

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Minutes—September 1, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Harry Shepard, Joe Wurtzbacher, Dave Rogers, Alex Tolstoi.

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

Public: Janina Kotulich, Jeffrey Larkin, Brendan O'Reilly

David Frothingham, Chair, opened the public meeting at 6:30 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) **#079-21: Bank Hill LLC / Janina Kotulich** (owner/applicant)
Site Plan Review for a change of use for 1,000 sq. ft. to retail & specialty school at 19 S. Main St., Waterbury, VT. (DWN/DDR zoning/overlay districts)

Present and sworn in:
Janina Kotulich, owner/applicant
Jeffrey Larkin, building owner

The Chair opened the public hearing at 6:33 pm.

The following testimony was provided: Janina Kotulich and Jeffrey Larkin presented the project. There will be a convection oven installed with venting out one of the side walls of the lower level. Vehicular and pedestrian access to the lower level of the building was discussed. The layout and uses of the lower level were also discussed. The need for additional parking for the specialty school use was discussed and the fact that the allocation of additional public parking spaces by the Select Board will be necessary.

The public hearing was closed at 6:44 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

- 2) **#046-21: Amy Anderson and Mike Merchant** (owner/applicant)
Continued Downtown Design review, after-the-fact, for a new second-floor entrance and exterior stair at 25 N. Main Street. (VMR/DDR zoning/overlay districts) —*Continued from 8/4/21.*

Steve Lotspeich reported that Amy Anderson and Mike Merchant have had an inspection by the state fire marshall however they do not have a written report yet and have requested that the hearing be continued to October 6th to give them time to get the written report to be submitted to the DRB.

The hearing is continued to October 6, 2021 at 6:30 p.m.

- 3) **#041-21: Gristmill Properties** (owner), **Brendan O'Reilly** (applicant)

Continued Site Plan/Conditional Use review to construct a mixed-use building for equipment/tool storage and parking on the ground- & first-floors, accessory to the business offices in the existing building, and two dwelling units on the 2nd floor, in the existing PUD at 5430 Waterbury-Stowe Rd. (RT100 zoning district) —Continued from 8/4/21.

The Chair opened the public hearing at 6:50 p.m. Bud Wilson recused himself from participating in the review as a Development Review Board member.

Bud Wilson and Brendan O'Reilly presented the revised site plan that shows all the parking in the vicinity of the proposed building. Steve said that the change of use and additional parking that may be necessary for the existing Energy Mill building on the site will be addressed in a subsequent zoning permit application to be reviewed by the DRB.

The public hearing was closed at 7:10 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

4) Agenda items to be scheduled by the Chair:

- Public comment / Other business: There was none.
- Review prior meeting minutes and decisions (8/25/21):

Motion: Harry Shepard moved and Joe Wurtzbacher seconded the motion to approve the general minutes for the meeting held on August 25, 2021 and the decisions for applications #068-21, #070-21, #072-21 and #074-21.

Vote: The motion was approved 7 - 0.

Other business:

Steve presented that TJ Kingsbury would like to attend an upcoming DRB meeting for an informal review of his proposed re-development of the Stone Shed building located at 35 Foundry St.. The chair suggested that the informal review of the project be scheduled for the DRB meeting on October 6, 2021. Steve will pass that information along to TJ Kingsbury and his staff member.

Adjournment: There being no other business, the meeting was adjourned at 7:25 pm.

