



# TOWN OF WEATHERSFIELD

## ZONING BOARD OF ADJUSTMENT

(802)674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

landuse@weathersfield.org

### Town of Weathersfield Vermont

### Zoning Board of Adjustment

### Application for Site Plan and Conditional Use Review

### Findings and Decision

Permit Application: #23.1004.ZP2  
Applicant Name: Greenberg Associate Architects  
M. Chip Greenberg, Principal  
Landowner Name: Town of Weathersfield  
Weathersfield Proctor Library  
Project Location: 5181 Route 5  
Parcel ID: #5A-02-26

### **INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves review of an application for a zoning permit requiring Conditional Use Review and Site Plan Review submitted by Greenberg Associate Architects under the Town of Weathersfield Zoning Bylaws.
2. The application was received by Land Use Administrator, Ryan Gumbart on October 4, 2023. The signed application is dated October 4 and October 13, 2023. Application was not deemed complete prior to the hearing. A copy of the application is available at the Weathersfield Town Office.
3. Notice of the public hearing was posted at the following places:
  - a. Eagle Times Newspaper in issue dated November 17, 2023
  - b. Town of Weathersfield, VT Municipal Office
  - c. Weathersfield Proctor Library
  - d. Perkinsville Post Office
4. A copy of the Notice of Public Hearing was mailed to the Applicant.
5. A copy of the Notice of Public Hearing was mailed to the owners of properties adjoining the property that is the subject of the application.
6. The Zoning Board conducted a Site Visit at 6:00 PM on December 12, 2023, prior to the hearing.
7. Present at the site visit were:
  - a. David (Todd) Hindinger, Chair
  - b. Grace Knight, ZBA member
  - c. Jason Rasmussen, ZBA alternate
  - d. Roderick Bates, Applicant's representative
  - e. Mark Richardson



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- f. Ernie Shand
  - g. Mavis Ellingwood
  - h. Beth Hunton
  - i. Reka Henderson
  - j. Shawn Brown
  - k. John Waite
8. The application was considered by the Zoning Board at a public hearing at approximately 6:45 PM on December 12, 2023. The hearing was closed at 8:27 PM on the same night.
9. The Zoning Board reviewed the application under the Town of Weathersfield Zoning Bylaws, adopted by the voters on March 5, 1974, and including all subsequent amendments through August 21, 2023 (the Zoning Bylaws).
10. Present at the site hearing were the following members of the Zoning Board:
  - a. David (Todd) Hindinger, Chair
  - b. Grace Knight, member
  - c. Jason Rasmussen, alternate
11. Also present at the hearings were:
  - a. Roderick Bates, Applicant's representative
  - b. Mark Richardson
  - c. Ernie Shand
  - d. Mavis Ellingwood
  - e. Beth Hunton
  - f. Reka Henderson
  - g. John Waite
12. At the outset of the hearing, the Zoning Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The Zoning Board determined that the following met the definition of interested persons and were granted interested persons status:
  - a. Roderick Bates, Applicant's representative
13. At the outset of the hearing, the Zoning Board asked if there were any persons present who wished to give evidence or testimony during the hearing. The following were sworn in by the Chair:
  - a. Roderick Bates
  - b. Mark Richardson
14. Board members were asked to disclose any potential conflicts of interest. There were none. Neither the Applicant nor any member of the Zoning Board requested recusals due to conflicts of interest.
15. Board members and the applicant were asked to disclose any potential ex parte communications. There were none. No one attending the hearing expressed concerns about ex parte communications.
16. During the course of the hearing the following exhibits were submitted to the Zoning Board:



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- a. Exhibit #1 – Notice of Public Hearing
  - b. Exhibit #2 – Certification of Posting
  - c. Exhibit #3 – Newspaper Tear Sheet
  - d. Exhibit #4 – Application #23.1004.ZP2
  - e. Exhibit #5 – Administrative Review Sheet
  - f. Exhibit #6 – Community Facilities Sign-Off Sheet
  - g. Exhibit #7 – Wastewater System and Potable Water Supply Permit #WW-2-1372-1
  - h. Exhibit #8 – 2005 Parking license agreement
  - i. Exhibit #9 – December 9, 2004 ZBA Decision
  - j. Exhibit #10 – January 28, 2010 ZBA Decision
  - k. Exhibit #11 – August 26, 2015 ZBA Decision
  - l. Exhibit #12 – March 31, 2017 ZBA Decision
17. This application was reviewed under the following sections of the Zoning Bylaws:
- a. Article 2: Zoning Districts and District Standards
    - i. Section 2.5.1 – Village (V)
  - b. Article 3: General Provisions
  - c. Article 5: Development Review
    - i. 5.2 – Site Plan Review
    - ii. 5.3 – Conditional Use Review

### FINDINGS OF FACT

The following findings of facts are deemed relevant to the Board's decision on this application. These facts are compiled from the application project documents including the written application, the items listed in the exhibits, testimony and evidence provided by the Applicant and other parties present at the hearing.

