

TOWN OF WAITSFIELD

ZONING PERMIT

PERMIT NO. 3975

DATE OF ISSUE 3/10/2021

PROPERTY OWNER: Neck of the Woods

APPLICANT: Neck of the Woods

(If other than owner)

PROPERTY LOCATION: 1673 Main Street, Unit 2

APPROVED FOR: Amend "Phase I" from permit #3942-CU to include occasional special events (movie night and clothing swaps), at a set number per year with a defined time as identified in the decision. Additionally, Phase I shall also now include the accessory use of the upstairs office spaces for educational/youth-oriented organizations as defined in the final decision. Subject to conditions.

Provided that the person accepting this permit shall in every respect conform to the terms of the application files and conditions of approval granted, and to the provisions of applicable Vermont statutes and the Waitsfield Zoning Ordinance.

[] THIS PERMIT GRANTED BY THE ZONING ADMINISTRATOR IS SUBJECT TO APPEAL FOR 15 DAYS FROM THE DATE OF ISSUE IN ACCORDANCE WITH VERMONT STATUTE 24 VSA 4464

[X] THIS PERMIT GRANTED BY THE DEVELOPMENT REVIEW BOARD IS SUBJECT TO APPEAL FOR 30 DAYS FROM THE DATE OF ISSUE IN ACCORDANCE WITH VERMONT STATUTE 24 VSA 4471

THIS POSTER MUST BE DISPLAYED IN A CONSPICUOUS PLACE ON THE PREMISES AND VISIBLE FROM THE ROAD DURING THE APPEAL PERIOD AND THROUGHOUT CONSTRUCTION.

BY: [Signature], Zoning Administrator



DEVELOPMENT REVIEW BOARD FINDINGS OF FACT AND NOTICE OF DECISION

Application #:	3975-CU
Land Owner:	Neck of the Woods
Applicant:	Neck of the Woods (Morgan Moulton & Catrina Brackett)
Property Address:	1673 Main Street
Parcel Number:	99017.000 in the Agricultural-Residential District, Flood Hazard Area Overlay, and Fluvial Erosion Hazard Overlay (FEHO)
Meeting Dates:	February 23, 2021
Proposal/Type:	Amend permit #3942-CU for the Phase I “child-care” use to allow for infrequent events outside of the previously approved hours of operation.

A. GUIDING ORDINANCE and POLICY PROVISIONS

1. Town of Waitsfield Zoning Bylaws, as adopted March 2, 1971 and amended through September 28, 2020:
 - a. Table 2.07 Agricultural-Residential District.
 - b. Section 4.04 Child Care Facilities
 - c. Section 4.13(D) Special Events
 - d. Section 5.03 Conditional Use Review
 - e. Section 7.02 Definitions (*Accessory Use*)
2. Waitsfield Town Plan, as adopted on December 18, 2017.

B. MATERIALS SUBMITTED

1. On January 14, 2021 the applicant submitted a Conditional Use Permit Application (*includes request for movie nights*)
2. On January 30, 2021 the applicant submitted an updated narrative for the project (*includes request for movie nights, clothing swaps, and temporary rental of office space*)

C. FINDINGS OF FACT

1. The property is located at 1673 Main Street and identified as Unit #2. The building is ~10,500 square feet total and owned by Neck of the Woods. The parcel is identified as 99017.000 in the Agricultural-Residential District, Flood Hazard Area Overlay, and Fluvial Erosion Hazard Overlay (FEHO).
2. Unit #2 is not located within either the FHAO or FEHO boundary.
3. The building had previously been used as an office building with a small retail/showroom space (approved with Permit #2675. In September 2020, the applicant received conditional approval to use the space as a child-care facility (Permit #3942).

