

# WATERBURY DEVELOPMENT REVIEW BOARD

## General Minutes

Wednesday, July 19, 2017

**Members:** Tom Kinley (co-Vice Chair), Nathaniel Fish (co-Vice Chair), Mike Bard, Rob Dombrowski, Bud Wilson. **Staff present:** Dina Bookmyer-Baker, Zoning Administrator; Steve Lotspeich, Community Planner

The public meeting was convened by Tom Kinley, Vice Chair, at 6:30 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT.

### Review of the Agenda:

The agenda was approved as presented.

1) **#56-17: Melinda Pockoski** (owner/applicant) Setback waiver request to construct a residential shed within the setback at 419 Maggies Way, Waterbury Center, VT. (LDR zoning district) The Pockoski application was reviewed by the Development Review Board starting at 6:35 pm. Melinda Pockoski and Michael Heitner, a neighboring property owner, were sworn in. The proposed project was discussed in detail.

#### Testimony:

- The existing garage does not meet the front yard setback.
- Melinda Pockoski said that the yard is very hilly and there are very limited options for locating the shed on level ground. The only reasonable sites are near the northern boundary of the property. One potential site is a play area that the Pockoski's want to retain as a play area for their children and don't want to develop with the shed.
- Michael Heitner, the neighboring property owner to the north, said that he objects to having the shed anywhere along the northern boundary of the Pockoski property that they share.
- Mr. Heitner also said that the southern portion of his property is the only flat area in that portion of their property that could be developed in the future.

The waiver review was continued to Wednesday, August 2, 2017 at 6:30 p.m.

2) **#57-17: Courtney Clark** (owner/applicant)

Setback waiver request to construct a residential addition within the setback at 621 Spruce Haven, Waterbury Center, VT. (LDR/RT100 zoning districts)

#### Testimony:

- The previous property owner received variance approval for the existing garage.
- Courtney Clark stated that she spoke with the neighbors that are on the garage side of the property and they have no objection to the construction of the addition.

See separate approved decision.

3) **#59-17: J Farms LLC** (owner/applicant)

Setback waiver request to construct a residential accessory structure within the setback at 343 Laurel Lane, Waterbury, VT. (MDR zoning district)

#### Testimony:

- George McCain described that the best site for the barn is the site of the existing milking shed where it is proposed. This shed was part of the larger dairy barn that once existed on the site.
- The new barn will be farther away from the road than the existing house.

- The lighting cut sheets for a fixture that is similar to the ones that will be used was presented. The proposed lights will be downcast and dark sky compliant. See separate approved decision.

**Review of Minutes and Decisions:**

The general meeting minutes from July 5, and the decisions from June 21 and July 5, 2017, were reviewed.

MOTION: Nat Fish moved and Mike Bard seconded the motion to approve the general meeting minutes from July 5 and the decisions from June 21 and July 5, 2017.

VOTE: The motion was approved 5-0.

**Adjournment:**

The meeting was adjourned at 7:32 pm.

**Next meeting:**

Wednesday, August 2, 2017, 6:30 p.m., (Final order TBD)

- #56-17: M. Pockoski, continuation of waiver review for shed (LDR)
- #63-17: W. Haupt, 2-lot subdivision, 610 Ripley Road (LDR/RHS)
- #65-17: J. Boudreau, single-family dwelling & garage, 1638 U.S. Route 2 (MDR/SFHA)

Respectfully submitted,



Steve Lotspeich  
Community Planner

8/2/2017

**Town & Village of Waterbury  
Development Review Board  
Decision #57-17 — July 19, 2017**

**In Attendance:** Board members present: Tom Kinley, (Vice-Chair), Mike Bard, Nat Fish, Bud Wilson, and Rob Dombrowski

Staff present: Dina Bookmyer-Baker, Zoning Administrator; Steve Lotspeich, Community Planner

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Owner/ Applicant:	Courtney Clark	
Address/Location:	621 Spruce Haven, Waterbury Center, VT	
Zoning Districts:	Low-Density Residential (LDR) and Route 100 (RT100)	
Application #	57-17	Tax Map # 05-084.000

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**The review was opened by the Chair at 6:55 pm**

**Applicant Request**

The applicant seeks approval to construct a residential addition within the setback at 621 Spruce Haven.

**Present and sworn in:**

Courtney Clark, property owner

**Exhibits**

- A: Application #57-17 (3 pages: zoning permit, conditional use), 6/13/17.
- B: Site Plan of the property with proposed project sketched in.
- C: Orthophotos of the parcel showing the zoning district and the LDR 75' building envelope. (staff)
- D: Letter to adjoining landowners, mailed certified on: June 30, 2017.

