

# WATERBURY DEVELOPMENT REVIEW BOARD

General Minutes — Wednesday, December 6, 2017

**In Attendance:** Board members present: Dave Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary). Also present: Alyssa Johnson (Economic Development Director)

The public meeting was called to order by David Frothingham, Chair, at 6:30 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT.

- 1) **#105-17: John Farr** (applicant), **Farr's Tree Service Inc.** (landowner)  
Boundary-line adjustment and setback waiver request for an existing barn at 530 Farr's Landing, Waterbury, VT. (CNS zoning district)

Hearing decision filed separately.

- 2) **#106-17: McCain Consulting Inc.** (applicant), **Green Mountain Club Inc.** (landowner)  
Replace a failing culvert across the Alder Brook on Cabin Lane at 4715 Waterbury-Stowe Road, Waterbury Center, VT. (RT100/CNS/SFHA zoning/overlay districts)

**Testimony:**

- There will be no net rise in floodplain elevations.

Hearing decision filed separately.

- 3) **#42-17: Aaron Flint Builders Inc.** (landowner/applicant)  
Site plan and design review to remove and rebuild a historic building, establish an office use, and add a one-bedroom apartment at 11 North Main Street, Waterbury, VT. (VMR/DDR-HC zoning/overlay/sub-districts)

Next steps:

- Provide parking spaces to meet regulations.
- Fit the uses in the structure to the lot size.

The hearing was continued to Wednesday, December 20, 2017.

- 4) **Other business:**  
**#109-17: Coutts Property Services** (applicant), **Waterbury Housing LTD.** (owner)  
Consultation with ZA: Owner requests exemption from Site Plan and Downtown Design Review as per Sections 301(a)(5) and 1104(a)(3), to extend a rear deck for an existing multi-family building at 2 Stowe St. (DC/DDR zoning and overlay districts);

Tom Kinley moved and Mike Bard seconded that the proposed rear deck be considered minor and exempt from site plan review.

Vote: Passed 4, 0.

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

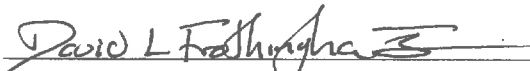
The November 15, 2017 minutes and decisions were reviewed.

Mike Bard moved and Tom Kinley seconded to approve the general minutes from 11/15/17 and the decision for application #102-17.

Vote: Passed 4, 0.

**Next meeting:** 6:30 p.m. Wednesday, December 20, 2017.

**Adjournment:** The meeting was adjourned at 8:50 p.m.

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

Approved on: 12/20/2017  
(date)

These minutes were approved: December 20, 2017

**Town & Village of Waterbury  
Development Review Board  
Decision #105-17 ▪ December 6, 2017**

**In Attendance:** Board members present: Dave Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary). Also present: Alyssa Johnson (Economic Development Director)

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Owner/Applicant:	John Farr, Farr's Tree Service Inc.
Address/Location:	530 Farr's Landing, Waterbury, VT
Zones:	Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay
Application #	#105-17 <span style="float:right">Tax Map # 12-015.000</span>

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**Applicant Request**

The applicant seeks approval for a boundary-line adjustment between Lot 1 and Lot 4 and a waiver from the setback requirements for an existing barn at 530 Farr's Landing, Waterbury, VT.

**Present and sworn in:**

John Farr, Applicant  
John and Donna Centonze, adjoining landowner

**Exhibits**

- A: Application #105-17 (5 pp: Zoning, Conditional Use, Subdivision), submitted 11/6/17.
- B: Boundary-line adjustment and Lot 6 easement plat, prepared by Trudell Consulting Engineering for Farr's Tree Service and Adam and Sonja Severance, sheet C1-02, dated 5/25/2017; revised 11/6/2017 (*with right-of-way easement sketched in by John Farr*).
- C: Survey plat for two-lot subdivision to create Lot 6 (from zoning permit #54-17).
- D: Survey plat, prepared by Trudell Consulting Engineering, sheet C1-02, dated 5/25/2017 (*shows the existing and proposed configurations for Lot 4*).
- E: Parcel map with orthophoto base layer (staff).
- F: Letter to adjoining landowners, mailed certified: November 17, 2017.
- G: Map showing prior adjustments on these lots.

**Findings of Fact**

1. Existing conditions:

- Lot 1: Farr's Tree Service Inc. owns a 308.7± acre parcel located at 530 Farr's Landing. The parcel is developed with a house and barn, both of which have driveway access to Farr's Landing, a private road. The property is served by a private well and septic system. Lot 1 also includes a primitive cabin in the RHS overlay district that has driveway access to Woodard Hill Extension. Lot 1 has been subdivided previously (see zoning permit history, below), to create six lots to date. The parcel is located in the Conservation (CNS) zoning district, with a small portion within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district (northerly corner, Exhibit B).

