

WATERBURY DEVELOPMENT REVIEW BOARD
Approved General Minutes—December 15, 2021

Attending: Board members present: Dave Frothingham, Chair, Tom Kinley (Vice-Chair), David Rogers, Bud Wilson, Harry Shepard, and Joe Wurtzbacher.

Staff: Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary).

Dave Frothingham, Chair, opened the public meeting at 6:30 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.

- 1) **#101-21: Ray & Mary Elizabeth Bizzari** (owner/applicant)
Ridgelines/Hillsides/Steep Slopes review for a two-lot subdivision of a previously developed lot with two existing garage/accessory structures to be converted into single-family dwellings at 1824 Shaw Mansion Rd. (MDR/RHS zoning/overlay districts)

Present and sworn in:
Ray Bizzari, owner/applicant
Todd Hill, consultant for project
Ryan DuBois and Lauren Bizzari, interested parties

Todd Hill and Ray Bizzari presented the proposed subdivision and the two proposed dwellings. Additional clearing for the upper lot for the leach fields and view, as shown on the site plan, was discussed.

The public hearing was closed at 7:00 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

- 2) **#105-21: Tom Brayden** (owner/applicant)
Setback waiver request to construct a mudroom and deck for the existing single-family dwelling at 1211 Ripley Rd. (LDR zoning district)

Present and sworn in:
Tom Brayden, applicant

Tom Brayden presented the project and explained the request for waivers from the front and side setbacks. A separate zoning permit has already been issued for adding a second story to the existing dwelling.

The public hearing was closed at 7:10 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

- 3) **#106-21: Jamie & Alex McKenzie** (owner/applicant)
Setback waiver request to re-construct an existing chicken coop into a structure with a shed,

sauna and deck near the existing single-family dwelling at 150 Stuart Ln. (LDR zoning district)

Present and sworn in:

Alex McKenzie, applicant
Theresa Wood, adjoining landowner

Alex McKenzie presented the project to convert the existing chicken coop. The existing wooded area on the McKenzie property between the proposed structure and the neighboring landowners, Theresa and Gordy Wood, was discussed.

The public hearing was closed at 7:20 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

4) #081-21: Crush Partners LLP (owner/applicant)

Continuation of Site Plan and Conditional Use review to replace the existing retail building with the construction of a new 1,200 sq. ft. retail building and to reduce the front setbacks to 25' or review a waiver from those setbacks, on the parcel located at 3627 Waterbury Stowe Road. (TCOM zoning district) —*Continued from 11/17/21*

Present and sworn in:

John Grenier, Civil Engineer for applicant
Joe Greene, Architect for applicant
Robert Owen, owner/applicant
Lynette Vallecillo, owner/applicant
Maria Nelson, nearby property owner
Tim Cannon, adjoining landowner
Kathy Cyr, nearby property owner
Karen Petrovic, nearby property owner
Larry Asam, nearby property owner

Joe Greene and John Grenier presented the revised site plan, and building floor plan and elevations for the project. A portion of the proposed rear parking area that is located on the neighboring property that is also owned by Robert Owen and Lynette Vallecillo. The reconfiguring of the access on Waterbury-Stowe Rd. that has preliminary approval by the State of Vermont, Agency of Transportation (VTrans), was discussed. One of the neighboring property owners expressed concern about the narrowness and safety issues with Sunset Dr., especially in the vicinity of the intersection with Waterbury-Stowe Rd. The correspondence from William Woodruff, the Public Works Director for the Town of Waterbury, that addresses the need to widen the section of Sunset Dr. that is adjacent to the applicant's property to improve its safety, was discussed. How the widening would be paid for was also discussed.

The Board went in to a private deliberative session at 8:41 p.m. The public hearing was subsequently closed at 9:20 p.m. The Board approved the project with conditions and will issue a written decision within 45 days.

