

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes —May 16, 2018**

**Attending:** David Frothingham (Chair), Tom Kinley (Vice Chair), Mike Bard, and Andrew Strniste.  
**Staff present:** Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

The public meeting convened at 6:33 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The agenda was approved as presented.

1) **#39-18: Ari Fishman (Applicant), 179 Guptil Road LLC (owner)**

Site plan and conditional use review to add parking spaces and an outdoor consumption area at 179 Guptil Road, Waterbury Center, VT. (RT100/MDR/SFHA)

There was no staff report for this application, as discussion and further clarification was needed before moving forward with a complete review for the application. Sketch review: The applicant is proposing to add parking and outdoor consumption at the Zenbarn, presented on an annotated site plan dated 4/17/18. Because of the challenges of the site, the DRB recommended that the applicant work with staff to improve the plan and get comments from the Public Works Director regarding the second access (for the two front parking lots proposed). Applicant should come back with a landscaping/screening plan and complete site plan with site distances/lines. The dead-end parking lots need a hammer-head turn-around to allow for circulation. A Civil Engineer's assurance was discussed and requested.

The landscaping and screening regulations require parking lots to be screened from a public road. Screening should also be considered for areas where headlights will be directed toward any (residential) neighbors.

Regarding the outdoor consumption area, recommendations were given on how to add detail to exactly what the design and plans are for that area, including temporary structures, lighting, music (amplified?), seating, and anything that would come in to play for an event. It was suggested to add delineation to the walkway to that area.

Submit narrative describing the changes to the site plan and the proposed use, hours, etc. to the ZA by Friday, May 25 (10 days)

At 7:33, the hearing was continued to June 6, 2018 at 6:30 p.m.

2) **#30-18: Todd Curtis (owner/applicant)**

Waiver request to construct a single-family dwelling within the setback at 416 Henry Hough Road, Waterbury, VT. (CNS/RHS zoning/overlay districts) —*continued from May 2, 2018.*

Discussion included trees and existing vegetation and progression through the years.

Draft hearing minutes and decision under separate cover.

- 3) **#20-18: Main Street Cottages LLC** (owner/applicant)  
Site plan amendment to add parking for eleven dwellings at 85-130 O'Hear Court. (VR/SFHA)  
—continued from May 2, 2018.

Testimony:

- A neighbor wanted to know about the cedar hedge, which she would not want to see removed. They will not be removed by the applicant.
- The hydrangeas are being moved from their current location. These would be replaced if they do not survive.
- With the revised plan, there is a negative amount of fill, therefore, there will be no net rise in the BFE.
- The revised landscaping includes a combination of high and low shrubs/trees.
- A minimum trunk caliper of 2" will be adequate and improve survivability.

Draft hearing minutes and decision under separate cover.

4) **Agenda items to be scheduled by the Chair:**

- **Reconsideration of application #025-18: Greg Montgomery** (applicant), **Mark Giordani** (owner). Correctly represent the final waiver request to construct a single-family dwelling within the setback at Maggie's Way parcel #760-0575, Waterbury Center, VT. (LDR) Public hearing concluded: 4/18/18; DRB written decision approved: 5/2/18.

Tom Kinley moved and David Frothingham seconded to reconsider the decision application #25-18.

Vote: Passed 4-0.

Tom Kinley moved and Mike Bard seconded to approve the amended decision application #25-18.

Vote: Passed 4-0.

- Review minutes and decisions from May 2 meeting:  
Tom Kinley moved and Mike Bard seconded to approve the general minutes and decision minutes from May 2, 2018, as amended.  
Vote: Passed 4-0.

**Next meeting:** 6:30 p.m. Wednesday, June 6, 2018.

**Adjournment:** The meeting was adjourned at 08:49 p.m.

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

Approved on: 6/6/2018  
(date)

**Town & Village of Waterbury**  
**Development Review Board**  
**Decision #30-18 ■ May 16, 2018**

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

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Owner/Applicant:	Todd Curtis (owner/applicant)	
Address/Location:	416 Henry Hough Rd., Waterbury, VT	
Zone:	Conservation (CNS)	
Application #	030-18	Tax Map # 14-125.000

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**Applicant Request**

The applicant seeks approval to construct a single-family dwelling within the side and rear setback at 416 Henry Hough Rd., Waterbury, VT

Present and sworn in:

Todd Curtis, Applicant

Linda Wulff, Adjoining landowner

Jeff Kilgore, Attorney for Linda & John Wulff

Everett Coffey, Resident

**Exhibits**

- A: Application #30-18 (3 pages: zoning, conditional use), submitted 4/2/18.
- B: Applicant's answers to the conditional use criteria, submitted 4/2/18
- C: Floor plan for house, submitted 4/2/18.
- D: Zoning setback sketch plans, submitted 4/2/18.
- E: Aerial photo of site submitted 4/2/18.
- F: Aerial photo of site submitted 4/2/18.
- G: Aerial photo of site submitted 4/2/18.
- H: Parcel maps with orthophoto base layer (staff).
- I: Elevations and perspective views of proposed house received 4/30/18.
- J: Letter to adjoining landowners, mailed certified: 4/16/18
- K: Site Plan prepared by Horizon Engineering, 11/2015, sheet 1 of 1
- L: Partial survey of properties served by the 50' right-of-way for Owl's Head Rd. to Hough Rd.
- M: Letter from John and Linda Wulff dated 5/15/18

**Findings of Fact**

1. Existing conditions: Todd Curtis owns a 10-acre parcel located at 416 Henry Hough Rd. in the Conservation (CNS) zoning district. The lot is currently developed with an existing garage/barn structure. There is an existing 50' wide private right-of-way that traverses the Curtis lot from Henry

Hough Rd. and serves more than five existing lots. Therefore the setbacks in that portion of the Curtis property are to the edge of that existing right-of-way as shown on Exhibit D. The lot is proposed to be served by a private well and an on-site septic system.

2. Project: The proposal is to construct a single-family dwelling. The house will be 1,500 sq. ft. and will be 22' in height. It will be a single story with a two-bay garage underneath the living space. The proposed structures will be located 125' from the edge of the ROW for Henry Hough Rd. in the front to the north, 88' from the private ROW on the side to the northeast, 60' from the private ROW on the rear to the southeast, and 176' to the private ROW on the side to the southwest (see Exhibit D).
3. CNS Dimensional Requirements, Table 5.2: Minimum lot area: 10 acres; frontage: 300'; minimum setbacks: 100' front/ sides/rear. The lot has existing access to Henry Hough Rd.
4. Waiver Request: The setback waiver request is to encroach into the side-yard setback to the west by 12' (100' minus 88') and into the rear-yard setback to the south by 40' (100' minus 60').
5. 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 applicant states in Exhibit B1 that: "The waiver will not have an undue adverse impact on the use and enjoyment of adjoining properties." He also states in Exhibit B1 that: "The boundary for any of the adjoining lots is well beyond the 100' setback requirement." The Board must also find that the proposal conforms to the following general and specific standards in Section 303, Conditional Uses, including 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.
  - (b) Section 303(e)(2)(A–E) Character of the area: All exterior lighting will be downcast and shielded. The style of the structures is as shown on Exhibit I.
  - (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 as presented in Exhibit B.
  - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: A typical resident use will not emit any of the above. 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.

### **Guiding ordinance sections**

Section 309—Waivers

Section 303—Conditional Uses

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Todd Curtis to construct a single-family dwelling and attached garage 12' within the side setback to the east and 40' within the rear setback to the south at 416 Henry Hough Rd., as presented in application #30-18 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

**Draft Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Tom Kinley seconded the motion to approve application #30-18 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

David L. Featherstone  
 (Chair) (Vice-Chair) (Acting Chair)

5/16/18  
 (date)

This decision was approved on May 16, 2018

*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 #20-18 • May 16, 2018**

**In Attendance 5/2:** Board members present: Dave Frothingham (Chair), Bud Wilson, Rob Dombrowski, Dave Rogers, Mike Bard, and Tom Kinley.

**In Attendance 5/16:** Board members present: Dave Frothingham (Chair), Mike Bard, Tom Kinley, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

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Owner/Applicant:	Nick Lizotte (applicant), Main Street Cottages LLC (owner)	
Address/Location:	85-130 O’Hear Court, Waterbury, VT	
Zones:	Village Residential (VR), Special Flood Hazard Area (SFHA) overlay	
Application #	020-18	Tax Map # 19-237.000

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**Applicant Request:**

The applicant seeks approval to add parking for eleven existing dwellings and revise landscaping at 85-130 O’Hear Court, Waterbury, VT.

**Present and sworn in:**

5/2/18: Nick Lizotte, applicant

5/16/18: Nick Lizotte (applicant), Everett Coffey (resident), Susan Wood, (resident)

**Exhibits:**

- A: Application #20-18 (6 pages: zoning, conditional use, overlay), submitted March 5 and 20, 2018;
- B: (B1) Project narrative by Applicant, 4/2/18;  
(B2) Letter from engineer, Bernard Chenette, addressing flood elevation requirements, 4/2/18.
- C: Site plan, prepared by Lakeside Environmental Group, sheet 1 of 1, dated 3/30/18, revised 5/8/18.
- D: Referral letter to Rebecca Pfeiffer, dated April 13, 2018
- E: (E1) Parking comments from Bill Woodruff, Waterbury Public Works Director (email), 5/2/18  
(E2) Reply comments from Anthony Stout, Lakeside Environmental Group (email), 5/2/18
- F: Parcel map with orthophoto (staff).
- G: Letter to adjoining landowners, mailed certified: April 13, 2018.

