

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—February 5, 2020

Board members present: David Frothingham (Chair), David Rogers (Vice Chair), Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff present: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

David Frothingham opened the meeting at 6:35 p.m., with a quorum present, in the Steele Community room in the Municipal Center, 28 North Main Street, Waterbury, VT. Attendees were advised that the DRB is a 7-member Board and that any approval will require 4 votes in the affirmative.

- 1) **#114-19: George Lester** (owner/applicant)
Setback waiver for a residential deck at 48 Appletree Lane. (RT100 zoning district)

Present and Sworn in:

George Lester, Owner/Applicant

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

- 2) **#001-20: Amy Chorey and Rick Boyle** (owner/applicant)
Site Plan and Conditional Use to change the number of dwelling units in existing 7-unit multi-family to 4-units at 1 Randall Street. (VR/SFHA zoning and overlay districts)

Present and Sworn in:

Amy Chorey and Rick Boyle, Owner/Applicant

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

- 3) **#002-20: Perry Hill Partners, c/o Aaron Flint & Jason Wulff** (owner/applicant)
Site Plan, Conditional Use, and Downtown Design Review to change the use of the third-floor dwelling units to commercial/retail, add an exterior stairwell, and make minor architectural changes to the previously-approved building at 26-28 Stowe Street. (DC/DDR zoning & overlay districts)

Present and Sworn in:

Jason Wulff, Owner/Applicant
Aaron Flint, Owner/Applicant
George McCain, Consultant

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

- 4) **#003-20: Perry Hill Partners, c/o Aaron Flint & Jason Wulff** (owner/applicant)
Site Plan, Conditional Use, and Downtown Design Review to change the use of 1,550 SF of office space to two dwelling units in the previously-approved mixed-use building at 11 N. Main Street. (VMR/DDR zoning & overlay districts)

Present and Sworn in:

Aaron Flint, Owner/Applicant
Jason Wulff, Owner/Applicant

George McCain, Consultant

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

- 5) **#004-20: The Murray Family Trust, c/o Robert Murray & Carline Ttees** (owner/applicant)
Two-lot subdivision of existing 70.7-acre lot at 865 Guptil Road. (MDR/RT100 zoning districts)

Present and Sworn in:

George McCain, Consultant

Steven Karcher, Adjoining landowner

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

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

- Review minutes and decisions from the previous meeting: David Rogers moved, and Alex Tolstoi seconded the motion, to approve the general minutes for January 8, 2019 as presented.
Vote: Motion approved: 5-0.
- Review decision for application #001-20: Dave Frothingham moved, and Alex Tolstoi seconded the motion, to approve the decision for application #001-20 (Chorey-Boyle) as amended.
Vote: Motion approved: 5-0.

Adjournment: There being no other business, the meeting was adjourned at 8:25 p.m.



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

Approved: February 19, 2020

Notice of upcoming meetings:

- Wednesday, February 19, 2020, 6:30 p.m.
- Wednesday, March 4, 2020, 6:30 p.m.
- Wednesday, March 18, 2020, 6:30 p.m.
- Wednesday, April 1, 2020, 6:30 p.m.
- Wednesday, April 15, 2020, 6:30 p.m.

Town of Waterbury
Development Review Board
Decision #114-19 ■ February 5, 2020

In Attendance: Board members: David Frothingham (Chair), David Rogers (Vice Chair), Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	George Lester	
Address/Location:	48 Appletree Lane, Waterbury Center, VT	
Zone:	Route 100 (RT100)	
Application #	114-19	Tax Map # 09-075.000

Applicant Request

The Applicant seeks approval for a deck addition proposed in the front and side setbacks at 48 Appletree Lane in the Route 100 zoning district.

Present and sworn in:

George Lester, Applicant

Exhibits

- A: Application #114-19 (3 pages: zoning, conditional use), submitted 12/3/19.
- B: (1-2) Quitclaim Deed, executed in June, 2006;
(3) Plan of Lot 6 & Lot 7 of the “Old May Farm” prepared by J.P.R. Associates Inc., dated 1979.
- C: Dwelling-deck diagram/Site Plan, prepared by Applicant, dated 11/10/19.
- D: Photos representing the proposed deck and railing style and materials, submitted 2/3/20.
- E: Parcel map with orthophoto. (Staff)
- F: Letter to adjoining landowners, mailed certified on 1/18/20.

