

# WATERBURY DEVELOPMENT REVIEW BOARD

## General Minutes

Wednesday, September 6, 2017

**In Attendance:** Board members present: Dave Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

The public meeting convened at 6:30 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was called to Order by the Chair. The agenda was approved.

1) **#78-17: Duncan Brown** (owner/applicant)

Construct a residential addition to an existing multi-family dwelling to include basement stairs and an expansion of the first- and second-floor apartment living spaces within the setback at 244 Howard Avenue, Waterbury Center, VT. (TNC zoning district)

Testimony:

- The applicant would like to have access to the basement by adding stairs.
- Renovations and improvements will be done to the structure and interior apartments.

Tom Kinley moved and Mike Bard seconded to approve application #78-17 with conditions. The final written decision will be issued within 45 days.

2) **#69-17: James and Julie Kent** (applicant), **Louise Reed Living Trust** (owner)

Construct a new single-family dwelling and garage on undeveloped Lot 7, Bear Creek Lane, Waterbury Center, VT. (CNS/RHS zoning and overlay districts)

The review was initiated on August 16 and continued to tonight. Testimony was closed. Mike Bard moved and Tom Kinley seconded to approve application #69-17 with conditions. The final written decision will be issued within 45 days.

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

**Motion:** by Mike Bard, seconded by Tom Kinley: To approve the general minutes of August 16, 2017 and the decision for application #68-17, as amended.

**Vote:** Passed 5-0.

**Adjournment:** The meeting adjourned at 7:30 p.m.

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

Approved on: 10/18/2017  
(date)

These minutes were approved: October 18, 2017

**Town & Village of Waterbury  
Development Review Board  
Decision #78-17—September 6, 2017**

**In Attendance:** Board members present: Dave Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

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Owner/ Applicant:	Duncan F. (Kim) Brown	
Address/Location:	244 Howard Avenue, Waterbury Center, VT	
Zoning District:	Town Neighborhood Commercial (TNC)	
Application #	78-17	Tax Map # 09-228.000

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**Applicant Request**

The applicant seeks approval to construct a residential addition to an existing multi-family dwelling to include basement stairs and an expansion of the first- and second-floor apartment living spaces, which will encroach into the setback at 244 Howard Avenue.

**Present and sworn in:**

Kim & Jane Brown, Applicants

**Exhibits:**

- A: Application #78-17 (3 pages: zoning permit, conditional use), 8/7/17.
- B: Site plans and footprint/floor-plans, prepared by Kim Brown, as revised 8/11/17.
- C: Views, elevations, and floor-plans, prepared by Kim Brown, as revised 8/30/17.
- D: Orthophoto of parcel. (staff)
- E: Letter to adjoining landowners, mailed certified on: 8/21/17

**Findings of Fact:**

1. Existing conditions: Jane E. and Duncan F. Brown II own a 0.47± acre parcel located at 244 Howard Avenue in the Town Neighborhood Commercial (TNC) zoning district. The parcel is currently developed with a two 1/2-story multi-family and office building. The structure was built in 1880 (Zoning Regulations were adopted in 1980). The parcel includes frontage on and has access to Howard Avenue, a town road. The property is served by municipal water and private on-site septic.
2. Project: The proposal is to construct an addition on the westerly side to expand the living spaces for the first- and second-floor apartments and to include basement stairs. The proposed addition will be located 18'6" from the front property line to the south.
3. TNC Dimensional Requirements, Table 5.2: *Minimum lot area: is 10,000 SF; minimum setbacks: 30' front/rear; 15' sides/rear.* The lot meets the minimum lot size. The existing structure is located less than 3-feet from the front property line (Exhibit B1).

4. Waiver Request: The setback waiver request is to encroach into the front yard setback by 11'6" (30' minus 18'6").
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 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 use of the property or occupancy is proposed. The property is served by private septic. The addition 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.
  - b. Section 303(e)(2)(A-E) Character of the area: The use of the property will remain residential/office. The addition will be constructed to match the style of the existing dwelling (Elevations, Exhibit C). The proposed addition is appropriate in scale and design in relation to existing uses and structures in the district (Exhibit D).
  - c. Section 303(e)(3) Municipal bylaws in effect: The project application presents compliance with the conditional use criteria.
  - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed mixed use will not typically create the above-named nuisances and therefore no devices or special methods are proposed to control these impacts.
  - 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 Duncan Brown to construct an addition 11'6" within the front yard setback at 244 Howard Avenue, as presented in application #78-17 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

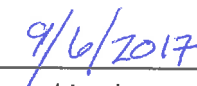
**Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Tom Kinley seconded to approve application #78-17 with the following condition:

- (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 passed 5 – 0.

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

  
\_\_\_\_\_  
(date)

This decision was approved on September 6, 2017

*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 #69-17 — September 6, 2017**

**In Attendance**

August 16: Board members present: David Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Dina Bookmyer-Baker (ZA), Steve Lotspeich (Community Planner), and Patti Spence (Secretary).

September 6: Board members present: David Frothingham (Chair), Mike Bard, Tom Kinley, Nat Fish, and Bud Wilson. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

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Owner/Applicant:	Louise Reed Living Trust (owner); James and Julie Kent (applicant)
Address/Location:	Lot 7, on Bear Creek Lane, Waterbury Center, VT
Zones:	Conservation (CNS), and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.
Application #	69-17 <span style="float:right">Tax Map # 14-057.000</span>

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**Applicant Request**

The applicant seeks approval to construct a new single-family dwelling and garage on undeveloped Lot 7 on Bear Creek Lane in the RHS overlay district.

