

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—November 18, 2020

Attending: Board members: Tom Kinley (Acting Chair), Bud Wilson, Alex Tolstoi, Patrick Farrell, Harry Shepard, George Lester (Alternate), and David Rogers (did not participate in first two items). Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Tom Kinley, Acting Chair, opened the public meeting at 6:30 p.m. and made the following introductory remarks: Applicants and consultants will be given the option to be contacted when their hearing is ready to commence. Applicants should have one spokesperson. Staff will give an overview of the project. The Applicant or spokesperson will present any new information to the Board. The DRB members will ask questions, followed by staff questions and comments. The hearing will then be opened to the public for comments and questions. Attendees were advised that the DRB is a seven-member Board and that any approval will require four votes in the affirmative.

1) **#124-20: Scott & Mary-Ellen Lamson** (owner/applicant)

Setback waiver request to construct deck additions and a detached garage in the setback at 465 Maple Street. (TMR zoning district)

Present and sworn in:

Scott & Mary-Ellen Lamson (Owner/Applicant)

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

2) **#119-20: Martha Staskus** (owner/applicant)

Boundary-line adjustment and new right-of-way across 510 Ring Road to serve 516 Ring Road. (LDR/CNS zoning districts)

Present and sworn in:

Martha Staskus (Owner/Applicant)

Present: Carl Haasper Jr., 516 Ring Road (Adjoining landowner)

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

3) **#102-20: Mark Frier** (applicant), **Forty Foundry LLC** (owner)

Consideration to reopen the Site Plan, Conditional Use, and Downtown Design review for a change of use from an auto parts retail store to a brewery with retail and a tasting room at 40 Foundry Street. (IND/DDR zoning and overlay districts)

Motion: Alex Tolstoi moved to reopen application #102-20 and George Lester seconded.

Vote: The motion was approved 5–1.

Present and sworn in:

Mark Frier, Forty Foundry LLC (Owner/Applicant)

Alyssa Johnson (Economic Development Director)

Ryan Miller (Owner/Brewer Freak Folk Bier, Prospective Tenant)

Lil MacNamara (Brewery business owner, Prospective tenant/)

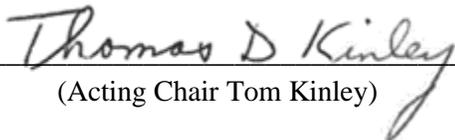
Testimony:

- The brewery will make 217 gallons per brew, typically two times per week, and three times per week maximum.
- Growth would be to expand from 2 barrels to 7 barrels (217 gallons), six brews at a time. Ultimately the production may be as many as 20 barrels.
- There will be up to 21 people at a tasting event, not more than seven times in a three-month period.
- The memo from Bill Woodruff, the municipal Public Works Director, was discussed and admitted as an exhibit.
- The applicant will be presenting a letter addressing the impact to municipal infrastructure stating there will not be an adverse impact to the municipal wastewater and water supply systems.
- A wastewater and water supply allocation letter from the Edward Farrar Utility District will be required prior to the issuance of the zoning permit.

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

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

- Approval of prior meeting minutes and decisions:
Motion: George Lester moved and Bud Wilson seconded the motion to approve the general meeting minutes of November 4, 2020 and decisions #111-20 (Chadwick) and #113-20 (Norton), as amended.
Vote: The motion was approved 7-0.
- Adjournment: There being no other business, the meeting was adjourned at 8:30 p.m.



(Acting Chair Tom Kinley)

Approved: December 2, 2020

Notice of upcoming meetings:

Wednesday, December 2, 2020, 6:30 p.m.
Wednesday, December 16, 2020, 6:30 p.m.
Wednesday, January 6, 2021, 6:30 p.m.

