

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—May 1, 2019**

Board members present: Dave Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary). Alyssa Johnson (Economic Development Director) was also present.

Dave Frothingham, Chair, opened the meeting at 6:52 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

- 1) **#020-19: Waterbury Area Makersphere Coop** (applicant), **Finlum LLC** (owner) Site Plan and Conditional Use review to change the use of the second floor from office to an artist studio coop with studio space, classes, and presentations at 30 Foundry St. (IND/DMUD zoning and overlay districts)

**Testimony:**

- There will be 6 artist studios in the existing space.
- There will be art classes and presentations, but no retail or walk-in business.
- The common space does not allow for a presentation and a class at the same time.

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

- 2) **#023-19: Caleb Ainsworth** (applicant), **KCOS Holdings LLC** (owner). Two-lot subdivision and development in the Special Flood Hazard Area to construct two duplex buildings with garages on Parcel 010-1295, US Route 2. (MDR/SFHA zoning and overlay districts)

**Present and sworn in:**

Caleb Ainsworth, Applicant  
John Grenier, Engineer  
Penny Carpenter, adjoining landowner  
Clem & Donna Despault, adjoining landowners

**Testimony:**

- The new site plan was presented.
- The frontage requirement was addressed by rotating the building.
- To compensate for the fill, the flood storage capacity is being increased.
- Rebecca Pfeiffer has visited the site and commented.
- The first floor will be 2.5 feet above the floodplain.
- VTrans has offered an approved letter of intent.
- There is an existing curb cut to Route 2.
- All lights will be downcast and shielded.
- Outside trash storage was removed from the plan.
- No business will be operated on the property, it is residential.
- ANR has visited the property and deemed it to be a viable plan.
- The neighbors were concerned that placing new buildings and fill in the floodplain will impact their property.
- The applicant explained that the improvements made will reduce the flood impacts to the Despault property, which is upstream from the site.
- No fill will be or can be removed from the river.

- When the existing sumac trees, which provide screening, are removed for the building of the second duplex, that screening will be replaced with something comparable.

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

3) **Agenda items as scheduled by the Chair:**

- Review minutes and decisions from the April 17 meeting:  
Tom Kinley moved and Andrew Strniste seconded the motion to approve the general minutes for April 17, 2019 and the decisions for #018-19 Cahill/Fougel, and #019-19 Woodard, as amended.

**Vote:** Motion approved: 4–0.

- Final plat review: #125-18, Schindler Devlm. Corp., 4-lot SD, Ring Road/Bear Creek Lane (CNS/RHS). DRB hearing: 1/16/19; decision approved: 2/6/19; final plat due (180 days): 8/5/2019.

Reviewed and approved for signature.

- Final plat review: #016-19, Winter Woods LLC, 7-lot SD, Guptil Road (TMR/MDR). DRB hearing: 3/20/19; decision approved: 4/3/19; final plat due (180 days): 9/30/2019.

Reviewed and approved for signature.

**Notice of next meetings:**

- Wednesday, May 15, 2019, 6:30 p.m.
- Wednesday, June 5, 2019, 6:30 p.m.
- Wednesday, June 19, 2019, 6:30 p.m.
- Wednesday, July 10, 2019, 6:30 p.m. (*Note: This is the 2nd Wed.*)

**Adjournment:** The meeting was adjourned at 8:34 p.m.

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

Approved on: 6/5/19  
(date)

These minutes were approved: June 5, 2019

**Town of Waterbury**  
**Development Review Board**  
**Decision #020-19 ■ May 1, 2019**

**In Attendance:** Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary). Alyssa Johnson (Economic Development Director) was also present.

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Applicant/Owner:	Waterbury Area Makersphere Coop, c/o Don Schneider (Applicant) Chris Jones, Finlum LLC (Owner)	
Address/Location:	30 Foundry Street, Waterbury, VT	
Zoning Districts:	Industrial (IND), Downtown Mixed-Use (DMU), Special Flood Hazard Area (SFHA) overlay and sub-district.	
Application #	020-19	Tax Map # 19-361.000

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**Applicant Request**

The Applicant seeks approval to use the second floor of the building for an artist collective (Makersphere) at 30 Foundry Street.

**Present and sworn in:**

Don Schneider (Applicant representative)

**Exhibits**

- A: Application #020-19 (4 pages: Zoning Permit, Site Plan, Conditional Use), submitted 3/19 & 4/1/19.
- B: Site plan (*excerpt of site plan submitted from a prior approval*), Village Parking Project, prepared by Keller and Lowe Inc., dated July 1975.
- C: Photo of entrance to proposed studio, submitted 3/19/19.
- D: Orthophotos of parcel with tax map boundaries and zoning districts. (Staff)
- E: Letter from EFUD Utility District to Finlum LLC re: Water and Sewer Allocation, dated 4/3/19.
- F: Prior decision #22-16-V for change of use, dated 10/19/16.
- G: Letter to adjoining landowners, mailed certified on: 4/11/19.

