

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—February 3, 2021**

**Attending:** Board members: David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Alex Tolstoi, Patrick Farrell, Harry Shepard, and George Lester. Staff: Steve Lotspeich (Community Planner), Dina Bookmyer-Baker (ZA), and Patti Martin (Secretary). Public: Joan Liggett, resident. Others as noted in the decisions and referenced below.

David Frothingham, Chair, opened the public meeting at 6:34 p.m. and made the following introductory remarks: Applicants/Appellants and consultants will be given the option to 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/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. Note that the DRB is a seven-member Board; eight members are present, with an alternate attending; only seven members will vote. Any approval requires at least four votes in the affirmative.

- 1) **#141-20: John Mutchler and Perrin Williams** (applicant), **Callan Revocable Trust** (owner) Continuation of revisions to previously-approved Planned Unit Development of lands on the corner of Ripley and Sweet Roads, located in the Medium- & Low-Density Residential (MDR/LDR), Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay districts. —*Continued from 1/20/21.*

Board members participating:

David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Alex Tolstoi, Harry Shepard, and George Lester. [DRB member Farrell observed.]

Present and sworn in:

Gunner McCain, McCain Consultants Inc., project consultant  
John Mutchler & Perrin Williams, applicant  
Jennifer Faillace, attorney for applicant  
Bruce Therrien, adjoining landowner  
Paul & Magali Welch, adjoining landowner

Attending, but not sworn in and no comments made:

Mike Hedges and Billy Vigdor (Conservation Commission members), Joan Liggett (resident)

Testimony:

- The wetland permit needs to be reissued by the State of Vermont for the wetland impact due to widening Sugarhouse Ln. The applicant does not anticipate this being a problem.
- There was discussion of the need to widen Sugarhouse Rd. to 14' as required in the 2009 permit for the associated subdivision. The applicant committed to widening the entire 800'+/- section of the road off Ripley Rd. as required at that time.
- The applicant testified that Lot #2 would have one dwelling and would be utilized for agricultural use. The dwelling on Lot #2 will be of a Vermont vernacular farmhouse style.
- The issue of further subdivision and an additional dwelling being placed on Lot #2 was discussed. The condition in the previous PUD approval that required this lot to be in agricultural use and be undeveloped in perpetuity was discussed. The dwelling that was located on the previous Lot #3 has been relocated to Lot #2 in order to satisfy the Vermont Dept. of Fish and Wildlife concerns about maintaining and enhancing this area of the Shutesville Wildlife Corridor. It was agreed that Lot #2 would have only one single-family

dwelling plus accessory structures and uses in perpetuity and the plat would reflect that requirement.

- The disposition of Lot #5 was discussed. The intention is, if it is not transferred to the adjacent property owners, Paul and Magali Welch, it will become part of either Lot #4 or #6. The issue was discussed regarding how the setback along the exterior of the PUD, which has been reduced to the normal 100' setback in this area, will be handled in the future if Lot #5 is transferred and is no longer part of the PUD.
- It was noted that the development is now an 8-lot PUD rather than a 9-lot PUD and that the title block on the plans should be corrected to reflect this.

At 7:32 p.m. the hearing was closed and the DRB will deliberate at a later time. The Board will issue a written decision within 45 days.

- 2) **#143-20: Eve Peck** (appellant), **Waterbury Commons LLC** (landowner/appellee)  
Appeal of zoning permit #137-20 issued to Arnot Development Group Inc. for a new single-family dwelling on Lot 18 Carrie Lane. (VR zoning district)

Board members participating:

David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Alex Tolstoi, Patrick Farrell, and Harry Shepard. [DRB member Lester observed.]

Present and sworn in:

Eve Peck, appellant  
Peter Raymond, Attorney for appellant Eve Peck  
Paul Arnot, appellee  
A.J. LaRosa, Attorney for appellee Arnot Development Group  
Dina Bookmyer-Baker, Zoning Administrator/appellee

Attending, but not sworn in and no comments made:

Tera Dacek, Can Lukasik, and Nick Nikolaidis (Waterbury Commons residents).

