

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**Approved General Minutes—March 2, 2022**

**Attending:** Board members present: David Frothingham, Chair, Dave Rogers, Bud Wilson, Harry Shepard, Tom Kinley, Joe Wurtzbacher.

**Staff:** Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary).

**Public:** Joan Liggett, Jeff Bernstein

Dave Frothingham, Chair, opened the public meeting at 6:32 p.m. and made the following introductory remarks: 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.

1) **#006-22: Susan & Wayne VanBenschoten** (owner/applicant)  
Ridgelines/Hillsides/Steep Slopes (RHS) and Conditional Use review for the construction of a single-family dwelling and associated clearing on previously approved Lot 5, Wood Farm Rd. (CNS/RHS zoning/overlay districts)

Present and sworn in:  
Wayne and Susan VanBenschoten, applicant  
Chris Austin, representing the applicants  
John Grenier, Engineer  
Bill Moore, Moore Design Builders  
Curtis Reid, adjoining landowner

The issue of the existing clearing of the parcel and whether it is in compliance with the previous approved site plan was discussed. Areas that were designated as leave 30%, cut 70% and leave 80%, cut 20% have been 100% cleared. Other areas that have these designations were not cleared at all. A plan to allow trees in some designated areas to grow back was agreed to.

The hearing was closed at 7:15 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

2) **#007-22: Jean Gilpin Estate c/o Linda Gilpin** (owner/applicant)  
Subdivision review for a 4-lot subdivision of the existing 106.7+/- acre parcel on Black Bear Hollow Rd. and Perry Hill Rd. (LDR/CNS zoning districts)

Present and sworn in:  
Linda Gilpin, applicant  
George McCain, representing the applicant  
Dan Schneider, interested party  
Scott Culver, adjacent landowner  
Rich & Regina Hodziewich, adjacent landowners

The layout of the proposed subdivision was discussed. The adequacy of the existing road, Black Bear Hollow, to handle the additional lots and the associated development was discussed. It was

agreed to deal with this issue when development of the lots for dwellings is reviewed. Scott Culver discussed possible future driveway access off Perry Hill Rd. No vehicular access or any associated rights-of-way from Perry Hill Rd. is proposed at this time.

The hearing was closed at 8:05 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

**3) #101-21: Ray & Mary Elizabeth Bizzari (owner/applicant)**

Final Plat review for a two-lot subdivision of a previously developed lot with two existing garage/accessory structures to be converted into single-family dwellings at 1824 Shaw Mansion Rd. (MDR/RHS zoning/overlay districts)

Joe Wurtzbacher moved and Bud Wilson seconded the motion to approve the final plat for the two-lot subdivision per application #101-21.

**VOTE:** The motion passed 6 - 0.

**Agenda items to be scheduled by the Chair:**

- Public comment / Other business: There was none.
- Review prior meeting minutes and decisions (2/02/22): All prior decisions were approved on 2/2/22.

Bud Wilson moved and Harry Shepard seconded the motion to approve the DRB general meeting minutes of 2/02/22.

**VOTE:** The motion passed 6 - 0

**Adjournment:** There being no other business, the meeting was adjourned at 8:25 p.m.

Approved: David L Frothingham III Date: March 16, 2022  
David Frothingham III, Chair

**Next meeting:**

Wednesday, March 16, 2022, 6:30 p.m.

- #010-22, Waringa, WR for two-story garage at 1504 Loomis Hill Rd. (LDR)
- #011-22, Kellett, RHS/CU for two-story barn at 91 Moose Run Ln. (MDR/RHS)

**Town of Waterbury  
Development Review Board  
Approved Decision  
Application #006-22 ▪ March 2, 2022**

**In Attendance:** Board members present: David Frothingham, Chair, Dave Rogers, Bud Wilson, Harry Shepard, Tom Kinley, Joe Wurtzbacher.

Staff present: Steve Lotspeich (Zoning Administrator) and Patti Spence (Secretary).

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Owner/Applicant:	Susan & Wayne VanBenschoten (owner/applicant)	
Address/Location:	Lot #5, Wood Farm Road, Waterbury Center, VT	
Zones:	Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district	
Application #	006-22	Tax Map #14-084.070

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**Applicant Request**

The applicant seeks approval to construct a single-family dwelling 10.04-acre Lot #5 on Wood Farm Road, Conservation zoning district and Ridgelines/Hillsides/Steep Slopes overlay district.

