

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—August 5, 2020

Attending: Board members present: David Rogers (Acting Chair), Tom Kinley (co-Vice Chair), Andrew Strniste, Patrick Farrell, and Harry Shepard. Staff present: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary).

David Rogers, Acting Chair, 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 David Rogers: Applicants and consultants will be given the option to be contacted once their hearing is ready to commence. The applicants should try to 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) **#072-20: Chris Younce** (owner/applicant)

Setback Waiver review for a front porch for the existing single-family dwelling with an accessory apartment located at 4 East Street in the Village Residential (VR) zoning district.

Present and Sworn in:

Chris Younce & Jocelyn Szczepanski, Owner/Applicant
Matt Green, Adjoining Landowner

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

2) **#073-20: Milford Cushman** (applicant), **John & Belva Hayden** (owner)

Ridgelines/Hillsides/Steep Slopes (RHS) review for a single-family dwelling on Lot 11, Stagecoach Lane in the Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay districts.

Present and Sworn in:

John & Belva Hayden, Owner/Applicant
Milford Cushman, Cushman Design Group, Applicant/Consultant
Jon Severinghaus, Cushman Design Group, Consultant
John Grenier, Grenier Engineering, Consultant
John Steel, Consultant/Contractor

Testimony:

- The color scheme will be tonal grays. The light reflective values are under 20%, to disguise the building into the hillside.
- Some additional clearing/thinning of trees is requested beyond what was approved in the prior approval for the creation of the lot (in 2013). The total area to be cleared is currently under the 10% of the lot area, with the septic area remaining to be cleared. The additional thinning is requested to further “tuck” the garage into the hillside. The total cleared area will under 10% including the additional requested clearing.

- A lighting cut-sheet was submitted and the lighting was discussed. All proposed lighting will be downcast and shielded.
- The highest peak of the house will be 33' above the grade at the lowest floor elevation.
- Steve Lotspeich asked about any reflection from the glass windows. The overhang from the house and the lighting are designed to limit this.

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

3) **#074-20: Benjamin Kidder & Linden Politi** (owner/applicant)

Request for reduction in the double setback to construct a single-family dwelling in the Loomis Highlands Planned Unit Development in the Low Density Residential (LDR) zoning district.

Present and Sworn in:

Benjamin Kidder & Linden Politi, Owner/Applicant

Karen Yacos, Adjoining Landowner

Testimony:

- Board member Andrew asked if the driveway could be moved to avoid the 24' setback reduction. The applicant indicated that to do that an easement for tree protection would be compromised. The steep slope of the lot and the location of the force main to the existing leach field also limits where the house can be placed and still provide vehicular access.

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: #050-20, Joseph & Judith Duffy (owner/applicant), two-lot subdivision of Lot D on Wood Farm Road. (LDR/CNS). DRB hearings: 6/17 & 7/1/20; decision approved: 7/15/20; final plat due: 1/11/21 (180 days).

Tom Kinley moved, and Harry Shepard seconded the motion, to approve the final plat for subdivision permit #050-20 as presented.

Vote: Motion approved: 5–0.

- Review prior meeting minutes and decisions:

Tom Kinley moved, and Patrick Farrell seconded the motion, to approve the general minutes for July 15, 2020, and the decisions for applications #055-20 and #063-20, as amended.

Vote: Motion approved: 5–0.

Adjournment: There being no other business, the meeting was adjourned at 8:35 p.m.



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

Approved: August 19, 2020

Notice of upcoming meetings: Sept. 2, 2020, Sept. 23, 2020, Oct. 7, 2020.

Town of Waterbury
Development Review Board
Decision #072-20 - August 5, 2020

In Attendance: Board members: David Rogers (Acting Chair), Tom Kinley (co-Vice Chair), Andrew Strniste, Patrick Farrell, and Harry Shepard. Staff: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary).

Applicant/Owner:	Chris Younce	
Address/Location:	4 East Street, Waterbury, VT	
Zoning District:	Village Residential (VR)	
Application #	072-20	Tax Map # 19-089.000

Applicant Request:

The Applicant seeks approval to construct a new front porch within the front setback at 4 East Street.

Present and sworn in:

Chris Younce & Jocelyn Szczepanski, Owner/Applicant
Matt Green, Adjoining Landowner

Exhibits:

- A: Application #072-19 (3 pages: zoning, conditional use), submitted 7/14/20.
- B: Orthophoto of subject parcel and neighboring area with proposed porch, dated 7/16/20.
- C: Top and front view of porch, submitted 7/14/20.
- D: Notice to adjoining landowners, mailed certified on 7/20/20.

