

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Minutes—August 25, 2021

Attending: Board members: Tom Kinley (Co-vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, Joe Wurtzbacher, George Lester

Staff: Stephen Lotspeich (Planning & Zoning Director and Acting Zoning Director).

Public: Tucker Fossiano, Tom & Patricia Frechette, Connie Russell, Gunner McCain, Cheryl Edwards, Donald Huff

Tom Kinley Vice-Chair, opened the public meeting at 6:32 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, six members are present; an approval requires at least four votes in the affirmative.

#068-21: Susan Whitman (owner) Tucker Fossiano / Beacon Hill Builders (applicant)
Setback waiver request to construct a garage addition and mudroom addition at 2824 Gregg Hill Rd. (LDR zoning district)

The Co-vice Chair opened the public hearing at 6:37 p.m. Various constraints on the site were discussed including the existing wetlands and the related 50' wide buffer, the existing driveway location, and the locations of the existing well and leach field for the septic system.

The public hearing was closed the at 6:45 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

- 1) **#070-21: Tom & Patricia Frechette (owner/applicant)**
Ridgelines/Hillsides/Steep Slopes after-the-fact review to construct a new single-family dwelling and attached equipment/vehicle room on a previously undeveloped lot (Parcel 030-0600) off of Woodard Hill Extension. (CNS/RHS zoning/overlay districts)

The Co-vice Chair opened the public hearing at 6:48 p.m. The access to the site via the Class IV town roads and the private right-of-way was discussed. The limitations on emergency access including the steepness of the roads were discussed. Sanitary facilities need to be provided according to the definition of a dwelling unit. It was agreed that is a state permitting issue.

The seasonal use of the dwelling and site was discussed with the understanding that vehicular access in the winter is very limited. It was agreed to add a condition to the motion regarding the severe limitation on emergency access and the view that the town cannot assure that there will be emergency service available to the site.

The adjacent property owner, Connie Russell, asked if outside power will be provided to the dwelling. Tom Frechette said that no outside power will be provided and the electricity for the building is provided by a propane generator. Mr. Frechette said that there have been no complaints from anyone regarding the noise from the generator.

The public hearing was closed the at 7:15 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

#072-21: Cheryl Edwards (owner/applicant)

Setback waiver request to construct a deck on the front of the existing dwelling at 109 Maple St. (TMR zoning district)

The Co-vice Chair opened the public hearing at 7:18 p.m. Cheryl Edwards stated that a sliding glass door will be added to the front of the house in place of the existing bow window to provide access into the house off the new deck. Many of the houses in the neighborhood have front porches for access into the buildings. The existing landscaping in front of the house will remain in place.

The public hearing was closed the at 7:25 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

2) **#074-21: Donald Huff (owner/applicant)**

Setback waiver request to construct two storage sheds and relocate a previously approved shed at 1337 Ripley Rd. (LDR zoning district)

The Co-vice Chair opened the public hearing at 7:30 p.m. The various existing and proposed sheds including their use for storing a boat, firewood and other items, was discussed. Donald Huff noted that the site is wooded so it would be difficult to consolidate the sheds into larger structures without removing large trees. It was noted that other houses in the neighborhood have multiple sheds and other accessory structures.

The public hearing was closed at 7:50 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

3) **Agenda items to be scheduled by the Chair:**

- Public comment / Other business:

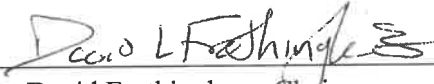
Harry Shepard raised concerns about the how long it is taking to develop and enact the Unified Development Bylaws. He would like to see them be enacted before Steve Lotspeich retires in the spring, 2023. Steve Lotspeich stated that the Planning Commission is drafting the Unified Development Bylaw in phases in order make progress in getting them enacted. The first phase that is currently being worked on by the Planning Commission addresses the geographic area between I-89 and the Winooski River from the Bolton town line to the Moretown town line.

- Review prior meeting minutes and decisions (8/4/21):

Motion: Harry Shepard moved and Alex Tolstoi seconded the motion to approve the general minutes for the meeting held on August 4, 2021 and the decision for Appeal #063-21.

Vote: The motion was approved 6-0.