Findings of Fact

1. Existing conditions: George Lester owns a 1.2± acre parcel located at 48 Appletree Lane in the Route 100 (RT100) zoning district. The property is developed with a two-story single-family dwelling, built in 1979, with an attached garage. (Zoning Regulations were adopted in 1980 for the Town of Waterbury.) The front of the dwelling is in the front yard setback (Exhibit C). The parcel includes frontage on, and has access to, Appletree Lane and is served by a private well and an on-site septic system.
2. Project: Remove the existing patio on the front (southerly end) of the dwelling and construct an attached elevated deck to be level with the first-floor. The deck will be 16' by 16' and not more than 6' above the existing grade. The deck will be 37' from the nearest side property line to the west and 23' from the front property line. (Exhibit C).

3. RT100 Dimensional Requirements, Table 5.2: Minimum lot size: 2 acres for residential; minimum setbacks: 100' (front), 50' (sides and rear). The lot does not meet the minimum lot size and the existing dwelling is in the front and (westerly) side setbacks.
4. Waiver Request: The setback waiver request is to encroach on the side setback by 13' (50'–37') and the front setback by 77' (100'–23').
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed 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 will not change the residential use of the property or increase the occupancy. The project will not require additional water or sewer allocation (the parcel is served by a private well and an on-site septic system), will not increase traffic, burden the school capacity, or 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 use of the property will remain residential. The deck design (Exhibit D) matches the style and materials of the existing dwelling. 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 project makes no change to the current residential use and this application is presented to comply 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: The deck is not enclosed, and will not create the above-named nuisances. 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 project proposed by George Lester to construct a deck, not coming closer than 37' to the side property line and 23' to the front property line at 48 Appletree Lane, as presented in application #114-19 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

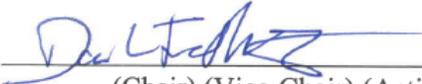
Decision Motion:

On behalf of the Waterbury Development Review Board, Andrew Strniste moved and Alex Tolstoi seconded the motion to approve application #114-19 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 new exterior lighting shall be downcast and shielded.

Vote: The motion was approved 5–0.



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

Approved: February 19, 2020

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 #001-20 ■ February 5, 2020

In Attendance: Board members: David Frothingham (Chair), Dave Rogers (Vice Chair), Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	Amy Chorey and Rick Boyle	
Address/Location:	1 Randall Street, Waterbury, VT	
Zones:	Village Residential (VR) and Special Flood Hazard Area (SFHA) overlay	
Application #	001-20	Tax Map # 19-311.000

Applicant Request

The applicant seeks approval to change the number of dwelling units in the existing 7-unit multi-family structure to 4 dwelling units at 1 Randall Street.

Present and sworn in:

Amy Chorey and Rick Boyle, Owner/Applicant

Exhibits

- A: Application #001-20 (7 pp: zoning, conditional use, overlay district information), submitted 1/2/20.
- B: Orthophoto of parcel boundaries.
- C: (C1) Site Plan, prepared by Applicant, dated 1/1/20;
(C2) Site Plan excerpt, enlarged to scale of 1" ≈ 15', annotated by Staff.
- D: Floor Plans, prepared by Applicant, dated 1/1/20.
- E: Orthophoto of parcel boundaries showing 100-year floodplain, prepared 11/6/19.
- F: National Register of Historic Places Inventory – Nomination Form for 1 Randall St. #148.
- G: Letter to adjoining landowners, mailed certified on 1/18/20.

Findings of Fact

1. Existing conditions: Amy Chorey and Rick Boyle own a 0.34± acre lot located at 1 Randall Street. The property is currently developed with a three-story multi-family dwelling with seven apartment units. The dwelling was built circa 1885, is listed as a contributing structure to the Waterbury Village Historic District, and is on the State and National Register of Historic Places. The property is served by municipal water and wastewater systems. The parcel is in the Village Residential (VR) zoning district and is a pre-existing non-conforming use (multi-family).

State and National Register of Historic Places, Inventory #148, description: Griffin Apartments, corner of Randall and Elm Streets, Stick Style, c. 1885: The large, frame, 2 1/2-story house is of basically rectangular plan, yet has a lively wall treatment, produced by a gable-roofed projecting central bay. On the ground floor, this projection houses a recessed porch, supported on both turned and chamfered posts with a decoratively-sawn valence. The outer bays of the 3-bay, façade are cut away, forming canted corners, featuring valences like those of the porch. A double-doored entrance, surmounted by a blind,

panelled transom, is flanked by double-hung sidelights composed of rectangular windows bordered in small, colored panes. Windows throughout the house are both single and paired 1/1 sash. Gabled roof dormers, as well as the gables of the roof itself, are clad in decorative, sawn wood shingles, in contrast to the butted shingle siding of the lower wall surface. A 1 1/2-story frame ell, fronted by a small porch, is engaged into the main block at its southwest corner. A shingle-clad horse barn, converted to a garage, is appended to the ell.

