

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

Application #:	3667-CU-b
Land Owner:	Sellersonian, LLC
Applicant:	Dave Sellers of the Madsonian Museum
Property Address:	45 Bridge St.
Parcel Number:	01003.000 in the Village Business, Historic, Flood Hazard Area, and Fluvial Erosion Hazard Area Overlay Districts
Meeting Dates:	October 27 & November 17, 2015; January 12 & 26, and continued until closed on May 10, 2016
Proposal/Type:	Request for approval to construct a 360 square foot addition towards the Mad River with a flood-proofed foundation.

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 2.01 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 Nonconforming structures.
 - f. Section 3.12 Surface water protection.
 - g. Section 5.03 Conditional Use Review.
2. Waitsfield Town Plan, as adopted on October 22, 2013.

B. MATERIALS SUBMITTED

1. On September 25, 2015, the applicant submitted a zoning permit application, a conditional use application, site/sketch plans, and fees.
2. On October 1, 2015, the ZA submitted the Development Review Submission Checklist form sent to the state floodplain manager, the National Register of Waitsfield's Historic District information for the property, and the zoning map of the property.
3. On October 5, 2015, the applicant submitted the signed Posting Sign Protocol form and a narrative describing in more detail the design of the proposal.
4. On November 1, 2015, the state floodplain manager submitted comments via email to the ZA.

5. On December 18, 2015, the state floodplain manager submitted additional comments via email to the ZA, following a site visit.
6. On January 12, 2016, the applicant submitted the following:
 - a. A narrative describing the project in more detail;
 - b. A determination from the Vermont Division for Historic Preservation that the proposed addition and improved structure will maintain its historic designation; and
 - c. A revised site plan identifying top of bank, fluvial erosion hazard area elevation, and flood hazard area elevation.
7. On January 25, April 21, and May 9, 2016, the applicant and his representative emailed the ZA requesting continuances.

C. FINDINGS OF FACT

1. The property is a 0.92+/- acre, mixed use (museum and office space) parcel located at 45 Bridge Street. The property is located in the Village Business, Historic, Flood Hazard Area, and Fluvial Erosion Hazard Area Overlay Zoning Districts.
2. The applicant proposes to construct a 600 square foot dormer on the rear side of the existing structure. This is an exterior alteration to a contributing structure on the National Registry, which requires both Development Review Board and state review.
3. The applicant also proposes to construct a 360 square foot addition to change the foundation from field stone to concrete with flood-proofing measures and to add a fire stairway.
4. The Flood Profile Maps illustrate that the base flood elevation for this area of the floodplain is 696 feet. This was confirmed by the regional floodplain specialist following Tropical Storm Irene in 2011 and it has not been changed since.
5. The applicant represents that the addition will be setback 70' from the top of the bank of the Mad River. The slope of the riparian area will determine the setback required by the Zoning Bylaws.
6. The ZA submitted the application packet to the state for floodplain review, as required by the Zoning Bylaws, on October 1, 2015. The regional specialist, Sacha Pealer, stated that she would return an evaluation with comments and proposed conditions as soon as possible.
7. The ZA submitted supplemental material for the board's consideration: the National Register for Waitsfield's Historic Village District information to the board, and a zoomed-in portion of the Zoning Map for this property, which indicates that the property is located in both the FEMA-mapped floodplain and fluvial erosion hazard areas.
8. The public hearing on this application was held on Tuesday, October 27, 2015. The applicant was traveling out of the country and requested a continued hearing. The board opened the hearing and continued it to November 17, 2015.

9. The state floodplain manager for the region emailed the review on this application on November 1, 2015.
10. The board opened the hearing on November 17, 2015. The applicant presented the proposal. The board closed the hearing for the dormer only, and continued the hearing on the proposed addition to January 12, 2016, in order to hold a site visit with the board, the applicant, and the state floodplain manager.
11. The board members, applicant, ZA, state floodplain manager (former and incoming), and several members of the public attended a site visit to 45 Bridge Street on December 11, 2015. The applicant described his plans; the state floodplain managers and board members had questions to clarify the plans. The state floodplain manager explained the FEMA and local floodplain regulations and standards.
12. The state floodplain manager submitted comments, following the site visit, via email to the ZA on December 18, 2015. The ZA forwarded them to the applicant via email the same day, and the applicant has not yet submitted any new, revised plans.
13. The public hearing on this application was continued on January 12, 2016.
14. The applicant had his representative, Gunner McCain from McCain Consulting, present the revised site plan and survey, which now identify floodplain elevations, top of bank, and other features requested by the state floodplain manager.
15. The board, ZA, and applicant discussed the potential conflicts the proposal had with Bylaw provisions, including the stream setback and expansion of non-conforming structures.
16. The board requested that the applicant and Mr. McCain revise the drawing, if needed, and review the provisions which apply to this project in order to come up with a workable proposal. The hearing was continued to January 26, 2016.
17. The applicant requested the hearing be continued in order to allow more time for revisions to the proposed plan; the board opened and continued the hearing at every meeting until Tuesday, May 10, 2016.
18. On Monday, May 9, 2016, the applicant emailed the ZA and stated that he was planning to look into an appeal of the stream setback.
19. At the May 10, 2016 public hearing, the board closed the hearing on the proposed addition (#3667-CU-b) and stated that a written decision would be issued within 45 days.

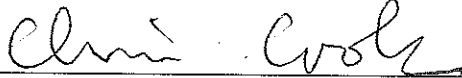
D. CONCLUSIONS OF LAW

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 not meet the conditional use, non-conforming structure, or stream setback criteria of the Town of Waitsfield Zoning Bylaws and therefore is not in conformance with the Waitsfield Town Plan.

E. DECISION

Application #3667-CU-b (the proposed addition portion of the original application only) is hereby DENIED.

Dated at Waitsfield, Vermont this 3rd day of June, 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 Brian Shupe.

Voting in the Negative: None.

Recuse: Rudy Polwin.

Absent: John Donaldson.

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 Vermont Environmental Court by filing a Notice of Appeal directly to the Environmental Court, 255 North Main Street, Barre, VT 05641, 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.