**Findings of Fact**

1. Existing conditions: Finlum LLC owns a 0.21± acre parcel located at 30 Foundry Street. The property is developed with a 5,588 SF two-story, mixed-use building of that includes a light industrial use (Factotum Designs screen-printing) on the first floor. The second floor is 1,800 SF and was previously used for business-professional offices. The property is served by municipal water and sewer; includes frontage on, and access to, Bidwell Lane and Foundry Street; and has seven on-site parking spaces. The lot is located in the Industrial (IND), Downtown Mixed-Use (DMU), and Special Flood Hazard Area (SFHA) zoning and overlay districts. The building is not shown as a contributing structure to the Village of Waterbury Historic District.
2. Proposal: The Applicant proposes to use the second floor of the building for an artist collective (Makersphere). The artist collective will include six artist studio spaces for lease, will conduct art classes

for 10-18 students per class, and hold presentations/talks for 20-30 audience members in the common room. Presentations may include gallery shows, but there will be no retail element or walk-in business. No changes, other than a new sign (proposed in a separate application), are proposed to the exterior of the building.

3. Table of Uses, Section 503: An artist collective most closely matches the definition of Craft Production, which is a permitted use in the IND zoning district. A Commercial School (art classes) and Recreation/Amusement Facilities (art presentations and gallery shows) are conditional uses.

*(definition) Craft Production: Small-scale production of craft or art products, such as pottery, textiles, crafted wood products, and so forth.*

*(definition) Commercial School: A school not certified by the Vermont Department of Education. Examples include, but are not limited to, schools of business, barbering, beauty, culture, music, dancing, and driving.*

*(definition) Recreation/Amusement Facilities: Includes, but is not limited to, bowling alleys, miniature golf, theater, table tennis or pool halls, indoor skating rinks, gymnasiums, indoor swimming pools, indoor tennis courts, stadiums, and similar places of commercial recreation.*

4. Site Plan Review and Approval, Section 301: To ensure adequate and appropriate traffic and pedestrian access, circulation, parking, landscaping, and screening, the Board considered the following:
  - a. Section 301(f)(1) (A-D) Traffic access and pedestrian safety: No change to the approved vehicular access and pedestrian access is proposed.
  - b. Section 301(f)(2) (A-G) Circulation and parking, loading, refuse, and service areas: No change to the existing vehicular access, circulation, and parking is proposed. See the parking requirements in paragraph 5, below.
  - c. Section 301(f)(3) (A-F) Landscaping, screening, and lighting: The property is developed. Screening and landscaping exists along the SW property line. No change is proposed to the existing lighting, landscaping, or screening.
5. Parking Regulations, Section 414: The property includes seven on-site parking spaces. The parking requirements are as follows:
  - a) Light industrial: 1 space for each employee at peak times.
    - Factotum Designs: 3 employees require: ..... 3 parking spaces;
  - b) Craft Production: lacking a specific parking requirement for an artist coop, the calculation that most-closely represents the use is 1 space for each artist studio.
    - Makersphere: 6 artist studios require: .....6 parking spaces.
  - c) Accessory Use: Commercial School: Lacking a specific parking requirement for a school, the formula applied previously has been 1 space for each student

plus 1 for each teacher or staff. \*

▪ Makersphere art classes for 10-18 students plus 1 instructor require: ..... 11-19 parking spaces.

d) Accessory Use: Presentations: 1 space for every 3 seats or participants.\*

▪ Makersphere presentations for 20-30 attendees require: ..... 7-10 parking spaces.

\*The classes and presentations will be held in the common area. These activities will not be conducted at the same time.

A minimum of 9 parking spaces are required for Factotum on the first floor and the proposed Makersphere artist studios, with an additional 7-19 spaces needed sometimes for classes and events. Seven parking spaces are provided (Exhibit B). The previous approval (#22-16-T) for a change of use for Factotum was for a total of nine parking spaces being required.

The owner and applicant have observed that overflow parking spaces have been accommodated in the past by nearby public parking. In addition, a paid parking lot has recently opened on a nearby property on Bidwell Lane. No formal parking agreement exists with neighboring properties.

The Board concludes that adequate parking, on- and off-site, exists to meet the proposed change of use.

