

WATERBURY DEVELOPMENT REVIEW BOARD
General Meeting Minutes
Wednesday, April 5, 2017

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, and David Frothingham. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

The public meeting convened in the Steele Community Room at the Municipal Center at 28 North Main Street, Waterbury, VT.

1) The Chair called the meeting to order at 6:35 p.m.

2) Approval of Agenda

A member of the public requested that the hearing be dismissed for the Grayson application #15-17. The Board responded that it was not appropriate to discuss an application before the hearing was opened for the application and that they saw no reason to not approve the agenda as presented.

The agenda was approved as presented.

3) **#17-17: Aaron Flint** (applicant), **Winter Woods LLC** (owner)

Two-lot subdivision at 1790 Guptil Road, Waterbury, VT. This is a re-approval of the two-lot subdivision application #47-16-T that was approved in September 2016. That approval has expired, as the final plat was not approved and recorded within 180 days. (TMR zoning district)

Present and sworn in:

George McCain, Consultant to applicant/landowner
Michael Tuller, Adjoining andowner
Mark Stirewalt, Adjoining landowner
Dawn Mintner, Adjacent landowner

Motion: by Nat Fish, 2nd by Martha Staskus: To approve application #17-17 with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

4) **#13-17: Scherk Investment Property LLC, David & Joann Scherk** (landowner/applicant)

Site Plan and Conditional Use Review to add a second story to and change the use of a portion of the existing building located at 2687 Waterbury-Stowe Road, expanding the non-conforming multi-family use. (RT100 zoning district)

Present and sworn in:

David Scherk, applicant/landowner

Testimony:

- The project will expand an existing townhouse. The footprint will change.
- There is no change in the number of bedrooms.
- One full bathroom will be changed to a half-bath; no additional bathrooms.
- The addition will use the same external materials to match the existing building.

- There are no changes to the entrances for the current apartments.
- There will be no exterior lighting added.

Motion: by Nat Fish, seconded by Martha Staskus: To approve application #13-17 with conditions.

Vote: Passed unanimously, 4-0.

The Board will issue the final written decision within 45 days.

- 5) **#15-17: Charles Timothy Grayson** (landowner/applicant)
 Ridgeline/Hillside/Steep Slope review for revisions to the clearing limits of the previously-approved three-lot subdivision on Sweet Road, Waterbury Center, VT. (MDR/CNS/RHS zoning and overlay districts)

Present and sworn in:

George McCain, Consultant to applicant/landowner
 Glenn Anderson, Adjoining landowner
 Deborah Mulvey, Adjoining landowner
 Lauren Huffman, Adjoining landowner
 Matthew DesRoche, Adjoining landowner

Testimony:

- The driveway will be roughed in on Lot 3. The width will be 30'.
- The driveway for Lot 1 will be roughed in. The width will be 30'.
- Selective thinning for "peek-a-boo" views is proposed on revised Exhibit C, 75% of the tree canopy will be maintained. The Board requested the Applicant to submit a clearing/thinning plan more-clearly defined and marked.
- An adjacent landowner expressed concern with any tree cutting without a study on how it will affect her spring-rights and private well, recommends a hydro-study.
- An adjacent landowner expressed watershed concerns.

Motion: by David Frothingham, seconded by Dave Rogers: To continue the hearing to May 3rd.

Vote: Passed unanimously, 4-0.

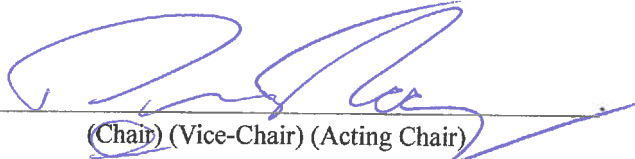
The review on this application will resume on May 3, 2017.

- 6) **Approval of prior meeting minutes and decisions:**

None to review. The March 1 meeting minutes will be submitted for review at the April 19 meeting.

Next meeting: Wednesday, April 19, 2017

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



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

Approved on: 4-19-17

 (date)

**Town & Village of Waterbury
Development Review Board
Hearing Decision #13-17
April 5, 2017**

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, David Frothingham

Staff present: Dina Bookmyer-Baker (ZA), and Patti Spence (Secretary).