Approved: David L Frothingham Date: 9/15/2021
David Frothingham, Chair

Next meetings:

Wednesday, September 15, 2021, 6:30 p.m. (Applications due: Mon. 8/23/21)

- #078-21, Bueti, Setback waiver request to construct a shed at 226 Blush Hill Estates WR. (MDR)
- #080-21: Grenier, two-lot subdivision, pre-development site preparation, Bear Creek Lane RHS. (CNS/RHS)
- #081-21, Crush Partners LLP, new 1,200 sq. ft. retail building, 3627 Waterbury Stowe Rd. SP CU. (TCOM)

Wednesday, October 6, 2021, 6:30 p.m. (Applications due: Mon. 9/7/21)

**Town & Village of Waterbury
Development Review Board**

Approved Decision, Bank Hill LLC, #079-21 – September 1, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley, Bud Wilson, Harry Shepard, Joe Wurtzbacher, Dave Rogers, Alex Tolstoi. Staff: Stephen Lotspeich (Planning & Zoning Director and Acting Zoning Director, Patti Martin, Secretary.

Owner:	Bank Hill LLC
Applicant:	Janina Kotulich
Address/Location:	19 South Main Street, Waterbury, VT
Zoning District:	Downtown (DWN), Downtown Design Review (DDR) overlay district
Application #	079-21 Tax Map # 19-304.000

Applicant Request:

The applicant seeks approval to change the use of 1,000 sq. ft. on the 1st floor (lower floor) of the existing building from a beauty salon to a retail bakery and small commercial school at 19 South Main Street.

Present and sworn in:

Janina Kotulich, owner/applicant

Jeff Larkin, building owner

Esther Lotz, broker

Exhibits:

- A: Application #079-21 (3 pages: Zoning Permit, Site Plan), submitted 8/5/21.
- B: Site Sketch dated 1/21/08.
- C: Ground Floor Plan.
- D: Photos of Elm St. side of building including vehicular loading area dated 8/3/21 & e-mail dated 8/7/21
- E: Aerial photos of parcel & parcel map of its vicinity dated 7/12/21 (staff).
- F: Letter to adjoining landowners, mailed certified on: 8/18/21.
- G: Project narrative in e-mail from Janina Kotulich dated 8/31/21

Findings of Fact

1. Existing conditions: Bank Hill LLC owns a 0.16± acre (6,970 SF) parcel located at 19 South Main Street. The property is currently developed with a 3-story commercial building with a total floor area of 11,380 sq. ft. The uses in the building include a restaurant, spa, business professional offices, retail, and beauty salon. The building covers most of the parcel with the exception of the vehicular loading that is accessed from Elm St. (see Exhibits D and E). The property is served by municipal water and septic. The parcel is located in the Downtown (DWN) zoning district and the Downtown Design Review (DDR) overlay district.
2. Project scope: The project will not enlarge or change the exterior dimensions or facades of the building. The project includes renovating 1,000 sq. ft. on the 1st floor (lower floor) of the building from a beauty salon to a retail bakery and small commercial school. The space will be converted and fitted up for the

new uses with a commercial kitchen, retail and classroom space.

3. Use Table, Section 1606.1: The retail and commercial school uses totaling less than 4,000 sq. ft. are permitted uses in the DWN zoning district as listed in the Interim Bylaws for the Downtown Zoning District adopted April 26, 2021.
4. DWN Dimensional Requirements, Section 504, Table 5.2: The property is in the DWN zoning district as listed in the Interim Bylaws for the Downtown Zoning District in which the minimum lot size is 2,000 sq. ft. and there are no minimum setbacks. This is a conforming lot. The proposal makes no enlargement to the exterior dimensions of the building.
5. Site Plan Review and Approval, Section 301: No change in the pedestrian access to, or the exterior dimensions of, the existing structure is proposed. As the project involves a change of use, is not exempt from site plan review [WZR Section 301(a)(3)]. The Board will take into consideration the following criteria:
 - a. Section 301(f)(1) (A-D), Traffic access and pedestrian safety: The property includes an existing vehicular access drive and loading area off Elm St. adjacent to the proposed bakery and commercial school (see Exhibits D and E). The property is served by a public sidewalk on its Stowe Street and South Main Street sides. The building includes a deck on the South Main Street side for the existing restaurant. No change is proposed to the existing pedestrian entrance to the building for the 1st floor (lower level) (Exhibit B).
 - b. Section 301(f)(2) (A-G), Circulation and parking, loading, refuse, and service areas: The property does not include on-site parking. See compliance with the parking regulations in Section 414, paragraph 5, below. Deliveries are made from the access drive and loading area off Elm St. The refuse containers are located off of this driveway access, as well.
 - c. Section 301(f)(3) (A-F), Landscaping, screening, and lighting: The site is developed almost entirely with the building. A stone planter is located on the Elm Street side of the building as shown on Exhibit D1. No change to the existing landscaping, screening, or exterior lighting is proposed.
 - d. Section 301(j), Special considerations for property bordering Route 2: South Main Street is also U.S. Route 2. The property is developed with existing structures and landscaping. These provisions do not apply.
6. Parking Regulations, Section 414: All of the parking for the building is on-street, as the property has no on-site parking. Parking is needed for a maximum of 25 participants for the commercial school that requires one parking space for each three participants plus one space for each of the three employees: $9(25/3) + 3 = 12$ parking spaces. The existing beauty salon was approved in Permit #06-08-V for a total of eight spaces. Therefore, approval is required for four additional spaces ($12 - 8 = 4$).

