

TOWN OF POMFRET  
ZONING BOARD OF ADJUSTMENT

Minutes of Hearing with Findings and Decision  
June 17, 2019

MINUTES

MEMBERS PRESIDING: Alan Blackmer (Chair), Michael Reese, Loie Havill, Shaun Pickett and Benjamin Brickner

OTHERS PRESENT: Tim Reiter (General Manager Suicide Six), Nick Mahood (Manager Suicide Six Mountain Bike Park), Bob Crean, Jim Havill, Orson St. John (Pomfret Planning Commission), Karen Hewitt (Zoning Administrator)

A hearing was convened to consider the following:

**Application #ZP19-08 by The Woodstock Resort Corporation** to amend hours of operation as originally stated on the Zoning Board of Adjustment Findings and Decision Application #ZP17-25 (Parcel #0210)

HEARING:

The hearing was opened at 6:05 P.M. by chair Alan Blackmer. Bob Crean, Jim and Sharlene Kelly (by email request), and Ryan and Allison Longfield (by email request) were granted status as interested persons. Applicants Tim Reiter and Nick Mahood and interested person Bob Crean were sworn in.

The following documents were entered into the record:

- Completed Application #ZP19-08 dated 5/10/19
- An email to the Zoning Administrator from Sharlene and James Kelly dated 6/3/19
- An email to the Zoning Administrator from Ryan and Allison Longfield dated 6/4/19
- Zoning Board of Adjustment Findings and Decision May 5, 2018 for Application #ZP17-25

The reason for this application and review by the ZBA is to consider an amendment to the hours of operation as determined in the ZBA's Decision on application #ZP17-25.

Tim Reiter presented the application, assisted by Nick Mahood. The request for the extension of hours operation was presented to the ZBA.

The following statements were made in response to questions:

- Riders are mostly local patrons who desire that Applicant stay open later than the original determined 5 P.M. closing time. It was stated that local patrons made up approximately 70% of the lift sales (riders).
- Mountain bikes and the lift do not generate much noise. The trails are unlighted. Impact of later hours would be minimal and Applicant is trying to meet the demands of the guests who work late afternoon.
- Busiest day in terms of riders last year didn't meet Applicant's sales goals. Busiest day was 125-150 riders. Overall 700 season day tickets were sold. Length of season was shorter due to permitting delays, and other delays.
- Applicant would sell half day tickets if hours were extended beyond 5 P.M. Applicant would like to be flexible to amend hours for weather and sunset. Applicant currently sells a pedal-only access pass similar to Mt. Peg in Woodstock. This is done primarily for liability reasons, as pedal-only passholders must sign a liability waiver. This is similar to the uphill pass available in the winter season to skin (hike) up and ski down.
- The lodge would remain open during extended operating hours. Food and alcohol would be available from a cooler. There would be no bar service.
- Tim Reiter stated that all plantings required by the Act 250 permit have been completed. Flooding from the recent storms has left silt around the trees. A permit has been approved by the Vermont Agency of Natural Resources to remove the silt from the trees in the riparian buffer to prevent die-off.
- Storage units have been moved from the riparian buffer zone and units were painted green to blend into the surrounding area. 36 dumpster loads have been removed from the field that had been accumulated for years and years.
- The impact of the bike trails on the ski trails was a surprise and a challenge, requiring more snow to cover the berms. The snow pack held on longer than anticipated.
- Fish and Wildlife has inspected the mountain and it was stated that they were pleased. Seeding and Mulching is being done on the ski trails.
- Planning Commission member Orson St. John, speaking for himself, stated he believed the Planning Commission would look favorably upon a change of hours as requested by the Applicant.

Shaun Pickett moved that the hearing be closed to testimony. Michael Reese seconded the motion. The hearing was closed at 6:47 P.M. The ZBA went into deliberation session immediately after.

#### FINDINGS AND DECISION:

Based on the application, testimony, and other evidence, the Zoning Board of Adjustment unanimously **approves** under Part 7 of the Pomfret Zoning Ordinance permit application #ZP19-08 by The Woodstock Resort Corporation for a change of operating hours for the Mountain Bike Season under the following conditions:

- a) Applicant's proposed uses shall conform to its submissions, plans and representations as reflected by the Minutes, Findings and Decision, and other written materials submitted, except as modified by the conditions provided for in this Decision.

- b) The proposed uses conform to the Pomfret Town Plan’s mixed-use pattern of development in the South Pomfret Village Area. The proposed expansions of hours are consistent with the Town Plan’s goals for recreational development.
- c) Pursuant to Section 11.3 of the Pomfret Zoning Ordinance, the uses proposed in application #ZP19-08 are non-conforming uses under Section 7.1 of the Pomfret Zoning Ordinance. As required by Section 11.3 of the Zoning Ordinance, before authorizing a permit for the proposed uses, the ZBA must find that the uses conform with the Pomfret Town Plan and the Pomfret Zoning Ordinance, and further find that the proposed uses will not:
  - 1. Unreasonably burden the town to provide the site municipal services, including, but not limited to: highway maintenance, fire and police protection, and school bus service.
  - 2. Create a health hazard because of inadequacy of water supply and sanitary facilities or for other reasons.
  - 3. Create a pedestrian or vehicular hazard or congestion because of inadequate parking, loading or storage facilities or other factors.
  - 4. Lead to or be subject to flooding, ponding, or soil erosion at the proposed site.
  - 5. Create a public nuisance or adversely affect the character of the area as well as the comfort, convenience and general welfare of the community.
- d) The Original Zoning Board of Adjustment Findings and Decision #ZP17-25 Findings, Conclusions, Decision and Conditions (the “2017 Decision”) shall continue in full force and effect, except as provided herein.
- e) Paragraph E of the 2017 Decision is replaced with the following: “E. Hours of operation of the trails during the mountain biking season shall be permitted only from May through October and shall not exceed 10 A.M. to 7 P.M. or sunset, whichever is earlier, using the Eye on the Sky Vermont Weather Journal as the point of reference ([www.fairbanksmuseum.org/eye-on-the-sky](http://www.fairbanksmuseum.org/eye-on-the-sky)).”
- f) Paragraph H of the 2017 Decision is replaced with the following: “H. A safety patrol shall be active on the biking trails during hours of operation of the trails.”
- g) The Board approves only the service of food from 5:00 P.M. to 7:00 P.M.
- h) The Applicant’s service of food outside of the expanded hours approved herein or alcohol service at any time are not addressed by this Decision. The Zoning Board of Adjustment Findings and Decision May 5, 2018 for Application #ZP17-25 neither approved nor disapproved the service or use of food or alcohol on the premises relating to the installation and use of the mountain biking trails.
- i) This decision of the Zoning Board of Adjustment regards only the application (Application #ZP19-08 dated 5/10/19) by The Woodstock Resort Corporation for the activities specifically requested therein on the lands of The Woodstock Resort Corporation/Suicide Six Ski Area. The conformity of any other uses or activities on Applicant’s property was not considered or addressed in this Decision.

These minutes, findings and decision approved at Pomfret, Vermont, this 18 day of June, 2019.

Alan Blackmer  
Alan Blackmer, Chair, Zoning Board of Adjustment

Voting in favor of these minutes, findings and decision were ZBA members Alan Blackmer, Shaun Pickett, Michael Reese, Benjamin Brickner and Loie Havill.

**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.