



WAITSFIELD DEVELOPMENT REVIEW BOARD FINDINGS OF FACT AND NOTICE OF DECISIONS

Application #: SUB 17-05 & #3750-CU
Land Owner: Howard & Judy Saffan
Applicant's Rep: McCain Consulting, Inc.
Property Address: 492 Bowen Road
Parcel Number: 36004.000 & 36004.003 in the Forest Reserve District
Meeting Date(s): May 23, 2017
Proposal/Type: Requesting Sketch Plan and Final Plan approval to amend a prior site plan and subdivision approval(s) to adjust the lines between Mr. Saffan's two lots; one will become a 48.85 acre lot with existing single family dwelling and the other will become a 110 acre lot. The applicant also proposes to relocate the existing parking area for the recreation trails (an existing conditional use); a new 4-season, 15-space parking area is proposed. Potential locations for a future 3-season parking area are identified for reference but not part of this application.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Waitsfield Subdivision Regulations, amended on January 21, 2008.
2. Waitsfield Town Plan, as adopted on October 22, 2012.
3. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through September 26, 2016:
 - a. Table 2.08 Forest Reserve Zoning District (FR).
 - b. Section 3.09 Parking Requirements.
 - c. Section 3.12 Surface Water Protection Standards.
 - d. Section 5.03 Conditional Use.

B. MATERIALS SUBMITTED

1. On April 28, 2017, the applicant's representative submitted the following materials:
 - a. A completed subdivision application and fee;
 - b. A preliminary Before & After site plan (sheet P-1); and
 - c. A preliminary Parking Plan (sheet P-2).

2. On May 5, 2017, the applicant's representative submitted a certificate of service for notification to abutting property owners.

C. FINDINGS OF FACT

1. The property involves two parcels owned by the Saffans: merged Lots 1 and 2 (128.48 acres; contains an existing 6-car parking area for recreation trail access, a single family dwelling, and an attached garage), and Lot 3 (29.54 acres and vacant). The parcels are identified as #36004.000 and #36004.300, respectively.
2. The property has been subdivided in the past: the original subdivision was #SUB 06-01 and a more recent amendment to merge Lots 1 & 2 was #SUB 15-03.
3. The applicant proposes to adjust the boundary line between the two parcels so that merged Lots 1 & 2 decreases by 79.65 acres in order to increase Lot 3 by that same amount. Merged Lots 1 & 2 is currently 128.5 acres and will become 48.85 acres; this parcel will be retained by the applicant. Lot 3 will become 110 acres; following this subdivision, the applicant will convey this parcel to the Town as part of the Scrag Forest Gateway initiative.
4. The applicant requests that the board hold Sketch and Final Plan Reviews in the same evening if this proposal is determined to be a "minor" subdivision.
5. The applicant proposes to decommission the existing 6-car parking area and construct a new 15-car, 4-season parking area on Lot 3. The applicant identifies potential locations for a future 15-car, 3-season parking area but is not requesting approval at this time.
6. The applicant requests that prior subdivision approvals and their conditions be reviewed in light of this proposal; the property will no longer be developed as originally proposed.
7. The public hearing was held on Tuesday, May 23, 2017. The abutting property owners were sent notice on May 3, 2017 and the notice appeared in the May 4, 2017 issue of *The Valley Reporter*.
8. The board opened Sketch Plan Review.
9. The open space designation on both lots would effectively remain; the property is located in the Forest Reserve District so development is prohibited at this elevation. However, it should remain identified on the site plan.
10. Access to the 15-space parking area is provided by extending Bowen Road. This is preferable to access from other points, including Ryle Road, because Bowen Road has already been improved; the road was not widened but brought up to state standards. Access from other areas without parking is not workable.
11. The shape of the adjusted boundary line is dictated on the northeastern side by a stream and its streambanks and follows the topography of the land; the southern/rear adjusted boundary line is located so Lot 3 maintains 110 acres for conservation purposes.

