

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes—December 16, 2020

Attending: Board members: David Frothingham (Chair), Tom Kinley, David Rogers, Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary). Public: Alyssa Johnson (resident), and Peter Dodge (resident)

David Frothingham, Chair, opened the public meeting at 6:30 p.m. and made the following introductory remarks: Applicants/Appellants and consultants will be contacted when their hearing is ready to commence. Applicants/Appellants should have one spokesperson. Staff will give an overview of the project. The Applicant/Appellant 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, with seven members present tonight, and that any approval will require four votes in the affirmative.

1) **#118-20: John Ledsworth (applicant), Ron Rondeau (owner)**

Setback waiver request to construct a breezeway between the house and garage at 10 Hillcrest Terrace in the VR zoning district, continued from 12/2/20.

Present and sworn in:

Ron Rondeau (Owner)

John Ledsworth (Applicant/Project Consultant)

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

2) **#130-20: Christopher Lackey and Kasey Haskins (owner/appellant)**

Appeal of ZA denial of zoning permit #086-20 to replace the existing dwelling with a new dwelling in the setback on a lot less-than one-eighth acre at 17 Hunger Mountain Road. (TMR zoning district)

Present and sworn in:

Chris Lackey (Owner/Applicant/Appellant)

Kasey Haskins (Owner/Applicant/Appellant)

Elizabeth Filosa, MSK Attorneys (representing Appellant)

Liam Murphy, MSK Attorneys (representing Appellant)

Jen Neville (Adjoining Landowner)

Arlene Kidder (by phone, supports project “as long as it’s not too big”)

Testimony:

- Per site plan the Appellants and their attorney commented that the 1/8-acre bylaw only applies to new construction not a replacement dwelling.
- This project is to replace an existing mobile home on the property.
- Septic tank would be capped or removed and a new one installed due to the location of the proposed dwelling and the existing tank.
- The Appellant/Applicant proposes to regrade the property to improve it.
- Testimony by ZA Bookmyer-Baker: New development is not allowed on lots under 1/8 acre and our regulations don’t allow for a replacement dwelling, unless it is destroyed by fire or other catastrophe.

- Appellant presented that the State has revised the ruling/guideline for lots under 1/8-acre.
- ZA testimony: The property must be served by both municipal water and sewer and not just by municipal water, which is the case with this parcel, to have the new state statute apply.
- Attorney says there is a pre-existing non-conforming use on the property. But the existing structure is in disrepair and not worth adding on to.
- ZA testimony: The benefit of the State statute is that it lets the Town determine whether to have zoning bylaws be more lenient than the requirements in the State statute. The Town can be more lenient, but in this case, Waterbury has stayed with the 1/8-acre ruling.
- Appellant submitted a draft survey for a boundary-line adjustment with a neighboring property to increase the lot size to be at least 1/8 acre, then could apply for the new dwelling with another application.
- Appellant's attorney asked that this hearing be continued to see if there is another approach to resolve the appeal.

The Board continued the hearing to January 20, 2021 at 6:30 p.m.

Approval of prior meeting minutes and decisions:

Motion: Harry Shepard moved and Tom Kinley seconded the motion to approve the general meeting minutes of December 2, 2020, as amended.

Vote: The motion was approved 7–0.

Deliberative session: At 7:47 p.m., the Board continued private deliberative session to discuss the Appeal #128-20: Perry Hill Partners. Steve Lotspeich continued his role as Staff representative.

Adjournment: There being no other business, the meeting was adjourned at 8:45 p.m.



(Chair David Frothingham)

Approved: January 6, 2021

Notice of upcoming meetings:

Wednesday, January 6, 2021, 6:30 p.m.

Wednesday, January 20, 2021, 6:30 p.m.

Wednesday, February 3, 2021, 6:30 p.m.

**Town of Waterbury
Development Review Board
Decision #118-20 ▪ December 2 & 16, 2020**

Attending: Board members: David Frothingham (Chair), Tom Kinley (Vice Chair), David Rogers (Vice Chair), Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester (Alternate). Staff: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary).

Owner/Applicant:	John Ledsworth (applicant), Ron Rondeau (owner)	
Address/Location:	10 Hillcrest Terrace, Waterbury, VT	
Zoning District:	Village Residential (VR)	
Application #	118-20	Tax Map #19-135.000

Applicant Request

The Applicant seeks a setback waiver to construct a breezeway connecting the house and garage at 10 Hillcrest Terrace.

Present and sworn in:

Ron Rondeau (Owner)

John Ledsworth (Applicant/Project Consultant)

Exhibits

- A: Application #118-20 (3 pages: zoning, conditional use), submitted 10/14 & 11/5/20.
- B: Project plan prepared by Applicant, submitted 11/5/20.
- C: (C1) Parcel map/orthophoto with VR 30' front setback line (Staff) 11/3/20
(C2) Neighboring parcels with VR 30' front/rear setback box, prepared by Staff, dated 11/3/20.
- D: Letter to adjoining landowners, mailed certified on 11/17/20.

Findings of Fact

1. Existing conditions: Ronald and Jane Rondeau own a $0.3\pm$ acre (13,068 SF) parcel at 10 Hillcrest Terrace in the Village Residential (VR) zoning district. The property is developed with a two-story single-family dwelling, built in 1937 (*prior to the enactment of the Zoning Regulations in 1973 for the Village*). The dwelling is located approximately 32' from the road centerline. The lot has frontage on and an access drive to Hillcrest Terrace. The lot is served by municipal water and wastewater.
2. Project: To construct a breezeway connecting the house and garage. The breezeway will be 8' by 11' by 10' tall. The roof will match the existing side porch roof, to be replaced. The breezeway will be set back 43-inches from the closest front corner of the dwelling (Exhibit B).
3. VR Dimensional Requirements, Table 5.2: *Minimum lot area: 10,000 SF.; no minimum frontage requirement; minimum setbacks: 30' front/rear, 10' sides.* The lot meets the minimum lot size. The existing dwelling and garage encroach on the front-yard setback. The proposed breezeway connector, although not the closest structure to the front property line, will not meet the minimum setback

requirements (Exhibit B).

4. Waiver Request, Section 309: Measuring from the road centerline, the nearest structure should not come closer than 55' (25' ROW + 30' VR front setback requirement). The existing dwelling front line is 32' from the road centerline (23' within the front setback). The breezeway will be set back 43-inches (3.5-ft) from the nearest front corner of the dwelling (Exhibit B), which is 4' back from the dwelling front line. The setback waiver request is to encroach on the front yard setback by 15.4-feet.
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 single-family dwelling. The addition is set back from the front of the house and garage. The project will not increase the occupancy, 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 siding will match the house and garage, the new roof will be the same as the existing awning. 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 use of the property will remain residential. This project application presents compliance 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: No change to the residential use is proposed and this small addition 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 John Ledsworth (applicant) and Ron Rondeau (owner) for a residential addition that will not come closer than 14.6' to the front property line at 10 Hillcrest Terrace, as presented in application #118-20 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, Alex Tolstoi moved and Harry Shepard seconded the motion to approve application #118-20 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, 7–0.



(Chair David Frothingham)

Approved: January 6, 2021

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.