



WAITSFIELD DEVELOPMENT REVIEW BOARD FINDINGS OF FACT AND NOTICE OF DECISION

Application #:	3718-CU
Land Owner:	Crosspoint Assoc.; Mad River Green Shopping Center
Property Address:	100 Mad River Green
Parcel Number:	99152.000
Meeting Dates:	September 27, 2016
Proposal/Type:	Request to amend decision #2388 (Conditions 3, 8, 9) to cure a screening violation by allowing for a fence in lieu of landscaping around the dumpsters by Shaw's.

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 2.03 Irasville Village Zoning District.
 - b. Section 5.03 Conditional Use.
2. Waitsfield Town Plan, as adopted on October 22, 2012.

B. MATERIALS SUBMITTED

On September 6, 2016, the applicant submitted a zoning permit application, a conditional use application, and a proposed sketch of the fence location.

C. FINDINGS OF FACT

1. The property is a 16.94 acre +/- parcel with an existing shopping center located at 100 Mad River Green. The parcel is identified as 99152.000 and is located in the Irasville Village Zoning District.
2. The applicant proposes to construct a 55' x 55' x 8' tall fence around the existing cement pad holding two dumpsters. The pad formerly contained a dumpster and a compacter, which has been replaced by a second dumpster.
3. The hours of operation of the dumpsters and lack of screening required by approval #2388, attached, were the source of a complaint the PZA received in June 2016. The hours of operation have apparently ceased to be a problem after the property manager clarified the hours with the vendor. The lack of screening, however, constitutes a violation of this prior approval and the applicant is seeking to resolve several problems with the fence.

4. The approval #2388 contains Conditions 3, 8, and 9 related to the dumpster hours, screening, and installation of a fence which requires the board's prior approval.
5. The public hearing was held on Tuesday, September 27, 2016. The Waitsfield abutting property owners were sent notice on September 8, 2016 and it appeared in the *VR* the same day.
6. The applicant presented the proposal. He stated that the proposed fence is to achieve three goals: come into compliance with the prior approval, keep bears out, and reduce or eliminate unauthorized trash disposal. He presented options for fence material, including a natural wood stockade fence and a white plastic stockade fence.
7. The applicant submitted a revised site plan for the fence at the public hearing. It included three access gates: two 16' gates at each end for the vendor's truck access and a 12' gate in the middle of those two gates for tenant access (see approved site plan). The dumpsters inside the locked fence area will be secured with a carabiner hook but not locked.
8. Two abutting property owners, Michael Lesser and Bob Welter, attended the hearing to provide feedback. Valerie Welter could not attend but submitted written comments. They are concerned about the noise and traffic in the general area, and the expected growth and development that will make it worse. They expressed appreciation for the effort that the applicant has been and is taking to bring the shopping center into compliance and to address their concerns.
9. The board preferred natural wood for the proposed fence, as did the abutters.
10. The board found that the proposed fence constitutes adequate screening in lieu of vegetation and plantings required in approval #2388. While the original decision allowed for installation of a fence instead of landscaping for screening with prior Development Review Board approval, the need for further screening below tree canopies, bear problem, and unauthorized disposal problem all present a change in circumstances that warrant a fence and change in prior conditions.
11. The board stated that it would issue a written decision and closed the hearing.

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 criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.


E. DECISION

Application #3718-CU is hereby APPROVED, subject to the following conditions:

1. The fence may be up to 55' x 55' and 8' tall. The fence shall be constructed of natural wood.
2. The existing road access gate shall be locked at the owner's discretion.
3. The three access gates in the new fence shall remain locked.
4. All conditions from the prior approval #2388 that are not affected by this approval shall remain in full force and effect, including the hours of operation (8am to 4:30pm).

5. This decision is subject to any and all applicable local, state, and federal permit approvals and codes.

Dated at Waitsfield, Vermont this 21st day of OCTOBER, 2016 for the Town of Waitsfield Development Review Board by:



Chris Cook, Development Review Board Chair

Voting in the Affirmative: Chris Cook, Chris Jernigan, Michael Kingsbury, Rudy Polwin, and Brian Shupe.

Abstaining: None.

Voting in the Negative: None.

Absent: John Donaldson and Gib Geiger.

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.