

Town of Waitsfield
DEVELOPMENT REVIEW BOARD
Meeting Minutes
Tuesday, August 12, 2008

1. CALL TO ORDER: Brian Shupe, Chair, called the meeting to order at 7:35 p.m. at the Waitsfield Town Office.

MEMBERS PRESENT: Brian Shupe (Chair), Mike Kingsbury, Jamey Fidel, Eleanor D'Aponte.

MEMBERS ABSENT: Hallie Tamez, Mark Sinclair, Gib Geiger.

STAFF PRESENT: Vickie Trihy, Planning and Zoning Administrator.

APPLICANTS AND THEIR REPRESENTATIVES PRESENT: Mary Schramke, president of Four D & K Company.

OTHERS PRESENT: Norman Abend, Sydney Abend, Bonnie McTigue, Gaelic McTigue.

2. Continuation of July 22, 2008 hearing for #3179 Four D and K Company, conditional use review for conversion of single apartment at 20 Bridge Street to two apartments. Parcel #01004 in the Village Business District (§2.01) and the Flood Hazard Overlay District (§2.10).

Brian made introductions and briefly explained what the application proposed and what issues had been discussed at the prior hearing—availability of onsite and offsite parking, need for review of any external changes to building, whether referral to state for flood hazard review was necessary, and whether existing wastewater facilities were adequate for the proposed changes.

Brian addressed the wastewater question first. Mary confirmed that the permit currently in force for the building is the one issued in 1995, a copy of which we obtained from the state, which lists the occupancy as restaurant, shops, and one apartment. Brian asked Mary what the difference in flow would be for the new occupancy, and she replied that she would not know how to calculate that. Brian explained that typically we require applicants to provide verification from the state that the wastewater system is adequate for the proposed change in use. Mary stated that the conditional use review that approved her permit in 1999 included a review of her existing wastewater permit, and since that permit was for two apartments, the permit should be valid for her current application. There was some discussion among the Board as to whether its obligation was to evaluate the information available on previous versus proposed occupancies or require the applicant to document compliance with state wastewater regulations. Mike said a change of use requires a state permit, and Vickie said she'd received an email from the state saying that a change requires a new application. Mary asked if this documentation could be deferred until phase 2 of her renovations, when a dormer will be added to one apartment. Brian said since the change of use was occurring with the current application, not phase 2, we should include this conditional use criteria as part of the current review. He also pointed out that another criteria for

conditional use review is compliance with all state permit requirements. Jamey suggested making approval conditional upon obtaining wastewater approval from the state.

Mary asked why this application was considered a change of use, since she was already permitted for commercial and residential uses, and Brian explained that changing from one apartment to two is a change that affects conditional use criteria such as parking and wastewater, and pointed out that when Mary applied for her waiver of parking requirements in 2005, one of the reasons she gave was that there was only one apartment in the building.

The Board reviewed the capacity calculation information in the existing wastewater permit, which were based on number of day workers and number of bedrooms. Mary stated there were two day workers in the building, and that the apartments will have two bedrooms each, an increase of one bedroom.

Mary was asked if she'd seen the staff report that was sent to the DRB, and was handed a copy of the latest update that had been emailed to her that day.

A discussion of Flood Hazard review ensued. Vickie outlined why she thought this project seemed to require referral to the state for Flood Hazard review. Mary provided more detail on the party walls she is installing, and how the new bathroom was being connected with the existing plumbing. Brian referred the Board to #10, #11, and 12 of the conditional use flood hazard review criteria, which apply to substantial improvements to existing structures. Substantial improvement is defined as costing 50% or more of the total building market value. It was agreed that Phase 1 of this project would not be that extensive, and so would not require the state referral. Brian explained that the definition of "development" in the bylaws is not the same as what FEMA uses—the flood hazard models use substantial improvement as their criteria. In his view the interior work described would not have an effect beyond the building. It was decided that the project would not trigger flood hazard review.

The question was raised again as to whether conversion to condominium ownership required subdivision. The town's attorney had indicated he didn't think subdivision was necessary, but he was still awaiting information about the condo declarations, and Vickie agreed to follow up with him and advise the Board of his findings.

The discussion turned to parking. Mary was asked about the recent changes she made to create additional parking space at the back of her property. She showed the Board a survey she'd found pertaining to creating parking easements with the former owner of the adjacent property, that showed where the pins marking the corners of the property were. She explained that the one marking the southeast corner had evidently been disturbed by grading, so she and her building

manager measured 66 feet from the outside of the fencepost on the southwest corner and cleared additional space for parking on the southeast side.

