

WATERBURY DEVELOPMENT REVIEW BOARD
General Meeting Minutes
Wednesday, May 17, 2017

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Rob Dombrowski, and Mike Bard. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

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

- 1) The Chair called the meeting to order at 6:35 p.m.
- 2) The agenda was amended and approved as amended.
- 3) **Alchemy Holding Waterbury, LLC** (owner/applicant)
Site Plan, Conditional Use, and Setback waiver request to place a grain storage container within the setback and a refuse container at 35 Crossroad, Waterbury, VT (VCOM zoning district).

The review was continued from April 19; however, the Applicant needs more time to prepare the requested materials and requested the Board to continue this application to the June 7 meeting.

Motion: by Tom Kinley, seconded by Mike Bard: To continue the review to June 7, 2017.

Vote: The motion was approved 4–0.

- 4) **#31-17: Whitney Scott, Trustee** (owner/applicant)
Setback waiver request for building envelopes for a previously-approved subdivision of six lots at 2069 Blush Hill Road, Waterbury, VT. (MDR/LDR zoning districts)

See Decision under separate cover.

- 5) **#33-17: 95 GHR LLC** (landowner/applicant)
Site plan amendment to building designs in previously-approved sustainability center on Gregg Hill Road, Waterbury Center, VT. (RT100 zoning district).

See Decision under separate cover.

- 6) **#47-17: Malone 46 South Main Street Properties LLC** (owner) Consultation with ZA: Owner requests exemption from Site Plan review as per Section 301(a)(5) to change the use of a portion of the existing commercial building at 46 South Main St., from vacant office-storage to hair salon. Adequate parking is available at 35 Foundry St., same owner. (DC zoning district).

Wayne Lamberton, the owner of the Steele Block at 46 South Main St., discussed the proposed hair salon that will have one stylist with one chair. This change the use of a small 420 sq. ft. office space on the second floor of the building to the hair salon that will have one stylist and one chair for clients.

Motion: by Tom Kinley, seconded by Mike Bard: To exempt Application #47-17 from Site Plan review in accordance with Section 301(a)(5).

Vote: The motion was approved 4–0.

- 7) **#001-17: Jeffery Atwood** (owner/applicant) Review and approve final plat for PUD/Subdivision at 3250 Waterbury-Stowe Road, Waterbury Center, (TNC/RT100). Public hearing: 2/1/17; DRB decision approved: 2/15/17; final plat due (180 days): 8/14/17.

Motion: by Tom Kinley, seconded by Mike Bard: To approve the final plat for permit #001-17, Jeffrey Atwood, PUD/Subdivision at 3250 Waterbury-Stowe Rd.

Vote: The motion was approved 4-0.

- 8) **Approval of prior meeting minutes and decisions:**

The May 3, 2017 minutes and decisions were reviewed and amended.

Motion: by Tom Kinley, seconded by Mike Bard: To approve the general minutes of May 3, 2017 and the decisions for applications #26-17 and #15-17, as amended.

Vote: The motion was approved 4-0.

- 9) **Other business:** Steve Lotspeich was congratulated on receiving the Professional Planner of the Year award.

Next meeting: Wednesday, June 7, 2017

Adjournment: The meeting was adjourned the meeting at 8:55 p.m.



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

Approved on: 6/7/2017
(date)

**Town & Village of Waterbury
Development Review Board
Decision #31-17 – May 17, 2017**

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Rob Dombrowski, and Mike Bard. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

Owner/Applicant:	Whitney Scott, Trustee	
Address/Location:	2069 Blush Hill Road, Waterbury, VT	
Zoning District:	Medium-Density Residential (MDR), Low-Density Residential (LDR)	
Application #	31-17	Tax Map #09-325.000

Applicant Request

The applicant seeks approval of the building envelopes that lie within the setback for lots of previously-approved subdivisions at 2069 Blush Hill Road.

Present and sworn in:

Chris Nordle (attorney representing the applicant/landowner); and the following neighbors: Brenda Hough, Jon Grace, Erik Nelson, Jackie Hough, Charles Hough II, Cara Hough, and Rosina Wallace.

