

**WATERBURY DEVELOPMENT REVIEW BOARD**  
**General Minutes—June 19, 2019**

Board members present: Dave Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste.  
Staff present: Dina Bookmyer-Baker (ZA) 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- 1) The first agenda item (#123-18, Ayers) was withdrawn by the Applicants.
- 2) The second agenda item (#040-19, Grace) was continued to the 7/10/19 DRB meeting at 7 p.m.
- 3) **#030-19: Eric Poulin** (owner/applicant)  
Setback waiver request to construct a single-family dwelling on Lot 41 (parcel 230-0115) East Countryside Road. (RT100 zoning district)

**Present and sworn in:**

Eric Poulin, owner  
Scott Search, abutting landowner  
Emmanuel Ajanma, abutting landowner

**Testimony**

- There was discussion regarding the location of the building envelope. Two neighbors stated that this was the only place to build on this piece of land.
- A neighbor was concerned that permits granted on this property may not be appropriate to the conditions.
- A neighbor stated that permits granted before 1994 have indefinite terms.

The hearing was continued to a site visit on July 10, 2019 at 6:30 p.m., followed by a continued hearing at 7 p.m. in the Steele Community Room.

- 4) **#047-19: Robert and Loni Boehme** (owner/applicant)  
Setback waiver to construct a residential addition at 28 Thurston Lane. (MDR zoning district)

**Present and sworn in:**

Robert & Loni Boehme, applicants  
Lorelei Wyman, adjoining landowner

**Testimony**

- A neighbor expressed concern about her future property value being diminished due to the close proximity of the building addition to her land.

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

- 5) **#049-19: Charles Pelkey** (owner/applicant)  
Minor Ridgeline review to construct a new single-family dwelling with an attached garage on Lot 2 (parcel # 680-1180) Sweet Road. (MDR/RHS zoning/overlay districts)

**Present and sworn in:**

Gail Pelkey, owner/applicant

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

6) **#050-19: Thomas and Melissa Steele** (owner/applicant)

Special Flood Hazard Area review to construct a mound septic system in the Thatcher Brook floodplain at 846 Maple Street. (MDR/SFHA zoning/overlay districts)

**Present and sworn in:**

John Grenier (Consultant, representing Applicant)

Willis Backus, representing neighbor

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

7) **Agenda items as scheduled by the Chair:**

- Review minutes and decisions from the previous meeting, June 5, 2019.  
Tom Kinley moved and Andrew Strniste seconded the motion to approve the general minutes from June 5, 2019 and the decision #037-19 Megrath, as amended.

**Vote:** Motion approved: 4-0.

**Adjournment:** The meeting was adjourned at 8:00 p.m.

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

Approved on: 7/10/2019  
 (date)

These minutes were approved: July 10, 2019

**Notice of next meetings:**

Wednesday, July 10, 2019, 7 p.m. *Note: This meeting starts 30 minutes later than usual.*

Wednesday, July 24, 2019, 6:30 p.m., Library SAL Rm. *Note: This meeting is on the 4th Wed. & will be held in the SAL Room in the Library.*

**Town of Waterbury  
Development Review Board  
Decision #047-19 ▪ June 19, 2019**

**In Attendance:** Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

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Applicant/Owner:	Robert & Loni Boehme	
Address/Location:	28 Thurston Ln., Waterbury Center, VT	
Zoning District:	Medium-Density Residential (MDR)	
Application #	047-19	Tax Map # 10-113.000

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**Applicant Request**

The applicant seeks approval to construct a 10' by 22' addition to an existing dwelling within the front and side setbacks at 28 Thurston Ln.

**Present and sworn in:**

Robert & Loni Boehme, (owner/applicant)  
Lorelei Wyman, adjoining landowner

**Exhibits**

- A: Application #047-19 (3 pages: zoning, conditional use), submitted 5/20/2019.
- B: Site Plan by applicant submitted 5/20/2019.
- C: Orthophoto of subject parcel and neighboring parcels. (Staff)
- D: Letter to adjoining landowners, mailed certified on: 5/4/2019.

