

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

RE: Frank Wint Findings of Fact, Conclusions
1824 Driver Avenue of Law and Order
Lancaster, PA 17602 Application #5W0602-EB

On April 11, 1980 an application for an Act 250 permit was filed by Frank Wint, 1824 Driver Avenue, Lancaster, Pennsylvania, for a project generally described as a six lot subdivision with 2300[±] feet of road to serve the lots, all located off Town Highway #21, Old Center Fayston Road in Fayston, Vermont on the Fayston/Waitsfield town line. The tract of land consists of 130[±] acres with 22.25 acres involved in the immediate project area. The applicant's legal interest is ownership in fee simple. A land use permit was issued by the District Environmental Commission on October 27, 1980, and was appealed by the Agency of Environmental Conservation on November 13, 1980. A cross-appeal was filed by the applicant on November 25, 1980.

A pre-hearing conference was conducted with the parties by the Chairman of the Environmental Board on December 18, 1980. As a result of this conference, the parties agreed to try to settle the appeal without a hearing before the Environmental Board. Therefore, the scheduled hearing in this matter was opened and immediately recessed on December 23, 1980, to give the parties the opportunity to reach a settlement.

Parties to this appeal are:

Applicant, represented by Arthur A. Raphael, Jr., Esq. and Agency of Environmental Conservation by Dana Cole-Levesque, Esq.

The Findings of Fact issued by the District Environmental Commission, except as amended herein, are hereby incorporated by reference.

Findings of Fact

1. On June 23, 1981 the parties presented a Stipulation of Settlement to the Environmental Board with the following provisions:

"1. Land Use Permit No. 5W0602 issued by District Environmental Commission No. 5 shall stand as issued, except

#5W0602-EB

- (a) Condition 14 of said permit is deleted in its entirety.
- (b) Condition 16 of said permit is amended to provide for a completion date of March 1, 1984.

"2. Additional conditions to said permit are added as follows:

- (a) By acceptance of the permit, Wint agrees that he will not subdivide the 75 acre parcel designated Area C on a certain map entitled 'Map of Frank Wint Property, prepared by D.L. Tarbox & Associates, dated August, 1979,' [Marked Exhibit #1 in the files of the Environmental Board] except for two home sites; one of approximately 40 acres and the other of 30-35 acres. Future subdivisions into more than these two parcels shall be subject to review and approval by the District Environmental Commission.
- (b) By acceptance of this permit, Wint agrees that Area B on said map may be divided into house sites, subject, 'however, to:
 - 1) subdivision regulations if any lot is less than 10 acres, and
 - 2) the requirement that no houses will be placed in deer yard areas, as marked on Area B, without consultation with and approval of the State Fish and Game Department.
 - 3) the provisions of Act 250, except that restrictions imposed by reason of the fact that a portion of Area B may be winter deer yard shall be limited to those contained in Subsection 2(b)(2) hereof.

"3. This stipulation shall be deemed to satisfy condition 15 of the land use permit as being Wint's plans for future expansion for lands owned or controlled by Wint. However, it is expressly understood and agreed that Wint by this stipulation does not agree that the District Environmental Commission has power to impose such

conditions on permittee.

- "4. Terms of this stipulation may be incorporated in the land use permit to be issued herein, and the stipulation and settlement are subject to said Board's approval. In the event said stipulation is not approved, the proposed settlement is without prejudice to either party, and the appeal and cross-appeal shall proceed in due course."

Conclusions of Law

1. Under the provisions of the Administrative Procedure Act, 3 V.S.A. §809(d), the parties to a contested case may make informal disposition of the case by stipulation, unless otherwise precluded by law. The stipulations of the parties to this case do not conflict with the requirements of Act 250 and are therefore accepted and incorporated into this order and Land Use Permit Amendment #5W0602-1-EB.
2. Based upon the foregoing Findings of Fact and the Findings of Fact #5W0602 issued by the District Commission, it is the conclusion of this Environmental Board that the project described in appeal #5W0602-EB, if completed and maintained in conformance with all of the terms and conditions of that application and Land Use Permit #5W0602, as amended by #5W0602-1-EB, will not cause or result in a detriment to the public health, safety or general welfare under the criteria described in 10 V.S.A. §6086(a) and that pursuant to that section, a permit is therefore issued.

ORDER

Accordingly, it is hereby ordered that the above Findings of Fact shall be added to those issued by the District Environmental Commission. The conditions of Land Use Permit Amendment #5W0602-1-EB, as determined by the Environmental Board, shall, as appropriate, amend or be added to the conditions of Land Use Permit #5W0602 as issued by the District Environmental Commission. Jurisdiction over this permit shall be returned to the District Environmental Commission.

Dated at Montpelier, Vermont this 8th day of July, 1981.

ENVIRONMENTAL BOARD

By Richard H. Cowart
Richard H. Cowart
Executive Officer

Members participating in
this decision:
Leonard U. Wilson
Ferdinand Bongartz
Lawrence H. Bruce, Jr.
Dwight E. Burnham, Sr.
Melvin H. Carter
Warren Cone
Priscilla Smith