**Present and sworn in:**

Susan & Wayne VanBenschoten, owners  
Chris Austin, consultant for applicants  
John Grenier, engineer for applicants  
Bill Moore, Moore Design Build  
Chris Reid, adjoining landowner

**Exhibits:**

- A: Application #006-22 (6 pp: Zoning, Conditional Use, Overlay District), submitted 1/31/22
- B: Cover letter from Grenier Engineering dated 1/21/22
- C: Site Plan with View Cross Sections and EPSC Plan & Details by Grenier Engineering dated 1/31/22  
Wood Farm Subdivision, prepared by Grenier Engineering for Ripley Springs LLC, dated 9/28/18
- D: Dwelling Elevations, Section and Floor Plan submitted 1/31/22
- E: Orthophoto of parcel with tax map boundaries (staff)
- F: Wildlife Resource Assessment, amended March 2010
- G: Prior DRB decisions #60-14-T and #103-18 for clearing of House Site #5, dated 11-19-14, and 10-17-18
- H: Wildlife Resources Map 2-4 from 2018 Municipal Plan (staff)
- I: Letter to adjoining landowners, mailed certified: 2/11/22

**Findings of Fact:**

1. Existing conditions: Susan & Wayne VanBenschoten own a 10.04± acre parcel on Wood Farm Road. The parcel obtained approval for pre-development site preparation for a house site in 2014 and was subdivided from the parent parcel in 2018. The parcel is in the Conservation (CNS) zoning districts and

the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.

Zoning permit history: (applicable recent permits)

- December, 2014, DRB approved pre-development site preparation for House Site #5. (#60-14-T)
- October, 2018, DRB approved the creation of Lot #5 (#103-18)

2. **Proposal:** Construct a single-family dwelling and associated clearing on previously approved Lot #5, Wood Farm Rd. (CNS/RHS zoning/overlay districts) The location of the proposed dwelling is at an existing elevation of between 1,525' and 1,545' therefore it is considered Major Development.

- (a) CNS Dimensional Requirements, Table 5.2: Minimum lot area; 10 acres; minimum setbacks: 100' front-sides-rear. The 10.4± acre lot meets the minimum lot area. The proposed dwelling meets the minimum setbacks.
- (b) The driveway access construction has already occurred as well as additional clearing for the house site as shown on Exhibit C. Additional clearing and grading for the house site and septic system, and related work, will occur as previously approved under Applications #60-14-T and #103-18 and the associated DRB decisions that is Exhibit G.
- (c) The site work that has already occurred includes the following:
- a. The driveway access – the proposed driveway enters the property from Wood Farm Rd.
  - b. Clearing the house site – the proposed house site is located between 1,525 FIE and 1,545 FIE and will involve additional clearing as shown on Exhibit C. Final grading will also be as shown on Exhibit C. Exhibit B states: “The enclosed site plan depicts the as-built site clearing envelope, and we have found the site clearing to be in general conformance with the previously approved plans for the lot as at least 30% of the cut 70/leave 30 zone has remained forested on the northern side of the site. The cut 20/leave 80 zone has had less than 20% of trees removed, and the cut 100 zone around the State of Vermont approved septic system site has been cleared”
  - c. Installing septic system – some additional clearing will be required for the construction of the leach field is located in the western portion of the lot as shown on Exhibit C.
- (d) In order to address the Major Development RHS review criteria regarding the proposed dwelling being minimally visible from vantage points within the Town of Waterbury, Exhibit C includes two View Sections. In addition, Exhibit B states:  
“The VanBenschoten's proposed residence has been designed by Moore Design Builders, a local company. The building height is proposed at 34'-2", so maximum height limit of 35' is met. The residence is proposed at the lowest elevation of the previously approved building zone. This portion of the building zone allows for southern exposure and proper site grading. The lower portion of the building zone also allows for the most screening to any possible off-site vantage points.

The as-built clearing limits depicted on the site plan exhibit that a majority of natural forested screening toward the Waterbury Reservoir has been preserved. The view toward Camel's Hump and a southerly direction was mostly cleared, creating a view corridor to the distant green mountain views. The house site contains significant immediate backdrop and the building site is surrounded by natural

forest tree cover. The house site is not on a prominent knoll that will stand out into the viewshed, and the house will be "tucked" into the surroundings as shown on the proposed plans."