Owner/Applicant:	David and Joann Scherk, Scherk Investment Property LLC	
Address/Location:	2687 Waterbury-Stowe Road, Waterbury, VT	
Zoning District:	Route 100 (RT100)	
Application #	13-17	Tax Map # 13-135.000

Applicant Request

The applicant proposes to change the use of a portion of the existing mixed-use building at 2687 Waterbury-Stowe Road, from retail-storage to residential, add a 2nd-story, and merge the space with an existing dwelling unit.

Present and sworn in

David Scherk, Applicant

Exhibits

- A: Application #13-17 (4 pp: Zoning Permit, Site Plan, Conditional Use), submitted 2/28 and 3/6/17.
- B: Site Plan, submitted 3/6/17.
- C: West elevation sketch of proposed addition, 3/6/17.
- D: Aerial photo of parcel in its neighborhood. (staff)
- E: Floor plans of proposed addition, 3/14/17.
- F: Photos and description of the structure,
- G: Letter to adjoining landowners, mailed certified on: 3/21/17

Findings of Fact

1. Existing conditions: Scherk Investment Property LLC owns a 1.0± acre parcel located at 2687 Waterbury-Stowe Road. The property is developed with an existing one and two-story mixed-use building, access drive, and parking areas. The property is served by private water and septic.

Project scope: The building includes 5 units comprised of 4 dwelling units and 1 commercial unit. The proposal includes changing the use of 512 SF of floor area from retail-storage to residential, adding a second-story of 512 SF of floor area (directly above), and merging these areas with an existing dwelling unit to make one larger dwelling unit of two floors. The project will result in the same number of dwelling units (4) for the building, and will retain the existing retail shop (Waterbury-Stowe Antiques Emporium). The project will not increase the footprint (lot coverage) of the building, but will expand the exterior dimensions of the structure by adding a 2nd story of approximately 512 SF of floor area. The

project will not result in an increase in the total bedroom count for the building.

2. Table 5.2 Dimensional Requirements by District: The property is in the RT100 zoning district, which requires a minimum lot size of 2 acres for residential and a minimum of 5 acres for non-residential uses. The building includes both residential and non-residential uses. Therefore, the lot, at 1.0± acre, is nonconforming in area for the RT100 zoning district.
3. Table 5.3 Multi-Family Density by District: In the RT100 zoning district the maximum dwelling units allowed per acre is two. The property has four dwelling units on one acre. Therefore, the existing use is nonconforming, as it exceeds the zoning district maximum for multi-family density.
4. Table of Uses, Section 503: A multi-family dwelling is a conditional use in the RT100 zoning district.
5. Section 304 Nonconforming Uses and Noncomplying Structures, Section 304(a)(2): A nonconforming use may be extended (see definition, below) within the boundary lines of a parcel or lot with the approval of the DRB, which must find that a 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. Site Plan Review and Approval, Section 301(a): Any use shall be subject to site plan approval by the DRB before a zoning permit may be issued. The Board determined that the project is minor in nature and exempt from site plan review, as per Section 301(a)(5). Consider: The project will not increase the total number of dwelling units, or bedrooms, but will increase the size of one dwelling unit. The project will decrease the amount of space dedicated to retail/commercial use. The parking requirement will not change, as the total dwelling units are the same and the storage space did not require parking as per a prior approval. The proposal does not make any changes to the pedestrian access to the existing structure.
7. Parking Regulations, Section 414: No change is proposed to the existing layout and number of parking spaces. The previous approval in 2002 (Planning Commission April 11, 2002) referenced the site plan submitted that showing 16 spaces (Exhibit B). The parking requirement applied to the previous approval was as follows: 825 SF of retail space on the first floor required 3 spaces, a maximum of six employees required 6 spaces, the four dwelling units required 6 spaces, and the balance of the building was for storage that did not require parking, for a total of 15 parking spaces required. The current proposal makes no change to the size of the retail space or the number of dwelling units, as the project will convert the storage space residential and merge it with an existing dwelling unit. Sixteen parking spaces are shown on the site plan, which meets the parking requirement.
8. Conditional Use criteria, Section 303: The existing use of the property includes multi-family, which is a conditional use in the RT100 zoning district. In addition, the existing use is nonconforming, as it exceeds the zoning district maximum for multi-family density. A proposal to extend a nonconforming use (add a second story to an existing dwelling unit) is reviewed as a conditional use. Prior to granting approval for a conditional use, the Board must find that the proposed use conforms to the following general and

specific standards:

- a. Section 303(e)(1) Community facilities: The proposal makes no increase in the total number of dwelling units and will not unduly increase the traffic, does not require addition municipal water or sewer allocation, and does not increase the demand for fire protection. The proposed expansion to the existing use will not have an undue adverse impact on the capacity of existing or planned community facilities.
- b. Section 303(e)(2) Character of the area: The addition will be clad with the same treatment as the rest of the building (Exhibit F) and is appropriate in scale and design in relation to the existing uses and structures in the district. The proposed addition will not have an undue adverse impact on the character of the area.
- c. Section 303(e)(3) Municipal bylaws in effect: The application represents a minor expansion of a previously-approved use. The project application presents compliance with the conditional use criteria. The existing building will continue to be mixed-use; commercial and residential. The proposed expansion will not violate any municipal bylaws and ordinances in effect.
- d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The minor expansion of the residential use will not 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 proposed use does not include earth removal activities. This provision does not apply.

Conclusion:

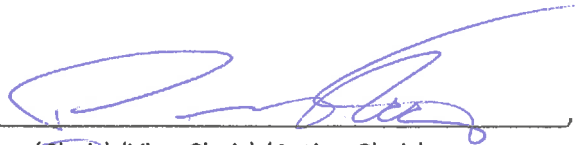
Based upon these findings, and subject to the conditions set forth below, the Board concludes that David and Joann Scherk’s proposal to change the use of a portion of an existing mixed-use building from retail storage to residential, add a 512 sq. ft. 2nd-story, and merge the space with an existing dwelling unit at 2687 Waterbury-Stowe Road, as presented in application #13-17 and supporting materials, meets the Conditional Use, Non-conforming Use, and Parking criteria set forth in Section 303, Conditional Uses; Section 304, Non-Conforming Uses and Non-complying Structures, and Section 414, Parking Regulations.

Motion:

On behalf of the Waterbury Development Review Board, Nat Fish moved and Martha Staskus seconded the motion to approve application #13-17 with the following conditions:

- (1) The Applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits.
- (2) All exterior lighting will be downcast and shielded.

Vote: Passed 4-0



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

4-19-17

(date)

This decision was approved on April 19, 2017

NOTICE: *This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. An appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.*

**Town & Village of Waterbury
Development Review Board
Hearing Decision #17-17
April 5, 2017**

In Attendance: Board members present: Dave Rogers (Chair), Martha Staskus, Nat Fish, David Frothingham

Staff present: Dina Bookmyer-Baker (ZA), and Patti Spence (Secretary).

Applicant:	Aaron Flint	
Owner:	Winter Woods LLC	
Address/Location:	1790 Guptil Road, Waterbury, VT	
Zoning District:	Town Mixed Residential (TMR)	
Application #	17-17	Tax Map # 09-206.010

Applicant Request

The applicant seeks approval to create for a two-lot subdivision (1 additional residential lot and remaining lands) of an undeveloped parcel on Guptil Road.