Adjournment: There being no other business, the meeting was adjourned at 8:15 p.m.

Approved:  Date: September 1, 2021
David Frothingham, Chair

Next meetings:

Wednesday, September 1, 2021, 6:30 p.m. (Applications due: Mon. 8/2/21) Motion:

- #079-21, Bank Hill LLC / Kotulich, Site Plan review, chg. use to retail & specialty school, 19 S. Main St. (DWN/DDR)
- #046-21, Anderson & Merchant, Continued Downtown Design review, exterior stair, 25 N. Main St. (VMR/DDR)
- #041-21, Gristmill Properties / O'Reilly, Continued Site Plan/Conditional Use review, mixed-use building, 5430 Waterbury-Stowe Rd. (RT100)

Wednesday, September 15, 2021, 6:30 p.m. (Applications due: Mon. 8/23/21)

- #078-21, Serefino Bueti, Setback waiver review, shed, 226 Blush Hill Estates (MDR)
- #080-21, David & Nora Grenier, Ridgelines/Hillsides/Steep Slopes review, 2-lot subdivision, off Bear Creek Lane. (CNS/RHS)
- #081-21, Crush Partners LLP, Site Plan and Conditional Use review, retail building, 3627 Waterbury-Stowe Rd. (TCOM)

**Town of Waterbury
Development Review Board
Approved DRB Decision, #068-21 ■ August 25, 2021**

Attending: Board members: Tom Kinley (Co-vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, Joe Wurtzbacher, George Lester, Staff: Steve Lotspeich (Acting Zoning Administrator)

Owner/Applicant:	Susan Whitman / Tucker Fossiano (Beacon Hill Builders)	
Address/Location:	2824 Gregg Hill Road, Waterbury Center, VT	
Zoning District(s):	Low-Density Residential (LDR)	
Application #	068-21	Tax Map #09-002.000

Applicant Request:

The Applicant seeks a setback waiver to construct a detached 24' x 24' garage addition and 6' x 13' mudroom bump-out addition at 2824 Gregg Hill Road, in the Low-Density Residential (LDR) zoning district.

Present and sworn in:

Tucker Fossiano

Exhibits:

- A: Application #068-21 (3 pages: zoning, conditional use), submitted 7/9/21.
- B: Site plan prepared by Applicant submitted 9/9/21.
- C: Isometric views, elevations, and floor plans of garage & mudroom additions (9 pages) prepared by Kim Brown Projects, dated 2/23/21.
- D: Parcel maps/orthophoto. (Staff)
- E: Letter to adjoining landowners, mailed certified on 8/9/21.

Findings of Fact:

1. Existing conditions: Susan Whitman owns a 53± acre parcel at 2824 Gregg Hill Road in the Low-Density Residential (LDR) zoning district. The property is developed with an existing single-family dwelling. The lot fronts on Gregg Hill Road. The lot is served by an on-site private wastewater system and well.
2. Project: To construct an attached 24' x 24' garage within 55' of the side property line. The detached garage will be located in the Low Residential (LDR) zoning district. The garage will meet the front and rear setbacks (Exhibit B). The proposed 6' x 13' mudroom bump-out addition will be approximately 74' from the side property line. The placement of the garage and mudroom bump-out are constrained by the layout of the house, driveway turn-around, location of a 50' wide wetland buffer and the existing septic disposal field, all as shown on Exhibit B. The garage and mudroom bump-out will include downcast exterior lighting that will be either in shielded fixtures or in the building soffit.

3. LDR/MDR Dimensional Requirements, Table 5.2: Minimum lot size for LDR: 5 acres. Minimum setbacks for LDR: 70' front, 75' sides/rear. The lot meets the minimum lot size for the LDR zoning district. The existing dwelling meets the front, side, and rear-yard setbacks for the LDR zoning district. The proposed garage and mudroom bump-out will not meet the minimum side yard setback requirement for the LDR zoning district.
4. Waiver Request, Section 309: The proposed detached garage will be 55' from the front property line (Exhibit B). The setback waiver request is to encroach on the front yard setback by 20-feet (75' minus 55').
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.
 - (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 and mudroom bump-out will be compatible with existing homes in the area as shown on Exhibit C. The Board concludes that the project is appropriate in scale and design in relation to existing uses and structures in the district and 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. 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 Susan Whitman for an attached garage and bump-out mudroom addition that will not come closer than 55' to the side property line at 2824 Gregg Hill Road, as presented in application #068-21 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, Harry Shepard moved and Patrick Farrell seconded the motion to approve application #068-21 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 exterior lighting shall be downcast and shielded.