Town of Waterbury
Development Review Board
Decision #124-20 ▪ November 18, 2020

Attending: Board members: Tom Kinley (Acting Chair), Bud Wilson, Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester (Alternate). Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	Scott and Mary-Ellen Lamson	
Address/Location:	465 Maple Street, Waterbury Center, VT	
Zoning District:	Town Mixed Residential (TMR)	
Application #	124-20	Tax Map #09-143.000

Applicant Request

The Applicant seeks approval to construct a detached garage and deck additions in the setback at 465 Maple Street in the Town Mixed Residential zoning district.

Present and sworn in:

Scott and Mary-Ellen Lamson (Owner/Applicant)

Exhibits

- A: Application #124-20 (3 pages: zoning, conditional use), submitted 10/26/20.
- B: Site Plan, prepared by Applicant, submitted 10/26/20.
- C: Elevation mock-ups, existing and proposed, prepared by Applicant, submitted 11/13/20.
- D: (D1) Parcel map/orthophoto with TMR setback box (Staff) 10/23/20
(D2) Neighboring parcels with TMR setback box, prepared by Staff, 11/11/20.
- E: Letter to adjoining landowners, mailed certified on 11/2/20.

Findings of Fact

1. Existing conditions: Scott and Mary-Ellen Lamson own a 0.25± acre parcel at 465 Maple Street in the Town Mixed Residential (TMR) zoning district. The property is developed with a two-story two-family dwelling, built in 1973 (*prior to the enactment of the Zoning Regulations in 1980 for the Town*). The duplex is located approximately 50' from the road centerline. The lot has frontage on and an access drive to Maple Street. The lot is served by municipal water and a private on-site septic system.
2. Project: To construct a detached garage, two deck additions in the rear, and a deck/stoop in the front. The 2-car garage will be 30' by 34' by 24' tall and will be 9' from the side property line. The rear deck additions will extend off both sides of the existing rear porch and will be 12' by 16' each. The front deck will be 7' deep by 20' long and will replace the portion of the paved landing underneath the existing roof overhang. The front deck will extend 7' closer to the front property line.
3. TMR Dimensional Requirements, Table 5.2: Minimum lot area: 1 acre (for 1- & 2-family dwellings); minimum setbacks: 30' front/sides/rear. The lot is only one-quarter of an acre and does not meet the minimum lot size. The existing duplex is 5' within the front-yard setback. The proposed project will not

meet the minimum front and side yard setback requirements. (Exhibit B)

4. Waiver Request, Section 309: In TMR, a structure should not come closer to the road centerline than 55' (25' ROW + 30' TMR front setback) and 30' to the nearest side property line. The existing duplex is 50' from the road centerline (5' within the front setback). The front deck will be 43' from the road centerline. The garage will be 9' from the side property line. The setback waiver request is for the front deck to encroach on the front yard setback by 12-feet (55' to the road centerline minus 43') and for the garage to be 9' from the side property line.
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: The project will not change the residential use as a two-family dwelling, or increase the occupancy; it will not unduly increase traffic, burden the school capacity, or 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 size and style of the garage is compatible with the existing building. Exhibit D2 shows that the existing structures on neighboring lots do not meet the required setbacks. 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.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The project makes no change to the current residential use as a two-family dwelling and complies 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 project will not change the residential use of the property and structures. The residential use of the dwelling additions and garage will not create the above-named nuisances. The Board concludes that no devices or special methods would be 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 Scott and Mary-Ellen Lamson for a residential garage that will not come closer than 9' to the side property line and a front deck addition that will not come closer than 43' to the road centerline (18' to the edge of the road right-of-way), as presented in application #124-20 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

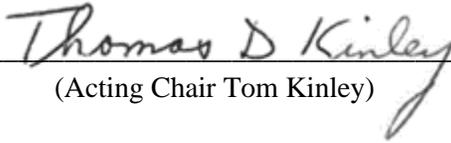
Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Bud Wilson seconded the motion to approve application #124-20 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, 6–0.



