

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—September 19, 2018**

**Attending:** Board members Tom Kinley (Vice-Chair), Mike Bard, Bud Wilson, and Andrew Strniste. Staff attending: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

Tom Kinley, Vice-Chair, opened the meeting at 6:39 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded. The agenda was approved as presented.

- 1) **#83-18: Ben & Jerry's Homemade Inc.** (owner/applicant). The Acting Chair reopened the hearing for site plan and conditional use review to enlarge an existing commercial accessory structure at 1281 Waterbury-Stowe Road, Waterbury, VT, (VCOM/RT100 zoning districts), that was continued from the September 5 meeting.

**Present and sworn in:** No outside parties attended.

**Administrative Testimony:**

The application had been continued to this evening's meeting with a request that staff review a concern raised at the prior meeting that all adjoining landowners might not have been notified. Dina reported her findings to the Board verifying that the Applicant sent proper notice via certified mail to all adjoining landowners.


There being no other testimony or evidence, the Board approved the project with conditions and will issue a written decision within 45 days.

2) **Agenda items as scheduled:**

- Review of prior meeting minutes and decisions:  
Mike Bard moved, and Bud Wilson seconded the motion, to approve the general meeting minutes from September 5, and the decisions for applications #80-18 and #83-18, as amended. Vote carried 4-0.
- Other business:
  - VLCT Fall Planning & Zoning Forum, Wed. Oct. 17, 8a-4p, Lake Morey Resort, Fairlee, VT. Let Steve know if you plan to attend. (Note: DRB evening meeting on the same date.)
  - The Zenbarn property was discussed, specifically regarding appropriate uses and compliance with DRB approvals. ZA will monitor and follow up with enforcement if needed.

**Next meetings:** 6:30 p.m. Wednesdays October 3 and October 17, 2018.

**Adjournment:** The meeting was adjourned at 7:20 p.m.

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

Approved on: 10/03/2018  
(date)

**Town & Village of Waterbury**  
**Development Review Board**  
**Decision #83-18 - Sept. 5/Sept. 19, 2018**

**Attending, Sept. 5:** Board members David Frothingham (Chair), Tom Kinley, Dave Rogers, Mike Bard, Rob Dabrowski, Bud Wilson, and Andrew Strniste. Staff attending: Steve Lotspeich (Community Planner/Acting ZA) and Patti Spence (Secretary).

**Attending, Sept. 19:** Board members Tom Kinley (Vice-Chair), Mike Bard, Bud Wilson, and Andrew Strniste. Staff: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

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Owner/Applicant:	Ben & Jerry's Homemade	
Address/Location:	1281 Waterbury-Stowe Road, Waterbury, VT	
Zones:	Village Commercial (VCOM) & Route 100 (RT100)	
Application #	083-18	Tax Map # 13-110.000

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**Applicant Request**

The applicant seeks approval to remove an existing trailer and construct a 900 SF single-story addition to the rear of the existing industrial plant to be used for a trucker's lounge and maintenance shop, replacing the same uses in the aforementioned trailer.

**Present and sworn in, Sept. 5:**

Mark Spencer, Ben & Jerry's Unilever Division, applicant representative  
Derek Woolridge, Cross Consulting Engineers, applicant consultant  
Cindy Lyons, adjoining landowner  
Scott Search, interested neighbor  
Bruno Gubetta, interested neighbor  
Jim & Mary Helen Bayerle, interested neighbor  
Erik Nelson, interested neighbor

**Present and sworn in, Sept. 19:** No parties attended.

**Exhibits**

- A: Application #83-18 (4 pages: zoning, site plan review, conditional use), submitted August 6, 2018.
- B: Overall and Detailed Site Plans, prepared by Cross Consulting Engineers, dated August 6, 2018.
- C: Elevations and Floor Plans for Addition, prepared by Cross Consulting Engineers, dated June 1, 2018.
- D: Compass Lighting specification sheet for Wall Mounted LED Light Fixture, dated July-2017.
- E: Letter to adjoining landowners, mailed certified: August 16, 2018.
- F: Photos of existing conditions, submitted at September 5, 2018 DRB meeting.

**Findings of Fact**

1. Existing conditions: Ben & Jerry's Homemade, Inc. are applying to construct a 900 SF one-story addition to the existing 54,000 SF industrial plant located on a 46.7-acre parcel located at 1281 Waterbury-Stowe Rd. in the Village Commercial (VCOM) and Route 100 (RT100) zoning districts. The addition will be

located on the portion of the site that is in the Route 100 (RT100) zoning district. The setbacks for the addition will not change the setbacks for the overall plant building. The lot is served by the municipal water and wastewater systems.