Brian reviewed the history of the parking requirements for the building from the time it was renovated in 1999 through the waiver that allowed 8 onsite spaces and 2 frontage spaces, for a total of 10 spaces. He reiterated that 11 spaces would be required with the addition of the new apartment. He confirmed with Mary that she says she now has 2 spaces at the back fence, 4 in front of the barn, and 2 on the street, for a total of 8, so she needs 3 more. He explained that the permit for a parking waiver issued in 2005 was based on 8 onsite spaces and an allowance of 2 more based on adequate spaces existing within walking distance, which totals 10 spaces, and asked Mary to confirm that she was asking the Board to allow her to lease the additional 1 space she'll need from the McTigues.

He asked Vickie for information she'd researched on the parking requirements of the two McTigue properties, which were permitted under the 1971 bylaws. It was determined that the number of apartments in the building closest to the bridge had changed from three to two since it was permitted in 1988. Brian stated that with the frontage of those two buildings there appeared to be ample parking for those properties.

Brian stated that since ownership of land can change, leasing of parking spaces was problematic since leases didn't run with the land, and an easement does. He stated that one way to deal with this would be to make the lease a condition binding on future use of the property providing the leased space, in effect reducing the number of spaces for that property's use.

Norman Abend spoke about his concerns with the proposed parking situation for this application: drivers heading for Bridge Street businesses were unlikely to pull into the McTigues' lots; spaces in front of Mary's garage don't have enough room between them and the blue building—should have 24 feet for 9x18 space; those spaces aren't being used, partly because there is a no parking sign on the building, and they are impossible to plow; the fact that leases can be broken; HWVCA providing maintenance for parking that is used by other businesses. Brian explained that Waitsfield does not have a minimum width for travel lanes, it requires only that vehicles can maneuver into and out of parking spaces.

He also acknowledged that there is plenty of parking in the village, but the burden for maintaining it is not allocated fairly. Vickie pointed out that the PC allowed for some leeway from strict parking requirements when it granted the conditional use approval for HWVCA's buildings. Brian added that it has become standard practice to allow flexibility in the village.

Mary stated that her tenants park in the spaces in front of the garage every day. Jamey asked Mr. Abend if he would be as concerned about the parking situation if the spaces in front of the garage and the one Mary proposes to lease from the McTigues could be designated for use by Mary and her building's tenants, leaving the more viable spaces available for public use. Mary pointed out that the two spaces at the back of her lot are used regularly by people going to the businesses in the two buildings owned by HWVCA. Jamey asked whether the parties would be willing to make some financial arrangement for Mary to utilize HWVCA parking in the event it was decided that the two spaces in the municipal lot are disallowed and Mary needs to provide two more spaces offsite, and both Mary and the Abends said no.

It was suggested that signs could be placed on the building making it clear that there are four head-in parking spaces there. Brian said there was also the option of designating with signs that certain spots were for use by employees/tenants, as was done for Inverness in the Brothers Building complex. Jamey said that this would require further deliberation by the Board. Brian restated that an agreement for a space on the McTigues' property that was entered in the land records would be preferable to a lease arrangement.

Mr. Abend told the Board that HWVCA had never been notified of the hearing. Vickie explained that the address Mary had used for HWVCA's envelope was simply "Waitsfield, VT." There was more discussion of parking issues, restating what had previously been discussed. Brian said it was likely that HWVCA's buildings would require fewer parking spaces under the current bylaws than were required by their permit.

There was a motion to close the hearing, it was seconded, and the hearing was closed at 9:15.

The Board's upcoming schedule was briefly discussed. It was agreed that at the August 26th meeting the Board would receive information on the Northern Power application for amendments and decide whether to reconsider the conditions to that agreement. The Board was in agreement that they wanted to know more about the agenda for the three-board summit scheduled for August 25th. Brian informed the Board that he had asked Vickie to do some research to provide some hard data on how difficult the process of obtaining conditional use approval has been, given that so much has been said about that of late. Mike pointed out that a delay in obtaining a decision often arises from applicants providing incomplete information. Evelyn added that often the issues are complex, or there is a history, and to be fair to everyone involved the Board is thorough and doesn't rush to a decision. Jamey thought the Board ought to do some direct public education about the DRB process. He believes the perception that the town is anti-business would be disproven by the actual data. Brian added that in cases where the Board could have simply denied applications, it has opted to participate in an extended design process assisting the applicant to get to the point where the project could be permitted. Brian

pointed out that the public may not be aware that the changes in zoning regs almost always increase the activities that are allowed. Jamey suggested putting this kind of information in the report for Town Meeting.

5. APPROVAL OF MINUTES The minutes from July 22nd were reviewed. A couple of minor grammatical corrections were requested, and the insertion of a missing statement, and Vickie was asked to add a paragraph about the informal discussion the Board had that night with Jason Chojnicki of Full Circle Automotive about his plans for replacing the trailer, which she had omitted because it was not a formal hearing.

6. MEETING ADJOURNED at 9:35 pm.

7. DELIBERATIVE SESSION

Respectfully submitted,
Vickie Trihy