



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

<b>Application #:</b>	<b>3729-CU</b>
<b>Land Owner:</b>	<b>Town of Waitsfield &amp; Birdy Enterprises</b>
<b>Applicant:</b>	<b>Valerie Capels, Town Administrator</b>
<b>Property Address:</b>	<b>40 &amp; 50 Bridge Street</b>
<b>Parcel Number:</b>	<b>01005.000 &amp; 99108.100</b>
<b>Meeting Dates:</b>	<b>November 15 and December 13, 2016</b>
<b>Proposal/Type:</b>	<b>Request for approval to improve the existing public facility (park) by installing benches, plantings, rip rap, stairs, a railing, a sign, and re-aligning entrance from Bridge Street. Relocate and reduce non-conforming structure.</b>

### **A. GUIDING ORDINANCE and POLICY PROVISIONS**

1. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through September 26, 2016:
  - a. Table 2.01 Village Business (VB) District.
  - b. Table 2.09 Historic Waitsfield Village Overlay (HWO) District.
  - c. Table 2.10 Flood Hazard Area Overlay (FHO) District.
  - d. Table 2.11 Fluvial Erosion Hazard Area Overlay (FEH) District.
  - e. Section 3.08 Non-Conforming Structures.
  - f. Section 5.03 Conditional Use Review.
2. Waitsfield Town Plan, as adopted on October 22, 2012.

### **B. MATERIALS SUBMITTED**

1. On October 25, 2016, the applicant submitted a zoning permit application, a conditional use application, and a 10-sheet project packet including site plans, erosion control plans, and a planting plan.
2. On November 15, 2016, the applicant submitted a revised packet of site plans and design detail (dated November 8, 2016).
3. On December 5, 2016, Weston & Sampson Regional Manager Kenneth Bisceglia, P.E., submitted a “no-rise” certification for the state floodplain review.

4. On December 6, 2016, the PZA received comments from the state floodplain manager, Ned Swanberg.

### **C. FINDINGS OF FACT**

1. The overall project area (~0.03 acres) involves two parcels: one property is a 2-acre condominium containing two buildings (the subject of this project is the land between the park and the blue building), and one property is a 0.02-acre parcel that contained the former barber shop. The parcels are identified as #99108.100 and 01005.000, respectively, and are located in the Village Business Zoning District as well as the Historic Village, Flood Hazard Area, and Fluvial Erosion Hazard Area Overlay Districts.
2. The proposal is to improve the existing public facility (a park) created when Tropical Storm Irene demolished the former barber shop building in 2011. The barber shop had been converted to an artist studio/gallery in 1979. The town purchased the property from the previous owner following its destruction.
3. The Zoning Bylaws prohibit rebuilding the former artist studio building which was approved in #3451-CU, because more than 12 months have passed since its destruction and construction to rebuild the structure was never commenced. Therefore, approval #3451-CU has expired.
4. The foundation of the demolished building remains on-site and constitutes an existing, non-conforming structure per Zoning Bylaw Section 3.08.
5. The proposal is to enhance and improve the existing public facility (a park), which is a conditional use in the Village Business District. State statute allows the municipality to review the site plan-related conditional use criteria only. The excavation and grading work is a conditional use in the Flood Hazard Area Overlay District.
6. The applicant proposes to re-grade the entire park area which is bounded by the retaining wall along Bridge Street on the northern side, the streambank on the eastern side, the existing walkway on the western side, and the existing tree on the southern side (towards the gravel parking area).
7. The applicant proposes to remove the crumbling foundation and existing rip rap which abuts the retaining wall along Bridge Street and the existing walkway.
8. The applicant proposes to widen the sidewalk to 5.5' at the Bridge Street entrance and extend the sidewalk and existing brick pavers to promote pedestrian access and circulation. Stone steps and a handrail will be installed instead of the existing staymat ramp to provide better accessibility. Stacked natural stone is proposed to bolster both sides of the new stairway. The walkway to the parking area from Bridge Street will be crushed stone and will provide ADA-compliant access to the park.
9. The proposal replaces or enhances existing cement and staymat materials with more natural materials such as stone, boulders, or wood to soften the appearance of the area and enhance the surrounding features. The planting plan can be found on Sheet C102.

