

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—July 15, 2020**

**Attending:** Board members present: David Frothingham (Chair), Tom Kinley (co-Vice Chair), Bud Wilson, Andrew Strniste, Alex Tolstoi, Patrick Farrell, and Harry Shepard. Staff present: Steve Lotspeich (Acting Zoning Administrator), and Patti Martin (Secretary).

David Frothingham opened the public meeting at 6:30 p.m. Staff member Steve Lotspeich was present in the Municipal Center, 28 North Main Street, Waterbury, VT, while all other attendees participated in the meeting via ZOOM. The meeting was video recorded. The agenda was approved and followed as presented.

The following introduction was offered by the Chair, David Frothingham: Applicants and consultants will be given the option to be contacted once their hearing is ready to commence. The applicants should try and have one spokesperson. Steve will give a staff overview. The Applicant or spokesperson will present new information to the Board. DRB members will be asked one at a time to ask questions, followed by staff questions and comments. Then the hearing will be opened to public for comments and questions. Attendees were advised that the DRB is a 7-member Board and that any approval will require 4 votes in the affirmative.

1) **#055-20: Charles S. Taylor Family Trust** (owner), **Zachary Laporte & Dakota Clark** (applicant)

Pre-development clearing and driveway construction for a 27-acre parcel off Ring Rd. in the Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay district. — continued from July 1, 2020.

Present and Sworn in:

George McCain, Consultant  
Dakota Clark, Applicant  
Laurie and Daniel Brady, Adjoining Landowner  
Elliott Bent, Adjoining Landowner (*July 1 meeting only*)

Testimony:

- Discussion continued about the buffer, drainage, right-of-way to the two camps, parking in the easement area, and the parking area along Ring Road.
- Adjoining landowners, Bradys, are concerned with the turn-around/parking near their home.
- The Brady's are also concerned with "what if" the land is cleared, the driveway is upgraded, and then the home isn't built? Also, "what if" the home is not built to the specs and what would be the recourse? Can enforcement action be taken?

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

2) **#063-20: Axel's Gallery & Frame Shop** (applicant), **Kenley D. Squier Living Trust** (owner)

Downtown Design Review relating to a painted mural mounted on the side of a building located at 5 Stowe Street in the Downtown Commercial (DC) and Downtown Design Review (DDR) zoning and overlay districts.

Present and Sworn in:

Whitney Aldrich, Applicant

Wade Hodge, Resident  
Brian Leven, Adjoining Landowner  
MK Monley, Resident  
Laura Parette, Resident  
Anne Imhoff, Resident  
Monica Callan, Resident

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

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

- Review prior meeting minutes and decisions:  
Tom Kinley moved, and Alex Tolstoi seconded the motion, to approve the general minutes for July 1, 2020, and the decisions for applications #043-20 O'Brien/Hack, #050-20 Duffy, and #056-20 Callan, as presented and amended.

**Vote:** Motion approved: 7-0.

- Public Comment / Other business: None.

**Adjournment:** There being no other business, the meeting was adjourned at 8:00 p.m.

**Next meeting:** Wednesday, August 5, 2020, 6:30 p.m., via ZOOM.

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

Approved: \_\_\_\_\_ August 5, 2020

**Town of Waterbury**  
**Development Review Board**  
**Approved Hearing Decision**  
**Application #055-20 - Date: July 15, 2020**

**IN ATTENDANCE:**

Board Members Present: Dave Frothingham, Chair; Tom Kinley; Bud Wilson; Andrew Strniste; Alex Tolstoi; Patrick Farrell; Harry Shepard

Staff Present: Steve Lotspeich, Acting Zoning Administrator; Patti Martin, Secretary

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Owner/Applicant:	Charles Taylor Family Trust (owner), Zachary Laporte & Dakota Clark (applicant)
Address/Location:	Ring Road, Waterbury Center, VT
Zones:	Conservation (CNS), & Ridgelines/Hillsides/Steep Slopes (RHS) overlay
Application #	055-20 <span style="float:right">Tax Map #: 14-054.000</span>

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**Applicant Request:**

The Applicant seeks approval for pre-development clearing for the purposes of constructing a driveway and future dwelling within the Ridgeline, Hillside Steep Slope Overlay District. The parcel is currently developed with only a woods road.

