

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Meeting Minutes
Wednesday, August 24, 2016

Attending Board Members: Tom Kinley (Acting Chair), David Frothingham (co-Vice Chair), Martha Staskus, Nathaniel Fish, Mike Bard, Rob Dombrowski

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

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

6:30 p.m. #17-16-V: P. Howard (Skip) Flanders (owner/applicant)
Setback waiver request and Flood Hazard Area review to construct a residential addition (deck) at 21 Elm Street, Waterbury, VT (VR/ SFHA zoning and overlay districts).

Hearing minutes and decision filed separately.

7:00 p.m. #48-16-T: Don Schneider (owner/applicant)
Setback waiver request to construct an accessory dwelling unit at 8 Metayer Court, Waterbury Center, VT (TNC zoning district).

Hearing minutes and decision filed separately.

7:30 p.m. #50-16-T: David LaPointe (owner/applicant)
Setback waiver request to construct a residential addition (porch) at 1063 Perry Hill Road, Waterbury, VT (LDR zoning district).

Tom Kinley, the acting chair continued the hearing to the DRB meeting on September 7, 2016, at 7:45 pm.

8:00 p.m. #47-16-T: Aaron Flint (applicant), Winter Woods LLC (owner)
Subdivision review for a two-lot subdivision at 1790 Guptil Road, Waterbury, VT (TMR zoning district).

Hearing minutes and decision filed separately.

Approval of Prior Meeting Minutes

Motion:

Dave Frothingham moved and Nat Fish seconded the motion to approve the general minutes of August 10, 2016.

Vote: Passed unanimously

Final Plat Review:

David Frothingham moved and Rob Dombrowski seconded the motion to approve the plat submitted for Application #19-16-T, Deidre Malloy (owner) and Richard Bell (applicant) as required by the condition of approval.

Vote: Passed unanimously.

The meeting was adjourned at 09:00 pm.

These minutes were approved:

Thomas D. King, (Chair) or (Acting Chair)

9/2/16 (date)

Next meeting: Wednesday, September 7, 2016, 6:30 p.m.

Town & Village of Waterbury
Development Review Board
Approved Decision, Application #17-16-V, Flanders
August 24, 2016

Attending Board Members: Tom Kinley (Acting Chair), David Frothingham (co-Vice Chair), Martha Staskus, Nathaniel Fish, Mike Bard, Rob Dombrowski

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

Owner/Applicant:	P. Howard (Skip) Flanders
Address/Location:	21 Elm Street, Waterbury, VT
Zones:	Village Residential (VR) and Special Flood Hazard Area (SFHA) overlay
Application #	17-16-V Tax Map # 19-310.000

Applicant Request

The applicant seeks approval to construct a residential addition (deck) within the front yard setback in the Special Flood Hazard Area at 21 Elm Street.

Present and sworn in:

R Howard "Skip" Flanders, Applicant
Catherine Flanders, Applicant
Todd Pudvar, Builder

Exhibits

- A: Application #17-16-V (Zoning Permit, Conditional Use, Overlay District), as revised 8/10/16.
- B: Project narrative and construction diagrams, side and front view, of the existing dwelling, proposed deck, elevations, anchoring, and materials make the structure reasonably safe from flooding.
- C: Photo of view from the deck (to nearest neighbor).
- D: Site plan: annotated survey of the proposed deck location.
- E: Elevation certificate for 21 Elm Street. (2 pages)
- F: Aerial photos of the parcel, with one showing the Special Flood Hazard Area overlay. (staff)
- G: Referral letter to Rebecca Pfeiffer, requesting comment, dated August 24, 2016.
- H: Letters to adjoining landowners, sent certified August 6, 2016

Testimony

1. The deck will be built on 3 piers and the lumber will be pressure treated.
2. There will be no additional lighting. Any future lighting fixtures will be downcast and shielded.

