

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—August 7, 2019**

Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

David Frothingham, Chair, opened the meeting at 6:34 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

- 1) **#075-19, Felix and Geraldine Callan** (owner/applicant)  
Two-lot subdivision to create a 109-acre lot on the corner of Sweet Road and Ripley Road, Waterbury Center, VT (MDR/LDR/CNS/RHS zoning/overlay districts)

Present and sworn in:

Felix and Geraldine Callan, Owner/Applicant  
George McCain, Applicant Consultant  
Eric Longfellow, Adjoining Landowner  
Bruce Therrien, Adjoining Landowner  
Paul Welch, Adjoining Landowner

Testimony:

George McCain gave an overview of the project. No development is proposed at this time. The upper area of the overall parcel is conserved as part of a State stormwater permit. Septic easements for previously-approved lots on the southerly portion of the 109-acre parcel were discussed.

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

- 2) **#076-19: Crescent Ridge Development LLC, c/o Eric Morris** (applicant), and **Laurie Brady** (owner). After-the-fact setback waiver request and RHS review, for an existing dwelling and deck addition at 1045 Ring Road, Waterbury Center, VT. (CNS/RHS zoning/overlay districts)

Present and sworn in:

George McCain, Consultant to Owner/Applicants  
Laurie Brady, Owner

Testimony:

- The house that was constructed is just over 2,000 SF, which is smaller than the house that was approved (in 2014), which was described as 3,500 SF.
- The existing house is 18.6' within the side setback and the deck is 26.1' within the same side setback.
- A letter from David Grenier, an adjacent landowner, was discussed.
- Consultant George McCain stated that he thinks the location of the house within the setback meets the setback waiver and conditional use criteria.
- The clearing limits for the lawn on the plan were discussed and whether the actual clearing meets what was proposed and previously approved (in 2014).

- Owner Laurie Brady stated that she purchased the property with the assumption that the house that was built met the regulations and had been fully permitted. She is concerned that the builder made a mistake that they (the owners) didn't know had occurred.
- The deck was constructed recently without a permit. Dina Bookmyer-Baker (ZA) stated that she informed Mr. Brady that the deck required a new permit application and RHS review, prior to construction. Laurie Brady stated that she thought they just needed to submit updated plans that included the deck. George McCain does not think that the deck has an adverse impact under the conditional use criteria. The deck is on the lower side of the grade on the lot, facing toward the North.
- The DRB requested additional information, including: submit a revised Site Plan that shows the clearing limits, as previously approved and as executed; show a dotted line or shadow of the structure that was approved (in 2014); submit an updated view-shed analysis and RHS criteria for the existing structure where it differs from what was approved previously; and consider bolstering the argument that the development is consistent with other uses in the area. New and revised materials must be submitted one week prior to the September 18 meeting.

The Board continued the review to Wednesday, September 18th at 6:30 p.m.

3) **#040-19: Grace Investment Properties LLC** (owner/applicant)

Continuation of the site plan and conditional use review to construct a multi-family structure at 3579 Waterbury-Stowe Rd.(TCOM zoning district)

Present and sworn in:

Jonathan Grace, Owner/Applicant  
 Robert and Kathryn Grace, Owner/Applicant  
 John Pitrowiski, Consulting Engineer  
 Dave Spaulding, Adjoining Landowner

Testimony:

- Jonathan Grace addressed the changes that are intended to address the concerns that the DRB raised at the last review. The front units were turned to face Waterbury-Stowe Rd. Additional parking was added so there are more than 1½ parking spaces per unit, without including the garage spaces. The depth of the spaces in front of the garage doors was discussed since some of them are only 18' deep.
- A landscaping plan has been added to the application. It includes landscaping that screens the property along its southern boundary. A privacy fence for screening has been added on the northerly boundary and off of the front corner of the building on the south side, as shown on the Landscape Plan. There is a split-rail fence between the rear units and the leach fields for the septic system. There will be a privacy fence for the dumpsters, as well.

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


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

- Final Plat Review: #135-18 (Flint-Van Esen BLA); Tom Kinley moved and Andrew Strniste seconded the motion to approve the final plat for permit #135-18.  
**Vote:** Motion approved: 5-0.