**Findings of Fact**

1. Existing conditions: Courtney Clark owns a 1.05± acre parcel located at 621 Spruce Haven in the Low-Density Residential (LDR) and Route 100 (RT100) zoning districts. The parcel is currently developed with a one-story single-family dwelling and a one-1/2 story attached garage. The house was built in 1978 (Zoning Regulations were adopted in 1980). The parcel includes 234± feet of frontage on and has access to Spruce Haven and is served by private well and septic. The existing dwelling appears to be 90' ± to the centerline of the road and the existing garage appears to be 33' ± to the nearest side property line to the east. The previous property owner received variance approval for the existing garage. All of the structures are located in the LDR zoning district (Exhibit C1).
2. Project: The proposal is to construct a one-1/2 story trapezoid-shaped addition of 800± SF by 23' high, enlarging the area that connects the house to the garage (Exhibit B) for a mudroom on the first floor and expanded bedrooms on the second floor. The total number of bedrooms (3) is the same. The proposed addition will not come closer to the front or side property lines than the existing house and garage, but will be located 46' from the nearest side property line to the east.

3. LDR Dimensional Requirements, Table 5.2: Minimum lot area: 5 acres; minimum setbacks: 70' front; 75' sides/rear. At 1.05± acres, the lot is undersized by 3.95 acres. The existing house and garage do not meet the setback requirements. The proposed addition will be located in the side setback.
4. Waiver Request: The setback waiver request is for the addition to encroach into the side yard setback by 29' (75' minus 46').
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought. The Board considered the following:
  - a. Section 303(e)(1) Community facilities: No change in the residential use of the property and no increase in occupancy is proposed (the total number of bedrooms remains the same). The property is served by private well and septic. The use will not unduly increase the traffic, does not require addition municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The Board concludes that 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)(A-E) Character of the area: The use of the property will remain residential. The addition will match the style of the house. The resulting house with attached garage is appropriate in scale and design in relation to existing uses and structures in the district. The Board concludes that the proposed use will not have an undue adverse impact on the character of the area affected.
  - c. Section 303(e)(3) Municipal bylaws in effect: The project application presents compliance with the conditional use criteria. The Board concludes that the proposal will not violate any municipal bylaws and ordinances.
  - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: Light and noise impacts are typical of standard residential use, which not be of an offensive level at the property line. The continued use of the structure as a residence will not will not create the above-named nuisances. The Board concludes that no devices or methods are necessary to prevent or control these impacts.
  - e. Section 303(h) Removal of earth or mineral products conditions: The project does not involve 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 Courtney Clark to construct a residential addition 29' within the side yard setback at 621 Spruce Haven, as presented in application ##57-17 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.


**Draft Decision Motion:**

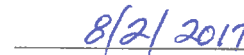
On behalf of the Waterbury Development Review Board, Mike Bard moved and Rob Dombrowski seconded

the motion to approve application #57-17 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.

Vote: The motion was approved 5-0

  
\_\_\_\_\_  
(Chair) ~~(Vice-Chair)~~ ~~(Acting Chair)~~

  
\_\_\_\_\_  
(date)

Thomas Kinley

This decision was approved on *August 2, 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  
Decision #59-17 — July 19, 2017**

**In Attendance:** Board members present: Tom Kinley (Chair), Mike Bard, Nat Fish, Bud Wilson, and Rob Dombrowski. Staff present: Dina Bookmyer-Baker, ZA; Steve Lotspeich, Community Planner.

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Owner/ Applicant:	J Farms LLC (owner) / Jeffrey and Gail Elbersen (Applicant)	
Address/Location:	343 Laurel Lane, Waterbury, VT	
Zoning District:	Medium-Density Residential (MDR)	
Application #	59-17	Tax Map # 05-084.000

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The review was opened by the Chair at 7:04 p.m.

**Applicant Request**

The applicant seeks approval to construct a residential accessory structure within the setback at 343 Laurel Lane.

**Present and sworn in:**

Jeff Elbersen, property owner  
Jen Lane, architect  
George McCain, McCain consulting

**Exhibits**

- A: Application #59-17 (3 pages: zoning permit, conditional use), 6/19/17;  
(A4) Answers to conditional use criteria.
- B: Historic photographs of property and structure on adjoining property.
- C: Site Plan (Sheet 1 of 1), J Farms LLC, prepared by McCain Consulting Inc., dated 10/20/16, revised 12/7/16: *Added Spot Elevations*; annotated with area of enlargement depicted on site plan detail S-1.
- D: Site plan detail (S-1), Elbersen Barn, prepared by Jennifer Lane Architecture and Design, dated 6/16/17.
- E: Floor plans and elevations (5 pages), Elbersen Barn, prepared by Jennifer Lane, dated 6/16/17.
- F: FEMA Letter of Map Amendment (LOMA), removing a portion of the property (5 pp), dated 12/16/16.
- G: Orthophotos of the parcel showing the zoning districts and the MDR 60' front setback. (staff)
- H: Letter to adjoining landowners, mailed certified on: June 30, 2017. \*

