

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Minutes—April 6, 2022

Attending: Board members present: Dave Rogers (Acting Chair), Tom Kinley, Bud Wilson, Alex Tolstoi, Joe Wurtzbacher.

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

Public: Nick & North Waringa, Jeremy Ayers, Jeanne Bataille, Matt Stern, Bryan Konietzko, George McCain, Johnathan Schumacher, Jeff Kamuba, Brennen Donnelly, Mike Casey, Joan Liggett, Justin Brown,

Dave Rogers, Acting Chair, opened the public meeting at 6:33 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, five members are present; an approval requires at least four votes in the affirmative.

1) #010-22: Nick Waringa (owner/applicant)

Waiver and Conditional Use review for the construction of a 1,260 sq. ft. two-story garage within the front setback at 1504 Loomis Hill Rd. (MDR zoning district)

Present and sworn in:

Nick and North Waringa (owners/applicants)

The hearing re- opened at 6:35 p.m. Nick Waringa reviewed the revised site plan that reflected the DRB's comments from the first meeting on the project. The garage was relocated and re-oriented to be further back from Loomis Hill Rd. and accessed directly off the existing driveway. The hearing was closed at 6:40 p.m. The Board approved the project with conditions and will issue the written decision within 45 days.

2) #131-20: Jeremy Ayers / Ayers Family Legacy LLC (owner/applicant)

Site Plan and Flood Hazard Review for the substantial improvement of the Ice House for office and storage use at 18 Elm St. (DWN/VR/SFHA zoning/overlay districts)

Present and sworn in:

Jeremy Ayers (owner/applicant)

The hearing was opened at 6:44 p.m. Jeremy Ayers presented the project to renovate the historic Ice House. The design of the new windows and doors was discussed. The hearing was closed at 7:05 p.m. The Board approved the project with conditions and will issue the written decision within 45 days.

3) #015-22: Jeanne Bataille & Matt Stern (owner/applicant)

Waiver and Conditional Use review for the construction of a 28' x 30' two-story garage

addition within the front setback at 14 Hillcrest Terrace (VR zoning district)

Present and sworn in:

Jeanne Bataille & Matt Stern (owners/applicants)

The hearing was opened at 7:08 p.m. Jeanne Bataille & Matt Stern presented the project and described the constraints on the parcel that necessitates the need for a waiver. The hearing was closed at 07:18 p.m. The Board approved the project with conditions and will issue the written decision within 45 days.

4) **#018-22: Bryan Konietzko & Lisa Wahlander** (owner/applicant)

Ridgelines/Hillsides/Steep Slopes (RHS) and Conditional Use review for the construction of a single-family dwelling and detached studio.

Present and sworn in:

Bryan Konietzko & Lisa Wahlander, Applicants

George McCain, Consultant

Birdseye consultants: Johnathan Schumacher, Jeff Kamuba, Brennen Donnelly, Mike Casey

Joan Liggett, Interested party

Justin Brown, Neighbor

The hearing was opened at 7:21 p.m. Bryan Konietzko, George McCain, and Jonathan Schumacher presented the project and explained that it may be constructed in phases. The clearing of the site, height of the structures, exterior building finishes, and exterior lighting were all discussed. The hearing was closed at 7:55 p.m. The Board approved the project with conditions and will issue the written decision within 45 days.

Agenda items to be scheduled by the Chair:

- Public comment / Other business: There was none.
- Review prior meeting minutes and decisions (3/16/22):

Tom Kinley moved and Bud Wilson seconded the motion to approve the DRB general meeting minutes of 3/16/22 and the decision for Application #011-22.

VOTE: The motion was approved 5 – 0.

Adjournment: There being no other business, the meeting was adjourned at 8:02 p.m.

Approved: David L. Frothingham III Date: April 20, 2022
David Frothingham III, Chair

Next meeting:

Wednesday, April 20, 2022, 6:30 p.m.