(Acting Chair Tom Kinley)

Approved: December 2, 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 of Waterbury
Development Review Board
Decision #119-20 ▪ November 18, 2020**

Attending: Board members: Tom Kinley (Acting Chair), Bud Wilson, Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester (Alternate). Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Owner/Applicant:	Martha Staskus	
Address/Location:	510 Ring Road, Waterbury Center, VT	
Zoning Districts:	Low-Density Residential (LDR)/Conservation (CNS) zoning districts; portions within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district	
Application #	119-20	Tax Map #14-047.000

Applicant Request:

The Applicant seeks approval for a boundary-line adjustment and new right-of-way across 510 Ring Road to serve 516 Ring Road.

Present and sworn in:

Martha Staskus, Applicant

Present: Carl Haasper Jr. (Adjoining landowner, 516 Ring Road)

Exhibits:

- A: Application #119-20 (4 pages: zoning, subdivision), submitted 10/15/20.
- B: Boundary-Line Adjustment and Right-Of-Way Survey Between Martha Staskus and Carl Haasper, Jr., prepared by McCain Consulting Inc., dated 10/9/20, annotated by Applicant and submitted 10/26/20.
- C: (C1) Parcel map/orthophoto of 510 & 516 Ring Road. (Staff 10/15/20)
(C2) Parcel map/orthophoto with approximation of BLA shaded. (Staff 10/15/20)
(C3) Parcel map/orthophoto of both lots, showing the zoning and overlay districts. (Staff 11/18/20)
- D: Letter to adjoining landowners, mailed certified on 11/2/20, and certified-mail receipts.

Findings of Fact

1. Existing conditions: Martha Staskus owns a 76± acre parcel at 510 Ring Road in the Low-Density Residential (LDR), Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay districts. The property is developed with a one-story single-family dwelling and a two-story carriage barn/accessory dwelling. The lot has frontage on and an access drives to 510 Ring Road, one of which serves as access to 516 Ring Road. The lot is served by private water and wastewater systems (ww-5-7244-3).
2. Project: A 40-ft. right-of-way/access drive, along the easterly property line, was constructed in 2015 and obtained a curb-cut permit. The existing ROW, located between the dwellings on 510 Ring Road, will be relinquished, and the easterly ROW will serve as access to 516 Ring Road. Also, a boundary-line adjustment (BLA) of 0.28-acres will be transferred from 510 to 516 Ring Road, as shown on Applicant's

Exhibit B.

3. Dimensional Requirements, Section 401: These provisions do not apply to this project.
4. LDR/CNS Dimensional Requirements by District, Table 5.2: *LDR minimum lot area: 5 acres; setbacks: 70' (front), 75' (sides/rear). CNS minimum lot area: 10 acres; setbacks: 100' (front/sides/rear)*. Both lots meet the minimum lot size for LDR & CNS before and after the BLA. The project makes no change to the frontage for 510 Ring Road; 516 Ring Road has no frontage. The structures on 510 Ring Road are located in LDR and meet the setback requirements after the BLA. The BLA will not create a nonconforming lot or structure.
5. Driveways and Curb Cuts, Section 413(b): The proposed ROW is 40-feet wide. The Regulations state: *“In accordance with 24 V.S.A. §4406, no land development may be permitted on lots that do not either have frontage on a public road or public waters or, with the approval of the Development Review Board, access to such a road or waters by a permanent easement or right-of-way. The Zoning Administrator may permit such development without Development Review Board approval if he or she finds that the access is by permanent easement or right-of-way, and is at least fifty feet in width.”*