Testimony:

Peter Raymond offered the following testimony on behalf of Eve Peck:

- The following changes were made to the site plan as part of the Feb. 13, 2013 application as compared to the plans previously submitted to Eve Peck by Paul Arnot:
  - Lot #18 with a house and a single-story garage was changed to the submitted plan that shows a much bigger house in a different location, moving it closer to lots 17 and 19, including a two-story garage wing with living space over the garage.
  - Small changes to small lots are impactful to neighbors.
  - There appears to be a two-car two-story garage in the plan submitted with the permit application.
  - Lot #17, owned by Eve Peck, is compromised by the changes to Lot #18, particularly in the circulation and parking of vehicles for Lot #18 that shares a driveway with Lots 17 and 19. Vehicles parked in front of the dwelling on Lot #18 will be located primarily on Lots #17 and #19 and will block the driveway to the permitted garage on Lot #17.
- The general size of the dwelling that the applicant provided to the appellant:
  - The size of the dwelling for Lot #18 is closer to 3,000 SF vs. the 2,200 SF approved in the original lot application – possibly affecting the waste water permit.
- Changes to the other aspects of the approved site plan such as fill and stone boulders being placed outside the approved area of disturbance in the vicinity of the wetlands behind Lot #18.
- The appellant requests that permit #137-20 be reviewed relative to these changes and requests

an update to the approved PUD plan per sections 300 and 704.

— Eve Peck pointed out that the shared driveway is actually located in an ingress/egress easement.

A.J. Larosa offered the following testimony on behalf of Arnot Development:

- The zoning application for Permit #137-20 was complete as determined by the Zoning Administrator. All the information supplied in the application is accurate and adequate.
- The site plan sketch showing possible parking scenarios is outside of the scope of the requirement for the zoning permit application requirements and the application for the dwelling on Lot #18 does not require DRB review.
- The issues raised in the appeal may be civil issues but are not zoning permit issues requiring DRB review and approval.
- Concerning the site plan for the original PUD review and approval, all the dwellings shown in the entire development were conceptual when the residential lots were approved in 2013. The site plans for all the dwellings permitted on the other lots in the development that have already been built have not required this level of detail and scrutiny.
- Paul Arnot stated that all prior permits and conditions have been adhered to for the development of Lot #18.

At 8:15 p.m. the public hearing on the appeal was closed. The Board will schedule a private deliberative session and issue a written decision within 45 days.

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

- Review prior meeting minutes and decisions:

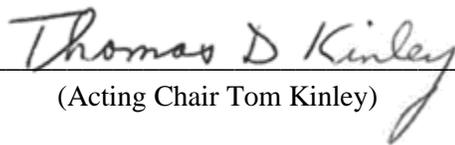
Motion: Tom Kinley moved and Bud Wilson seconded the motion to approve the DRB general meeting minutes for January 20, 2021.

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

4) **Deliberative session:**

The Board entered private deliberative session with Steve Lotspeich to discuss Appeal application #143-20.

**Adjournment:** There being no other business, the meeting was adjourned at 9:25 p.m.

  
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(Acting Chair Tom Kinley)

Approved: February 17, 2021

**Notice of upcoming meetings:**

Wednesday, February 17, 2021, 6:30 p.m.

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

Wednesday, March 17, 2021, 6:30 p.m.

**Town of Waterbury**  
**Development Review Board**  
**Decision #141-20 ▪ Jan. 20 / Feb. 3, 2021**

**Attending:** (1/20/21) Board members: David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Alex Tolstoi, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

(2/3/21) Board members: David Frothingham (Chair), Tom Kinley, David Rogers, Bud Wilson, Alex Tolstoi, Harry Shepard, and George Lester. Staff: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Martin (Secretary).