Agenda items to be scheduled by the Vice-chair:

- Public comment / Other business: There was none.
- Review prior meeting minutes and decisions (12/1/21):

Motion: Dave Rogers moved and Tom Kinley seconded the motion to approve the general minutes for the meeting held on December 1, 2021, and the written decisions for applications #046-21, #095-21, and #099-21, as amended.

Vote: The motion was approved 6 – 0.

Adjournment: There being no other business, the meeting was adjourned at 9:35 p.m.

Approved:  Date: January 5, 2022
David Frothingham III (Chair)

**Town & Village of Waterbury
Development Review Board**
Approved Decision, #081-21 ▪ Sept 15, 2021; December 15, 2021

Owner/Applicant:	Crush Partners LLP	
Address/Location:	3627 Waterbury-Stowe Road, Waterbury Center, VT	
Zoning district:	Town Commercial (TCOM)	
Application #	081-21	Tax Map # 09-048.100

Applicant Request:

The applicant seeks approval to construct a 1,500 sq. ft. retail building and demolish the existing 1,700 sq. ft. building located at 3627 Waterbury-Stowe Road.

Present and Sworn in on September 15, 2021:

Robert Owen, applicant
Lynette Vallecillo, applicant
Joe Greene, architect for applicant
John Grenier, engineer for applicant
Karen Petrovic, nearby property owner
Kathy Cyr, nearby property owner
Bindy Kirk, nearby property owner
Andrea Barber, nearby property owner
Tim Cannon, adjoining property owner

Present and sworn in on December 15, 2021:

John Grenier, Civil Engineer for applicant
Joe Greene, Architect for applicant
Robert Owen, owner/applicant
Lynette Vallecillo, owner/applicant
Maria Nelson, nearby property owner
Tim Cannon, adjoining landowner
Kathy Cyr, nearby property owner
Karen Petrovic, nearby property owner
Larry Asam, nearby property owner

Exhibits:

- A: Application #081-21 (5 pp: Zoning, Site Plan, Cond. Use, Variance Info.), submitted 8/25/21.
- B: Cover letter from Joseph Architects dated 8/25/21
- C: Existing Conditions and Site Plans prepared by Grenier Engineering, dated 6/18/21, Floor Plan with Site Lighting & Landscaping prepared by Joseph Architects, dated 12/13/21
- D: Elevations, prepared by Joseph Architects, dated 8/25/21
- E: Aerial photo of parcel with tax map boundary (staff).

- F: Lighting cut sheets
- G: Letter from Maria and Jamie Nelson dated 9/14/21
- H: Letter to adjoining landowners, sent certified 8/27/21
- I: Trip Generation Assessment dated 11/22/21
- J: Letter from Kathy Cyr dated 12/14/21

Findings of Fact:

1. Existing conditions: Crush Partners LLP owns a 0.3-acre parcel located at 3627 Waterbury-Stowe Road in the Town Commercial (TCOM) zoning district. The parcel is currently developed with a 1,700 sq. ft. one-story retail building that was a convenience store and gas station. The gas station use has been discontinued for more than one year and the fuel tanks have been removed from the site. The existing site is served by municipal water and an on-site septic system. Robert J. Owen Living Trust owns the adjacent property to the west at 31 Sunset Dr. A portion of the proposed rear parking area is shown to be located on an easement on that adjacent property.

2. Proposal: The proposal is as follows:
Construct a one-story 30' x 50', 1,500 sq. ft. building for retail use in place of the existing 1,700 sq. ft. building that will be demolished. The building will also have a 500 sq. ft. second floor mezzanine level for office use associated with retail business, for a total floor area of 2,000 sq. ft. The building will have white vertical barn board siding with black trim and a black standing seam roof as shown on Exhibit D. The "barn" doors and timber trusses will be a natural stain color. This building will be served by two reconfigured entry drives as shown on Exhibits C2 and C3. The entry on Sunset Dr. will be one-way, entry only to the site and the drive on Waterbury-Stowe Rd. will be one-way, exit only. This access configuration is being required by the State of Vermont, Agency of Transportation (VTrans) through their access permitting process and the application that Crush Partners, LLP, has submitted for the access permit. There will be parking areas on the two sides of the building that will have 15 spaces as shown on Exhibits C2 and C3. There will be a dumpster at the southwest corner of the parcel that will be screened on three sides with a six-foot tall wooden privacy fence. Because this is a corner lot there are two side yards and no rear yard. The proposed building will continue to utilize municipal water and an on-site septic system.