**Present and sworn in: (July 1<sup>st</sup> and July 15<sup>th</sup>):**

George McCain, Consultant

Dakota Clark, Applicant

Laurie & Daniel Brady, Adjoining Landowners

Elliott Bent, Adjoining Landowner (July 1<sup>st</sup> meeting only)

**Exhibits:**

- Exhibit A: Application # 055-20 (6 pages including Conditional Use & Overlay District Information, RHS, submitted 6/5/20
- Exhibit B: Cover letter from McCain Consulting, dated 6/3/20
- Exhibit C: Response to Standards of Review, RHS-Major Overlay District submitted 6/5/20
- Exhibit D: Overview Site Plan and Site Plan – House Site, dated 5/22/20
- Exhibit E: Aerial Overview Plan, dated 6/17/20
- Exhibit F: Viewshed Profile, dated 6/17/20
- Exhibit G: Steep Slopes map from VT ANR Natural Resources Atlas, dated 6/17/20
- Exhibit H: Wildlife Map from VT ANR Natural Resources Atlas, dated 6/17/20
- Exhibit I: Aerial Map of Parcel, dated 11/17/19

- Exhibit J: Photographic Views of House Site from Shaw Mansion and Ripley Roads submitted 6/5/20
- Exhibit K: Notice of Public Hearing, mailed certified on 6/12/20
- Exhibit L: Letter from Waterbury Ambulance Service, Inc., dated 7/10/20
- Exhibit M: Letter from Waterbury Fire Department, dated 7/13/20
- Exhibit N: Book 89, Pages 47 & 48 – deeded easement information

**Findings of Fact:**

1. The 27+/- acre property is located within the Conservation Zoning District, which has a required minimum lot size of 10 acres.
2. The property also lies within the Ridgeline, Hillside, Steep Slope Overlay District and is consider a ‘Major Development’, as the location of the new dwelling is above 1,500 feet in elevation.
3. The Conservation Zoning District requires a minimum setback of 100’ from all property lines. The proposed clearing for a future dwelling meets these setbacks.
4. The single-family dwelling is proposed to be built entirely within the proposed clearing as shown on Exhibits D through H.
5. The access to the lots is from Ring Rd. via the existing woods road thru an existing right-of-way easement over the Laurie and Dan Brady parcel, Tax Map. No. 14-053.000. The cover letter from McCain Consulting states: "This application is for review of proposed pre-development clearing and driveway construction for the Charles Taylor Family Trust property. The first section of the proposed driveway will be located along an existing woods road, within a right-of-way located on the Brady property and onto the subject parcel. The driveway will then turn up to a proposed house location, with limits of clearing identified for the house site, driveway, and proposed leach field area." The dwelling will be located at an elevation of approximately 1,750+’.
6. A review of the Waterbury land records revealed that there is a 50’ right-of-way that serves the adjacent property to the northeast that generally follows the existing woods road. The relevant portion of this right-of-way along the improved driveway is shown on Exhibits D1 and D2.
7. The existing woods road will be re-graded as shown on Exhibit D1 and D2. This new driveway will also access two camps that are north and east of the Taylor parcel. A pull-off/parking area will be constructed at the base of the driveway where it intersects with Ring Rd. An additional culvert will be added at approximately Station 5+50 on the proposed driveway to alleviate drainage issues. The consultant, George McCain, P.E. stated that the proposed culvert will not adversely impact the existing drainage patterns or the property owned by Dan and Laurie Brady that is downhill of the proposed driveway. The ditches on the uphill side of the driveway will be lined with stone to prevent erosion. The driveway in the vicinity of the house site has been configured to allow for 25’ wide undisturbed buffers relating to the existing intermittent streams on either side of the

house site. The westerly stream will cross under the driveway in a 24" diameter high density plastic (HDPE) culvert that will have stone inlet/outlet protection. This will be an improvement over the current condition of the stream crossing under the existing woods road.

