

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—July 24, 2019**

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

Dave Frothingham, Chair, opened the meeting at 6:34 p.m. in the SAL Room in the Waterbury Public Library, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

- 1) **#070-19: Marc & Heather Palmer** (owner/applicant)  
Minor Ridgeline review to construct a single-family dwelling, attached garage, and an accessory structure at 157 Wood Farm Road, Waterbury Center, VT. (LDR/RHS zoning/overlay districts)

Present and sworn in:

Marc & Heather Palmer, owner/applicant

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

- 2) **#071-19: Mark Kulis** (owner/applicant)  
Setback waiver review to construct a two-story garage; site plan review to construct a 7-ft. tall privacy fence at 297 Howard Avenue, Waterbury Center, VT. (TMR zoning district)

Present and sworn in:

Mark Kulis, owner/applicant  
Monica Callan and Peter Holm, adjoining landowners  
Joe Zuccarello, adjoining landowner

Testimony:

- An adjoining landowner addressed the height of the fence, relative to how other fences adjoining this area might be handled in the future. Currently, any fence over 6 feet in height requires a permit and Site Plan approval by the DRB.
- The landowners of the Grange Hall Cultural Center asked a few questions about landscaping, but expressed support of the project as presented.

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

- 3) **#072-19: Scott Search** (appellant); **Emmanuel and Marie Ajanma** (owner/appellee)  
Appeal of the zoning administrator's issuance of zoning permit #025-19 for a single-family dwelling and garage at 139 East Countryside Rd., Waterbury, VT. (MDR/RT100 zoning districts)

Present and sworn in:

Scott Search, Appellant  
Marie Milord-Ajanma & Emmanuel Ajanma, subject property owner/appellee  
Paul J. Malone, Designer/Builder for appellee Ajanma  
Anna A. Black, Esq., attorney for appellee Ajanma  
Doug Greason and Pegeen Mulhern, adjoining landowners  
Dina Bookmyer-Baker, ZA/appellee

Testimony:

- The appellant stated that there is no one who has the authority to make binding decisions on his property.
- The appellant is concerned with easements that affect his property.
- The appellant has a concern about the construction of the foundation/slab for the dwelling.
- Testimony was given by the firm that designed the foundation that it exceeds the requirements.

The hearing on this item was combined with Appeal #073-19, due to the Appeals including essentially the same elements.

- 4) **#073-19: Scott Search** (appellant); **Jessica Johnson and Trevor Lyman** (owner/appellee)  
Appeal of the zoning administrator's issuance of zoning permit #035-19 for a single-family dwelling and garage at 167 East Countryside Road, Waterbury, VT. (RT100 zoning district)

Present and sworn in:

Scott Search, Appellant

Jessica Johnson and Trevor Lyman, subject property owner/appellee

Dina Bookmyer-Baker, ZA/appellee

Testimony:

- This appeal regards the state waste-water permit, which is not in the purview of the DRB.
- Testimony was offered that the wastewater was designed according to all regulations and requirements in effect at the time.

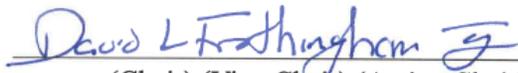
At 7:21 Andrew Strniste moved and Dave Rogers seconded the motion to close the public hearings on #072-19 and #073-19. The Board will reconvene in private deliberative session and will issue a written decision within 45 days.

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

- Review minutes and decisions from previous meetings:  
Dave Rogers moved and Bud Wilson seconded the motion to approve the general minutes of July 10, 2019 and decisions #023-19 (KCOS), #050-19 (Steele), #056-19 (Furst Mgmt), #059 (Linde), #063 (Dibbell), and #065 (Schulman), as amended.

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

**Adjournment:** The meeting was adjourned at 8:36 p.m.

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

Approved on: 8/7/2019  
(date)

These minutes were approved: August 7, 2019.

**Notice of next meetings:**

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

Wednesday, August 21, 2019, 6:30 p.m., in the Steele Community Room.