- F1.** The subject property of this application is Parcel ID #5A-02-26, a 0.21-acre lot located at 5181 US Route 5, Weathersfield, Vermont.
- F2.** The property is owned by the Town of Weathersfield, Weathersfield Proctor Library (the landowner).
- F3.** Vehicle access to the property is available via US Route 5, as well as a shared right-of-way on the south side of the lot accessing US Route 5.
- F4.** The property is currently used as a “Semi-public” facility. The use predates zoning and there is no permit history for the establishment of the use.
- F5.** Application #23.1004.ZP2 (the application) was submitted by Greenberg Associate Architects (the applicant).
- F6.** The property is located in the Village (V) zoning district.
- F7.** The application specifically proposes to alter the existing structure by adding a new room to the east side of the building.



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- F8.** “Semi-public” is listed as a Conditional Use in the Village district use table of the Zoning Bylaws, which requires Conditional Use Review by Zoning Board.
- F9.** According to section 2.5.1 Semi-public requires site plan review and approval by the Zoning Board of Adjustment in order for the Administrative Officer to issue a zoning permit.
- F10.** The project will be arranged on the property as shown on the Site Plan included in the Application – Exhibit #4 dated September 29, 2023.
- F11.** Section 2.5.1 – Village (V): The Front setback required is 40ft, Side/Rear setbacks required are 20ft. The applicant represented that the project meets these setbacks. The required frontage for the district is 80 feet and the applicant represented that the property only has 77.25 feet.
- F12.** Section 3.1 – Required Frontage On, or Access To, Public Roads: The section requires that for development to occur on a property the property must have access to either a public road or public waters by connecting via lot frontage or by permanent easement or right-of-way. The property has access to US Route 5 via a permanent right-of-way as described in the 2005 Parking license agreement, Exhibit #8. It also has frontage on US Route 5 with a few street side parking spaces.
- F13.** Section 3.2 – Conservation of Natural Resources: The board finds that none of the natural resources described in subsection 3.2.1-3.2.9 are located in relevant proximity to the property as shown on the Administrative Review Sheet, Exhibit #5.
- F14.** Section 3.4 – Nonconformities: The minimum lot size for the Village district is 1 acre according to section 2.5.1. The Administrative Officer indicated that the property is listed as containing 0.21 acres on the Administrative Review Sheet, Exhibit #5. Conclusion 2 and 3, of the March 31, 2017 ZBA Decision, Exhibit #12, identifies the property as an existing small lot as its existence predated zoning. The board finds that the property meets the definition of an Existing Small Lot and therefore may be developed subject to complying with the rest of the bylaw and State regulations. The building footprint is currently within the front and side setback as shown on the site plan within Application #23.1004.ZP2, Exhibit #4. The board finds that the noncompliance with the district setbacks was legally achieved through the granting of variances in previous zoning decisions contained in Exhibit #9, 10, 11, and 12. Non new variance is needed.
- F15.** Section 3.5 – Off-Street Parking: The bylaw requires that off-street parking spaces shall be provided when any use is enlarged and shall accommodate all owners, occupants, employees, customers, delivery vehicles, and/or other persons expected to be on the premises. Based on the application, Exhibit #4, there are some parking areas shown on and off the property. The applicant testified that there are two spots to park along route 5, one of which is an accessible space, and there are 4 parking spaces the northern abutter allows the library to use. There are 69 shared spaces according to the parking license agreement, Exhibit #8, of which there are 9 that there are licensed for the use of this particular property on the abutters lands to the east as shown in the survey by Farnsworth.
- F16.** Section 3.5.1.3 requires nonresidential parking lots to be landscaped per 3.5.2. No landscaping is depicted on the site plan, Exhibit #4. The applicant testified that the



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northeastern abutter does not want landscaping installed around the parking lot and that it could be problematic for plowing. Landscaping and fencing which previously existed was removed so that there is now a large new opening along the northerly property boundary in the area that abuts the northeasterly abutter.

