

**WATERBURY DEVELOPMENT REVIEW BOARD
APPROVED GENERAL MINUTES
Thursday, December 20, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen, Martha Staskus, Rick Boyle, Nat Fish

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

The following applications were heard:

#63-12-V, Carol O'Neil - see separate minutes and decision

#59-12-T, Faith Bieler, Final Plat Approval

#65-12-T, Phair Housing Company, LLC

#66-12-T, Dan & Kim Fodor - see separate minutes and decision

#65-12-V, Pilgrim Partnership, LLC - see separate minutes and decision

#44-11-T, Russell Foregger Revocable Trust, Final Plat

Application #59-12-T, Faith Bieler, Final Plat Approval for 3-Lot Subdivision at 48 Branbury Crossing, Waterbury Center, VT. Tax Map #09-006.000

Jeff Whalen moved and Martha Staskus seconded the motion for the DRB to approve application #59-12-T the final plat for a 3 lot subdivision at 48 Branbury Crossing, Waterbury Center, VT tax map id #09-006.000 and that the board allow the chair to sign off the final plat.

The motion passed unanimously.

Review & Approval of General Minutes of 11-15-12

Martha Staskus moved and Jeff Whalen seconded the motion to approve the general minutes for 11-15-12 as amended.

Vote: The motion passed unanimously.

Application 65-12-T, Phair Housing Company, LLC, Site Plan Review for a change of use (from retail sales / service to residential) at 2007 Guptill Road, Waterbury Center, VT. Tax Map # 09-223.000

The hearing was opened at 6:40 p.m. At 7:10 p.m. the chair continued the hearing to January 17, 2013 at 7:45 p.m.

Review & Approval of General Minutes of 12-06-12

Jeff Whalen moved and Nat Fish seconded the motion to approve the general minutes of December 6, 2012.

The motion passed with one abstention.

Review & Approval of Minutes & Decision for Application #66-12-T, Dan & Kim Fodor

Jeff Whalen moved and Martha Staskus seconded the motion to approve the minutes for application #66-12-T, Dan & Kim Fodor, as amended.

The motion passed unanimously.

Application #44-11-T, Russell Foregger Revocable Trust, Final Plat
Approval for 4-Lot Subdivision on Loomis Hill Road, Waterbury Center, VT. Tax Map
#09-147.000

Jeff Whalen moved and Martha Staskus seconded the motion to approve the final plat for application #44-11-T, Russell Foregger Revocable Trust, Tax Map #09-147.000 and for the chair to sign off the final plat.

The motion passed unanimously.

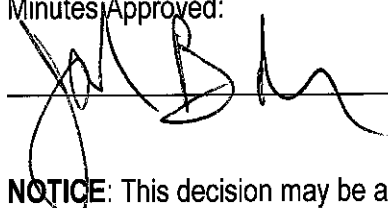
Review and Approval of these minutes date 12-20-12

Martha Staskus moved and Rick Boyle seconded the motion to approve the general minutes of this meeting, with changes.

ADJOURNMENT

The meeting was adjourned by the Chair at 9:30 p.m.

Minutes Approved:

 _____, Chair

Date: 12/20/2012

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.

THESE MINUTES WERE APPROVED ON December 20, 2012.

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: December 20, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Nat Fish; Rick Boyle, Martha Staskus

Staff Present: Steve Lotspeich, Clare Rock, Patti Spence

First Order of Business: Application for Site Plan review (amendment), Findings and Decision. The public hearing was opened at 6:00 pm

Permit Application #: 63-12-V
Applicant: Carol O'Neil
Landowner: SAME
Location of Project: 92 Stowe Street

The following interested parties were present and sworn in: Carol O'Neil

TESTIMONY:

1. Carol O'Neil described the proposed modifications to the roof and enclosure for the existing outside cooler. A suggestion was made to install a sliding door for the opening for the exterior steps.

The south and east sides will be enclosed.

2. 20 linear feet of privacy fence, 6 feet tall and solid, will be added to buffer the visual and noise impact on the eastern side of the structure to the south of the stair.