Findings of Fact

1. Existing conditions: Howard and Catherine Flanders own an approximately 0.5 acre (20,000 SF) parcel located at 21 Elm Street. The property is developed with an existing two-story single-family dwelling and a 1 1/2-story shed. The parcel includes approximately 52-66' of frontage on and has access to Elm Street, a town road. The parcel is located in the Village Residential (VR) zoning district and Special Flood Hazard Area (SFHA) overlay district.
2. VR dimensional requirements: In the VR zoning district, the minimum lot size for one family is 10,000 SF and the minimum setbacks are: front/rear: 30', sides: 10'. The existing dwelling does not meet the front yard setback.
3. Waiver Request: The applicant proposes to construct a 192 SF deck measuring 12' by 16' that will be elevated 27"-40" above the finished grade. The existing dwelling is 12' from the front street line and 38' from the south-westerly side property line where the deck will be located. The deck addition will extend 12' from the dwelling on the left (south-west) side and be located 25' from the front and 26' from the nearest side property line. The Setback Waiver request is to encroach into the front yard setback by approximately 5'.
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 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 project application presents compliance with the conditional use and Special Flood Hazard Area criteria. The proposed dwelling will continue to be for single-family occupancy and will not violate any municipal bylaws and ordinances.
 - 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. The project has no moving parts and does not require energy. 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.
5. Section 304(c)(2) Noncomplying Structures within a designated SFHA and Section 601(f) Nonconforming Structures and Uses: The parcel looks to be entirely within the SFHA (Exhibit F1). The existing dwelling is noncomplying, as it is less than 30 feet from the front property line, so these

provisions apply. Accordingly, staff has referred the application to the DRB and Floodplain Manager for SFHA review and comment.

6. Section 604 Special Flood Hazard Area Development Standards: The residence to which the deck will be attached is shown to be at 425.02 FIE, with the deck elevation at 424.5 FIE (Exhibit B1). 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).

Section 604(a)(11)(E)(i) The addition is less than 200 SF and is constructed on an open foundation, i.e., on posts. The project will have no more than a minimal effect on floodwater storage and will not divert floodwaters onto adjacent property. This project meets the criteria to qualify for a waiver from the compensatory storage or alternate flood attenuation requirements methods as described in Section 604(a)(11). exemption in Section 604(a)(11)(E)(i) from having to supply compensatory storage methods as described in Section 604(a)(11)

Staff referral

This project was referred to the DRB for Setback Waiver Request under Article III and Special Flood Hazard Area review under Article VI.

Guiding ordinance sections

Section 309—Waivers

Section 303—Conditional Uses

Section 304(c)—Noncomplying Structures within a designated SFHA

Table 5.2—Dimensional Requirements by District

Section 604— Special Flood Hazard Area Development Standards

Conclusion

Based upon the findings and conclusions set forth above, the Board hereby grants a setback waiver of 5' to the front street line to construct a residential addition (deck), and flood hazard area approval for development located within Zone AE of the Special Flood Hazard Area at 21 Elm Street, as presented in application #17-16-V, 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. The Board waives the compensatory storage or alternate flood attenuation requirements set forth in Section 604(a)(11).

Motion

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded to approve application #17-16-V 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.

Theresa D. King Chair

Date: 9/7/16

THESE MINUTES WERE APPROVED ON 9/7/16

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 Minutes & Decision, Application #48-16-T, Schneider
August 24, 2016**

Attending Board Members: Tom Kinley (Acting Chair), David Frothingham (co-Vice Chair), Martha Staskus, Nathaniel Fish, Mike Bard, Rob Dombrowski

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

Owner/Applicant:	Don Schneider	
Address/Location:	8 Metayer Court, Waterbury, VT	
Zones:	Town Neighbor Commercial (TNC)	
Application #	48-16-T	Tax Map # 19-310.000

Introduction:

The applicant seeks approval to construct an attached accessory dwelling unit within the front yard setback at 8 Metayer Court.

Present and sworn in:

Don Schneider, Applicant
MK Monley, Applicant
Shawn Monley, Family member with applicant
Joe Bahr, adjoining landowner
Margo Sayah, adjoining landowner
Nancy Emple, adjoining landowner

Exhibits:

- A: Application #48-16-T (Zoning Permit, Conditional Use/Waiver), submitted 7/26/16 and 8/8/16.
- B: Site plan sketch showing the setback distances to the centerline of the street.
- C: Elevations, floor plans, and site plan, prepared by Jennifer Lane, dated 7/22/16.
- D: Aerial view of the parcel.
- E: Comments addressed to the DRB from Joseph Bahr, dated August 15, 2016.
- F: Letter from Grenier Engineering regarding wastewater capacity for the project, dated 8/19/16.
- G: Letters to adjoining landowners, sent certified August 8, 2016.

Testimony:

1. Going west with the addition would increase the visual impact of the house. It would be more intrusive to the neighbor's garage. The design applied for minimizes the visual impact.
2. The accessory apartment is initially for MK Monley's mother. It is however a rental unit that could be occupied by anyone. The Zoning Regulations do not limit the occupancy of an accessory apartment to a relative.
3. Building within the setback will result in 7' additional depth encroaching more towards the neighbor's (Bahr's) property.

