



**WAITSFIELD DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND NOTICE OF DECISION**

Application #:	3674-CU
Land Owner:	Lareau Farm Properties
Applicant:	Clay Westbrook
Property Address:	46 Lareau Road
Parcel Number:	99191.000 in the Agricultural-Residential and Flood Hazard Area Overlay Districts
Meeting Dates:	January 26, 2016
Proposal/Type:	Request to amend their site plan by re-aligning the existing driveway, to repair the barn, and to add a temporary public facility (construction staging area) to their mixed use.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through May 17, 2010:
 - a. Table 2.07 Agricultural-Residential Zoning District (AR).
 - b. Table 2.10 Flood Hazard Area Overlay District (FHO).
 - c. Section 3.02 Access Management.
 - d. Section 3.10 Scenic Road Standards.
 - e. Section 4.10(B)(1) and (C) Public Facilities.
 - f. Section 5.03 Conditional Use Review.
2. Waitsfield Town Plan, as adopted on October 22, 2013.

B. MATERIALS SUBMITTED

1. On January 8, 2016, the applicant submitted a zoning permit application, a conditional use application, fee, and sketch site plans.
2. On February 17, 2016, the state floodplain manager for this region submitted comments on the proposal.
3. On February 17, 2016, the ZA and state floodplain manager exchanged emails on the feedback from the state review.
4. On February 26, 2016, the applicant submitted revised site plan detail and a narrative addressing the state floodplain manager's review and feedback.
5. On March 4 and 7, 2016, the state floodplain manager provided feedback on the revised application material.

C. FINDINGS OF FACT

1. The property is a 25-acre lot identified as parcel #99191.000 and located at 46 Lareau Road in the Agricultural-Residential and Flood Hazard Area Overlay Zoning Districts. The property is approved for mixed commercial use.
2. The proposal is to re-align the existing driveway to provide longer sight distances and easier access to the property. VTrans is repairing the bridge on Route 100, which provides an opportunity to correct the current unfavorable access.
3. During VTrans' construction project on the bridge, the staging area for their contractor is planned to be on the property so the applicant proposes to add this use (a public facility) to their mixed use approval. While temporary, it is expected to exceed the time limitation in Bylaw Section 4.12 so conditional use approval is required.
4. Per Section 4.10(B)(1) and (C), only site plan-related conditional use criteria apply to the review of this proposal.
5. The repairs and exterior alterations to the historic barn are as follows, and no change in use is being sought:
 - a. Re-roofing (which is exempt per Section 6.02);
 - b. New cement foundation;
 - c. New windows and doors as proposed.
6. All exterior lighting will be downcast and shielded.
7. On January 5, 2016, the ZA sent the public notice for the January 26, 2016 hearing on this application to *The Valley Reporter* for inclusion in its January 7, 2016 issue, and mailed it to the applicant and the abutting property owners on January 14, 2016.
8. The public hearing on this application was held on Tuesday, January 26, 2016. The applicant presented the proposal and the hearing was closed. The board stated that a decision would be issued within 45 days pending state floodplain review.
9. Near the end of the 45 day deliberations period, the state floodplain manager provided feedback and deemed the application incomplete. In lieu of denying the application or allowing the 45 day period to expire, the board re-opened the hearing at its February 23, 2016 hearing and continued it to March 8, 2016 in order to allow the applicant time to submit supplemental materials to the state.
10. On February 26, 2016, the applicant submitted a narrative and more detailed site plan, prepared by McCain Consulting, to address the state floodplain manager's questions and concerns. The state floodplain manager provided additional feedback via the ZA on March 4, 2016.
11. On March 7, 2016, the state floodplain manager forwarded the State Historic Register form for Lareau Farm, certifying that it is deemed an historic structure and therefore exempt from the "substantial improvement" calculation and associated requirements in the Flood Hazard Area Overlay District provisions of the Zoning Bylaws.
12. The continued hearing was held on Tuesday, March 8, 2016.

13. At the hearing, the applicant reiterated that the barn is historic and therefore is not required to meet floodplain elevation and wet flood-proofing requirements. He presented the proposed detention swale which would remove at least 440 cubic yards of material from agricultural land outside of the mapped floodplain. The swale would be needed in order to off-set the additional material required for the new access ramp inside the mapped floodplain in order to meet the requirement of "no new fill" inside the floodplain.
14. The applicant explained that the proposed swale is not the preferred option if an alternative can be identified because it would have to be located in prime agricultural farmland. The board was open to an alternative approach which would view the entire bridge project area, from Lareau Farm and south to Munn Field, in terms of fill being relocated from inside to outside of the floodway and floodplain.
15. The applicant agreed to research this alternative and find out the amount of fill being removed from the floodway and floodplain.
16. The board requested final elevation and engineering plans from the applicant for the barn repairs and foundation work, which the applicant submitted on March 16, 2016.
17. The board closed the hearing and stated that a written decision would be issued within 45 days.

D. CONCLUSIONS OF LAW

Based on its review of the application materials, submitted site plans, presented testimony, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes this application as proposed, and when finalized and implemented in accordance with the Conditions of Approval listed below, does meet the conditional use, historic overlay, and flood hazard area criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.

E. DECISION

Application #3674-CU is hereby APPROVED, subject to the following conditions:

1. The applicant shall repair the barn and its foundation according to the elevations and site plans submitted on January 8, 2016 and revised on March 4 and 16, 2016.
2. The applicant may use its property as a temporary staging area (public facility) for the construction related to the Route 100 bridge project. Once the project is completed, the temporary use shall expire.
3. The applicant may relocate the access as proposed on the site plan dated March 4, 2016, except that he shall ensure that no new fill is located in the floodplain. In order to meet this requirement, the applicant shall demonstrate, in writing, either that:
 - a. The existing ramp and new ramp are equal in amount of fill; or

- b. The entire project area (from Lareau Farm south to Munn Field) results in a net loss of fill located within the floodway and floodplain in order to off-set the ~440 cubic yards of fill required for the new ramp; or
 - c. A detention swale is dug in an amount equal to that which will result in no new fill in the floodplain for the new access ramp, and is located as proposed on the March 4, 2016 site plan.
4. Any changes to the site plan or barn elevations shall require prior Development Review Board approval.
 5. This decision is subject to any and all applicable local, state, and federal permit approvals.

Dated at Waitsfield, Vermont this 29th day of March, 2016 for the Town of Waitsfield Development Review Board by:



Chris Cook, Development Review Board Chair

Voting in the Affirmative: Chris Cook, John Donaldson, Chris Jernigan, and Rudy Polwin.

Abstaining: None.

Voting in the Negative: None.

Absent: Gib Geiger and Brian Shupe.

Appeal

Pursuant to Title 24 VSA §4471 and §4472, an interested person who has participated in the review of this application may appeal this decision to the Environmental Division of the Vermont Superior Court by filing a Notice of Appeal directly to the Court, 32 Cherry Street, Suite 303, Burlington, Vermont 05401, by certified mail within thirty (30) days of the date this decision is issued. A copy of the notice must also be sent to the Zoning Administrator or the Municipal Clerk who is required to provide a list of interested persons to the appellant within five days of receipt of the Notice. The appellant is required to send a copy of the Notice, via certified mail, to each interested person.