

WATERBURY DEVELOPMENT REVIEW BOARD
General Meeting Minutes
Wednesday, June 21, 2017

Site Visit, 5:30 p.m. **35 Crossroad, Waterbury, VT:** Review the operations of the grain storage container for application #23-17. In Attendance: Nat Fish, Bud Wilson, Tom Kinley, Steve Lotspeich, Joe Wurtzbacher, Chris Nordle, Bill Shepeluk.

The public meeting convened in the Steele Community Room in the Municipal Center at 28 North Main Street, Waterbury, VT.

In Attendance: Board members present: Dave Frothingham (Chair), Nat Fish, Bud Wilson, and Tom Kinley. Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

The Chair called the meeting to order at 6:30 p.m. Item 2 on the agenda was moved up to item 1. The agenda was approved as amended.

- 1) **#48-17: Kristin Kellett** (owner/applicant)
Ridgelines-Hillsides-Steep Slopes review to construct a single-family dwelling at 225 Sugarhouse Road, Waterbury Center, VT (LDR/RHS zoning and overlay district)

Applicant requested the Board to continue the review of the application to the next available meeting, due to an incomplete warning.

Motion: by Tom Kinley, seconded by Nat Fish: To continue the review of application #48-17 to 6:30 p.m. July 5, 2017.

Vote: The motion was approved 4-0.

- 2) **#37-17: Todd Muller** (owner/applicant)
Setback waiver request to construct a two-bay garage to replace the existing garage and shed within the setback at 476 Shaw Mansion Road, Waterbury Center, VT. (MDR zoning district)

Present by phone and sworn in: Todd Muller.

Motion: by Tom Kinley, second by Bud Wilson: To approve the application with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

- 3) **#51-17: George Eget & BetsyAnn Wrask** (owner/applicant)
Setback waiver request to construct a residential shed within the setback at 15 Hill Street Extension, Waterbury, VT (VMR zoning district)

Present and sworn in: George Eget and Betsy Ann Wrask.

Motion: by Nat Fish, second by Tom Kinley: To approve the application with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

- 4) **#41-17: State of Vermont/Department of Buildings & General Services** (owner/applicant)
Site plan and Campus Overlay review to renovate two historic buildings (Hanks & Weeks) in the State Office Complex for post-Irene re-occupancy at 144 & 166 Horseshoe Drive, Waterbury, VT. (VMR/Campus/SFHA zoning and overlay districts)

Present and sworn in:

John Ostrum, Applicant
Paul Boisvert, Consultant
Pamela Piper, adjoining landowner
Alyssa Johnson, Economic Development Director

Testimony:

- Weeks Building will be renovated and will be for approximately 18-24 offices.
- Exterior lighting for the Weeks Building is minimal and will be downcast and shielded and used to light the handicap ramp.
- The Hanks Building is not handicap accessible from the front, so a ramp will be constructed on the back of the building.

Motion: by Tom Kinley, second by Nat Fish: To approve the application with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

- 5) **#23-17: Alchemy Holding Waterbury, LLC** (owner/applicant)
Site Plan, Conditional Use, Setback Waiver for refuse container and grain storage structure within the setback at 35 Crossroad, Waterbury, VT (VCOM zoning district).

This review was continued from April 19. A site visit to the premises was conducted earlier today.

Present and sworn in:

Chris Nordle, applicant representative
Amy Haskins, adjacent landowner
David Magne, SS Pest Control
Joseph Wurtzbacher, Alchemist Witness
Matt Sweet, D Sweet Trucking/Alchemist
Dana Sweet, D Sweet Trucking/Alchemist
William Shepeluk, Municipal Manager/Deputy Health Officer
Alyssa Johnson, Economic Development Director

Testimony:

- A new lid will be used to cover the grain container that will be more secure.
- The container will be closed at the end of every day vs. only during transport.
- A cleaning protocol is in place to keep the area being discussed more sanitary.
- Joe Wurtzbacher spoke to the process of the grain storage and the way the product has been removed during the past 5 years in Waterbury. The pick-up of the material has moved from daily (by a local farmer) to weekly by Sweet Trucking, who then delivers the spent grain to local farms for animal feed. The pick-up occurs after noon, during daylight hours, and returns the container within 2 hours.
- The neighbor, Amy Haskins, addressed a noise concern with a sound that starts between 3am and 5am.

