

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—June 20, 2018**

**Attending:** Board members Tom Kinley (Vice Chair), Mike Bard, Rob Dabrowski, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

Tom Kinley, Acting-Chair, opened the meeting at 6:35 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The agenda was approved as presented.

- 1) **#55-18: Casey Collins** (owner/applicant)  
Waiver request to construct a residential storage shed within the setback at 454 Twin Peaks Rd., Waterbury Center, VT. (MDR zoning district)

**Testimony**

- The location of the pole barn was chosen to avoid the septic, well, and existing wetlands.
- Access to the pole barn will be from the driveway.
- The septic for the apartment runs across the front of the house, making it difficult to use the existing breezeway space for the storage proposed for the barn (vehicles).
- Steve asked if there was an option to put the barn in an area that is behind the house, but currently there is a small fruit tree orchard there.
- The Board requested that the Applicant accurately represent the location of the structure on an accurate site plan, drawn to scale.
- The Board requested the Applicant explore a location at least 10-feet from the edge of the right-of-way.

The application was continued to July 11, 2018 at 6:30 p.m. for the Applicant to submit a revised plan.

- 2) **#54-18: Barbara Kennedy and Doug Gentile** (owner/applicant)  
RHS review to construct a new single-family dwelling at 814 Bear Creek Lane, Waterbury Center, VT. (CNS/RHS zoning and overlay districts)

**Testimony**

- The building zone has been amended and approved since the original subdivision.
- The application includes a general construction permit and Applicant will follow EPSC practices during construction.
- All photos were taken on location, from the area where the building will be located.

The Board approved the project with conditions and will issue a written decision within 45 days.

- 3) **#35-18 and #36-18: Jonathan Bingham and Lillian Keller** (owner/applicant)  
Conditional use and ridgeline review for existing single-family and accessory dwellings at 1111 Wood Farm Road, Waterbury Center, VT. (CNS/RHS zoning and overlay districts)

**Testimony**

- The Bingham will reside at the primary residence by 9/1/18, which will be a condition.
- Neighbors expressed concerned about AirBnB renters getting stuck on the road, not having directions, and arriving late into the evening, which is inconvenient and changes the character of the neighborhood.

- The Board considered restricting the rental unit until the septic is complete. A condition could be to not rent or occupy the dwellings until the septic is complete.

The Board will issue a written decision within 45 days.

- 4) **#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) —*continued from May 16 & June 6, 2018.*

Present and sworn in: Ari Fishman (Applicant), Chris & LeeAnne Viens (Neighbors)

**Testimony/Action items:**

- Applicant submitted a revised project narrative and Site Plan on 6/11/18.
- The site line isn't measured according to VTrans standards.
- The current parking requirement isn't meeting the needs of the use.
- The doorman's cut-off is 125 customers.
- On a busy night there will be about 80 cars total, with about 35 cars parked in the street.
- Submit a stamped engineer drawing.
- Submit a letter from the Wetlands office addressing the proposed encroachment into the wetlands.
- Specify the uses for the outdoor consumption areas. It was explained that this area is in two zoning districts—the outdoor consumption area will have restrictions and could be approved for certain uses. The uses should be subordinate to the primary use (restaurant). Lighting and noise were raised by a neighbor as concerns.
- Show all proposed lights, including walk-way lights, on the site plan.

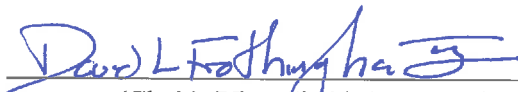
The application review was continued to July 11, 2018 at 6:30 p.m.

5) **Prior meeting minutes:**

Rob Dabrowski moved and Mike Bard seconded to approve the general minutes from June 6, 2018, as amended. Vote: Passed 5–0.

**Next meetings:** 6:30 p.m. Wednesday, July 11, 2018; 6:30 p.m. Wednesday, July 18, 2018.

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

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

Approved on: 7/18/2018  
 (date)

These minutes were approved: July 18, 2018

**Town & Village of Waterbury  
Development Review Board  
Decision #54-18 ▪ June 20, 2018**

**Attending:** Board members Tom Kinley (Vice Chair), Mike Bard, Rob Dabrowski, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

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|-------------------|---|----------------------|
| Owner/Applicant:  | Barbara Kennedy & Doug Gentile (owners/applicant)                                 |                      |
| Address/Location: | 814 Bear Creek Lane (Lot 8), Waterbury Center, VT                                 |                      |
| Zones:            | Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. |                      |
| Application #     | 54-18   | Tax Map # 14-057.000 |

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**Applicant Request**

The applicant seeks approval to construct a new single-family dwelling and garage on undeveloped Lot 8, 814 Bear Creek Lane in the RHS overlay district.