12. The 15-space parking area is located within the required 90' buffer from the top of the streambank, but Section 3.12(B)(3 and 4) allow for this disturbance for trails and a public recreation facility (parking).
13. The 22' x 140' parking area will be constructed using gravel and a few yards of fill.
14. The applicant and Town have entered into a road maintenance agreement for Bowen Road.
15. The existing 6-space parking area will be decommissioned by doing earthwork to render it physically impossible to park in this location.
16. Traffic on Sherman and Bowen Roads will likely increase due to the Town's future purchase of Scrag Mountain Gateway. There is no basis to assume the pullouts on Bowen Road and the 15-space parking lot will not be adequate to meet this expected demand. If the parking area is larger than necessary, the unused portion of the gravel parking area will return to grass and reclaimed by nature.
17. The proposal represents a measured approach to expand and formalize access and traffic on Bowen Road.
18. The relocated parking area will not alter the character of the area and represents a minimal impact on the existing forest.
19. The board determined that this was a "minor" subdivision because it was amending a prior subdivision approval and site plan. They closed Sketch Plan Review and opened both Final Plan Review and the conditional use hearing.
20. The board considered the request to amend prior approvals and discussed the conditions in #SUB 06-01 in turn as follows:
 - a. Condition 1 is rendered moot because there are only two owners and one developed lot so no association exists; the escrow funds may be released.
 - b. Condition 2 has been satisfied.
 - c. Condition 3 will become moot once the Town owns the property.
 - d. Condition 4 has been satisfied.
 - e. Condition 5 will become moot; there is no longer a building site and the existing system is not gravity.
 - f. Condition 6 remains in full force and effect even though the Forest Reserve District standards would prohibit development at this elevation.
 - g. Condition 7 has been satisfied.
 - h. Condition 8 remains in full force and effect.
 - i. Condition 9 remains in full force and effect.
 - j. Condition 10 will become moot.
 - k. Condition 11 remains in full force and effect.
 - l. Condition 12 remains in full force and effect.
21. The board closed Final Plan Review and the conditional use 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 criteria of the Town of Waitsfield Zoning Bylaws and is in conformance with the Waitsfield Town Plan.

Based on its review of the application materials, submitted site plans, presented testimony, supporting materials, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes that the proposed site plan amendment is consistent with the purposes of the Forest Reserve Zoning District, as defined in Waitsfield Zoning Bylaws, and does meet the Subdivision Regulations.

E. DECISION

Application #3750-CU is hereby APPROVED and FINAL PLAN APPROVAL for subdivision application #SUB 17-05 is hereby granted, subject to the following conditions:

1. The applicant shall obtain approval prior to constructing a 3-season parking area or any other parking.
2. The prior approval #SUB 06-01 is amended as agreed above in Finding of Fact 20. All other conditions and prior approvals not amended herein shall remain in full force and effect.
3. In accordance with the Act [Section 4463], within 180 days of final plan approval under Section 2.4(C), the applicant shall file a copy of the final subdivision plat, for recording in the Town in conformance with the requirements of 27 V.S.A. Chapter 17. The size of the mylar plat shall be 18" x 24" for recording. Approval of subdivision plats not filed within 180 days shall expire, unless the subdivider requests and receives a 90-day extension from the Zoning Administrator based upon a determination by the Zoning Administrator that necessary final municipal, state, or federal permits are pending but have not been issued.
4. Prior to plat recording, the plat must be signed by two members of the Development Review Board who participated in the issuing the applicable decision of approval. The mylar plat shall contain the following signature line, as required by the Subdivision Regulations:

"The subdivision depicted on this plat was duly approved, as conditioned, by the Waitsfield Development Review Board in accordance with the Waitsfield Subdivision Regulations and all other applicable laws and regulations on the ____ day of _____, 20__ . Subdivision Permit # ____.

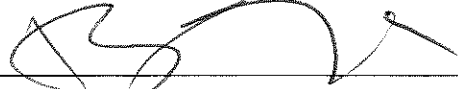
Signed: _____

Signed: _____ [for the Development Review Board]."

5. This decision is subject to any and all applicable local, state, and/or federal permits.

Final Plan Approval is based on the submissions and testimony provided during the Sketch Plan and Final Plan Review.

Dated at Waitsfield, Vermont this 12 day of June, 2017 for the Town of Waitsfield Development Review Board by:



Brian Shupe, Development Review Board Acting Chair

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

Voting in the Negative: None.

Absent: Chris Cook.

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.