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Owner/Applicant:	Callan Revocable Trust (Owner) / John Mutchler & Perrin Williams (Applicant)	
Address/Location:	Lands on the corner of Sweet Rd. & Ripley Rd., Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR), Low-Density Residential (LDR), Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district	
Application #	141-20	Tax Map # 10-023.000

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**Applicant Request:**

The applicant seeks to revise the previously-approved Planned Unit Development of lands on the corner of Ripley and Sweet Roads, located in the Medium- & Low-Density Residential (MDR/LDR), Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay districts. The revised PUD includes six residential lots.

**Present and sworn in:**

(1/20/21) Gunner McCain (Consultant), John Mutchler and Perrin Williams (Applicant), Jennifer Faillace (Applicant Attorney), Tracy Sweeney (Conservation Commission member), and Adjoining Landowners: Bruce Therrien and Paul Welch. Attending, but not sworn in, and made no comment: Gerry Callan (Owner), Laura Fortmeyer (family of Owner), Kristen Kellett (Adjoining Landowner), and Joan Liggett (Interested Resident).

(2/3/21) Gunner McCain (Consultant), John Mutchler & Perrin Williams (Applicant), Jennifer Faillace (Applicant Attorney), and Adjoining Landowners: Bruce Therrien and Paul Welch. Attending, but not sworn in, and made no comment: Mike Hedges & Billy Vigdor (Conservation Commission members) and Joan Liggett (Interested Resident).

**Exhibits:**

- A: Application #141-20 (10 pp: Zoning, Subdivision/PUD, Narrative), submitted 12/21/20.
- B: Cover letter from McCain Consulting dated 12/21/20.
- C: Honeysuckle Hill Plan Sheets (10 pp) for Nine Lot Subdivision, John Mutchler & Perrin Williams, Sweet & Ripley Roads, prepared by McCain Consulting Inc., dated 7/22/20, and (except as noted otherwise below) last revised 12/12/20 and submitted 12/21/20:
  - (C1) Sheet C-1 Overview.

- (C2) Sheet C-2 Existing Permitted vs Proposed, rev. 7/22/20 revised layout. Rev. 2/3/21 to address DRB comments. (Submitted 2/3/21)
- (C3) Sheet C-3 Site Plan—Lot 2, rev. 12/14/20 remove Lot 3, add Ag. Lot farmhouse. Rev. 2/3/21 to address DRB comments. (Submitted 2/3/21)
- (C4) Sheet C-5 Site Plan—Lots 4 & 6.
- (C5) Sheet C-7 Site Plan—Lots 7 & 8.
- (C6) Sheet C-9 Site Plan—Lot 9.
- (C7) Sheet C-11A, Access Plan, rev. 12/14/20 revised driveway layout for Lot 7.
- (C8) Sheet C-11B, Access Plan, rev. 12/14/20 revised driveway layout for Lot 7. Rev. 2/3/21 to address DRB comments. (Submitted 2/3/21)
- (C9) Sheet C-12 Access Plan—Profiles.
- (C10) Sheet C-13 Pre-Development Clearing Plan.

D: ANR Natural Resources Atlas maps (2), for wildlife & steep slopes, dated 6/28/20.

E: Prior DRB decision #075-19 for a 2-lot subdivision, 8/7/19;  
 Prior DRB decision #082-20 for a 9-lot PUD, 9/2/20.

F: Comments from ANR during Act 250 review, dated 11/25/20.

G: Letter to adjoining landowners, mailed certified on 1/4/21.

H: Review comments from CVRPC to District 5 Environmental Commission, date 11/25/20.

I: Paul and Magali Welch (adjoining landowner) comments re: Lots 5 and 6, dated 1/26, 1/28, & 2/3/21.

