

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—July 10, 2019

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

Dave Frothingham, Chair, opened the meeting at 7:05 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

PUBLIC: A resident, Lorelei Wyman, came to discuss a prior hearing, #047-19 heard on 06/19/19, which she attended and offered testimony at. She presented her concern that her testimony was inaccurate. Her other concerns concluded with asking for the application and hearing to be reopened.

- 1) **#030-19: Eric Poulin** (owner/applicant)
Setback waiver request to construct a single-family dwelling on Lot 41 (parcel 230-0115) East Countryside Road. (RT100 zoning district)

Present and sworn in:

Eric Poulin, owner/applicant
Emmanuel Ajanma, adjoining landowner

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

- 2) **#059-19: Don & Shannon Linde** (owner), **Jay Ribera/Stowebury Construction** (applicant).
Setback waiver request to construct a dwelling addition at 771 Blush Hill Road. (LDR zoning district)

Present and sworn in:

Don & Shannon Linde, owner
Jay Ribera, applicant/consultant

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

- 3) **#063-19: Alan Dibbell** (owner/applicant)
Setback waiver request to construct a porch addition at 289 Maggies Way. (LDR zoning district)

Present and sworn in:

Alan Dibbell, owner/applicant

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

- 4) **#065-19: Aaron Schulman** (owner/applicant)
Setback waiver request to construct a second-story dwelling addition at 11 Moody Court. (VR zoning district)

Present and sworn in:

Aaron Shulman, owner/applicant

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

- 5) **#040-19: Grace Investment Properties LLC** (owner/applicant)
Site plan and conditional use review to construct a multi-family structure with eight dwelling units at 3579 Waterbury-Stowe Road. (TCOM)

Present and sworn in:

Jonathan Grace, owner/applicant

Robert Grace, owner/applicant

John Pitrowski, consulting engineer

Adjoining Landowners: David, Leslie, and Matthew Spaulding

The neighbors, the Spauldings, discussed their concerns with the landscaping. They would like the landscaping to not block the sun to their property. They generally support the project.

Considerations:

- Front façade of the building
- Snow storage
- Unobstructed parking, additional parking
- Landscaping, dumpster location and screening
- Check the width of the Route 100 right-of-way

The Chair continued the hearing to 6:30 p.m. on Wednesday, August 7, 2019.

- 6) **#056-19: Furst Management Ventures LLC** (owner/applicant)
Site Plan and conditional use review to reconfigure the commercial parking lot, landscaping, and lighting at 14 South Main Street. (DC/DDR-HC/SFHA zoning/overlay districts)

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

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

- Review minutes and decisions from the previous meeting, June 19, 2019:
Tom Kinley moved and Dave Rogers seconded the motion to approve the general minutes from June 19, 2019 and decisions #030-19 (Poulin), #047-19 (Boehme), and #049-19 (Pelkey), as amended.

Vote: Motion approved: 4-0

Adjournment: The meeting was adjourned at 9:25 p.m.



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

Approved on: 7/24/2019
(date)

These minutes were approved: July 24, 2019.

Notice of next meetings:

Wednesday, July 24, 2019, 6:30 p.m., Library SAL Room.

Wednesday, August 7, 2019, 6:30 p.m., Steele Community Room.

Town & Village of Waterbury
Development Review Board
Decision #030-19 ▪ June 19 / July 10, 2019

In Attendance:

(6/19/19) Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

(7/10/19) Board members present: David Frothingham (Chair), Tom Kinley, Dave Rogers, and Bud Wilson. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

Owner/Applicant:	Eric Poulin	
Address/Location:	163 (parcel 230-0115) East Countryside Road, Waterbury, VT	
Zone:	Route 100 (RT100)	
Application #	030-19	Tax Map # 13-114.010

Applicant Request

The applicant seeks approval to construct a single-family dwelling within the rear setback on 163 East Countryside Road, Waterbury, VT.

