



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

Application #:	3695-CU
Land Owner:	Howard Saffan
Applicant:	William Moore
Property Address:	492 Bowen Road
Parcel Number:	36004.000 in the Forest Reserve Zoning District
Meeting Dates:	May 10, 2016
Proposal/Type:	Request for approval to clear trees in an area greater than allowable without DRB review per #SUB 06-01 Condition 9(b-c) and #SUB 15-03 Condition 5; relocate proposed barn within approved building envelope; and allow second access to barn per Green Mountain Power.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through May 17, 2010; Table 2.08 Forest Reserve District (FR).
2. Waitsfield Subdivision Regulations, amended on January 21, 2008.
3. Waitsfield Town Plan, as adopted on October 22, 2016.

B. MATERIALS SUBMITTED

1. On April 15, 2016, the applicant submitted a zoning permit application, a conditional use application, and a proposed site plan.
2. On April 20, 2016, the owner emailed the ZA authorizing the applicant to act as his agent for purposes of this proposal.

C. FINDINGS OF FACT

1. The property is located at 492 Bowen Road, and consists of a single-family dwelling for which a site plan and design plan were approved in #SUB 15-03.
2. The applicant proposes to clear trees within several areas north and northwest of the existing house site, relocate the proposed barn northeast of the existing house site, and maintain the second access to the barn per Green Mountain Power's requirement that the power pedestal be accessible year-round.
3. The proposed tree clearing and thinning areas total more than 0.10-acre, so the prior decisions' conditions below trigger conditional use review.
4. The applicant proposes, from west of the existing house site to the north, respectively:
 - a. To clear trees within a 0.33-acre area marked on the site plan; and
 - b. To clear trees between the driveway and existing electrical box; and

- c. To thin trees east of the electrical box (marked as the proposed 0.8-acre clearing area on the site plan); and
 - d. To clear trees north of the existing house site where the proposed leach field appears on the site plan.
5. Approval #SUB 06-01 Condition 9 reads, in part, as follows:
"9...To ensure that proposed development is minimally visible from off site, and does not stand in contrast to surrounding landscape patterns and features or serve as a visual focal point:

(b) The applicant will seek a conditional use permit for any clearing or multiple separate clearings totaling over 0.10 acre.

(c) Clearing associated with utilities, driveways, trail easements, road improvements, the parking area, and log landing shall maintain closed canopy conditions to the greatest extent possible."

5. Approval #SUB 15-03 Condition 5 reads as follows:
"5. The applicant shall propose to the Development Review Board a plan for any proposed tree clearing, or multiple separate clearings, totaling over 0.10 acre for prior Conditional Use approval."
6. The board scheduled a site visit to the property for 6:15pm on Tuesday, May 10, 2016. The applicant flagged the proposed tree cutting areas for the board, except the areas under 0.10 acre in size. The applicant described for the board members the proposed tree clearing versus thinning plans as stated in Finding of Fact 4 above. The applicant pointed out where the barn is proposed to be relocated due mostly to aesthetic concerns when entering the property via the driveway; the new location will hide it better from view.
 7. At the site visit, the board surveyed the proposed areas from several vantage points on the property.
 8. The public hearing was held on Tuesday, May 10, 2016. The abutting property owners were sent notice on April 21, 2016 and the notice appeared in the April 21, 2016 *Valley Reporter* issue.
 9. The applicant reiterated the tree clearing and thinning areas that are proposed. He explained that some clearing had happened prior to building because the state stormwater pond was relocated.
 10. The immature trees which are lower than the elevation at which the existing house and proposed barn are located on will eventually grow and create another layer of screening from lower elevations.
 11. The board found that the proposed relocation of the barn is within the approved building envelope and is preferable to the former location due to the stated aesthetics. The footprint will not exceed the maximum that was approved in #SUB 15-03.
 12. The board found that the second driveway for Green Mountain Power will not have a negative impact on the overall aesthetics of the site.
 13. The board found that the proposed tree clearing and thinning areas, as described at the site visit, will lead to the house and proposed barn being minimally visible from off-site and will not make the house and proposed barn a visual focal point. There will be no adverse impact on the surrounding landscape or properties.

14. The board closed the hearing and stated that a written decision would be issued within 45 days.

D. CONCLUSIONS OF LAW

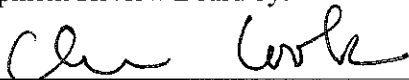
Based on its review of the application materials, submitted site plans, presented testimony, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes this application as proposed, and when finalized and implemented in accordance with the Conditions of Approval listed below,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

E. DECISION

Application #3695-CU is hereby APPROVED, subject to the following conditions:

1. The applicant shall only clear and thin trees as proposed on the site plan dated April 15, 2016, and clarified at the site visit. (See Finding of Fact 4, above.)
2. The applicant may relocate the proposed barn as depicted on the site plan dated April 15, 2016.
3. The applicant may maintain the second driveway per Green Mountain Power's requirement.
4. The applicant shall obtain prior Development Review Board approval for any further changes to the site plan or for any more tree clearing or thinning areas as required by previous approvals.
5. This decision is subject to any and all local, state, and federal permits.

Dated at Waitsfield, Vermont this 17th day of May, 2016 for the Town of Waitsfield
Development Review Board by:



Chris Cook, Development Review Board Chair

Voting in the Affirmative: Chris Cook, Gib Geiger, Chris Jernigan, and Rudy Polwin.

Abstaining: None.

Voting in the Negative: None.

Absent: John Donaldson 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.