**Present and sworn in:**

Barbara Kennedy, Applicant

Chris Austin and John Grenier, Consultants for Applicant

**Exhibits**

- A: Application #54-18 (6 pp: Zoning, Conditional Use, Overlay District), 5/21/18.
- B: Project description (2 pages), prepared by Grenier Engineering, dated 5/18/18.
- C: Site Plans, prepared by Grenier Engineering, sheets 1 and 2 of 5, dated 5/21/18.
- D: Detailed Site Plan, prepared by Grenier Engineering, sheet 3 and 5 of 5, dated 5/21/18.
- E: View Sections, prepared by Grenier Engineering, sheets 4 and 5 of 5, dated 5/21/18.
- F: On-site photos, submitted by Grenier Engineering, 5/21/18.
- G: Building Elevations by JKH Design dated 4/19/18.
- H: Building Floor Plans by JKH Design dated 4/19/18.
- I: Project Location Plan from Vt. Natural Resource Atlas dated 5/21/18.
- J: Wastewater System and Potable Water Supply Permit dated 1/18/17.
- K: Vt. DEC Stormwater Permit dated 6/7/17.
- L: Aerial photos of site from Waterbury's on-line parcel mapping system dated 5/25/18.
- M: Notice to adjacent landowners dated 6/4/18.

**Findings of Fact:**

1. The 78+/- acre property is located within the Conservation Zoning District and Lot 8 was the remaining property shown as part of a Planned Unit Development (PUD), under application #78-09-T. Lot 8 includes a 22.5 acre conservation area along the northern boundary of the property that is the required undeveloped open space for the three-lot PUD approved under application #78-09-T.

2. The property also falls within the RHS Overlay District and is considered a 'Major Development' as its elevation is above 1,500 feet.
3. The single-family dwelling is proposed to be built within a revised building zone that was previously approved in a different configuration in Permit #78-09-T, at an elevation of approximately 1,780'.
4. Clearing for the project has already been completed by the developer, including the septic area, view corridors, driveway, and clearing of a portion of the previously delineated building zone. The current clearing is more extensively cleared than the clearing that was approved in the Exhibit B, site plan for permit #78-09-T. The prior 2009 plan shows the building zone as leave 50%, cut 50%, and the area southwest of the building zone as leave 30%, cut 70%. The clearing has been reconfigured so that only a portion of the building zoning has been cleared and a portion of the leave 30% and cut 70% has been cleared.
5. As stated in Exhibit B, Project description prepared by Grenier Engineering: "Significant portions of the site that were approved for tree thinning have not been cut, and are not planned to be significantly altered. This has resulted in a very well screened building site. Only minor tree clearing on the northeasterly side of the proposed building is required for this project. The necessary additional tree clearing will be well within the previously approved building zone."
6. The house will have 2,795 SF of total floor area on two floors with a maximum height of 31' as shown on Exhibits G and H. The house will have an attached carport on the northeast side.
7. The setbacks for the house will be 265'± in the front, 520'/670'± on the sides, and 1,800'± for the rear. Since Lot 8 was the remaining lands in the 3-lot PUD, the setback requirements is 100' for the front/side/rear.
8. The visual analysis of the site, prepared by Grenier Engineering, is included as Exhibit E. These cross-sections show the relationship of the house to the site topography and existing trees as viewed from the southwest and west. As stated in Exhibit B, Project description prepared by Grenier Engineering: "The residence has been planned on the lowest elevation of the proposed building zone in an effort to maintain screening of view from off-site locations. The enclosed view cross sections and site photos prove that this building will easily meet the definition of 'minimally visible' in accordance with the Waterbury Zoning Regulations definitions."
9. The exterior lighting will be downcast and shielded. Some of the fixtures may have motion sensors as needed for security.
10. The 22.5 acre conservation area required in Permit #78-09-T that is on Lot #8 has been included in the final plat recorded for permit #60-17 for a boundary line adjustment for Lot 7.
11. The proposal is subject to the 'Major Development' RHS Standards as per Section 1004 of the Waterbury Zoning Regulations.