10. The applicant proposes to install two bollard lights on the stairs; one on the western side of the top stair, and one on the eastern side of the bottom stair.
11. The applicant proposes to relocate and reduce in height the existing free-standing sign containing information about the Mad River Path.
12. The proposal includes removing the existing foundation; this non-conforming structure will be replaced by benches and a trash/recycling receptacle which will be relocated further back from Bridge Street.
13. The 50 Bridge Street property is non-conforming in terms of lot coverage, as well. The existing impervious cover on this parcel is 344 square feet. As a result of this project, the proposed impervious cover will become 289 square feet, thus reducing the non-conforming lot coverage amount.
14. The wood (pine) screen panel on the existing retaining wall along Bridge Street will be anchored as detailed on Sheet C503.
15. The bollards, sign, benches, and trash/recycling receptacles will be anchored as depicted on Sheet C504. The large boulders for seating will be subgrade as depicted on Sheet C504.
16. The Flood Hazard Area provisions prohibit fill in the floodway, and this standard is satisfied by the proposed amount of materials being removed (the crumbling foundation, ramp, and rip rap) and being added (stone, boulders, flagstone paving, and larger rip rap). The proposal overall will result in a net removal of six cubic yards from the parcel.
17. The proposed erosion and sediment control plan and stormwater management measures will improve drainage and water quality of runoff into the Mad River.
18. The public hearing on this application was held on Tuesday, November 15, 2016.
19. The abutter notices were mailed on October 28, 2016, except that it was hand-delivered to Myndy Woodruff on the same date. The notice appeared in the October 27, 2016 issue of *The Valley Reporter*.
20. The ZA submitted the entire application packet and site plan details to the state floodplain reviewer, Ned Swanberg, via email on November 8, 2016 with a request to provide whatever comments possible by the hearing.
21. The board opened the public hearing on November 15, 2016. The Project Manager, Isaac Wagner, presented the proposal and described the updated plans in detail with design engineer, Steve LaRosa of Weston & Sampson.
22. The applicant requested flexibility in the decision, particularly for the following items: the entrance from Bridge Street may be altered slightly to maximize safety, the railing may be redesigned to address potential ADA-compliance concerns (as a consultant must be hired as part of the grant funding requirements), and the placement of lighting on the stairs to maximize safety.
23. The board continued the hearing to Tuesday, December 13, 2016, in order to receive comments from the state floodplain manager, Mr. Swanberg.

24. On December 5, 2016, Mr. LaRosa submitted to the PZA a stamped letter from a professional engineer at his firm certifying that the project as proposed will not create any rise to flood levels during a base flood, which satisfies the requirement in Zoning Bylaw Section 5.03(E)(3 and 5).
25. On December 6, 2016, Mr. Swanberg submitted to the PZA comments, which satisfy Zoning Bylaw Section 6.01(B)(4).
26. The board opened the continued hearing on Tuesday, December 13, 2016. They received Mr. LaRosa's letter and Mr. Swanberg's comments. The board stated that it would issue a written decision and closed the hearing.
27. The board finds that the no-net fill requirement in Zoning Bylaw Section 5.03(E)(3) has been satisfied by the proposal.
28. The board finds that none of the proposed changes will require further armoring of the bank or cause any further loss of the ability for the Mad River to adjust laterally, as required by the Fluvial Erosion Hazard Area provisions.
29. The board finds that the proposed land development will decrease the degree of existing non-conformity.
30. Finally, the board finds that all proposed materials and changes appear to be reasonably safe from flood damage and are anchored, thereby satisfying Zoning Bylaw Section 5.03(E)(7).

#### **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, Fluvial Erosion Hazard Area, Flood Hazard Area, and non-conforming structure criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.

#### **E. DECISION**

Application #3729-CU is hereby APPROVED, subject to the following conditions:

1. The proposed, final plans dated November 8, 2016 ("final plans") are approved.
2. The applicant shall anchor all materials and structures as proposed in the final plans.
3. The applicant may install up to two (2) downcast, shielded bollard lights on the stairs. The light temperature shall be warm and effectively match the street lamps.
4. Black metal or natural wooden materials shall be used for all proposed structures, such as the retaining wall treatment, the railing, the trash receptacles, the benches, and the sign kiosk. The railing shall be a simple, rounded, black pipe or metal rail to match the railings in front of the Historic Waitsfield House and Joslin Memorial Library (on the Bridge Street side), or a wooden rail.

5. The applicant shall not stripe lines on the pavement.
6. The sign kiosk shall be black, not white.
7. Minor changes may be approved through administrative approval pursuant to the Zoning Bylaw; these include:
  - a. Railing design within the parameters outlined above, in order to maximize safety and ADA compliance;
  - b. Landscaping details and species;
  - c. Bridge Street entrance to maximize safety and visibility for pedestrian and vehicular traffic; and
  - d. Light bollard placement in order to maximize safety.
8. At the completion of the project, the applicant shall provide to the PZA and floodplain manager, Mr. Swanberg, as-built topographic information as needed to confirm the net removal of material.
9. This decision is subject to any and all applicable local, state, and federal permit approvals and codes.

Dated at Waitsfield, Vermont this 21<sup>st</sup> day of December, 2016 for the Town of Waitsfield Development Review Board by:



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Brian Shupe, Development Review Board Vice Chair

Voting in the Affirmative: John Donaldson, Gib Geiger, Chris Jernigan, Michael Kingsbury, and Brian Shupe.

Abstaining: Chris Cook.

Voting in the Negative: None.

Absent: Rudy Polwin.

### 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.**