3. Table of Uses, Section 503: The retail and business professional office uses on the site are conditional uses in the Town Commercial (TCOM) zoning district. The retail use is a continuation of the prior use on the parcel.

Review Criteria:

Site Plan: As set forth in Section 301(f), Site Plan Review and Approval, the Board will take into consideration the following objectives:

4. Traffic access, Section 301(f)(1) (A-D): Vehicular access to the site will be by two reconfigured driveway curb cuts as shown on Exhibits C2 and C3. The entry on Sunset Dr. will be one-way, entry only to the site and the drive on Waterbury-Stowe Rd. will be one-way, exit only.

5. Circulation and parking, Section 301(f)(2) (A-G): The vehicular circulation on the site will be via one-way aisles in the parking areas as shown on the Site Plan, Exhibit C2. The asphalt parking area will be reconfigured as shown on the Site Plan, Exhibit C2 and will have 15 parking spaces that will serve the retail and business professional office use of the building. See compliance with the parking regulations as per Section 414, in paragraph 8, below.
6. Landscaping, screening, and lighting, Section 301(f)(3) (A-F): The proposed landscaping and screening for the site will be as shown on the Proposed Site Plan, Exhibit C3. The owners of 3627 Waterbury-Stowe Road have purchased the adjacent parcel to the west that includes a single-family dwelling and has a significant number of trees in the yard to provide shade and screening as shown on the Exhibit E, the aerial photo of parcel. Exterior lighting on the building shall be three L1 gooseneck fixtures and four L2 flush mount fixtures. The proposed sign shall have two L3 gooseneck fixtures. All lighting shall be as shown on Exhibit C2, the Proposed Site Plan, and Exhibit F, Lighting Cut Sheets. All fixtures shall be downcast and shielded.
7. Special considerations for property bordering Route 100, Section 301(j) (1-4): The two front sides of the proposed building will be landscaped and the parking area in the rear will be partially screened from view from Route 100 by the proposed building as shown on the Exhibit C3, the Floor Plan with Site Lighting & Landscaping. There is no screening shown for the parking area to the south of the building, as viewed directly from Route 100. However, this southerly parking area is screened from view from the parcel to the south by the proposed cedar hedge on the berm as shown on Exhibit C3.
8. Parking Regulations, Section 414: The Regulations state that parking spaces shall measure at least 9' by 18' and shall have unobstructed access. The parking spaces shown on the site plan are 9' x 20' with a 15' to 20' wide one-way aisle adjacent to the row of parking. As set forth in Section 414(d): retail and business professional office uses require a minimum of one parking space for each 300 sq. ft. of floor area. A minimum of seven spaces are required for the 2,000 sq. ft. total of these uses in the proposed building. Exhibit C2, the Proposed Site Plan shows 15 parking spaces. The proposal meets the parking requirements.
9. TCOM Dimensional Requirements, Table 5.2: Minimum lot size for TCOM: 1 acre. Minimum setbacks for TCOM: 50' front, 25' sides/rear. Note: The front setback "may be reduced to 25 feet, if specific criteria are met during site plan approval. Coverage: max. 25%. The lot does not meet the minimum lot size for the TCOM zoning district and is considered a pre-existing small lot. The existing building does not meet the front and side-yard setbacks for the TCOM zoning district as shown on Exhibit C1, the Existing Conditions Plan. The proposed retail building will not meet the minimum front yard setback requirement for the TCOM zoning district even if it could be reduced to 25'. Since the parking areas are located in the side yards, the front setbacks on Waterbury-Stowe Rd. and Sunset Dr. cannot be reduced to 25' since the parking cannot be located in the rear yard. The proposed building is significantly less than the maximum coverage of 25%
10. Waiver Request, Section 309: The proposed retail building will be 25' from the right-of-way for Waterbury-Stowe Rd. and 33' from the property line and right-of-way for Sunset Dr. as shown on Exhibit C2, the Proposed Site Plan. The setback waiver request is to encroach on the front yard setback

by 25 feet (50' minus 25') on Waterbury-Stowe Rd. and by 17' (50' minus 33') on Sunset Dr.

11. 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 retail use of the property that is located in a commercial mixed-use area of Waterbury Center. The proposed use will not unduly impact the roads and will be served by municipal water and a private on-site wastewater system for the new retail building. The proposed use will not have an undue adverse impact on the capacity of existing or planned community facilities. 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 primarily retail. The proposed structure is an appropriate scale and design in relationship to the surrounding Waterbury Center Historic District. 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 primarily retail. This project application presents compliance with the conditional use and waiver criteria.
 - (d) Section 303(f)(2) Methods to control fumes, gas, dust, smoke, odor, noise, or vibration: No change to the retail 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:

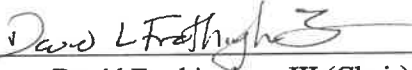
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the project proposed by Crush Partners LLP for a 1,500 sq. ft. footprint (2,000 sq. ft. floor area) retail building with associated business professional offices located at 3627 Waterbury-Stowe Road that will not come closer than 25' to the right-of-way line for Waterbury Stowe Rd. and 33' from the right-of-way line for Sunset Dr., and 22' from the westerly side property line, as presented in application #081-21 and supporting materials, meets the Site Plan Review, Conditional Use and Waiver criteria set forth in Sections 301, 303, and 309.

Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Bud Wilson seconded the motion to approve application #081-21 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.
- (3) The access driveway to Route 100 shall be approved by the Vermont Agency of Transportation (VTrans), and the owner/applicant shall obtain the VTrans access permit prior to commencing any construction activities within the public road right-of-way.
- (4) The owner/applicant shall work with the Town of Waterbury to fund and construct the widening of Sunset Drive from the entrance into the site to Waterbury-Stowe Rd to meet the geometric standards in the Town of Waterbury Highway Ordinance.
- (5) Show the easement for parking spaces at the rear of the building on the site plan and demonstrate that the easement is recorded on the Town of Waterbury land records.
- (6) Install landscaping/screening in the area east of parking space #15.

VOTE: The motion was approved 5 - 1.



David Frothingham III (Chair)

Approved: January 5, 2022
(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 permits that 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 ■ December 15, 2021**

Attending: Board members present: Dave Frothingham, Chair, Tom Kinley (Vice-Chair), David Rogers, Bud Wilson, Harry Shepard, and Joe Wurtzbacher.

Staff: Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary).

Owner/Applicant:	Ray and Mary Elizabeth Bizzari
Address/Location:	1824 Shaw Mansion Rd., Waterbury Center, VT
Zones:	Medium-Density Residential (MDR) & Low-Density Residential (LDR) zoning districts & Ridgeline/Hillside/Steep Slope (RHS) overlay district
Application #	101-21 Tax Map #10-116.000

Applicant Request

The applicant seeks to subdivide the existing lot located at 1824 Shaw Mansion Rd. into two residential lots and construct two single-family dwellings within and adjacent to the RHS overlay district.

Present and sworn in:

Ray Bizzari, owner/applicant
Todd Hill, consultant for owner/applicant
Ryan DuBois and Lauren Bizzari, interested parties

Exhibits

- A: Application #101-21 (8 pp: Zoning, Conditional Use, Subdivision, Overlay District), submitted 11/9/21.
- B: Project narrative from Todd Hill Land Planning & Design, dated 11/23/21.
- C: Two-lot Subdivision; Site Plans by Todd Hill Land Planning & Design, dated 11/15/21 & 10/15/21.
- D: Perspective views of two proposed single-family dwellings submitted 11/9/21.
- E: Maps of parcel with tax map boundaries, topography, zoning districts submitted 11/9/21.
- F: Letter to adjoining landowners, mailed certified: November 24, 2021.
- G: Orthophotos of parcel with tax map boundaries (staff).