Present and sworn in:

(6/19/19) Eric Poulin, owner
Scott Search, abutting landowner
Emmanuel Ajanma, abutting landowner

(7/10/19) Eric Poulin, owner
Emmanuel Ajanma, abutting landowner

Exhibits

- A: Application #030-19 (4 pages: zoning, conditional use), submitted 5/9/19.
- B: Drummond House Plans brochure, submitted 5/9/19.
- C: Site Plan, annotated by Applicant (base map from Miller Trust Site Plan by Thetford, dated 1998), and submitted 5/9/19.
- D: Parcel maps with orthophoto base layer (Staff).
- E: Elevations by Drummond House Plans, dated 9/18/17, submitted 5/9/19.
- F: Floor plans by Drummond House Plans, dated 9/18/17, submitted 5/9/19.
- G: Letter to adjoining landowners, mailed certified on 6/5/19.

Findings of Fact

1. Existing conditions: Eric Poulin owns a 2.0± acre parcel at 163 East Countryside Road. The lot is undeveloped. The lot includes 120± feet of frontage on East Countryside Road and is in the Route 100 (RT100) zoning district. A seasonal stream runs along its westerly property line. (Exhibit C).

Background: Zoning permit #117-91-T, submitted by Howard Miller for a three-lot subdivision to create Lots 40, 41, and 42, was approved by the Planning Commission at their January 23, 1992 meeting. The subdivision chapter in the current Zoning Regulations was added in 2013.

2. Project: The proposal is to construct a two-story single-family dwelling with a 42' by 44' footprint, containing 1,772 SF of floor space. The proposed dwelling will be located not less than 40' from the nearest side property line and 12' from the rear property line (Exhibit C). The lot is proposed to be served by a private well and a septic system located within an easement on an adjacent property.
3. RT100 Dimensional Requirements, Table 5.2: *Minimum lot area: 2 acres (residential); frontage: 200' (residential); minimum setbacks: 100' front, 50' sides/ rear.* The lot might not have adequate frontage, meets the minimum lot size, and the dwelling as proposed will not meet one or more setbacks.
4. Waiver Request: The setback waiver request is to encroach into the rear-yard setback by 38' (50' minus 12'), and the side-yard setback by 10' (50' minus 40').
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 considered the following general and specific standards:
 - (a) Section 303(e)(1) Community facilities: The project proposes a single-family dwelling, which is a permitted use. The property will be served by private well and a septic system located within an easement on an adjacent parcel. 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. The style of the structure is as shown on the elevations (Exhibit E). The proposed use is residential in an area of residential development. The Board concludes that the project is appropriate in scale and design in relation to existing uses and structures in the area 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 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 Eric Poulin to construct a single-family dwelling 10' within the side setback and 38' within the rear setback at 163 East Countryside Road, as presented in application #030-19 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Decision Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Bud Wilson seconded the motion to approve application #030-19 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. (If exterior lighting proposed.)
- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in the prior zoning permit approval: #117-91-T.

Vote: The motion was approved 4-0.



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

Approved: 7/10/2019

(date)

This decision was approved on: July 10, 2019.

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, 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 #059-19 - July 10, 2019

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

Applicant/Owner:	Don & Shannon Linde	
Address/Location:	771 Blush Hill Rd., Waterbury, VT	
Zoning District:	Low-Density Residential (LDR)	
Application #	059-19	Tax Map # 13-029.000

Applicant Request

The applicant seeks approval to construct a 5' x 33' addition to the existing single-family dwelling, within the north side and west rear setbacks at 771 Blush Hill Rd.

Present and sworn in:

Don & Shannon Linde, homeowner/applicant
Jay Ribera, Contractor

Exhibits

- A: Application #059-19 (3 pages: zoning, conditional use), submitted 06/04/19.
- B: Letter from Blush Hill Country Club dated 06/10/19 and e-mail from contractor Jay Ribera, dated 06/04/19.
- C: Site Plan by McCain Consulting, Inc. dated 12/06/18.
- D: Floor plan for proposed addition, designed 5/24/19
- E: Elevation of proposed addition by Jay Ribera, submitted 6/17/19
- F: Orthophotos of subject parcel and neighboring area, 2 pp. (Staff)
- G: Notice to adjoining landowners, mailed certified on: 06/24/19
- H: House remodeling plans, dated 07/05/19

Findings of Fact Existing conditions: Don & Shannon Linde own a 0.28 acre parcel located at 771 Blush Hill Rd. The property is developed with a single-family dwelling, built in 1890. The property is accessed by a right-of-way over the Blush Hill Country Club property, which surrounds the Linde parcel on all sides. The Linde property 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, which were established in 1980, and is therefore, considered a pre-existing and nonconforming small lot. The existing dwelling does not meet the LDR front, side, and rear setback requirements.