Findings of Fact:

1. Existing conditions: Chris Younce owns a 0.29-acre parcel located at 4 East Street. The property is developed with a single-family dwelling with an accessory apartment above the garage. The lot predates the establishment of zoning regulations in the Town in 1980 and therefore is considered a pre-existing and conforming lot for the current use. The existing house is set back 40' from the center of East Street or 15' from the edge of the right-of-way for the street.
2. Proposal: The proposal is to construct a new 8' deep by 12' wide porch on the front of the existing primary dwelling as shown on Exhibits B and C.
3. VR Dimensional Requirements, Table 5.2: *Minimum lot area: 10,000 SF.; no minimum frontage required; minimum setbacks: 30' front, 10' sides, 30' rear.* The lot meets the minimum lot size. The existing lot frontage (lot width at the building front line) is approximately 82.5'.
4. Waiver Request: The setback waiver request is to encroach into the front yard setback by 23' (30 minus 7').

5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use review in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties. The Board considered the following general and specific standards:
- a. Section 303(e)(1) Community facilities: No change in the residential use of the property is proposed. The new porch will enhance the access to the front of the house. The porch will not require an expansion of the municipal water or sewer system, will not burden the school capacity, and will not increase the demand for fire protection.
 - b. Section 303(e)(2)(A–E) Character of the area: The use of the property will remain residential. The new front porch will be similar in scale and location to many of the houses on East Street that already have front porches within a similar proximity/setback to the street. The application states: “The proposed project will enhance the character of the affected area by developing a complimentary structure relative to what already exists in the neighborhood.
 - c. Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. This project application presents compliance with the conditional use criteria.
 - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The project is a new porch. This typical residential use will not emit any of the above-named nuisances. No controls are proposed or required.
 - 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 Chris Younce to construct a new front porch 23’ within the front setback at 4 East Street, as presented in application #072-20 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Andrew Strniste seconded the motion to approve application #072-20 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)

Approved: August 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 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 & Village of Waterbury
Development Review Board
Decision #073-20 - August 5, 2020

In Attendance: Board members: David Rogers (Acting Chair), Tom Kinley (co-Vice Chair), Andrew Strniste, Patrick Farrell, and Harry Shepard. Staff: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary).

Owner/Applicant:	John & Belva Hayden (owner), Milford Cushman (applicant)	
Address/Location:	Lot 11 Stagecoach Lane, Waterbury Center, VT	
Zones:	Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.	
Application #	073-20	Tax Map # 14-065.011

Applicant Request:

The Applicant seeks approval for to construct a single-family dwelling and attached garage on Lot 11 Stagecoach Lane in the Conservation (CNS) zoning district and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.

Present and sworn in:

John & Belva Hayden, Owner/Applicant
Milford Cushman, Cushman Design Group, Applicant/Consultant
Jon Severinghaus, Cushman Design Group, Consultant
John Grenier, Grenier Engineering, Consultant
John H. Steel, Steel Construction Inc., Consultant/Contractor

Exhibits:

- A: Application #073-20 (6 pp: Zoning, Conditional Use, Overlay District), submitted 7/15/20.
- B: Site Plan prepared by Cushman Design Group, dated August 3, 2020.
- C: Visual analysis and Site Plan for Lot #11, prepared by Cushman Design Group, dated July 31, 2020.
- D: Floor plans and elevations for dwelling, prepared by Cushman Design Group, dated July 31, 2020.
- E: Orthophotos and parcel map of the lot with zoning & overlay districts. (Staff).
- F: Letter from Waterbury Fire Department regarding access to Lots #9, #10, and #11, dated 8/31/13.
- G: Prior DRB approval, #43-13-T, for a five-lot subdivision, including Lot #11, dated 5/1/13.
- H: Prior approved site plan for Lot #11 by Grenier Engineering, dated 7/16/13.
- I: Letter to adjoining landowners, mailed certified on 7/17/20.
- J: Lighting cut sheet for exterior fixtures, submitted on 8/5/20.

Findings of Fact:

1. Existing conditions: John & Belva Hayden own Lot #11, an undeveloped parcel, on Stagecoach Lane, in the Conservation (CNS) zoning district and the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. The lot is 11.76 acres in area. The lot was previously approved in zoning permit #43-13-T for a five-lot subdivision (Exhibits G, H). An existing driveway provides access to Stagecoach Lane, a private road. The driveway ranges in slope from 12% to 13%. The lot has been cleared in accordance with the prior approval (Exhibit H). The lot will be served by private well and an on-site septic system.

