

WATERBURY DEVELOPMENT REVIEW BOARD
General Minutes — July 18, 2018

Attending: David Frothingham, Chair; Tom Kinley, Bud Wilson, Rob Dabrowski, Dave Rogers. Andrew Strniste.

Staff present: Dina Bookmyer-Baker, (ZA) and Steve Lotspeich (Acting 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 David Frothingham, Chair. *(The meeting was audio recorded.)*

The agenda was approved as presented.

1) **#39-18: Ari Fishman** (applicant), **179 Guptil Road LLC** (owner)
Site plan and conditional use review to add parking spaces and an outdoor consumption area at 179 Guptil Road, Waterbury Center, VT. (RT100/MDR/SFHA) –*continued from May 16 & June 20, 2018.*

Testimony:

1. The state Fire Marshall came to the building and asked for some minor adjustments to the building set up.
2. Shannon Morrison, the state Wetland Specialist came to the site as well and made some recommendations on any future expansions that might impact the wetland buffer.
3. The parking situation was discussed. The dumpster has been moved to dead space in the corner of the main parking lot that helps define where people should not park. People are now parking as shown on the site plan.
4. The screening shrubbery for the new parking areas is going to be dwarf viburnum. The low fence in front of the new parking areas has been eliminated. The push pole for the power pole near the entrance to the new parking areas is almost vertical and will not interfere with the circulations as shown on the site plan.
5. Parking on along the road was discussed. It was agreed that the applicant should coordinate with the Town Public Works Director and request that no parking signs be installed along the road to discourage people from parking along the road. The police may be able to enforce the no parking requirement.
6. The outdoor consumption areas were discussed. The Zone 1 area is the existing outside “patio” area that is separated from the large parking area. There is concern regarding noise outside. A condition that would require that the door into the restaurant/bar needs to be kept closed when there is amplified music inside the building was discussed. There are downcast LED lights on the back of the building that light the Zone 1 area. Zone 2 is on the new leach field and is proposed as an outdoor activity area. There would not be any tents placed in this area. The use of this area is anticipated to be accessory to the restaurant/bar use. Temporary uses in accordance with Section 305(a) can occur in Zone 2 as long as they occur for no more than seven days within a three month period are allowed.
7. For large shows, the cutoff is 125 people regardless of whether people are having dinner or not. People who are not seated at tables or the bar are standing.

See separate Hearing Decision for this application.

Review of Minutes and Decisions:

MOTION:

Tom Kinley moved and Rob Dabrowski seconded the motion to approve the general minutes and the decisions for Application #58-18 and #64-18 with corrections.

Vote: The motion was approved 5-0.

MOTION:

Tom Kinley moved and Dave Rogers seconded the motion to approve the general minutes and the decisions for Application #35-18 and #54-18 with corrections.

Vote: The motion was approved 5-0.

The meeting was adjourned at 8:30 p.m.

Next meetings:

Wednesday, August 1, 2018, 6:30 p.m.

(None scheduled, no applications received by submittal date.)

Wednesday, August 15, 2018, 6:30 p.m.

David L. Frathinckes
(Chair) (Vice-Chair) (Acting Chair)

Approved: 8/18/2018

These minutes were approved: August 15, 2018

Town & Village of Waterbury
Development Review Board
Decision #39-18 • May 16/June 20/July 18, 2018

Attending: David Frothingham (Chair), Tom Kinley, Dave Rogers, Andrew Strniste, and Rob Dabrowski.
Staff: Dina Bookmyer-Baker (ZA) and Steve Lotspeich (Community Planner/Acting Secretary). Also present: Alyssa Johnson (Economic Development Director).

Applicant/Owner:	Ari Fishman (applicant), 179 Guptil Road LLC (owner)	
Address/Location:	179 Guptil Road, Waterbury Center, VT	
Zoning Districts:	Route 100 (RT100), Medium-Density Residential (MDR), and Special Flood Hazard Area (SFHA) overlay district	
Application #	039-18	Tax Map # 13-175.000

Applicant Request

The applicant seeks approval to add parking areas and outdoor consumption areas at 179 Guptil Road.

