

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—April 17, 2019**

Board members present: Dave Frothingham (Chair), Dave Rogers, Bud Wilson, and Andrew Strniste.  
Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

Dave Frothingham, Chair, opened the meeting at 6:30 p.m. in the Steele Community Room in the Municipal Center, 28 North Main Street, Waterbury, VT. The meeting was audio recorded.

- 1) **#018-19: Patrick & Katharina Cahill** (applicant), **Albert Fougel Revocable Trust** (owner). Minor-Ridgeline review for dwelling and garage on Lot 2 Shaw Mansion Road (parcel #650-1772). (MDR/RHS zoning districts)

The Board approved the project with conditions and will issue a written decision within 45 days.

- 2) **#019-19: Bernard Woodard Estate c/o Pamela and Wanda Woodard, Executors** (owner/applicant). Three-lot subdivision to create two residential lots at 1825 Guptil Road. (TNC/RT100 zoning districts)

The Board approved the project with conditions and will issue a written decision within 45 days.

- 3) **#123-18: Jeremy and Ben Ayers** (applicant), **Ayers Family Legacy LLC** (owner). Site Plan, Conditional Use, and Special Flood Hazard Area review for a change of use to existing structures to add three dwelling units and an espresso shop at 18 Elm Street, Waterbury, VT. (DC/VR/SFHA zoning/overlay districts) —*Continued from 1/9; Applicant requests to be continued to Wednesday, 6/19, at 6:30 p.m.*

The Chair approved continuing the hearing to Wednesday, June 19, at 6:30 p.m.

- 4) **Agenda items as scheduled by the Chair:**

- Review minutes from previous meeting:  
Dave Rogers moved and Andrew Strniste seconded the motion to approve the general minutes for April 3, 2019, as presented.  
**Vote:** Motion approved: 4–0.

**Next meetings:**

Wednesday, May 1, 2019, 6:30 p.m.

Wednesday, May 15, 2019, 6:30 p.m.

**Adjournment:** The meeting was adjourned at 7:35 pm.

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

Approved on: 5/1/2019  
(date)

These minutes were approved: May 1, 2019

**Town of Waterbury**  
**Development Review Board**  
**Decision #018-19 - April 17, 2019**

Board members present: Dave Frothingham (Chair), Dave Rogers, Bud Wilson, and Andrew Strniste. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

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Owner/Applicant: Albert Fougel Revocable Trust (owner), Patrick & Katharina Cahill (applicant)  
Address/Location: Lot 2 Shaw Mansion Road (parcel #650-1772), Waterbury Center, VT  
Zones: Medium Density Residential (MDR) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.  
Application # 018-19 Tax Map # 10-027.000

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**Applicant Request:** The Applicant seeks approval to construct a new single-family dwelling with an attached garage on the undeveloped Lot 2 (parcel #650-1772) on Shaw Mansion Road located in the minor Ridgeline, Hillside, Steep Slope (RHS) overlay district. Applicant also seeks to relocate the previously-approved driveway and establish the building zone and clearing limits for the proposed development.

**Present and sworn in:**

Patrick Cahill, Applicant  
George McCain, Consultant  
Catherine Emert, Adjoining Landowner  
Debbie & Pater Lavigne, Adjoining Landowner

**Exhibits:**

- A. Application #018-19 (7 pp: Zoning, Site Plan, Conditional Use, Overlay District), submitted 3/18/19.
- B. Project introduction by McCain Consulting, Inc. and response to conditional use criteria, dated 3/18/19.
- C. Site Plan (sheet C-1) for Patrick & Katharina Cahill prepared by McCain Consulting, Inc., dated 3/13/19.
- D. Floor plans (A100, 101, 102, 103) prepared by Ryan Neal Edwards, Architect, revised 4/16/19.
- E. Elevations (A201, 202, 203, 204) prepared by Ryan Neal Edwards, Architect, revised 4/16/19.
- F. Orthophoto and parcel map of the lot and zoning districts. (Staff)
- G. Prior DRB decision #04-15-T Fougel 2-lot subdivision dated 4/1/2015, for reference.
- H. Letter to adjoining landowners, mailed certified on: 3/27/19.