EXHIBIT LIST:

Exhibit A Zoning Permit Application #63-12-V
Exhibit B Memo from Carol O'Neil w/ project information
Exhibit C Photo of existing project
Exhibit D Photo of existing light fixture
Exhibit E Sketch Plan (including elevation and floor plan sketch)
Exhibit F Revised structure information, including sketch of enclosed structure, dated 12/20/2012
Exhibit G Copy of 003-98-V, prior site plan review
Exhibit H Minutes of meeting of 12-06-12
Exhibit I Notice sent to Adjacent Landowners dated November 19, 2012

Description of Project:

The applicant is seeking a site plan approval for an expansion to an accessory structure at the Gristmill Property located at 92 Stowe Street, Waterbury, VT Tax Map #19-084.000. The shed Dev. Review Board Approved Findings & Decision, 63-12-V, O'Neil Site Plan

structure was constructed without a permit and has open sides. The Hearing was opened on December 6, 2012 and continued to December 20, 2012. The applicant proposed to enclose the shed structure.

FINDINGS OF FACT:

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The existing pre-existing accessory structure (shed) is approximately 11'x11' and currently houses the restaurants' walk-out cooler.
2. A new roof, deck and ramp structure was constructed to connect the cooler to the restaurants kitchen door.
3. The footprint of the new structure is approximately 12'x22.5'.
4. The structure will be enclosed on the south and east sides. There will be a door at the bottom of the exterior stairs.
5. The new structure includes a new exterior light fixture (sconce style) on the western side of the structure. The light will be downcast and shielded.
6. The structure will be clad in cedar shingles on the east and south sides.
7. The existing door will be fitted to minimize noise and the new barn sliding door on the east wall will also be constructed to minimize noise.
8. 20 linear feet of privacy fence, 6 feet tall and solid, will be added to buffer the visual and noise impact on the eastern side of the structure to the south of the stair, as noted on Exhibit F, Revised structure information, including sketch of enclosed structure.

CONCLUSION

The Development Review Board concludes that all applicable site plan regulations have been met and the approved modified accessory structure will minimize light and noise concerns.

DECISION AND CONDITIONS

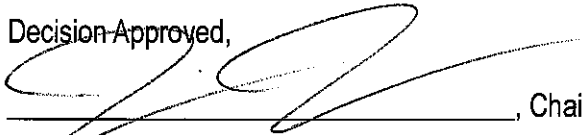
MOTION:

Rick Boyle moved and Jeff Whalen seconded the motion to approve application # 63-12-V, Carol O'Neil, for site plan approval for the expansion of the accessory structure at 92 Stowe Street, subject to the following condition:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. That no lighting will be used in the interior of the structure to light the outside of the structure.

VOTE: The motion passed unanimously.

Decision-Approved,


_____, Chair

Date: 1.17.13

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.

THESE MINUTES WERE APPROVED ON January 17, 2013.

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: December 20, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Nat Fish; Rick Boyle, Martha Staskus

Staff Present: Clare Rock, Patti Spence

Fourth Order of Business: Application for a Ridgeline/Hillside/Steep Slope Subdivision Review and Final Plat Approval, Findings and Decision. The public hearing was opened at 7:10 pm

Permit Application #: 66-12-T

Applicant: Dan & Kim Fodor

Landowner: SAME

Location of Project: 1130 Ring Road, Waterbury Center, VT

The following interested parties were present and sworn in:

Gunner McCain, Consultant

Brittany Roy, Realtor

Joe Roszkowski, Purchaser

Lisa Meyer, Representing the applicant

TESTIMONY:

1. A final plat was presented as Exhibit F.
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EXHIBIT LIST:

Exhibit A Zoning Permit Application #66-12-T

Exhibit B Letter from McCain Consulting dated 11/20/2012

Exhibit C ANR Environmental Interest Locator Map

Exhibit D Site Plan dated 11/20/2012

Exhibit E Notice sent to Adjacent Landowners dated November 28, 2012

Exhibit F Final plat

Description of Project:

This project proposes to subdivide a 20.4 +/- acre into two 10+ acre lots. The property is located at 1130 Ring Road, Waterbury Center, VT, Tax Map #14-053.100.

A copy of the Final Plat was submitted by the applicant's consultant for approval under this application. The Final Plat was submitted to the Zoning Administrator in preparation for the DRB Hearing.