Exhibits

- A: Application #31-17 (3 pages: Zoning Permit, Conditional Use), submitted 4/17/17.
- B: Project summary, prepared by Christopher Nordle, dated 4/17/17.
- C: Subdivision Plan, prepared by Todd Hill, dated 5/14/15, revised 4/13/17.
- D: Aerial photo of the property in its neighborhood.
- E: Decision #32-15T, 4-lot Subdivision approval of Lot 3 at 2069 Blush Hill Road, approved 7/1/15.
- F: Letter to adjoining landowners, sent certified April 27, 2017.

Findings of Fact

1. Existing conditions: 2069 Blush Hill Road Trust, Trustee: Whitney Scott owns an 18.96± acre parcel located at 2069 Blush Hill Road. The property is developed with an existing single-family dwelling. The parcel includes frontage on and has access to Blush Hill Road, and is served by a drilled well and on-site septic system. The parcel is located in the Medium-Density Residential (MDR) and Low-Density Residential (LDR) zoning districts.

Background: The property has been subdivided into 6 lots in two previous approvals:

—Zoning permit #19-15: In May 2015, the ZA (Ryan Morrison) issued a zoning permit to subdivide the parcel into Lot 1, of 2.15± acres (MDR), Lot 2, of 2.06± acres (MDR), and Lot 3, with the existing dwelling, retained 14.75 acres (MDR/LDR).

— Zoning permit #32-15: In June 2015, the DRB approved a 4-lot subdivision of Lot 3 as follows: Lot 3-1: of 2.07± acres (MDR), Lot 3-2, with the existing dwelling: of 5.03± acres (MDR/LDR), Lot 3-3: of 2.64± acres (MDR), and Lot 3-4: of 5.01± acres (mostly LDR). The plan approved by the DRB showed

the proposed building envelopes and house sites. The private road for the subdivision will potentially serve 6 lots.

Chris Nordle stated that Todd Hill, the project consultant, was advised by Ryan Morrison, the former Zoning Administrator, to measure the setbacks for the houses and building envelopes from the property lines. The plans approved in 2015 have not changed; however, since the private road serves a total of six lots, the setback for the houses would be measured from the edge of the right-of-way for the private road that serves the lots.

2. **Dimensional requirements:** In the MDR zoning district, the minimum lot size is 2 acres and the minimum setbacks are 60' for the front, and 50' for the sides and rear. In the LDR zoning district, the minimum lot size is 5 acres and the minimum setbacks are 70' for the front, and 75' for the sides and rear. The lots as proposed meet the minimum lot sizes for their respective districts.

The definition for Setback is: "The distance between the nearest portion of a building on a lot and a street line or a property line or the boundary of a right-of-way for a driveway that provides access to more than five dwelling units or more than five lots."

The building envelope for Lot 1 is 12' from the right-of-way boundary of the private road. The building envelope for Lot 2 is 16' from the ROW boundary. The building envelope for Lot 3-1 is 5' from the ROW boundary. As proposed, Lot 1, 2, and 3-1 would not meet the setback from the ROW. As the application points out, the lots and their building envelopes were approved. No dwellings have been built. The Applicant would like explicit approval of the building envelopes for the proposed dwelling units as depicted on the approved plan.

3. **Waiver Request:** The setback waiver request is for the building envelope to encroach into the front yard setback by 48' for Lot 1; by 44' for Lot 2; by 55' on the SW front line and by 22' on the NW front line for Lot 3-1; and by 20' for Lot 3-3.

Conclusion:


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal of Trustee Whitney Scott for a front setback waiver for of 48' for Lot 1; 44' for Lot 2; 55' on the SW front property line and 22' on the NW front property line for Lot 3-1; and 20' for Lot 3-3; for their respective building envelopes at 2069 Blush Hill Road, as presented in application #31-17 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303. Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #19-15-T, and #32-15-T, for subdivision review.

Decision Motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Mike Bard seconded the motion to approve application #31-17 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) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permits #19-15-T, and #32-15-T, for subdivision review.

Vote: The motion was approved 4-0.



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

Approved on: 6/7/2017
(date)

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

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 #33-17 – May 17, 2017**

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Rob Dombrowski, and Mike Bard. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

Owner/ Applicant:	95 GHR LLC	
Address/Location:	95 Gregg Hill Road, Waterbury Center, VT	
Zoning District:	Route 100 (RT100)	
Application #	33-17	Tax Map # 09-029.100

Applicant Request

The applicant seeks approval to change the previously-approved building design for the Sustainability Center at 95 Gregg Hill Road, Waterbury Center, VT.