12. The RHS and Conditional Use Permit review criteria are contained within Article X and Article III, respectively.

**Conclusion:**

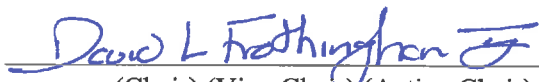
Based upon these findings, and subject to the conditions set forth below, the Development Review Board concludes that application #54-18, Barbara Kennedy & Doug Gentile for a zoning permit and Ridgelines, Hillside, Steep Slopes (RHS) overlay district permit to construct a new single family residence on Lot 8 of the Bear Creek Lane subdivision, Waterbury Center, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

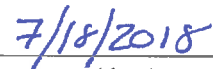
**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Andrew Strniste seconded the motion to approve application #54-18 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) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permits #78-09T, Reed three-lot PUD; and #08-10T, Reed subdivision to create Lot 8.
- (3) All exterior lighting will be downcast and shielded.
- (4) The applicant shall comply with erosion protection and sediment control measures when development commences and during construction. [Section 303(e)(2)(A)]

**Vote:** Passed 5-0

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

  
\_\_\_\_\_  
(date)

This decision was approved on July 18, 2018.

Additional 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 #35-18 & #36-18 ▪ June 20, 2018**

**Attending:** Board members Tom Kinley (Vice Chair), Mike Bard, Rob Dabrowski, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker, (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

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|-------------------|---|
| Owner/Applicant:  | Jonathan Bingham and Lillian Keller (owner/applicant)                             |
| Address/Location: | 1111 Wood Farm Road, Waterbury Center, VT   |
| Zones:            | Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. |
| Application #     | 35-18 & 36-18 <span style="float:right">Tax Map # 14-084.000</span>               |

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**Applicant Request**

The applicant seeks approval for existing single-family and accessory dwellings at 1111 Wood Farm Road in the RHS overlay district.

**Present and sworn in:**

Chris Austin and John Grenier, consultants for applicant  
Joan & Steve Liggett, neighbors  
Mark Davis, neighbor  
Dave Lachtrupp, neighbor

**Exhibits**

- A: Applications #35-18 & #36-18 (6 pp: Zoning, Site Plan, Conditional Use, Overlay District), 5/2/18.
- B: Project narrative, prepared by Grenier Engineering, dated 5/18/18.
- C: Overall and Existing Conditions Site Plans, prepared by Grenier Engineering, dated 5/21/18.
- D: View Cross Sections, prepared by Grenier Engineering, sheets 3 & 4, dated 5/21/18
- E: On-site photos, submitted by Grenier Engineering, 5/21/18.
- F: Wildlife habitat overlay map, Natural Resources Atlas, 5/20/18
- G: Floor plans and building elevations, "Bingham Cabin" by Gristmill Builders, date 8/27/12.
- H: State of Vermont wastewater permit (WW-5-5971), issued 1/31/12.
- I: State of Vermont stormwater permit (#3840-9015), issued 10/23/12.
- J: Orthophoto and parcel map of the lot and zoning districts.
- K: Prior approval #60-11-T to create new Lot 1 of 36 ± acres, DRB 12/1/2011.
- L: Letter to adjoining landowners, mailed certified on: 6/5/18
- M: Letter, by email, from neighbor Joan Liggett dated 6/20/18.

**Findings of Fact:**

1. Existing conditions: Jonathan Bingham and Lillian Keller own a 36.06± acre parcel located at the 1111 Wood Farm Road in the Conservation (CNS) zoning district and the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. The property is developed with a two-story single-family dwelling, a one-story accessory dwelling, and a small detached shed. The property will be served by private well and an on-site septic system. The lot has driveway access to and is located at the end of Wood Farm Road, which is a

private road.

2. Proposal: The applicant seeks after-the-fact approval for the existing dwellings and structures which have not been permitted and have not been reviewed for compliance with the RHS overlay district standards. The lot was approved in 2011 (zp #60-11-T) in which the driveway access and clearing limits were approved. A zoning permit was issued for a cabin with an outhouse in April 2012. The dwelling that is there now was built sometime in 2012. The second dwelling was built and the toolshed were built sometime in 2014.
3. General Dimension, Location, and Height Requirements, Section 504: In the CNS zoning district, the minimum lot size is 10 acres and the setbacks are 100' for the front, sides, and rear. The lot meets the minimum lot size. The structures meet the minimum setbacks from the property lines. The dwellings must be at least 200' apart if each is considered to be a principal structure as per Section 403.
4. Table of Uses, Section 503: In the CNS zoning district, a single-family dwelling is a permitted use. In the RHS overlay district, as per Section 1001(c), permitted uses are treated as conditional uses.

