

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—May 19, 2021**

**Attending:** Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Patrick Farrell, George Lester, and Joe Wurtzbacher. Staff: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary)

David Frothingham, Chair, opened the public meeting at 6:33 p.m. and made the following introductory remarks: The meeting will be video recorded. Applicants and consultants will be contacted when their hearing is ready to commence. Applicants should have one spokesperson. Staff will give an overview of the project. The Applicant/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, six members are present; an approval requires at least four votes in the affirmative. The agenda was followed as presented.

- 1) **#025-21: Apothecary Building LLC** (owner), **Val Vincent** (applicant)  
Downtown Design Review to renovate front entry stairs at 2 North Main Street, Waterbury, VT. (DWN/DDR zoning/overlay districts)

The Owner/Applicant is working with VTrans to resolve the design and construction issues related to replacing the front entry stairs and landing and requested that the review be continued to June 2, 2021. The Board continued the review to June 2, 2021 at 6:30 p.m.

- 2) **#024-21: Hands Off My Cheese LLC** (owner), **Mark Frier** (applicant)  
Downtown Design Review to rebuild front entry stairs at 1 South Main Street, Waterbury, VT. (DWN/DDR zoning/overlay districts)

The Owner/Applicant is working with VTrans to resolve the design and construction issues related to replacing the front entry stairs and landing and requested that the review be continued to June 2, 2021. The Board continued the review to June 2, 2021 at 6:30 p.m.

- 3) **#029-21: William and Susan April** (owner/applicant)  
Setback waiver request to construct an expansion of the front porch in the setback at 310 Mountain View Drive, Waterbury Center, VT. (LDR/SFHA zoning/overlay districts)

At 6:41 p.m., the Chair opened the public hearing to consider the waiver request.

Present and sworn in:

William and Susan April, owner/applicant

Testimony:

William and Susan April explained that their project is to replace the existing front porch and re-orient the front steps to the driveway side of the porch, rather than the direction of the existing front steps that face the road. The new porch will have an enclosed entry area on a portion of this addition. The front wall of the entry area will be five feet closer to the road than the existing front porch, necessitating the need for a waiver for both the front and side-yard setbacks.

The public hearing for this application was closed at 6:50 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

4) **#023-21: John Thrailkill** (owner/applicant)

This project is a Variance request and Ridgelines/Hillsides/Steep Slopes review to modify the previously-approved building zone and construct a new single-family dwelling that exceeds the maximum building height on Lot A, Wood Farm Road, Waterbury Center, VT. (CNS/RHS zoning/overlay districts)

The review of this application was continued from May 19, 2021, when no review was conducted, due to an incomplete application.

Present and sworn in:

John Thrailkill, owner/applicant  
Chris Austin, Grenier Engineering, Project Consultant  
Joan Liggett, Nearby property owner

Testimony:

John Thrailkill presented his project for a single-family dwelling on the previously-approved Duffy Lot A on Wood Farm Road. He is proposing to shift the previously-approved building zone by 50' into the existing wooded area on the easterly side of the site. He also explained his request for a variance to exceed the height limit of 35'. The variance criteria were discussed and Mr. Thrailkill explained his response to the criteria, especially why there is a hardship imposed by the height limit, in this case. The variance would allow a ground level doorway access and windows to provide daylight for the basement and alleviate what he views as a hardship.

The DRB requested a revised site plan that shows the clearing limits for the proposed dwelling, the proposed grading around the dwelling, and the proposed retaining walls.

The hearing was continued to June 16, 2021, at 6:30 p.m.

5) **#003-21: Arnot Development Group, Inc., c/o Paul Arnot** (owner/applicant)

Continued review of a setback waiver request to construct a new single-family dwelling that was previously approved on undeveloped Lot 17B on W. Pinnacle Ridge Rd. and Pinnacle Point. (CNS zoning district). The public hearing on the setback waiver review was continued from April 7, 2021.

Present and sworn in:

Paul Arnot, Arnot Development Group Inc.  
Adjoining Landowners and Neighbors: Jenny & Todd Davidson, John Fagan, Bob Dillon, Gregg Stuessi, Maryann Naber, Carrie Phillips, David Paul, and Barbara Cipolla (observed).

At 7:56 p.m., the Chair opened the public hearing to continue the waiver request. Paul Arnot presented the letter that he wrote to the DRB dated May 13, 2021. Then he shared the Character of Neighborhood document that he submitted that includes pictures of the houses near Lot 17B as viewed from Pinnacle Point and West Pinnacle Ridge Road. Mr. Arnot commented that most of these houses are very visible from the road and have minimal screening in the front.

Then he shared a Drainage and Buffers Site Plan that includes pictures of the vicinity of Lot 17B showing the drainage swales and culverts under the roads. The pictures also show the vegetated buffers that have been left in place that screen the lot from the adjacent areas. Mr. Arnot stated that the Lot 17B site is generally self-contained and doesn't collect water from other properties. He then shared a grading plan for the lot with the dwelling shown, showing the proposed drainage pattern and retaining wall on the site. This plan shows that the driveway will go down

from Pinnacle Point to a low point and then back up to the garage door.

Mr. Arnot went through a calculation that demonstrates that the tallest part of the dwelling will be 34' 10". He stated that the elevation of the house from the average grade around the perimeter of the dwelling will be 30' 6". The Board requested the Applicant to clarify the height of the building.

Neighbor John Fagan shared photos of his property and Pinnacle Point that show the existing drainage issues that result from two plugged culverts and one partially plugged culvert that all go under Pinnacle Point onto Lot 17B. This situation has caused drainage issues with his property that is across Pinnacle Point from Lot 17B. Neighbor Carrie Phillips, who lives across West Pinnacle Ridge Road from Lot 17B, stated that there are drainage issues on her property caused by the increased runoff since the clearing was done recently on Lot 17B.