- #020-22, Poderzay, WR, shed at 1525 Blush Hill Rd. (MDR)
- #021-22, Ivy Ventures, Inc., SP CU, office bldg., 2933 Waterbury-Stowe Rd. (RT100)
- #022-22, Revitalizing Waterbury, Inc. / Fifty-Five Consulting & Enterprises, SP CU, café and bakery in RR Station, 1 Rotarian Place. (DWN/DDR)

**Town of Waterbury
Development Review Board
Approved Decision #131-20 - April 6, 2022**

Attending:

Board members present: David Rogers, Acting Chair, Tom Kinley, Bud Wilson, Alex Tolstoi, Joe Wurtzbacher

Staff: Stephen Lotspeich (Planning & Zoning Director), Neal Leitner (Zoning Administrator), Patti Martin (Secretary)

Owner/Applicant:	Ayers Family Legacy LLC/Jeremy Ayers	
Address/Locations:	18 Elm St., Waterbury, VT	
Zones:	Downtown (DWN) and Village Residential (VR) zoning districts and Special Flood Hazard Area (SFHA) overlay	
Application #	131-20	Tax Map # 19-346.000

Applicant Request:

The applicant seeks approval to reconstruct the existing Ice House building located at 18 Elm St. for a mix of uses to include the office, professional, business or administrative service use and storage of materials and equipment for Jeremy Ayers Pottery studio. The application is for the substantial improvement of an historic building located within the Special Flood Hazard Area (100-year floodplain).

Present and sworn in:

Jeremy Ayers, owner/applicant

Exhibits:

- A: Application #131-20 (6 pp: Zoning, SP, SFHA overlay), submitted 11/18/20.
- B: Site Plan prepared by Grenier Engineering dated 4/10/15.
- C: Elevations for proposed re-construction of the "Ice House" prepared by the applicant, submitted 11/18/20.
- D: Photo of the existing "Ice House" building by the applicant, submitted 11/18/20.
- E: Excerpt from the Sanborn Map dated Sept. 1919
- F: Elevation Certificate prepared by Grenier Engineering dated 12/7/17.
- G: E-mail from Jeremy Ayers re. building materials and specs. for flood vents dated 3/13/22
- H: Aerial photograph of existing site with zoning dist. & floodplain dated 12/7/21.
- I: Letter to adjoining landowners, mailed certified on 3/23/22.

Findings of Fact:

1. Existing conditions: Ayers Family Legacy LLC owns a 0.60± acre (26,136± sq. ft.) parcel located at 18 Elm St. The parcel is located in the Downtown (DWN) and Village Residential (VR) zoning districts and the Special Flood Hazard Area (SFHA) overlay. The existing 18' x 29' one-story "Ice House"

building is located entirely in the DWN zoning district and is currently being used for storage. The building is a contributing structure to the Waterbury Village Historic District that is listed on both the State and National Registers of Historic Places.

2. Project: The applicant proposes to re-construct the existing Ice House building located at 18 Elm St. for a mix of uses to include the office, professional, business or administrative service business office use and storage of materials and equipment for Jeremy Ayers Pottery studio. The building will be reconstructed to have a total of approximately 522 sq. ft of floor area on one floor as shown on Exhibit G. This floor area will be used primarily for the office, professional, business or administrative service use, with storage for materials and equipment for the existing Jeremy Ayers Pottery studio that is on the site in the Carriage House.

The architectural elevations shall be as shown on Exhibits C. The new doors with two-over two windows, the other two-over-two windows, and trim shall replace the two existing non-historic garage doors and shall be as shown. The existing historic stamped metal siding shall remain in place. The intention of the design is to have the building remain eligible to be a contributing structure in the Waterbury Village Historic District.

3. Site Plan Review and Approval, Section 301: The proposed office, professional, business or administrative service use is a “permitted use” and is subject to site plan approval by the DRB before a zoning permit may be issued. Prior to approval, the Board will take into consideration the following objectives:
 - a. Traffic access and pedestrian safety, Subsection 301(f)(1) (A–D): There will be no change to the existing primary vehicular access to the site via the one-lane gravel driveway off Elm St. The “Ice House” will be accessed by pedestrians directly from the existing parking area.
 - b. Circulation and parking, loading, refuse, and service areas, Subsection 301(f)(2) (A–G): The existing parking area will remain in its current configuration with eight outdoor spaces and five indoor spaces in the garages, as shown on Exhibit E. The circulation, loading, refuse, and service areas for all the buildings on the site will remain unchanged.
 - c. Adequacy of Landscaping, screening, and lighting, Section 301(f)(3) (A–F): The existing landscaping and screening are shown on Exhibit E and remain unchanged. Any exterior lighting on the “Ice House” building will consist of downcast and shielded fixtures to match the existing fixtures on the Carriage House.
4. Parking Regulations, Section 414: The 13 outdoor and indoor parking spaces will continue to serve all the residential and commercial uses on the site as detailed above. The 522 sq. ft. of office and storage use in the “Ice House” will serve the existing business on the site with no additional employees anticipated. Therefore, no additional parking spaces are proposed to serve the uses in the “Ice House”.
5. Flood Hazard Area Review, Article VI: The entire parcel lies within the Special Flood Hazard Area (SFHA) Zone AE (Exhibit H). The Base Flood Elevation (BFE) at the site is 425.0' and the existing