**Findings of Fact**

1. Existing conditions: Robert & Loni Boehme own a 2.0± acre parcel located at 28 Thurston Ln. The property is developed with a single-family dwelling, built in 1978, with a detached garage. The property is located in the Medium-Density Residential (MDR) zoning district, has 161' of frontage on Thurston Lane and 273' of frontage on Shaw Mansion Road. The lot and the dwelling predate the establishment of zoning regulations in the Town in 1980, however the lot is conforming in size. The existing house does not meet the MDR front and side setback requirements. The property is served by an on-site well and septic system.
2. Proposal: The proposal is to build a 10' x 22' addition onto the existing dwelling within the front and side yard setbacks at 28 Thurston Lane. The addition will be located approximately 65' from the centerline of Thurston Lane and 25' from the side property line to the west. The addition will not extend closer to the front property line than the house. The front porch of the house is located approximately 55' from the centerline of Thurston Ln.

3. MDR Dimensional Requirements, Table 5.2: Minimum lot area: 2 acres; minimum frontage: 200'; minimum setbacks: 60' front, 50' sides/ rear. The lot meets the minimum lot size and however it does not meet the frontage requirement for Thurston Ln. The existing house does not meet the front and west side setback requirements. The addition will be approximately 40' from the front property line (65' minus 25'), although not extending closer to the front property line than the existing house, and will be located 25'± from the side property line to the west, 10' closer than the existing house.
4. Waiver Request: The setback waiver request is to encroach into the front-yard setback by 20' (60' minus 40') and the side-yard setback by 25' (50' minus 25').
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 general and specific standards:
  - a. Section 303(e)(1) Community facilities: No change in the residential use of the property is proposed. The residential addition does not require additional municipal water or sewer allocation, will not burden the school capacity, and will not increase the demand for fire protection. The Board concludes that the 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 proposed addition will match the materials and style of the existing dwelling (Applicant testimony). 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: The use of the property will remain residential. 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 project is an enclosed extension to the existing dwelling. A typical residential use will not emit any of the above-named nuisances. No controls are proposed. 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.

**Conclusion:**

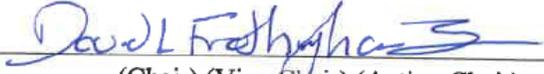
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Robert and Loni Boehme to construct a 10' x 22' addition to an existing dwelling 20' within the front setback and 25' within the side setback at 28 Thurston Lane, as presented in application #047-19 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, Tom Kinley moved and Bud Wilson seconded the motion to approve application #047-19 with the following condition:

- (1) The Applicant shall complete the project in accordance with the Board's findings and conclusions and the approved plans and exhibits.

**Vote:** The motion was approved 4-0.

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

Approved: 7/10/2019  
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 (date)

This decision was approved on: July 10, 2019.

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  
Decision #049-19 ■ June 19, 2019**

**In Attendance:** Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

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Owner/Applicant:	Charles Pelkey (owner/applicant)	
Address/Location:	1160 Sweet Rd., Waterbury Center, VT	
Zones:	Medium Density Residential (MDR) and Ridgelines/Hillsides/Steep Slopes (RHS) overlay district.	
Application #	049-19	Tax Map # 10-018.200

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**Applicant Request**

The applicant seeks Ridgelines, Hillsides, Steep Slopes (RHS) and Conditional Use approval to construct a primary single-family dwelling and a connected garage with associated living space on Lot 2 of the Callan three-lot subdivision on Sweet Rd. in the Medium Density Residential (MDR) zoning district and Ridgeline/Hillside/Steep Slopes (RHS) overlay district.

**Present and sworn in:**

Gail Pelkey, owner/applicant

**Exhibits**

- A: Application #049-19 (6 pp: Zoning, Conditional Use, Overlay District), submitted 5/20/19.
- B: Orthophotos and parcel map of the lot and zoning districts. (Staff).
- C: Site Plans prepared by McCain Consulting for WW-5-2290 dated 12/20/01, revised 4/17/03.
- D: Elevations of proposed house and garage prepared by Huntington Homes dated 3/22/19.
- E: Letter to adjoining landowners, mailed certified on: 6/04/19.

**Findings of Fact**

1. Existing conditions: Charles Pelkey owns an undeveloped parcel, Lot 2 of the Callan three-lot subdivision located at 1160 Sweet Rd. in the Medium Density Residential (MDR) zoning district and the Ridgelines/Hillsides/Steep Slopes (RHS) overlay district. The lot is 2.11 acres in area. The lot has direct access to Sweet Road, a Town road. The lot has been cleared and is mostly an overgrown field with scattered trees and an existing curb cut and driveway. The lot is part of a three-lot subdivision that was individually approved under Permit #09-02-T. This subdivision was approved prior to the enactment of the Ridgeline, Hillside, Steep Slope zoning bylaws.
2. Proposal: A minimal amount of new clearing is proposed for the construction of the proposed single-family house and garage. The house will have a 2-car attached garage with one guest bedroom and an unfinished basement as shown on Exhibits C and D. The house is one-story high with 1,624 square feet of living space and an unfinished basement of the same size. The lot will be served by private well and an on-site septic system.