Present and sworn in:

George McCain, Consultant
Michael Tuller, Adjoining landowner
Mark Stirewalt, Adjoining landowner
Dawn Minter, Adjacent landowner

Exhibits

- A: Application #17-17 (4 pp: Zoning Permit, Subdivision), submitted 3/13/17.
- B: Applicant Response to Subdivision Criteria
- C: Subdivision Survey, Lot 9, prepared by Grenier Engineering, P.C., dated January 2017
- D: Detail, highlighting the Open Meadow area, from Overall Subdivision Site Plan, The Knolls at the Moulton Farm, prepared by Grenier Engineering, dated 1/17/14, submitted with zp application #21-14.
- E: (E1) ANR map of Rare Threatened Endangered Species, Significant Natural Community, and Deer Wintering Areas, dated 6/10/2014;
(E2) ANR map of Prim Agricultural Soils, dated 6/10/2014.
- F: Overall Subdivision Site Plan delineating prime agriculture soils, prepared by Grenier Engineering, dated 5/20/14, as was submitted with zp applications #21-14 and #47-16.
- G: Aerial photo of parcel with tax map boundary, and parcel with zoning districts (staff)
- H: Letter to adjoining landowners, mailed certified on: March 20, 201

Findings of Fact

1. The applicant proposes to further subdivide the current development creating one additional lot for development, Lot 9. The other future lots (labeled as "Remaining Land of Winter Woods LLC") will be subdivided in the future.

2. The 11.2± acre parcel is located off of Guptil Road and lies within the Town Mixed Residential (TMR) zoning district.
3. The following table demonstrates that the proposed lot exceeds the minimum lot size requirement:

	Zoning District	Minimum Lot Size	Proposed Lot Size
Lot 9	TMR	1 acre	3.34+/- acres
Remaining Lands	TMR	1 acre	7.87 acres

4. Access to Lot 9 will be directly off Guptil Rd. as shown on Exhibit C. Curb Cut Permit #07-16-C has been issued. Access to any future lots created within the “Remaining Lands” will be accessed via the existing 50’ wide previously-approved gravel driveway off of Guptil Road.
5. The driveway for Lot 9 crosses prime agricultural land as shown on Exhibit F. This driveway is part of this subdivision application. Nothing other than the driveway and the approved storm-water swale shall be constructed on the prime agricultural land.
6. The building zone has been delineated on the site plan and illustrates that the general building zone complies with the setbacks and is not located within an area of prime agricultural land.
7. There are no known Class II or Class III wetlands on Lot 9.
8. The applicant has provided an excerpt from his property deed which prohibits the construction of permanent residences or structures on the so-called Main Meadow portion of the property. Lot 9 is not located within the Main Meadow portion of the property as delineated in zoning permit #21-14-T.
9. The project was referred to the Development Review Board under Section 1201 of Article XII.
10. Subdivision Review Criteria are contained within Section 1202, Article XII.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the Winter Woods proposal to create a two-lot subdivision of an undeveloped parcel on Guptil Road, as presented in application #17-17 and supporting materials, meets the Dimensional Requirements and Subdivision criteria as set forth in Sections 504 and 1202.

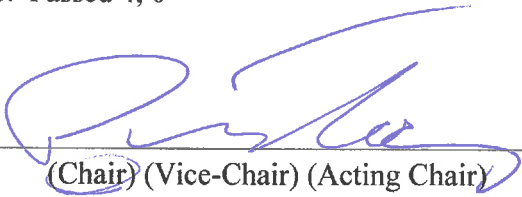
Motion:

On behalf of the Waterbury Development Review Board, Nat Fish moved and Martha Staskus seconded the motion to approve application #17-17 with the following conditions:

- (1) The Applicant shall complete the project in accordance with the Board’s findings and conclusions and the approved plans and exhibits;
- (2) The development shall make no further disturbance of the prime agricultural lands as depicted on Exhibits E2 & F.

- (3) The Applicant shall submit a copy of the final plat, prepared in accordance with 27 V.S.A. § 1403, to the Zoning Administrator within 150 days of the approval date of this decision for Development Review Board approval.
- (4) The approved final plat, signed by the DRB Chair (or Acting Chair), shall be duly filed or recorded in the office of the clerk of the Town of Waterbury within 180 days from this approval, in accordance with 24 V.S.A. § 4463.
- (5) This approval shall incorporate all Findings of Fact, Conclusions of Law, and Conditions in permits, #21-14-T, #60-15-T, #02-16-T.

Vote: Passed 4, 0



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

4-19-17
(date)

This decision was approved on April 19, 2017

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