Mr. Arnot stated that the assumptions behind these assertions are not correct.

Other neighbors spoke to their concern that the proposed dwelling will not be adequately screened from view from their houses and the roads. It was stated that the proposed dwelling is larger than the one approved by the Pinnacle Ridge Homeowners Association for Lot 17B in 2007.

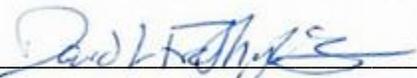
The DRB requested a more detailed grading plan and building elevations that demonstrate how the height of the proposed dwelling is being determined. A plan for additional screening, especially along Pinnacle Point, was also requested.

The hearing was continued to Wednesday, June 16, 2021 at 6:30 p.m. Requested, revised, and additional materials are due to the ZA by Wed. June 9 (1 week prior to the meeting).

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

- Public comment / Other business: There was no public comment or other business conducted.
- Review prior meeting minutes and decisions:  
Motion: Tom Kinley moved and George Lester seconded the motion to approve the DRB general meeting minutes for May 5, 2021 and the decisions for applications #009-21 (Simon) and 011-21 (Fishman), as corrected.  
**Vote**: The motion was approved 6-0.

**Adjournment**: There being no other business, the meeting was adjourned at 9:30 p.m.

  
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(David Frothingham, Chair)

Approved: June 2, 2021

**Notice of upcoming meetings:**

- Wednesday, June 2, 2021, 6:30 p.m.
- Wednesday, June 16, 2021, 6:30 p.m.
- Wednesday, July 7, 2021, 6:30 p.m.

**Town of Waterbury**  
**Development Review Board**  
**Decision #029-21 ▪ May 19, 2021**

**Attending:** Board members: David Frothingham (Chair), Tom Kinley (Vice Chair), Bud Wilson, Patrick Farrell, George Lester (Alternate), and Joe Wurtzbacher (Alternate). Staff: Steve Lotspeich (Community Planner/Acting Secretary) and Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary).

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Owner/Applicant:	William and Susan April	
Address/Location:	310 Mountain View Drive, Waterbury Center, VT	
Zoning District(s):	Low-Density Residential (LDR), Special Flood Hazard Area (SFHA) overlay	
Application #	029-21	Tax Map #09-107.000

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**Applicant Request:**

The Applicant seeks a setback waiver to construct an expansion of the front porch at 310 Mountain View Drive.

**Present and sworn in:**

William and Susan April, Owner/Applicant

**Exhibits:**

- A: Application #029-21 (6 pages: zoning, conditional use, and supplemental sheets), submitted 4/14/21.
- B: Site plan prepared by Applicant, dated and submitted 4/12/21.
- C: Project detail floor plan prepared by Applicant, dated/submitted 4/12/21.
- D: FEMA Letter of Map Amendment (LOMA) dated 7/16/09, and supporting documentation, prepared by DeWolfe Engineering, dated 6/23/09.
- E: (E1) Parcel map with the zoning/SFHA layer. (Staff)  
(E2) Parcel map/orthophoto. (Staff)
- F: Sketch from Assessor file (2014), and assessor photos, prior to 2010-2012 renovation to connect dwelling to garage.
- G: Assessment from Ned Swanberg, dated 4/14/21, determining that SFHA review not required.
- H: Letter to adjoining landowners, mailed certified on 5/1/21.

**Findings of Fact:**

1. Existing conditions: William and Susan April own a 3.2± acre parcel at 310 Mountain View Drive in the Low-Density Residential (LDR) and Special Flood Hazard Area (SFHA) zoning & overlay districts. The property is developed with a one-story single-family dwelling, built in 1971 (*prior to the enactment of the Zoning Regulations in 1980 for the Town*). The dwelling is located 60' from the front property line and the attached garage is 18' from the nearest side property line to the north. The lot has frontage on and a driveway access to Mountain View Drive, and is the property at the end of Mountain View Drive. The lot is served by municipal water and private wastewater.

2. Project: To extend the existing 8.5' by 6' front porch 5-feet closer to the road, enclose a portion of it, and relocate the exterior door and steps. The height of the existing roof will not change. The new space will be 12.5' by 11' (86.5 SF larger) and encroach on the front setback by 15'. The addition will come closer to the side property line to the north (it will be 62' from the north property line), but is not the closest portion of the structure to the northerly side yard. (Exhibit C).
3. LDR Dimensional Requirements, Table 5.2: Minimum lot area: 5-acres; minimum setbacks: 70' front, 75' sides/rear. The lot does not meet the minimum lot size. The existing dwelling and attached garage encroach on the front and side-yard setbacks. The proposed addition will not meet the minimum setback requirements.
4. Waiver Request, Section 309: The proposed addition will be 55' from the front property line (Exhibit C). The setback waiver request is to encroach on the front yard setback by 15-feet (70' minus 55').
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 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 style and dimensions of the addition are compatible with existing homes in the area. 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; the continued residential use 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 William and Susan April for a dwelling addition that will not come closer than 55' to the front property line at 310 Mountain View Drive, as presented in application #029-21 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

**Decision:**

On behalf of the Waterbury Development Review Board, Patrick Farrell moved and Tom Kinley seconded the motion to approve application #029-21 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.

  
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 (David Frothingham, Chair)

Approved: June 2, 2021

Additional state permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or pete.kopsco@vermont.gov, and the appropriate state agencies to determine what permits must be obtained.

*NOTICE: This decision may be appealed to the 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.*