Present and sworn in:

Alex Chernomazov (applicant/landowner), Chris Austin (project consultant), and Rod Lamothe (neighbor).

Exhibits

- A: Application #33-17 (3 pages: Zoning Permit, Site Plan), 4/17/17.
- B: Project narrative, prepared by Chris Austin, Grenier Engineering, dated 4/17/17.
- C: Site Plan for Alex Chernomazov, prepared by Grenier Engineering PC, dated 3/2/2016, revised 4/21/17.
- D: Proposed structure renderings (3 pages), prepared by Grenier Engineering PC, submitted 4/17/17.
- E: Decision #09-16, Site plan and Conditional Use approval for the Sustainability Center, 3/16/16.
- F: Aerial photos of parcel in its neighborhood (staff).
- G: Email correspondence between ZA and Chris Austin, Applicant's representative, dated 4/27/17.
- H: Letter to adjoining landowners, mailed certified on May 1, 2017.
- I: Rendering of proposed wind tower and photographs of various designs for vertical-axis blade-less turbines, submitted 5/17/17.

Findings of Fact

1. Existing conditions: 95 GHR LLC owns a 12.0± acre parcel located at 95 Gregg Hill Road. The property is currently undeveloped. The property received a state water/wastewater permit (ww-5-5959) in 2012 for residential development (two single-family dwellings), however, the systems were not constructed. The Sustainability Center received approval from the Waterbury Development Review Board (Board) in March 2016 (#09-16), and Act 250 approval in April 2016 (5W1574) and Applicant has obtained the administrative amendment which reflects this application. The Sustainability Center has not been constructed. The parcel is located on the corner of Route 100 and Gregg Hill Road and includes an access drive on Gregg Hill Rd. The parcel is located in the Route 100 (RT100) zoning district.

2. Project scope: The proposal is to amend the previously-approved building layout and design for the “Welcome Center” and the “Transportation Exhibit” within the overall Sustainability Center as follows:
 - One 20’ (long) x 8’ (wide) x 8.5’ (high) pre-fabricated structure is proposed to serve as the Welcome Center (Exhibit D3);
 - Five 20’ x 8’ x 8.5’ structures are proposed for the Transportation Exhibit (Exhibits D1-2);
 - Wind Exhibit display to include: one 45’ tower for a wind turbine and to measure wind speed, and one or two shorter towers, 15–20’, for vertical-axis blade-less turbines.

These pre-fabricated structures are recycled shipping containers that will be in like-new or painted condition and free of graffiti. They will not be heated or cooled and are for seasonal use. The structures will be beige/brown or barn-red in color and each is proposed to include an awning. The proposed structures are nearly 10’ shorter than the previously-approved pavilion-style structures and the combined square-footage of the six pre-fabricated structures will occupy 640 SF less than the approved pavilions. Using these recycled structures serves to further the overall goals of the Sustainability Center by demonstrating innovative and energy conserving construction techniques. The proposed structures will be placed in approximately the same locations on the site as the pavilion-style buildings (Exhibit C). No change to the approved access, parking, or pathways is proposed.

The yurts, rental cabins, composting toilets, and solar farm that were indicated on the previous plan and which were approved for the general location of future structures, but which were not permitted for construction at that time, have been removed from this site plan to avoid confusion. They remain as future possibilities on the previously approved plan.

3. Site Plan Review and Approval, Section 301: As the proposal involves changes to the building layout and dimensions, pedestrian access, and special considerations (aesthetics) for a property bordering Route 100, it is subject to site plan review. The Board considered the following:
 - a. Section 301(f)(1) (A-D), Traffic access and pedestrian safety: No change to the approved vehicular access, parking, or pathways is proposed. Although the proposed structures will be placed in approximately the same locations on the site as the previously-approved pavilion-style buildings, the dimensions and layout of the buildings and their corresponding pedestrian access has changed (Exhibit C).