4. Permit #3942-CU included the following conditions:
 - a. Only Phase I of the proposed use is approved at this time. Phase I includes a "pod" childcare program, to utilize Unit 2 (in the previous office spaces) as individual class spaces for up to 15 children a room and up to 75 children total. Ten staff would also be present onsite. Traffic impacts shall not exceed 40-50 vehicle trips, twice a day, with pick up and drop off times to take place in one-hour windows allowing for staggered arrival. Hours of operation shall be 7:30 am-5:15 pm, operated on a five-day schedule. If the use (including traffic impacts) exceeds these parameters, an updated application shall be submitted to the DRB for review.
 - b. A traffic impact study is not required at this time; however, any future phases of the Neck of the Woods use, construction, or site development shall require an updated application and a traffic study will likely be required for DRB review at that time.
5. As proposed in the January 30, 2021 application and at the February 23rd, 2021 hearing, the applicant requests that "Phase I" be amended to also include the following:
 - a. Movie nights once a month on Fridays from 5pm-9pm, only for children currently enrolled in the child-care program. The applicant anticipates fewer children at movie nights than on a normal school day.
 - b. A clothing swap to be held for four hours, six Saturdays out of the year (from 10am-2pm) as a fundraising event for the organization.
 - c. Rental of the upstairs office spaces for short term uses, i.e., driver's education or girl scouts / boy scouts. The use would take place outside of the hours of operation of the previously approved child-care use, no later than 9pm.
6. The applicant explains that movie nights and clothing swaps are both events that they have historically run as part of the normal programming at their previous location.
7. A public hearing was held on February 23rd, 2021. A comment was received from an abutting property owner, Jen Peterson, via email to the PZA before the hearing. The PZA shared the comment with the Board at the hearing. Ms. Peterson explained that while she supports the school use, she wonders what precedence might be set by allowing the additional uses as proposed and how this might impact future amendments for other uses or expanding the uses as proposed.
8. The Board acknowledged Ms. Peterson's questions and appreciated her input as an abutter. The Board considered the question and determined that by reviewing the proposed amendments as accessory conditional uses, and not part of the principal childcare use, they believe that appropriate parameters can be set to make it clear what is appropriate onsite and when additional review would be necessary.
9. Special Events are a conditional use in the Agricultural Residential District and standards are found in Section 4.13(D) of the Zoning Bylaws. Conditional Use review is required when more than two special events are held in a calendar year, with attendees not to exceed 250 for a single event. The Board reviewed the criteria and determined that the special event uses as proposed comply so long as all state water and wastewater requirements are met.
10. The parking lot is not striped and there is no master parking plan guiding the shared lot. The applicant estimates that there are 36 parking stalls available for the Unit 2 building, with 22 stalls remaining for Pomerantz. Table 3.1 requires three parking stalls for every

ten children enrolled at a school or childcare. If 36 stalls are available, the school would be able to enroll up to 120 children. Only 75 children are approved to be enrolled in the program at this time. There is no specified required number of parking stalls for special events. The Board did not have concerns with the available parking for the special event or accessory use as proposed.

11. Accessory Uses to a Conditional Use in the Ag-Res District also require conditional use review with the DRB. The applicant requests that temporary rentals of the upstairs office space be included with this Phase of the project. The Zoning Bylaws define Accessory Uses/Structures as “A use or structure which is incidental to and subordinate to the principal use of a lot or parcel of land and is located on the same lot.”
12. The Board considered the request, and the previous use of the second story spaces as office spaces, and determined that small scale, education and youth-oriented uses that take place outside of the normal hours of operation of the childcare could be appropriate with conditions based on the definition of accessory uses and the criteria for conditional use review (Section 5.03).
13. The Board determined that the uses as proposed are appropriate to include within “Phase I” use of the site.
14. There are no proposed changes to the building or site associated with the amendments as requested.
15. Notice of this public hearing was sent to *The Valley Reporter* on January 29, 2021 and the abutting property owners were sent notice on February 5, 2021. Notice appeared in the February 4th issue of *The Valley Reporter*.

D. CONCLUSIONS OF LAW

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


E. DECISION

Application #3975-CU is hereby approved, subject to the following conditions:

1. One “movie night” special event may be held once a month to be held on a weeknight from the hours of 5pm-9pm for children already enrolled in the childcare program.
2. Six “clothing swap” special events may be held per year on Saturdays from the hours of 10am-2pm
3. The accessory use of the upstairs office spaces for educational and/or youth-oriented organizations is permitted on weeknights outside of the normal child-care use hours and no later than 9pm, limited to 20 people max.
4. The PZA is authorized to administratively issue permits for the office space tenants within the parameters identified in the decision and findings.
5. There shall be no overlap in the timing of the different uses (childcare, special events, or accessory use of the offices).

6. Proof of adequate water and wastewater shall be submitted to the PZA before the first special event is held onsite and the first zoning permit is issued for an accessory use of the office spaces.
7. All conditions from the decision for permit #3942-CU shall remain in full force, except that Phase I now includes the uses identified in this decision and findings.
8. Any additional proposed changes to Phase I and all future Phases of development onsite shall require DRB review.
9. This decision is subject to any and all applicable State and Federal permit approvals. Final Plan Approval is based on the submissions and testimony provided during the Sketch Plan and Final Plan Review.

Dated at Waitsfield, Vermont this 10th day of March, 2021 for the Town of Waitsfield Development Review Board by:


Chris Cook, Development Review Board (Chair)

Voting in the Affirmative: Duncan Brines, Chris Cook, Gib Geiger, and Steve McKenzie

Abstaining: John Donaldson (recused)

Voting in the Negative: None.

Absent: Rudy Polwin and JB Weir

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.