

STATE OF VERMONT
ENVIRONMENTAL BOARD
10 V.S.A. CHAPTER 151

RE: Woodstock Heritage Ltd.
P.O. Box 541
Norwich, Vermont 05055

Findings of Fact and
Conclusions of Law
Land Use Permit Amendment
#3W0373-1-EB

This is an appeal from Land Use Permit #3W0373 issued on September 2, 1981 by the District #3 Environmental Commission to Woodstock Heritage, Ltd. The permit authorizes the construction of 35 residential condominium units and the conversion of an existing farmhouse into 3,000 square feet of office space on land located on the northwest side of Route 4 in West Woodstock, Vermont. A notice of appeal was filed on September 21, 1981, by adjoining property owners, Robert and Christine Jackson. Notice of a public hearing and a pre-hearing conference was served on the parties and forwarded for publication in the Valley News on September 22, 1981. A notice of rescheduled public hearing was served on October 1, 1981. A pre-hearing conference was held on October 13, 1981 and a hearing on October 27, 1981. The substantive issues on appeal, of non-compliance of the project with 10 V.S.A. §6086(a) (8) and (10), were identified at the pre-hearing conference.

The following parties participated in this appeal:

The Applicant by C. Daniel Hershenson, Esq. ;
The Municipality of Woodstock by D. William Sisco, Esq. ;
The Woodstock Planning Commission by D. William Sisco, Esq. ;/
The Two Rivers/Ottawaquechee Regional Planning Commission
by Don Bourdon ;
The Appellants, Robert and Christine Jackson, by Jonathan
Brownell, Esq.

The parties submitted for the record Findings of Fact and Conclusions of Law, which amend the Findings of Fact and Conclusion of Law of the District Environmental Commission. Except as so amended, the Findings of Fact and Conclusions of Law of the District Environmental Commission §3 dated September 2, 1981, remain in effect and are included herein by reference.

Under the provisions of the Administrative Procedure Act, 3 V.S.A. §809(a), the parties to a contested case may make informal disposition of the case by stipulation, unless otherwise precluded by law. On October 27, 1981, the Board reviewed and accepted the stipulation with minor revisions.

FINDINGS OF FACT

In making the following Findings of Fact we have summarized the statutory language of Criteria 8 and 10 of 10 V.S.A. §6086(a) which are the only criteria at issue in this appeal:

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Criterion 8:

1. There will be no undue adverse effects on aesthetics, scenic beauty, historic sites or natural areas:
 - A. Historic sites, natural areas and rare and irreplaceable natural areas will be not affected by this project.
 - B. The project will be landscaped as outlined on Exhibit #2. Most of the large trees will remain. The Applicant has agreed to continually maintain the landscaping as approved. The Protective Covenants require the continued maintenance of the landscaping. Exhibit #34.
 - C. Exterior lighting will consist of 10' poles with 175 watt bulbs and will be installed as depicted on Exhibits 12, 43, and #13. All fixtures will have concealed light sources.
 - D. The exterior of the buildings will be stained wood, the roofs will be metal or asphalt. Exhibit #2.
 - E. A 4' x 6' sign will be located and constructed as outlined in Exhibit #2, #12 and #18 and will be lighted with 75 watt flood lights,
 - F. Work in the stream may increase the temperature of the water thereby reducing its ability to maintain trout. The Applicant has agreed to work with the Fisheries Biologist to reduce the impact of the project.
 - G. With respect to the following matters regarding exterior aesthetics, the Applicant and the Appellants herein agree to accept, be bound by and for the Applicant to comply with the joint recommendations of architects forthwith, Benn-Metz and Robert Burley Associates, Inc. Both architects will endeavor to reach agreement on all such matters.

If the above architects or their respective designees are unable to agree on any of the matters set forth below, the Environmental Board may upon the request of the Appellants reinstate this appeal, for the limited purpose of reviewing the architects' suggestions and for making a determination thereon, which shall then become a part of Land Use Permit #3W0373 and Amendment #3W0373-1-EB. Notwithstanding the above, the agreement of the architects as described above, shall not be unreasonably withheld.

In the event the Appellants do not request a review as set forth above within 10 days after the submission of final working drawings to Robert Burley Associates, Inc., the Applicant may proceed with the plans as prepared by the architect. The matters regarding the

exterior aesthetics referred to above are:

1. Exterior building materials as to the texture of the exterior of the buildings;
 2. Building colors;
 3. Types of windows;
 4. Modification in the parking plan;
 5. Landscaping;
 6. Timing of installation of landscaping;
 7. Screening of garbage or refuse collection areas and containers and clotheslines, if any;
 8. Lighting.
2. All plans prepared by and after agreement between the parties' architects, Bcnn-Metz and Robert Burley Associates, Inc. will be submitted to the District Environmental Commission. If the District Environmental Commission determines that these plans involve substantial changes in the project, an amendment to Land Use Permit #3W0373 will be necessary.

Criterion 10:

3. The project is in conformance with the local or regional plan:
 - A. The Woodstock Planning Commission has indicated that the project conforms to the local plan (Exhibits #20 and #21 to the District Environmental Commission 3) under its Section on Planned Residential Development (page 82, Exhibit #20) and in Exhibit 20A hamlets and Planned Residential Development.
 - B. The Two Rivers-Ottawaquechee Regional Planning Commission has indicated that the project conforms to the Regional Plan. Exhibit #19.
 - C. The parties hereto agreed to the issuance of a permit by the Windsor Superior Court of a site plan approval, a copy of which is attached to these Findings of Fact and Conclusions of Law, and which is included herein by reference. As of November 3, 1981, the above de novo order and permit was issued by the Windsor Superior Court.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, it is the conclusion of this Environmental Board that the project described in the application and appeal referred to above, if completed and maintained in conformance with all of the terms and conditions of that application, and of Land Use Permit #3W0373 and Amendment #3W0373-1-EB, and the corresponding Findings of Fact and Conclusions of Law, will not cause or result in a detriment to public health, safety or general welfare under the criteria described in 10 V.S.A. §6086(a). Jurisdiction over this permit shall be returned to the District Commission.

Dated at Montpelier, Vermont this 10th day of November, 1981.

ENVIRONMENTAL BOARD

By Jan S. Eastman
Jan S. Eastman
Executive Officer

Members participating
in this decision:
Leonard U. Wilson
Dwight E. Burnham, Sr.
Melvin H. Carter
Warren M. Cone
Roger N. Miller
Priscilla N. Smith