- David Magne from SS Pest Control spoke to the problem with rats. He's been working with the Alchemist for 5 years. He said the area in Colbyville has had rodent problems for years and he has worked with other business and residences in that area. He does a site inspection at the Alchemist every other month. He has addressed the spillage problems with the Alchemist and the new system has caused no additional problems and no increase in the rat population.
- Mr. Magne testified that the new grain removal system is "spotless" with respect to cleanliness and the attraction for rats has been reduced in his professional opinion.
- On the site visit the DBR members characterized the noise from the process as minimal.
- Bill Shepeluk is the Deputy Health Officer for Waterbury. He has not been called to this property relative to health issues. He visited the property subsequent to the April 19th hearing when the rat concern was raised. He did not see any rats on this visit. He did inspect the bin and the container. There was considerable spill over/splash from a previous filling of the container. He suggested a possible change to how the container was filled. On June 21st he returned to see the new process to filling the container and with the new system there was no evidence of spill over/splash.

Motion: by Tom Kinley, second by Bud Wilson: To approve the application with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

6) **Approval of prior meeting minutes and decisions:**

The June 7, 2017 minutes and decisions were reviewed.

Motion: by Tom Kinley, seconded by Nat Fish: To approve the general minutes of June 7, 2017 and the decisions for applications #39-17 and #43-17.

Vote: The motion was approved 4-0.

Next meeting: 6:30 p.m. Wednesday, July 5, 2017.

Adjournment: The meeting was adjourned at 9:00 p.m

Thomas D. Kinley
 (Chair) (Vice-Chair) (Acting Chair)
 Thomas Kinley

Approved on: July 5, 2017
 (date)

**Town & Village of Waterbury
Development Review Board
Decision #37-17—June 21, 2017**

In Attendance: Board members present: David Frothingham (Chair), Nat Fish, Bud Wilson, and Tom Kinley.
Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

Owner/ Applicant:	Todd Muller	
Address/Location:	476 Shaw Mansion Road, Waterbury Center, VT	
Zoning Districts:	Medium-Density Residential (MDR)	
Application #	37-17	Tax Map # 14-007.000

Applicant Request

The applicant seeks approval to replace the existing residential garage/carport with a two-bay garage within the setback at 476 Shaw Mansion Road.

Present by phone and sworn in: Todd Muller.

Exhibits

- A: Application #37-17 (3 pages: zoning permit, conditional use), 5/1/17.
- B: Project narrative addressing the conditional use criteria (2 pages).
- C: Google Earth view of property with proposed structure sketched in.
- D: Front elevation of the proposed garage, with height and width dimensions.
- E: Site plan of the proposed structure, with the distance to the nearest property lines.
- F: Orthophoto of parcel in its neighborhood. (staff).
- G: Letter to adjoining landowners, mailed certified on: June 1, 2017.

Findings of Fact

1. Existing conditions: Todd & Melissa Muller own a 2.0± acre parcel located at 476 Shaw Mansion Road in the Medium-Density Residential (MDR) zoning district. The property is currently developed with a 1 1/2 story single-family dwelling and a 1-story detached garage/car port. The house and garage were built in 1968, which is before Zoning Regulations were adopted (in 1980). The parcel includes some 260± feet of frontage on and has access to Shaw Mansion Road, a class-3 town road, and is served by private well and on-site septic. The nearest side of the existing garage is 40'± from the road centerline.
2. Project scope: The proposal is to remove the existing one-car garage, slab, and attached car-port, construct a 28' by 36' (1,008 SF) by 18'6" high two-bay garage over footings and a poured foundation, and install a retaining wall with drainage on two sides. The proposed replacement garage will not come closer to the front property line than the existing garage.
3. Dimensional requirements: In the MDR zoning district, the minimum lot size is 2 acres, minimum frontage is 200', and the minimum setbacks are: 60' front, 50' sides/rear. The lot meets the minimum lot size and frontage requirements. At 40'± from the road centerline, the existing garage does not meet the

front setback, which is 85' from the road centerline (60' front yard setback + 25' to the road center). The existing garage encroaches into the front yard setback by 45'.