- F17.** Section 3.5.1.4 requires that there shall be accessible parking spaces in accordance with current ADA specifications. The applicant testified that of the 7 spaces on the property and 1 is ADA compliant. Land Use Administrator, Ryan Gumbart, testified that according to the ADA's guidance document 1 accessible parking space is required for a parking lot with a total of 1-25 spaces.
- F18.** Section 3.6 – Outdoor Lighting: The general standards of the bylaw require that exterior lighting shall not direct light upward, onto adjacent properties, or onto public highways. The applicant testified that there will be no change in lighting with the proposal and that there is currently a light on the northeast corner, one above the handicap ramp (north side), one at the back entrance door (east side), one near the front (north side) that is motion censored, one in the entryway (west side) for the front door, and one outside the bathroom. No lighting plan was provided and no new lights are proposed. The existing light on the northeast corner of the building does not meet the lighting requirements as it shines onto an abutting lot to the northeast.
- F19.** Section 5.2.4 Storm water management and drainage: The bylaw requires that adequate provisions are made for the management of erosion, sedimentation and stormwater runoff. The applicant testified that there are no drainage issues currently as they have done site work to fix the past issue of puddling in the rear parking lot. Now water drains to the east along the side of the road and leachfield. There is no defined drainage ditch (conveyance) so that the water flows along the side of the road towards the east with a very gentle slope. The board observed that Exhibit #8 shows that the stormwater continues easterly to a treatment system easterly of the post office.
- F20.** Section 5.2.5 Landscaping and screening: The bylaw requires landscaping in front and side yards, adjacent to parking areas and where rear yards abut residential property. No landscaping is depicted around the addition and along the property boundaries which could serve as screening and no landscaping is shown within the property boundaries. The applicant stated that landscaping would potentially interfere with plowing. There are existing flowers and bushes that will be removed to allow for the installation of the proposed addition. The Board finds that landscaping is required by the bylaws and that the applicant has not demonstrated that adequate screening is provided in the application documents.
- F21.** The library building has an existing Wastewater System and Potable Water Supply permit from the State of Vermont for the building from 2007. It is not known if this permit needs to be amended to accommodate this project or the other two additions which have occurred since the permit was issued.
- F22.** There are existing Notices of Decision for this building which are in effect. Exhibits #9-#12.
- F23.** Community Facility Project Review Sheet and Sign-Off, Exhibit #6. Prior to the hearing all department heads were given the opportunity to review the application and indicate





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whether or not the proposed project would have an adverse impact on their department. With the exception of the fire department, the department heads indicated the project would not have an adverse impact.

### CONCLUSIONS OF LAW

It is not the aim or duty of the Zoning Board of Adjustment to favor one individual over another, nor to approve or disapprove any specific activity. Rather, it is to interpret the above findings of facts which “*shall explicitly and concisely restate the underlying facts that support the decision, based exclusively on evidence of the record. Conclusions should be based on the findings of fact.*” (24 V.S.A. § 1209). Based on the Findings of Fact, the Zoning Board of Adjustment makes the following Conclusions of Law regarding the proposed project, as conditioned.

- CL1. Section 2.5.1 - Village Zoning District was reviewed. Within the Village district a semi-public use was determined by the Board to require Site Plan Review. Site Plan Review was completed. The Board concludes that the proposed use is consistent with the Village district and that the applicable reviews have been completed.
- CL2. Section 3.5 – Off-Street Parking was reviewed. No specific parking areas are identified clearly on the site plan but the exhibits and testimony prove there are (9) nine spaces designated by license, informally there are (2) two within the VT Route 5 right-of-way which do not appear to be contested, and (4) four allowed by the northerly abutter which do not appear to be contested. The Zoning Board concludes that the Off-Street Parking areas are sufficient.
- CL3. Section 3.6 Outdoor Lighting. The exhibits and initial testimony from the applicant indicated that no new exterior lighting would be installed. No lighting plan was provided. The existing light on the northeast corner of the building does not meet the lighting requirements as it shines onto an abutting lot to the northeast. The Zoning Board concludes that the existing non-conforming light must be removed and if any lights are proposed in the future they must be submitted to the Land Use Administrator’s office for approval to verify that they comply with the bylaws.
- CL4. Section 3.7 Performance Standards was reviewed. The Interested Persons, the Public and the Zoning Board were given the opportunity to express any concerns specific to the ongoing use of the property and the proposed changes to the property. The Zoning Board concludes that the project can be completed such that the Performance Standards of section 3.7 are upheld.
- CL5. Section 3.8.6 Signs – There were no proposed signs to review. The Zoning Board concludes that all signs must be submitted for review and approval by the Land Use Administrator prior to installation.
- CL6. Section 5.2 - Site Plan Review. The Site Plan review process was completed in detail. As conditioned, the Zoning Board concludes that the Site Plan can satisfy the bylaws.



