



Town of Weathersfield, Vermont

Zoning Board of Adjustment, P.O. BOX 550, ASCUTNEY, VT 05030
Martin Memorial Hall, 5259 US Route 5
Telephone: (802) 674-2626 Fax: (802) 674-2117
Email: zoning@weathersfield.org
Website: <http://www.weathersfield.org>

Zoning Board of Adjustment NOTICE OF DECISION

Conditional Use

September 11th, 2018

Application No.: #18.08.02.A
Applicant: Kai Mayberger
Landowner(s): Kai Mayberger and Julie Lane
Project Location: 554 Stoughton Pond Road
Parcel(s) Involved: 080101.4

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of a Conditional Use application for the construction of a Single Family Dwelling within 300 feet of a State designated deer wintering habitat submitted by Kai Mayberger under the Town of Weathersfield, Vermont Zoning Bylaws.
2. A copy of the application is available at Weathersfield Town Office.
3. Notice of a public hearing was published in the Valley News.
4. Notice of a public hearing was posted at the following places:
 - a. The municipal clerk's office.
 - b. Town of Weathersfield VT Website
 - c. Proctor Library web site and bulletin board
 - d. Ascutney and Downers Post Offices
5. A copy of the notice of a public hearing was mailed to abutting property owners.
6. The application was considered by the Zoning Board of Adjustment at a public hearing on August 23rd, 2018. The Zoning Board of Adjustment reviewed the application under the Town of Weathersfield Zoning Bylaws, as amended October 21st, 2013
7. The following members of the Zoning Board of Adjustment were present at the public hearing:
 - Dave Gulbrandsen
 - James Cahill
 - Todd Hinderger

8. At the outset of the hearing, the Zoning Board of Adjustment afforded an opportunity for persons wishing to achieve status as an interested person under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that subsection are met. The Zoning Board of Adjustment granted interested person status to the following persons:
 - Kai Mayberger
 - Julie Lane
 - Wayne Beliveau

All interested parties were sworn in by the Zoning Board Chair at the beginning of the public hearing.

9. During the course of the hearing the following exhibits were submitted to the Zoning Board of Adjustment:
 1. Exhibit #1: Application #18.08.02.A to include site plan
 2. Exhibit #2: Written summary of the proposed project submitted by the applicant
 3. Exhibit #3: Three pages of model photographs illustrating the design of the proposed single family residence.
 4. Exhibit #4: Letter addressed to Zoning Board of Adjustment from the Vermont Agency of Natural Resources dated August 14, 2018
 5. Exhibit #5: Land Use Administrators summation of conversation with Forrest Hammond dated August 15, 2018.
 6. Exhibit #6: Letter from District 2 and 3 Environmental Commission dated August 15, 2018 addressed to Land Use Administrator and the Zoning Board of Adjustment.

These exhibits are available for review at the Weathersfield Town Office.

10. A site visit was conducted by the Zoning Board on July 12th, 2018 at 6:30 pm with the following people present:

- David Gulbrandsen
- James Cahill
- Todd Hindinger
- Sven Fedorow
- Kai Mayberger
- Julie Lane
- Wayne Beliveau

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Zoning Board of Adjustment makes the following findings:

1. According to the acting Land Use Administrator and the Weathersfield Zoning Bylaws, the application requires review under the following sections of the Town of Weathersfield Zoning Bylaw:
 - Section 4.3.2(f): Highway Commercial (HC)
 - Section 6.10.6 Deer Wintering Area

2. The applicant seeks a Conditional Use Permit to construct a single family dwelling within 300 feet of a defined Deer Winter Habitat area located at 554 Stoughton Pond Road. The property consists of an estimated +/- 3.55 acres in the Highway Commercial (HC) Zoning District, tax map parcel #080101.4
3. On the site there exists a single floor foundation with a cap, the existing foundation is not habitable.
4. The proposed single family structure will utilize the existing foundation.
5. The applicant testified that the existing foundation and lower level will not be enlarged
6. There is pre existing access to the site from Stoughton Pond Road
7. The applicant testified that the existing access to the site will not require any additional excavating
8. On the site there is a pre-existing detached two bay garage with a single floor living space above
9. The applicant testified that there is a pre-existing functional well on site
10. The applicant testified there is a pre existing functional waste water management system on site
11. The applicant testified that there is pre-existing electrical utilities and will not require any additional excavating to maintain the service.
12. The applicant testified that a perimeter clear cut of 30 feet will be required for construction of the proposed single family home and for safety of the complete structure.
13. The applicant testified that there will be no additional tree clearing for the purpose of creating a view.

CONCLUSIONS

- 1) Pursuant to Section 4.3.2(f): Highway Commercial (HC) District, of the Town of Weathersfield Zoning Bylaws in effect at the time of this application, a single family dwelling is a Conditional Principal Use
- 2) Pursuant to Section 6.10.6: Deer Wintering Area of the Town of Weathersfield Zoning Bylaws in effect at the time of this application:
 - a. *Any road or development shall be sited to have the least the amount of negative impact on the viability of the deer wintering area*
 - b. *An adequate amount of softwood shall be left undisturbed to ensure viability of the area*

- 3) As prescribed within Exhibit #4; *“there appears to be structures already on the property and the softwood covers is sparse suggesting that it (the site) is not contiguous enough to provide functional cover”*
- 4) As prescribed within Exhibit #5; *“the proposed development is unlikely to have an impact on the deer wintering habitat given that the area already has a number of houses”*
- 5) The Zoning Board of Adjustment has concluded that the applicant has presented ample testimony, in conjunction with Application exhibits, to support Section 6.10.6 of the Town of a Weathersfield Zoning Bylaws

DECISION AND CONDITIONS

On August 23rd, 2018, at a deliberative session, and based on the foregoing Findings of Fact and Conclusion of Law, the Zoning Board of Adjustment by unanimous vote of the deliberating members, approve application #18.08.02.A subject to the following Conditions

- 1) The project shall be completed as shown on application #18.08.02.A
- 2) The project shall comply with Section 4.3.2(f); Maximum building height: 35 feet
- 3) It is the responsibility of the applicant to maintain conformance with existing State Permits and to obtain any and all State Permits which are required for the project.
- 4) Pursuant to Section 6.9.1; Accessory Dwelling Unit, the pre-existing detached garage, with dwelling above, may not be occupied as a Dwelling Unit
- 5) Any deviation from the permit as presented in the Facts of the Decision shall constitute a violation of the permit and the Land Use Administrator will be required to take enforcement action to correct the violation.

Dated at the Town of Weathersfield, Vermont, this 11th day of September, 2018



David Gulbrandsen, Chair

Zoning board members participating in this decision:

- Dave Gulbrandsen
- James Cahill
- Todd Hindinger

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [planning commission/Zoning Board of Adjustment/development review board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceeding