

Hardwick Development Review Board
Conditional Use Review Request
Dragon, Donald
65 VT Route 14 South, Hardwick
Application #2021-022
May 19, 2021

To consider a Conditional Use and Flood Plain Review request by Donald Dragon for the replacement of an existing Single Family Dwelling (Manufactured Housing) in the Highway Mixed Use zoning district. Development would occur at 65 Vermont Route 14 South, Hardwick, VT. Site is in the Flood Hazard Area Overlay.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.3 Highway Mixed Use District; 2.8 Flood Hazard Area Overlay; Section 5.2 Conditional Use Review; Section 5.2 G3 Highway Mixed Use District Standards and 5.3 Flood Hazard Review.

Warnings were posted on Monday, May 3, 2021 inside the Hardwick Memorial Building, on the Town of Hardwick website, at the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: 17 Route 14 South LLC; Debbie & Ronald Brown; Winston Jennison Inv LLC; Steven & Lisa Ferland; and Marsha Harvey on Monday, May 3, 2021. It was also published in The Hardwick Gazette on Wednesday, May 19, 2021.

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

Development Review Board members absent: None

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Donald Dragon (applicant); and Michael Demers (Godfather to applicant).

During the course of the hearing and prior to the hearing the following exhibits were submitted:

1. Email letter from Sacha Pealer, Floodplain Manager dated May 3, 2021.

Summary of Discussion

Chair John Mandeville began the hearing at 7:02 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.

Mr. Mandeville invited the applicant to present his proposal. Mr. Dragon testified that he owned the parcel at 65 VT Route 14 South and he previously removed the old trailer on site. The slab is no longer usable and will be removed and replaced with a new slab. The water and sewer and electricity are already in place. A new manufactured home will be installed at the same location on the new slab.

The hearing ended at 7:26 pm. Helm Nottermann made the motion to enter into deliberative session after the 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:

2.3 Highway Mixed Use District – A Single Family Dwelling is listed as a Permitted Use in the district. Applicant is requesting to replace the previously existing Single Family Dwelling with a Single Family Dwelling (Manufactured Housing). Location must be 45 feet from the centerline of VT Route 14 South and 20 feet from the side and rear setbacks. **The project will meet the dimensional standards with approximately 200 feet on the front, approximately 45 feet on the left side, approximately 20 feet on the right side and approximately 100 feet on the rear setback.**

2.8 Flood Hazard Area Overlay District – The Flood Hazard Area Overlay District lists “All other new structures, (including accessory dwelling units)” as Conditional Uses. **The proposal was reviewed by the Floodplain manager, Sacha Pealer (See Exhibit #1). Ms. Pealer made several recommendations for the proposal.**

3.11 Performance Standards – review was not made of the performance standards by the DRB. The proposed project will not need to be reviewed as the use (Single Family Dwelling) is a permitted use. Location in the Flood Hazard Area Overlay District dictates use of conditional use process. **N/A**

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. **The Single Family Dwelling replaces a previously existing Single Family Dwelling. No change in the impact to facilities or services.**
- 2. Character of the area affected.** The replacement of the Single Family Dwelling does not detract from the purpose of the Highway Mixed Use zoning district and matches the character of the surrounding area.
- 3. Traffic on roads and highways in the vicinity.** The circulation and traffic patterns on VT Route 14 South will not be impacted by the existing use. **No adverse effect was identified. The same driveway will be utilized and no increase in traffic will be created by the proposal.**
- 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 not reviewed.**
- 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 development.**

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. **No additional plans were indicated as necessary.**

5.2 G3 Highway Mixed Use District Standards.

A) Within and contiguous to parking areas, landscaping shall emphasize the use of shade trees to provide a tree canopy, provide separation between parking spaces to avoid large expanses of parking and minimize the visibility of parking areas from off-site. Suitable locations for shade trees include along walkways, in center islands, in between parking spaces and clustered in appropriate locations. **No parking areas are planned at this time.**

B) A landscaped strip of at least twenty (20) feet shall be provided parallel to the road, which may be crossed by driveways and sidewalks. Form, location, and composition of the landscaped strip shall be shown on the site plan and approved by the Development Review Board. **The property has multiple trees on site which serve as a landscaped strip.**

5.3 Flood Hazard Review

(G) Development Standards – Special Flood Hazard Area.