2. Proposal: The project makes no changes to the exterior façade or the dimensions of the existing building. All of the remodeling (including utilities/HVAC, etc.) will be above the base flood elevation (BFE), which satisfies the Special Flood Hazard Area criteria. The project is not a substantial improvement.
3. Dimensional Requirements, Table 5.2: The property is in the Village Residential (VR) zoning district, which requires a minimum lot size of 20,000 SF for “other” or multi-family use. Multi-family is not an allowed use in the VR zoning district. The 0.34± acre (14,810 SF) lot is nonconforming in area for the VR zoning district for a use other than one- or two-family.
4. Table of Uses, Section 503: A multi-family dwelling is a non-conforming use in the Village Residential (VR) zoning district.
5. Nonconforming Uses and Noncomplying Structures, Section 304(a)(1): The Board finds that the Applicant is neither changing the nonconforming use of the structure to another nonconforming use, nor extending a nonconforming use.
6. Site Plan Review and Approval, Section 301: The project involves the conversion of a seven-unit to a four-unit multi-family dwelling; therefore, it is subject to site plan review, including the criteria relating to parking, lighting, landscaping, and pedestrian circulation. The Board considered the following:
 - a. Adequacy of traffic access and pedestrian safety, Subsection (f)(1)(A-D): The project makes no change to the existing driveway access and will decrease traffic to the site. The pedestrian access to the building is shown on the Site Plan (Exhibit C).
 - b. Adequacy of circulation and parking, Subsection (f)(2): The project does not require any changes to the existing parking-lot or driveway configuration. The project provides adequate circulation and parking. There is adequate provision for snow storage and clearing.
 - c. Adequacy of landscaping, screening, and lighting, Subsection (f)(3): No additional landscaping or screening is proposed. There are no changes proposed to the existing exterior lighting.
7. Parking Regulations, Section 414: No change is proposed to the number of parking spaces (7), thereby meeting the minimum requirement of 1 1/2 spaces per unit (6 spaces).
8. Conditional Use criteria, Section 303: The existing use of the property is multi-family, which is a prohibited use in the VR zoning district. The project makes the existing nonconforming use more

conforming. The Board considered the following general and specific standards:

- (a) Section 303(e)(1) Community facilities: The project decreases the number of dwelling units, will not unduly increase the traffic, does not require additional municipal water or sewer allocation, and does not increase the demand for fire protection. The Board concludes that the proposed change of use 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 project makes no changes to the exterior of the existing building. The Board concludes that the project will not have an undue adverse impact on the character of the area affected.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The proposed project is before the Board to demonstrate compliance with site plan, conditional use, and flood hazard area criteria, in addition to other requirements in the zoning regulations, as well as other applicable municipal ordinances. The Board concludes that the project will not violate any municipal bylaws and ordinances.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed project will not produce any of the above-mentioned impacts beyond what a residential use typically generates. The Board concludes that no devices or special methods are necessary to prevent or control the above-named 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.
9. Development Review in the Special Flood Hazard Area, Section 603: The entire property is located in the Special Flood Hazard Area (SFHA). The proposed improvements to the structure have an estimated cost of \$30,000, which is significantly less than 50% of the assessed or market value of the structure, before the start of construction. Therefore, the project is not a substantial improvement as defined in the *Waterbury Zoning Regulations*. All of the improvements will take place on the second and third floors of the building and above the base flood elevation (BFE) or the elevation, in feet, of a flood that has a 1 % chance of occurring in any given year (also known as the 100-year flood level). Flood-resistant materials are not required for this project and the existing utilities in the building are not required to be elevated at least two feet above the BFE as required for substantial improvements, including the substantial improvement of a historic structure. If any improvements are made in the basement or first floor levels, then all materials shall be resistant to flood damage and meet the SFHA development standards in Section 604.

Conclusion:

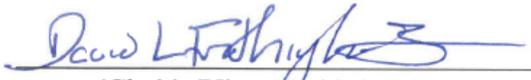
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Amy Chorey and Rick Boyle to renovate the existing building located at 1 Randall Street, reducing the number of multi-family units from seven to four, as presented in application #001-20 and supporting materials, meets the Site Plan and Conditional Use criteria as set forth in Sections 301 and 303, and the Flood Hazard Review criteria set forth in Section 604.

Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Alex Tolstoi seconded the motion to approve application #001-20 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 5–0.



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



(date)

This decision was approved on February 5, 2020.

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 #002-20 ■ February 5, 2020**

In Attendance: Board members: David Frothingham (Chair), David Rogers (Vice Chair), Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	Perry Hill Partners, c/o Aaron Flint & Jason Wulff	
Address/Locations:	26-28 Stowe Street, Waterbury, VT	
Zones:	Downtown Commercial (DC) and Downtown Design Review (DDR) overlay	
Application #	002-20	Tax Map # 19-294.000

Applicant Request

The applicant seeks approval to change the use of the third-floor dwelling units to business professional office/retail, add an exterior stairwell, and make minor architectural changes to the previously-approved building at 26-28 Stowe Street. The application also includes revising the layout of the shared parking area that extends into the adjoining parcel at 11 N. Main Street, under common ownership.

Present and sworn in:

Aaron Flint, Applicant
Jason Wulff, Applicant
George McCain, Consultant

Exhibits:

- A: Application #002-20 (7 pp: Zoning, SP, CU, Overlay/DDR), submitted 1/6/20.
- B: Cover letter and project summary prepared by McCain Consulting, Inc., dated 1/6/20.
- C: Site Plan for Perry Hill Partners, titled "Revisions to Multi-Use Development," prepared by McCain Consulting Inc., Sheet C-1, dated 12/24/19.
- D: Exterior Building Elevations, by Joseph Architects, A-2.10 & 2.11, dated 5/31/19, issued 8/16/19.
- E: Basement & Floor Plans, by Joseph Architects, A-1.0, dated 5/31/19, issued for construction 8/16/19.
- F: Parcel map with orthophoto base map. (Staff)
- G: Letter to adjoining landowners, mailed certified on 1/17/20.

Findings of Fact:

1. Existing conditions: Perry Hill Partners own a 0.24± acre parcel located at 26-28 Stowe Street. The construction of a new three-story building with retail and office use on the first and second floors, and 3 residential apartments on the third floor was previously approved under zoning permit #135-18. The approval also included a boundary-line adjustment and shared parking with neighboring parcel, 11 N. Main Street. 28 Stowe Street is located in the Downtown Commercial (DC) zoning district and the Downtown Design Review (DDR) and Historic Commercial (HC) overlay/sub-districts.

2. Project: The Applicant proposes to change the use of the third-floor dwelling units to business professional office/retail use, add an exterior stairwell with a 150 SF footprint, make minor architectural changes, including window placement, and revise the parking layout shared with 11 N. Main Street. (11 N. Main Street is also applying for a change of use, under a separate zoning permit, #003-20.)
3. Site Plan Review and Approval, Section 301: Any use shall be subject to site plan approval by the DRB before a zoning permit may be issued. As the project involves changes to vehicular access, circulation, parking lot layout, and pedestrian access and safety, it is subject to site plan review. Prior to approval, the Board considered the following objectives:
 - a. Traffic access and pedestrian safety, Subsection 301(f)(1) (A-D): There will be no change to the previously-approved traffic access to and through the site, with traffic circulating one-way, entering at Stowe Street and exiting at 11 N. Main Street.
 - b. Circulation and parking, loading, refuse, and service areas, Subsection 301(f)(2) (A-G): Thirty-three parking spaces will serve both buildings with one-way circulation as described above. There will be two handicap parking spaces with one space designated to serve each building. See the parking regulations in paragraph 4, below.

Pedestrian access to the building will also be via the external stairwell addition as shown on Applicant's Exhibit C.

- c. Adequacy of Landscaping, screening, and lighting, Section 301(f)(3) (A-F): The landscaping and screening are the nearly the same as what was previously approved. Additional exterior lighting might be proposed for the addition. All exterior lights will be downcast and shielded.
4. Parking Regulations, Section 414: The number of parking spaces provided will increase from 31 to 33. Two parallel parking spaces have been added along the N. Main Street driveway (Exhibit C). The overall changes for both buildings will remove 3 dwelling units from the Stowe Street building and replace the space with combined office and retail. The N. Main Street building will replace some office space with 2 dwelling units, as presented in zoning permit, #003-20. The parking requirements are as follows:
 - a) Dwellings: 1.5 spaces for each dwelling unit \geq 2 bedrooms; 1 space / each 1-bedroom unit
 - N. Main Street: 2-bedroom unit x 3: 5 parking spaces;
 - 1-bedroom unit x 2:2 parking spaces.
 - b) Office and retail: 1 space for every 300 SF of floor area
 - N. Main Street: 1,122 SF office: 4 parking spaces;
 - Stowe Street: 6,255 SF combined office/retail: 21 parking spaces;

A minimum of 32 parking spaces are required for the combined uses proposed; 33 are shown on the Site Plan, Exhibit C.