Prior Approval: Permit #121-18, Boundary Line Adjustment to extend the parcel and reduce non-conformities.

2. Proposal: The Applicants propose to build a 5' x 33', 165+/- sq. ft. single-story addition on the north side of the house, thereby expanding the current 1st floor living area for "aging in place". The addition will have cedar colored shingle siding and an asphalt shingle roof to match the existing house. No additional exterior lighting is proposed.

The addition will be located 60' from the north side property line and 17' from the west rear property line as shown on Exhibit C, the Site Plan. The addition will not decrease any of the existing setbacks for the house.

The existing house and garage are surrounded by a green, tee, and fairways for the golf course and are a significant distance from the golf course's club house and any other houses in the vicinity.

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 and garage do not meet any of the front, side and rear setback requirements. The existing lot frontage (lot width at the building front line) is approximately 115'.
4. Waiver Request: The setback waiver request is to encroach into the north side-yard setback by 15' (75' minus 60'), and the west rear setback by 58' (75' minus 17').
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 addition does not require municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The application states: "The expansion is only for the current owner/residents use for first floor living vs. second floor (living).
 - b. Section 303(e)(2)(A-E) Character of the area: The use of the property will remain residential. The proposed addition will be of similar materials and of similar color to the existing dwelling. The application states: "the finishes of the new addition will be the same as the existing structure intended to tie to and look essentially the same."
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. 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 an addition for an existing dwelling. A typical residential 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:

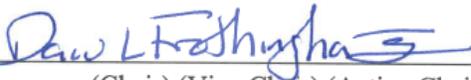
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Don & Shannon Linde to construct an addition to an existing dwelling, 15' within the north side setback and 58' within the west rear setback at 771 Blush Hill Rd., as presented in application #059-19 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 Bud Wilson seconded the motion to approve application #059-19 with the following conditions:

- (1) The Applicants 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.


 _____,
 (Chair) (Vice-Chair) (Acting Chair)

Approved: 7/24/2019

 (date)

This decision was approved on: July 24, 2017

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 #063-19 - July 10, 2019

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

Applicant/Owner:	Alan Dibbell	
Address/Location:	289 Maggies Way, Waterbury Center, VT	
Zoning District:	Low-Density Residential (LDR)	
Application #	063-19	Tax Map # 09-074.000

Applicant Request

The Applicant seeks approval to construct an 8' x 8' entrance porch on the south side of the existing single-family dwelling, within the front setback at 289 Maggies Way.

Present and sworn in:

Alan Dibbell, Applicant

Exhibits:

- A: Application #063-19 (3 pages: zoning, conditional use), submitted 6/5/19.
- B: Elevation of similar house with entrance porch, submitted by applicant 6/5/19.
- C: Orthophoto of subject parcel showing proposed porch, dated 5/30/19.
- D: Assessor photos of house showing existing entrance and steps.
- E: Notice to adjoining landowners, mailed certified on: 6/26/19.

Findings of Fact:

1. Existing conditions: Alan Dibbell owns a 1.6 acre parcel located at 289 Maggies Way. The property is developed with a single-family dwelling, built in 1979. The property is accessed by a driveway off of Maggies Way, south of the existing house and garage. The property 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 is therefore considered a pre-existing and nonconforming small lot. The existing dwelling does not meet the LDR front, and north side setback requirements.
2. Proposal: The Applicant proposed to build an 8' x 8' (64+/- sq. ft.) entrance porch on the south side of the house to provide improved access to the main entrance to the house. The porch and steps will be constructed out of pressure treated wood and will have railings to match the existing deck on the south side of the house. No additional exterior lighting is proposed.

