

WATERBURY DEVELOPMENT REVIEW BOARD
General Meeting Minutes
Wednesday, January 18, 2017

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Dave Frothingham, Nat Fish, and Mike Bard. Staff present: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Spence (Secretary).

The public meeting convened at 6:35 p.m. in the Steele Community Room in the Municipal Center at 28 North Main Street, Waterbury, VT.

The agenda was approved.

6:30 p.m.

#79-16-T: Charles Timothy Grayson (landowner/applicant)

Three-lot subdivision of undeveloped parcel on Sweet Road, Waterbury Center, VT.
(MDR/CNS/RHS zoning and overlay districts).

Present and sworn in:

Gunner McCain, Consultant to landowner/applicant

Glenn Andersen, Adjoining landowner

Lauren Huffman, Adjacent landowner

Matthew DesRoche, Adjacent landowner

Deborah Mulvey, Adjoining landowner

Testimony

- The conservation easement on Lot 3 (14.86 acres±) is noted and is a desire of the applicant to have this. It will be perpetually conserved.
- An adjacent property owner is concerned with the 3.98 acre± Lot 1, due to a parking issue on the road associated with the State Hunger Mountain Parking lot. He feels strongly that the adverse impact to the area is development right next to State land and the hiking trails adjacent to this property.
- An adjacent property owner, on the border of LOT 3, is concerned with her private well, and the access rights to the spring on Lot 3, which is in her deed. According to Mr. McCain, the protection zone for the well remains on the land and must be maintained. The drilled well is outside of the wastewater disposal isolation area for the proposed leach-field, which has been identified on Lot 3. Any further development on the lot would require that the adjacent landowner be notified.
- The clearing limits for the common leach-field have been identified. The clearing limits for the dwelling sites have not been identified, as these will be defined when the dwelling locations are proposed, which will require review by the DRB.

Motion: by Dave Frothingham, seconded by Mike Bard: To approve application #79-16-T with conditions.

Vote: Passed unanimously, 5-0.

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

7:50 p.m.

#77-16-T: Peter Holm and Monica Callan, Grange Hall Cultural Center LLC
(landowner/appellant)

Appeal of zoning administrator's determination that owner of the Grange Cultural Center at 317 Howard Avenue, Waterbury Center, VT has commenced land development without a zoning permit. (TMR zoning district)

Present and sworn in:

Peter Holm, Landowner/appellant
Monica Callan, Landowner/appellant
Gunner McCain, Consultant to landowner/appellant
Larry Nelson, Adjoining landowner
John LaVechhia
George Woodard
Felix and Geraldine Callan
Chris Viens
Joan O'Neal
Lauren Huffman
Matthew DesRoche
Deborah Mulvey
Glenn Andersen
Dina Bookmyer-Baker, ZA/appellee

Testimony

- It is the opinion of the appellant's consultant that the area in question has always been a parking lot and the work that was done was repair and maintenance on an existing parking area.
- A local excavator spoke to the fact that driveway repair and maintenance has not been something for which he has had to get a permit for other clients.
- Staff explained that residential properties (one- or two-family dwellings) are exempt from Site Plan review and that the ZA refers development applications for nonresidential buildings and uses to the DRB for Site Plan review and other approvals.
- The ZA pointed out that the site changed significantly due to the repair and maintenance work.

Testimony was closed at 8:25 pm. The Board will deliberate in closed session and issue the final written decision within 45 days.

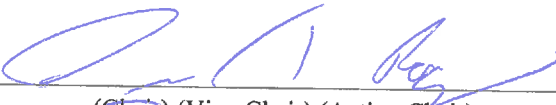
Approval of prior meeting minutes and decisions:

Motion by Mike Bard, seconded by Nat Fish: To approve the general minutes of January 4, 2017 and the decisions for applications #31-16-V and #50-13V.

Vote: Passed unanimously, 5-0.

Next meeting: Wednesday, February 1, 2017.

Adjournment: The public meeting was adjourned at 9:30 p.m.



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

2-3-17

(date)

These minutes were approved: February 1, 2017.

**Town & Village of Waterbury
Development Review Board
Decision #79-16-T – January 18, 2017**

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Dave Frothingham, Nat Fish and Mike Bard. Staff present: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Spence (Secretary).