As the proposed ROW is less-than 50-feet wide, the ZA referred the application to the DRB for approval. Waterbury Zoning Regulations notwithstanding, 24 V.S.A. §4406, cited in Section 413(b), was repealed in 2003. It was replaced by 24 V.S.A. §4412(3), which states: *Required frontage on, or access to, public roads, class 4 town highways, or public waters. Land development may be permitted on lots that do not have frontage either on a public road, class 4 town highway, or public waters, provided that access through a permanent easement or right-of-way has been approved in accordance with standards and process specified in the bylaws. This approval shall be pursuant to subdivision bylaws adopted in accordance with section 4418 of this title, or where subdivision bylaws have not been adopted or do not apply, through a process and pursuant to standards defined in bylaws adopted for the purpose of assuring safe and adequate access. Any permanent easement or right-of-way providing access to such a road or waters shall be at least 20 feet in width.*

6. Subdivisions/Boundary-line adjustment, Section 1203: Pursuant to 24 V.S.A. § 4464(c), a subdivision or boundary line adjustment shall be reviewed under the following criteria: The relevant criteria in Section 401, Dimensional Requirements (see paragraph 3, above), and Section 504, General Dimension, Location, and Height Requirements (see paragraph 4, above).

Conclusion:

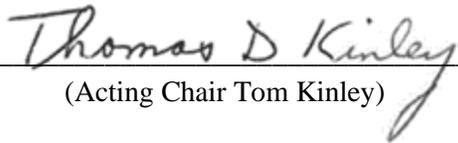
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the project proposed by Martha Staskus for a boundary-line adjustment and permanent right-of-way, at least 40-feet in width, across 510 Ring Road to provide access to 516 Ring Road, as presented in application #119-20 and supporting materials, meets the Dimensional, Curb-Cut, and Boundary-Line Adjustment criteria set forth in the Regulations Sections 504, 413, and 1203.

Decision Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Patrick Farrell seconded the motion to approve application #119-20 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 final plat shall show the zoning and overlay district boundaries.
- (3) The final plat shall show all existing and proposed structures and setbacks.
- (4) The final plat shall show in reasonable detail all existing and proposed parcel boundaries.
- (5) The approved final plat, signed by the DRB Chair (or his designee), 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, 6–0.



(Acting Chair Tom Kinley)

Approved: December 2, 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 of Waterbury
Development Review Board**

Decision #102-20 ▪ October 7 & 21, (reopen) November 18, 2020

Attending:

(10/7/20) Board members: David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Andrew Strniste, Patrick Farrell, and Harry Shepard (Alternate). Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary). Public: George Lester.

(10/21/20) Board members: Tom Kinley (Acting Chair), Andrew Strniste, Alex Tolstoi, Patrick Farrell, Harry Shepard (Alternate), and George Lester (Alternate). Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

(11/18/20) Board members: Tom Kinley (Acting Chair), David Rogers, Bud Wilson, Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester (Alternate). Staff: Dina Bookmyer-Baker (ZA) and Patti Martin (Secretary).

Applicant/Owner:	Mark Frier (applicant), Forty Foundry LLC (owner)	
Address/Location:	40 Foundry Street, Waterbury, VT	
Zoning Districts:	Industrial (IND) and Downtown Design Review (DDR)/Mixed-Use (DMU) overlay and sub-district.	
Application #	102-20	Tax Map # 19-362.000

Applicant Request:

The Applicant seeks approval for a change of use for 2,500 SF from an auto parts retail store to brewery with retail and tasting room – restaurant/bar at 40 Foundry Street. (IND/DDR zoning and overlay districts)

Present and sworn in:

(10/7/20)

Mark Frier (Applicant/Owner)

Ryan Miller & Lil MacNamara (Prospective tenant/brewery business owner)

Alyssa Johnson (Economic Development Director, assisting owner with application)

(10/21/20)

Mark Frier (Owner)

Ryan Miller (potential tenant/business owner)

Alyssa Johnson (Economic Development Director)

(11/18/20)

Mark Frier (Applicant/Owner)

Ryan Miller & Lil MacNamara (prospective tenant/brewery business owner)

Alyssa Johnson (Economic Development Director, assisting owner with application)

Exhibits:

- A: Application #102-20 (8 pages: zoning, site plan, conditional use, overlay), submitted 9/8/20.
- B: Site Plan (*excerpt of site plan submitted from a prior approval*), Village Parking Project, prepared by Keller and Lowe Inc., dated July 1975. Additional Site Plan submitted by Applicant on 10/20/20.
- C: Overall building tenant layout and proposed tenant floor plan, submitted 10/17/20 and 10/21/20.
- D: 40 Foundry Street Parking Table, revised 10/21/20.
- E: Orthophoto of parcel with tax map boundaries and public parking on Bidwell Lane. (Staff)
- F: Prior decision #07-16-V for change of use, dated 6/15/16, with Village Trustees minutes, dated 6/29/16.
- G: Notice to adjoining landowners, mailed certified on: 9/22/20.
- H: Photos of on-site parking, submitted 10/21/20.
- I: Memo from Bill Woodruff, Waterbury Public Works Director, dated 10/27/20.
- J: Second notice to adjoining landowners, mailed certified on: 10/31/20.

Findings of Fact:

1. Existing conditions: Mark Frier/ Forty Foundry LLC owns a 0.43± acre parcel located at 40 Foundry Street. The property is developed with a 9,476 SF two-story, mixed-use building that includes industrial, restaurant/bar, retail, and offices, as outlined in Exhibit D, 40 Foundry Street Parking Table. A 2,500 SF area on the first floor has been occupied by an auto parts store with retail and a related storage/warehousing use. The property is served by municipal water and sewer; includes frontage on, and access to, Bidwell Lane and Foundry Street; and has seven on-site parking spaces. The lot is located in the Industrial (IND) zoning district and the Downtown Design Review (DDR) overlay/Mixed-Use (DMU) sub-district. The building is designated as a non-contributing structure in the Waterbury Village Historic District.
2. Proposal: The Applicant proposes to change the use of the 2,500 SF space previously occupied by the auto parts store to a combination of the following: a “boutique” brewery (general industry), a retail store, and a 21-seat tasting room (restaurant/bar). Exhibit C, the business plan/floor plan, does not include a kitchen; no meals or food preparation is proposed, rather only bar-snacks will be served or the minimum amount of food that is required to meet state liquor laws. Ultimately, the brewery will have the capacity to accommodate up to twenty barrels for the purposes of brewing. Should the use require additional floor space exceeding 2,500 SF to accommodate the 20 barrels, then additional review by the Development Review Board and a revision to the zoning permit would be required. The product (beer) will be aged on-site, thus allowing brewing to typically occur two times per week. The anticipated hours of operation for the tasting room (restaurant/bar) will be from Wednesday to Sunday, 3 p.m. to 11 p.m. The anticipated hours of operation for the retail store will also be from Wednesday to Sunday, from 3 p.m. to 11 p.m. To showcase the release of special-edition brews, the Applicant proposes to host “Pop-up” events, with live music, which will be held in the tasting room and might also utilize other parts of the brewery space.
3. Table of Uses, Section 503: The Applicant proposes the following uses: general industry (brewery), restaurant/bar (tasting room), and retail store/service. A brewery is considered a general industry use, which is a conditional use in the IND zoning district. Retail is also a conditional use in IND, while the restaurant/bar conditional use is only allowed in the Downtown overlay Mixed-Use sub-district (DMUD). Events, such as those for the roll out of a new beer product, that occur no more than seven days/evenings in any three-month period are considered temporary uses that can be allowed as accessory

(customarily incidental and subordinate) to the restaurant/bar (tasting room). If events occur more often, an amendment to this approval and the associated zoning permit shall be required. An event that includes live music will require a separate Town entertainment permit, issued by the Selectboard. These uses are defined as follows:

General Industry: Includes all industrial uses not specifically otherwise listed in Section 503 or prohibited in Section 306. Included are beverage-bottling plants, concrete or asphalt plants, dairy product processing, fuel-storage yards, heavy industry, laundry or dry-cleaning plants, sawmills or planing mills, truck-terminal yards, and any facility handling or processing solid waste and/or recyclable material.