4. Waiver Request: The new garage will be larger than the existing garage/car-port combined. The additional length to 28' will be along the same line parallel to the front property lane, and the additional width to 36' will be toward the house. The setback waiver request is to encroach into the front yard setback by 45'.
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought. The Board considered the following: The Board must find that the proposed use conforms to the following general and specific standards:
 - a. Section 303(e)(1) Community facilities: No change in the residential use of the property and no increase in occupancy is proposed. The proposed garage will be located on the same spot as the existing structure, will reduce the amount of combustible materials in construction, and is not connected to municipal water or sewer systems. Therefore, the use will not unduly increase the traffic, does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The Board concludes that the proposed expansion to the existing use 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 garage will include one light over the garage bay doors, which will be standard, down-cast and shielded, not a flood-light. The garage will be the same style, trim, and paint as the existing dwelling. The existing landscaping will remain; the structure is adequately screened. The proposed garage is appropriate in scale and design in relation to existing uses and structures in the district (Exh. B, D).
 - c. Section 303(e)(3) Municipal bylaws in effect: The proposed garage will not come closer to the road than the existing garage. No business will be conducted within the structure. The 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: The garage will have smoke detectors. The use of the structure will not emit any of the above. The Board concludes that no devices or methods are necessary to prevent or control these impacts.
 - e. Section 303(h) Removal of earth or mineral products conditions: The project does not involve earth-removal activities other than activities incidental to construction (Exhibit B). This provision does not apply.

Conclusion:

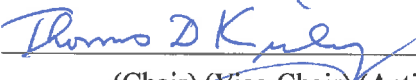
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Todd Muller to construct a residential garage 45' within the front yard setback at 476 Shaw Mansion Road, as presented in application #37-17 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Decision motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Bud Wilson seconded to approve application #37-17 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) Any exterior lighting will be downcast and shielded.

Vote: The motion was approved 4-0



(Chair) ~~(Vice-Chair)~~ (Acting Chair)
Thomas Kinley

Approved on: July 5, 2017
(date)

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 & Village of Waterbury
Development Review Board
Decision #51-17 – June 21, 2017**

In Attendance: Board members present: David Frothingham (Chair), Nat Fish, Bud Wilson, and Tom Kinley.
Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

Owner/ Applicant:	George Eget and Betsy Ann Wrask	
Address/Location:	15 Hill Street Extension, Waterbury, VT	
Zoning Districts:	Village Mixed-Residential (VMR)	
Application #	51-17	Tax Map # 19-180.000

Applicant Request

The applicant seeks approval to construct a residential shed within the setback at 15 Hill Street Extension.

Present and sworn in: George Eget and Betsy Ann Wrask.

Exhibits

- A: Application #51-17 (3 pages: zoning permit, conditional use), 5/23/17.
- B: Sketch Plan of the property boundaries, roads, and proposed location of the shed.
- C: Photographs of the property showing the proposed site and existing vegetation.
- D: Style of proposed shed, 5/29/17.
- E: Orthophoto of parcel in its neighborhood. (staff).
- F: Letter to adjoining landowners, mailed certified on: June 2, 2017.

Findings of Fact

1. Existing conditions: George Eget and Betsy Ann Wrask own a 0.07± acre (3,049 SF) parcel located at 15 Hill Street Extension in the Village Mixed-Residential (VMR) zoning district. The property is currently developed with a 1 1/2 story single-family dwelling. The house was built in 1935 (before Zoning Regulations were adopted in 1980). The parcel is triangular in shape (Exhibits B, E) and includes some 150± feet of frontage on and has access to Hill Street Extension. The parcel is served by municipal water and wastewater systems. The nearest side of the existing dwelling is 0± from the nearest property line.
2. Project: The proposal is to construct an 8' by 10' (80 SF) by 8' high residential shed. The proposed shed will not come closer to the side property line than the existing dwelling, but will be located 5' from that same side property line, and 6 to 7' from the edge of the road, or front property line along Hill Street Extension.

The Regulations state, in Section 400 (f)(7), that *no zoning permit is required, nor are setbacks applicable, for sheds with a floor area ≤ 80 SF and ≤ 8' high, which may be located within any yard except the front, but not closer than 10-feet from any property line.* The proposed shed will be 80 SF and 8' high, but will be located in the front yard, closer than 10' from the front and side property lines.