2. Proposal: The lot will be developed with a 7,623 SF two-story house with an attached garage, as shown on Exhibits B, C & D. The house will be 33' in height (Exhibit D). There will be a small amount of additional clearing as shown on Exhibit B. The total cleared area on the lot will be less than 10% of the area of the lot, in conformance with Condition #2 in the prior DRB decision #43-13-T (Exhibit G). The stormwater management facility shown to the northwest of the existing driveway has been constructed.
3. Section 1001 RHS Applicability: The lot is in the RHS overlay district. All of the proposed development, including clearing (Exhibit B), will be below 1,500 feet-in-elevation (FIE). As per Section 1001(b), the project is classified as "minor" development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review.
4. Visual analysis: Exhibit C, Visual analysis and Site Plan for Lot #11, shows the views of the lot and proposed house from three vantage points on Blush Hill Rd. and Lonesome Trail that are 3-4 miles away. The lot and house are generally not visible from vantage points on public roads that are closer to the site. The visual analysis includes a photograph from the site with these vantage points shown. The house will be colored in various shades of grey as shown on Exhibit D. This will help the house blend in with the landscape as viewed from off-site, during the daytime. All exterior lights will be downcast and shielded.
5. Natural resources: There is a wildlife corridor that is associated with a stream that is approximately 350' north of the closest property line on Lot #11 and is approximately 750' north of the proposed house site. This wildlife corridor was identified in the three-lot planned unit development on Bear Creek Lane, north and east of Lot #11.
6. Section 1004 RHS Standards of Review and Section 303 Conditional Use criteria: A minor development project in the RHS overlay district must conform to the following general and specific standards:
 - a. Section 303(e)(1) Community facilities: The application states, "This project is a single-family residence on an undeveloped lot in a previously-approved subdivision with on-site water supply and septic disposal system." The proposed residence is not expected to cause the school system capacity to be exceeded, cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services (see Exhibit F, Letter from the Waterbury Fire Department).
 - b. Section 303(e)(2)(A-E) Character of the area: The existing uses in the immediate area are residential. Light and noise impacts are anticipated to be typical of 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 applicant did not identify any historic sites, or rare or irreplaceable natural areas on the parcel.
 - c. Section 303(e)(3) Municipal bylaws in effect: A single-family dwelling is a permitted use in the CNS zoning district and is a conditional use in the RHS overlay district. The proposed project complies with the applicable zoning regulations.
 - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use is not expected to create the above-named nuisances, and therefore, no devices or special methods are proposed or required to control these impacts.

- e. Section 303(h) Removal of earth or mineral products conditions: The project does not include earth removal activities other than those incidental to a construction and landscaping. Therefore, review and analysis under this section is not required.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by John & Belva Hayden (owner) and Milford Cushman (applicant) to construct a single-family dwelling and attached garage on Lot #11, Stagecoach Lane, as presented in application #073-20 and supporting materials, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

Motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Harry Shepard seconded the motion to approve application #073-20 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.
- 3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #43-13-T.
- 4) The owners/applicant shall comply with all state erosion protection and sediment control measures when development commences on the lot.

Vote: The motion was approved 5–0.



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

Approved: August 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 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 & Village of Waterbury
Development Review Board
Decision #074-20 ▪ August 5, 2020**

In Attendance: Board members: David Rogers (Acting Chair), Tom Kinley (co-Vice Chair), Andrew Strniste, Patrick Farrell, and Harry Shepard. Staff: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary).

Owner/Applicant:	Benjamin Kidder & Linden Politi	
Address/Location:	Lot 1, 405 Loomis Highlands, Waterbury Center, VT	
Zones:	Low Density Residential (LDR)	
Application #	074-20	Tax Map # 10-062.100

Applicant Request:

The applicant seeks approval to reduce the double setback to construct a single-family dwelling on Lot 1, 405 Loomis Highlands in the Low Density Residential (LDR) zoning district. The lot is part of the Loomis Highlands Planned Unit Development (PUD).

Present and sworn in:

Benjamin Kidder & Linden Politi, Owner/Applicant
Karen Yacos, Adjoining Landowner

Exhibits:

- A: Application #074-20 (4 pp: Zoning, Subdivision/PUD), submitted 7/20/20.
- B: Narrative Description & Supporting Information, dated 7/20/20.
- C: Site Plan for Lot #1, prepared by Vermont Survey and Engineering, Inc., revised July 25, 2020.
- D: Orthophoto and parcel map of the lot. (Staff).
- E: 10-day notice to adjoining landowners, mailed certified on: 07/22/20.