The DRB finds that four additional on-street parking spaces need to be allocated for the building and the Select Board must approve the use of four additional on-street parking spaces to meet the parking

requirement for the building including the change of use for 1,000 sq. ft. on the 1st floor (lower floor).

7. Downtown Design Review: Due to the fact that there are no exterior changes proposed for the building, the DRB finds that this project is exempt from review under the Downtown Design Review Overlay District criteria in Section 1108.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that Bank Hill, LLC and Janina Kotulich's proposal to change the use of change the use of 1,000 sq. ft. on the 1st floor (lower floor) of the existing building from a beauty salon to a retail bakery and small commercial school at 19 South Main Street, as presented in application #079-21 and supporting materials, meets the Site Plan Review criteria set forth in Section 301.

Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Tom Kinley seconded the motion to approve application #079-21 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) The Owner/Applicant shall obtain approval from the Waterbury Select Board for the use of four additional on-street parking spaces to meet the parking requirement for the building, including the change of use for 1,000 sq. ft. on the 1st floor (lower floor), prior to the issuance of the zoning permit.

VOTE: The motion was approved 7 - 0.

 _____, Approved: September 15, 2021
David Frothingham, Chair (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, 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**

Approved DRB Decision, Gristmill Properties #041-21 ■ Sept 1, 2021

Attending: Board members: David Frothingham (Chair), Tom Kinley, Harry Shepard, Joe Wurtzbacher, Dave Rogers, Alex Tolstoi. Staff: Stephen Lotspeich (Planning & Zoning Director and Acting Zoning Director, Patti Martin, Secretary.

Owner/Applicant:	Gristmill Properties	
Address/Location:	5430 Waterbury-Stowe Road, Waterbury Center, VT	
Zoning district:	Route 100 (RT100).	
Application #	041-21	Tax Map # 09-048.100

Applicant Request:

The applicant seeks approval to construct a mixed-use building for equipment/tool storage and parking on the ground/basement level and first floor that is accessory to the business professional office use on the parcel and two apartments on the second floor on Lot #1 of the previously approved PUD located at 5430 Waterbury-Stowe Road.

Present and sworn in:

Brendan O'Reilly, Applicant
Bud Wilson, Architect

Exhibits:

- A: Application #041-21 (2 pp: Zoning), submitted 5/6/21.
- B: Site Plans prepared by Wilson Architects, dated 4/20/21, and Grenier Engineering dated 8-29-21.
- C: Elevations and Floor Plans, prepared by Wilson Architects, dated 4/20/21.
- D: Lighting specification sheets submitted 5/6/21.
- E: Aerial photograph of existing site and campus plan from Gristmill website (staff).
- F: Aerial photo of parcel with tax map boundary (staff).
- G: Letter from Wilson Architects to staff re. building height and floor levels.
- H: Letter to adjoining landowners, sent certified 5/21/21.

