

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—June 5, 2019

Board members present: Dave Frothingham (Chair), Tom Kinley, Dave Rogers, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

Dave Frothingham, Chair, opened the meeting at 6:30 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

- 1) The first agenda item (#025-19 Ajanma) was withdrawn by the Applicants, as the project was revised and meets the setback requirements.
- 2) **#037-19: James Megrath** (owner/applicant)
Setback waiver request to construct a residential garage at 284 Ruby Raymond Road. (LDR)

Testimony

- A wetland permit will be required.
- The neighbor asked about the height of the garage (35') and what would be stored inside it.
- There will be no materials stored outside of the garage.

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

- 3) **#038-19: Jane and Greg Evans** (owner/applicant)
Site plan and conditional use to construct an attached garage with a one-bedroom accessory dwelling unit at 3079 Waterbury-Stowe Road. (RT100)

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

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

- Review minutes and decisions from previous meetings (May 1 and May 15)
Tom Kinley moved; Dave Rogers seconded, to approve the general minutes from May 1 and May 15 and the decisions #020-19 Makersphere and #010-19 Staskus, as amended.

Vote: Motion approved: 5–0.

Adjournment: The meeting was adjourned at 8:30 p.m.



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

Approved on: 6/19/2019
(date)

These minutes were approved: June 19, 2019

Notice of next meetings:

Wednesday, June 19, 2019, 6:30 p.m.

Wednesday, July 10, 2019, 7 p.m. *Note: Mtg. is on 2nd Wed. and starts 30 mins. later than usual.*

Wednesday, July 24, 2019, 6:30 p.m. **Library SAL Rm.** *Note: This mtg. is on the 4th Wed. & will be held in the SAL Room in the Library.*

**Town of Waterbury
Development Review Board
Decision #037-19 - June 5, 2019**

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, Dave Rogers, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

Applicant/Owner:	James Megrath	
Address/Location:	284 Ruby Raymond Rd., Waterbury Center, VT	
Zoning District:	Low-Density Residential (LDR)	
Application #	037-19	Tax Map # 05-050.000

Applicant Request:

The applicant seeks approval to construct a detached single-story garage for the existing single-family dwelling within the northwest side and rear setbacks at 284 Ruby Raymond Rd.

Present and sworn in:

James Megrath, applicant
George McCain, consultant
Troy Morton, abutting landowner

Exhibits:

- A: Application #037-19 (3 pages: zoning, conditional use), submitted 5/6/19.
- B: Cover letter from McCain Consulting, Inc. dated 5/6/19.
- C: Site Plan by McCain Consulting, Inc. dated 5/3/19.
- D: Orthophoto of subject parcel and neighboring area. (Staff)
- E: Photos of Existing Dwelling from McCain Consulting, submitted 6/5/19.
- F: Notice to adjoining landowners, mailed certified on: 5/15/19.

Findings of Fact

1. Existing conditions: James Megrath owns a 1.00 acre parcel located at 284 Ruby Raymond Rd. The property is developed with a single-family dwelling, built in 1935. The property has 156'± of frontage on Ruby Raymond Rd., is served by a well and on-site septic system, and is located in the Low-Density Residential (LDR) zoning district. The lot and the dwelling predate the establishment of zoning regulations in the Town in 1980 and the lot is considered a pre-existing and nonconforming small lot. The existing dwelling does not meet the LDR front and side setback requirements. There is an existing wetland on the site shown on Exhibit C, the Site Plan.
2. Proposal: The proposal is to build a 28' x 32', 900+/- sq. ft. single-story garage with a gambrel roof, and will not exceed a height of 35'. The garage will be barn red with white trim, which is similar to the colors of the existing house. The garage will have board and batten or a similar material for the siding. The garage will have a downcast and shielded light on the front controlled by a motion detector.

The garage will be located 25' from the northwest side property line and 50' from the rear property line to

the southwest. There is an existing wetlands and 50' wide buffer shown on Exhibit C, the Site Plan. The garage will be located outside the wetland and the wetland buffer; however, the proposed driveway that will connect the garage to the existing driveway will impact the wetland buffer requiring a State Wetland Permit as noted in Exhibit B, the Cover Letter.

The rear portion of the lot where the garage will be located is wooded. The area of the garage and new driveway will be cleared; however, the surrounding area will remain wooded providing screening as viewed from the neighboring properties.