8. The slope of the approximately 1,500' long proposed driveway varies from approximately 9% to 17% as shown on Exhibit D1 with the majority of the length of the driveway at an approximately 17% slope. Exhibit L: Letter from Waterbury Ambulance Service, Inc., and Exhibit M: Letter from Waterbury Fire Department address the challenge of accessing the proposed house site for emergency services. The letter from the Executive Director of the Waterbury Ambulance Service states: "A driveway with 17% slope 1500 feet in length with no transition strips is just asking for trouble with respect to getting an ambulance into the area and turned around especially in the winter in my opinion." The letter from the Fire Chief for the Waterbury Fire Department states: "If a house is going to be built in this location, there has to be an understanding that the fire department would not be able to provide the fire protection that others receive, even on back roads." The applicant stated that they understand the limitations of access to the dwelling by the fire and ambulance service due to the slope of the driveway.
9. The Applicants (or their successors) will applied for a Wastewater and Water Supply Permit in the future for the construction of a dwelling.
10. No clearing is proposed for this project beyond what is depicted on Exhibit D1 and D2. Exhibit F: the Viewshed Profile, illustrates how the clearing of the house site will appear in profile with screening provided by the existing mature trees.
11. There will be no additional earth disturbance beyond the areas of the driveway construction, building envelope and septic system leach field.
12. The proposal is subject to the 'major' RHS Standards as per section 1004 of the Waterbury Zoning Regulations. Exhibit C: Response to Standards of Review: RHS-Major Overlay District, addresses these standards of review.
13. Development projects in the RHS District are subject to review under the following RHS and conditional use criteria:

Section 1004 RHS Standards of Review: All of the proposed development is located above 1,500 FIE. As per Section 1001, the project is classified as "major" development. Exhibit C: Response to Standards of Review, RHS-Major Overlay District address the criteria in Section 1004. Major development projects on lands within the RHS overlay district shall also be subject to conditional use review.

Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:

- (a) Section 303(e)(1) Community facilities: The future dwelling will not be connected to municipal water or sewer systems. The residential development will not exceed the school

system's capacity, nor cause an undue adverse impact to traffic volumes, nor create an unmanageable burden on fire protection services.

- (b) Section 303(e)(2)(A-E) Character of the area: The existing uses in the immediate area are residential and forested open space. Light and noise impacts are expected to be typical of a standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. The application materials did not specify any historic sites. Exhibit H: Wildlife Map from VT ANR Natural Resources Atlas, indicates that there are no rare, threatened, or endangered species, significant natural communities, or deer wintering areas on the parcel.
  - (c) Section 303(e)(3) Municipal bylaws in effect: Dwellings are a permitted use within the CNS zoning districts and are a conditional use when they are located within the RHS overlay district. The proposed project complies with the zoning bylaws.
  - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically create the above-named nuisances, and therefore, no devices or special methods are required to control these impacts.
14. 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 Waterbury Development Review Board concludes that App. #055-14-T, for the pre-development clearing for a driveway and future dwelling within the Ridgeline, Hillside Steep Slope Overlay District, meets the standards of Article X, Section 1004 and Section 303, Conditional Uses of the Waterbury Zoning Regulations.

**Motion:**

On behalf of the Waterbury Development Review Board, Harry Shepard moved, and Aex Tolstoi seconded the motion, to approve Application #055-20, with the following conditions:

1. The Applicants complete the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. The Applicants shall comply with erosion protection and sediment control measures required by the State of Vermont when development commences on the lot.

**Vote:** The motion was approved 7 – 0.

Thomas D. King,  
(Chair) (Vice-Chair) ~~(Acting Chair)~~

8-5-2020  
(date)

This decision was approved on August 5, 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](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.*

**Town of Waterbury**  
**Development Review Board**  
**Decision #063-20 ▪ July 15, 2020**

**In Attendance:** Board members: David Frothingham (Chair), Tom Kinley (co-Vice Chair), Bud Wilson, Andrew Strniste, Alex Tolstoi, Patrick Farrell, and Harry Shepard. Staff: Steve Lotspeich (Acting Zoning Administrator) and Patti Martin (Secretary). Also Present: Sidney Belay (Waterbury Roundabout) and Alyssa Johnson (Economic Development Director).

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Applicant/Owner:	Axel's Gallery & Frame Shop / Kenley D. Squier Living Trust	
Address/Location:	5 Stowe Street, Waterbury, VT	
Zones:	Downtown Commercial (DC), Downtown Design Review (DDR)/Historic Commercial (HC) overlay.	
Application #	063-20	Tax Map # 19-301.000

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**Applicant Request:**

The Applicant seeks approval to paint a mural on the side of the building at 5 Stowe Street.