- (e) There are no known Rare, Threatened or Endangered Species on the property, as stated in Exhibit F, Wildlife Resource Assessment, amended March 2010. There is a stream with an associated ravine that may be a wildlife corridor on the south side of the parcel. There is a 100' undisturbed stream buffer shown on Exhibit C2 that includes the steep wooded slopes associated with the stream.
  - (f) There will be no additional clearing beyond the limits of disturbance shown on Exhibit C. Clearing of trees will conform to the *1987 Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*.
  - (g) Erosion and storm water control measures consistent with State standards will be implemented during construction.
- Section 303 Conditional Use criteria: Development of lands within the RHS overlay district shall comply with the following conditional use review standards:
    - (a) Section 303(e)(1) Community facilities: The Board must find that the proposal will not have an undue adverse impact on the following: The capacity of community facilities: The dwelling will not be connected to municipal water or sewer systems. The proposal to construct a dwelling on the residential lot will not exceed the school system capacity, or cause an undue adverse impact to traffic volumes, or create an unmanageable burden on fire protection services.
    - (b) Section 303(e)(2)(A-E) Character of the area: The existing uses in area are residential with large areas of existing forest. Light and noise impacts will be typical of standard residential use, which will not cause danger of fire, explosion, or electrical hazard, or in any other way jeopardize the health and safety of the area. The application materials do not specify any historic sites, or rare or irreplaceable natural areas on the parcel. Exhibit H, the Wildlife Resources Map 2-4 from 2018 Municipal Plan does not identify any rare, threatened, or endangered species, or deer wintering areas on the parcel. The Wildlife Resources Map does identify a very large bear habitat area that includes this parcel. The site is very well screened from any neighboring nearby properties in the area by the wooded areas on the site and the neighboring property.
    - (c) Section 303(e)(3) Municipal bylaws in effect: Residential dwellings are a permitted use within the CNS zoning district and are a conditional use when they are located within the RHS overlay district. The application represents compliance with the conditional use bylaws.
    - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are required to 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.
3. Major Development: In addition to the review applicable to minor development projects, the Development Review Board shall find that the application for a major development project complies

with all of the applicable standards:

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Susan & Wayne VanBenschoten to construct a dwelling and clear additional wooded areas on Lot 5 on Wood Farm Road, in the CNS zoning district and RHS overlay district, as presented in application #006-22 and supporting materials, meets the Conditional Use and Ridgelines/Hillsides/Steep Slopes criteria as set forth in Sections 303 and 1004.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Harry Shepard seconded the motion to approve application #006-22 with the following conditions:

- (1) Applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits.
- (2) All exterior lighting shall be downcast and shielded.
- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permit approval #60-14-T and #103-18.
- (4) The slope below the house on either side of the line to the leach field shall be allowed to re-vegetate to leave 30% cut 70%. A revised site plan shall be submitted prior to the issuance of the zoning permit.

**Vote:** The motion was approved 6 – 0.

  
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Dave Frothingham III, Chair

Approved: March 16, 2022  
(date)

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](mailto: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  
Approved Decision  
Application #007-22 ▪ March 2, 2022**

**Attending:** Board members present: David Frothingham, Chair, Dave Rogers, Bud Wilson, Harry Shepard, Tom Kinley, Joe Wurtzbacher.

Staff: Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary).

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<b>Owner/Applicant:</b>	Jean Gilpin Estate c/o Linda Gilpin (applicant/owner)
<b>Address/Location:</b>	Black Bear Hollow & Perry Hill Rd., Waterbury, VT
<b>Zones:</b>	Low Density Residential (LDR) & Conservation (CNS) zoning districts
<b>Application #</b>	007-22 <span style="float:right">Tax Map #12-290.100</span>

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**Applicant Request:**

The applicant seeks approval for a four-lot subdivision of the existing 106.7± acre parcel located on Black Bear Hollow and Perry Hill Rd. in the Low Density Residential (LDR) and Conservation (CNS) zoning districts.

**Present and sworn in:**

Linda Gilpin, Applicant  
George McCain, representing the applicant  
Beth Gilpin, beneficiary, adjoining landowner  
Dan Schneider, interested party  
Scott Culver, interested party/adjoining landowner  
Rich & Regina Hodziewich, interested party/adjoining landowner

**Exhibits:**

- A: Application #007-22 (4 pp: Zoning, Subdivision), submitted 2/2/22.
- B: Cover letter and response to review criteria by McCain Consulting dated 2/2/22
- C: Overall Survey of 4-lot subdivision and enlargement of rights-of-way by Glenn Towne dated Dec. 2012
- D: Orthophoto of parcel with tax map boundaries (staff).
- E: Letter to adjoining landowners, mailed certified: 2/10/22