The porch will be located 45' from the right-of-way for Maggies Way as shown on Exhibit C. The porch will not decrease any of the existing setbacks for the house and garage.

The existing house and garage are surrounded by trees and shrubbery as shown on Exhibit D, and are

well screened from other houses in the vicinity.

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. The existing house and garage do not meet front and north side setback requirements. The existing lot frontage (lot width at the building front line) is approximately 300'.
4. Waiver Request: The setback waiver request is to encroach into the front yard setback by 25' (70' minus 45').
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 porch does 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 porch will be of similar materials and of similar color to the existing dwelling. The application states: “It’s just a porch.”
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. 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 porch for an existing dwelling. A typical residential 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 Alan Dibbell to construct an entrance porch for an existing dwelling, 25' within the (direction?) front setback at 289 Maggies Way, as presented in application #063-19 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 #063-19 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: The motion was approved 4-0.



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

Approved: 7/24/2019

(date)

This decision was approved on: July 24, 2019

***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 #065-19 - July 10, 2019

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

Owner/Applicant:	Aaron Schulman	
Address/Location:	11 Moody Court, Waterbury, VT	
Zoning District:	Village Residential (VR)	
Application #	065-19	Tax Map # 19-392.000

Applicant Request

The Applicant seeks approval to construct a second floor addition and raise the roof of the existing single-family dwelling, within the front, side, and rear setbacks at 11 Moody Court.

Present and sworn in:

Aaron Shulman, Owner/Applicant

Exhibits:

- A: Application #065-19 (3 pages: zoning, conditional use), submitted 6/10/19.
- B: Site Plan including neighboring houses prepared by Applicant, submitted 6/10/19.
- C: Elevations of proposed house showing existing and proposed roof lines, submitted by Applicant on 6/10/19.
- D: Assessor photo of existing house. (Staff)
- E: Orthophoto of subject parcel and neighboring area, dated 6/7/19. (Staff)
- F: Notice to adjoining landowners, mailed certified on: 6/24/19.

Findings of Fact:

1. Existing conditions: Aaron Schulman owns a 0.07± acre parcel located at 11 Moody Court. The property is developed with a single-family dwelling, built in 1930. The property is accessed by a driveway off Moody Court, north of the existing house and garage. The property is served by the municipal water and wastewater system, and is located in the Village Residential (VR) zoning district. The lot and the dwelling predate the establishment of zoning regulations in 1980. Therefore, the lot is considered a pre-existing and nonconforming small lot. The existing dwelling does not meet the VR front, north side, and rear setback requirements.
2. Proposal: The proposal is to raise the roof of the existing dwelling from 18' to 24' high to create a full second floor as shown on Exhibit C (the elevations of the proposed house). The reconstructed second floor will cover the entire footprint of the existing house. Upon completion, the reconstructed house will be similar in general character to the existing house. New exterior lighting may be added.

The footprint of the existing house will not be expanded and the existing setbacks will not be decreased; however, the second floor of the house will extend farther into the setbacks for the VR zoning district, as

shown on Applicant's Exhibit C.

3. VR Dimensional Requirements, Table 5.2: Minimum lot area: 10,000 SF.; no minimum frontage requirement; maximum lot coverage: 25%; minimum setbacks: 30' front and rear, 10' sides. The lot does not meet the minimum lot size. The project will not increase the lot coverage. The existing house and garage do not meet the front, side to the north-west, and rear setback requirements. The existing lot frontage (lot width at the building front line) is approximately 66'.
4. Waiver Request: The setback waiver request is to encroach into the front yard (north-easterly) setback by 19' (30' minus 11'), the side yard (north-westerly) setback by 8' (10' minus 2'), and the rear yard (south-westerly) setback by 22' (30' minus 8'). The encroachment includes the proposed roof overhang.
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 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 second-story addition does 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 re-constructed house will be of similar materials and colors to the existing dwelling. The application states: "Planned expansion will match existing character of the neighborhood, and will have no adverse impact."