6. Conditional Use criteria, Section 303: A Commercial School and Recreation/Amusement Facilities are conditional uses in Industrial (IND)/Downtown Mixed-Use (DMU) zoning/overlay districts. 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 change of use will 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 that there will be fewer occupants (2-6) using the studios on a daily basis than for offices—the previous use. 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: No change is proposed to the exterior of the building. The Board concludes that the change of use will not have an undue adverse impact on the character of the area affected.
  - c. Section 303(e)(3) Municipal bylaws in effect: This project application submitted complies with the site plan review and conditional use criteria, and other applicable zoning bylaws. The Board concludes that the project 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 that there will be no smoke, vibration, or noise emitting from the studios and that there are air conditioners in each space that can be used to remove paint fumes and odors from the studio spaces. The Board concludes that the proposed air conditioners will help to 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.

7. Development Review in Special Flood Hazard Areas: A change of use does not meet the definition of Development in the SFHA; see definition below. Therefore, Special Flood Hazard Area review is not required for this project.

*(definition) Development: For the purposes of Article VI, Flood Hazard Area Regulations, "development" refers to any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Makersphere and Finlum LLC to change the use of the second floor of the existing mixed-use building at 30 Foundry Street, from offices to an artist collective as presented in application #020-19 and supporting materials, meets the Site Plan and Conditional Use criteria set forth in Sections 301 and 303.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Bud Wilson seconded the motion, to approve application #020-19 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 the Findings of Fact, Conclusions of Law, and Conditions in zoning permit approval #22-16-T.

**Vote:** The motion was approved 4-0.

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

Approved: 6/5/2019  
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(date)

This decision was approved on June 5, 2019.

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 #023-19 ▪ May 1, 2019**

**In Attendance:** Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary). Alyssa Johnson (Economic Development Director) was also present.

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Applicant/Owner:	Caleb Ainsworth (applicant), KCOS Holdings LLC (owner)	
Address/Location:	Parcel 010-1295, US Route 2, Waterbury, VT	
Zones:	Medium-Density Residential (MDR) & Special Flood Hazard Area (SFHA)	
Application #	023-19	Tax Map # 12-040.000

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**Applicant Request**

The Applicant seeks approval for a two-lot subdivision and development in the Special Flood Hazard Area to construct two duplex buildings with garages on Parcel 010-1295, US Route 2.

**Present and sworn in:**

Caleb Ainsworth, Applicant  
John Grenier, Engineer for Applicant  
Penny Carpenter, Adjoining Landowner  
Clem & Donna Despault, Adjoining Landowner

**Exhibits**

- A: Application #023-19 (7 pp: Zoning, Subdivision, Overlay District), submitted 4/2/19.
- B: Project cover letter by Grenier Engineering, dated 3/29/19, submitted 4/2/19.
- C: Overall Site Plan for KCOS Holdings LLC, prepared by Grenier Engineering, Sheet 1 of 2, dated 1/24/18, last revised 2/1/19.
- D: Site Grading Plan prepared by Grenier Engineering, Sheet 2, dated 1/5/18, last revised 2/1/19.
- E: Volume Plan prepared by Grenier Engineering, dated 1/25/19.
- F: Smart Vent Specifications (6 pages), ICC-ES Report, reissued 2/2017; submitted 4/2/19.
- G: Building Details for KCOS Holdings LLC, by Grenier Engineering, dated 4/26/19, submitted 5/1/19.
- H: Fill Calculations letter by Grenier Engineering, dated 4/22/19, submitted 5/1/19.
- I: Letter to adjoining landowners, mailed certified: 4/12/19.
- J: Orthophoto of the parcel with the Special Flood Hazard Area overlay (Staff).
- K: E-mail correspondence from Steve Lotspeich to Applicant re: SFHA requirements, dated 4/3/19

**Findings of Fact**

1. Existing conditions: KCOS Holdings LLC owns an 8.9 acre parcel located at 1295 US Route 2. The parcel is currently undeveloped, but previously included a gravel access road that was used for obtaining water from the Winooski River for road construction purposes. The property has no existing water supply or septic system; and includes approximately 475' of frontage on US Route 2. The parcel has an existing curb cut on U.S. Route 2 serving the existing gravel access drive. The parcel is located in the

Medium-Density Residential (MDR) zoning district and the majority of the parcel lies within the Special Flood Hazard Area (SFHA) overlay district (Exhibit C).

2. Proposal: The proposal is to construct two duplex dwellings that will each be 3,600 sq. ft. with garages on the lower level. Cut-and-fill will be required to elevate the lowest floor of the dwelling to at least two feet above the base flood elevation (BFE). The garage floors are located below the BFE and will be outfitted with five Smart Vents for each building for flood management (Exhibits B, F, and G). All enclosed spaces below the BFE are designed to automatically equalize during a flood event with the vents provided. The basement/garage levels will include no habitable space, only vehicle storage, building access, and general storage. The lower basement/garage levels will be constructed entirely of flood proof materials such as concrete and will not contain any utilities.