**Findings of Fact:**

1. Existing conditions: Albert Fougel Revocable Trust owns a 3.2-acre undeveloped parcel (#650-1772), Lot 2 on Shaw Mansion Road located in the Medium Density Residential (MDR) zoning district and Ridgelines, Hillsides, Steep Slopes (RHS) overlay district. The lot has frontage on Shaw Mansion Road—a Town road. Lot 2 was part of a 2-lot subdivision that was approved under permit #04-15-T. The lot was proposed to be served by private well and an on-site septic system (WW-5-6858). Currently the lot is entirely wooded (see Exhibit F).
2. Proposal: The lot is proposed to have an access drive on Shaw Mansion Road. The driveway has been relocated from the previously approved subdivision. The building zone, dwelling location, and clearing limits around the building envelope are shown in Applicant's Exhibit C. The lot is in the RHS overlay

district below 1500 FIE, which makes this a Minor Development application. The project is subject to the conditional use criteria.

3. Conditional Use/Waiver criteria, Section 303: As set forth in Section 1001(c), uses that are permitted in the underlying zoning district shall be treated as conditional uses in the RHS overlay district. In addition to the findings below, Applicant's Response to Conditional Use Criteria (Exhibit B2) addresses the conditional use criteria in detail. The Board considered the following general and specific standards:
  - a. Community facilities, Section 303(e)(1): The Applicant proposes a single-family dwelling which is a permitted use. The development will be served by private well and septic. The project will not unduly increase the traffic, does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not unduly increase the demand for fire protection. The Board concludes that the proposal will not have an undue adverse impact on the capacity of existing or planned community facilities.
  - b. Character of the area, Section 303(e)(2)(A-E): The use of the property will be residential. The addition of exterior lighting is unknown. The Applicant intends to preserve the majority of the existing wooded area on the property. The proposed two-story dwelling has a 1,450 SF footprint, for a total of ~ 2,800 SF for all floors, and has been designed in consideration of the character of the MDR zoning district. See Applicant's Exhibit E for the building elevation views and colors. The average height of the house at the gable ends is approximately 30'. The Board concludes that the project is appropriate in scale and design relative to the MDR/RHS districts and will not have an adverse impact on the character of the area.
  - c. Municipal bylaws in effect, Section 303(e)(3): The proposal is for residential use. This project application presents compliance with the conditional use criteria. The Board concludes that the proposal will not violate any municipal bylaws and ordinances.
  - d. Methods to control fumes, gas, dust, smoke, odor, noise, or vibration; Section 303(f)(2): The Applicant anticipates that the proposed residence will be consistent with other residential uses, which do not typically create the above-named nuisances, and therefore, no devices or special methods are proposed to control these impacts. The Board agrees and concludes that no devices or special methods are necessary to prevent or control these impacts.
  - e. Removal of earth or mineral products, Section 303(h): 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 Albert Fougel Revocable Trust (owner) and Patrick & Katharina Cahill (applicant) to construct a single-family dwelling and attached garage on Lot 2 Shaw Mansion Road (parcel #650-1772), as presented in application #018-19 and supporting materials, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

**Motion:**

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Bud Wilson seconded the motion to approve Application #018-19 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) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in prior zoning permit approval #04-15-T.

Vote: Approved 4-0

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

Approved on: 5/1/2019  
 (date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or [pete.kopsco@vermont.gov](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies to determine what permits must be obtained.

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

**Town & Village of Waterbury  
Development Review Board  
Decision #019-19 ▪ April 17, 2019**

Board members present: Dave Frothingham (Chair), Dave Rogers, Bud Wilson, and Andrew Strniste. Staff present: Steve Lotspeich (Community Planner) and Patti Spence (Secretary).

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Owner/Applicant:	Bernard Woodard Estate, c/o Pamela & Wanda Woodard	
Address/Location:	1825 Guptil Rd., Waterbury Center, VT	
Zones:	Town Neighborhood Commercial (TNC) and Route 100 (RT100)	
Application #	019-19	Tax Map # 09-213.000

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**Applicant Request:**

Applicant seeks approval for a three-lot subdivision creating Lots 1A, 1B, & 1C on Guptil Road and Keltan Heights in the Town Neighborhood Commercial (TNC) and Route 100 (RT100) zoning districts.