**Findings of Fact:**

1. Existing conditions: The Jean Gilpin Estate c/o Linda Gilpin owns a 106.7± acre parcel located on Black Bear Hollow and Perry Hill Rd. The parcel is currently undeveloped. The parcel is in the Low Density Residential (LDR) and Conservation (CNS) zoning districts.
2. Proposal: A 4-lot subdivision of the existing 106.7± acre parcel. The subdivision will result in Lot 2 of 11.10± acres, Lot 3 of 11.10± acres, Lot 4 of 12.61± acres, and Lot 5 of 72.15± acres. Lot 1 was previously subdivided. Exhibit B states: "No construction is proposed at this time on any of the lots. The applicants are currently in discussions with the Waterbury Land Initiative (WLI) to convey all or a portion of Lots 2, 3, and 5 to WLI, to then be transferred to the State under a permanent conservation

easement. Lot 4 will be retained by the Gilpins as tenants in common with no intention of development at this time. As there are no plans to develop the lots in the near future, the applicants would propose to return to the DRB with site-specific development plans defining building envelopes, driveways, water/wastewater systems, etc. if any of the lots are developed in the future. The current goal is to subdivide the land to be conveyed out for executing the Gilpin Estate.”

3. LDR and CNS Dimensional Requirements, Table 5.2: LDR Minimum lot area; 5 acres; minimum setbacks: 70' front, 75' sides-rear. CNS Minimum lot area; 10 acres; minimum setbacks: 100' front-sides-rear. All four proposed lots meet the larger minimum lot area for the CNS zoning district.
4. Section 1201 Authority and Review of Subdivisions: All applications for land division shall be reviewed by the DRB under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review because it is creating four lots.

Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).

- a. The Board must find that the proposal will not have an undue adverse impact on the following:
  - (1) The capacity of community facilities: Exhibit B2 states: “There are no undue adverse impacts to community facilities, as the parcels would be served by a private road with no construction proposed at this time, and no impacts to community facilities.”
  - (2) The character of the area: Exhibit B2 states: “The project matches the character of the area, as the proposed subdivision meets the dimensional requirements and uses outlined in the zoning regulations. The surrounding properties are primarily single-family homes on comparably sized lots.”
  - (3) Water quality: Exhibit B2 states: “No undue adverse impacts to soil or water quality are associated with the proposed subdivision as no construction is proposed. To protect soil and water quality, any future development will adhere to the standards set forth in the Vermont Low-Risk Site Handbook, and coverage under the VT Construction General Permit or Operational Stormwater Permit will be obtained when/if needed.”
  - (4) Aesthetics and scenic or natural beauty: Exhibit B2 states: “There are no undue adverse impacts to aesthetics, scenic resources, or historic sites associated with the subdivision as no construction is proposed. The project will match the character of the surrounding area that primarily consists of single-family residences on appropriately sized lots.”
  - (5) Significant natural resources: Significant Natural Resources are defined in the Regulations as: “Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species.” Exhibit B2 states: “No undue adverse impacts to significant natural resources are associated with the proposed subdivision. Lots 2, 3, and 5 contain mapped deer wintering areas, however the property is bordered to east by 350 acres of Putnam State Forest (also mapped as wintering area). No construction is proposed at this time, and if development is ever proposed in the future the end user will return to the DRB



primary agricultural soils, however those are already bisected by existing development, driveways, and woodroads.”

- b. The project is *not* in the RT100 zoning district. This provision does not apply.
- c. The project is *not* in the RHS overlay district.
- d. The Board may attach reasonable conditions and safeguards with respect to the subdivision attributes identified in Section 1202(d)(1–4). The proposal does not include a curb-cut on Perry Hill Rd., as the lots will be accessed from Black Bear Hollow that is a private road. The lots are not irregularly shaped. The Board finds that conditions and safeguards regarding these attributes are not needed.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by the Jean Gilpin Estate c/o Linda Gilpin to subdivide to create a 4-lot subdivision on Black Bear Hollow and Perry Hill Rd., in the LDR and CNS zoning districts, as presented in application #007-22 and supporting materials, meets the Subdivision criteria as set forth in Sections 1202.

**Draft Decision Motion:**

On behalf of the Waterbury Development Review Board, Joe Wurtzbacher moved Tom Kinley seconded to approve application #007-22 with the following conditions:

- (1) Applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits.
- (2) Any future development, including any pre-development clearing, shall be subject to review by the Board for compliance with the subdivision criteria.
- (3) Within 180 days from this approval, Applicant shall submit the final plat, prepared in accordance with 27 V.S.A. § 1403 and signed by the DRB Chair (or Acting Chair), to be recorded in the office of the Clerk of the Town of Waterbury, in accordance with 24 V.S.A. § 4463.
- (4) The permit number and decision shall be referenced in the deeds for all the lots to notify future purchasers of the lots.
- (5) Review of future development shall include an assessment of Black Bear Hollow, the existing shared driveway / private road, and any need for upgrades.

**Vote:** The motion was approved 6 – 0.

Approved: David L Frothingham III  
David Frothingham III, Chair

Approved: March 16, 2022  
(date)

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](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies

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***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.*