FINDINGS OF FACT:

Dev. Review Board Approved Minutes, 66-12-T, Fodor Subdivision & Final Plat

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The property is located within the Conservation Zoning District where the minimum size requirement is 10 acres.
2. The project proposes to subdivide the 20.4 +/- acre into two 10+ acre lots.
3. Lot 1 will be 10.1 +/- acres and contain the existing single-family dwelling and associated infrastructure.
4. Lot 2 will be 10.4 +/- acres.
5. No new construction is proposed under this application.
6. The property is also located with the Ridgeline/Hillside/Steep Slope (RHS) Overlay District.
7. The lower elevations of the 20 +/- acre parcel fall at approximately 1,600 FIE and would be classified as a "major" under the RHS regulations.
8. Additional developments standards apply yet are not applicable as no new construction is proposed under this application.

CONCLUSION

The Development Review Board concludes the 2-lot subdivision will result in both lots meeting the minimum lot size requirements of the Zoning Bylaws and the Final Plat meets the requirements of the Zoning Bylaws.

DECISION AND CONDITIONS

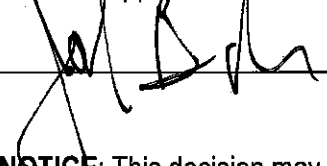
MOTION:

Jeff Whalen moved and Nat Fish seconded the motion to approve application # 66-12-T to subdivide the 20.4 +/- acre lot located at 1130 Ring Road (Tax Map #14-053.100) into two 10+ acre lots and also to approve the Final Plat to be signed by the Chair with the following condition:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.

VOTE: The motion passed unanimously.

Decision Approved,

 _____, Chair Date: 12/20/2012

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.

THESE MINUTES WERE APPROVED AFTER THE HEARING, ON December 20, 2012.

**TOWN OF WATERBURY
DEVELOPMENT REVIEW BOARD
APPROVED FINDINGS & DECISION
Date: December 20, 2012**

Board Members Present: Joel Baker, Acting Chair; Jeff Whalen; Nat Fish; Rick Boyle; Martha Staskus

Staff Present: Clare Rock, Patti Spence, Steve Lotspeich

Fifth Order of Business: Application for Excavation (Removal of Fill) in the Special Flood Hazard Area, Findings and Decision. The public hearing was opened at 7:40 p.m.

Permit Application #: 65-12-V

Applicant: Pilgrim Partnership

Landowner: SAME

Location of Project: Demeritt Place, Waterbury, VT

The following interested parties were present and sworn in:

Gunner McCain, Consultant

Kathy and Robert Grace, abutting landowners

Diane and Michael LaRock, abutting landowners

Everett Coffey, abutting landowner

Charles Merriman, attorney for Graces and LaRocks

TESTIMONY:

1. There was a request to have the removal of the fill stringently monitored.
2. The amount of fill that is going to be removed needs to be accounted for during the process.
3. What recourses are available once the fill is removed that it is done to the specifications required.
4. Based on whether conditions there will possibly be an issue regarding the timing of the removal of the fill.
5. Adjacent property owners are concerned about the timing of the removal because of the continued potential effects to their property as the pile remains there.
6. How the area would be returned to it's prior state was discussed and conditions considered to deal with that issue.
7. It was requested that the removal be monitored by an engineer who would certify the amount of fill that is removed.
8. Neighbors asked for 24 hours notice prior to the fill being removed.
9. The culvert is replaced with stone.

Testimony was closed at 8:36 p.m.

EXHIBIT LIST:

Exhibit A Zoning Permit Application #65-12-V

Exhibit B Letter from McCain Consulting, dated 11/16/2012

Dev. Review Board Approved Minutes, 65-12-V Pilgrim Partnership SFHA

Exhibit C Site Plan, 11/7/2012
Exhibit F Notice sent to Adjacent Landowners dated November 28, 2012

Description of Project:

This project proposes to excavate 1,645 cubic yards of fill from the property owned by Pilgrim Partnership off Demeritt Place, Tax Map # 19-460.000. The property is located in part within the Special Flood Hazard Area.