- Lot 4: Adam and Sonja Severance own a 10± acre parcel (Severance parcel , Exhibit C) that is undeveloped and has a proposed driveway access to Farr's Landing. The parcel is located in the CNS zoning district.
- Lot 6 (Cabin Lot): Farr's Tree Service Inc. owns a 20.38± acre parcel that was recently subdivided from Lot 1 (ZP #54-17). Lot 6 does not have frontage on a public road and does not have access to a public road by a permanent easement or right-of-way. The parcel is developed with an existing primitive cabin and an outhouse. It is not known if the cabin has a potable water supply. The cabin and has not been assigned an E-911 address. Lot 6 is located in the CNS zoning district.

2. Zoning permit history: (applicable recent permits)

- Subdivision to create Lot 2 of 10.5± acres. (303 Farr's Landing, D. Farr and T. Quesnel, map slide 41)
- Subdivision to create Lot 3 of 41.93± acres. (37 Farr's Landing, C. & K. Ainsworth, Slide 355)
- November 2014, zoning permit #58-14T for a boundary-line adjustment between Lot 1 and 3.
- Subdivision to create Lot 4 of 10± acres. (Adam and Sonja Severance, Slide 792)
- 2015, zoning permit #51-15T for a two-lot subdivision of Lot 1 to create Lot 5 of 17.77± acres. (299 Farr's Landing, W. Brownie.)
- August 2017, zoning permit #54-17 for a two-lot subdivision of Lot 1 to create Lot 6 of 20.38± acres (Cabin Lot).

3. Proposal: The project includes a boundary-line adjustment between Lot 1 and Lot 4, and a permanent easement across Lot 1 to provide access to Farr's Landing for Lot 6, which will require a waiver from the setback requirements for the existing barn on Lot 1.

The boundary-line adjustment will reconfigure Lot 1 and Lot 4 as follows:

- Lot 1 will be 306.63± acres. The existing barn on Lot 1 will be greater than 100' from the nearest boundary line for Lot 4. A permanent easement will be created across Lot 1 (Exhibit B) to provide access to Farr's Landing for Lot 6. The easement is proposed to be 50' wide. Applicant has represented that a rough travelled way exists (woods road), which the permanent ROW will follow. Applicant has indicated that the access ROW might become an extension of the existing road, Farr's Landing, to serve future development.
- Lot 4 will be 12.06± acres, will include ±673' of frontage on (the road centerline of) and access to Farr's Landing, and will be served by a private well and septic system for a dwelling of unknown size. Proposed structures and site improvements (driveway access, water and septic location) are not shown on the plan. This application is for review of the boundary-line adjustment, not the dwelling, at this time.

4. Section 504 General Dimension, Location, and Height Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. In the CNS zoning district, the minimum lot size is 10 acres; the minimum setbacks are: 100' for the front/sides/rear.

Farr's Landing currently serves six lots. The setback for all existing and proposed structures must be

measured from the edge of the Farr's Landing right-of-way. (See Setback definition, below.) If the proposed ROW to Lot 6 becomes an extension of Farr's Landing, then existing and proposed structures must be set back from the extended ROW as well. The existing barn on Lot 1 is located less than 100' from the proposed ROW. It is not clear if development is proposed for Lot 4 that will be located less than 100' from the existing ROW for Farr's Landing and/or the proposed ROW to Lot 6.

(definition) **SETBACK:** 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.

5. Waiver Request: The setback waiver request is for the existing barn on Lot 1 to encroach into the front yard setback by 20'.
6. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use review 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. The Board considered the following:
  - (a) Section 303(e)(1) Community facilities: The existing and proposed lots are and will be served by private well and septic systems. The proposal to reconfigure an existing lot proposed for residential use will not burden the school capacity, or cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services. The Board concludes that the proposal will not have an undue adverse impact on the capacity of existing or planned community facilities.
  - (b) Section 303(e)(2)(A-E) 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. The application materials did not specify any historic sites, or rare or irreplaceable natural areas on the parcels. Water quality: Applicant must obtain a wastewater system and potable water supply permit from the state of Vermont for the proposed dwelling on Lot 4. Applicant should accept, as a condition of approval, that erosion protection and sediment control measures will be employed during the development of the lots to ensure no undue adverse impact to water quality or downstream properties will occur during development. The Board concludes that the proposal will not have an undue adverse impact on the character of the area affected.
  - (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use in the CNS zoning district. The application represents compliance with the zoning bylaws. The Board concludes that the proposal will not violate any municipal bylaws and ordinances.
  - (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. The Board concludes that no devices or special methods are necessary to prevent or 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.

**Conclusion:**


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Farr's Tree Service Inc. to adjust the boundary-line between Lots 1 and 4 and to create a permanent right-of-way for Lot 6, to be located not less than 80' from existing development, as presented in application #105-17 and supporting materials, meets the Waivers, Conditional Use, and Subdivision criteria as set forth in Sections 303, 309, and 1203.

**Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded to approve application #105-17 with the following conditions:

- (1) The Applicant shall submit a revised plan to the Zoning Administrator that includes the width of the ROW for Farr's Landing and the ROW across Lot 1 before the zoning permit will be issued.
- (2) The applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits.
- (3) The applicant shall comply with erosion protection and sediment control measures when development commences on Lot 4. [Section 303(e)(2)(A)]
- (4) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permit approvals #58-14T #51-15T, and #54-17.
- (5) The Applicant shall submit a copy of the final plat, prepared in accordance with 27 V.S.A. § 1403, to the Zoning Administrator within 150 days of the approval date of this decision for Development Review Board approval.
- (6) The approved final plat, signed by the DRB Chair (or Acting Chair), shall be duly filed or recorded in the office of the clerk of the Town of Waterbury within 180 days from this approval, in accordance with 24 V.S.A. § 4463.

**Vote:** The motion was approved 5-0

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

Approved: 3/2/18  
\_\_\_\_\_  
(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](mailto: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 #106-17 – December 6, 2017**

**In Attendance:** Board members present: David Frothingham (Chair), Mike Bard, Bud Wilson, Nat Fish, and Tom Kinley. Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

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Owner/ Applicant:	Green Mountain Club / McCain Consulting, Inc., Gunner McCain	
Address/Location:	4715 Waterbury-Stowe Rd. / Cabin Ln., Waterbury Center, VT	
Zoning District:	Route 100 / Conservation (IND)	
Application #	106-17	Tax Map # 09-039.000

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**Applicant Request**

The applicant seeks approval to replace an existing failing culvert for Alder Brook located on Cabin Ln. in the Special Flood Hazard Area.

**Present and sworn in:**

Gunner McCain (Applicant), George McCain (Consultant), Gregg Simpson (Representing Hunger Mountain Christian Assembly).

**Exhibits**

- A: Application #102-17 (3 pages: zoning permit, site plan, conditional use), 11/06/17.
- B: Cover Letter from McCain Consulting dated 11/06/17.
- C: Site Plan for Failed Culvert Replacement, by McCain Consulting, dated 11/03/17 revised 12/04/17.
- D: Orthophoto of parcels with Floodplain overlay.
- E: Orthophoto of parcels with Zoning Districts.
- F: Letter to adjoining landowners, mailed certified on 11/17/17

**Findings of Fact**

1. Existing conditions: There is an existing failed 48" diameter corrugated metal culvert on Cabin Ln. on a parcel owned by the Green Mountain Club. The culvert conveys Alder Brook. The parcel is located in the Route 110 (RT100) and Conservation (CNS) zoning districts (see Exhibit E) with some land within the Special Flood Hazard Area (SFHA) overlay district for Alder Brook (see Exhibit D). Cabin Ln. also serves the Stowe Cabins in the Woods parcel and the parcel and residence of Gunner and Mona McCain. Cabin Ln. and the culvert to be replaced are owned and maintained jointly by these two property owners and the Green Mountain Club.
2. Project: The project is to replace the round failed culvert with one of the two alternates, an arch culvert or a squash culvert design, as shown on Exhibit C. The new culvert will have a natural stream bottom that will be a significant improvement to the habitat for the stream and improve the ability of animals to follow the stream through the culvert and underneath Cabin Ln. The culvert will be placed to match the existing stream channel slope that is approximately 2.5%. The bottom of the culvert will be lined with natural materials to match the existing streambed. Antiseep collars are to be installed behind the boulder

headwalls. An approved solid concrete headwall with footings may be substituted for the headwalls with anti-seep collars in accordance with the State of Vermont Stream Alteration Permit to be issued.

3. Flood Hazard Review: There will be no additional fill placed in the floodplain for Alder Brook as a result of replacing the failed culvert. The new culvert will have a 9' bank full width creating a significantly larger opening size than the existing 48" diameter culvert. As a result there will be no increase in the base flood (100-year) elevation for Alder Brook in the vicinity of the culvert and Cabin Ln. The floodplain in the project vicinity is categorized as Zone A and the base flood elevation is not determined. The following section of the Flood Hazard Area Regulations applies to this project:
4. Section 604(a)(5) In Zones A, and A1-30 where Base Flood Elevations and/or floodway limits have not been determined, new construction and substantial improvement shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the Base Flood Elevation at any point within the Special Flood Hazard Area. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Green Mountain Club / McCain Consulting, Inc., Gunner McCain to replace the failing culvert for Cabin Ln. in the vicinity of 4715 Waterbury-Stowe Rd. as presented in application #106-17 and supporting materials, meets the Flood Hazard Area Review criteria set forth in Section 604.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Nat Fish seconded the motion to approve application #106-17 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) The Applicant will provide a certificate of completion, submitted to the Zoning Administrator, at the close of construction.

**Vote:** The motion was approved 5-0

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

Approved: 12/20/2017  
(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](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies to determine what permits must be obtained.

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