finished floor elevation (FFE) of the “Ice House” is 424.0’ as documented in Exhibit F, the Elevation Certificate. All utilities that can be damaged by flooding shall be elevated at least two feet above the BFE or at least at or above elevation 427.0’. The reconstruction of the building shall be done with flood resistant materials up to a minimum elevation of 427.0’. These materials will include foam insulation and an interior wall finish using pine boards as described in Exhibit G1. These materials shall be in conformance with the FEMA Technical Bulletin 2, Flood Damage – Resistant Material Requirements, dated August, 2008.

The “Ice House” shall have a minimum of four Smart Vents located on the rear of the building so that the bottom of the vents are no more than 12” above the finish floor of the building, as shown and specified in Exhibits C2 and G.

The Development Review board finds that this proposal *is/is not* in conformance with Section 604(a).

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Ayers Family Legacy LLC/Jeremy Ayers to reconstruct the “Ice House” building for a mix of the office, professional, business or administrative service use and storage of materials and equipment for Jeremy Ayers Pottery studio at 18 Elm St. meets the Site Plan and Flood Hazard Area criteria as set forth in Sections 301 and Article VI.

Decision Motion:

On behalf of the Waterbury Development Review Board, Joe Wurtzbacher moved and Tom Kinley seconded the motion to approve application #112-21 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) All outdoor lighting shall be downcast and shielded.
- (3) Upon completion of the reconstruction of the building, the owner shall apply for and obtain a Certificate of Completion to demonstrate conformance with the Flood Hazard Area Review, prior to occupancy of the building. This shall include the submission of a revised Elevation Certificate that meets all FEMA requirements.

Vote: The motion was approved 5 - 0.



David Frothingham III, Chair

Approved: April 20, 2022
(date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Jeff McMahon, DEC Permit Specialist, at 802-477-2241 or e-mail: jeff.mcmahon@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 #010-21 ■ March 16, 2022 ■ April 6, 2022**

Present (March 16, 2022): Board members: David Rogers (Acting Chair), Tom Kinley, Bud Wilson, Joe Wurtzbacher, Alex Tolstoi

Present (April 6, 2022): Board members: David Rogers (Acting Chair), Tom Kinley, Bud Wilson, Alex Tolstoi, Joe Wurtzbacher.

Staff: Steve Lotspeich (Planning & Zoning Director – Zoning Administrator), Patti Martin (Secretary)

Owner/Applicant:	Nick Waringa	
Address/Location:	1504 Loomis Hill Rd., Waterbury Center, VT	
Zoning District(s):	Medium-Density Residential (MDR)	
Application #	010-22	Tax Map #10-032.000

Applicant Request:

The Applicant seeks a setback waiver to construct a 30' x 42' detached two-story garage at 1504 Loomis Hill Rd., in the Medium-Density Residential (MDR) zoning district.

Present and sworn in (March 16, 2022):

Nick & North Waringa

Present and sworn in (April 6, 2022):

Nick Waringa

Exhibits:

- A: Application #010-22 (3 pages: zoning, conditional use) submitted 2/14/22.
- B: Site plans prepared by Applicant, (3 pages) dated and submitted 2/14/22.
- C: Floor plans & cross section of (2 pages) prepared by Applicant submitted 2/14/22.
- D: Parcel map/orthophoto of parcel. (Staff)
- E: Letter to adjoining landowners, mailed certified on 2/24/22.

Findings of Fact:

1. Existing conditions: Nick Waringa owns a 2.8± acre parcel at 1504 Loomis Hill Rd in the Medium-Density Residential (MDR) zoning district. The property is developed with an existing single-family dwelling with a detached garage. The lot is served by an on-site private wastewater system and well.
2. Project: To construct a 30' x 42' detached two-story garage within 40' of the front property line. A 20' x 40' one-story enclosed shed may be added onto the proposed garage in the future, all as shown in Exhibits B and C. The detached garage will be located in the Medium-Density Residential (MDR) zoning district. The proposed garage will meet the side and rear setbacks (Exhibit B1). The placement of

the detached garage is constrained by the existing driveway that serves the existing dwelling and garage. If the location of the proposed garage was shifted to meet all setbacks, there would be a conflict with the existing driveway access to the dwelling (see Exhibit B3). There is an existing working well, play structure, landscaping and pond that may limit an alternate location in the vicinity of those features to the rear of the parcel (see Exhibit B1 for location of features). Any exterior lighting proposed for the detached garage shall be downcast and shielded.

