

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Meeting Minutes**  
**Wednesday, January 4, 2017**

**In Attendance:** Board members present: Dave Rogers (Chair), Rob Dombrowski, Martha Staskus, Dave Frothingham, and Mike Bard. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

The public meeting convened at 6:30 p.m. in the SAL Room in the Waterbury Public Library at 28 North Main Street, Waterbury, VT.

The agenda was approved.

**6:30 p.m.**

**#31-16-V: Jeffrey Rand & James Squires (owner/applicant)**

Site Plan and Conditional Use Review to expand the existing use at 26 Union Street, Waterbury, VT (VR zoning district).

**Present and sworn in:**

Jeffrey Rand, co-owner/applicant

Frederick Weston, Abutting Landowner

James King, Abutting Landowner

**Testimony**

- Parking on the street was identified as a concern by adjacent landowners. The home owner agreed that he can address the problem with the tenant.
- The applicant will have 8 parking spaces on the site, as required.
- Access to the dumpsters was identified as a problem on the day the trash is picked up. The home owner agreed to address this with the tenant.
- The applicant agreed to make a parking plan, mark it out, file a copy with the Village permit and make sure the parking plan is posted in the facility.
- An abutting landowner discussed a concern with the north parking area with runoff on to his property, at 32 Union Street. He and the applicant have worked out an agreement to fix this.

**Motion** by Rob Dombrowski, seconded by Dave Frothingham: To approve application 31-16-V with conditions.

**Vote:** Passed unanimously, 5-0.

The Board will issue the final written decision within 45 days.

**7:20 p.m.**

**#74-16-T: Gristmill Properties (owner/applicant)**

Applicant requested a recess for time to prepare the required application materials. The Board granted the request and recessed the application to 2/1/17.

**Approval of prior meeting minutes and decisions:**

**Motion** by Dave Rogers, seconded by Dave Frothingham: To approve the general minutes of December 21, 2016 and the decision for application #75-16-T.

**Vote:** Passed unanimously, 5-0.

**Next meeting:** Wednesday, January 18, 2017.

**Adjournment:** The meeting was adjourned at 7:37 p.m.

  
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(Chair) (Vice-Chair) (Acting Chair)

1-18-17  
\_\_\_\_\_  
(date)

These minutes were approved: January 18, 2017

**Town & Village of Waterbury  
Development Review Board  
Decision #31-16-V – January 4, 2017**

**In Attendance:** Board members present: Dave Rogers (Chair), Rob Dombrowski, Martha Staskus, Mike Bard, and Dave Frothingham. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

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Owner/Applicant:	Jeffrey Rand & James Squires	
Address/Location:	26 Union Street, Waterbury, VT	
Zoning District:	Village Residential (VR)	
Application #	31-16-V	Tax Map # 19-222.000

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**Applicant Request**

The applicant seeks approval to expand the existing nonconforming use as an elderly care home at 26 Union Street to serve 14 residents.

**Present and sworn in**

Jeffrey Rand, co-owner/applicant  
Frederick Weston, adjoining landowner  
James King, adjoining landowner

**Exhibits**

- A: Application #31-16-V (4 pp: Zoning Permit, Site Plan, Conditional Use), 12/5/16.
- B: Site Plan.
- C: Copy of PC Minutes, 10/22/98 for zoning permit #039-98V, for reference. (staff)
- D: Lister card, floor plan sketch, and photos. (staff)
- E: Aerial photo of parcel in its neighborhood. (staff)
- F: Letter to adjoining landowners, mailed certified on: 12/19/16

**Findings of Fact**

1. Existing conditions: James Squires and Jeffrey Rand own a 0.53± acre parcel with 195± feet of frontage on and access to Union Street. The property is developed with an existing two-story residential building, driveway, and parking. The property is served by municipal water and septic and is located in the Village Residential (VR) zoning district.

Background: The existing residential-style building of 5,053± SF has been in operation as an elderly care home since 1992. In 1993 the facility obtained Site Plan approval from the Planning Commission and Conditional Use approval from the ZBA to increase the capacity to serve 12 residents. The facility is currently licensed by the state to serve 14 residents.

Project scope: The proposal makes no changes to the building exterior or parking, but proposes to expand the existing use as an elderly care home from 10 residential rooms to 11 residential rooms for a total occupancy of 14 residents.

2. Table of Uses, Section 503: A Nursing/Community-Care Home is defined as: *“An extended- or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.”* A Nursing/Community-Care Home of greater than eight residents is not an allowed use in the VR zoning district, therefore, it is reviewed as an existing nonconforming use.
3. Nonconforming Uses and Noncomplying Structures, Section 304(a)(2): A nonconforming use may be extended (see definition of extension of use) with the approval of the DRB, which must find that the proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.