3. Dimensional requirements, Section 401(c): The Regulations state that *in the case of a corner lot, the required front yard dimension shall apply on all streets*. The lot has frontage on Hill Street Ext. and comes to a point on High Street. For the purposes of zoning, the lot is considered to have two front yards and two side yards (with no rear yard).
Dimensional Requirements by District, Table 5.2: *In the VMR zoning district, the minimum lot area for one family is 10,000 SF, the maximum lot coverage is 25%, and the minimum setbacks are: 30' front/rear; 10' sides*. At 3,049 SF, the lot is undersized by 6,951 SF. Twenty-five percent of this lot's area equals 762 SF. The footprint of the dwelling (592 SF) plus the proposed shed (80 SF) equals 672 SF, which does not exceed the maximum lot coverage.
4. Waiver Request: The setback waiver request is to encroach into the side yard setback by 6' and into the front yard setback by 24'. (The shed will have approximately an 8" eave in the rear.
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought. The Board considered the following:
 - a. Section 303(e)(1) Community facilities: No change in the residential use of the property and no increase in occupancy is proposed. The shed will not be connected to municipal water or sewer systems. Therefore, use will not unduly increase the traffic, does not require addition municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The Board concludes that the proposed expansion to the existing use 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. No exterior lighting is proposed. The neighborhood is developed with small residential lots. The proposed shed is appropriate in scale and design (Exhibit C, D) in relation to existing uses and structures in the district. The Board concludes that the proposed 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 shed is for residential storage and no work will be conducted within the structure. The 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: The use of the structure will not emit any of the above. The Board concludes that this provision does not apply.
 - e. Section 303(h) Removal of earth or mineral products conditions: The project does not involve 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 proposal by George Eget and Betsy Ann Wrask to construct a residential shed 6' within the side yard setback and 24' within the front yard setback at 15 Hill Street Extension, as presented in application #51-17 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, Nat Fish moved and Tom Kinley seconded to approve application #51-17 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.

Vote: The motion was approved 4-0.

Thomas D Kinley
 (Chair) (Vice-Chair) (Acting Chair)
 Thomas Kinley

Approved on: July 5, 2017
 (date)

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 & Village of Waterbury
Development Review Board
Decision #41-17—June 21, 2017**

In Attendance: Board members present: David Frothingham (Chair), Nat Fish, Bud Wilson, and Tom Kinley.
Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

Owner:	State of Vermont/Department of Buildings & General Services	
Applicant:	John Ostrum	
Address/Location:	144 & 166 Horseshoe Drive, Waterbury, VT	
Zoning Districts:	Village Mixed-Residential (VMR), and Campus / Special Flood Hazard Area (SFHA) overlay districts	
Application #	41-17	Tax Map # 19-409.000

Applicant Request

The applicant seeks approval to renovate two historic buildings (Hanks & Weeks) for post-Irene re-occupancy in the State Office Complex at 144 & 166 Horseshoe Drive.

Present and sworn in: John Ostrum, Paul Boisvert, Pamela Piper.

Exhibits

- A: Application #41-17 (6 pages: zoning permit, site plan, overlay district), 5/23/17.
- B: Waterbury State Office Complex (WSOC) Site Plan & Parking Count, annotated, dated as of 5/5/17.
- C: Site Plan, Weeks & Hanks Renovation, prepared by Maclay Architects, dated 4/20/17
- D: Elevations, Weeks & Hanks, prepared by Maclay Architects, dated 5/4/17
- E: Hanks-Weeks exterior light fixtures (4 pages)
- F: Weeks & Hanks Renovation (C1.0, C1.1, C1.2), prepared by Maclay Architects, dated 1/25/17 *
- G: Ground Level Plan and Details (S100, S301), by FFF Architects/Engineering Ventures, dated 4/12/13 *
- H: WSOC 100 & 500 Flood Level Information (6 pages) from Michael Hansen, VHB, dated 11/2/12 *
- I: Orthophoto of parcel in its neighborhood. (staff).
- J: Letter to adjoining landowners, mailed certified on: May 18, 2017.
- K: State DEC Project Review Sheet, issued 4/27/17 *
- L: Email from Rebecca Pfeiffer, CFM, to John Ostrum, re: DEC Flood Hazard permit, 6/19/17 *

**Not in printed DRB packet.*

Findings of Fact

1. Existing conditions: The State of Vermont owns two adjoining parcels that make up the 120± acre Waterbury State Office Complex (WSOC) located at 103 South Main Street in the Village Mixed-Residential (VMR) zoning district. The property also lies within the Campus Overlay District and portions are within the Special Flood Hazard Area (SFHA) overlay district. The property is currently developed with a number of attached and detached office buildings, totaling 309,000 square feet of office space (not including the buildings Wasson and Stanley).

In 2012 the WSOC obtained zoning approval to demolish 22 buildings (zoning permit #39-12V). In 2013 the WSOC obtained site plan and conditional use approval to construct 86,000 gross square feet of new office building space.