3. LDR Dimensional Requirements, Table 5.2: Minimum lot area: 5 acres; minimum frontage: 300'; minimum setbacks: 70' front, 75' sides/ rear. The lot does not meet the minimum lot size and frontage requirements. The existing house does not meet the northwest side and front setback requirements. The existing lot frontage is approximately 160'. The garage will meet the front setback; however, it will require waivers from the northwest side and the rear setbacks.
4. Waiver Request: The setback waiver request is to encroach into the northwest side-yard setback by 50' (75' minus 25'), and the rear setback by 25' (75' minus 50').
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 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 residential garage 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: The use of the property will remain residential. The proposed garage will be a similar color to the existing dwelling. As noted in the application: “Accessory structures are a permitted use in the LDR District and are in character with all other existing development along Ruby Raymond Rd. Adjoining properties where the setback waivers are requested are undevelopable due to the size/shape of the parcels.”
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. The application states: The proposed garage will require a waiver of setback requirements. All other dimensional requirements are met. 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 project is a garage for an existing dwelling. A typical residential garage use will not emit any of the above-named nuisances. 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 James Megrath to construct a detached garage for an existing dwelling 50' within the northwest side setback and 25' within the rear setback at 284 Ruby Raymond Rd., as presented in application #037-19 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved, and Tom Kinley seconded the motion, to approve application #037-19 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.

Vote: Approved 5–0.

Dave L Frothyghan
 (Chair) (Vice-Chair) (Acting Chair)

Approved: 6/19/2019
 (date)

This decision was approved on June 19, 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, 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 of Waterbury
Development Review Board
Decision #038-19 - June 5, 2019**

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, Dave Rogers, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

Owner/Applicant:	Jane and Greg Evans	
Address/Location:	3079 Waterbury-Stowe Road, Waterbury Center, VT	
Zoning District:	Route 100 (RT 100)	
Application #	038-19	Tax Map # 09-315.000

Applicant Request:

The Applicant seeks approval to construct an attached garage with a one-bedroom accessory dwelling at 3079 Waterbury-Stowe Road and change the use configuration to a single-family dwelling with a guest/lodging room (B&B) and an accessory apartment.

Present and sworn in:

George McCain, Consultant

Exhibits:

- A: Application #038-19 (6 pp: Zoning Permit, Site Plan, Conditional Use), submitted 5/6/19.
- B: Cover letter prepared by McCain Consulting, Inc., dated 5/6/19, including Response to Conditional Use Criteria.
- C: Site Plan for Greg and Jane Evans Proposed Multi-Family Residence, prepared by McCain Consulting, Inc., Sheet C-1, dated 4/30/19; revised 6/5/19 and title block changed to: Greg and Jane Evans Proposed Residential Addition and Change In Use.
- D: Survey, prepared by McCain Consulting, sheet 1 of 1, dated 4/24/19.
- E: Elevations and Isometric Views of proposed building prepared by Kim Brown, dated 6/4/19 and submitted 6/5/19.
- F: Floor plans, prepared by Kim Brown, dated 6/4/19 and submitted 6/5/19.
- G: Listing from the State Register of Historic Places and historic photograph.
- H: Orthophotos of parcel. (Staff)
- I: Letter to adjoining landowners, mailed certified on 5/15/19.
- J: Copy of prior DRB decision #080-18, for reference. (Staff)

Findings of Fact:

1. Existing conditions: Cynthia & Gregory Evans own a 2.53 acre parcel located at 3079 Waterbury-Stowe Rd. in the Route 100 (RT100) zoning district. The lot is currently developed with a two-story cape style historic brick house built circa 1845. The building is individually listed on the National and State Register of Historic Places as shown in Exhibit G. The existing house is a single-family dwelling with a one-bedroom efficiency unit, and an attached two-story garage. The lot is served by a private on-site well

and septic system as shown on Exhibit C, the Site Plan.