Owner/Applicant:	Charles Timothy Grayson	
Address/Location:	On Sweet Road, Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR), Conservation (CNS), and Ridgeline/Hillside/Steep Slope (RHS) overlay district.	
Application #	79-16-T	Tax Map # 10-015.000

Applicant Request

The applicant seeks approval to create a three-lot subdivision of an undeveloped parcel on Sweet Road in the RHS overlay district.

Present and sworn in: Gunner McCain, Consultant to landowner/applicant; Glenn Andersen, Adjoining Landowner; Lauren Huffman, Adjoining Landowner; Matthew DesRoche, Adjoining Landowner; Deborah Mulvey, Adjoining Landowner.

Exhibits

- A: Application #79-16-T (11 pp: Zoning, Subdivision, Conditional Use, Overlay District), 12/19/16.
- B: VT ANR Atlas Map of the Grayson parcel, dated 11/1/2016.
- C: (C1) Site Plan, prepared by McCain Consulting, Inc., dated 12/16/2016;
(C2) Survey and Subdivision, prepared by McCain Consulting, Inc., dated 12/22/2016
- D: Aerial photo of parcel with tax map boundary, and parcel with zoning districts (staff)
- E: Letter to adjoining landowners, sent certified December 22, 2016
- F: Waterbury Wildlife Resources Map, from the Municipal Plan, created by CVRPC, dated 2013 (staff)
- G: Wellhead Protection Area map

Findings of Fact

1. Existing conditions: Charles Timothy Grayson owns a 45.1± acre parcel located on Sweet Road. The property is undeveloped and includes 994' of frontage on Sweet Road. The parcel is located partially in the Medium-Density Residential (MDR) and Conservation (CNS) zoning districts, and entirely within the Ridgeline/Hillside/Steep Slope (RHS) overlay district. (Exhibit D)
2. Proposal: The proposal involves creating three new residential lots from the existing 45.1 acre parcel as follows:
 - Lot 1 will be 3.9 acres, have 195'± of frontage (along the road centerline), and is proposed for a single-family dwelling.
 - Lot 2 will be 9.7 acres, have 598'± of frontage, and is proposed for a two-family dwelling.

- Lot 3 will be 31.5 acres (of which 14.8 acres of which will be conserved), will have 201'± of frontage, and is proposed for a two-family dwelling.

Lots 1 and 2 are located in the MDR zoning district. Lot 3 is located in both the MDR and CNS zoning districts. All three lots are proposed to be served by individual driveway accesses off of Sweet Road (Exhibit C1). The proposed dwelling units (5) will be served by individual on-site water and a community wastewater system. This application is for review of a 3-lot subdivision, not the dwelling units at this time.

Subdivision Review Criteria As set forth in Section 1201, all applications for land division shall be reviewed by the Development Review Board under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review, as the project involves lands within the RHS overlay district.

3. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. The minimum lot size in the MDR zoning district is two acres, minimum frontage is 200', and the minimum setbacks are: 60' front; 50' sides and rear. Each lot is proposed to be ≥ 2 acres and $\geq 200'$ wide at the building front line (as per the definitions for Lot Frontage and Building Front Line). The lots as proposed meet the dimensional requirements for the MDR zoning district.
4. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).
 - (a) The Board must find that the proposal will not have an undue adverse impact on the following:
 - (1) The capacity of community facilities: The dwellings will not be connected to municipal water or sewer systems. The proposal to create three new residential lots with five dwelling units will not exceed the school system capacity, or cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services (Exhibit A6). The application packet was distributed to the Public Works Director, Fire Chief, Highway Supervisor, and Superintendent of Schools for advisory input and each replied with no concerns or issues regarding the project.
 - (2) The character of the area: The use of the new lots will be residential. See compliance with the character of the area in paragraph 5(b), below.
 - (3) Water quality: Applicant accepts that erosion protection and sediment control measures will be required for all development on the lots. (Exhibit A6)
 - (4) Aesthetics and scenic or natural beauty: Applicant is not aware of any historic sites on the parcel and refers to the attached ANR Atlas Map (Exhibit B).
 - (5) Significant natural resources: Applicant's Exhibits A6 & A10 refer to the ANR Atlas Map (Exhibit B). Significant Natural Resources are defined in the Regulations as: "Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species." (See Wildlife Resources Map, Exhibit F.)