2. Project: The proposal is to renovate two historic buildings (Hanks & Weeks) for post-Irene re-occupancy in the State Office Complex at 144 & 166 Horseshoe Drive. The renovations will include wet-flood-proofing (Weeks), add a handicapped-access ramp to Hanks, rebuild the handicapped-access ramp for Weeks, remove two fire-exit stair towers from Weeks and restore the façade. All renovations will meet the Vermont Division for Historic Preservation requirements. The proposed renovations will not extend the existing buildings closer to the outside property boundaries.
3. Site Plan Review and Approval, Section 301: The Board will take into consideration the following objectives:
 - a. Section 301(f)(1) (A-D), Traffic access and pedestrian safety: No changes are proposed to the existing pedestrian access to the building except that a handicap access ramp will be constructed in the rear of the Hanks building. New walkways are proposed (Exhibit C).
 - b. Section 301(f)(2) (A-G), Circulation and parking, loading, refuse, and service areas: The project makes no change to the approved vehicular circulation, parking, or surfacing.
 - c. Section 301(f)(3) (A-F), Landscaping, screening, and lighting: The proposal includes new building-mounted lights marked on the elevations (Exhibit D) to be downcast and shielded as specified in Exhibit E. The proposal does not include new landscaping. Some of the existing landscaping will need to be repurposed after the renovation.
4. Parking Regulations, Section 414: Exhibit B includes a parking table. For 309,000 square feet of office space, 1,030 parking spaces are required. The site has 1,096 spaces with 147 overflow grass spaces available, equaling a total of 1,243 parking spaces.
5. Campus Overlay District Review Standards, Section 1306: The campus overlay district standards relating to density and uses have been applied to the previous approval. The standards of design and historic cannot be applied to a government-owned and operated facility (see Staff Referral, below)

The provisions of 24 V.S.A. §4413(a)(1) apply to this review. The project may be regulated only with respect to *“location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use,”* of state- owned and operated institutions and facilities.

Conclusion:

Based on these findings and subject to the conditions set forth below the Board concludes that the proposal by the State of Vermont to renovate two historic buildings (Hanks & Weeks) in the State Office Complex for post-Irene re-occupancy at 144 & 166 Horseshoe Drive, as presented in application #41-17 and supporting materials, meets the Site Plan and Campus Overlay District criteria as set forth in Sections 301 and 1306.

Decision motion:

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Nat Fish seconded to approve application #41-17 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) Any exterior shall be downcast and shielded.

Vote: The motion was approved 4-0

Thomas D Kinley
 (Chair) (Vice-Chair) (Acting Chair) DRB
 Thomas Kinley

Approved on: July 5, 2017
 (date)

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 & Village of Waterbury
Development Review Board
Decision #23-17 – June 21, 2017**

In Attendance: Board members present: David Frothingham (Chair), Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

Owner/Applicant:	Alchemy Holding Waterbury, LLC	
Address/Location:	35 Crossroad Waterbury, VT	
Zoning District:	Village Commercial (VCOM)	
Application #	23-17	Tax Map #12-061.300

Applicant Request

The applicant seeks approval to place a refuse container and a grain storage container adjacent to the existing Cannery building, with the grain storage container within the setback, at 35 Crossroad.

Present and sworn in on April 19, 2017: John Grenier, Engineer for applicant; Greg Haskins, adjacent landowner; Chris Temple, neighbor; Don Hebert, neighbor.

The hearing was continued to May 17, 2017 at 6:30 pm (no review conducted).

The hearing was continued to June 7, 2017 at 6:30 pm (no review conducted).

The hearing was continued to June 21, 2017 at 6:30 pm with a site visit conducted at 5:30 pm and the review resumed in the public hearing.

Present and sworn in on June 21: Chris Nordle, applicant representative; Amy Haskins, adjacent landowner; David Magne, SS Pest Control; Joseph Wurtzbacher, Alchemist employee; Matt Sweet, D Sweet Trucking/Alchemist; Dana Sweet, D Sweet Trucking/Alchemist; William Shepeluk, Municipal Manager-Deputy Health Officer; Alyssa Johnson, Economic Development Director (observing).