Findings of Fact:

1. Existing conditions: Benjamin Kidder & Linden Politi own an undeveloped parcel, Lot #1 located at 405 Loomis Highlands, in the Low Density Residential (LDR) zoning district. The lot is part of the Loomis Highlands Planned Unit Development that was originally approved in 1991. The lot is 2.49 acres in area and is located at the northern edge of the overall grouping of lots in the Loomis Highlands PUD. The lot is primarily open with trees along the northern and eastern edge of the lot. The adjacent lot to the north is wooded along the common boundary with the Kidder/Politi lot, as shown on Exhibit D. The lot will be served by private well and an on-site septic system.
2. Proposal: The lot will be developed with a 3,584 SF, primarily one-story house with an attached garage with finished living space above it, as shown on Exhibit C. The house will be 25' in height. There has already been some additional clearing required to install the curtain drain and associated grading to accommodate the house location as shown on Exhibit C. Exhibit B states, "...the area of the northern boundary beyond the building is a wooded hill, providing ample natural screening between the planned

unit development and the neighboring lots.”

3. Setbacks and request for reduction in the double setback: The lot is in the LDR zoning district, therefore the double setback requirement along the northern boundary of the lot is 150'. The owners are requesting a reduction in this double setback of 24' for a rear setback of 126'. There are no other interior setback requirements other than a required 50' separation between buildings on adjacent lots in the PUD. The structure will be 58' from the nearest side property line on the easterly side, which meets this minimum separation requirement.

The following criteria apply to the requested reduction of the double setback for the exterior boundary of Lot #1 in the Loomis Highlands PUD:

Section 700 General Purpose

(a) The purpose of planned unit development (PUD) is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate and efficient use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands in conformance with the Municipal Plan and this bylaw. PUDs may include any mix of residential and nonresidential uses that are allowed in a district.

(b) Accordingly, the Development Review Board is hereby authorized to modify the area and dimensional requirements of this bylaw simultaneously with the approval of the subdivision plat for a PUD. However, such modifications shall be limited as provided in 24 V.S.A. §4417 and as set forth below.

Section 702 Permitted Densities

(b) Along the outside boundary of the PUD project, setbacks shall be twice the dimensions established for the district in which the project, or applicable portion of the project, is located. The Development Review Board may, in accordance with the review process contained in Section 704(g), reduce this double setback for a portion of the entire outside boundary, provided the following criteria are met: 1) The setback is not less than the required setback for the district in which the affected portion of the project is located; 2) the applicant shall demonstrate that a lot configuration which utilizes the double setback exclusively does not yield practical building sites and does not meet the general purpose of these PUD bylaws; and 3) adequate screening and landscaping exist or are proposed as required in Sections 301(f)(3) and 705(k). Other than this setback, no other setbacks apply to PUDs.

Exhibit B addresses the above criteria as follows:

“The lot is narrow and drops off steeply to the west, so the long axis of the house must run North to South. The pre-existing septic line, electric pedestal, and cable utility hookup are located to the south, and the drilled well location to the southeast. Situating the house so that the driveway, garage, wellhead, utilities, and septic are separate, accessible, and adhere to permitting standards requires reducing the setback by 24 feet.”

The applicant requires a single-story house due to a disability and requirements for accessibility. Exhibit B continues to state: “We believe this request satisfies the criteria in the town bylaws, specifically 702(b) (see below). Additionally, as the request concerns a small area that is already open and does not interfere with any neighboring properties, we believe this request constitutes a minor project, as per 704(d) (see below). Because it constitutes a minor project, we request the Development Review Board waive the public hearing.”

Section 704 Application Procedure

(d) A duly warned public hearing shall be held no sooner than fifteen (15) days following the submission of the formal application. The public hearing requirement may be waived if the Development Review Board deems the project to be minor in nature.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Benjamin Kidder and Linden Politi (owners) to construct a single-family dwelling and attached garage on Lot #1, 405 Loomis Highlands, as presented in application #074-20 and supporting materials, to reduce the double setback by 24' to 126', meets the Planned Unit Development standards as set forth in Sections 700 and 702, and amends the Loomis Highlands PUD. Furthermore, the Board waives the requirement for a public hearing since this reduction in the double setback of 24' is deemed minor in nature, in accordance with Section 704.

Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Andrew Strniste seconded the motion to approve application #074-20 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.
- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #4-91-T.
- (4) The owners/applicant shall comply with all state erosion protection and sediment control measures when development commences on the lot.

Vote: The motion was approved 5-0.



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

Approved: 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, and the appropriate state agencies to determine permits that must be obtained.

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