2. Project: The proposal is to remove an existing trailer and construct a 900 SF single story addition to the rear of the existing industrial plant to be used for a trucker's lounge and maintenance shop, replacing the same uses in the aforementioned trailer, as shown in Exhibits B and C. The addition will be 20' in height. As noted above, the building addition will be located to the rear of the existing main plant building and will not change the setbacks for the overall plant building. The building addition will have light and dark grey metal siding, brown metal window trim, and a dark green standing seam metal roof to match the existing main plant building as shown in Exhibit C. The building exterior will include a relocated dust collector for the maintenance shop as shown in Exhibit C. The existing trash compactor will be relocated to the opposite side of the loading dock, as shown in Applicant's Exhibit B.
3. Site Plan Review and Approval, Section 301: The proposal involves enlarging an existing structure. The Board considered the following criteria:
  - a. Section 301(f)(1)(A-D), Adequacy of traffic access and pedestrian safety. Access to the site will remain unchanged. Pedestrian access is improved by providing a comprehensive trucker's lounge. The Board concludes that the proposal provides safe and adequate vehicular and pedestrian access and circulation.
  - b. Section 301(f)(2)(A-G), Adequacy of circulation and parking, loading, refuse, and service areas. The traffic circulation in the vicinity of the new addition for trucks and other vehicles will remain unchanged. The uses, currently housed in the existing trailer to be removed, will continue unchanged in the proposed building addition, including the number of persons served, resulting in no change to the parking requirement for the building. The addition will have one overhead door, but not a loading bay. The Board concludes that the proposal includes adequate provisions for parking, loading, refuse, and service areas.
  - c. Section 301(f)(3)(A-F), Adequacy of landscaping, screening, and lighting: The existing landscaping will remain unchanged. The building addition is screened from view from Route 100 by the existing plant building. One new downcast and shielded LED light fixture (Exhibit D) will be installed over the entrance to the trucker's lounge. All other existing light fixtures in the vicinity of the building addition will remain unchanged. The Board concludes that the existing landscaping and building siting achieves compatibility and protection for adjacent properties and public roads, and that the proposal includes adequate provisions to reduce the impact of lighting on adjacent properties.
  - d. Sections 301(g)-(h), Uses in the Route 100 District: This project will not change the use of the Ben & Jerry's plant or the trailer that will be replaced by the 900 SF structure. Therefore, the Board finds that these criteria have been met in prior approvals.
  - e. Section 301(j), Special considerations for uses of property bordering Route 100. The building addition is screened from view from Route 100 by the existing plant building. The Board finds that the

proposal meets these considerations.

4. Conditional Use criteria, Section 303: The existing facility is a conditional use. Prior to granting approval, the Board considered the following general and specific standards:
  - a. Section 303(e)(1)(A–E) Impact on the capacity of community facilities: The truck schedule will not change; the project will not impact the level of service on roads and highways. The building addition does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The application states, “There will be no change in the traffic, water demand, or sewer disposal flows, and therefore will have little to no impact on community facilities.” 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) Impact on the character of the area: The use of the property will remain industrial. The application states, “The proposed use is not changed with the project, as the new addition replaces a trailer that houses the proposed use of the addition, albeit a larger area. The existing trailer is in rough shape and needs replacement.” The materials and colors for the structure’s roof, siding, and trim will match the existing building (Exhibit C). The Board concludes that the project is appropriate in design relative to existing on-site uses and structures and will not have an undue adverse impact on the character of the area affected.
  - c. Section 303(e)(3) Municipal bylaws in effect: The project application presents compliance with the site plan review and conditional use criteria, and other applicable zoning bylaws. The application states, “The existing use is not changed with the replacement of the trailer. The dimensional properties and location of the addition conform to the setbacks and height regulations, as shown on the plans.” The Board concludes that the proposal will not violate any municipal bylaws and ordinances in effect.
  - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The application states, “The proposed addition does create not any fumes, gas, dust, smoke, odor, or vibrations. The noise from the maintenance shop will be similar to the existing levels of noise and is typical of other industrial uses.” The heat pump for the addition will be located on the wall, not on the roof. 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: The project does not include earth removal activities. This provision does not apply.

**Conclusion:**

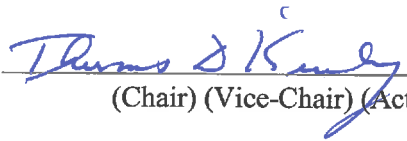
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Ben & Jerry’s Homemade, Inc. to remove an existing trailer and construct a 900 SF single story addition to the rear of the existing industrial plant to be used for a trucker’s lounge and maintenance shop at 1281 Waterbury-Stowe Road, as presented in application #83-18 and supporting materials, meets the Site Plan Review and Conditional Use criteria set forth in Sections 301 and 303.

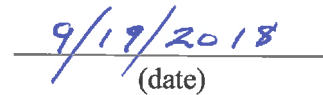
**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Bud Wilson seconded the motion to approve application #83-18 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 passed 4-0

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

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

This decision was approved on: September 19, 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.*