**Town of Waterbury  
Development Review Board  
Approved Decision, #070-19  
July 24, 2019**

Board members present: Dave Frothingham (Chair), Andrew Strniste, Bud Wilson, and Dave Rogers.  
Staff present: Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

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|-------------------|--|-----------------------|
| Owner/Applicant:  | Marc George Palmer Revocable Trust (owner), Marc & Heather Palmer (applicant)                        |                       |
| Address/Location: | 157 Wood Farm Road, Waterbury Center, VT   |                       |
| Zones:            | Low-Density Residential (LDR), Conservation (CNS), & Ridgelines/Hillsides/Steep Slopes (RHS) overlay |                       |
| Application #     | 070-19   | Tax Map #: 14-084.011 |

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**Applicant Request:**

The applicant seeks to construct a single-family dwelling with a garage attached by a roofed breezeway connector, and a detached barn on Lot E, 157 Wood Farm Road. The applicant seeks RHS Minor Development review of the proposed structures.

**Present and sworn in:**

Marc & Heather Palmer, owners/applicants

**Exhibits:**

- A: Application #070-19 (6 pp: Zoning, Conditional Use, Overlay District), submitted 6/24/19.
- B: Elevations and perspective views of proposed house, by Hillview Design Collaborative, dated 7/1/19
- C: Palmer Residence Site Plan prepared by Hillview Design Collaborative, dated 5/6/19.
- D: Floor plans for proposed house, by Hillview Design Collaborative, dated 5/6/19.
- E: Photo of similar barn to be constructed.
- F: Orthophoto of site and parcel with zoning districts & RHS overlay (staff).
- G: Waterbury Wildlife Resources Map from 2018 Municipal Plan.
- H: Letter to adjoining landowners, mailed certified on 7/1/19.

**Findings of Fact:**

1. Existing conditions: Marc & Heather Palmer own a 6.16 acre parcel (Lot E) located at 157 Wood Farm Road, off Ripley Road. The parcel has been subdivided previously (see zoning permit history, below) and the parcel remains undeveloped. The parcel includes frontage on Ripley Road. Wood Farm Road is on the adjacent parcel to the south and provides access (via an approved 50' right-of-way) to Ripley Rd. The parcel is in both the Low-Density Residential (LDR) and Conservation (CNS) zoning districts, with portions within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district including the sites for the proposed structures (Exhibit F).

Zoning permit history: (applicable recent permits)

- October, 2018, DRB approved 2-lot subdivision of Lot D (28.5± acres) to create residential Lot E and the proposed dwelling. (#104-18).
- April, 2019, DRB denial of Application #002-19 for single-family dwelling in RHS overlay and setback waiver.

2. Current proposal: This application is for review of the construction of a single-family dwelling with a garage attached by a covered breezeway, and a detached barn on undeveloped Lot E, at an elevation above 1200 FIE. (Exhibits B through F)

3. LDR Dimensional Requirements, Table 5.2: Minimum lot area; 5 acres; minimum setbacks: 70' front, 75' sides/rear. The lot meets the minimum lot area, and the proposed development meets all the setback requirements. (Exhibit C).

4. RHS and Conditional Use criteria: As set forth in Section 1004(b), the DRB may grant RHS Minor Development approval if the proposed development meets all the standards of review in Section 303(e) under Conditional Use. The Board must find that the proposed use and structures conform to 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 development will be served by private well and septic system. 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.
- b. Section 303(e)(2)(A-E) Character of the area: The use of the property will be residential. Any proposed exterior lighting will be downcast and shielded. The Applicant intends to preserve the existing meadow in the lower portion of the property. Exhibit C shows the buildings pushed as far up the hill as possible to the west leaving most of the open field undeveloped, while staying out of the adjacent gully to the south. This will also allow the house to be viewed against the backdrop of existing trees and wooded areas of the site.
- c. Section 303(e)(3) Municipal bylaws in effect: The proposal is for a residence. This project application presents compliance with the conditional use and RHS criteria.
- d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The application states under this criteria that: "All impact will be controlled during construction, and none is anticipated once completed." The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are proposed to control these impacts.
- e. Section 303(h) Removal of earth or mineral products conditions: The project does not involve earth-removal activities. This provision does not apply.