Extension of Nonconforming Use (definition): A nonconforming use that involves the use of increased area on a lot, either in a structure or outside, that does not involve a substantial change to the character of the nonconforming use.

4. Site Plan Review and Approval, Section 301:

Floor area that was previously a porch has been converted to a rentable bedroom, resulting in a change in the pedestrian access to the existing structure, but not the exterior dimensions. The Board will take into consideration the following objectives:

- a. Traffic access, Section 301(f)(1) (A-D): Vehicular access will continue to be via the existing curb cuts (3) on Union Street. The pedestrian access via the porch has been removed.
  - b. Circulation and parking, Section 301(f)(2) (A-G): There is no change to the vehicular circulation to and within the site. A sidewalk exists along the property frontage on Union Street. The site plan shows six parking spaces. See compliance with the parking regulations in Section 414, in paragraph 5, below. Access to the dumpsters is a problem on trash pick-up day. The facility owner will correct this with the tenant. The surface of the parking area is crushed gravel, which washes into the neighboring property during storms. The facility owner and the neighbor have worked out a solution.
  - c. Landscaping, screening, and lighting, Section 301(f)(3) (A-F): The site is developed; no change is proposed to the parking layout, which meets the needs of the existing use. Green space and foundation landscaping exist on the site, as well as mature trees along Union Street (Exhibit D: Lister photos). No additional or change to the existing exterior lighting is proposed.
5. Parking Regulations, Section 414: No change is proposed to the existing layout and number of parking spaces. The previous approvals in 1993 incorporated a site plan that showed 6 spaces (Exhibit B). The parking requirement applied to the previous approvals was one parking space for every three units, which required 4 spaces. Staff does not sleep overnight at the facility, as they did previously (when facility was approved in 1993). Currently, an average number of 4–5 staff workers are present during any one shift. The Regulations state, in Section 414(d)(7), that Nursing homes and community-care homes for the aged require one (1) space for every person normally working on premises during any one shift, plus one (1) space for every six patients. This formula would require 5 parking spaces for staff, plus 3 for a maximum of 14 residents, for a total of 8 spaces required. The site has room for 8 parking spaces. The Applicant will revise the site plan to accommodate 8 spaces, post it at the facility, and delineate the parking spaces

on-site, to ensure that the spaces are identified and used as shown on the parking plan.

6. Conditional Use criteria, Section 303:

The existing use of the property for elderly care is nonconforming in the VR zoning district. An extension of a nonconforming use is reviewed as a conditional use. Prior to granting approval for a conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

- a. Section 303(e)(1) Community facilities: Accommodations for 14 residents exists and will not unduly increase the traffic, does not require addition municipal water or sewer allocation, does not include independent dwelling units, and does not increase the demand for fire protection. The proposed expansion to the existing 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 exterior changes are proposed to the existing building. The structure has been used to provide elderly care for 24 years. The proposed expansion to the existing use will not have an undue adverse impact on the character of the area.
- c. Section 303(e)(3) Municipal bylaws in effect: The application represents a minor expansion of a currently approved use. The proposed expansion 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: The residential elderly care facility does not create the above-named nuisances and therefore no devices or special methods are required to control these impacts.
- 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**


Based upon these findings, and subject to the conditions set forth below, the Board concludes that Jeffrey Rand & James Squires' request to expand the existing use as an elderly care home to serve 14 residents at 26 Union Street, as presented in application #31-16-V and supporting materials, meets the Site Plan and Conditional Use criteria set forth in Sections 301 and 303. The Site Plan will be revised to comply with the parking requirement, as set forth in the Parking Regulations, Section 414.

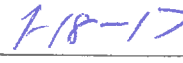
**Motion**

On behalf of the Waterbury Development Review Board, Rob Dombrowski moved, and Dave Frothingham seconded the motion, to approve application #31-16-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) The Applicant shall revise the Site Plan to show eight parking spaces and submit it to the Board prior to issuance of the zoning permit. Furthermore, the parking plan shall be posted in the facility at all times.
- (3) The Applicant shall delineate the spaces on-site in the spring of 2017, to the best extent possible, to ensure compliance.

**Vote:** Passed unanimously, 5 to 0.

  
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(Chair) (Vice-Chair) (Acting Chair)

  
\_\_\_\_\_  
(date)

This decision was approved on *January 18, 2017*

*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.*