3. MDR Dimensional Requirements, Table 5.2: Minimum setbacks for MDR: 60' front, 50' sides/rear. The lot meets the minimum 2-acre lot size for the MDR zoning district. The existing dwelling and detached garage meet the front, side, and rear-yard setbacks for the MDR zoning district where the dwelling is located. The proposed detached garage will not meet the minimum front setback requirement for the MDR zoning district where it will be located.
4. Waiver Request, Section 309: The proposed detached garage will be 40' from the front property line at the closest corner (Exhibit B1). The setback waiver request is to encroach on the front yard setback by 20 feet (60' minus 40').
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use review in accordance with Section 303, provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties. The Board must find that the proposal conforms to the following general and specific standards:
 - (a) Section 303(e)(1) Community facilities: The project will not change the residential use as a single-family dwelling. The project will not increase the occupancy, unduly increase traffic, burden the school capacity, or increase the demand for fire protection. The application states: "Building in the location we would like to build is a net positive on fire protection services should there be a fire as it's closer to the road for an emergency."
 - (b) Section 303(e)(2)(A-E) Character of the area: The use of the property will remain residential. The style and dimensions of the detached garage will be similar to the existing barns and garages in the area. The application states: "The proposed use will match the character of the rural barn setting of the AG use across the road from it. We intend to use like material (pine/hemlock). It supports the long-term vision of the municipal plan for solar providing us a future c(s)iting opportunity on the property for solar panels." The Board concludes that the project will not have an undue adverse impact on the character of the area.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. The application states: "The proposed use is within the ordinances aside from setback." This project application *presents/does not present* compliance with the conditional use criteria.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: No change to the residential use is proposed; the project will not create the above-named nuisances. The application states: "None, but proposed c(s)iting helps in fire response."

(e) Section 303(h) Removal of earth or mineral products conditions: The 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 project proposed by Nick Waringa for a detached garage that will not come closer than 40' to the front property line at 1504 Loomis Hill Rd., as presented in application #010-22 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, Bud Wilson moved and Joe Wurtzbacher seconded the motion to approve application #010-22 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 exterior lighting shall be downcast and shielded.
- (3) Any future additions to the proposed garage shall require further review by the Development Review Board and the issuance of an additional zoning permit.

Vote: The motion was approved 5 - 0.


_____, Approved: April 20, 2022
David Frothingham III, Chair (date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Jeff McMahon, DEC Permit Specialist, at 802-477-2241 or e-mail: jeff.mcmahon@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 #015-22 ■ April 6, 2022**

Present: Board members: David Rogers (Acting Chari), Tom Kinley, Bud Wilson, Alex Tolstoi, Joe Wurtzbacher,

Staff: Steve Lotspeich (Planning & Zoning Director), Neal Leitner (Asst. Planning & Zoning Administrator), Patti Martin (Secretary)

Owner/Applicant:	Matt Stern & Jeanne Bataille	
Address/Location:	14 Hillcrest Terrace, Waterbury, VT	
Zoning District(s):	Village Residential (VR)	
Application #	015-22	Tax Map #19-134.000

Applicant Request

The Applicant seeks a setback waiver for the construction of a 28' x 30' two-story garage addition within the front setback at 14 Hillcrest Terrace (VR zoning district).

Present and sworn in:

Matt Stern & Jeanne Bataille

Exhibits:

- A: Application #015-22 (3 pages: zoning, conditional use) submitted 3/10/22.
- B: Site plans prepared by Applicant, (1 page) submitted 3/10/22.
- C: Floor plans & cross section of (4 pages) prepared by Applicant submitted 3/10/22.
- D: Parcel map/orthophoto of parcel. (Staff)
- E: Letter to adjoining landowners, mailed certified on 3/19/22.

