, attorney for Appellant; Averill & Joan Laundon, Appellant/adjoining landowner; Chloe Labbe-Thiboubouthot, Applicant; Alice Canton, property owner; Sean Canton, son of property owner; Kyle Canton, son of property owner; Gunner McCain, consultant for property owner; Kevin LaVanway, friend; Tina Rutledge, friend; Dina Bookmyer-Baker, Waterbury ZA/Appellee. Materials submitted and/or made available to the Board included:

Exhibits

A: Notice of Appeal form, received May 12, 2016.

- B: Letter of Notice of Appeal and exhibits, dated May 10, 2016.
- C: Copy of zoning permit #24-16-T, issued April 28, 2016, and related materials.
- D: On-site wastewater and water supply plans dated June 14, 2016
- E: Lister's Card for Canton Property, Parcel I.D. 425-0112

Findings of Fact

Based on the Notice of Appeal, testimony, exhibits, and other evidence, the DRB makes the following findings:

1. The accessory apartment will have one bedroom and will have 1,394 square feet of living space which is below the 1,400 square foot maximum allowed.
2. The primary existing house on the property has a first floor that is 1,052 sq. ft. and a finished basement that is 912 sq. ft. for a total of 2,064 sq. ft. of living space, based on the Lister's Card for Parcel ID 425-0112.
3. The proposed accessory structure including the accessory apartment is proposed to be located entirely within the Low Density Residential Zoning District and all the required setbacks, including the side setback of 75', will be met.
4. Concerning the water reservoir that is fed by springs, there are four properties, including the Canton property, that have the right to share the water source. All four of these properties have drilled wells that supply potable water. The reservoir is still available for use by all four properties but is not the potable water supply for the Canton property.
5. The accessory apartment and associated structure will share a driveway with the existing primary dwelling.
6. Parking per the accessory dwelling unit is adequate.
7. The traffic that will be generated by the accessory apartment and associated garage is not under the purview of this local zoning permit review.
8. The deck is an outdoor, non-heated area and that is not counted as living space for the square footage of the accessory apartment.
9. The garage is not included in the square footage of living space for the accessory apartment.
10. The dimensions of the second floor of the structure are 26' x 34' as measured on the exterior of the proposed building. The loft space on the third floor will be 15' x 34'. This is a total of 1,394 sq. ft.
11. According to the testimony of Gunner McCain of McCain Consulting, the State Wastewater and Water Supply Permit for the accessory apartment will be applied for and will allow for only one bedroom in the accessory apartment. The State permit submission is on hold due to this appeal.

12. Exhibits D 1 and D 2, the on-site wastewater and water supply plans dated June 14, 2016, were added to the appeal file by the applicant's consultant, Gunner McCain, and they include the Site Plan and Detail sheets for the on-site septic system for the apartment.
13. The deed for the Canton property that is Exhibit B for the appeal states that there can be no more than one principal family dwelling on the property and does not allow subdivision. The accessory apartment over the garage is a primary dwelling on the property.
14. 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 is not a criteria for the review of an accessory apartment application.

Conclusions:

1. The accessory apartment and its location in the associated accessory structure, as represented in zoning permit #24-16-T qualifies as an accessory dwelling unit under Section 503(d) in the Waterbury Zoning Regulations as amended through May 16, 2016.
2. The accessory structure and associated accessory apartment is appurtenant to the primary dwelling unit located on the Canton property.
3. Based on the testimony of Gunner McCain and the submittal of the on-site wastewater and water supply plans dated June 14, 2016, by Mr. McCain, the wastewater and water supply will be adequate. The state Wastewater and Water Supply Permit will be applied for. Based on Sub-section 300(h) of the Waterbury Zoning Regulations, the Zoning Permit for the accessory apartment and the associated structure shall not take effect until all required local, state, and federal permits have been issued including the state Wastewater and Water Supply Permit. The issue of the separate spring fed reservoir system that is not used for potable water for the Canton property was not germane to the review of the Zoning Permit application for the accessory apartment.
4. The accessory structure as depicted on the site plan meets all the setback requirements in the Low Density Residential Zoning District and will be a complying structure with the location shown on the approved site plan.
5. The issue of the traffic generated by the accessory apartment was not germane to the review of the Zoning Permit application for the accessory apartment.
6. Any restrictive language in the deed regarding additional structures and uses was not germane to the review of the Zoning Permit application for the accessory apartment.
7. The Issuance of the Zoning Permit for the accessory apartment and associated structure was adequately noticed. The hearing for this appeal was adequately noticed as well.

Motion:

Mike Bard moved and Rob Dombrowski seconded the motion to grant the appeal by Averill and Joan Laundon of Permit # 24-16-T, Alice Canton and Kyle Canton.

Vote:

0, yes; 4, no – The motion was unanimously denied.

Decision:

The Development Review Board decides that the Appeal of Permit #24-16-T, Alice Canton, Landowner, and Kyle Canton, Applicant, by Averill and Joan Laundon, is not granted and the issuance of Zoning Permit #24-16-T by the Zoning Administrator is upheld.



(Vice-Chair)



(date)

Decision Approved: August 10, 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 Aboard. 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.