Exhibits

- A: Application #23-17 (4 pages: Zoning Permit, Site Plan, Conditional Use), 3/23/17.
- B: Project description, prepared by Christopher Nordle, dated 4/3/17.
- C: Site plan, prepared by Grenier Engineering, dated 2/20/13, revised 3/31/17.
- D: Photographs of the rear of the Cannery building where the structures are placed, taken 2/9/17.
- E: Aerial photo of the property in its neighborhood.
- F: Letter to adjoining landowners, sent certified March 30, 2017
- G: Letter from Grenier Engineering, updated narrative, dated 6/13/17.
- H: Fire Marshall Report, dated 6/19/17 (received 6/21/17)
- I: State construction permit, referenced in the 6/21/17 meeting, (received 6/22/17)

Applicant Request

An existing dumpster located at the southeast side of the storage building has been screened by a 6' tall privacy fence, as specified in a previous approval by the DRB, #15-14-V. The request for approval of the refuse container placed adjacent to the Cannery building is withdrawn from the application. The Applicant has removed the container and replaced it with two light-weight trash barrels (of the residential type). The applicant seeks approval to place a grain storage container adjacent to the existing Cannery building, within the setback, at 35 Crossroad.

Finding of Fact

1. Existing conditions: Alchemy Holding Waterbury LLC owns a 1.34± acre parcel located at 35 Crossroad. The property is developed with a two-story 7,375 SF building, known as the Cannery building, a 2,400 SF storage building (approved #15-14-V), an access drive and parking areas. The property is located in the Village Commercial (VCOM) zoning district.

Proposal: The applicant placed an 8'x22' (176 SF) grain storage container adjacent to the Cannery building, in the rear as shown in Exhibit D1. A portion of the structure will be located in the side-yard setback nearest to neighbor Kinsell. Applicant requests a setback waiver for the present location of this structure.

2. VCOM dimensional requirements: In the VCOM zoning district, the minimum lot size is 20,000 SF and the minimum setbacks are 50' for the front and 20' for the sides and rear. The lot meets the minimum lot size. The lot shape is narrow in the front portion where the Cannery building is located.
3. Waiver Request: The proposes to locate a grain storage container adjacent to the Cannery building. The nearest portion of the structure will be located 16± feet from the nearest property line (Exhibit C). The setback waiver request is to encroach into the side yard setback by 4' for a length of 14'.
4. Conditional Use/Waiver criteria: In accordance with Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought.
 - a. Section 303(e)(1) Community facilities: The application states that the addition of a grain container and refuse bin will not impact municipal water or sewer systems, schools, or fire protection services; and that the use of the grain container will result in a small reduction in traffic as fewer pickups will be required.
 - b. Section 303(e)(2)(A-E) Character of the area: The application states that the refuse container is adjacent to, and shielded by, the existing building; and that the existing trees screen the container from the hotel on the adjacent property; and that the grain container is screened from most vantage points by the existing building.
 - c. Section 303(e)(3) Municipal bylaws in effect: The application states that the zoning district allows for this use as determined in prior approvals; and that grain storage/removal and refuse removal are incidental to the already approved use. The grain storage structure is located in the setback.

- d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The application states that the grain container is a sealed container with an access opening at the top. The refuse container is of the type typically used for waste removal. Noise from this process is minimal. The container will be closed at the end of every day. With the new process for filling the container with the extended pipe, there is no evidence of spill over/splash of organic material. A cleaning protocol is in place to keep the area being discussed more sanitary. The container is emptied off site one time per week.
- e. Section 303(h) Removal of earth or mineral products conditions: The proposed project does not include earth removal activities. This provision does not apply.

Conclusion:

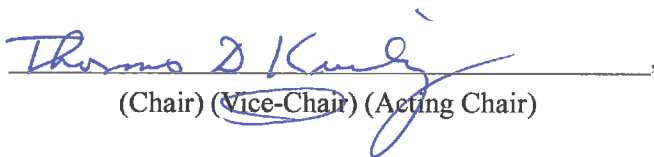
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the request by Alchemy Holding LLC Waterbury to place a refuse container and a grain storage container within the setback, to encroach in the side yard 4' for a length of 14', at 35 Crossroad, Waterbury, VT (VCOM zoning district) as presented in application #23-17 and supporting materials, and meets the requirements in Section 301, Site Plan; Section 309, Waivers and Section 303, Conditional Uses.

Motion:

On behalf of the Waterbury Development Review Tom Kinley moved and Bud Wilson seconded to approve application #23-17 with the following conditions:

- (a) The applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits;
- (b) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permit #15-14-V for site plan and conditional use.

Vote: The motion was approved 4-0.


 (Chair) (Vice-Chair) (Acting Chair)

Approved on: July 19, 2017
 (date)

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.