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- CL7. Section 5.2.4 – Stormwater Management. The Site Plan did not include any information regarding stormwater or what the grading would be after the addition was installed. The Board concludes that sufficient requirements can be included as conditions, such that as conditioned, the Zoning Board can conclude that the Stormwater Management system can satisfy the bylaws. Stormwater management measures are to be incorporated into the final site design to ensure that stormwater cannot pond on the parcel and so that it is conveyed to the treatment system to the east, and as depicted on the Exhibit 8 Site Plan.
- CL8. Section 5.2.5 – Landscaping and Screening. The bylaw requires landscaping in front and side yards, adjacent to parking areas and where rear yards abut residential property. No landscaping is depicted around the addition and along the property boundaries which could serve as screening and no landscaping is shown within the property boundaries. The applicant has not demonstrated that adequate screening and landscaping is provided. The removal of fencing and vegetation along the northerly property boundary has created a driveway like system through the property onto the northerly parcel. The Board concludes that sufficient requirements must be included as conditions, such that as conditioned, the Zoning Board can conclude that the landscaping can satisfy the bylaws.
- CL9. Section 5.3 – Conditional Use Review was reviewed. Within the Village district a Semi-Public Facility is a Conditional Use. During the Conditional Use Review Process the Board concluded that the proposed use will not result in an undue adverse effect on: the capacity of existing or planned community facilities; the character of the area; and/or traffic; as well as whether all applicable general and special provisions of the Bylaws so long as a Certificate of Occupancy provision is included to assure compliance with this Decision. As conditioned, the Zoning Board concludes that the proposed project use will not result in an adverse impact on the stated criteria and that the applicable reviews have been completed.
- CL10. The applicable conditions for the existing Notices of Decision by the Board for this building remain in effect, and include requirements that remain in effect. Exhibits #9-#12.

### DECISION AND CONDITIONS

On 01-23-2024, at a deliberative session all three of the deliberating members of the Zoning Board of Adjustment voted unanimously to Approve the application for Site Plan Review and Conditional Use Review with the following conditions:

- C1. Any deviation from the application documents, facts and Revised Site Plan without prior written approval of the Development Review Board shall constitute a violation of the Zoning Bylaws and the Administrative Officer shall be required to take appropriate enforcement action.
- C2. Construction shall begin within one year of approval. The permit is valid for 5 years to complete construction if the project has been started but not completed, unless renewed as required by section 6.2.7 of the Bylaws.
- C3. Comply with State of Vermont permitting requirements of the Department of Public Safety, Division of Fire Safety.



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- C4. The applicant is to contact the State of Vermont Wastewater Management Division at the Agency of Natural Resources to determine if it is necessary to Amend the existing State of Vermont Water and Wastewater for compliance with the building as it exists (including the additions that have been added) and as proposed. Also comply with any other State of Vermont permitting requirements of the Department of Environmental Conservation.
- C5. Landscaping is to be completed and plantings are to be provided. Landscape plantings are to be provided so that the parking lot is screened along the northerly property boundary and to remove the existing driveway like open area between the properties. Section 5.2.5 states: "Landscaping shall enhance the features and conditions unique to each site and shall include a combination of shade and street trees, shrubs, planting beds, well-kept grasses and ground covers. Landscaping is required in front and side yards, adjacent to parking areas, where rear yards abut residential properties or public roads, and as otherwise necessary to provide adequate screening and without compromising vehicular and pedestrian safety by blocking visibility and site lines." There is additional guidance in section 5.2.5 which can be reviewed. The Applicant is to provide a landscaping plan to the Land Use Administrator demonstrating that the proposed plantings comply with 5.2.5. The Land Use Administrator is to verify conformance with this condition as part of the Certificate of Occupancy process and visit the site at least once within one year of the completion of the plantings.
- C6. The existing non-conforming exterior light at the northeasterly eave is to be removed. A light may be installed in this area to light the sidewalks but it must be lower and the fixture must conform to the Lighting Standards of 3.6. The Land Use Administrator is to verify conformance with section 3.6 as part of the Certificate of Occupancy process.
- C7. Stormwater management measures are to be incorporated into the final site design to ensure that stormwater cannot pond on the parcel and so that it is conveyed to the treatment system to the east. The library is to maintain the grading of the easterly section of the lot and the conveyance (where the water runs along the side of the road) such that stormwater is conveyed to the treatment system easterly of the post office and as depicted on the Exhibit 8 Site Plan.
- C8. There are conditions within existing Notices of Decisions by the Board for this building which remain in effect and are to be followed.
- C9. A Certificate of Occupancy is required for the project. The applicant/landowner is to contact the Land Use Administrator (Administrative Officer) for a site visit to review the completed project and to confirm that each condition is met. No use or occupancy of the items subject to this permit is allowed until a Certificate of Occupancy is issued by the Administrative Officer and recorded in the Land Records for the property.
- C10. The Applicant is to provide a paper copy of the building plans to the Fire Department.

Dated this 23<sup>rd</sup> day of January 2024.

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David (Todd) Hindinger, Chair





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Development Review Board

Board members supporting Decision:

Grace Knight, Jason Rasmussen

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. 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 Proceedings.

Copies of this decision will be distributed to:

Applicant (via certified mail)

Landowner

Every person or body appearing and having been heard at the hearing

Administrative Officer

Town Clerk