

WATERBURY DEVELOPMENT REVIEW BOARD

General Minutes — Wednesday, April 18, 2018

In Attendance: Board members present: Dave Frothingham (Chair), Bud Wilson, Mike Bard, and Dave Rogers (Alternate). Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Acting Secretary).

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.

#028-18: John Mutchler (applicant), **Antoinette Maas** (owner)

Waiver request to construct a garage with an accessory dwelling within the setback at 590 Twin Peaks Road, Waterbury Center, VT. (MDR zoning district)

Testimony:

Dina Bookmyer-Baker introduced the project to construct a garage with an accessory apartment.

1. Antoinette intends to live in the accessory apartment and her family will be living in the main house.
2. It is just one corner of the garage that is proposed in the setback.
3. The proposed garage will be in the same orientation as the existing garage that will be demolished.
4. There will be some soffit lights and other exterior lights to serve the new garage.
5. The existing garage received a variance approval when it was constructed in 1997.
6. There will be an exterior staircase to access the second floor deck.
7. The apartment itself will be less than the maximum 1,400 sq. ft. that is allowed.

Decision filed separately.

#025-18: Greg Montgomery (applicant), **Mark Giordani** (owner)

Waiver request to construct a single-family dwelling within the setback at 0 Maggies Way (parcel #760-0575), Waterbury Center, VT. (LDR zoning district)

Testimony:

Dina Bookmyer-Baker introduced the project. The lot is less than one half of the minimum lot size for the Low Density Zoning District. She described the setback waiver request. The project is for just a single-family dwelling.

1. There is some flexibility in the location of the house and it has been moved farther back from Maggies Way so it now meets the front setback requirement. The waiver request is for the rear setback.
2. The seasonal stream and the associated 50 buffer are limiting where the house can be located. There is also a potential wetland in the southwest part of the lot as well that has a 50' buffer as well.

3. The lot is triangular in shape which limits the building envelope.
4. The entire lot is wooded.
5. There is a mound septic system proposed in the northern corner of the lot.
6. The Heitners have lived on the adjacent land for over 40 years. They have purchased property over the years. They are opposed to the lot being developed for a house. They do not think that it can be developed. They think that the proposed house will impact the enjoyment of their property and will make their property less valuable.
7. Kaziah explained that they are both architects and design sustainable houses and want to be good neighbors.

Decision filed separately.

Review minutes and decisions from April 4 meeting:

MOTION: David Rogers moved and Mike Bard seconded the motion to approve the decision for Application #017-18: **Village of Waterbury** (owner/applicant).

VOTE: The motion was approved 4-0.

MOTION: David Rogers moved and Mike Bard seconded the motion to approve the decision for Application #018-18: **Ryan Magnus** (owner/applicant)

VOTE: The motion was approved 4-0.

MOTION: David Rogers moved and Mike Bard seconded the motion to approve the decision for Application #015-18: **Donald Huff** (owner/applicant)

VOTE: The motion was approved 4-0.

MOTION: David Rogers moved and Mike Bard seconded the motion to approve the decision for Application #021-18: **Kim Dixon** (applicant), **Bernard Woodard Estate** (owner)

VOTE: The motion was approved 4-0.

MOTION: David Rogers moved and Mike Bard seconded the motion to approve the general minutes for the Development Review Board meeting held on April 4, 2018.

VOTE: The motion was approved 4-0.

The meeting was adjourned at 8:15pm



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

Approved: 5/2/2018

(date)

**Town & Village of Waterbury
Development Review Board
Approved Decision #28-18 • April 18, 2017**

In Attendance: Board members present: Dave Frothingham (Chair), Bud Wilson, Mike Bard, and Dave Rogers (Alternate). Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner, Acting-Secretary).

Owner/Applicant:	John Mutchler (applicant), Antoinette Maas (owner)	
Address/Location:	590 Twin Peaks Road, Waterbury Center, VT	
Zone:	Medium-Density Residential (MDR)	
Application #	#028-18	Tax Map # 13-208.000

Applicant Request

The applicant seeks approval to construct a residential garage and accessory dwelling within the setback at 590 Twin Peaks Road, Waterbury Center, VT.