The proposal is also to subdivide the property into two lots as shown on Exhibit C, of the following size: Lot #1 will contain 4.5+/- acres to the centerline of U.S. Route 2 and 4.4+/- acres to the edge of the road right-of-way. Lot #2 will contain 4.4+/- acres to the centerline of U.S. Route 2 and 4.3+/- acres to the edge of the road right-of-way. Lot #1 will have frontage (lot width at building front line) of 210'+/- and Lot #2 will have frontage of 320'+/-.

3. Section 504 General Dimension Requirements: In the MDR zoning district, the minimum lot size is 2 acres; the minimum frontage is 200'; the maximum height is 35'; and the minimum setbacks are: 60' front, 50' sides/rear. The two lots meet the minimum lot size and frontage requirement. The proposed dwellings will meet the maximum height and minimum setback requirements.
4. Section 604 Special Flood Hazard Area Development Standards: Most of the parcel is within the Special Flood Hazard Area (SFHA), including the site for the proposed duplexes (Exhibits C and D). The BFE at the building sites is 413.75'. The finished floor elevations (FFE) of the basement/garage levels will range from 407.5' to 409.5' (Exhibits C and D). The dwelling living spaces will be built above the basement/garage levels with the lowest floor ranging from 416.5' to 418.5', which is a total difference in elevation of 9'0" for each dwelling. The lowest floor of each dwelling will be more than two feet above the BFE, which meets the requirements of the Flood Hazard Area Regulations, Section 604(a)(6).

There will be five Smart Vents for each of the four dwelling units that will all be located no more than one foot above the lowest adjacent grade, and the interior slab height. One vent is required for every 200 sq. ft. of enclosed basement floor area. The basement for each dwelling unit is 900 sq. ft. requiring five vents per dwelling unit for a total of 20 Smart Vents.

All exterior propane tanks shall be flood-proofed by being buried and anchored to prevent movement or flotation as per Section 604(a)(4)(A).

5. Sections 604(a)(10 & 11) Fill and compensatory storage: The cut and fill for the site has been balanced as described in Exhibit B and E. The proposed compensatory cut area is in the field between the duplexes and the Winooski River, and includes the removal of a portion of the gravel that was previously used to construct the access road to the river. The gravel will be used for fill for the duplexes. The letter from Grenier Engineering with the subject line: Fill Placement for Ainesworth Property, Route 2, Waterbury, Exhibit B1, certifies that this "cut / fill has been balanced to ensure no additional floodwaters will be

displaced.” The letter states that the site was reviewed by state Floodplain Manager, Rebecca Pfeiffer, and she agreed with the location of the fill placement and the balanced cut / fill design.

6. Exhibits C and D show the clearing limits and all areas of existing vegetation to be retained to provide landscaping and screening. These areas to be retained shall be left undisturbed. Exhibits C and D also show six trees to be planted along the main access drive. These site plans do not address the locations and provisions for either anchoring or elevating the trash receptacles above the BFE.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Caleb Ainsworth and KCOS Holdings LLC for a two-lot subdivision and development in the Special Flood Hazard Area to construct two duplex buildings with garages on Parcel 010-1295, US Route 2 in the MDR and SFHA zoning and overlay districts, as presented in application #023-19 and supporting materials, meets the Subdivision criteria and Special Flood Hazard Area development standards as set forth in Sections 1202 and 604.

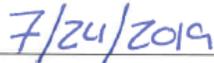
**Decision Motion:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Andrew Strniste seconded the motion to approve application #023-19 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.
- (3) The Applicant shall submit a revised site plan prior to the issuance of the zoning permit that addresses the location of the trash receptacle and includes a detail drawing to demonstrate that it will be elevated or adequately anchored to prevent flotation or release.
- (4) The access driveway to U.S. Route 2 must be approved by the Vermont Agency of Transportation, which the Applicant shall obtain prior to commencing any construction activities within the public road right-of-way.
- (5) The Applicant shall follow the Low-Risk Erosion Protection and Sediment Control measures during construction.
- (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.
- (7) The Applicant shall submit an application for a Certificate of Completion, including a copy of the Elevation Certificate and all other submittal requirements, upon completion of the project and related site work, and obtain approval of same, prior commencing the use or occupancy of the structure.

**Vote:** Motion passed: 4-0.

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

  
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(date)

This decision was approved on July 24, 2019.

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 permits that 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.*