**Findings of Fact:**

1. Existing conditions: Felix & Geraldine Callan own an undeveloped 109.4-acre parcel, Lot #1 located at the corner of Sweet Road and Ripley Rd in the MDR/LDR/CNS/RHS zoning and overlay districts. The parcel is a mix of open land along Sweet Road and Ripley Road and wooded hillside that rises to the base of the Worcester Mountain Range. There are scenic views of the property and the surrounding landscape from both Sweet Road and Ripley Road with the backdrop of the mountainside. The parcel includes areas of natural resources that include agricultural soils of statewide significance, forestry soils, wetlands, steep slopes, and forested areas as shown on Exhibits C and D. The parcel is currently in open space and forestry use and is accessed by a woods road off Sweet Road that traverses the parcel and connects to the existing Sugarhouse Road at its southern boundary.
2. Proposal: John Mutchler & Perrin Williams obtained DRB approval for a 9-lot PUD in September 2020 (#082-20). Due to comments received from a subsequent Act 250 review, the project is proposed as follows:
  - a. The proposed PUD will include 8-lots, 6 of which are proposed for residential development.
  - b. Lot 1 will include the acreage formerly designated for Lot 3. Lot 1 serves as the common land to remain undeveloped.
  - c. Lot 2, which was formerly proposed as an Agriculture lot:
    - will include a dwelling, in addition to the barn;
    - will require a waiver from the PUD double-setback requirement, from the Town road;
    - will include a re-vegetated area to supplement it (Exhibit C3, Lot 2 Site Plan).

- d. Lot 3 will be removed in its entirety to preserve the wooded area that was identified as a “Rare and Irreplaceable Natural Area.” The acreage formerly belonging to Lot 3 will be combined with Lot 1. (Exhibit C2)
  - e. Lot 4: Residential lot; the access to Lot 4 will not serve Lot 7.
  - f. Lot 5: No changes. Not proposed for development.
  - g. Lot 6: Residential lot; requires a waiver from the PUD double-setback requirement to 100-feet. The access to Lot 6 will not serve Lot 7.
  - h. Lot 7: Residential lot whose access has been revised to come from Sugarhouse Road. (Exhibit C8)
  - i. Lot 8: Residential lot; no change.
3. Prior Approvals:
- #27-09-T for a 4-lot subdivision that created remaining lands of approximately 360-acres.
  - #075-19 for a 2-lot subdivision of the 360 acres of remaining lands to create the 109.4-acre parcel that is the subject of this application.
  - #082-20 for a 9-lot PUD that is being revised in this application.
4. Section 504 General Dimension Requirements: The project changes the access to Lot 7, which will be accessed from Ripley Road/Sugarhouse Road. The project places a dwelling on Lot 2 and requests a waiver from the PUD double-setback.
5. Setbacks and request for reduction in the double setback: Lot 6 was granted a waiver from the PUD double-setback requirement to 100-feet in prior approval #082-20. The current project places a dwelling in addition to the Barn on Lot 2. The structures are located in the MDR zoning district, and the Applicant requests a waiver from the PUD double-setback to:
- a minimum of 60-ft for the barn/agricultural structures
  - a minimum of 100-ft for the residential structures (currently a dwelling and garage are proposed).

The following criteria apply to the requested reduction to the double setback for the front boundary of Lot #2 in the Honeysuckle Hill residential PUD:

*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 DRB 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.*

The requested minimum setback is 60-feet, which is the minimum front setback for MDR. The Applicant proposes this to keep the structures closer to the road to avoid encroaching farther into the agricultural soils.

6. Section 705 Standards of Review (m)(4)(B): *Land that is not included in building lots, streets, rights-of-way, or utility easements shall be reserved as undeveloped land and shall be conveyed to an association of homeowners or tenants, which adopts and imposes covenants and restrictions on the undeveloped land that adequately provide for its continuing maintenance.*

See Exhibit (E) Grant of Conservation; Exhibit (F) Draft Bylaws for Honeysuckle Hill Homeowners Association, Inc.; and Exhibit (G) Draft Declaration of Protective Covenants and Restrictions for Honeysuckle Hill Subdivision from prior approval #082-20 for a 9-lot PUD.