4. The current septic is located uphill of the new structure. The new accessory unit will require its own separate septic system.
5. The neighbor, Joe Bahr's concerns were presented in a letter, Exhibit E and discussed.

Findings of Fact:

1. Existing conditions: Donald Schneider and Mary K Monley own a 1± acre parcel located at 8 Metayer Court. The property is developed with an existing two-story single-family dwelling and a 1 1/2-story garage/shed, with an attached studio. The parcel includes frontage on Howard Avenue and Metayer Court (on two sides) and has access to Metayer Court, a town road. The parcel is located in the Town Neighbor Commercial (TNC) zoning district.
2. TNC dimensional requirements: In the TNC zoning district, the minimum lot size is 10,000 SF and the minimum setbacks are: front/rear: 30', sides: 15'. The existing dwelling and accessory structures do not meet the front yard setbacks.
3. Section 401 Dimensional Requirements (b) Notwithstanding provisions for front yards elsewhere in these bylaws, on streets with less than 50-foot right-of-way, the front yard setback shall be measured from the centerline of the existing roadway and 25 feet shall be added to the front yard setback requirement. (c) In the case of a corner lot, the required front yard dimension shall apply on all streets. Therefore, the lot at 8 Metayer Court must meet the front yard setback on three sides.
4. Waiver Request: The applicant proposes to construct a 900 SF accessory dwelling that will be attached to the existing studio, enclosing and enlarging the existing shed roof at the end of the studio. The existing dwelling is 45' from the street line to the east. The addition will be located 48' from the street line to the south and 38'3" from the street line to the east. The Setback Waiver request is to encroach into the front yard setbacks by 7' (south) and 16'3" (east).
5. 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(e)(1-4); 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 is proposed. An accessory dwelling unit is a permitted use for an existing single-family dwelling [Section 503(d)]. 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 addition is appropriate in scale and design in relation to the primary dwelling and the neighborhood.
 - c. Section 303(e)(3) Municipal bylaws in effect: The proposed dwelling will continue to be for single-family occupancy and the addition of an accessory dwelling will not violate any municipal bylaws and ordinances.

- 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.

Staff referral

This project was referred to the DRB for Setback Waiver Request under Article III.

Guiding ordinance sections

Section 309—Waivers

Section 303—Conditional Uses

Table 5.2—Dimensional Requirements by District

Conclusion

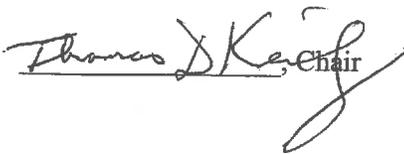
Based upon the findings and conclusions set forth above, the Waterbury Development Review Board hereby grants a front yard setback waiver of 7' (south) and 16' 3" (east) to construct an attached accessory dwelling unit at 8 Metayer Court as presented in application #48-16-T, supporting materials, and public testimony, and, in accordance with Section 309, Waivers, and Section 303, Conditional Uses.

Motion

On behalf of the Waterbury Development Review Board, Mike Bard moved and Rob Dombrowski seconded to approve application #48-16-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 exterior lighting will be downcast and shielded.

Vote: Passed unanimously.

 Thomas D. Keefe, Chair

Date: 9/7/16

THESE MINUTES WERE APPROVED ON 9/7/16

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 OF WATERBURY
DEVELOPMENT REVIEW BOARD
Approved Minutes & Decision, #47-16-T
August 24, 2016**

Attending Board Members: Tom Kinley (Acting Chair), David Frothingham (co-Vice Chair), Martha Staskus, Nathaniel Fish, Mike Bard, Rob Dombrowski

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

Application for 2-lot Subdivision in the Town Mixed Residential and Medium Density Residential Zoning Districts.

Application #:	47-16-T
Applicant:	Aaron Flint
Landowner:	Winter Woods LLC
Location of Project:	off Guptil Road, Waterbury Center, VT

INTRODUCTION:

The applicant proposes to further subdivide the current Winter Woods LLC development creating one additional residential, Lot 9, and remaining lands to be subdivided/developed in the future.

