



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

<b>Application #:</b>	<b>3818-CU</b>
<b>Land Owner:</b>	<b>Richard &amp; Patty Backus</b>
<b>Property Address:</b>	<b>28 Joslin Hill Road</b>
<b>Parcel Number:</b>	<b>03113.000 in the Agricultural Residential District</b>
<b>Meeting Dates:</b>	<b>May 8 &amp; 22, 2018</b>
<b>Proposal/Type:</b>	<b>Request for approval to relocate and expand an existing, non-conforming shed, and requests either 1) a setback waiver to reduce the front setback for a new accessory structure (a detached patio) to be constructed behind the existing single-family dwelling or 2) approval to expand the existing non-conforming single-family dwelling in the rear for an addition. Existing lilac shrub(s) will be relocated to accommodate shed.</b>

### **A. GUIDING ORDINANCE and POLICY PROVISIONS**

1. 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(A)                Non-Conforming Structures.
  - c. Section 5.03                    Conditional Use Review.
  - d. Section 6.05                    Setback Waivers.
2. Waitsfield Subdivision Regulations, amended on January 21, 2008.
3. Waitsfield Town Plan, as adopted on December 18, 2017.

### **B. MATERIALS SUBMITTED**

1. On April 17, 2018, the applicant submitted a zoning permit application, a conditional use application, and a detail sheet on a sample shed design.
2. On May 17, 2018, the applicant submitted a revised site plan proposal for the addition.

### **C. FINDINGS OF FACT**

1. The property is located at 28 Joslin Hill Road and contains an existing single-family dwelling and accessory structure (small shed). The parcel is identified as #03113.000 in the Agricultural Residential Zoning District.

2. The applicant originally proposed to expand and relocate the existing, non-conforming shed. The existing shed is 12' x 18' and only 1' off the left property boundary.
3. The Zoning Bylaws allow for expansion of a non-conforming structure but limit growth to 50% of the total volume or area of the non-conforming portion of the structure.
4. The applicant also originally requested one of two options:
  - a. A setback waiver to reduce the front setback for a new accessory structure (an 8' x 24' detached, wooden patio) to be constructed behind the existing single-family dwelling; or
  - b. Approval to expand the existing non-conforming single-family dwelling in the rear for an 8' x 24' addition.
5. The public hearing was held on Tuesday, May 8, 2018. The abutting property owners were sent notice on April 18, 2018 and the notice appeared in the April 19, 2018 issue of *The Valley Reporter*.
6. The applicant presented his proposal. The board members had questions about actual measurements for the height of the existing shed and setback distances for the addition if it had different dimensions than what was proposed.
7. An abutting property owner, Graham McGeorge, attended the hearing and asked a couple of clarifying questions; he was concerned that the proposed addition would not be worth the effort if it were only 6' wide.
8. The board continued the hearing to Tuesday, May 22, 2018, so that the applicant could verify setback distances and finalize a revised site plan. The board agreed that the applicable section of the Bylaw should be interpreted as applying 50% of the volume and 50% of the total square footage as separate standards for the proposed expansion.
9. The applicant determined that a detached, expanded shed would not maximize his allowable square footage or volume increase of a non-conforming structure as much as a larger addition to the single-family dwelling would offer.
10. On May 17, 2018, the applicant proposed a revised site plan which removes the existing shed, relocates the lilac bushes, and expands the single-family dwelling in two phases.
11. The existing single-family dwelling calculations are as follows:
  - a. Existing square footage of house and porch: 1,692
  - b. Existing volume of house and porch: 20,312
12. Proposed Phase 1 of the addition includes a 5' x 10' x 12' tall covered walkway connected to an 18' x 24' x 12' tall addition. Proposed Phase 2 of construction includes a 24' x 10' x 12' addition. The 12' height measurement is floor to roof, not finished grade to roof so the overall height on the exterior will be taller than 12 feet. Total calculations for Phase 1 and Phase 2 of the construction are as follows:
  - a. Proposed square footage: 782.
  - b. Proposed volume: 9,384.

13. The proposed addition complies with the growth limitation for non-conforming structures.  $782/1692 = 46\%$  expansion of total square footage.  $9384/20312 = 46\%$  expansion of total volume.
14. The property is a corner lot so Joslin Hill Road and East Warren Road both constitute front yards and require a 75' setback. The setback from the existing single-family dwelling to East Warren Road centerline is 63'6" and the setback of the proposed addition to the centerline would become 59 feet. A setback waiver could provide for a reduction of this setback to 52.5 feet. The proposed setback distance complies with the setback waiver distance.
15. The applicant seeks a waiver for the side yard that adjoins with Mr. McGeorge's property. The existing shed, which will be removed, is 1' off the property line. The proposed addition will meet a 17.5' setback from the property line to both corners of the addition. A setback waiver could provide for a reduction of this setback to 17.5 feet. The proposed setback distance complies with the setback waiver distance.
16. The Phase 1 addition will have a gable roof facing the opposite direction of the existing single-family dwelling roof to accommodate for snow and rain runoff. The Phase 2 addition will have a shed roof.
17. Once construction is completed, the original non-conforming structure will have been expanded as much as allowable by the Zoning Bylaw. Therefore, no further additions to the single-family dwelling can be permitted.
18. The board closed the hearing on this application and stated that a written decision would be issued within 45 days.

#### **D. CONCLUSIONS OF LAW**

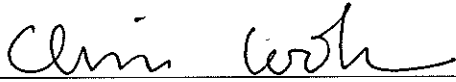
Based on its review of the application materials, submitted site plans, presented testimony, and Findings of Fact above, the Waitsfield Development Review Board hereby concludes this application as proposed, and when finalized and implemented in accordance with the conditions below, does meet the conditional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

#### **E. DECISION**

Application #3818-CU is hereby APPROVED subject to the following conditions:

1. The existing shed shall be removed.
2. Phases 1 and 2 of the addition are approved as proposed on the site plan dated May 17, 2018.
3. The side setback waivers are granted; the setback is reduced to 17.5 feet.
4. The front setback waiver is granted from East Warren Road; the setback is reduced to 59 feet.
5. The non-conforming structure shall not be expanded further; it has reached maximum expansion at 46% of each of the original volume and square footage.
6. This decision is subject to any and all applicable local, state, and federal permit approvals.

Dated at Waitsfield, Vermont this 31<sup>st</sup> day of May, 2018 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, Mike 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.**