5. Section 1001 RHS Applicability: The property is in the RHS overlay district above 1,200 feet in elevation (FIE) but below 1,500 FIE. Subsection (b) states that development in the RHS district below

1,500 FIE shall be considered “minor” development.

Section 1001(c) states that permitted uses are treated as conditional uses in the RHS overlay district.

Section 1004 (b) states that minor development projects shall be subject to conditional use review, as set forth in Section 303, and all other applicable regulations. See the project’s compliance with the conditional use criteria in paragraph RHS and Conditional Use criteria: As set forth in Section 1004(b), the DRB may grant RHS Minor Development approval if the proposed development meets all the standards of review in Section 303(e) under Conditional Use. The Board considered the following: The Board must find that the proposed use and structures conform to the following general and specific standards:(a)–(e), above.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Marc & Heather Palmer to construct a single-family dwelling, garage, and barn within the required setbacks on Lot E, 157 Wood Farm Road, as presented in application #070-19 and supporting materials, meets the Conditional Use, and Ridgelines/Hillsides/Steep Slopes criteria as set forth in Sections 303, and 1004.

**Motion:**

On behalf of the Waterbury Development Review Board, Andrew Strniste moved and Dave Rogers seconded the motion to approve application #070-19 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 comply with the latest edition of the State of Vermont Low Risk Site Handbook for Erosion and Sediment Control, when development commences on the lot (as per zoning permit approval #104-18).
- (4) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permit approvals #91-17, #01-18, #27-18, and #104-18.

Vote: Approved 4 - 0

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

Approved: 8/7/2019  
\_\_\_\_\_  
(date)

This decision was approved on: August 7, 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](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**  
**Approved Decision #071-19 □ July 24, 2019**

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

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|-------------------|---|----------------------|
| Owner/Applicant:  | Mark Kulis                              |                      |
| Address/Location: | 297 Howard Avenue, Waterbury Center, VT |                      |
| Zone:             | Town Mixed Residential (TMR)            |                      |
| Application #     | 071-19                                  | Tax Map # 09-248.000 |

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**Applicant Request**

The Applicant seeks a setback waiver to construct a two-story garage and site plan approval to construct a 7-foot tall privacy fence at 297 Howard Avenue, Waterbury Center, VT.

**Present and sworn in:**

Mark Kulis, owner/applicant  
Monica Callan and Peter Holm, adjoining landowners  
Joe Zuccarello, adjoining landowner

**Exhibits**

- A: Application #071-19 (4 pages: zoning, site plan, conditional use), submitted 6/24 and 7/10/19.
- B: Site Plan, annotated by Applicant (survey of Myra Pike Property, dated Sept. 1967), submitted 6/24/19.
- C: Existing house, garage, and fence photographs, prepared by Applicant, submitted 7/17/19.
- D: Elevation sketches of proposed garage, prepared by Applicant, submitted 7/17/19.
- E: Proposed fence mock-up, submitted 7/17/19.
- F: Parcel maps with orthophoto base layer (Staff).
- G: Letter to adjoining landowners, mailed certified on 7/9/19.

**Findings of Fact**

1. Existing conditions: Mark Kulis owns a 1.0± acre parcel at 297 Howard Avenue. The lot is developed with a two-story dwelling and a one-story detached garage. The lot is on the corner of Hollow Road and Howard Avenue and includes frontage on each street. The property is in the Town Mixed Residential (TMR) zoning district. The garage is 8.5' from the side property line to the east.

Prior permit: Zoning permit #43-12-V was issued to Mark Kulis for a residential addition.