- (b) The project is *not* in the RT100 zoning district. This provision does not apply.
- (c) The project is in the RHS overlay district. See compliance with the RHS standards in Section 1004, in paragraph 6, below.
- (d) The Board may attach reasonable conditions and safeguards with respect to the following:
 - (1) Curb cuts: The project includes three new curb-cuts, as each lot will be served by individual driveway accesses off of Sweet Road. (Exhibit C1)
 - (2) Excessively narrow or irregularly shaped lots: The ratio of a lot's depth to its width (frontage) shall not exceed five to one (5:1) unless the Board finds there is good cause otherwise. Lot 3 has a depth of 2,645'± and a width of 220' at the front setback line, which results in a depth-to-width ratio of 12:1. The Board finds that there is good cause to take into account that the majority of the lot's depth is proposed to be conserved and that the depth of the developable portion of the lot is 1,160'±, which results in a depth-to-width ratio of 5.3:1 for the developable area of the lot.
 - (3) Preservation of existing vegetative screening: Applicant's Exhibit A10 states that the new lots will be buffered from adjoining properties as depicted on the site plan. The approximate "common proposed clearing area" for the construction of the leach-field is shown on the revised site plan. (Exhibit C1)
 - (4) Setbacks from natural resources and/or adjoining properties: The application materials (Exhibit A10) state that the addition of three new residential lots will not cause undue adverse impact on unique or fragile resources, or natural and scenic resources, and refers to the ANR Atlas Map (Exhibit B).

The proposal is to create three residential lots from the existing parcel with a single-family dwelling on Lot 1 and duplexes (two-family dwellings) on Lots 2 and 3. Applicant's Site Plan (Exhibit C1) states in a notation that the end-users of Lots 2 and 3 may prefer to construct guest houses in the secondary building envelopes, or may choose to subdivide off the secondary areas to create additional lots. A future proposal to build on or further subdivide the lots will require DRB review and approval for development or subdivision in the RHS overlay district and approval of this project includes such a condition.

- 5. Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:
 - (a) Section 303(e)(1) Community facilities: See compliance with the capacity of community facilities in paragraph 4(a)(1), above.
 - (b) Section 303(e)(2) Character of the area: The existing uses in the immediate area are residential. Light and noise impacts will be typical of standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. Applicant is not aware of any historic sites, or rare or irreplaceable natural areas on the parcel. The attached ANR Atlas Map (Exhibit B) does not identify any rare, threatened, or endangered species, or deer wintering areas on the parcel. There is a mapped Northern Hardwood Forest along the north-easterly property line of the parcel.

- (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use within the MDR zoning district and are a conditional use when they are located within the RHS overlay district.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically 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 project does not include earth removal activities. This provision does not apply.
6. Section 1004 RHS Standards of Review: All of the proposed development is located below 1,499 FIE. As per Section 1001, the project is classified as “minor” development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review (see compliance with the conditional use standards in paragraph 5, above). The application materials (Exhibit A10) address compliance with the following standards as set forth Section 1004(c) for Major Development:
- (a) Section 1004(a)(1) Screening: The application materials state that, as depicted on the Site Plan (Exhibit C1), the new lots will be buffered from adjoining properties.
 - (b) Section 1004(a)(2) Access: The project proposes three new curb-cuts, as each lot will be served by individual driveway accesses off of Sweet Road. (Exhibit C1)
 - (c) Section 1004(a)(3) Placement of structures: The Applicant is not requesting review of the dwelling units at this time. The placement of structures will be limited to the building envelopes as depicted on the Site Plan (Exhibit C1). The building envelope areas are located below 1,499 FIE. Lot 3 includes an area of 14.88 acres to be set aside for conservation, which includes lands above 1,499 FIE.
 - (d) Section 1004(a)(4) Exterior Lighting: No exterior lighting is proposed, as no structures are proposed.
 - (e) Section 1004(a)(5) Clear-cutting and predevelopment site preparation: This application does not include a proposal for clear-cutting or pre-development site preparation outside of the leach-field area on Lot 3 as shown on Applicant’s Site Plan, Exhibit C1.
 - (f) Section 1004(a)(6) Natural resources: The application materials (Exhibit A10) state that the addition of three new residential lots will not cause undue adverse impact on unique or fragile resources, or natural and scenic resources, and refers to the ANR Atlas Map (Exhibit B).
 - (g) Section 1004(a)(7) Building design: No structures are proposed at this time. The specifics of the building materials for future dwellings will be further defined with an application to build.