Present and sworn in:

Aaron Flint, Applicant
George McCain, Consultant
Bill & Dawn Minter, Adjacent Landowners
Chris Moore, Adjacent Landowner
John Gallagher, Adjacent Landowner
Mark Stirewalt, Adjacent Landowner

EXHIBIT LIST:

Exhibit A	Zoning Permit Application # 47-16-T
Exhibit B	Applicant Response to Subdivision Criteria
Exhibit C	Boundary Line Adjustment Site Plan, dated January 15, 2016
Exhibit D	ANR Atlas Map of property
Exhibit E	Notice of Public Hearing
Exhibit F	Notice to Adjacent Landowners, dated July 25, 2016
Exhibit G	Subdivision Survey "the Knolls at the Moulton Farm dated March, 2016
Exhibit H	Approved DRB Decision for Current Subdivision dated October 1, 2014
Exhibit I	Prime Agriculture Soil Map
Exhibit J	Site Plan, of lots 8, 9 and 10

Testimony:

1. The state wastewater and water supply, and stormwater permits have been received.
2. There is a stormwater retention pond on the Lot 10 boundary side.

Findings of Fact:

The applicant is seeking approval for a 2-lot subdivision (1 additional residential lot and remaining lands) located off Guptil Road, Waterbury Center, VT (Tax map #09-206.000)

1. The applicant proposes to further subdivide the current development creating one additional Lot 9. The other two lots (labeled as "Remaining Lands") will be subdivided/developed in the future.
2. The existing overall 42 +/- development is located off Guptil Road and falls within the Town Mixed Residential (TMR) and Medium Density Residential (MDR) Zoning Districts.
3. The following table demonstrates that the proposed lot exceeds the minimum lot requirements:

	Zoning District	Minimum Lot Size	Proposed Lot Size
Lot 9	TMR	1 acre	3.5+/- acres
Remaining Land	TMR	1 acre	7.75 acres
Remaining Land	MDR/TMR	2 acres/1 acre	18.4 acres

4. Access to Lot 9 will be directly off Guptil Rd. as shown on Exhibit C, Boundary Line Adjustment Site Plan, dated January 15, 2016, and the Curb Cut Permit #07-16-C has been applied for and is pending approval by the Town. Access to any future lots created within the "Remaining Lands" will be accessed via the existing 20' wide previously approved gravel road off Guptil Rd.
5. The driveway for Lot 9 crosses Prime Agricultural land as shown on Exhibit D, ANR Atlas Maps of property. This driveway is part of this subdivision application. Nothing other than the driveway and the approved stormwater swale shall be built on the prime agricultural soils.
6. The building zone has been delineated on the site plan and illustrates that the general building zone conforms with the setbacks. This building zone is not located within an area of Prime Agricultural land as shown on Exhibit D, ANR Atlas Maps of property.
7. There are no known Class II or Class III wetlands that are delineated on Lot 9.
8. The applicant has provided an excerpt from his property deed which prohibits the construction of permanent residences or structures on the so-called Main Meadow portion of the property. Lot 9 is not located within the Main Meadow portion of the property as delineated in Permit 21-14-T.
9. The project was referred to the Development Review Board under Section 1201 of Article XII.
10. Subdivision Review Criteria are contained within Section 1202, Article XII.

Conclusion:

Based upon these findings (and subject to the conditions set forth below) the Waterbury Development Review Board concludes that Application #47-14-T, Winter Woods, LLC, Subdivision Review for a two lot subdivision (one residential lot plus remaining land) at Guptil Road, Waterbury Center, VT 05677 (Tax Map #09-206.010) meets the standards in Section 504, and Sections 1201, and 1202.

MOTION:

On behalf of the Waterbury Development Review Board, Mike Bard moved and David Frothingham seconded the motion to approve Application #47-16-T, Winter Woods, LLC Subdivision Review for a two-lot subdivision (one residential lot plus remaining land) at Guptil Road, Waterbury Center, VT 05677 (Tax Map #09-206.010) 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. The applicant brings a copy of the Final Plat to Zoning Administrator within 150 days so that the Development Review Board can review, approve, and sign off on the Final Plat and meet the 180 day timeline for recording the plat that is required by 24 V.S.A., Section 4463. Ultimately the final plat that is recorded will need to show the areas of the meadow that will have the deed restrictions.
- 3. No further disturbance of the prime agriculture lands as delineated in Exhibits I & J.

VOTE: Passed unanimously.

Decision Approved,

Thomas D. Keely, Chair

Date: 9/7/16

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.

THIS DECISION WAS APPROVED ON 9/7/16