2. Project: The Applicant proposes to remove the existing garage and construct a two-story garage, measuring 25' by 35' by two stories (Exhibit D). The proposed garage will be located not less than 10' from the nearest side property line and 40' from the front property line (Exhibit A2). A 7' privacy fence is

proposed along the easterly property line (Exhibits B, E).

3. TMR Dimensional Requirements, Table 5.2: Minimum lot area: 1 acre; minimum setbacks: 30' front/sides/rear. The lot meets the minimum lot size, and the new garage as proposed will not meet the side setback.
4. Site Plan, Section 301; Fences, Section 408: In all districts, fences are restricted to a height of six (6) feet, unless otherwise permitted in site plan. The fence is proposed to be 7' high, will be placed on the easterly property line as shown on Exhibit A2, and of the style as shown in Exhibit E.
5. Waiver Request: The setback waiver request is to encroach into the side-yard setback by 20' (30' minus 10').
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: The project proposes a replacing a residential accessory structure. 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: The style of the structure is as shown on the elevations (Exhibit D). The Board concludes that the project is appropriate in scale and design in relation to existing uses and structures in the district 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 structure is accessory to the primary 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: No change of use is proposed. No controls are proposed by Applicant. 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 Mark Kulis to construct a two-story garage 20' within the side setback and a 7-ft. tall privacy fence at 297 Howard Avenue, as presented in application #071-19 and supporting materials, 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, Dave Rogers moved and Bud Wilson seconded the motion to approve application #071-19 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.

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

Approved: 8/7/2019  
 (date)

This decision was approved on: August 7, 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  
Appeal Hearing  
Approved Decision #072-19 - July 24, 2019**

Board members present: Dave Frothingham (Chair), Andrew Strniste, Bud Wilson, and Dave Rogers. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary). Also present: Dina Bookmyer-Baker (Zoning Administrator) note: her permit issuance under appeal.

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|-------------------|--|----------------------|
| Appellant:        | Scott Search                               |                      |
| Appellee:         | Emmanuel and Marie Ajanma (owner/appellee) |                      |
| Address/Location: | 139 East Countryside Road, Waterbury, VT   |                      |
| Zoning Districts: | MDR/RT100                                  |                      |
| Application #:    | 072-10                                     | Tax Map #:13-114.040 |

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**Appellant Request:**

Appeal of the Zoning Administrator's issuance of zoning permit #025-19 for a single-family dwelling and attached garage at 139 East Countryside Road, Waterbury, VT.

**Present and sworn in:**

Scott Search, Appellant

Marie Milord-Ajanma & Emmanuel Ajanma, subject property owner/appellee

Paul J. Malone, Designer/Builder for appellee Ajanma

Anna A. Black, Esq., attorney for appellee Ajanma

Doug Greason and Pegeen Mulhern, adjoining landowner

Dina Bookmyer-Baker, Zoning Administrator/appellee

**Exhibits:**

- A. Application #072-19 and related materials from approved permit application #025-19, being appealed.
- B. Zoning Permit #025-19 and the associated application, site plan, and aerial photo of the parcel.
- C. On-site septic plans prepared by John Thetford, dated January 1998.
- D. Vt. Agency of Natural Resources Subdivision Permit #EC-5-1963-1, Miller Trust, dated 9/23/92.
- E. Notice of Public Hearing from Scott Search mailed by certified mail on 7/3/19.

**Procedural History and Appellant Request:**

- A: On May 20, 2019, Applicants Emmanuel and Marie Ajanma (owner/appellee) submitted zoning permit application #025-19 for a single-family dwelling on the 2.17-acre parcel at 139 East Countryside Road, Waterbury, VT in the Route 100 (RT 100) & Medium Density Residential (MDR) zoning districts.
- B: Zoning Permit #025-19 was issued by Dina Bookmyer-Baker, Zoning Administrator (ZA) on June 6, 2019 (Exhibit B1).