Present and sworn in:

Antoinette Maas (owner)
John Mutchler (applicant)
Stephanie Weigand (owner)
Michael Martel (adjoining landowner)

Exhibits

- A: Application #28-18 (3 pages: zoning, conditional use), submitted March 23, 2018;
- B: Front elevation and floor plans of the proposed addition, by Applicant, submitted 3/23/18.
- C: (C1) Site plan, prepared by Applicant, of existing and proposed structures:
(C2) Excerpt of subdivision, prepared by ?, year?
- D: Parcel map with orthophoto base layer and approximate MDR side setback (staff).
- E: Letter to adjoining landowners, mailed certified: March 29, 2018.

Findings of Fact

1. Existing conditions: Antoinette Maas owns a 2.14± acre parcel located at 590 Twin Peaks Road in the Medium-Density Residential (MDR) zoning district. The lot is currently developed with a one-story single-family dwelling, built in 1980, and a one-story detached garage. The garage is located 15' from the nearest side property line (Exhibit C1), which does not comply with the current MDR setback requirements. (Zoning Regulations were adopted in 1980.) The lot includes frontage on the cul-de-sac of and has driveway access to Twin Peaks Road. The lot is served by private well and septic.
2. Project: The proposal is to remove the existing 22'x20' garage and construct in its place a two-story garage/apartment measuring 37' by 32' that will not exceed 30' high. The addition will include a one-story 11' by 20' covered breezeway with a 20' by 9.5' uncovered deck connecting the garage to the existing single-family dwelling. The structure is proposed for a three-bay garage on the first floor

(Exhibit B2) and a one-bedroom apartment on the second floor. The apartment will include an 11' by 8' uncovered deck/balcony (Exhibit B3). The proposed garage/apartment will be located 15' from the nearest side property line to the west, which is no closer than the existing garage (Exhibit C1).

3. There will be an exterior staircase to access the second floor deck.
4. MDR Dimensional Requirements, Table 5.2: Minimum lot area: 2 acres; setbacks: 60' front, 50' sides/rear. The lot meets the minimum lot size, but the proposed structure will not meet the side setback.
5. Waiver Request: The setback waiver request is to encroach into the side-yard setback by 35-feet (50' minus 15').
6. Section 503 Permitted and Conditional Uses by District: The proposal includes constructing an accessory dwelling. An accessory dwelling unit is a permitted use provided it complies with the criteria in Section 503(d)(1-4), definition below. The apartment is proposed to be one-bedroom, attached to the existing single-family dwelling, and occupied by the property owner. The apartment will be in the setback, being the second floor of the garage, which is in the setback.
7. 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. The Board must find that the proposal conforms to the following general and specific standards:
 - (a) Section 303(e)(1) Community facilities: No change in the residential use of the property is proposed. The property is served by private well and septic. The accessory apartment will be occupied by the property owner. The addition of a one-bedroom dwelling will not unduly increase the traffic, does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection.
 - (b) Section 303(e)(2)(A-E) Character of the area: No exterior lighting is proposed. The style of the structure style will be as shown in Applicant's Exhibit B1.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The addition is for residential use. The garage will provide heated space in which to park three vehicles. The one bedroom accessory apartment will be owner-occupied. The structure will be the same distance from the side property line as the previous structure. This project application presents compliance with the conditional use criteria.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The use of the structure will not emit any of the above, other than unobtrusive emissions typical of residential uses. No controls are proposed.
 - (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 Antoinette Maas to construct a garage and accessory dwelling 35' within the side yard setback at 590 Twin Peaks Road, as presented in application #28-18 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Decision Motion:

On behalf of the Waterbury Development Review Board, Mike Bard moved and Dave Rogers seconded the motion to approve application #28-18 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 submit a letter from their engineer that adequate wastewater capacity exists to accommodate the accessory dwelling before the zoning permit will be issued.
- (3) The property owner must occupy either the primary dwelling or the accessory dwelling to maintain this approval, otherwise the dwelling unit over garage loses its status as an accessory dwelling and must be re-approved as a standard dwelling.
- (4) All exterior lighting must be downcast and shielded.