7. Section 1004 RHS Standards of Review:  
The project is classified as “minor” development, which is subject to conditional use review. The number of residential lots (6) remains the same.
8. Section 303 Conditional Use criteria:  
The project includes 6 residential lots and 2 lots without development. The conditional use standards were applied to the prior project. This revision will not create an undue adverse impact to the community facilities, character of the area, municipal bylaws, or off-site nuisances.
9. Section 1202 Review Criteria  
Two lots will be combined for a total of 8 lots in the PUD. The project meets the subdivision requirements.

**Conclusion:**

Based upon these findings and subject to the conditions set forth below the Board concludes that the proposal by Geraldine Callan, John Mutchler, and Perrin Williams to create an eight-lot PUD on Ripley and Sweet Roads in the MDR, LDR, CNS, and RHS zoning and overlay districts, as presented in application #141-20 and supporting materials, meets the Conditional Use, PUD, Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 705, 1004, and 1202.

**Decision:**

On behalf of the Waterbury Development Review Board, Alex Tolstoi moved and Tom Kinley seconded the motion to approve application #141-20 with the following conditions:

- (1) The applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) The applicant shall comply with erosion protection and sediment control measures when development commences on the lots. [Section 1202(a)3]
- (3) The clear cutting/thinning on the land shall be limited to those areas shown on Sheet C13.
- (4) No zoning permit shall be issued for development on Lots 7, 8, and 9 until Sugarhouse Road is constructed to a minimum travel width of 14-feet with shoulders at least 2-feet wide on each side. A registered engineer shall certify that the road is constructed in accordance with this condition and the

McCain Plan Sheets C-11B revised 2/3/21 (Exhibit C8) and C-12 revised 12/12/20 (Exhibit C9). Such certification shall be required for any section of road serving new development before a zoning permit will be issued for said development.

- (5) The single-family residence and any accessory residential structures to be located on Lot 2 shall be subject to architectural review and approval by the DRB, which review and approval may require that the buildings conform architecturally to the Vermont vernacular farm and homestead aesthetic. Reference to this permit condition shall be contained in the deed conveying Lot 2.
- (6) There shall be no further subdivision of Lot 2; it is for agricultural use only, plus one primary single-family dwelling (and associated accessory structures and uses). This condition must be noted on the final plat.
- (7) There shall be a note on the plat that Lot 5 cannot be developed.
- (8) Applicant shall construct the road serving Lots 4 and 6 in accordance with the McCain Plan Sheets C-11A revised 12/14/20 (Exhibit C7) and C-12 revised 12/12/20 (Exhibit C9), submitted 12/21/20. A registered engineer shall certify that the road is constructed in accordance with the approved plans and such certification shall be required for any section of road serving new development on these lots before a zoning permit will be issued for said development.
- (9) Except as amended herein, this approval shall incorporate all Findings of Fact, Conclusions of Law, and conditions in zoning permits #27-09-T, #075-19, and #082-20.
- (10) 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 unanimously, 7-0.

*David Rogers*

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(David Rogers, Acting Chair)

Approved: March 3, 2021

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 Environmental Division of the Vermont Superior 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**  
**Appeal #143-20, February 3, 2021**

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

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Owner/Applicant:	Arnot Development Group, Inc.	
Appellant:	Eve Peck, by and through Peter G. Raymond (attorney for the Appellant)	
Appellee:	Dina Bookmyer-Baker, Zoning Administrator	
Address/Location:	Lot #18, Carrie Ln., Waterbury, VT	
Zoning District:	Village Residential (VR)	
Application #	143-20	Tax Map #13-293.180

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**Appellant Request**

Appeal of the Zoning Administrator's (ZA) issuance of zoning permit #137-20 for a single-family dwelling located on Lot #18, Carrie Ln., Waterbury VT. The relief sought is for the Development Review Board (DRB) to vacate zoning permit #137-20, require the Applicant to provide full and accurate plans showing the height and dimensions of the structure proposed, and reserve ruling on the permit until such materials have been provided and the DRB has an opportunity to review.