Findings of Fact:

1. Existing conditions: Gristmill Properties LLC owns Lot 1, of 6.02 acres, and Lot 2, of 5.3 acres, located at 5430 Waterbury-Stowe Road in the Route 100 (RT100) zoning district. The two parcels are part of the 5-lot Alley Subdivision PUD that was approved in 1998. Lot 1 currently contains a two-story multi-use building and associated infrastructure including a drilled well and an on-site septic system. Lot 1 does not have frontage and gains access to Route 100 via an existing entry road that crosses Lot 5 of the PUD. Lot 2 is undeveloped and is without frontage. Lot 5 is reserved as permanent open space and separates Lots 1 and 2 from Waterbury-Stowe Road. The remaining parcels in the PUD, Lots 3 and 4, are currently used as one residential lot.
2. Proposal: The proposal affects Lots 1 as follows:

On Lot 1: Construct a two-story 3,095 SF building with parking for construction equipment on the ground/basement floor as an accessory use to the business professional offices on the site for Gristmill Builders. The first floor and basement level will be used for tool storage that is accessory to the business professional office use on the site for Gristmill Builders. The building will also have a contractor vehicle storage area in an open “carport” as shown on Exhibits B and C. The second floor will have two apartments that will each have one bedroom and one bathroom. This building will be served by the existing entry road and will have a parking area with four spaces that will serve the two apartments as shown on Exhibit B. There are an additional 12 parking spaces in this parking area that will serve the existing office building located on the parcel. The proposed building will utilize a private well and on-site septic system.

3. Table of Uses, Section 503: The ground/basement and first floor will be accessory to the business professional office use on the site that is a conditional use in the Route 100 zoning district. This space is an extension of the conditional use.

Review Criteria:

Site Plan: As set forth in Section 301(f), Site Plan Review and Approval, the Board will take into consideration the following objectives:

4. Traffic access, Section 301(f)(1) (A-D): Vehicular access to Lot 1 will continue to be via the existing entry road across Lot 5. Vehicular access and circulation to the proposed building will be as shown on Exhibit B. This includes a driveway on the west side of the building and loading area for the ground/basement level. Pedestrian access and circulation for the proposed building will be via the proposed driveways and the two apartments will be accessed via walk-up stairs from parking lot level.
5. Circulation and parking, Section 301(f)(2) (A-G): There is no change to the vehicular circulation to and within Lot 1. A crushed stone parking area is proposed in front of the proposed building that includes four parking spaces for the two apartments and 12 parking spaces that will serve the existing office building on the parcel. See compliance with the parking regulations as per Section 414, in paragraph 9, below. The existing stormwater pond and grass swale are shown on the site plan. An additional diversion swale will be constructed to the north of the proposed building as shown on Exhibit B. Some existing trees will be cleared from this area.
6. Landscaping, screening, and lighting, Section 301(f)(3) (A-F): No changes to the existing landscaping and screening for Lot 1 are proposed, except the clearing for the stormwater swale to the north of the proposed building. The property is wooded and includes an extensive buffer between Route 100 and Lot 1 that will be preserved (Exhibits B and F). Exterior lighting on the building shall be as shown on Exhibit C, Elevations and Floor Plans, and Exhibit D, Lighting specification sheets. All fixtures shall be downcast and shielded.
7. Requirements for Uses in the Route 100 District, Sections 301(g)-(i):
Section 301(g) states that any use in the Route 100 district shall be reviewed under the PUD standards in Sections 705(c)-(l) and 705(m)(1)-(3). As this proposal is for development in an existing PUD, many of the provisions in Section 705 were met when the PUD was approved in 1998. However, the new

development proposed for Lot 1 must comply with the density requirements for the PUD. See project compliance with the density requirements, as set forth in Section 702, in paragraph 15, below.

