



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

<b>Application #:</b>	<b>3760-CU</b>
<b>Land Owner:</b>	<b>Priscilla Wilson</b>
<b>Property Address:</b>	<b>3962 Main Street</b>
<b>Parcel Number:</b>	<b>99048.000 in Agricultural-Residential District</b>
<b>Meeting Date(s):</b>	<b>July 11 &amp; 25, 2017</b>
<b>Proposal/Type:</b>	<b>Request to expand an existing, non-conforming structure by 1) expanding the deck on the rear side of the existing single-family dwelling, and 2) constructing a new ramp on the front of the single-family dwelling to allow for ADA accessibility.</b>

**A. GUIDING ORDINANCE and POLICY PROVISIONS**

1. Waitsfield Town Plan, as adopted on October 22, 2012.
2. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through September 26, 2016:
  - a. Table 2.07 Agricultural Residential District.
  - b. Section 3.08 Non-Conforming Structures.
  - c. Section 3.10 Scenic Road Standards.
  - d. Section 3.12 Surface Water Protection Standards.
  - e. Section 5.03 Conditional Use.
  - f. Section 6.02 Exemptions.

**B. MATERIALS SUBMITTED**

1. On June 14, 2017, the applicant submitted a cover letter, zoning permit application, conditional use application, and proposed site plan for the deck addition and access ramp.
2. On July 5, 2014, the applicant submitted a signed Posting Sign Protocol form.

**C. FINDINGS OF FACT**

1. The property is a 0.26 acre lot containing an existing, non-conforming single family dwelling, an attached garage, and a small deck. It is identified as parcel #99048.000 in the Agricultural-Residential Zoning District.
2. The applicant originally proposed to expand the existing, non-conforming structure by 1) constructing a new ADA-compliant ramp for access in the front, and 2) expanding the existing deck in the rear. At the continued public hearing on July 25, 2017, the applicant

withdrew the proposed ramp and instead plans to install a lift in the garage for ADA access.

3. The deck will be constructed with wooden materials (decking and rails).
4. The existing, non-conforming portion of the structure (the dwelling, garage, and small deck) totals 1,739 square feet. The applicant proposes 514 square feet of new construction. The proposed additions comply with Section 3.08(A)(3)(a) because it increases the structure by 29.6%, which is less than the 50% maximum.
5. The existing structure's greatest pre-existing encroachment is the garage's stream setback which is 15 feet; the proposed addition would not extend beyond this point. Therefore, the proposed addition complies with Section 3.08(A)(3)(c) and Section 3.12(E).
6. Lighting exists on the front façade of the structure and a downcast, shielded light for access to the proposed deck is proposed.
7. On June 14, 2017, the PZA exempted from permitting requirements 1) a fence around the perimeter of the residential property per Section 6.02(E) provided it does not extend in the front yard beyond the existing single-family dwelling so the existing sight distances for vehicular traffic are maintained, and 2) a gravel turnout area off the existing driveway per Section 6.02(D).
8. The Development Review Board issued a prior approval on this property to expand the non-conforming structure by constructing a 100 square foot deck on the rear of the property. The deck was never constructed and a zoning permit was issued so that prior approval expired; the applicant requests a larger addition than was approved, as well. However, some of the Findings of Fact may be binding on this application.
9. The public hearing was held on Tuesday, July 11, 2017. The abutting property owners were sent notice on June 20, 2017 and the notice appeared in the June 22, 2017 issue of *The Valley Reporter*.
10. The applicant presented the proposed addition to the deck and also stated that she was considering a lift inside the garage in lieu of the proposed ramp in front of the house. The PZA suggested she keep it in the application in case at some time in the future she prefers to install a ramp.
11. The members asked about the size of the proposed deck expansion, roof pitch, and discussed the stream setback encroachment provisions versus the non-conforming structure provisions in the Bylaws. They asked the applicant about stormwater controls, and she said that she would be agreeable to installing gutters. The applicant was also agreeable to considering a shed roof for the covered deck instead of a gable roof.
12. The board continued the hearing in order to receive a revised proposal on the deck roof, and to visit the site. They scheduled a site visit for 6:30pm on Tuesday, July 25, 2017 and continued the hearing to 7pm on that same day.
13. On July 25, 2017, the board members and the applicant met at the site. They observed the conditions of the property, the stream, the existing structures, and walked out the proposed dimensions of the expanded deck.

14. The board continued the public hearing on July 25, 2017 following the site visit. The applicant formally withdrew her proposed ADA ramp in the front of the single-family dwelling.
15. The board discussed the stormwater concerns and the applicant agreed to reduce the size of the covered portion of the proposed deck to align with the southern edge of the existing dormer. The applicant submitted a revised design proposal for the deck and roof, replacing the former gable pitched roof for a shed roof. She restated that she would be agreeable to installing gutters in order to direct drainage off of the roof to some sort of water collection area, such as a dry well or rain garden, on the southern (Garden Center) side of the property.
16. The board clarified that the covered portion of the deck would be reduced and the applicant agreed. They also restated that they would likely carry over the condition from the prior approval, which prohibited use of herbicides on the property, and the applicant agreed to this as well.
17. The board closed the hearing and stated that they will issue a written decision 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 #3760-CU is hereby APPROVED, subject to the following conditions:

1. The applicant may enclose a portion of the southern end of the expanded deck. If it is enclosed, the applicant shall:
  - a. Install a shed roof versus the originally proposed gable roof;
  - b. Reduce the size of the proposed enclosed area to align with the southern end of the existing dormer and allow for a maximum 1' roof overhang toward the western (rear) side of the property (totaling its size at about 13' x 14'); and
  - c. Collect the water from the shed roof and direct water runoff to a water collection system. The water collection system shall be located on the southern side of the property (between the existing house and the Garden Center property) as far away from the stream as possible. The collection system may be either a dry well, an infiltration chamber, or a rain garden area.
2. No fertilizer, herbicide, or pesticide of any kind shall be applied to outdoor vegetation located within the 50 feet stream buffer.

3. This approval is subject to any and all applicable local, state, and federal permit requirement(s).

Dated at Waitsfield, Vermont this 2<sup>nd</sup> day of August, 2017 for the Town of Waitsfield Development Review Board by:



Chris Cook, Development Review Board Chair

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

Voting in the Negative: None.

Absent: None.

### 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.**