**Present and sworn in:**

Paul Arnot (Applicant/Owner)

Eve Peck (Appellant)

Peter Raymond, with Sheehey Furlong & Behm, PC (Attorney for Appellant)

Alexander (A.J.) LaRosa, with MSK Attorneys (Attorney for appellee Arnot Development Group, Inc.)

Dina Bookmyer-Baker (ZA/Appellee)

**Exhibits:**

- A. Notice of Appeal #143-20 dated 12/29/20 (12 pages)
- B. Zoning Permit #137-20 for a single-family dwelling on Lot#18 dated 12/15/20 (6 pages)
- C. Approved DRB Decision for Sparks Holding LLC for a 26-lot Planned Unit Development (PUD) off Perry Hill Rd. dated 2/21/13 (34 pages)
- D. Response to appeal by Alexander (A.J.) LaRosa with MSK Attorneys dated 2/1/21 (8 pages)
- E. Zoning Violation Warning Letter from Dina Bookmyer-Baker (ZA) to Arnot Development Group, Inc. dated 12/23/20 (5 pages)
- F. Notice of Public Hearing for Appeal #143-20 mailed by certified mail on 1/13/21 (2 pages)
- G. Reply to Applicant's Response by Peter Raymond with Sheehey Furlong & Behm, PC, dated 2/3/21 (11 pages)

### **Procedural History and Appellant Request:**

1. Zoning permit application submitted: On December 7, 2020, owner/applicant Paul Arnot of Arnot Development Group, Inc. submitted Application #137-20 with the associated materials and the fee of \$215.00 to construct a single-family dwelling on Lot #18, Carrie Ln. in the 26-lot PUD off Perry Hill Rd. in the Village Residential (VR zoning district. The application was logged-in and assigned #137-20.
2. ZA review: Dina Bookmyer-Baker (ZA) reviewed the application, deemed it to be complete and determined that the single-family dwelling structure would meet the setback and all other requirements in Zoning Permit #68-12-V for the 26-lot PUD and the associated DRB decision that is Exhibit C.
3. Notice of Appeal filed: The Notice of Appeal was filed with the Waterbury Town Clerk on December 29, 2020, by Eve Peck, by and through Peter Raymond, with Sheehey Furlong & Behm, PC (Attorney for Appellant) and assigned #143-20. The Appeal states in part: “the DRB should vacate the permit and require Applicant provide full and accurate plans showing the height and dimensions of the structure proposed and should reserve ruling on the permit until such materials have been provided and the DRB has an opportunity to review.”
4. Appeal application referred: The Appeal #143-20 was referred to the Development Review Board (DRB) on January 11, 2021, for a hearing scheduled for February 3, 2021.
5. Warning for DRB hearing scheduled for February 3, 2020: The warning for the hearing was published in the Times Argus on January 14, 2021.
6. DRB hearing: On February 3, 2021, the DRB conducted a warned public hearing. Materials submitted and/or made available to the DRB included the following:
  - A. Notice of Appeal #143-20 dated 12/29/20 (12 pages):
    - (A1–2) Notice of Appeal application submitted 12/29/21.
    - (A3-6) Notice of Appeal of Zoning Permit #137-20 by Peter Raymond, with Sheehey Furlong & Behm, PC (Attorney for Appellant, Eve Peck).
    - (A7–10) Elevations of proposed house by ADG Design/Build dated 11/21/20.
  - B. Permit #137-20 issued by Dina Bookmyer-Baker (ZA) on December 15, 2020:
    - (B1) Permit #137-20 dated December 15, 2020.
    - (B2-6) Zoning Permit Application #137-20 submitted by Arnot Development Group, Inc. on December 7, 2020.
  - C. Approved DRB Decision for #68-13-V, Sparks Holding LLC for a 26-lot Planned Unit Development (PUD) off Perry Hill Rd. dated December 21, 2013 (34 pages)
    - (C1-8) DRB Decision for #68-13-V dated December 21, 2013.
    - (C9) Zoning Permit #68-12-V issued March 28, 2013.
    - (C10-34) Zoning Permit Application #68-12-V by Sparks Holding LLC for a 26-lot PUD.
  - D. Response to appeal by Alexander (A.J.) LaRosa with MSK Attorneys dated 2/1/21 (8 pages)
  - E. Zoning Violation Warning Letter from Dina Bookmyer-Baker (ZA) to Arnot Development Group dated December 23, 2020 (5 pages)
  - F. Notice of Public Hearing for Appeal #143-20 mailed by certified mail on January 13, 2021 (2 pages).