Section 301(h) states that any use in the Route 100 district may require suitable protection for proposed undeveloped land designated under the criteria in Section 705(m)(1)-(3). These provisions were met when the PUD was approved in 1998. The proposed additional building on Lot 1 makes no change to the land on Lot 5 that is reserved as permanent open space.

Section 301(i): This provision does not apply to the present application.

8. Special considerations for property bordering Route 100, Section 301(j) (1-4): The proposed building on Lot 1 is adequately screened from Route 100, as is the proposed parking area (Exhibit B). A continuous vegetated strip of undeveloped land (Lot 5) exists between Route 100 and the subject parcel, as part of the PUD approval. The proposal meets these provisions.
9. Parking Regulations, Section 414: The Regulations state that parking spaces shall measure at least 9' by 18' and shall have unobstructed access. The parking spaces shown on the site plan are 9' x 20' with a 20' wide aisle adjacent to the row of parking. As set forth in Section 414(d): dwelling units require one and a half (1 1/2) spaces for each dwelling unit for a total of three spaces. The site plan shows four parking spaces to scale for the apartments.

Conditional Use criteria, Section 303: Prior to granting approval for conditional use, the Board must find that the proposed use conforms to the following general and specific standards:

10. Section 303(e)(1) Community facilities: The proposed use will not unduly impact the roads and will be served by a private water and wastewater systems for the two dwelling units. The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities.
11. Section 303(e)(2) Character of the area: The project is not visible from Route 100 due to the dedicated open space of Lot 5. The proposed structure is an appropriate in scale and design with the district. The proposed use will not have an undue adverse impact on the character of the area affected.
12. Section 303(e)(3) Municipal bylaws in effect: The proposed structures and use will not violate any municipal bylaws and ordinances in effect.
13. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The proposed uses will not require any devices or special methods to control these impacts.
14. Section 303(h) Removal of earth or mineral products conditions: The proposed use does not include earth removal activities. This provision does not apply.

PUD Standards for Review, Section 705: The project must conform to the density and dimensional requirements set forth in Section 702.

15. PUD Permitted Densities, Section 702: For nonresidential parcels in a PUD in the Route 100 Zoning District, the area occupied by structures shall not exceed the maximum coverage of 10% of the lot. The maximum coverage for Lot 1 is 23,223 sf. The proposed and existing buildings will have a total footprint of approximately 5400 sf, which is 2.6% which is well under the maximum.

The proposed two-story building will have a height of 29'.

Conclusion:

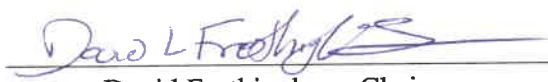
Based upon these findings and subject to the conditions set forth below, the Waterbury Development Review Board concludes that application #041-21, Gristmill Properties to construct a new mixed-use building with two dwelling units, and tool and construction vehicle storage that is accessory to the existing adjacent office building located at 5430 Waterbury-Stowe Road meets the standards of Section 301—Site Plan Review; Section 303—Conditional Use; Section 414—Parking Regulations and Section 702—PUD, including Permitted Densities

Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Tom Kinley seconded the motion to approve application #041-21 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) This approval incorporates all Findings of Facts, Conclusions of Law, and Conditions in Permits #23-98-T, #84-05-T, #80-07-T, #76-09-T, #01-10-T, #26-10T, #70-13T, #06-15T, and #74-16-T.
- 3) All exterior lighting shall be downcast and shielded.
- 4) Prior to the issuance of the permit the Zoning Administrator shall receive a copy of the amended state Wastewater and Water Supply Permit for the project.
- 5) There shall be no vehicular maintenance allowed on the entire site including in the proposed building.

VOTE: The motion was approved 6 – 0, with Bud Wilson recusing himself from the vote.

 _____, Approved: September 15, 2021
David Frothingham, Chair (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, 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.