Section 303(e)(2)(C): The proposed project "[w]ill not have an undue adverse effect on the scenic or natural beauty of the area, historic sites, or rare and irreplaceable natural areas;" The house at 11 Moody Court has been proposed as a contributing structure to the expanded Waterbury Village Historic District that has been approved by the Waterbury Select Board and the State of Vermont Advisory Council on Historic Preservation. The proposed re-construction of the house will make the structure in-eligible to be included as a contributing structure to the expanded Waterbury Village Historic District. However, the structure is not listed on the current National Historic Register and the property is not included in the current Downtown Design Review Overlay District. The proposed re-construction project complies with this bylaw.
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. 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 includes the construction of a second story for the existing dwelling. A typical residential 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:

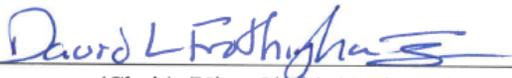
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Aaron Schulman to re-construct the existing dwelling that expands the second floor, 19' within the front setback, 8' within the northerly side setback, and 22' within the rear setback at 11 Moody Court, as presented in application #065-19 and supporting materials, meets the Waivers and Conditional Use criteria as 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 #065-19 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: The motion was approved 4-0.



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

Approved: 7/24/2019

(date)

This decision was approved on: July 24, 2019

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 #056-19 □ July 10, 2019**

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

Applicant/Owner:	Furst Management Ventures LLC	
Address/Location:	14 South Main Street, Waterbury, VT	
Zones:	Downtown Commercial (DC), Downtown Design Review (DDR)/Historic Commercial (HC), and Special Flood Hazard Area (portions) overlay	
Application #	056-19	Tax Map # 19-350.000

Applicant Request:

The Applicant seeks approval to revise the S. Main Street access drive and reconfigure the layout, lighting, and landscaping for the existing commercial parking lot at 14 South Main Street.

Present and sworn in:

Brian Leven, Owner/applicant
John Grenier, Engineer for owner

Exhibits:

- A: Application #056-19 (Zoning, Site Plan, Conditional Use, Overlay District), submitted 5/31 & 6/18/19.
- B: Project description prepared by Grenier Engineering, PC, dated 5/31/19.
- C: (C1) Overall Site Plan for Furst Inc., prepared by Grenier Engineering, dated 2/15, revised 7/9, and submitted for review 7/10/19;
(C2) Site Grading Plan for Furst Inc., prepared by Grenier Engineering, dated 2/15, revised 7/9, and submitted for review 7/10/19.
- D: Parking Lot Details for Furst Inc., prepared by Grenier Engineering, dated 3/19, and revised 6/28/19.
- E: Lighting plan and table for The Vaults Site, prepared by Green Mountain Electric Supply, dated 6/27/19.
- F: Lighting specification sheets and project details prepared by Green Mountain Electric Supply, dated 6/21/19, submitted 6/28 and 7/9/19.
- G: Prior permit approvals #133-18 to establish commercial parking and signage; and #005-19 to remove the bank drive-through canopy and renovate the façade, for reference. (Staff)
- H: Letter to adjoining landowners, mailed certified on: 06/24/19

Findings of Fact F

1. Existing conditions: Furst Management Ventures LLC owns a 0.81± acre lot located at 14 South Main Street. The property is developed with a 10,024 SF two-story building and parking areas. The property is served by municipal water and sewer, includes frontage on and access drives to South Main Street and Bidwell Lane (Exhibit C). The parcel is in the Downtown Commercial (DC) zoning district, Downtown Design Review (DDR)/Historic Commercial (HC) overlay and sub-district, and portions of the parking

area lie in the Special Flood Hazard Area (SFHA) overlay, but not the building.

Background: In 2018 and 2019 the property obtained two approvals:

- 1) to establish commercial parking and signage (#133-18), and
- 2) to remove a drive-through canopy for the former bank and renovate the façade (#005-19).