- G. Reply to Applicant's Response by Peter Raymond with Sheehey Furlong & Behm, PC, dated 2/3/21 (11 pages).  
(G1-4) Letter from Peter Raymond with Sheehey Furlong & Behm, PC, dated February 3, 2021.  
(G5-6) Zoning Violation Warning Letter from Dina Bookmyer-Baker (ZA) to Arnot Development Group dated December 23, 2020.  
(G7-9) Photos of Lot #18 taken December 23, 2021.  
(G10-11) Zoning Permit #138-20 issued to Eve Peck on January 14, 2021 for a garage on Lot #17 Carrie Ln.  
(G12-15) Zoning Permit Application #139-20 by Eve Peck on January 14, 2021 for a garage on Lot #17 Carrie Ln. (G10-11) submitted on December 16, 2020.  
(G16-17) Site Plan for parts of Lots #17 and #18 with red-line mark-up  
(G18-19) Photo showing retaining structure and silt fence under snow, undated.

**Findings of Fact:**

7. Existing conditions: Arnot Development Group, Inc. owns undeveloped Lot #18, Carrie Ln. that is accessed from Carrie Ln. via a 50' right-of-way over undeveloped Lots #16 and #17. Lot #17 is owned by the Appellant. Lot #18 has recently been graded and a stone retaining structure has been installed along the western edge of the lot with sediment control sump area that the Owner has stated is for erosion control purposes only.
8. Prior approvals: Zoning Permit Application #68-12-V by Sparks Holding LLC for a 26-lot PUD as described in Exhibit C.
9. Project description: Application #137-20 is for a three-bedroom, 2½ bath, single-family dwelling to be located on Lot #18. The application states that the house will be 2,200 sq. ft. in size and will be 30' in height. The house will have two on-site parking spaces located in the garage.
10. Issuance of the Zoning Permit by the Zoning Administrator: Dina Bookmyer-Baker reviewed Zoning Permit Application #137-20 and determined that it was complete and that the proposed single-family dwelling would meet the requirements for the 26-lot PUD permitted in Zoning Permit #68-13-V.
11. The Development Review Board finds that the Zoning Administrator did not err in issuing the Permit #137-20, even though she knew that the front setback for the dwelling is 10 feet and that a setback of that measurement would not allow adequate space for a vehicle to be parked on-site in front of the garage for the house located on Lot #18. The proposed single-family dwelling on Lot #18 is an allowed use and meets the minimum setback requirements for the PUD that are set out in the Waterbury Zoning Regulations and in the Waterbury Commons PUD approval in Permit #68-13-V, Sparks Holding LLC.

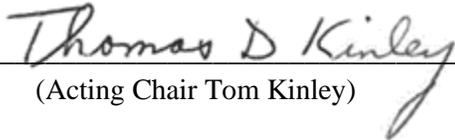
**Conclusion:**

Based upon these findings, the Development Review Board (DRB) hereby denies the appeal and upholds the Zoning Administrator's issuance of Permit #137-20 filed by Arnot Development Group, Inc. (Owner/Appellant) to construct a single-family dwelling on Lot #18, Carrie Lane.

**Motion:**

Alex Tolstoi moved and Tom Kinley seconded the motion to uphold the Zoning Administrator's issuance of Permit #137-20 and to deny Appeal #143-20.

Vote: The motion was approved 7-0.

  
\_\_\_\_\_  
(Acting Chair Tom Kinley)

Approved: February 17, 2021

***NOTICE:** This decision may be appealed to the Environmental Division of the Vermont Superior 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.*