5. Conditional Use criteria, Section 303: Prior to granting approval for a conditional use, the Board must find that the proposed use conforms to the general and specific standards below. Business professional offices and retail stores/services ≤ 2000 SF are permitted uses in DC; retail stores/services > 2000 SF are a conditional use.
 - a. Section 303(e)(1) (A–E) Community facilities: The building will be served by municipal water and wastewater services. Office and retail uses have been previously-approved, only the dwelling units have been removed. 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: Minor changes are proposed to the style of the building, as shown on Applicant’s Exhibit D. The Board concludes that the project is appropriate in scale in relation to existing uses 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 proposed uses and structures are 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 buildings and their uses will not produce any of the above impacts beyond those customary to retail and office uses. The Board concludes that no devices or special methods are necessary to prevent or control the above-named impacts.
 - e. Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal and excavation activities other than activities associated with landscaping and construction.
6. Downtown Design Review Overlay District Standards, Section 1108: Prior to granting design approval, the Board shall find that the proposed development meets the Downtown Design Review standards, where applicable. The Stowe Street building has been reviewed and approved. An addition and minor exterior changes are proposed, as shown in Applicant’s Exhibit D. The Board concludes that the proposal meets the applicable design review standards.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Perry Hill Partners to change the use of the third-floor dwelling units to business professional office/retail, add an exterior stairwell, and make minor architectural changes to 28 Stowe Street meets the Site Plan, Conditional Use, and Downtown Design Review criteria as set forth in Sections 301, 303, and 1108.

Decision Motion:

On behalf of the Waterbury Development Review Board, Andrew Strniste moved and Alex Tolstoi seconded the motion to approve application #002-20 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 shall be downcast and shielded;
- (3) The Applicant shall submit revised Elevations to the Zoning Administrator that reflect the changes as presented to the Board and approved in the hearing including no cupolas, prior to issuance of the zoning permit.
- (4) Except as amended herein, this approval shall incorporate all Findings of Fact, Conclusions of Law, and Conditions in zoning permits #135-18 and #003-20.

Vote: The motion was approved 5–0.



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

Approved: February 19, 2020

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

NOTICE: *This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.*

**Town & Village of Waterbury
Development Review Board
Decision #004-20 ▪ February 5, 2020**

In Attendance: Board members: David Frothingham (Chair), Dave Rogers (Vice Chair), Bud Wilson, Andrew Strniste, and Alex Tolstoi. Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	The Murray Family Trust c/o Robert & Carline Murray, Trustees	
Address/Location:	865 & 861 Guptil Road, Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR), Route 100 (RT100)	
Application #	004-20	Tax Map #13-170.000

Applicant Request

The applicant seeks to subdivide the existing lot on Guptil Road into two residential lots in the MDR & RT100 zoning districts.

Present and sworn in:

George McCain, Consultant
Steven Karcher, Adjoining landowner

Exhibits

- A: Application #004-20 (4 pp: Zoning, Subdivision BLA & PUD), submitted January 6, 2020.
- B: Project submittal letter from McCain Consulting, dated January 6, 2020.
- C: (C1) Site Plan, Murray Family Trust, 2-Lot Subdivision with New Residence, prepared by McCain Consulting Inc., Sheet C-1, dated 12/3/19;
(C2) Survey and Subdivision of a Portion the Lands of Murray Family Trust, prepared by McCain Consulting Inc., Sheet 1 of 1, dated Jan 2020.
- D: Orthophotos of parcel with tax map boundaries and zoning districts (Staff).
- E: Letter to adjoining landowners, mailed certified: January 17, 2020.