**Present and sworn in** (August 16):

Brian Mac, Project Architect

Jeff Kamuda, Project Manager

Chris Austin and John Grenier, Consultants for Applicant

Jeffrey P. Kilgore, Esq., representing adjacent property owner Gene D'Avolio

**Exhibits**

A: Application #69-17 (7 pp: Zoning, Site Plan, Conditional Use, Overlay District), 7/17/17.

B: Project description (4 pages), prepared by Grenier Engineering, dated 7/17/17 and 8/1/17.

C: Residential structures renderings, prepared by Birdseye, dated 8/16/17.

Elevations and floor plan prepared by Birdseye, dated 8/16/17.

D: Site plan, prepared by Grenier Engineering, sheet1 of 1, dated 7/17/17, revised 8/16/17.

E: View Sections, prepared by Grenier Engineering, sheet1 of 1, dated 7/17/17.

F: Off-site photos, submitted by Grenier Engineering, 8/14/17.

G: Comments regarding RHS visibility standards, prepared by Chris Austin, (email) 8/15/17.

H: Letter to adjoining landowners, sent certified July 28, 2017.

I: Project Location Plan date 8/16/17.

J: Site Photos dated 8/16/17.

K: Site Plan at Scale 1" = 100' by Birdseye, dated 8/16/17.

L: East/West Site Section by Birdseye dated 8/16/17.

M: Exterior Lighting Plan and Cut Sheets dated 8/16/17.

N: Grading and Erosion Control Plan, prepared by Grenier Engineering, dated 7/17/17, revised 8/16/27.

O: Excerpt of 2009 Site Plan, Exhibit B, from zoning permit #78-09T, Reed three-lot PUD.

**Findings of Fact:**

1. The 13.48 acre property is located within the Conservation Zoning District and the lot was approved as part of a Planned Unit Development (PUD), under application #78-09-T. Originally Lot 7 was approved with an acreage of 8.9 and was enlarged through subsequent boundary line adjustments; most recently permits #60-17 and #46-17. Under a PUD, lots may be smaller than the District's minimum lot size.
2. The property also falls within the RHS Overlay District and is considered a 'Major Development' as its elevation is above 1,500 feet.
3. The single-family dwelling is proposed to be built within a revised building zone that was previously approved in a different configuration in Permit #78-09-T.
4. Clearing for the project has already been completed by the developer, including the septic area, view corridor, driveway, and clearing of the majority of the building zone and area northwest of the building zone. The current clearing is more extensive overall than the clearing that was approved in the Exhibit B site plan for permit #78-09-T. The 2009 plan (excerpted in Exhibit O) shows the building zone as leave 50%, cut 50%; and the area northwest of the building zone as leave 30%, cut 70%.
5. The building zone has been re-configured to create a 50' undisturbed buffer to the seasonal stream on the lot and have a 200' offset from the property line to the north of the building zone.
6. The house will be 3,540 SF in footprint. The maximum height of the house will be 34'. There will be a separate 720 SF barn with a garage and home-office space.
7. The setbacks for the house will be 380'± in the front, 201'± on the northwest side, 265'± on the northeast side, and 200' to the rear. The setbacks for the barn will be 440'± in the front, 300'± on the northeast side, and 144' to the rear. This rear setback for the barn is to the outside boundary of the original PUD therefore the Development Review Board approves the reduction from the required double setback of 200' in the Conservation District to 144' in accordance with Section 702(b).
8. The visual analysis of the site, prepared by Grenier Engineering, is included as Exhibit E. These cross-sections show the relationship of the house to the site topography and existing trees as viewed from Blush Hill Road and the Waterbury Reservoir. There are also off-site photos included as Exhibit F showing the view toward the site from Guptil Road, Blush Hill Road, and Hope Davey Park.
9. The exterior lighting will be as shown in Exhibit M and will be downcast and shielded. Some of the fixtures may have motion sensors as needed for security.
10. The 22.5 acre conservation area required in Permit #78-09-T has been included in the final plat recorded for permit #60-17 for a boundary line adjustment for Lot 7.
11. The proposal is subject to the 'major' RHS Standards as per Section 1004 of the Waterbury Zoning Regulations.
12. RHS and Conditional Use Permit review criteria are contained within Article X and Article III, respectively.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that Application #69-17, Louise Reed Living Trust (owner); James and Julie Kent (applicant), for a Zoning Permit and Ridgeline, Hillside, Steep Slope (RHS) Overlay District Permit to construct a new single family residence on Lot 7 of the Bear Creek Lane subdivision, Waterbury Center, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

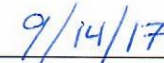
**Decision Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Tom Kinley seconded the motion to approve application #69-17 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) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permits #78-09T, Reed three-lot PUD; and #08-10T, Reed subdivision to create Lot 8.
- (3) All exterior lighting will be downcast and shielded.
- (4) A minimum of twelve deciduous shade trees, a minimum of 8-10' tall, shall be planted in the cleared area to the northwest of the building zone to re-establish the mix of trees and open area required in the original PUD approval and exhibits for permit #78-09-T. The trees shall be planted prior to the completion of the house, and shall be replaced if they do not survive during the three-year period following planting.

**Vote:** The motion was approved 5-0.

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

  
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(date)

This decision was approved on September 6, 2017

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.*