- C: On Friday, June 21, 2019, Scott Search notified Zoning Administrator Dina Bookmyer-Baker (ZA) that he intended to file an appeal of Zoning Permit #025-19 (Exhibit A3).
- D: On June 26, 2019, Christopher Nordle, Esq. filed a Notice of Appeal on behalf of Scott Search (Exhibits A1 and A2).
- E: On July 1, 2019 Dina Bookmyer-Baker (ZA) sent a referral notice to the Appellant, scheduling the Appeal to be heard on July 24, 2019.
- F: The notice of public hearing was published in the *Waterbury Record* newspaper on July 3, 2019 and posted at the municipal offices, the Waterbury Post Office, and the Northfield Savings Bank on S. Main Street. The landowner and adjoining landowners were notified by certified mail sent on July 3, 2019. The hearing notice poster was placed on the subject parcel, 139 East Countryside Road, on or before July 9, 2019.
- G: On July 24, 2019 the Development Review Board conducted a warned public hearing. Materials submitted and/or made available to the Board included the following:
- Application #072-19 and related materials from approved permit application #025-19, being appealed.
  - Zoning Permit #025-19 and the associated application, site plan, and aerial photo of the parcel.
  - On-site septic plans prepared by John Thetford, dated January 1998.
  - Vt. Agency of Natural Resources Subdivision Permit #EC-5-1963-1, Miller Trust, dated 9/23/92.
  - Notice of Public Hearing from Scott Search mailed by certified mail on 7/3/19.
  - Zoning permit application #103-17 for a 2-lot subdivision, submitted 10/20/17.

**Findings:**

1. The alleged issues identified in the notice of appeal application are outside the jurisdiction of the Waterbury Development Review Board, as the alleged issues relate to State permits and regulations. The alleged issues identified are:

- a. the validity of the septic easements on Scott Search's property,
- b. the validity of the septic system for the Ajanma property relating to wetland regulations and population change, and
- c. the improper design of the foundation for the Ajanma single-family dwelling.

2. The Appellant failed to state the action of the Zoning Administrative he is appealing. This Board infers the Appellant is appealing the issuance of the zoning permit (#025-19). Assuming this is the action being appealed, the Board finds that the aforementioned permit conforms to Waterbury Zoning Regulations.

**Conclusion:**

Based upon these findings, the Waterbury Development Review Board denies the appeal request by Scott Search pertaining to the issuance of zoning permit #025-19, as presented in appeal application #072-19 and supporting materials.

**Motion:**

On behalf of the Development Review Board, Dave Rogers moved and Andrew Strniste seconded the motion to deny the appeal application #072-19 and to uphold the Zoning Administrator's action to issue zoning permit #025-19.

Vote: The motion as approved 4 – 0.

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

Approved: 8/7/2019  
(date)

This decision was approved on: August 7, 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  
Appeal Hearing  
Approved Decision, #073-19 - July 24, 2019**

Board members present: Dave Frothingham (Chair), Andrew Strniste, Bud Wilson, and Dave Rogers.  
Staff present: Steve Lotspeich (Community Planner), and Patti Spence (Secretary).  
Also present: Dina Bookmyer-Baker (Zoning Administrator) note: her permit issuance under appeal

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|                   |   |                       |
|-------------------|---|-----------------------|
| Appellant:        | Scott Search                            |                       |
| Owner/Appellee:   | Jessica Johnson and Trevor Lyman        |                       |
| Address/Location: | 167 East Countryside Road, Waterbury VT |                       |
| Zones:            | Rt100 Zoning district                   |                       |
| Application #     | 073-19                                  | Tax Map #: 13-114.042 |

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**Applicant Request:**

#073-19, Scott Search (appellant): Jessica Johnson and Trevor Lyman (owner/appellee)  
Appeal of the zoning administrator's issuance of zoning permit #035-19 for a single-family dwelling and attached garage at 167 East Countryside Road, Waterbury, VT (RT100 zoning district)