Findings of Fact

1. Existing conditions: The Murray Family Trust c/o Robert & Carline Murray Trustees owns a 70.7± acre parcel located at 865 and 861 Guptil Road. The parcel is located in both the Medium-Density Residential (MDR) and the Route 100 (RT100) zoning districts (Exhibit D). The parcel is developed with two single-family dwellings, including one that was recently permitted and is under construction (see zoning permit history, below).
2. Zoning permit history: Zoning permit #089-19 was issued in September 2019 for a second primary single-family dwelling on the 70.7± acre parcel, in addition to the Murray's existing single-family dwelling, built in 1983.
3. Subdivision proposal: To subdivide the existing 70.7± acre parcel into two lots as follows:

- Lot 2 will be 2.06± acres, lies entirely in the MDR zoning district, and has a 50' wide right-of-way across Lot 1 to Guptil Road, as shown on the Preliminary Survey and Subdivision Plan (Exhibit C2). The lot width at the building front line is greater than 200'.
- Lot 1 will be the remaining 68.6± acres, contains land in both the MDR and RT100 zoning districts, and has 59± feet of frontage on Guptil Road. The lot width at the building front line is greater than 200'. This lot pre-dates the adoption of zoning in the Town of Waterbury in March 1980.

Lot #1 is served by an existing private well and an on-site septic system. Lot 2 will also be served by a private well and an on-site septic system as per the State water and wastewater permit that is pending. Lot 1 includes land within the RT100 zoning district therefore special criteria apply to this two-lot subdivision as noted below.

4. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. See the table below for compliance with the MDR and RT100 zoning districts.

	Zoning District Minimum Lot Size	Proposed Lot Size	MDR/RT100 Minimum Frontage	Proposed Frontage
Lot 1	MDR: 2 acres RT100: 2 acres	68.6± acres	200'/200' for residential use	Existing on Guptil Road
Lot 2	MDR: 2 acres	2.06± acres	200'	Access to Guptil Rd. by 50' wide right-of-way

(definition) LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or proposed building front line.

(definition) BUILDING FRONT LINE: Line parallel to the front lot line transecting the point in the building face that is closest to the front lot line...

In the MDR zoning district, the minimum setbacks are: 60' front and 50' sides/rear. In the RT100 zoning district, the minimum setbacks for residential use are: 100' front and 50' sides/rear. The proposed building envelope and the existing and proposed dwellings on the lots meet the setback requirements. Each lot as proposed meets the minimum lot size requirements and each will have access to Guptil Road, a town road. (Exhibits C1 & C2)

5. Section 1201 Authority and Review of Subdivisions: All applications for land division involving land in the RT100 zoning district shall be reviewed by the DRB under Section 1202.
6. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202(b) due to the fact that a portion of Lot 1 lies within the RT100 zoning district.
- (a) This two-lot residential subdivision is located in the Route 100 Zoning District. In addition to the standard criteria in Section 401, Dimensional Requirements, and Section 504, General Dimension, Location, and Height Requirements, the following bylaws apply to the subdivision: Article III, the special criteria for projects in the Route 100 Zoning District in Sections 301 (g) & (h) and Article

XII, Subdivisions including Section 1202(b) under Review Criteria. This section also incorporates Section 705(c)-(1) and Subsections 705(m)(1)–(3) Section under Planned Unit Development (PUD). The development of the two lots with two single-family dwellings has a minimal impact to the applicable PUD criteria for natural resources. A minimum of 50% (35.35± acres) of the entire 70.7± acre site will remain undeveloped including all the acreage that lies within the RT100 zoning district. The requirement in section 301(h) that a minimum of 25% of the road frontage along Waterbury-Stowe Road will remain undeveloped for a depth of 250' does not apply to this subdivision because the property does not have any frontage on Waterbury-Stowe Road (Route 100).

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by The Murray Family Trust, c/o Robert & Carline Murray, Trustees, to create a two-lot subdivision on Guptil Road in the MDR and RT100 zoning districts, as presented in application #004-20 and supporting materials, meets the applicable Site Plan, Planned Unit Development, and Subdivision criteria as set forth in Sections 301, 705, and 1202.

Decision Motion:

On behalf of the Waterbury Development Review Board, Andrew Strniste moved and Alex Tolstoi seconded the motion to approve application #004-20 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) The applicant shall comply with erosion protection and sediment control measures when development commences on the lots. [Section 1202(a)3]
- (3) The conditions of approval regarding zoning permit #089-19 are incorporated into this decision by reference.
- (4) The approved final plat, signed by the DRB Chair (or Acting Chair), shall be duly filed and recorded in the office of the Clerk of the Town of Waterbury within 180 days from this approval, in accordance with 24 V.S.A. § 4463.

Vote: The motion was approved 5–0.



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

Approved: February 19, 2020

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.*