**Findings of Fact:**

1. Existing conditions: Main Street Cottages LLC owns a 0.97± acre parcel located at the end of O’Hear Court in the Village Residential (VR) and Special Flood Hazard Area (SFHA) zoning and overlay districts. The lot is currently developed with eleven two-story single-family dwellings and two detached one-story garages: one 6-bay and one 5-bay. The lot includes six outdoor parking spaces and has driveway access to O’Hear Court. The lot is served by municipal water and sewer.

2. Project: The proposal is to add 11 parking spaces for a total of 17 outdoor parking spaces, including two handicapped accessible spaces, and revise the landscaping. Four 2" (minimum trunk caliper) red maple trees will be planted: two will be along the westerly property line behind the dwellings, one will be at the end of the "green," and one will be in the island in the parking area (Exhibit C).

Previous approvals:

- #11-12-V: Application to redevelop the prior mobile home park with 11 cottages around a green;
- #25-14-V: Setback waiver for Cottage #9 due to infrastructure development;
- #02-16-V Re-approval for the eight remaining cottages to be built, as the prior approvals had expired.

3. VR Dimensional Requirements, Table 5.2: The lot meets the minimum lot size, but the existing development exceeds the maximum density, as it was approved in 2012 as a reconstruction of noncomplying structures destroyed by Tropical Storm Irene, and a nonconforming use of density exceeding the maximum allowed for the lot size. The current proposal makes no increase to the number of dwelling units or structures.
4. Site Plan Review and Approval, Section 301: As the proposal involves parking lot construction, 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 or sidewalks is proposed. Some lawn area will be removed to create parking, thereby making some sidewalks adjacent to the parking areas.
  - b. Section 301(f)(2) (A-G), Circulation and parking, loading, refuse, and service areas: Eleven outside parking spaces will be created to make 28 parking spaces total for the 11 dwellings. This will provide greater than 2 parking spaces per dwelling, which exceeds the minimum requirement. See paragraph 5, below for the parking requirements. The site plan shows two areas for snow storage. See paragraph 6, below for SFHA considerations.
  - c. Section 301(f)(3) (A-F), Landscaping, screening, and lighting: Changes to the landscaping are proposed. A portion of the interior green space will be replaced with parking to meet tenant demand (Applicant's Exhibit B1). The interior plantings previously approved in zoning permit #11-12-V, included a minimum of four trees with a minimum trunk caliper of 4" to be planted in the green space. The current proposal includes four trees with a minimum trunk caliper of 2" to be located as shown on revised Exhibit C. The five existing hydrangea will be transplanted on the site to the locations shown on revised Exhibit C. The existing trees shown on revised Exhibit C will be protected and saved.
5. Parking Regulations, Section 414: The property includes 17 on-site parking spaces, 11 in the existing garages and 6 outside, to serve eleven two-bedroom dwellings. The proposal is to add 11 outdoor parking spaces. The proposal increases the total # of parking spaces that were approved, providing more than 2 parking spaces for each two-bedroom dwelling. The Parking Regulations require 1.5 parking spaces per dwelling. 11 dwellings x 1.5 = 16.5 (rounded up to 17) parking spaces. The applicant states that the

tenant demand is for at least 2 parking spaces per dwelling.

6. Development Review in Flood Hazard Areas: Section 605(4) states that when an application requires DRB review under Section 603(d), the application shall include certification by a registered professional engineer demonstrating that the proposed development will not increase Base Flood Elevations. See Bernard Chenette's letter, Exhibit B2.

As proposed, the project will not encroach into the Floodway and will be in compliance with Section 605(b).

**Conclusion:**

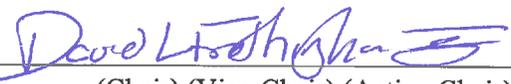
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal to add parking for eleven existing dwellings and revise landscaping at 85-130 O'Hear Court, Waterbury, VT, as presented in application #20-18 and supporting materials, meets the Site Plan, Parking, and SFHA standards set forth in Sections 301, 414, and 604.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Tom Kinley seconded the motion to approve application #20-18 with the following conditions:

- (A) The Applicant shall complete the project in accordance with the Board's findings and conclusions, and the approved plans and exhibits.
- (B) All exterior lighting shall be downcast and shielded.
- (C) The applicant shall plant new trees of a 2" caliper as shown on the revised site plan, Exhibit C.

Vote: Passed 4 - 0

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

Approved on: 6/6/2018  
\_\_\_\_\_  
(date)

This decision was approved on June 6, 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](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  
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).

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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

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**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.

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

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