Accessory Dwelling Unit, Section 503(d): The Applicant seeks that the second dwelling be classified as an accessory dwelling unit (see definition, below). See Applicant's narrative (Exhibit B). Although the dwelling sleeps six people, it can meet the criteria as it has only one bedroom (the queen bunk beds are in the common room), and although the owner does not currently occupy either dwelling, they intend to permanently reside in the primary dwelling this fall and will accept this as a condition of approval.

(definition) **DWELLING UNIT, ACCESSORY**: An efficiency or one-bedroom apartment, located within or appurtenant to an owner-occupied single-family dwelling, that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following: the owner occupies either the primary dwelling or accessory dwelling; the property has sufficient wastewater capacity; the unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling, or the unit does not exceed 1,400 sq. ft. of habitable floor area, whichever is greater; applicable setback, coverage, and parking requirements specified in this bylaw are met.

5. Conditional Use criteria, Section 309: The Board considered the following:
  - (a) Section 303(e)(1) Community facilities: The existing use is residential, which is consistent with the previous findings on the approved subdivision.
  - (b) Section 303(e)(2)(A-E) Character of the area: The use of the property will remain residential. See the attached photos of the dwellings and shed and the view cross-sections to show that the structures are minimally visible in accordance with the RHS requirements.
  - (c) Section 303(e)(3) Municipal bylaws in effect: The dwellings as proposed meet the definitions as described in the bylaw. The structures also meet the definition of minimally visible as per the bylaw.
  - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The residential use of the property will not create the above-named nuisances and therefore no devices or special methods are proposed 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 1001 RHS Applicability: The property is in the RHS overlay district above 1,500 feet in elevation (FIE). Subsection (b) states that development and pre-development site preparation at or above 1,500 FIE shall be considered “major” development.

Section 1004 Standards of Review: Major Development: In addition to the review applicable to minor development projects, the Board shall find that the project complies with all of the following standards:

- (a) Screening: Clearing, infrastructure development and the construction of the structures has already been completed. The current clearing may be more extensive overall than the clearing that was approved in 2011 for permit #60-11-T. Note also that the Applicant seeks to have a revised building zone approved to include the as-built primary dwelling, that is located outside of the 2011 approved building zone. The visual analysis of the site, prepared by Grenier Engineering, (Exhibit D) shows the relationship of the dwellings to the site topography and existing trees as viewed from Waterbury Reservoir, Camel’s Hump, and Sugarbush/Madriver Valley. The packet includes on-site photos (Exhibit E).
- (b) Access: The lot is located at the end of a private road. The driveway exists.
- (c) Placement of Structures: Applicants narrative (Exhibit B) states that the existing dwellings are tucked into the toe of steep banks and are surrounded by existing hardwood forest. See the View Sections to show that the structures are minimally visible as per the criteria in Section 1004(c)(3)(A–E).
- (d) Exterior lighting: None proposed.
- (e) Clearcutting and Pre-Development Site Preparation: Development commenced prior to obtaining a permit or review under this Article.
- (f) Natural Resources: See Applicant’s Exhibit F. No wildlife habitat is shown.
- (g) Building Design: See the existing conditions site plan (Exhibit C2) and photos (Exhibits E and G). The existing structures are proposed to be compatible with the surroundings.

7. Section 1005(e): Where a landowner conducts pre-development site preparation activities at or above 1,500 FIE prior to obtaining a permit under this article, the Board may limit development to the non-impacted portion of the property and may require the site to be restored to its pre-development state.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Jonathan Bingham and Lillian Keller for existing single-family and accessory dwellings at 1111 Wood Farm Road, as presented in applications #35-18 and #36-18 and supporting materials, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Andrew Strniste seconded the motion to approve applications #35-18 and #36-18 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 will be downcast and shielded.
- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #60-11-T.
- (4) The property owner must occupy either the primary dwelling or the accessory dwelling to maintain this approval, otherwise the dwelling unit loses its status as an accessory dwelling and must be approved as a second primary dwelling. Permanent occupancy by the property owners shall be established by September 1, 2018.
- (5) The septic system shall be completed prior to any rental or occupancy in either the primary or accessory dwelling and the approved state permits shall be in place.

**Vote:** 4 in favor, 1 opposed. The motion was approved.

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

7/18/2018  
(date)

This decision was approved on July 18, 2018.

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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