- Final Plat Review: #019-19 (B. Woodard Estate, 3-lot SD); Tom Kinley moved and Andrew Strniste seconded the motion to approve the final plat for permit #019-19.  
**Vote:** Motion approved: 5-0.
- Review minutes and decisions from the previous meeting (July 24):  
Tom Kinley moved and Bud Wilson seconded the motion to approve the general minutes of July 24, 2019 and decisions #070-19 (Palmer), #071-19 (Kulis), #072-19 (Search-Ajanma), and #073 (Search-Johnson), as amended.  
**Vote:** Motion approved: 5-0.
- Officer elections:  
Tom Kinley nominated David Frothingham as Chair, and nominated David Rogers and Tom Kinley as Co-Vice-Chairs. Alex Tolstoi moved and Andrew Strniste seconded the motion to close the nominations.  
**Vote:** Motion approved: 5-0.

Alex Tolstoi moved and Bud Wilson seconded the motion to approve the nominated slate.  
**Vote:** Motion approved: 5-0.

**Adjournment:** The meeting was adjourned at 9:01 p.m.

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

Approved on: 8/21/2019  
(date)

These minutes were approved: August 21, 2019.

**Notice of next meetings:**

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

Wednesday, September 4, 2019, 6:30 p.m., in the Steele Community Room.

Wednesday, September 18, 2019, 6:30 p.m., in the Steele Community Room.

**Town & Village of Waterbury  
Development Review Board  
Decision #075-19 ■ August 7, 2019**

**In Attendance:**

Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Acting Secretary).

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Owner/Applicant:	Felix and Geraldine Callan	
Address/Location:	420 Sweet Rd., Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR) Low-Density Residential (LDR), Conservation (CNS), & Ridgelines/Hillsides/Steep Slopes (RHS) overlay	
Application #	075-19	Tax Map #: 10-023.000

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**Applicant Request:**

Application for a ‘minor’ and ‘major’ Ridgeline, Hillside, Steep Slope Review and Subdivision Review for a 2-lot subdivision located within the Medium Density Residential, Low Density Residential and Conservation zoning districts, as well as within the Ridgelines, Hillsides, Steep Slopes overlay district.

**Present and sworn in:**

Felix and Geraldine Callan, Owner/Applicant  
George McCain, Applicant Consultant  
Eric Longfellow, Adjoining Landowner  
Bruce Therrien, Adjoining Landowner  
Paul Welch, Adjoining Landowner

**Exhibits:**

- A: Application #075-19, submitted 7/8/19.
- B: Letter from McCain Consulting, dated 7/8/19.
- C: Survey and Subdivision of a Portion of Callan Lands by McCain Consulting, dated 6/21/17.
- D: Orthophoto of the parcel, showing zoning districts, prepared on 6/26/19 (Staff).
- E: DRB decision for previous 4-lot subdivision, Permit #04-14-T, dated 3/6/14.
- F: Letter to adjoining landowners, dated 7/19/2019.

**Findings of Fact:**

1. The existing large parcel is 311± acres and falls entirely within the Ridgeline, Hillside, Steep Slope Overlay District.
2. The Applicant proposes to subdivide their lot into 2-lots: one new 109.41-acre lot and the remaining 202± acres constituting the 2nd lot (remaining lands).

3. The entire area of the proposed new 109.41-acre lot and the remaining parcel is located within the Ridgelines, Hillsides, Steep Slopes overlay district, as shown in Exhibit D, and is subject to review by the Development Review Board, per section 1203(b) of the *Waterbury Zoning Regulations*. These parcels include areas of land above 1,500 feet in elevation (FIE); therefore, the review is considered Major Development and is subject to the criteria for Major Development Review under Section 1004(c).
4. The proposed 109.41-acre lots falls within the Medium Density Residential (MDR), Low Density Residential (LDR), and Conservation (CNS) Zoning Districts and meets the minimum lot size requirements for all of the respective districts.
5. No building zones are depicted on the proposed 109.41-acre lot and no structures are proposed under this zoning permit.
6. The previous application #04-14-T for a 4-lot subdivision and the associated DRB Decision, dated 3/6/14, includes the area of the 109.41-acre lot, which addresses the review criteria under Sections 303 and 1004(c).

**Conclusion:**


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Felix and Geraldine Callan to create a 2-lot subdivision, which includes a 109.41-acre lot on Ripley and Sweet Roads, as presented in application #075-19 and supporting materials, meets the Conditional Use, and Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 1004(b) & (c) and 1203(b).