Restaurant/Bar: An establishment where the primary business is the preparation and service of meals or drinks to the public for consumption on the premises; this shall exclude any service directly to customers in automobiles, such as drive-up or drive-through service.

Retail Store/Service: Includes, but is not limited to, a shop or store for the sale of retail goods, personal service shop, antiques shop, gift shop, grocery store, or department store, but does not include commercial uses listed separately in the Use Regulation Table in Article V.

4. Site Plan Review and Approval, Section 301: To ensure adequate and appropriate traffic and pedestrian access, circulation, parking, landscaping, and screening, the Board considered the following:
 - a. Section 301(f)(1) (A-D) Traffic access and pedestrian safety: No changes to the approved vehicular and pedestrian access from Bidwell Lane and Foundry Street are proposed.
 - b. Section 301(f)(2) (A-G) Circulation and parking, loading, refuse, and service areas: No change to the existing on-site vehicular access, circulation, and parking is proposed. See the parking requirements in paragraph 5, below.
 - c. Section 301(f)(3) (A-F) Landscaping, screening, and lighting: The property is developed. Screening and landscaping exist along the NW and SW sides of the building. No change is proposed to the existing lighting, landscaping, or screening.

5. Parking Regulations, Section 414: The property includes 13 on-site parking spaces as shown on Exhibit B-2. The parking requirements for the building, including the proposed uses, are as follows:

Use	Size / #	Parking regulation	PS required
Aztlan restaurant	8 seats 2 employees	(d)(10) restaurant	3 2
Office converted to storage for PK Coffee			0
PK Coffee, restaurant/retail ¹	20 seats 1 employee 300 SF retail	(d)(10) restaurant (d)(5) retail	7 1 1
Little Soap, office	300 SF, 1 employee	(d)(4) office	1

Sunja's, manufacturing (food preparation)/office	7 employees	(d)(6) industrial	7
Proposed Brewery/retail/restaurant/bar (in former retail auto parts space, 2500 SF)	4 employees	(d)(6) industrial	4
	500 SF retail	(d)(5) retail	2
	21 seat restr/bar	(d)(10) restaurant	7
Total parking spaces required:			35

¹ PK Coffee: 9 parking spaces were required for the *Cork* wine bar/retail in #07-16-V DRB decision.

- (d)(4) Offices, medical or veterinary clinics, home occupations: one (1) space for every three hundred (300) square feet of floor area.
- (d)(5) Banks, retail stores or services, similar businesses: one (1) space for every three hundred (300) square feet of floor area.
- (d)(6) Industrial plants, wholesale establishments, warehouses, and similar facilities: one (1) space for every person employed at peak times.
- (d)(10) Eating and drinking establishments: one (1) space for every three seats, including bar stools, plus one (1) space for every person normally working on premises during any one shift.

The previous approval (#07-16-V) pertaining to Danielle Nichols' change of use application for a restaurant/bar (the *Cork* wine bar), in an adjacent space, required 29 parking spaces for the entire building. Of these 29 spaces, the Village of Waterbury Trustees approved the use of eight public parking spaces. This application requires the approval of an additional six public parking spaces (35 minus 29 spaces) that must be approved by the Select Board for the Town of Waterbury.

The Owner and Applicant have observed that overflow parking spaces have been accommodated in the past by utilizing nearby public parking on Bidwell Lane, as shown on Exhibit E. In addition, a paid parking lot has recently opened on a nearby property between South Main Street and Bidwell Lane. No formal parking agreement exists with neighboring properties.

The Board concludes that Selectboard approval of six public parking spaces is required to provide adequate parking for the proposed change of use. The Board also concludes that the addition of restaurant/bar or events seating beyond the 21 seats in this decision, located either inside or outside of the building, will require a new zoning permit application and all required approvals.