Findings of Fact

1. Existing conditions: Ray and Mary Elizabeth Bizzari own a 10.2± acre parcel located at 1824 Shaw Mansion Rd. The parcel had a single-family dwelling on the upper portion of the lot that was demolished by fire in 2006. There is a large existing garage at the site of the former dwelling and a smaller garage on the lower portion of the lot in the locations shown on Exhibit C, Two-lot Subdivision; Site Plans. The parcel includes approximately 50' of frontage on Shaw Mansion Rd. The parcel is located in both the Medium Density Residential (MDR) and the Low-Density Residential (LDR) zoning districts, with a major portion within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district (Exhibit E1).
2. Current proposal: To subdivide the existing 10.2± acre parcel into two lots as follows:

- Lot 1 will be 2.07± acres, lies in the MDR zoning district, has 50'± of frontage on Shaw Mansion Rd. and will be served by a private well and on-site wastewater system for a two-bedroom single-family dwelling. The leach field for Lot #1 will be located on an easement area on Lot #2 as shown on Exhibits C1 and C2. The lot width at the building front line is greater than 200'.
- Lot 2 will be 8.1± acres, contains land in both the MDR and LDR zoning districts and has access to Shaw Mansion Rd. via a 50' wide right-of-way. Lot 2 will be served by a private well and on-site wastewater system for a three-bedroom single-family dwelling. The location of the proposed dwelling is in the MDR zoning district and the lot width at the building front line is greater than 200'.

The lots will be served by private wells and wastewater systems as noted above and as per State water and wastewater supply permit ww-5-8763. The proposed lots include land within the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. The site of the dwelling on Lot 1 is at approximately 1188' in elevation. The site of the proposed dwelling on Lot #2 is at approximately 1228' in elevation. No portion of the property is above 1320 FIE (Exhibit E1). This application is for review of the subdivision and the proposed dwelling on Lot #2.

3. Section 504 General Dimension Requirements: Any subdivision of land must conform to the relevant criteria in Section 504. See the table below for compliance with the LDR and CNS zoning districts.

	Zoning District Minimum Lot Size	Proposed Lot Size	LDR/CNS Minimum Frontage	Proposed Frontage
Lot 1	MDR: 2 acres	2.07 acres	200'	50'± Shaw Mansion Rd
Lot 2	MDR: 2 acres LDR: 5 acres	8.1± acres	200'	Access to Shaw Mansion Rd. via a 50' side R.O.W.

(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...

In the MDR zoning district, the minimum setbacks are: 60' front and 50' sides/rear. The existing garage on Lot #1 does not meet the front setback and is approximately 27' from the front property line. The reconstruction of the garage into a house will not bring any portion of that structure closer to the front property line. The proposed dwelling will meet the side and rear setbacks. The conversion of the garage on Lot #2 into a single-family dwelling will create a building that will meet all the setbacks for the MDR zoning district where the dwelling will be located. (Exhibit C1 & C2).

4. Section 1201 Authority and Review of Subdivisions: All applications for land division shall be reviewed by the DRB under Section 1202, unless exempted under Section 1203. This application is not exempted from Board review, as the project involves lands within the RHS overlay district.
5. Section 1202 Subdivision Review Criteria: Prior to granting approval, the Board must find that the proposed subdivision conforms to the standards in Section 1202 (a)–(d).