Present and sworn in:

Ari Fishman was still sworn in.

Exhibits

- A: Application #39-18 (4 pages: zoning, site plan, conditional use), submitted April 22, 2018.
- B: Project narrative, prepared by Ari Fishman, submitted 5/29/18, revised 7/3/18.
 - (B2) VT DEC Wetlands program comment re: development encroachment in wetlands, dated 7/3/18.
 - (B3) Narrative attachment: photo to show wide board fence. *
 - (B4) Narrative attachment: historic photo.*
 - (B5–10) Lighting specification sheets.*
 - (B11) Cone lights
- C: Site Plan, drawn over the wastewater plan, prepared/annotated by Ari Fishman, submitted 4/17/18,
- D: Orthophotos of parcel showing zoning districts and SFHA (staff).
- E: Prior DRB decision #51-16-T (staff, for reference).
- F: Comments from Gary Dillon, Fire Chief (6/2/18) and Bill Woodruff, Public Works Director (6/6/18).
- G: Letter to adjoining landowners, mailed certified on 5/1/18.
- H: Fire Safety report re occupancy requirements, dated 7/11/18.

Findings of Fact:

1. Existing conditions: 179 Guptil Road LLC owns a 2.0± acre parcel located at 179 Guptil Road that is located in the Route 100 (RT100), Medium-Density Residential (MDR), and Special Flood Hazard Area (SFHA) zoning and overlay districts. The property is developed with a two- and three-story building, built in 1930, that now includes two apartments, a yoga studio, and an 85-seat restaurant that doubles as a banquet facility for 132 patrons. The property includes a gravel parking lot of 44-spaces and ten parking spaces on the easterly end of the building. The property is served by municipal water and on-site septic (ww-5-7092-2). The lot has frontage on and two access drives to Guptil Road (Exhibit C).

Related prior approvals:

#51-16-T: Proposal to add a yoga studio and banquet use of the restaurant, DRB approved 9/21/16.

#49-16-T: Proposal to convert existing dwelling to a two-family dwelling, ZA approved 9/12/16.

2. Proposal: The applicant seeks the following:
 - to reconfigure the layout of the existing (Northerly) parking area of 44-spaces, and add four parking spaces there for a total of 49 spaces;
 - to reconfigure the existing parking area and access drive to the east of the main access, to serve two parking areas: an 8-space area on the west side of the building and a new 11-space area in the southeasterly area of the property on the former site of the septic system.
 - to add an outdoor consumption area, Zone 1, located off of the rear deck, level with and adjacent to the gravel parking area;
 - to add an outdoor consumption area, Zone 2, located on the grassy mound on top of the septic system; (Exhibit C)
3. Section 504 General Dimension, Location, and Height Requirements:
 - In the RT100 zoning district, the minimum lot size is 5-acres, but 2-acres for residential uses. The lot does not meet the minimum lot size required for other uses. The maximum coverage is 10% for a pre-existing small lot. For 2-acres, 10% would equal 8,712 SF, therefore, the existing structures are less than the maximum coverage; no change is proposed to the exterior dimensions of the structures.
 - In the MDR zoning district, the minimum lot size is 2-acres, which the lot meets.
4. Table of Uses, Section 503: In RT100, a restaurant/bar is a conditional use. In MDR, a restaurant/bar is a prohibited use. This proposal concerns only the restaurant/bar use. No change is proposed to the other uses in the building (two-family dwelling and recreation/amusement facility), which have been previously approved. The restaurant/bar is a nonconforming use in MDR.
5. Nonconforming Uses and Noncomplying Structures, Section 304(a)(2): A nonconforming use may be extended (see definition of extension of use) with the approval of the DRB, which must find that the proposed nonconforming use meets the general and specific standards for conditional uses specified in Section 303.

(definition) Extension of Nonconforming Use: A nonconforming use that involves the use of increased area on a lot, either in a structure or outside, that does not involve a substantial change to the character of the nonconforming use.
6. Lots in more than one district, Section 400(c)(1): In the case of lots lying in more than one district, the following shall apply: (1) The less restrictive use may extend into the more restrictive portion to a maximum of 30 feet. This section applies to the proposal, as the lot and building are divided by the RT100 and MDR zoning districts. Outdoor consumption area Zone 2 is in the MDR zoning district in which restaurant/bar is a prohibited use and is more than 30' beyond the boundary with the Route 100 zoning district.

