

Hardwick Development Review Board
Conditional Use Review Request
91 Mill Street, LLC
91 Mill Street, Hardwick
Application #2019-041
August 21, 2019

To consider a Conditional Use Review request by 91 Mill Street, LLC for the creation of a parking area (Accessory Use to a pre-existing Conditional Use – Retail) in the Central Business zoning district. Development would occur at 91 Mill Street, Hardwick, VT.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.1 Central Business Zoning District; 3.11 Performance Standards; 3.12 Protection of Water Resources; 3.13 Parking and Loading Requirements; 5.2 Conditional Use Review; and 5.2 G1 Central Business District Standards.

Warnings were posted on Wednesday, July 31, 2019 at the Hardwick Memorial Building, the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Highland Hill Limited Partnership; Bair LLC; Grass Roots Art & Community Efforts; HVM Real Estate, LLC; Hay's Service Station, Inc.; Jay Caroli; Town of Hardwick; and Roger Demar on Wednesday, July 31, 2019. It was also published in The Hardwick Gazette on Wednesday, July 31, 2019.

Development Review Board members present: Kate Brooke; Ruth Gaillard; John Mandeville; Helm Nottermann; and Ed Keene.

Development Review Board members absent: None.

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Pam and Guy Trag, applicants.

During the course of the hearing and prior to the hearing the following exhibits were submitted: None.

Summary of Discussion

Chair John Mandeville began the hearing at 7:45 pm. He noted that the hearing was quasi-judicial, explained the hearing procedure, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing.

The applicants, Pam and Guy Trag, explained that they wish to utilize the newly cleared lot for parking purposes of their adjacent retail business. The initial plan is to have a gravel parking area but, eventually, they hope to pave the parcel. Access will be obtained from the existing Village Market parking lot. The Trags intend to place impediments in the curb-cut area on the 91 Mill Street property but they do not wish to relinquish to right to utilize the curb-cut in the future. They spoke to Tom Fadden, the Road Agent, and he did not express any concerns with the proposal.

The Trags do not have any current plans for the remaining section of the property. The present plan is to utilize the residual space as a green space. In the future, there may be a compatible business on site or an extension of their existing business.

It was noted that the area which will be utilized for parking is essentially the same size as the pre-existing distressed house which was removed.

No additional lights will be installed in the parking area.

The hearing ended at 8:00 pm. Helm Nottermann made the motion to enter into deliberative session after the following hearing and Ed Keene seconded. All members were in favor.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings:

2.1 Central Business – all setbacks and dimensional standards are met for this district. An Accessory Use (parking) to a Conditional use (Retail) is allowed. Applicant is requesting a parking area for a pre-existing Conditional Use (Retail).

3.11 Performance Standards – review was made of the performance standards by the DRB. **No adverse aspects were identified.**

3.12 Protection of Water Resources – the property is located on the Lamoille River and in the Flood Hazard Area Overlay. “An undisturbed, vegetated buffer strip shall be maintained for a minimum of 25 feet from all streams, rivers, and lakes. The 25 feet buffer strip shall be measured from the top of the streambank.” The project is well beyond the 25 feet buffer and the Flood Hazard Area overlay?

3.13 Parking and Loading Requirements – The requested use is additional parking for an existing business. “Non-Residential parking areas shall be located to the side or rear of buildings unless otherwise approved under site plan or conditional use review and shall be screened from adjoining residential properties.” **The DRB found that adequate parking exists on site.** The proposal is to the side of the existing building and a row of trees exists between the area and the adjacent residential structure.

5.2 Conditional Use Review

E) General Review Standards

The proposed conditional use will/ will not result in an undue adverse effect on any of the following:

1. **The capacity of existing or planned community facilities and services.** The proposed use will not affect either capacity.
2. **Character of the area affected.** Proposed Accessory Use is compatible with the area.
3. **Traffic on roads and highways in the vicinity.** Proposal will not affect the current traffic patterns.
4. **Bylaws in effect.** N/A
5. **The utilization of renewable energy resources.** N/A

F) Specific Review Standards shall include:

1. **Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **All standards are met by the proposal.**
2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **The performance standards were reviewed. See Condition #2.**
3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Standards will be met by the proposed changes. The expanded parking**

should alleviate some aspects of traffic flow in the existing parking area.

4. **Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **Landscaping was not indicated as necessary.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **Parcel has had erosion control standards applied to demolition and removal of the existing residential structure.**

5.2G Central Business Standards

A) The use of front yards shall be limited to landscaping, pedestrian paths and associated pedestrian amenities (e.g. street furniture, pedestrian scale lighting and signs) and driveways. Outdoor storage, parking and loading areas shall not be located within front yards unless the Board finds that the property is a pre-existing building or that no other practical alternative exists. **The property is adjacent to a pre-existing building. No new buildings are being constructed.**

B) Buildings should be oriented toward and relate to, both functionally and visually, public streets and/or common greens, parks or plazas, and not be oriented toward parking lots. The front façade should include a main entry-way and pedestrian access to the street. Buildings located on corner lots shall either be oriented toward the major street or include a corner entrance. The Board may impose a maximum setback, relative to adjacent buildings to achieve a consistent streetscape. **No new buildings are being constructed.**

C) New buildings and additions to existing buildings shall be designed to be compatible with, and not stand in contrast to, historic structures located within the district with regard to building scale, massing, materials, orientation, and rhythm of openings. **No new structure development proposed for the site.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve the 91 Mill Street, LLC conditional use application as presented and amended with the following conditions:

Conditions:

1. Any and all necessary state and federal permits must be in place before development can commence.
2. The Applicant will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. The existing curb cut will have adequate impediments to prevent vehicular usage. Furthermore, the Mill Street boundary of the property will have adequate impediments to clearly delineate the line between the parking area and the existing sidewalk.

Signed:


_____, Chair
John Mandeville, DRB Chair

Date 8/24/19


_____, acting clerk
Kristen Leahy, Zoning Administrator

Date 8/26/19

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in

the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made 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.

Hardwick Unified Development Standards

Section 3.11 Performance Standards

- (A) The following performance standards must be met and maintained for all Conditional Uses and Home Occupation uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No Conditional Uses or Home Occupation uses, under normal conditions, shall cause, create or result in:
- (1) **regularly occurring noise**, which:
 - i. represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or
 - ii. in excess of 65 decibels, or 70 decibels within the Industrial District.
 - (2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;
 - (3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);
 - (4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;
 - (5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;
 - (6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.
 - (7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or
 - (8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;