Background of Project:

- Late 2010: fill was placed on the above referenced property.
- August 24, 2011: the Town of Waterbury received a Zoning Permit Application (#25-11-V) from Pilgrim Partnership requesting approval of the already placed fill.
- December 15, 2011: the DRB approved application #25-11-V for the placement of 1,645 cubic yards on the property. The Decision was approved on January 5, 2012
- January 2012: Pilgrim Partnership submits Act 250 permit amendment for the placement of fill.
- January 24, 2012: Adjoining landowners filed an appeal of the DRB Decision with the VT Environmental Court. The case is still pending before the E Court; it was placed on hold until the completion of the Act 250 process.
- October 11, 2012: The District 5 Environmental Commission denies the Act 250 permit amendment application for the placement of fill on the property.
- November 2012: Pilgrim Partnership submits an Act 250 permit amendment for the removal of fill.
- November 11, 2012: the Town of Waterbury received a Zoning Permit Application (#65-12-V) from Pilgrim Partnership requesting approval of the removal of fill.

FINDINGS OF FACT:

Based on the application, testimony, exhibits, and other evidence the Town of Waterbury Zoning Development Review Board makes the following findings:

1. The 2.06 +/- acre property is located within the Industrial Zoning District.
2. The western portion of the property is located within the Special Flood Hazard Area.
3. The applicant proposes to excavate 1,645 cubic yards of fill from the property.
4. Of the 1,645 cubic yards approximately 283 cubic yards are within the Special Flood Hazard Area.
5. Grading/excavation are regulated activities within the Special Flood Hazard Area which require review by the Development Review Board.
6. Below are excerpts of the Waterbury Special Flood Hazard Area:

Section 605 Development Standards

(a) Special Flood Hazard Areas

- (1) All development within the Special Flood Hazard Area shall be:
Reasonably safe from flooding;

(a) Applications for development in areas of special flood hazard shall include:

(1) Base flood elevation data for all subdivisions, new construction, and substantial improvements;

(2) The elevation, in relation to mean sea level, of the lowest floor, including basement, of all new construction or substantial improvement of structures;

(5) Where a development proposal is subject to one or more of the requirements set forth in Section 605 that require new construction, substantial improvement or other development to be located at or above a base flood elevation, and in cases where development is otherwise required to occur with reference to a specified elevation, the application for a permit shall include a certification by a registered professional engineer or architect demonstrating compliance with the elevation requirements. Thereafter, the permittee shall submit a FEMA Elevation Certificate, where applicable, or other certification providing as-built certification from a registered professional engineer or architect as to such elevation at the time the permittee applies for the a Certificate of Completion

(6) A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and

(7) A Vermont Agency of Natural Resources Project Review Sheet for the proposal.

(b) In addition, the Development Review Board shall require such of the following information as it deems necessary for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate, drawn to scale, showing the location, dimensions, contours, and elevation of the lot; the size and location on the site of existing or proposed structures, fill or storage of materials; the location and elevations of streets, water supply, and sanitary facilities; and the relation of the above to the location of the channel, floodway, and base flood elevation;

(2) Specifications for building construction and materials, floodproofing, mining, dredging, filling, grading, paving, excavation, or drilling, channel improvement, storage of materials, water supply, and sanitary facilities.

CONCLUSION

The Development Review Board concludes that the application to remove fill in the special flood zone area will return the area to the level of the previous vegetative mat.

DECISION AND CONDITIONS

MOTION:

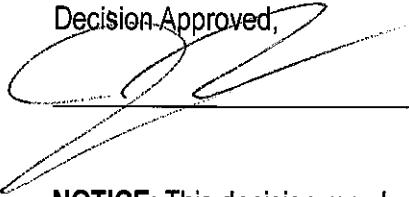
Martha Staskus moved and Rick Boyle seconded the motion to approve application #65-12-V for excavation in the special flood hazard area on the property owned by Pilgrim Partnership off Demeritt Place, Tax Map #19-460.000, with the following conditions:

1. This permit is granted on the condition that the applicant completes the project consistent with the Board's findings and conclusions and the approved plans and exhibits.
2. There is a notice of two business days prior to the commencement of the work; notice made to Charles Merriman, Attorney, via email.

3. A mutually agreed upon third party will inspect the removal of the fill in the flood hazard zone area only and verify that the area is returned to the level of its original vegetative mat, with up to 4 hours of service paid for by the applicant.
4. The work is to be completed by May 15, 2013.
5. Any disturbed area shall be seeded and mulched.

VOTE: The motion passed unanimously.

Decision Approved,


_____, Chair

Date: 1-17-13

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THESE MINUTES WERE APPROVED ON January 17, 2013