(a) The Board must find that the proposal will not have an undue adverse impact on the following:

- (1) The capacity of community facilities: The dwellings will not be connected to municipal water or wastewater systems. The proposal to create two new residential lots and the associated dwellings 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.
- (2) The character of the area: The use of the proposed lots will be residential. The existing uses in the immediate area are residential.
- (3) Water quality: Applicant might be required to obtain a VT stormwater discharge permit. Applicant has obtained the water/wastewater permit from the state (ww-5-8763). Applicant should accept, as a condition of approval, that erosion protection and sediment control measures will be employed during the development of the lots to ensure that development of the lots will not result in undue adverse impact to water quality or downstream properties.
- (4) Aesthetics and scenic or natural beauty: Not addressed in the application materials. The dwellings will be well screened from view from both Shaw Mansion Rd. and the adjacent property owners.
- (5) Significant natural resources: Significant Natural Resources are defined in the Regulations as: "Areas that include streams; Class I & II wetlands; prime agricultural soils; wildlife resources, including the Natural Heritage sites, as shown on the Waterbury Wildlife Resources Map in the Municipal Plan; and rare, threatened or endangered species." None of these resources are shown on the Waterbury Natural Resources Map 2-1 and the Waterbury Wildlife Resources Map 2-2 in the 2018 Waterbury Municipal Plan.

(b) The project is *not* in the RT100 zoning district. This provision does not apply.

(c) The project is in the RHS overlay district. See compliance with the RHS standards in Section 1004, in paragraph 6, below.

(d) The Board may attach reasonable conditions and safeguards with respect to the subdivision attributes identified in Section 1202(d)(1-4). The proposal does not include excessive curb-cuts, as all of the lots will be accessed from a town road via an existing shared driveway. The only additional clearing of trees that is proposed is for the construction of the leach fields for the on-site wastewater systems for both lots that will be located on Lot #2 as shown on Exhibits C1 and C2.

6. 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: See compliance with the capacity of community facilities in paragraph 5(a)(1), above.
- (b) Section 303(e)(2)(A-E) Character of the area: The existing uses in the immediate area are residential. Light and noise impacts will be typical of standard residential 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 did not specify any historic sites, or rare or irreplaceable natural areas on the parcel.
- (c) Section 303(e)(3) Municipal bylaws in effect: Residential lots are a permitted use within the LDR and CNS zoning districts and are a conditional use when they are located within the RHS overlay district. The application represents compliance with the zoning 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:

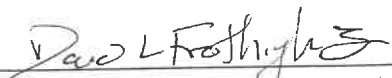
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Ray and Mary Elizabeth Bizzari to create a two-lot subdivision and construct two single-family dwellings at 1824 Shaw Mansion Rd. in the RHS overlay district, as presented in application #101-21 and supporting materials, meets the Conditional Use, Ridgelines/Hillsides/Steep Slopes, and Subdivision criteria as set forth in Sections 303, 1004, and 1202.

Motion:

On behalf of the Waterbury Development Review Board, Dave Rogers moved and Harry Shepard seconded the motion to approve application #101-21 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;
- (3) The applicant shall comply with erosion protection and sediment control measures when development commences on the lots. [Section 1202(a)3]
- (4) The approved final plat, signed by the DRB Chair (or his designee), shall be duly filed and 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. The final plat shall show the zoning setbacks for the district, applicable state permits, and the accessory dwelling noted as proposed in future.

VOTE: The motion was approved 6 – 0.



David Frothingham III (Chair)

Approved: January 5, 2022
(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 permits that 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 ▪ December 15, 2021**

Attending: Board members present: Dave Frothingham, Chair, Tom Kinley (Vice-Chair), David Rogers, Bud Wilson, Harry Shepard, and Joe Wurtzbacher.

Staff: Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary).

Owner/Applicant:	Tom Brayden	
Address/Location:	1211 Ripley Road, Waterbury Center, VT	
Zoning District:	Low-Density Residential (LDR) Ridgelines/Hillsides/Steep Slopes (RHS) overlay district	
Application #	105-21	Tax Map # 10-136.000

Applicant Request:

The applicant seeks approval for a proposed mudroom and deck within the front and side setbacks at 1211 Ripley Road.