3. The lot is in the RHS overlay district below 1,500 FIE, which makes this a minor development application. The following is how the project addresses the conditional use standards:
4. Conditional Use/RHS (minor) 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. The Board considered the following general and specific standards:
  - a. Community facilities, Section 303(e)(1): The project 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. Any exterior lighting will be downcast and shielded. The applicant's intention is to preserve the existing trees on the property except in the area that will be cleared for the construction of the house and garage. See Applicant's Exhibit D for the proposed building elevations. The application states that: "The house will be located on the back third of the lot. Landscaping will include planting trees and bushes native to the area to maintain the current character." 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 application presents compliance with the conditional use criteria. All setback requirements will be met. 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 application states that: "This will be a modular home built off-site, and after the modules are set the garage will be built. This house will be heated with (an) electric heat pump, with pellet stove for backup." 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. The Board 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:**

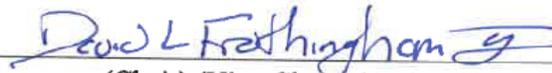
Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Charles and Gale Pelkey (owner/applicant) to construct a primary single-family dwelling and attached garage on Lot 2 of the Callan Subdivision on Sweet Rd., as presented in application #049-19 and supporting materials, meets the Conditional Use and RHS Overlay District standards as set forth in Sections 303 and 1004.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Bud Wilson seconded the motion to approve application #049-19 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 will be downcast and shielded.

**Vote:** The motion was approved 4–0.

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

Approved: 7/10/2019  
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(date)

This decision was approved on: July 10, 2019.

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 #050-19 ■ June 19, 2019**

**In Attendance:** Board members present: David Frothingham (Chair), Tom Kinley, Bud Wilson, and Andrew Strniste. Staff present: Dina Bookmyer-Baker (ZA) and Patti Spence (Secretary).

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Owner/Applicant:	Thomas and Melissa Steele	
Address/Location:	846 Maple Street, Waterbury Center, VT	
Zones:	Medium-Density Residential (MDR)/Special Flood Hazard Area (SFHA) overlay	
Application #	050-19	Tax Map # 09-121.000

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**Applicant Request**

The Applicant seeks approval to construct a mound septic system within the Thatcher Brook floodplain at 846 Maple Street, Waterbury Center, VT.

**Present and sworn in:**

John Grenier (Consultant, representing Applicant)  
Willis Backus, representing neighbor

**Exhibits**

- A: Application #050-19 (5 pages: zoning, SFHA overlay district), submitted 5/20/19.
- B: Letter from Grenier Engineering, dated 5/20/19.
- C: Septic System Site Plan & Details, dated 3/25/19.
- D: Parcel maps with orthophoto base layer (Staff).
- E: Letter to Rebecca Pfeiffer with State of Vt. DEC, dated 5/23/19, and e-mail response, dated 5/30/19.
- F: Wastewater System and Potable Water Supply Permit WW-5-7936, dated 4/15/19.
- G: Letter to adjoining landowners, mailed certified on June 4, 2019.

**Findings of Fact**

1. Existing conditions: Thomas and Melissa Steele own a 2.1± acre parcel at 846 Maple Street. The lot is developed with a 1-bedroom dwelling that is being expanded into a 3-bedroom single-family dwelling with interior renovations. The lot is in the Medium-Density Residential (MDR) zoning district and a major portion of the lot, excluding the existing house, is within the Special Flood Hazard Area (SFHA) zoning and overlay districts. The eastern boundary of the parcel is Thatcher Brook (Exhibit C).
2. Project: The Applicant proposes to construct a mound septic system within the SFHA, as shown on Exhibit C. The site is served by the municipal water system. The new mound will result in 2,700 cubic feet of fill being placed in the floodplain. There will be a compensatory cut area between the mound and Thatcher Brook, as shown on Exhibit C. An equal volume of material will be removed from this area, as described in Exhibit B.

### 3. Flood Hazard Review:

Article VI (Flood Hazard Area Regulations and Overlay District), Section 604(a) includes the following requirements that apply to this project.

*(1) All development within the Special Flood Hazard Areas shall:*

*(B) Neither reduce the effective flood storage volume of the Special Flood Hazard Area nor create a net increase in the Base Flood Elevation.*

Additional standards found in Section 604(a) that apply to this proposal include:

*(4) All substantial improvements and new construction (including fuel storage tanks) within the Special Flood Hazard Areas shall meet the following criteria:*

*(G) New and replacement sanitary sewer systems and onsite waste disposal systems must obtain a permit from the Agency of Natural Resources prior to commencement of construction.*

Wastewater System and Potable Water Supply Permit WW-5-7936, dated 4/15/19, has been obtain and meets this requirement.

*(10) The placement of fill in Special Flood Hazard Areas, excluding the placement of material in basements for structures with a footprint of 5,000 sq. ft. or less, shall require certification from a professional engineer that the amount and location of the fill will not elevate the Base Flood Elevation by any amount and may require compensatory storage or alternate flood attenuation. NOTE: The placement of fill in Floodways is prohibited.*

See Exhibit B regarding how this requirement is addressed.

*(11) Compensatory storage or alternate flood attenuation methods utilized for development, including the placement of structures and/or fill, shall:*

*(A) Not increase the Base Flood Elevation or decrease Special Flood Hazard Area storage capacity. Development that displaces floodwater storage in the Special Flood Hazard Area must provide compensatory storage to offset the impacts of the proposal, when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge. Volumetric analyses and supporting data must be provided by the applicant and certified by a registered professional engineer.*

*(B) Provide equivalent compensatory flood volume or other flood mitigation features at equivalent elevations to that flood storage capacity being displaced.*

*(C) Compensatory storage and all other flood attenuation measures shall be provided in the same construction season as when the displacement of flood storage volume occurs.*

*(D) Require a certification by a licensed professional engineer supported by hydraulic or hydrologic technical data, or an explanation why an explanation was not required, based on the computer model utilized to develop the Flood Insurance Rate Maps and the results tabulated in the related Flood Insurance Study.*

See Exhibit B regarding how this requirement is addressed.

The e-mail response from Rebecca Pfeiffer, dated 5/30/19, included in Exhibit E, states: "For the proposed system, John Grenier PE, the applicant's engineer, has estimated that approximately 2700

cubic feet of fill will be placed for the construction of the mound system. Using the submitted site plan from the wastewater permit application, it appears that the footprint of the new mound system is approximately 3,000-3,100 square feet. Because FEMA has not provided BFEs for the Thatcher Brook floodplain, we must assume that all of the new mound would be inundated (under water) during the base flood.”

“Additionally, because a BFE has not been provided for this site, it is reasonable to assess the compensatory flood storage design based on a volumetric approach discussed in Section 604(a)(11)(A) & 604(a)(11)(D), rather than providing a much more in-depth hydraulic analysis for the site. When providing a compensatory flood storage design at a site, it is important that the design is able to truly offset the impacted area, and that the compensatory flood storage is able to adequately function as floodplain, rather than a holding/retention area.”

The DRB confirms the following regarding the compensatory cut area:

1) The gradually-sloped compensatory cut area will not intercept the ground water table; 2) the area being excavated for compensatory flood storage will not impact riparian wetlands; and 3) and it will minimize or avoid impacting high quality riparian vegetation.

**Conclusion:**

Based upon these findings, and subject to the conditions set forth below, the Board concludes that the proposal by Thomas and Melissa Steele to construct a mound septic system in the Thatcher Brook floodplain at 846 Maple Street, as presented in application #050-19, and supporting materials, meets the Special Flood Hazard Area development standards set forth in Section 604.

**Decision Motion:**

On behalf of the Waterbury Development Review Board, Tom Kinley moved and Bud Wilson seconded the motion to approve application #050-19 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) The Applicant shall follow the Low-Risk Erosion Protection and Sediment Control measures during construction.
- (3) The Applicant shall submit an application for a Certificate of Completion, including all required submittal requirements, upon completion of the project and related site work, and obtain approval of same, prior to commencing the use or occupancy of the structure.

**Vote:** The motion was approved 4-0.

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

Approved: 7/24/2019  
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(date)

This decision was approved on: July 24, 2019.

State permits may be required for this project. The landowner/applicant is advised to contact Peter Kopsco, DEC Permit Specialist, at 80-505-5367 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.*