VOTE: The motion was approved 6-0.

David L. Farrell, Approved: September 1, 2021
(Chair) (Vice-Chair) (Acting Chair) (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, 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
Approved DRB Decision, #070-21 ■ August 25, 2021**

Attending: Board members: Tom Kinley (Co-vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, Joe Wurtzbacher, George Lester, Staff: Steve Lotspeich (Acting Zoning Administrator)

Owner/Applicant:	Tom & Patricia Frechette	
Address/Location:	Woodard Hill Extension, Waterbury, VT	
Zones:	Conservation (CNS) & Ridgeline/Hillside/Steep Slope (RHS) overlay	
Application #	070-21	Tax Map # 08-002.000

Applicant Request:

The applicant seeks after-the-fact approval to construct a single-family dwelling on the existing 110.7+/- acre parcel on Woodard Hill Extension in the RHS overlay district, including the existing clearing for the existing dwelling and driveway.

Present and sworn in:

Tom & Patricia Frechette, owners/applicants
Gunner McCain, McCain Consulting, Inc., Project consultant
Connie Russell, Adjacent property owner

Exhibits:

- A: Application #070-21 (7 pp: Zoning, Conditional Use, Overlay District), submitted 7/19/21.
- B: Narrative and Supporting Information submittal 7/19/21.
- C: Site Plan – Single Lot Wastewater Design, prepared by McCain consulting, Inc., dated 7/9/21.
- D: Photos of dwelling and view from site with current clearing shown (5 pp.).
- E: Maps of parcel from ANR Natural Resource Atlas with orthophoto and slopes, dated 7/14/21.
- F: Letter to adjoining landowners, mailed certified: August 6, 2021 . *
- G: Parcel map with zoning district & RHS overlay dated 8/24/21 (staff)

**Not in DRB packet.*

Findings of Fact:

1. Existing conditions: Tom & Patricia Frechette own a 110.7± acre parcel off Woodard Hill Extension that is accessed by Woodard Hill Rd that is off Little River Rd. The parcel is located in the Conservation (CNS) zoning district, and is almost entirely within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district (Exhibit G).
2. Current proposal: To obtain after-the-fact approval for an existing 2,400 sq. ft., seasonally used dwelling that is 24' in height (see Exhibit D). The single-family dwelling includes an attached garage / equipment storage area. The dwelling and site is further detailed as follows:

- The parcel is 110.7± acres, lies in the CNS zoning district, and has direct access via a 50' side private right-of-way to a 0.2 mile-long section of Woodard Hill Extension and Woodard Hill Rd. that are Class IV Town roads. The Town of Waterbury provides minimal maintenance for these Class IV town roads and emergency access is very limited. Access on the private right-of-way is maintained by the private landowners accessed by the road including the Frechettes. The Frechette dwelling will be served by private well and septic system as shown on Exhibit C, Site Plan – Single Lot Wastewater Design, prepared by McCain consulting, Inc. The lot width at the building front line is greater than 300'.
 - The lot will be served by private well and septic as per a State water and wastewater permit to be obtained. The proposed lot is almost entirely within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district and the building zone is between 1200 and 1500 feet in elevation (FIE). The building envelope is located between 1,370' and 1,380' in elevation. A portion of the property is above 1500 FIE but that portion does not include any existing or proposed clearing (Exhibit G). Approximately one acre has been cleared for the construction of the dwelling and to create a view of Camel's Hump. Approximately an additional 0.25 acres will be cleared for the leach field for the proposed septic system. The cleared area cannot be seen from any public roads as shown on Exhibit D5.
 - The dwelling is a maximum height of 24 as shown on Exhibits A1 and D1-D4.
 - All exterior lighting must use downcast and shielded fixtures as shown in Exhibit D.
3. Section 504 General Dimension Requirements: The single-family dwelling must conform to the relevant criteria in Section 504. The dwelling is proposed to be located in the CNS zoning district therefore, the table below is for compliance with the CNS zoning district.

