



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

Application #:	3779-CU
Land Owner:	Alan Uris
Property Address:	46 Farr Lane
Parcel Number:	99103.000 in Village Residential District
Meeting Date(s):	September 26, 2017
Proposal/Type:	The applicant requests approval to change the mixed use composition of his building to be three office or retail units in addition to the two residential units. No exterior alterations are proposed.

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 2.02 Village Residential District.
 - b. Section 3.03 Conversion & Change of Use.
 - c. Section 3.08 Non-Conforming Uses.
 - d. Section 5.03 Conditional Use.

B. MATERIALS SUBMITTED

1. On August 30, 2017, the applicant submitted a zoning permit application, conditional use application, and site plan of the property.
2. On September 22, 2017, an abutting property owner submitted written comments via email for the board's consideration.
3. The PZA has included the lister card sketch depicting square footages of the current uses.

C. FINDINGS OF FACT

1. The property is a 0.5 acre lot containing a mixed use structure. It is identified as parcel #99103.000 in the Village Residential Zoning District.
2. The existing mixed use is comprised of two residential units and three office units; historically, there have been two to three offices in this portion of the building.

3. The applicant requests approval to allow either office or retail to be in each of the three units in this portion of the building.
4. Table 2.02 of the Zoning Bylaws in effect today only allow for retail or office use within a mixed use structure that is located entirely within 200 feet from the Route 100 centerline. This structure does not meet this standard, as the rear of the house is about 250-260 feet from the road centerline, so it is deemed a non-conforming mixed use.
5. There was a sign permit granted for office space in 1984, in addition to the two residential units, that equates to an approval for office use in this space. Implied in the granting of a sign permit for an office is the use approval and the permit was never appealed. Therefore, it is a valid, existing, non-conforming mixed use.
6. Section 3.08(B) of the Zoning Bylaws allow for a change in non-conforming use as follows:

“B. **Nonconforming Uses.** In accordance with the Act [§4412(7)], nonconforming uses which exist on the effective date of these regulations may be continued indefinitely, but shall be subject to the following provisions. A nonconforming use:

3. shall not be changed to another non-conforming use without the approval of the Development Review Board in accordance with Section 5.03, and then only to a use which, in the opinion of the Board, is of the same or a more restricted nature;
 4. shall not be moved, enlarged, or increased by any means whatsoever, except with the approval of the Development Review Board subject to conditional use review under Section 5.03. In no case shall a nonconforming use be moved to a different lot within the same district in which it is located.”
7. On September 22, 2017, Maryanne Greeley, an abutting property owner, submitted concerns via email to the board for consideration.
 8. The public hearing was held on Tuesday, September 26, 2017. The abutting property owners were sent notice on September 7, 2017 and the notice appeared in the September 7, 2017 issue of *The Valley Reporter*.
 9. The parking concerns were addressed at the hearing. The PZA referred to the Lister Card for the property, which stated that the building had a total of 1,320 square feet of existing office space. The current mixed use of 3 office units (10 parking spaces) and 2 residential units (3 parking spaces) totals 13 required parking spaces. There are 5 parking spaces on-site so the building currently fulfills its requirement using the municipal parking lot and Route 100 on-street public parking for the remaining 7 parking spaces.

10. The board determined that the maximum parking spaces required for the change in use would total 16 parking spaces = 3 residential plus 13 spaces for 3 retail units (the highest proposed use), so an additional 3 parking spaces is required for this change in use. These 3 additional parking spaces plus the 7 parking spaces that are currently off-site total 10 parking spaces that are not able to be located on-site.
11. The board can grant a waiver for use of off-site public parking spaces within a reasonable walking distance, which include the municipal parking lot, Route 100, and Bridge Street, for the additional 10 parking spaces.
12. The parking concerns will also be addressed by additional signage. The owner agreed to install a directional "No Parking/Private Drive" sign on Ms. Greeley's property so none of the traffic related to his property's use would affect her property. The proposed signage falls under administrative permit approval.
13. The board discussed whether or not the upstairs unit was viable retail space; the owner would likely have to install an elevator if it were to become a public space in order to comply with Fire Safety Codes and receive a state Fire Marshal permit. While this is unlikely to occur, the board agreed that the upstairs space could be used as retail if all state permit requirements are met.
14. The board discussed character of the area. Mr. Uris noted that Telecom is an adjacent commercial property which generates regular traffic on Farr Lane. Ms. Greeley's property is approved as a mixed commercial/residential use building.
15. The retail hours will be between 8am and 6pm. The size of each space will determine the maximum capacity for employees.
16. The board closed the hearing on this application 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.

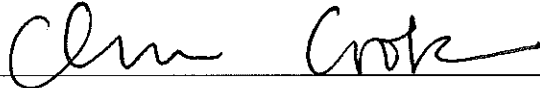
E. DECISION

Application #3779-CU is hereby APPROVED, subject to the following conditions:

1. The directional signage for this property and the abutting property shall obtain administrative approval prior to installation.
2. The retail hours shall be limited to 8am-6pm.
3. The parking waiver is granted for the 10 off-site parking spaces.
4. Any future business(es) shall comply with all applicable local, state, and federal permit requirements.

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

Dated at Waitsfield, Vermont this 19th day of October, 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, and Michael Kingsbury.

Voting in the Negative: None.

Absent: Rudy Polwin 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.