Conclusion:


Based upon these findings, and subject to the conditions set forth below, the Board concludes that Charles Timothy Grayson's request to create a three-lot subdivision of an undeveloped parcel on Sweet Road in the RHS overlay district, as presented in application #79-16-T and supporting materials, meets the Conditional Use, Ridgeline/Hillside/Steep Slope, and Subdivision criteria as set forth in Sections 303, 1004, and 1202.

Motion:

On behalf of the Waterbury Development Review Board, Dave Frothingham moved and Mike Bard seconded to approve application #79-16-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) Any future proposal to build on or further subdivide the lots will require DRB review and approval for development or subdivision in the RHS overlay district.
- (3) That the conservation easement identified on the Plat include language in the deed, attached to Lot 3, that states there will be no development, as defined by Waterbury Zoning Regulations, and that it be conserved in perpetuity. These restrictions shall also be noted on the survey plat.

Vote: Passed unanimously, 5 to 0.



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

2-3-17

(date)

This decision was approved on: February 1, 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.

Town & Village of Waterbury
Development Review Board
Decision on Appeal of ZA Determination, Application #77-16-T
January 18, 2017

Owner/Appellant: Peter Holm and Monica Callan (landowner/appellant)
Address/Location: 317 Howard Avenue, Waterbury Center, VT Tax Map # 09-311.000
Zones: Town Mixed Residential (TMR)
Project: Site improvements, specifically, parking area maintenance or construction.
Appeal of: Zoning Administrator determination that landowner has commenced land development without a zoning permit.

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Dave Frothingham, Nat Fish and Mike Bard. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

Present and sworn in: Peter Holm and Monica Callan, Landowner/appellant; Gunner McCain, Consultant to landowner/appellant; Larry Nelson, John LaVechhia, George Woodard, Felix and Geraldine Callan, Chris Viens, Joan O'Neal, Lauren Huffman, Matthew DesRoche, Deborah Mulvey, Glenn Andersen, and Dina Bookmyer-Baker, ZA/appellee.

Procedural History and Appellant Request

1. On June 6 and 20, 2016 Peter Holm submitted a zoning permit application (#40-16-T) to construct front and rear entrances within the front and rear yard setback and re-establish parking areas at 317 Howard Avenue. The ZA scheduled the application for Site Plan and Conditional Use review on July 6, 2016.
2. On July 6, 2016 an initial review of the project was conducted. Correspondence from Larry and Wendy Nelson, adjoining landowner, received 6/22/16, was included in that packet (now Exhibit D3-4). Applicant submitted a revised site plan that showed the elevations of the parking surface, which was labeled Exhibit B-revised for application #40-16-T (now Exhibit D25). Adjoining landowner Larry Nelson submitted photographs at the July 6 meeting, taken between 5/25/16 and 7/1/16, which were labeled Exhibit J (one page of which appears in the Appeal as Exhibit B5). The hearing was continued to July 20 for a site walk and to resume the review in a public hearing to follow.
3. On July 7, 2016 adjoining landowner Larry Nelson submitted a letter to the ZA, which was addressed to the DRB members. This letter was not considered at a public hearing prior to the Appeal. (Exhibit D5)
4. Applicants gave advance notice that they could not attend the proceedings on July 20. The Board rescheduled the site walk and review to continue on August 10, 2016.
5. On July 21, 2016 the Applicants submitted a request to terminate Site Plan review (Exhibit D16-20, without attachments) and an Affidavit of Peter Holm & Monica Callan (Exhibit D21-24, without attachments). These documents were not considered at a public hearing prior to the Appeal.
6. On August 5, 2016 Applicants withdrew application #40-16-T. No further review was conducted.