	Zoning District Minimum Lot Size	Lot Size	CNS Minimum Frontage	Proposed Frontage
Frechette parcel	CNS: 10 acres	110.7± acres	300'	Direct access to Woodard Hill Ext.

The proposed dwelling meets the maximum 35' height limit for the CNS zoning district.

(definition) LOT FRONTAGE: Distance measured across the width of the lot at the building front line, or proposed building front line.

(definition) BUILDING FRONT LINE: Line parallel to the front lot line transecting the point in the building face that is closest to the front lot line...

(definition) BUILDING HEIGHT: Vertical distance measured from the average elevation of the existing grade or finished grade, whichever is lower, at the center of the building to the highest point of the roof.

In the CNS zoning district, the minimum setbacks are: 100' for the front, sides, and rear. The proposed location of the dwelling on the lot meets the setback requirements. The lot as proposed meets the minimum lot size requirement and has access via a 50' wide right-of-way to Woodard Hill Extension, a Class IV Town road. (Exhibit C).

4. Section 1004 RHS Standards of Review: All of the proposed development is located below 1,499 FIE. As per Section 1001, the project is classified as “minor” development. Minor development projects on lands within the RHS overlay district shall be subject to conditional use review.

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 the area are conservation and hunting camps, and state land that is part of Mt. Mansfield State Forest. Light and noise impacts will be typical of standard residential camp 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. The application materials do not specify any historic sites, or rare or irreplaceable natural areas on the parcel. The State of Vermont does not identify any rare, threatened, or endangered species on the parcel. The 2018 Municipal Plan Wildlife Resources Map 2-2 identifies that the entire parcel is mapped bear habitat.
- (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 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 Tom & Patricia Frechette for after-the-fact approval to construct a single-family dwelling within an existing cleared area for the vicinity of the house and driveway off Woodard Hill Extension in the RHS overlay district, as presented in application #070-21 and supporting materials, *meets/does not meet* the Conditional Use, and Ridgelines/Hillsides/Steep Slopes criteria as set forth in Sections 303 and 1004.

Decision Motion:

On behalf of the Waterbury Development Review Board, Patrick Farrell moved and Joe Wurtzbacher seconded the motion to approve application #070-21 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) The applicant shall comply with erosion protection and sediment control measures when development commences on the lots. [Section 1202(a)3]
- (3) All exterior lighting shall be downcast and shielded.
- (4) The Town of Waterbury does not take responsibility for winter maintenance of Woodard Hill Rd. and Woodard Hill Extension that access the Frechette property, or the assurance of emergency access at any time of the year.

VOTE: The motion was approved 6-0.

 _____, Approved: September 1, 2021
(Chair) (Vice-Chair) (Acting Chair) (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, 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 DRB Decision, #072-21 ■ August 25, 2021**

Attending: Board members: Tom Kinley (Co-vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, Joe Wurtzbacher, George Lester, Staff: Steve Lotspeich (Acting Zoning Administrator)

Owner/Applicant:	Cheryl Edwards	
Address/Location:	109 Maple Street, Waterbury Center, VT	
Zoning District(s):	Town Mixed Residential (TMR)	
Application #	072-21	Tax Map #09-196.000

Applicant Request

The Applicant seeks a setback waiver to construct a 10' x 15' front deck at 109 Maple Street, in the Town Mixed Residential (TMR) zoning district.

Present and sworn in:

Cheryl Edwards

Exhibits:

- A: Application #072-21 (3 pages: zoning, conditional use), submitted 7/22/21.
- B: Site plan prepared by Applicant submitted 7/22/21.
- C: Parcel map/orthophoto marked with prop. deck & setbacks dated 7/19/21
- D: Letter to adjoining landowners, mailed certified on 8/7/21.