Present and sworn in:

Tom Brayden, owner/applicant

Exhibits:

- A: Application #101-21 (3 pages: zoning permit, conditional use), submitted 11/18/21.
- B: (B1) Overall Site Plan by Applicant, submitted 11/18/21
(B2) Site Plan of enlarged area of dwelling by Applicant, submitted 11/18/21
(B3) Excerpt of revised Site Plan showing deck & stairs.
- C: Floor plan and perspective of dwelling with mudroom & deck by applicant, submitted 11/18/21.
- D: Orthophoto of parcel by Staff, dated 12/10/21
- E: Letter to adjoining landowners, mailed certified on 11/24/21.

Findings of Fact:

1. **Existing conditions:** Tom Brayden owns a 1.5± acre parcel located at 1211 Ripley Road in the Low-Density Residential (LDR) and the Ridgelines/Hillsides/Steep Slopes (RHS) zoning and overlay districts. The parcel is currently developed with a one-story single-family dwelling and detached garage. The original house was built in 1953 (Zoning Regulations were adopted in 1980). The parcel includes frontage on and has access to Ripley Road and a driveway access/right-of-way along the northerly property line. The property is served by private on-site well and on-site wastewater system.
2. **Project:** The proposal is for a 90 sq. ft. mudroom between the existing dwelling and the detached garage, connecting the two structures, and an attached 387 sq. ft. deck to be added to the rear of the house. The existing garage and proposed mudroom are located 49' from the right-of-way for Ripley Rd. and the existing dwelling and proposed deck are located 72' from the side property line to the south. A second

story will be constructed for the main dwelling as detailed in Permit #104-21. That construction will not change the footprint for the main dwelling.

3. LDR Dimensional Requirements, Table 5.2: Minimum lot area: is 5 acres; minimum frontage: 300'; minimum setbacks: 70' front; 75' sides/rear. At 1.5 acres, the lot is undersized by 3.5 acres (more than half).
4. Waiver Request: The setback waiver request is to encroach into the front setback by 21' (70'-49') for the mudroom and into the side yard setback by 3' (75' minus 72') for the deck.
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 must find that the proposed use conforms to the following general and specific standards:
 - a. Section 303(e)(1) Community facilities: No change in the residential use of the property is proposed. The property is served by a private well and wastewater system. The addition of a mudroom and deck does not unduly increase the traffic, does not require addition municipal water or sewer allocation, does not burden the school capacity, and does not 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. If additional exterior lighting is added it will be downcast and shielded. The mudroom and deck will be constructed to match the style of the existing dwelling. The application states that: "The small addition between the existing structures and deck will improve the functionality of the home and should have no impact on the conditional use criteria in Section 303€ of the Zoning Regulations". The character of the area includes many lots that are smaller than the 5-acre minimum in the LDR District, therefore many nearby properties and this parcel have existing setback encroachments. Therefore, the DRB concludes that the waiver of setback request will have no undue adverse impact to the character of the area.
 - c. Section 303(e)(3) Municipal bylaws in effect: The mudroom and deck are for residential use. The 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: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are proposed to 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.
6. Section 1001 RHS Applicability: Note that although the property is in the RHS overlay district, it is not subject to RHS review because the proposed mudroom and deck total ≤ 800 square-feet, as per Section 1001(d)(1).

Conclusion:

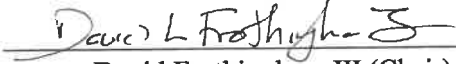
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Tom Brayden to approve a proposed mudroom 21' within the front setback and a proposed deck 3' within the side yard setback at 1211 Ripley Road, as presented in application #105-21 and supporting materials, meets the Waivers and Conditional Use criteria set forth in Sections 309 and 303.

Motion:

On behalf of the Waterbury Development Review Board, Harry Shepard moved and Dave Rogers seconded the motion to approve application #105-21 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 Frothingham III (Chair)

Approved: January 5, 2022
(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 permits that 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 - December 15, 2021**

Attending: Board members present: Dave Frothingham, Chair, Tom Kinley (Vice-Chair), David Rogers, Bud Wilson, Harry Shepard, and Joe Wurtzbacher.