2. Proposal: The proposal is to change the use of the existing single-family dwelling with an accessory apartment to a single-family dwelling with a tourist house/B & B and a new accessory apartment above the rebuilt garage. The project includes removing the existing garage/stable wing and replacing it with a two-bay garage with a one-bedroom accessory apartment on the second floor. The new structure will be approximately two feet taller than the existing garage/stable wing that will be replaced. The new structure will also include a deck along the northwest or rear of the building, as shown on Exhibits C and F. The existing access to the site will be reconfigured to promote safe vehicular access to the site. A VTrans access permit will be obtained for the new access.
3. RT100 Dimensional Requirements, Table 5.2: Minimum lot area: 2 acres for residential use; minimum frontage: 200' for residential use; minimum setbacks: 200' front for residential structures, 50' sides/rear. The lot meets the minimum lot size for residential use. The existing house and garage do not meet the front setback requirement. The main section of the existing dwelling is set back approximately 21' from the right-of-way for Waterbury-Stowe Road (Route 100) and the existing garage/stable wing is set back approximately 30' from the Waterbury-Stowe Road right-of-way. The existing lot frontage (lot width at the building front line) is approximately 284'.
4. Site Plan Review criteria, Section 301: The Tourist House / B & B requires Site Plan Review and is subject to the criteria in Sections 301(f)-(j). The Board considered the following objectives:
 - a. Adequacy of traffic access and pedestrian safety, Subsection (f)(1)(A-D): The project will improve the traffic access to and from the site with a single curb cut on Waterbury-Stowe Road (Route 100) that will meet the VTrans B-71 standard. The project includes improved pedestrian access to the two entrances to the house that were approved by the Board under permit #080-18. (Exhibits C, E, F).
 - b. Adequacy of circulation and parking, Subsection (f)(2)(A-D): The project creates one additional parking space from the existing site conditions, including two spaces in the proposed garage for a total of four parking spaces. The single-family dwelling and the accessory apartment require three spaces, which leaves one space available for the tourist house / B & B efficiency unit (Exhibits A, C).
 - c. Adequacy of landscaping, screening, and lighting, Subsection (f)(3):

(A-C) All existing landscaping on the site shall remain in place.

(D) New and replacement exterior lighting shall be downcast and shielded.

(E-F) All trash and recyclable receptacles shall be kept inside the proposed garage or beneath the stairs, as indicated on Applicant's Exhibit F. No additional screening is proposed.
 - d. Special considerations for uses of property bordering Route 100, Subsection (j): The reconstruction of the driveway entrance and driveway and parking areas will create additional green space between the structures and Waterbury-Stowe Road (Route 100), providing additional opportunities for future landscaping.

5. Waiver Request, Section 309: The setback waiver request for the proposed garage / accessory apartment structure is to encroach into the front yard setback by not more than 170' (200' minus 30'). This is slightly farther from the Route 100 right-of-way than the existing garage/stable wing.
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 general and specific standards:
 - a. Section 303(e)(1) Community facilities: No change in the residential use of the property is proposed. The residential garage with the accessory apartment on the second floor and the Tourist House / B & B do not require 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: The use of the property will remain residential. The proposed garage and accessory apartment will be similar in design, materials and color to the existing dwelling. Regarding subsection (C) Will not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas; Applicant's Exhibit B states: "The Evans house was constructed circa 1845 and is listed on the State Registry of Historic Sites. The former stable portion of the structure is being removed and replaced with a new attached garage structure. The existing stable is not structurally salvageable. Architectural renderings of the proposed new addition are enclosed. The State of Vermont does not identify any rare, threatened, or endangered species, or deer wintering areas on the parcel."
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. This project application presents compliance with the site plan, waiver, and 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: The project is a garage with an accessory apartment for an existing dwelling and Tourist House / B & B. This typical residential use will not emit any of the above-named nuisances. 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 Jane and Greg Evans to construct an attached garage with a one-bedroom dwelling that will serve as an accessory dwelling, and establish a single-family dwelling with a Tourist House / B & B use at 3079 Waterbury-Stowe Road, in the RT100 zoning district, meets the Site Plan, Waivers, and Conditional Use criteria set forth in sections 301, 309 and 303.

Motion:

On behalf of the Waterbury Development Review Board, Andrew Strniste moved and Dave Frothingham seconded the motion to approve application #038-19 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. Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permits #087-17, #088-17, and #080-18.
4. The tourist house cannot be rented to the same occupant(s) for more than seven consecutive days.
5. The property owner must occupy either the primary dwelling or the accessory dwelling to maintain compliance with the definitions of Accessory Dwelling Unit and Tourist House / B & B.
6. The access driveway to U.S. Route 100 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.

Vote: The motion was approved 4–1.



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

Approved: 7/30/2019

 (date)

This decision was approved on: July 30, 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, 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.*