2. Proposal: The project makes no change to the exterior façade or dimensions of the existing building, with the exception of mounting exterior wall lights as shown in Exhibit E. The Applicant proposes to re-align and re-construct the existing commercial parking lot to create additional parking spaces on the site, as well as achieve better traffic circulation and improved aesthetics. The project includes adjusted entry and exit points onto South Main Street, a new center island, new pole-mounted and building-mounted LED lighting, a new sidewalk connecting South Main Street to Bidwell Lane, and additional landscaping.
3. Table of Uses, Section 503: A commercial parking area is a conditional use in the Downtown Commercial (DC) zoning district. This use has already been approved; however, changes to the scope of the use require conditional use review.
4. Site Plan Review and Approval, Section 301: The project involves changes to parking, lighting, landscaping, and pedestrian circulation; therefore, it is subject to site plan review. The Board shall consider the following objectives:
 - a. Adequacy of traffic access and pedestrian safety, Subsection (f)(1)(A-D): The proposed project seeks to improve the traffic access to and from the site with separate “In” and “Out” driveways on Main Street. The project includes a pedestrian sidewalk along the south-easterly side of the parking lot and a pedestrian sidewalk along the southeast side of the building (Exhibit C).
 - b. Adequacy of circulation and parking, Subsection (f)(2):

(A-D) The project creates 27 additional parking spaces from what currently exists on-site, which includes two handicapped-access spaces. Future uses of the building will be applied for at a later time. The project includes regrading the parking area and replacement landscaping (Exhibit C).

(E) The lot will include 55 parking spaces, thereby requiring seven trees. Five existing trees will remain and 5 new trees are proposed, equaling 10 trees total on-site.

(F) This provision does not apply until building uses are proposed.

(G) The submitted plan does not designate an area for snow storage.
 - c. Adequacy of landscaping, screening, and lighting, Subsection (f)(3):

(A-C) Six trees will be removed and five new trees (Maple, 2” caliper) are proposed. A border of yew hedge screening along the southeasterly property line will remain.

(D) New and replacement lighting is proposed for the sidewalks, parking areas, and along the building. The application materials include specification sheets for downcast and shielded fixtures

(Exhibit F). The commercial parking area will operate 24 hours/day, 7 days/week.

(E-F) These provisions will apply when building uses are proposed.

- d. Special considerations for uses of property bordering Route 2, Subsection (j): The site is developed and screening exists. The location of the parking and loading areas are established.
5. Conditional Use criteria, Section 303: The proposed reconfiguration to a commercial parking area is a conditional use in the Downtown Commercial zoning district. Prior to granting approval, the Board considered the following general and specific standards:
 - (a) Section 303(e)(1) Community facilities: The operation of the parking lot will continue as it has previously, although it will now accommodate 55 cars under the revised plan.
 - (b) Section 303(e)(2)(A–E) Character of the area: Except for building-mounted lights, the project makes no changes to the exterior of the existing building. A pedestrian sidewalk and lighting are proposed, which will enhance pedestrian safety and a walkable village character.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The proposed use is before the Board for approval and 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 commercial parking service does not produce any of the above-mentioned impacts beyond what the parking area has been.
 - (e) Section 303(h) Removal of earth or mineral products conditions: The parking lot will be reconstructed and re-graded. Otherwise, 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 Furst Management Ventures LLC to reconfigure the layout, lighting, and landscaping and revise the S. Main Street access drive for the existing commercial parking lot at 14 South Main Street, as presented in application #056-19 and supporting materials, meets the Site Plan and Conditional Use criteria as set forth in Sections 301 and 303.

Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Bud Wilson seconded the motion to approve application #056-19 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) Any outdoor lighting will be downcast and shielded.

- (3) Except as amended herein, this approval incorporates the Findings of Fact, Conclusions of Law, and Conditions in zoning permit approvals #133-18, #134-18, and #005-19.
- (4) Snow storage is permitted within the parking lot, so long as it doesn't reduce the number of parking spaces available to below the minimum number required for 14 South Main Street.

Vote: The motion was approved 4–0.

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

Approved: 7/24/2019
(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, 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.*