Staff: Stephen Lotspeich (Planning & Zoning Director and Zoning Administrator), Patti Martin (Secretary)

Owner/Applicant: Jamie & Alex McKenzie
Address/Location: 150 Stuart Lane, Waterbury, VT
Zones: Low-Density Residential (LDR)
Application # 106-21 Tax Map # 13-264.000

Applicant Request

The applicant seeks approval to construct a sauna/shed/deck for residential use within the side yard setback at 150 Stuart Lane.

Present and sworn in:

Alex McKenzie, applicant
Theresa Wood, adjoining landowner

Exhibits:

- A: Application #106-21 (3 pp: Zoning Permit, Conditional Use) submitted 11/18/21.
- B: Site plans (2 pages) showing existing chicken coop and prop. structure, prepared by Vt. Mapping & Survey Co. dated 5/27/21 & 12/8/21.
- C: Floor plans, Elevations, and Perspective Views of proposed structure submitted 11/18/21.
- D: Photos of Existing Chicken Coop
- E: Aerial photo of the property (staff).
- F: Letter to adjoining landowners, sent certified 11/29/21

Findings of Fact:

1. Existing conditions: Jamie and Alex McKenzie own a 3.41± acre parcel located at 150 Stuart Lane. The property is developed with an existing two-story single-family dwelling and a two-story detached garage. The parcel includes some 500' of frontage on and has access to Stuart Lane, a class-3 town road and is served by a drilled well and on-site septic system. The parcel is located in the Low-Density Residential (LDR) zoning district.
2. LDR dimensional requirements: In the LDR zoning district, the minimum lot size for one family is 5 acres and the minimum setbacks are: front: 70', sides/rear: 75'. At 3.41 acres, the lot does not meet the minimum lot size. The existing chicken coop does not meet the setback and extends 23.25' into the side yard setback.
3. Waiver Request: The applicant proposes to construct a 336 SF structure that will include a 96 SF sauna, a 96 sq. ft. shed and a 144 sq. ft. deck. This structure will replace an existing approximately 96 sq. ft. chicken coop. The existing chicken coop is 51.75' from the side property line. The expanded structure

will be 41.75' from the side property line. The setback waiver request is to encroach into the side yard setback by 33.25' (75' – 41.75').

4. Conditional Use/Waiver criteria: In accordance with 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.
 - a. Section 303(e)(1) Community facilities: No change in the residential use and no increase in occupancy is proposed. The proposed sauna/shed/deck is to replace an unused structure (the chicken coop), create additional storage and be a place to relax and promote health on the property. The proposed 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: No change of use is proposed; the use of the property will remain residential. The proposed sauna/shed/deck is appropriate in scale and design in relation to existing uses and structures in the district. The application states: "The structure is no further than my shop space into the setback line. The new structure cannot be seen by my neighbors and is nestled into the hillside tree line." "We will use natural wood materials to finish / metal roof. It will be an attractive feature to add to the property."
 - c. Section 303(e)(3) Municipal bylaws in effect: The 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: The proposed residential use will not typically create the above-named nuisances and therefore no devices or special methods are proposed to control these impacts.
 - e. Section 303(h) Removal of earth or mineral products conditions: The proposed project does not include earth removal activities. This provision does not apply.

Conclusion:

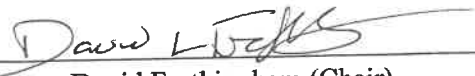
Based upon these findings, and subject to the conditions set forth below, the Waterbury Development Review Board concludes that application #106-21 to construct a 336 sq. ft. residential sauna/shed/deck no more than 33.25' within the side yard setback at 150 Stuart Lane, Waterbury, VT meets the Waivers and Conditional Use standards.

Motion:

On behalf of the Waterbury Development Review Board, Joe Wurtzbacher moved and Tom Kinley seconded the motion to approve application #106-21 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. There shall be no exterior lighting for this structure.

VOTE: The motion was approved 6 - 0.



David Frothingham (Chair)

Approved: January 5, 2022
(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 permits that must be obtained.

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