6. Conditional Use criteria, Section 303: General industry, restaurant/bar (tasting room), and retail store/service are conditional uses in the Industrial (IND)/Downtown Design Review/Mixed-Use (DMU) zoning/overlay districts. The Board considered the following general and specific standards:
 - a. Section 303(e)(1)(A-E) Impact on the capacity of community facilities: The change of use, subject to this review, may require additional municipal water or sewer allocation, specifically for the brewery and restaurant/bar uses. The uses will not burden the school capacity, and will not increase the demand for fire protection. Pending municipal review, the Board concludes that the project will not have an undue adverse impact on the capacity of existing or planned community facilities.
 - b. Section 303(e)(2)(A-E) Impact on the character of the area: No change is proposed to the exterior of the building. The application states: "The proposed brewery use is appropriate for an industrial

property, and will not have an undue adverse impact on the surrounding area. In addition, the retail component of the use supports the character of similar neighboring Downtown Commercial properties, and supports Waterbury’s walkable, vibrant downtown.” The Board agrees and concludes that the change of use 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 complies with the site plan review and conditional use criteria, and other applicable zoning bylaws. The Board concludes that the project 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 application states: “Appropriate equipment will be used to minimize any potential external impacts.” The Board concludes that the proposed equipment will help to control these impacts.
 - e. Section 303(h) Removal of earth or mineral products: The project does not include earth removal activities. This provision does not apply.
7. Section 1108 Design Review Standards: Because there are no proposed changes to the exterior of the building, the review criteria in Sub-section 1108(3) Mixed-Use Sub-District, are satisfied. Additionally, the building is designated as a non-contributing structure in the Waterbury Village Historic District.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Mark Frier (Applicant)/Forty Foundry LLC (Owner) to change the use of 2,500 SF of the existing mixed-use building at 40 Foundry Street, from retail with storage/warehousing to a brewery with a retail store and a 21-seat tasting room (restaurant/bar) as presented in application #102-20 and supporting materials, meets the Site Plan and Conditional Use criteria set forth in Sections 301 and 303, and the Downtown Design Review criteria in Section 1108.

Decision Motion:

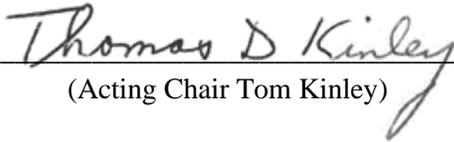
On behalf of the Waterbury Development Review Board, Alex Tolstoi moved, and Harry Shepard seconded the motion, to approve application #102-20 with the following conditions:

- (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 and/or Landowner shall obtain approval from the Town of Waterbury Select Board for an additional six public parking spaces.
- (3) Applicant shall submit a letter that outlines their brewing operations and impacts to the municipal water/wastewater systems prior to issuance of the zoning permit.
- (4) The initial phase of the brewery shall require an updated water and wastewater allocation and a new waste water management EFUD approval for the 40 Foundry St. property, prior to occupancy and operation of the brewery. Any future expansion of the brewery to increase the capacity to accommodate up to twenty barrels for the purposes of brewing, shall require the issuance of a new

water and wastewater allocation approval prior to the expansion of the brewery and continued occupancy of the restaurant/bar and brewery.

- (5) To help ensure that the discharge is in compliance with the local sewer ordinance, prior to occupancy and operation of the brewery, Applicant will install one or more sample ports that will be made available to the municipality to obtain representative samples for testing the brewery waste stream for high concentrations of BOD, Phosphorus, TSS and TKN, as well as pH. (Exhibit I, Memo from Bill Woodruff)
- (6) Except as amended herein, this approval incorporates the Findings of Fact, Conclusions of Law, and Conditions in zoning permit approval #07-16-V.

Note: The motion was approved, 7-0.



(Acting Chair Tom Kinley)

Approved: December 2, 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.*