Findings of Fact:

1. Existing conditions: Jeanne Bataille owns a 0.22± acre parcel at 14 Hillcrest Terrace in the Village Residential (VR) zoning district. The property is developed with an existing single-family dwelling with an attached garage. The lot is served by municipal water and sewer.
2. Project: To construct a 28' x 30' attached two-story garage with a bathroom within 51' of the front property line, all as shown in Exhibits B and C. The detached garage will be located in the Village Residential (VR) zoning district. The proposed garage will meet the side and rear setbacks (Exhibit B). The existing attached garage will be removed and replaced by the new two-story garage. The existing garage is currently approximately 51' feet from the centerline of Hillcrest Terrace, therefore, it is a legal nonconforming structure. The proposed garage addition is constrained by the construction and floorplan of the existing house and garage. The proposed garage addition will not increase nonconformity with the Town and Village of Waterbury Zoning Regulations. Any exterior lighting proposed for the detached

garage shall be downcast and shielded.

1. VR Dimensional Requirements, Table 5.2: Minimum setbacks for VR: 30' front, 10' sides, 30' rear. The lot meets the minimum 10,000 square foot lot size for the VR zoning district. The existing single-family house and garage currently do not meet front setback requirements. The proposed attached garage will not meet the minimum front setback requirement for the VR zoning district where it will be located.
2. Waiver Request, Section 309: The proposed detached garage will be 51' from the front property line at the closest corner (Exhibit B). The setback waiver request is to encroach on the front yard setback by 4 feet (55' minus 40').
3. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use review in accordance with Section 303, provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties. The Board must find that the proposal conforms to the following general and specific standards:
 - (a) Section 303(e)(1) Community facilities: The project will not change the residential use as a single-family dwelling. The project will not increase the occupancy, unduly increase traffic, burden the school capacity, or increase the demand for fire protection. The application states: "*The number of bedrooms (2) remains the same, with one additional bathroom*".
 - (b) Section 303(e)(2)(A-E) Character of the area: The use of the property will remain residential. The style and dimensions of the attached garage will be similar to the existing attached garages in the area. The proposed garage will be 25 feet in height, rather than the existing 17 feet in height. The proposed addition will total 1,900 square feet, for an increase of 900 square feet. While the proposed garage addition is taller than the existing condition, the applicant states, "*The 2nd story over garage will only use a 7-foot wall to minimize the height of the ridge.*" The Board concludes that the project will/will not have an undue adverse impact on the character of the area.
 - (c) Section 303(e)(3) Municipal bylaws in effect: The use of the property will remain residential. The application states: "No new uses." This 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: No change to the residential use is proposed; the project will not create the above-named nuisances.
 - (e) Section 303(h) Removal of earth or mineral products conditions: The 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 project proposed by Jeanne Bataille and Matt Stern for an attached two-story garage addition that will not come closer than 50' to the front property line at 14 Hillcrest Terrace, as presented in application #015-22 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, Bud Wilson moved and Joe Wurtzbacher seconded the motion to approve application #015-22 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 exterior lighting shall be downcast and shielded.
- (3) Any future additions to the proposed garage shall require further review by the Development Review Board and the issuance of an additional zoning permit.

Vote: The motion was approved 5 - 0.


_____, Approved: April 20, 2022
David Frothingham III, Chair (date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Jeff McMahon, DEC Permit Specialist, at 802-477-2241 or e-mail: jeff.mcmahon@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.



WATERBURY MUNICIPAL OFFICE
802.244.7033 OR 802.244.5858
FAX: 802.244.1014
28 NORTH MAIN ST., SUITE 1
WATERBURY, VT 05676
WATERBURYVT.COM

DATE: April 22, 2022

TO: Bryan Konietzko & Lisa Wahlander - via email and certified mail

RE: Bryan Konietzko & Lisa Wahlander (owner/applicant)
App. #018-22; 14-065.013, Construct a single-family dwelling on a 10.9 acre lot in
the ridgelines/hillsides/steep slopes overlay district.

Please find attached a copy of the Development Review Board decision for your review. Pursuant to 24 V.S.A. §4464(b)(3), a copy of the decision is being sent to you since you participated in the proceedings.

This decision may be appealed to the 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 the decision, pursuant to 24 V.S.A. §4471 and Rule 5(b) of the Vermont rules for Environmental Court Proceedings.

Please contact the Assistant Zoning Administrator at 802-244-1012 with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neal Leitner", is written over a light blue circular stamp.

Neal Leitner

Assistant Zoning Administrator

**Town of Waterbury
Development Review Board
Approved Decision #018-22 - April 6, 2022**

In Attendance: Board members present: Board members: David Rogers (Acting Chair), Tom Kinley, Bud Wilson, Alex Tolstoi, Joe Wurtzbacher.