**Findings of Fact:**

1. Existing conditions: J Farms LLC owns a 4.99± acre parcel located at 343 Laurel Lane in the Medium-Density Residential (MDR) zoning district. The parcel is currently developed with a two-1/2 story single-family dwelling, a one-story detached garage, and a small “milk shed.” The house was built in 1850 (Zoning Regulations were adopted in 1980). The parcel includes 559± feet of frontage on and has access to Laurel Lane, a Town road. The parcel is served by municipal water and private septic. The existing dwelling appears to be 50'± to the road centerline; and the existing milk shed 77'± to the road centerline.

Portions of the property lie in the Special Flood Hazard Area (SFHA). The property obtained a FEMA

Letter of Map Amendment (LOMA), removing a portion of the property (Exhibit F) in 2016. All of the existing structures are on lands that have been removed from the SFHA, as shown on the McCain Site Plan (Exhibit C).

2. Project: The proposal is to remove the existing milk shed and construct a detached two-story accessory structure measuring 38' by 26' (1,976 SF) by 30' high (Exhibit E) for residential storage. The structure will be outside of the SFHA (Exhibit C). The proposed structure will not come closer to the front property line than the existing house, but will be located 63' from the road centerline (Exhibit D).

Note: The height of the structure is measured to the peak of the roof and does not include the cupola, as per Section 401(a), which states that the height limit shall not apply to "*spires, cupolas, chimneys, ventilators, tanks, or similar parts of a building provided that they occupy not more than ten percent of the floor area of such building and are not used for any human occupancy.*"

3. MDR Dimensional Requirements, Table 5.2: Minimum lot area: 2 acres; minimum frontage: 200'; maximum height: 35'; minimum setbacks: 60' front; 50' sides/rear. The lot meets the lot area and frontage requirements. The existing house does not meet the setback requirements and the accessory structure is proposed to be located in the front setback.
4. Waiver Request: The setback waiver request is for the accessory structure to encroach into the front yard setback by 22' (85' minus 63').
5. Conditional Use/Waiver criteria: As set forth in Section 309, the DRB may grant a waiver of building setbacks as a conditional use reviewed in accordance with Section 303; provided that the encroachment does not have an undue adverse impact on the use and enjoyment of adjoining properties from which the setback waiver is sought. The Board considered the following:
  - a. Section 303(e)(1) Community facilities: No change in the residential use of the property and no increase in occupancy is proposed (the accessory structure does not include a dwelling unit or bedrooms). The structure will not be connected to water service. The use will not unduly increase the traffic, does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The Board concludes that 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)(A-E) Character of the area: The use of the property will remain residential. The structure will be traditional in style to reflect the historic character of the area (Exhibits B, D). Exterior lighting is proposed above and beside the doors as shown on Exhibit E. The proposed structure is appropriate in scale and design in relation to existing structures on the site and surrounding properties (Exhibit B). The Board concludes that the proposed use will not have an undue adverse impact on the character of the area affected.
  - c. Section 303(e)(3) Municipal bylaws in effect: The project application presents compliance with the conditional use criteria. The Board concludes that the proposal will not violate any municipal bylaws and ordinances.
  - d. Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: Light and noise impacts are typical of standard residential use, which not be of an offensive level at the

property line. The use of the accessory structure for storage will not create or increase the above-named nuisances. The Board concludes that no devices or methods are necessary to prevent or control these impacts.

- e. Section 303(h) Removal of earth or mineral products conditions: The project does not involve earth-removal activities. This provision does not apply.

**Conclusion:**

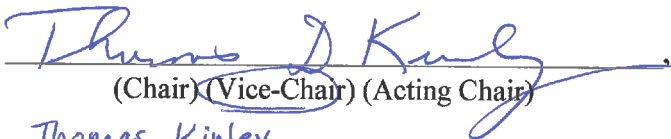
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by J Farms LLC to construct a residential accessory structure 22' within the front yard setback at 343 Laurel Lane, as presented in application #59-17 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

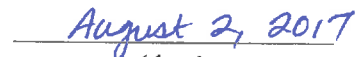
**Motion:**

On behalf of the Waterbury Development Review Board, Mike Bard moved and Rob Dombrowski seconded the motion to approve application #59-17 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) All exterior lighting shall be downcast and shielded.

Vote: The motion was approved 5-0.

  
(Chair) (Vice-Chair) (Acting Chair)  
Thomas Kinley

  
(date)

This decision was approved on 8/2/ 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.