**Motion:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Bud Wilson seconded the motion to approve application #075-19 with the following conditions:

- (1) The Applicant shall complete the project in accordance with the Board's findings & conclusions and the approved plans and exhibits;
- (2) 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.
- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permit approval #27-09-T, and #04-14-T.
- (4) Within 180 days from this approval, the Applicant shall submit the final plat, prepared in accordance with 27 V.S.A. § 1403 and signed by the DRB Chair (or Acting Chair), to be recorded in the Office of the Clerk of the Town of Waterbury, in accordance with 24 V.S.A. § 4463.

**Vote:** The motion was approved 5-0.

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

Approved: 8/21/2019  
\_\_\_\_\_  
(date)

This decision was approved on: August 21, 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**  
**Decision #040-19 ▪ July 10 / August 7, 2019**

**In Attendance:**

(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).

(8/7/19) Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff present: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

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Applicant/Owner/:	Grace Investment Properties, LLC.	
Address/Location:	3579 Waterbury-Stowe Road, Waterbury, VT	
Zones:	Town Commercial (TCOM)	
Application #	040-19	Tax Map # 09-285.000

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**Applicant Request**

The Applicant seeks approval to construct a multi-family structure with eight dwelling units at 3579 Waterbury-Stowe Road.

**Present and sworn in:**

(7/10/19) Jonathan Grace, Owner/Applicant  
Robert Grace, Owner/Applicant  
John Pitrowiski, Consulting Engineer  
Adjoining landowners: David, Leslie, and Matthew Spaulding

(8/7/19) Jonathan Grace, Owner/Applicant  
Robert and Kathryn Grace, Owner/Applicant  
John Pitrowiski, Consulting Engineer  
Dave Spaulding, Adjoining Landowner

**Exhibits:**

- A: Application #040-19 (Zoning, Conditional Use), submitted 5/8/19.
- B: (B1) Project description prepared by Grace Investment Properties LLC, dated 5/7/19;  
(B2) Email correspondence with Staff regarding changes to the Site Plan and a request to reduce the front yard setback, submitted 7/7/19.
- C: Plans for Flatow Property Development Project:
  - (C1) Location Plan (Figure 1 of 4), prepared by J. Grace, dated May 2019;
  - (C2) Existing Conditions (2 of 4), prepared by J. Grace, dated May 2019, revision 2: August 2019;
  - (C3) Proposed Development (3 of 4), prepared by J. Grace, dated May 2019, revision 3: August 2019.
- D: Proposed Elevations (4 of 4), prepared by Jud Hudson, dated May 7, 2019, revised August 1, 2019.
- E: Letter of Intent from the Vermont Agency of Transportation, dated 5/17/19.
- F: Lighting specification sheet, Midland Dusk-to-Dawn LED Motion Sensor, submitted 8/1/19.

- G: Orthophotos of parcel boundaries. (Staff)
- H: Letter to adjoining landowners, mailed certified on 6/7/19.\*
- I: Correspondence with adjoining landowners Winters, Spaulding, and Woodard, submitted 8/1, 8/5/19.\*
- J: Landscaping, Plant Information, and Fence prepared by Trudell Engineering:
  - (J1) Landscape Plan, dated 7/30/19, submitted 8/1/19;
  - (J2-3) Proposed Plant Information, dated July 2019, submitted 8/1/19
  - (J4) Fence Concept dated July 2019, submitted 8/1/19.

**Findings of Fact:**

1. Existing conditions: Grace Investment Properties, LLC. owns a 1.4± acre lot located at 3579 Waterbury-Stowe Road. The property includes no structures but has an existing access drive to Waterbury-Stowe Road (Exhibit C). The property is served by municipal water and private wastewater. The parcel is in the Town Commercial (TCOM) zoning district.

Background: The former historic house and auction barn / auto repair shop on the site burned down and were razed in October 2017. The resulting debris was removed in May 2018.