Staff present: Steve Lotspeich (Planning Director) and Neal Leitner (Zoning Administrator), Patti Martin (Secretary)

Owner/Applicant:	Bryan Konietzko & Lisa Wahlander	
Address/Location:	557 Bear Creek Lane	
Zones:	Conservation (CNS) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district	
Application #	018-22	Tax Map #14-065.013

Applicant Request

The applicant seeks approval to construct a single-family dwelling 10.9-acre lot at 557 Bear Creek Lane, Lot 13, Conservation zoning district and Ridgelines/Hillsides/Steep Slopes overlay district.

Present and sworn in:

Bryan Konietzko & Lisa Wahlander, Owners/applicants

George McCain, Consultant

Birdseye consultants: Johnathan Schumacher, Jeff Kamuba, Brennen Donnelly, Mike Casey

Joan Liggett, Interested party

Justin Brown, Neighbor

Exhibits:

- A: Application #018-22 (6 pp: Zoning, Conditional Use, Overlay District), submitted 3/14/22
- B: Response to Conditional Use Criteria.
- C: Site Plan with house, driveway location and previously approved thinning zone per permit 67-16 by McCain Consulting, Inc dated 3/14/22.
- D1: Cover Sheet for application set submitted 3/29/22
- D2: Floor Plan Main Level submitted 3/29/22
- D3: Floor Plan Studio level 1 submitted 3/29/22
- D4: Floor Plan Studio level 2 submitted 3/29/22
- D5: Floor Plan Garage Level 2 submitted 3/29/22
- D6: West Elevation Plans submitted 3/29/22
- D7: East Elevation Plans submitted 3/29/22
- D8: South Elevation Plans submitted 3/29/22
- D9: North Elevation Plans submitted 3/29/22
- D10: Exterior Lighting Plan submitted 3/29/22
- E: Proposed exterior lighting fixture cut sheets submitted 3/29/22
- F: Prior DRB decision #67-16-T for approved tree thinning zone with associated plan (10/12/16).

- G: Konietzko & Wahlander Property Zoning Map
- H: Konietzko & Wahlander Property Aerial Map
- I: Letter to adjoining property owners, mailed certified March 18, 2022

Findings of Fact:

1. Existing conditions: Bryan Konietzko and Lisa Wahlander own a 10.9± acre parcel on Bear Creek Lane. The parcel obtained approval for pre-development site preparation for a house site in 2016 during a 2-lot subdivision per permit 67-16-T. 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, 2016, DRB approved pre-development site preparation for lots #12 & #13. (#67-16-T)
2. Proposal: Construct a single-family dwelling and associated clearing on previously approved Lot #13, Bear Creek Lane. (CNS/RHS zoning/overlay districts) The location of the proposed dwelling is at an existing elevation of between 1,460' and 1,480' therefore it is considered Minor 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 Application #67-16-T and the associated DRB decision that is Exhibit F.
 - (c) The site work that has already occurred includes the following:
 - a. The driveway access – the proposed driveway enters the property from Bear Creek Lane.
 - b. Clearing the house site – the proposed house site is located between 1,460 FIE and 1,480 FIE.
 - 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) There will be no additional clearing beyond the limits of disturbance shown on Exhibit G. Clearing of trees will conform to the *1987 Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont*.
 - (e) Erosion and storm water control measures consistent with State standards will be implemented during construction.
3. 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. According to the findings of fact in the approved decision #67-16, the DRB found that *“The proposed clearings will maintain screening from view due to the forested cover to be preserved in the foreground of the proposed building zones. The future building sites are not overly steep the proposed access drive has been designed with an average grade of 8-10%+/-.”*
- (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/does not represent* 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.

Conclusion:


Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Bryan Konietzko and Lisa Wahlander to construct a single-family dwelling and thin additional wooded areas on Lot #13 per permit #67-16-T on Bear Creek Lane, in the CNS zoning district and RHS overlay district, as presented in application #018-22 and supporting materials, meets the Conditional Use and Ridgelines/Hillsides/Steep Slopes criteria as set forth in Sections 303 and 1004.

Motion:

On behalf of the Waterbury Development Review Board, Joe Wurtzbacher moved and Tom Kinley seconded the motion to approve application #018-22 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 #67-16-T.

Vote: The motion was approved 5 - 0.



David Frothingham III, Chair

Approved: April 20, 2022
(date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Jeff McMahon, DEC Permit Specialist, at 802-477-2241 or e-mail: jeff.mcmahon@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.*