**Present and sworn in:**

Pamela Woodard, Executor of Woodard Property  
George McCain, Consultant for applicant  
Kim Dixon, adjoining landowner  
Kevin Garcia, neighbor  
Bradley Pecue, adjoining landowner

**Exhibits:**

- A: Application #019-19 (4 pp: Zoning & Subdivision), submitted 3/18/19.
- B: Site Plan (B1) & Survey (B2) for Three-lot Subdivision of Lot 1, prepared by McCain Consulting, Inc., revised 4/17/19.
- C: Orthophoto of parcel with tax map boundaries & zoning districts (Staff).
- D: Cover letter from McCain Consulting, dated 3/18/19.
- E: Prior Planning Commission decision #110-03-T for three-lot subdivision of the parcel, dated 10/9/03.
- F: Letter to adjoining landowners, mailed certified: 3/27/19.

**Findings of Fact:**

1. Existing conditions: The Bernard Woodard Estate owns a 7.26± acre parcel on Guptil Road and Keltan Heights. The subject parcel is Lot 1 that is the remaining lands from subdivisions approved under Permit #110-13-T and #74-09-T. Lot 1 is developed with an existing single-family dwelling containing a one-bedroom apartment and a separate two-family dwelling. The parcel is in the Town Neighborhood Commercial (TNC) and Route 100 (RT100) zoning districts.
2. Proposal: To create two new residential lots as follows:
  - Lot 1A: 1.01 acres with frontage on Guptil Rd. This lot is developed with an existing single-family dwelling containing a one-bedroom apartment and a separate two-family dwelling.

- Lot 1B: 0.50+/- acres with frontage on Guptil Rd. This lot will be developed in the future with a two-bedroom single-family dwelling where a mobile home was previously located.
- Lot 1C: 5.75 acres with frontage on Keltan Heights, which is a private road that provides legal access via a 60' wide right-of-way to Guptil Rd. Development of this lot is deferred.

All three lots are proposed to be served by on-site wastewater and municipal water. Lots 1A and 1B are located entirely in the Town Neighborhood Zoning District. The majority of Lot 1C is in the Town Neighborhood zoning district with a minor portion in the Route 100 zoning district. This application is for review of the subdivision at this time, not the proposed dwelling on Lot 1B.

3. Dimensional Requirements, Table 5.2:

TNC: *Minimum lot area: 10,000 SF; no minimum frontage required.*

RT100: *Minimum lot area for residential use: 2 acres; minimum frontage 200'.*

The proposed lots meet the dimensional requirements for residential use.

4. Section 1201 Authority and Review of Subdivisions: All applications for land division shall be reviewed by the DRB under Section 1202, unless exempt under Section 1203. This application is not exempt from Board review, as the project involves lands within the RT100 zoning district.

Section 1202 Subdivision Review Criteria: This application is exempt from the review criteria in Section 1202(a) since it is a three-lot subdivision. However, prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202(b) that address subdivisions involving land in the RT100 zoning district. Those criteria were met in Permit #110-03-T for the three-lot subdivision and the associated Planning Commission decision dated 10/9/03. In that decision, the entire portion of Lot 1C being created by this approval, which is in the RT100 zoning district, is designated open space and must remain undeveloped in the future in accordance with the standards set forth in Section 705 of the Waterbury Zoning Regulations.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by the Bernard Woodard Estate to subdivide Lot 1 into Lots 1A, 1B, and 1C on Guptil Rd. and Keltan Heights in the TNC and RT100 zoning districts, as presented in application #019-19 and supporting materials, meets the Subdivision criteria as set forth in Section 1202.

**Motion:**

On behalf of the Waterbury Development Review Board, Dave Rogers moved, and Andrew Strniste seconded the motion, to approve application #019-19 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) Future development is subject to review by the Board to determine compliance with the criteria related to the subdivision of lands located in the Route 100 Zoning District.

- (3) Except as amended herein, this approval incorporates all Findings of Fact, Conclusions of Law, and Conditions in zoning permit approvals #110-03-T, and #74-09-T.
- (4) Within 180 days from this approval, the Applicant shall submit the final plat, prepared in accordance with 27 V.S.A. § 1403 and signed by the DRB Chair (or Acting Chair), to be recorded in the office of the Clerk of the Town of Waterbury, in accordance with 24 V.S.A. § 4463.

**Vote:** Approved 4-0

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

Approved on: 5/1/2019  
(date)

Additional state permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 802-505-5367 or [pete.kopsco@vermont.gov](mailto:pete.kopsco@vermont.gov), and the appropriate state agencies to determine what permits must be obtained.

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