7. On August 9, 2016 adjoining landowner Mark Kulis and Aanika DeVries submitted a letter and images, addressed to the Board Members, et al, regarding: Property and use concerns for the Grange Hall Cultural Center LLC. This document was not considered at a public hearing prior to the Appeal. (Exb. E)
8. On September 26, 2016 adjoining landowner Larry Nelson submitted a letter and attachments, addressed to the Zoning Administrator, Planning Commissioner, Select Board, Town Manager, and Development Review Board regarding what he saw as a violation of the Zoning Regulations. This document was not considered at a public hearing prior to the Appeal. (Exhibit D)
9. On September 29, 2016 Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner) met with Peter Holm, Monica Callan, and Gunner McCain regarding the renovations needed for the Grange and zoning permits and reviews that would be required.
10. On October 12, 2016 Grange owners submitted a letter requesting that the ZA reconsider her decision that their recent parking lot repair constituted construction without a permit. (Exhibit C)
11. On November 8, 2016 the ZA sent a Zoning Violation Warning Letter to Peter Holm and Monica Callan that the Grange owners have commenced land development without a zoning permit. (Exhibit B)
12. On November 21, 2016 Appellant Peter Holm and Monica Callan filed a Letter of Appeal, followed by a Notice of Appeal and fees, filed on December 2, 2016. Appellant requested "To find that we are not in violation." as relief (Exhibit A1-2). Staff scheduled the Appeal for January 18, 2017.
13. The notice of public hearing was published in the *Waterbury Record* newspaper on December 29, 2016, and posted at the municipal offices, the Waterbury Post Office, and a local bank in the Village of Waterbury. The subject parcel landowner was notified and adjoining landowners were notified by certified mail sent on December 29, 2016. The hearing notice poster was placed on the subject parcel, 317 Howard Avenue, on or before January 3, 2017.
14. On January 3, 2017 Appellant Peter Holm and Monica Callan filed a revised Notice of Appeal and additional exhibits. Appellant requested "Dismissal of warning of violation." as relief. (Exhibit A3-8)
15. On January 16, 2017 Appellant Peter Holm and Monica Callan submitted a letter responding to the ZA determination and packet materials. (Exhibit F)
16. On January 18, 2017 the Development Review Board will conduct a warned public hearing. Materials submitted and/or made available to the Board include the following Exhibits:
 - A: Appeal of ZA determination, 11/21/16, 12/2/16, and 1/3/17.
 - B: ZA Zoning Violation Warning letter to Peter and Monica, 11/8/16.
 - C: Grange request for a ruling on whether the parking lot improvement requires a permit, 10/12/16.
 - D: Larry Nelson letter and exhibits regarding that a zoning violation exists, 9/26/16.
 - E: Mark Kulis and Aanika DeVries letter regarding the Grange property and use concerns, 8/9/16.
 - F: Letter from Appellant responding further to the ZA determination and packet materials, 1/16/17.
 - G: Letter to adjoining landowners, mailed certified on December 29, 2016.

Findings of Fact

1. Grange Hall Cultural Center LLC owns a 0.25± acre parcel located at 317 Howard Avenue. The property is developed with an existing two-story building and is served by municipal water supply and on-site septic. The parcel includes approximately 111' of frontage on and has access to Howard Avenue, a class 2 town road. The parcel is located in the Town Mixed Residential (TMR) zoning district.
2. The excavation and fill work at the site constitutes "development" as defined in the Waterbury Zoning Regulations, Article XIV Definitions.
3. The conversion of lawn area to gravel constitutes "development" as defined in the Waterbury Zoning Regulations, Article XIV Definitions.
4. The photographs provided in Exhibits B and D illustrate that excavation and fill occurred.
5. Development on a non-residential property requires a zoning permit and site plan review.

Conclusion

Based upon these findings the Board concludes that the activities that occurred at the non-residential property at 317 Howard Avenue consisting of excavation, placement of fill, and conversion of grass to gravel constitutes development as defined in the Waterbury Zoning Regulations and therefore is subject to site plan review.

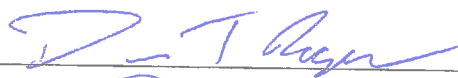
Motion

On behalf of the Waterbury Development Review Board Dave Frothingham moved Nat Fish seconded the motion to uphold the Zoning Administrator's determination, dated November 8, 2016 to Peter Holm and Monica Callan, that development commenced at 317 Howard Avenue and therefore requires a zoning permit and site plan review by the Development Review Board, and furthermore, the Development Review Board denies the appeal contained in Application #77-16-T.

Vote: The motion passed with five yes votes and zero no votes.

Decision

The Development Review Board's decision is to deny the Appeal Application #77-16-T, filed by Peter Holm and Monica Callan Landowner/Appellant.



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

2-3-17

 (date)

This decision was approved on February 1, 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.*