2. Proposal: The project is one building with eight condominium-type, two-story dwelling units as described and shown in Exhibits B, C, D and J. Each unit will have three bedrooms. The six units that face north each have a one-vehicle garage. The two units that face Waterbury-Stowe Rd. will not have garages.
3. Dimensional Requirements: The minimum lot size for the TCOM Zoning District is one-acre, and therefore, the existing 1.4± acre lot conforms to this requirement. The minimum setbacks for the TCOM District are as follows: front – 50', sides and rear – 25'. The proposed structure meets these setback requirements. The proposed building is approximately 30' tall which meets the height limit for the TCOM district of 35'. The footprint of the building is approximately 7,600 SF, which equals approximately 12.5% coverage of the lot. This conforms to the maximum 25% coverage requirement.
4. Multi-family Density:  
The multi-family density requirements for the TCOM District are: 1) a maximum of six units per acre, and 2) eight units per building. The proposed eight units on the 1.4± acre lot meet these requirements.
5. Table of Uses, Section 503: A multi-family dwelling is a conditional use in the Town Commercial (TCOM) zoning district.
6. Site Plan Review and Approval, Section 301: The project involves a new structure, parking areas, lighting, landscaping, and pedestrian circulation; therefore, it is subject to site plan review. The Board considered the following criteria:
  - a. Adequacy of traffic access and pedestrian safety, Subsection (f)(1)(A-D):  
Access to the site is via one new 24'-wide driveway on Waterbury-Stowe Rd. as shown in Exhibit C3. This access will be permitted by the Vermont Agency of Transportation as evidenced by Exhibit E, the Letter of Intent from VTrans. There will be a 5' wide concrete walkway in front of the building



that will serve the two dwelling units in the front. The pedestrian access to the other six units will be directly from the parking spaces in front of the units and the patios/decks on the rear of the units.

b. Adequacy of circulation and parking, Subsection (f)(2):

Circulation on the site is via a 20'-wide driveway that has a 10'-deep hammerhead at the terminus, which will serve as a turn-around for the parking spaces behind the building. There are 13 unobstructed parking spaces on the site, plus 6 spaces in the garages, and 2 obstructed spaces, for a total of 21 spaces, as shown on Exhibit C3.

c. Adequacy of landscaping, screening, and lighting, Subsection (f)(3):

Exhibit J, the Landscape Plan, Plant and Fence Information, shows the proposed landscaping and screening utilizing plant material, privacy fencing, and split rail fencing. There will be a six foot tall privacy fence installed along the northern border of the property, and a split rail fence between the building and leach field for the septic system to limit access to that area. The exterior lighting fixtures will be in accordance with the information shown in Exhibit F, the lighting specification sheet, and will be downcast and shielded.

d. Special considerations for uses of property bordering Route 2, Route 100, or Interstate 89, Subsection 301(j):

Exhibit J1, the Landscape Plan, shows shrubbery and tree plantings between the proposed building and Waterbury-Stowe Rd. (Route 100) that address these special considerations listed in Section 301(j).

7. Conditional Use criteria, Section 303: The proposed multi-family building is a conditional use in the Town Commercial Zoning District. Exhibits A4 and A5 in the application address the conditional use criteria. The Board considered the following general and specific standards:

a) Section 303(e)(1) Community facilities: The Applicant responded that creating eight 3-bedroom dwelling units will not unduly increase the traffic in comparison to the prior use of the property as a residence and auction barn / auto repair shop. The project does not require municipal sewer allocation; however the project may require additional water allocation. The municipality has adequate public water supply capacity to serve the project. The project will not burden the school system, and will not increase the demand for fire protection.

b) Section 303(e)(2) Character of the area: The Applicant responded that the proposed project will not have an undue adverse impact on the character of the area and cites language in the Waterbury Municipal Plan that supports the creation of additional multi-family housing and higher density residential development in Waterbury Center village.

c) Section 303(e)(3) Municipal bylaws in effect: This application demonstrates compliance with the site plan and conditional use criteria and other requirements in the zoning regulations, as well as other applicable municipal ordinances.

d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: Other than the construction of the project, the residential use typically does not 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 proposed use 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 Grace Investment Properties, LLC. to construct a new eight-unit multi-family structure at 3579 Waterbury-Stowe Road, as presented in application #040-19 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, Tom Kinley moved and Alex Tolsoi seconded the motion to approve application #040-19 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 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.
- (4) The Applicant shall submit a revised site plan specifying the screening for the dumpster prior to the issuance of the zoning permit.

**Vote:** The motion was approved 5–0.

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

Approved: 08/21/2019  
\_\_\_\_\_  
(date)

This decision was approved on: August 21, 2019.

Additional state permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or [pete.kopsco@vermont.gov](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies to determine 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.*