**Present and sworn in:**

Scott Search, appellant  
Trevor Lyman, owner/appellee  
Jessica Johnson, owner/appellee  
Peegen Mulhern, adjoining landowner  
Dina Bookmyer-Baker, Zoning Administrator

**Exhibits:**

- A. Application #073-19 and related materials from approved permit application #035-19, being appealed.
- B. Zoning Permit #035-19 and the associated application, site plan, and aerial photo of the parcel.
- C. On-site septic plans prepared by John Thetford dated January, 1998.
- D. Vt. Agency of Natural Resources Subdivision Permit #EC-5-1963-1, Miller Trust, dated 9/23/92.
- E. Notice of Public Hearing from Scott Search mailed by certified mail on 7/5/19.

**Procedural History and Appellant Request:**

A: On April 26, 2019, Applicants Jessica Johnson and Trevor Lyman (owner/appellee) submitted zoning permit application #035-19 for a single-family dwelling on the 3.45-acre parcel at 167 East Countryside Road, Waterbury, VT in the Route 100 (RT 100) zoning district.

- B: Zoning Permit #035-19 was issued by Dina Bookmyer-Baker, Zoning Administrator (ZA) on June 18, 2019 (Exhibit B1).
- C: On Saturday, June 22, 2019, Scott Search notified Zoning Administrator Dina Bookmyer-Baker (ZA) that he intended to file an appeal of Zoning Permit #035-19 (Exhibit A3).
- D: On June 26, 2019, Christopher Nordle, Esq. filed a Notice of Appeal on behalf of Scott Search (Exhibits A1 and A2).
- E: On July 1, 2019 Dina Bookmyer-Baker (ZA) sent a referral notice to the Appellant, scheduling the Appeal to be heard on July 24, 2019.
- F: The notice of public hearing was published in the *Waterbury Record* newspaper on July 3, 2019 and posted at the municipal offices, the Waterbury Post Office, and the Northfield Savings Bank on S. Main Street. The landowner and adjoining landowners were notified by certified mail sent on July 3, 2019. The hearing notice poster was placed on the subject parcel, 167 East Countryside Road, on or before July 9, 2019.
- G: On July 24, 2019, the Development Review Board conducted a warned public hearing. Materials submitted and/or made available to the Board included the following:
- Application #073-19 and related materials from approved permit application #025-19, being appealed.
  - Zoning Permit #035-19 and the associated application, site plan, and aerial photo of the parcel.
  - On-site septic plans prepared by John Thetford, dated January, 1998.
  - Vt. Agency of Natural Resources Subdivision Permit #EC-5-1963-1, Miller Trust, dated 9/23/92.
  - Notice of Public Hearing from Scott Search mailed by certified mail on 7/5/19.
  - Zoning permit application #073-17 for an appeal of Permit #035-19.

**Findings:**

1. The alleged issues identified in the notice of appeal application are outside the jurisdiction of the Waterbury Development Review Board, as the alleged issues relate to state permits and regulations. The alleged issues identified are:
  - a. the validity of the septic easements on Scott Search's property, and
  - b. the validity of the septic system for the Johnson and Lyman property relating to wetland regulations and population change.
2. The Appellant failed to state the action of the Zoning Administrator he is appealing. The Board infers the Appellant is appealing the issuance of the zoning permit (#035-19). Assuming this is the action being appealed, the Board finds that the aforementioned permit conforms to Waterbury Zoning Regulations.

**Conclusion:**

Based upon these findings, the Waterbury Development Review Board denies the appeal request by Scott Search pertaining to the issuance of zoning permit #035-19, as presented in application #073-19 and supporting materials.

**Motion:**

On behalf of the Development Review Board Dave Rogers moved and Andrew Strniste seconded the motion to deny the appeal application #073-19 and to uphold the Zoning Administrator's action to issue zoning permit #035-19.

Vote: The motion was approved 4 – 0

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

Approved: 8/7/2019  
(date)

This decision was approved on: August 7, 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.*