7. Site Plan Review and Approval, Section 301: As the proposal involves an expansion of the use and parking-lot construction, expansion, and relocation, it is subject to site plan review. The Board considered the following:
- a. Section 301(f)(1) (A-D), Traffic access and pedestrian safety: The changes proposed to the vehicular access are shown on the Site Plan (Exhibit C). The proposed pedestrian access and circulation includes a walkway and access to the main entrance of the building through the former milk house as an air lock. Three handicapped accessible parking spaces are provided. The Board concludes that the proposal provides safe and adequate vehicular and pedestrian access and circulation.
 - b. Section 301(f)(2) (A-G), Circulation and parking, loading, refuse, and service areas: A total of 68 outside parking spaces, including three handicapped-accessible spaces, and 2 spaces under a carport (for the apartment) are proposed to meet the parking requirement, see paragraph 8, below. The parking lot and driveways will remain gravel surface. The site plan shows a delivery area near the carport. The refuse container has been relocated to the NW corner of the property and will be screened on the Guptil Road side. Areas for snow storage are shown on the site plan. The Board concludes that the proposal includes adequate provisions for parking, loading, refuse, service, and snow storage.
 - c. Section 301(f)(3) (A-F), Landscaping, screening, and lighting: Additional landscaping is proposed for both the SW and SE parking areas: six dwarf viburnum (opulus Nanum) and lilacs (Exhibit B1). The site plan shows some existing landscaping will be removed to construct the SE parking area. The narrative (B1) states that a new row of plantings (to be determined) will be planted after construction. Most of the outdoor lighting has been previously approved. Lighting specification sheets are provided. Cone-shaped lights to light the walkway are near the main entrance into the restaurant/bar as shown on Exhibit B11. These lights are not downcast and shielded, but are of low-light are turned on only during business hours.
8. Parking Regulations, Section 414: The project includes 70 on-site parking spaces to serve two dwelling units, a yoga studio, and an 85-seat restaurant that doubles as a banquet facility for 132 patrons. The parking requirements are as follows:
- (a) Each one bedroom unit:..... requires 1 parking space;
 - (b) Each dwelling unit of 2 or more bedrooms:requires 1.5 spaces
 - (c) Yoga studio for 25 students + 1 staff (1 PS per each).....26 spaces
 - (d) 85-seat restaurant (1 PS per every 3 seats).....requires 29 spaces
 - (e) 132 person banquet facility (1 PS per every 3 seats).....requires 44 spaces

Note: the yoga studio times are opposite the restaurant and the banquet facility, which are used at opposite times.

Forty-seven parking spaces are required and 70 parking spaces are shown on the site plan. (Exhibit C).

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Ari Fishman and 179 Guptil Road LLC to add parking areas and Zone 1, deck and patio area, and Zone 2, outdoor consumption area for accessory use only at 179 Guptil Road, as presented in application #39-18 and supporting materials, meets the Site Plan and Conditional Use criteria set forth in Sections 301 and 303.

Decision Motion:

On behalf of the Waterbury Development Review Board, David Rogers moved and Bud Wilson Seconded the motion to approve application #39-18 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 proposed outdoor lighting shall be shown on the site plan and shall be downcast and shielded.
- (3) The applicant shall coordinate with the Town Public Works Director and request that “No Parking” signs be installed along the Guptil Road to prevent people from parking along the road.
- (4) The door to the deck/patio shall not be propped open in order to confine noise and music to the building interior.
- (5) The applicant shall provide the Zoning Administrator with a revised site plan showing the reduced aisle width for the 11 space parking lot, reduced to 24’ and relocating the landscaping to be adjacent to the parking lot.
- (6) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in permits#49-16-T and 51-16-T.

Vote: The motion passed 5–0

David L. Frothingham
 (Chair) (Vice-Chair) (Acting Chair)

8/15/18
 (date)

This decision was approved on: August 15, 2018.

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 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.