Findings of Fact:

1. Existing conditions: Cheryl Edwards owns a one-acre parcel at 109 Maple Street in the Town Mixed Residential (TMR) zoning district. The property is developed with an existing single-family dwelling. The lot fronts on Maple Street. The lot is served by an on-site private wastewater system and municipal water.
2. Project: To construct an attached 10' x 15' front deck within 18' of the right-of-way for Maple Street (43' from the centerline of the street). The front deck will be located in the Town Mixed Residential (TMR). The proposed 10' x 15' front deck will be approximately 18' from the right-of-way for Maple St. and approximately 40' from the southwest side property line. The front deck will meet the northeast side setback (Exhibits B & C). The placement of the front deck is constrained by the fact that the existing house is already 28' from the right-of-way for the street. No new exterior lighting is proposed.
3. TMR Dimensional Requirements, Table 5.2: Minimum lot size for TMR: 1 acre. Minimum setbacks for TMR: 30' front, 30' sides/rear. The lot meets the minimum lot size for the TMR zoning district. The existing dwelling meets the southwest side setback however it does not meet the front and northeast side setbacks for the TMR zoning district. The proposed front deck will not meet the minimum front yard

setback requirement for the TMR zoning district, however the deck meets both side setbacks.

4. Waiver Request, Section 309: The proposed detached garage will be 18' from the right-of-way for Maple Street (Exhibits B & C). The setback waiver request is to encroach on the front yard setback by 12-feet (30' minus 18').
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.
 - (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 and mudroom bump-out will be compatible with existing homes in the area as shown on Exhibit C. The Board concludes that the project is appropriate in scale and design in relation to existing uses and structures in the district and 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. 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:

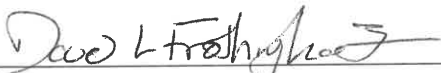
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the project proposed by Cheryl Edwards for a 10' x 15' front deck that will not come closer than 18' to the right-of way for Maple St. (43' from the center line of the street) at 109 Maple Street, as presented in application #072-21 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, Harry Shepard moved and George Lester seconded the motion to approve application #072-21 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 exterior lighting shall be downcast and shielded.

VOTE: The motion was approved 6-0.

 _____, Approved: 9/1/2021
(Chair) (Vice-Chair) (Acting Chair) (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, 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
Approved Decision, #074-21 - August 25, 2021**

In Attendance: Board members: Tom Kinley (Co-vice Chair), Bud Wilson, Patrick Farrell, Harry Shepard, Joe Wurtzbacher, George Lester, Staff: Steve Lotspeich (Acting Zoning Administrator)

Owner/Applicant:	Donald D. Huff	
Address/Location:	1337 Ripley Road, Waterbury Center, VT	
Zones:	Low Density Residential (LDR) & Ridgeline/Hillside/Steep Slope (RHS) overlay	
Application #	#074-21	Tax Map # 10-129.000

Applicant Request

The applicant seeks approval for development in the RHS overlay district to construct two residential sheds and obtain approval for as-built size and locations for four sheds previously permitted, all located within the setbacks at 1337 Ripley Road, Waterbury, VT.

Present and sworn in: Donald Huff, owner/applicant.

Exhibits

- A: Application #0-18 (6 pages: zoning, conditional use, overlay), submitted 7/27/21.
- B: Site Plan, annotated by Applicant, submitted 7/27/21, and Prior Site Plan from App. #015-18.
- C: Parcel maps with orthophoto base layer and RHS overlay (staff).
- D: Letter to adjoining landowners, mailed certified August 6, 2021.

Findings of Fact:

1. Existing conditions: Donald Huff owns a 2.5± acre parcel located at 1337 Ripley Road in the Low Density Residential (LDR) & Ridgeline/Hillside/Steep Slope (RHS) zoning and overlay districts. The parcel is developed with a one-story single-family dwelling, built in 1986, and a detached two-story garage with a one-bedroom apartment on the second floor. The parcel is without frontage and has access to Ripley Road via a 30' ROW across the lands of Austin (neighboring parcel to the north). The property is served by private well and septic.
2. Project: The proposal is to construct two single-story sheds for residential storage, each with a gable roof, each placed on a gravel pad with no foundation. The sheds will not have power or plumbing. The sheds will be used to store a boat, lawn equipment, general stuff, and wood. The shed sites were chosen where each would fit on ground that is flat and won't require tree-clearing, moving large rocks, or disturbing existing gardens/landscaping. An existing tarp structure near the front of the parcel will be removed. There are four previously permitted and constructed sheds that are also within the setbacks. This review is also for the as-built locations of these additional sheds. No exterior lighting is proposed for any of the six sheds. Each shed's use, size, and location from the nearest property lines shall be as follows:

#	Use / Construction Status	Size	SF	Distance to Property Lines		
				Front	Side	Rear
1	Boat / to be constructed	16'x36'x19'h	576	300'	32'	130'
3A	Storage / to be constructed	12'x10'x19'h	120	250'	10'	100'
2	Storage / constructed	12'x16'x19'h	192	250'	26'	130'
3	Storage / constructed	12'x16'x15'h	192	250'	10'	100'
4	Storage / constructed	8'x12'x15'h	96	250'	58'	110'
4A	Storage / constructed	8' x 10'x15'h	80	250'	58'	110'

3. LDR Dimensional Requirements, Table 5.2: In the LDR zoning district, the minimum lot size is 5 acres; the minimum setbacks are: 70' for front; 75' for sides/ rear. At 2.5 acre, the lot does not meet the minimum lot size. The lot is narrow, measuring 217' along the front. The proposed structures will not meet the setbacks.

4. Waiver Request: The setback waiver request for two sheds to be constructed and as-built setbacks for four sheds already permitted and constructed is as follows:
 Shed #1: To encroach into the (northerly) side yard setback by 43' (75' minus 32');
 Shed #3A: To encroach into the (southerly) side yard setback by 65' (75' minus 10')
 Shed #2: To encroach into the (northerly) side yard setback by 49' (75' minus 26')
 Shed #3: To encroach into the (southerly) side yard setback by 65' (75' minus 10')
 Shed #4: To encroach into the (southerly) side yard setback by 17' (75' minus 58')
 Shed 4A: To encroach into the (southerly) side yard setback by 17' (75' minus 58')

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 considered the following:
 - (a) Section 303(e)(1) Community facilities: No increase in occupancy and no change in the residential use of the property is proposed. The sheds are accessory to the primary structures and will be used for residential storage as described above. The sheds will not have plumbing. The sheds will not increase traffic, will 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 proposal 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 sheds will not have power and no exterior lighting is proposed. Each shed will have gable roof. The style of the sheds will be simple and suited to its proposed use. The sheds are out of view from Ripley Rd. and the neighboring property. The Board concludes that the project is appropriate in scale and design in relation to existing uses and structures in the district and will not have an undue

adverse impact on the character of the area affected.

(c) Section 303(e)(3) Municipal bylaws in effect: 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) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: The sheds will not have power or plumbing. Use of the structures will not create the above-named nuisances and therefore no devices or special methods are proposed to control these impacts. The Board concludes that no devices or special methods are necessary to prevent or 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.

6. Section 1001 RHS Applicability: The property is in the RHS overlay district above 1,200 feet in elevation (FIE) but below 1,500 FIE. Subsection (b) states that development in the RHS district below 1,500 FIE shall be considered “minor” development.

Section 1001(d)(1) states that residential additions, accessory structures, and/or camps whose combined footprint is greater than 800 square feet shall be subject to RHS review. The combined square-footage of the accessory structures equals 1,256 SF.

Section 1001(c) states that permitted uses are treated as conditional uses in the RHS overlay district.

Section 1004 (b) states that minor development projects shall be subject to conditional use review, as set forth in Section 303, and all other applicable regulations. See the project’s compliance with the conditional use criteria in paragraph 5 (a–e), above.

Conclusion:

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Donald Huff to construct two residential sheds and obtain as-built size and location approval for four sheds previously permitted under application #015-18, on the property at 1337 Ripley Road, within the setbacks as described above, as presented in application #074-21 and supporting materials, meets the Waivers, Conditional Use, and RHS criteria set forth in Sections 309, 303, and 1004.

Motion:

On behalf of the Waterbury Development Review Board, Patrick Farrell moved and Joe Wurtzbacher seconded the motion to approve application #074-21 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) The structures shall not be used to store fertilizer, ammonia, chlorine, or other dangerous chemicals, petroleum, gas, explosives, or hazardous waste.

VOTE: The motion was approved 6-0.

Paul L. Freshley,
(Chair) (Vice-Chair) (Acting Chair)

Approved: 9/1/2021
(date)

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, 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.*