The previous proposal included chemical toilets to be located to the rear of the Welcome Center. The site plan for the current proposal (Exhibit C) labels the Welcome Center as including chemical toilets. One to two chemical toilets will be located to the rear of the Welcome Center, shown on the short side of the structure, where the arrow points, with adequate pedestrian access.

- b. Section 301(f)(2) (A-G), Circulation and parking, loading, refuse, and service areas: The project makes no change to the approved vehicular circulation, parking, or surfacing. The proposal includes a row of trees to be planted along the western edge of the previously approved parking lot, as shown on Exhibit C. The previous proposal included testimony (Exhibit E) that the facility would be open seasonally, from April to November, therefore provisions for snow storage areas are not required.

- c. Section 301(f)(3) (A-F), Landscaping, screening, and lighting: The proposal includes new landscaping. In addition to the trees along the parking lot, two rows of trees are proposed along knolls within the site (Exhibit C). Applicant testimony at the previous review included the statement that barrels will be used to collect trash and recyclables during the first phase of the project and that if a dumpster were later added to the site, then it would be screened from view. The previous pavilion-style buildings were to include lighting inside the roof system. The previous review included testimony that the facility would be open during daylight hours (7am–9pm, Monday–Sunday, April–November). Any lighting will be interior to the Welcome Center structures. The wind turbine will be turned off from 9 p.m. to 7 a.m.
- d. Requirements for Uses in the Route 100 District, Sections 301(g)-(h): The overall plan for the Sustainability Center was previously approved as compliant with these criteria. The previous approval stated that “a minimum of 25% of the road frontage (215’) along Waterbury-Stowe Road will remain undeveloped for a depth of 250’ as shown on the Site Plan, and that a minimum of 50% (6± acres) of the entire 12± acre site, including the area described above, will remain undeveloped. The 25% of Route 100 frontage to be reserved is shown on the site plan for the current proposal (Exhibit C). The 6± acres to remain undeveloped, which includes the 25% of frontage along Route 100, is not delineated on the Site Plan as the land to remain undeveloped is agreed to be generally throughout the site, rather than delineated as a contiguous area.
- e. Section 301(j) (1–4), Special considerations for property bordering Route 100: The Regulations state that buildings shall be screened, parking and loading areas may be required to be located behind buildings or otherwise screened from the road, access road curb-cuts are limited, and a continuous vegetated strip shall be maintained along the street line. These considerations were applied to the previous proposal and the plan has made adequate provisions to meet the criteria.

In addition to changing the building design for the Welcome Center and the Transportation Exhibit, the current proposal includes a Wind Exhibit area to be located along Route 100, which is proposed to include, as per Exhibit G: One 45’ tower for a wind turbine to generate power to used on the site (the wind turbine will not be connected to the utility grid), and to measure wind speed at different heights; and one or two shorter towers, 15–20’, for vertical-axis blade-less turbines. (Exhibit I) The wind turbine will exceed the height limit for the RT100 zoning district, which is 35’. Section 401 Dimensional Requirements states: “(a) No building or structure shall exceed the height limit applicable to the district where it is located. This limit shall not apply to farm buildings, flagpoles, radio or television aerials, or similar features...” The Board finds the wind speed pole to be similar to a flagpole or radio and television aerials, to which the height limit does not apply. Typically the height of a wind turbine would not be regulated by zoning, as renewable energy structures and public utility power generating plants are regulated by the Public Service Board (30 V.S.A. § 248) and 24 V.S.A. § 4412 exempts wind turbines with blades less than 20’ in diameter. The wind turbines shall not be in operation between the hours of 9:00 p.m. to 7:00 a.m.

Conclusion:


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal of 95 GHR LLC to change the building design for the Welcome Center and the Transportation Exhibit and to add a Wind Exhibit to the previously-approved Sustainability Center at 95 Gregg Hill Road, as presented in application #33-17 and supporting materials, meets the Site Plan criteria set forth in Section 301.

Decision Motion:

On behalf of the Waterbury Development Review Board, Rob Dombrowski moved and Tom Kinley seconded the motion to approve application #33-17 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) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #09-16T for site plan and conditional use.
- (3) Any exterior lighting shall be downcast and shielded.

Vote: The motion was approved 4-0.



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

Approved on: 6/7/2017
(date)

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

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