**Present and sworn in:**

Whitney Aldrich, Applicant  
Wade Hodge, Resident  
Brian Leven, Adjoining Landowner  
MK Monley, Resident  
Laura Parette, Resident  
Anne Imhoff, Resident  
Monica Callan, Resident

**Exhibits:**

- A: Application #063-20 (4 pp: Zoning, Overlay District DDR), dated 6/15/20.
- B: Project Description, submitted 6/15/20.
- C: Site Plan and Mural Location on Building, submitted 6/15/20.
- D: Mock-up of Mural, submitted 6/15/20.
- E: Orthophoto of parcel (staff).
- F: Letter to adjoining landowners, mailed certified on: 7/3/20.

**Findings of Fact:**

1. Existing conditions: Kenley D. Squier Living Trust owns a 0.04± acre lot located at 5 Stowe Street. The property is developed with a 3,716 SF (1,858 SF footprint) two-story building that comprises most of the parcel. The first floor is occupied by Axel's Frame Shop and the second floor is part of the studios for WDEV and the Radio Vermont Group. The property is served by municipal water and sewer and includes frontage on Stowe Street (Exhibit F). The parcel is in the Downtown Commercial (DC) zoning district, Downtown Design Review (DDR)/Historic Commercial (HC) overlay and sub-district. The building is a contributing historic structure to the Waterbury Village Historic District that is on the State



and National Register of Historic Places.

2. Proposal: Axel's Gallery & Frame Shop is proposing to paint a mural that will be approximately 22' tall and 21' wide on the southwest (alley) side of the building located at 5 Stowe Street as shown in Exhibit C. The mural will be as described in Exhibit B, and will be painted on "panel material that is still undetermined but will likely be aluminum that is durable and paintable. Metal fasteners to affix the panel to the brick's mortar will be of a suitable material." There will be at least a 1½" gap between the panel and the brick of the building to allow the brick to breath and stay dry. "The mural will split and go around the bottom and sides of the second-floor window as to not impede egress from the second-floor window." "Considering the side of the building is 72' long and 30' high, the proposed mural is considerably less than ½ of the space." The mural will not have additional exterior lighting to illuminate it. The mural panel will be removed if necessary at a later date. The panel will be installed by a licensed installer who will be insured.
3. Review procedure: The project is subject to Downtown Design Review as a substantial alteration of the building's façade. Since this project is located in the Historic/Commercial Sub-District of the Downtown Design Review Overlay District, the following criteria apply:

Article XI Downtown Design Review Overlay District

Section 1108 Design Review Standards

*(a) Prior to granting design approval, the Development Review Board finds that the proposed development meets the following standards, where applicable:*

*(1) Historic Structures (applying to all structures listed on the National Register of Historic Places):*

*(A) Original materials or materials typical of the architectural style of the structures shall be preserved or replaced with like materials to the extent feasible and appropriate.*

*(B) Historic building features shall be preserved or replicated to the extent feasible and appropriate.*

*(2) Historic/Commercial Sub-District:*

*(A) New building designs shall reinforce historic streetscape patterns, including orientation and setbacks. Building sites, including road and pedestrian networks, shall be designed in a manner that is integrated and compatible with adjoining parcels and areas.*

*(B) New buildings shall maintain overall height, size, massing, scale, and proportions compatible with those of buildings in the vicinity. New buildings shall incorporate building forms, lines, roof shapes, features, and materials compatible with those of buildings in the vicinity, but are not required to conform to a particular architectural style.*

*(C) New additions should be designed to complement and be compatible with, rather than detract from or obscure, the original structure.*

*(D) Project design shall reinforce a pedestrian streetscape through the provision, where appropriate, of such features as connecting walkways, landscaping and street trees, the incorporation of architectural features such as porches, store fronts and windows, and pedestrian-scaled street furniture and lighting.*

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Axel's Gallery & Frame Shop / Kenley D. Squier Living Trust to paint a mural that will be approximately 22' tall and 21' wide on the southwest (alley) side of the building located at 5 Stowe Street, as presented in application #063-20 and supporting materials, meets the Downtown Design Review in the Downtown Commercial district criteria as set forth in Article XI.

**Motion:**

On behalf of the Waterbury Development Review Board, Alex Tolstoi moved and Bud Wilson seconded the motion to approve application #063-20 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 mural shall not have additional exterior lighting for illumination purposes.
- (3) If the method of attachment changes then further review by this Board will be required.

**Vote:** The motion was approved 7–0.

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

Approved: August 5, 2020

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, 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.*