Vote: The motion was approved 4–0.

Decision approved on May 2, 2018



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

Approved: 5/2/2018

 (date)

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 80-505-5367 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
Amended Decision #25-18 ▪ April 18, 2018**

In Attendance: Board members present: Dave Frothingham (Chair), Bud Wilson, Mike Bard, and Dave Rogers (Alternate). Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner, Acting-Secretary).

Owner/Applicant:	Greg Montgomery (applicant), Mark Giordani (owner)	
Address/Location:	0 Maggies Way, Waterbury Center, VT	
Zone:	Low-Density Residential (LDR)	
Application #	025-18	Tax Map # 09-064.000

Applicant Request

The applicant seeks approval to construct a single-family dwelling and attached garage within the setback at 0 Maggies Way, Waterbury Center, VT.

Present and sworn in:

Greg Montgomery and Kaziah Haviland (applicant)
Michael and Susan Heitner (adjoining landowner)

Exhibits

- A: Application #25-18 (3 pages: zoning, conditional use), submitted March 19, 2018.
- B: Applicant's answers to the conditional use criteria, 3/29/18.
- C: Zoning setback sketch plan, prepared by Applicant, submitted 3/19/18.
- D: Soils and conceptual layout site plan, prepared by Trudell Consulting Engineers, dated 1/24/18.
- E: Parcel map with orthophoto base layer and approximate LDR 75' side-rear setback (staff).
- F: Letter to adjoining landowners, mailed certified on March 31, 2018.

Project Description

1. Existing conditions: Mark Giordani and others own a 2.0± acre parcel located on Maggies Way (parcel #760-0575) in the Low-Density Residential (LDR) zoning district. The lot is undeveloped. The lot includes 360± feet of frontage on Maggies Way. A seasonal stream and a potential wetland are present on the parcel (Exhibit D).
2. Project: The proposal is to construct a single-family dwelling with an attached garage on the property. The house will measure 21' by 36' by two stories tall and the garage will be 21' by 26'. The proposed structures will be located not less than 35' from the rear property line (Exhibit C). The project does not include an accessory dwelling that was described as a potential inclusion on the application. The lot is proposed to be served by private well and on-site septic.

3. LDR Dimensional Requirements, Table 5.2: Minimum lot area: 5 acres; frontage: 300'; minimum setbacks: 70' front, 75' sides/rear. The lot has adequate frontage, does not meet the minimum lot size, and the structures as proposed will not meet the rear setback.
4. Existing Small Lot: The subject lot meets all the requirements in Section 402(a) to qualify it as an existing small lot.
5. Waiver Request: The setback waiver request is to encroach into the rear-yard setback by 40' (75' minus 35').
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. The Board considered the following:
 - (a) Section 303(e)(1) Community facilities: The project proposes a single-family dwelling which is a permitted use. The development will be served by private well and septic. The project will not unduly increase the traffic, does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not unduly increase the demand for fire protection. 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: No exterior lighting is currently proposed but may be added to the design. The style of the structures is not shown. See Applicant's Exhibit B.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The proposal is for residential use. This project application presents compliance with the conditional use criteria. 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: A typical residential use will not emit any of the above. No controls are proposed. 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 Greg Montgomery and Mark Giordani to construct a single-family dwelling and attached garage 40' within the rear setback on Parcel #760-0575 on Maggies Way, as presented in application #25-18 and supporting materials, meets the Waivers, Conditional Use, and Existing Small Lots criteria set forth in Sections 309, 303, and 402.


Decision Motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Mike Bard seconded the motion to approve application #25-18 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 shall be downcast and shielded.

Vote: The motion was approved 4-0.



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

Approved: 5/16/2018

(date)

Decision approved: May 16, 2018

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 80-505-5367 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.*