(1) All development shall be:

- a. reasonably safe from flooding;
- b. designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure; **According to Sacha Pealer – town may want a little more detail on how extensive the strapping will be (number, location), how it will be maintained over time, if blocks would be stacked or bonded, or the thickness of the slab. Per the surveyor, the finished first floor will be at 822.66' (BFE is 817.9).**
- c. constructed with materials resistant to flood damage; **N/A – manufactured home.**
- d. constructed by methods and practices that minimize flood damage; **N/A – manufactured home.**
- e. constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- f. adequately drained to reduce exposure to flood hazards;
- g. located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and
- h. required to locate any fuel storage tanks (as needed to serve a building in the Special Flood Hazard Zone) a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation, or storage tanks may be placed underground, if securely anchored as certified by a qualified professional. **A fuel storage tank is planned at this time, it will be located as required (minimum of 1 foot above the bfe & anchored). The tank slab elevation will be noted by a land surveyor on the as-built Elevation Certificate for the installed home.**

- (3) All new or substantially improved structures in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at or above the base flood elevation, and this must be documented, in as-built condition, with a FEMA Elevation Certificate. **The proposed Single Family Dwelling will be at 819.66' and the Base Flood Elevation is at 817.9'.**
- (9) New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the systems and discharges from the systems into flood waters. **Water and Sewer are already in place.**
- (14) New and replacement manufactured homes shall be elevated or placed on a permanent foundation so that the lowest floor is elevated to or above the base flood elevation.

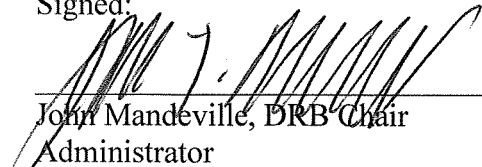
Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve the Dragon conditional use/flood plain review 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. A FEMA Elevation Certificate for the finished building must be submitted to the zoning office upon project completion. The Elevation Certificate must include the location and elevation of the slab that will be utilized for the fuel storage tank(s). The Elevation Certificate must also be completed and stamped by a licensed professional engineer or land surveyor. The Elevation Certificate must also be recorded with the Hardwick Town Clerk's office.
- 3. The manufactured housing company must submit an acceptable anchoring schematic for the proposed Single Family Dwelling prior to its installation on the property.

Signed:


 _____, Chair
 John Mandeville, DRB Chair
 Administrator


 _____, acting clerk
 Kristen Leahy, Zoning

Date 5/20/21

Date 5/26/21

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.

Mon, May 3, 11:28 AM (20 hours ago)

Pealer, Sacha

to me

Hi Kristen,

Thank you for sending the zoning application for the proposed double-wide manufactured home at 65 Route 14 South. I reviewed the application materials and offer the following comments relating to Hardwick's flood hazard regulations (Unified Development Bylaws).

The project involves replacement of a manufactured home in the Special Flood Hazard Area (Zone AE) of Cooper Brook. The project is outside the regulatory floodway of the Special Flood Hazard Area.

Lowest Floor Elevation: 5.3 (G)(3) & (14)

For a new manufactured home in the Special Flood Hazard Area, the lowest floor must be elevated to or above the Base Flood Elevation (BFE). The BFE is the expected flood height with at least a 1% chance of occurring in any year.

The BFE at the site can be obtained by reading the FEMA Flood Insurance Rate Map or the Flood Insurance Study. The home site is between cross-sections I and J on Cooper Brook, and these cross-sections are both labeled as having a Base Flood Elevation (BFE) of 817.9' NGVD29. Therefore, the home site has a Base Flood Elevation of 817.9' NGVD29.

The Elevation Certificate shows the existing slab surface is 819.66'. Based on the project description, the proposed home will be installed on a replacement slab that is enlarged for the double-wide and has the same elevation of the existing slab. If constructed as proposed, with the slab surface higher than BFE, the replacement home's lowest floor will also be above the BFE. Because the subfloor components of a manufactured home can also be vulnerable to flood damage, having a slab elevation above BFE is beneficial to better protect the home.

I recommend the new slab elevation be checked prior to placing the home on top (e.g., by keeping a reference marker from the old slab nearby on a grade stake or with a surveyor's visit). When the project is complete and the home installed, an as-built Elevation Certificate should be completed by a licensed land surveyor and submitted to the town per 5.3 (G)3 of Hardwick's bylaws ("Finished Construction" should be checked in Section C of the Elevation Certificate form to indicate it reflects as-built conditions).

Anchoring: 5.3 (G)(1)(b)

All development in the Special Flood Hazard Area is required to be "designed, operated, maintained, modified and adequately anchored to prevent flotation, collapse, or lateral movement" during a flood. When reviewing the project under this standard, the town will need enough information to determine if the home is going to be adequately anchored for flooding. The proposed foundation system, as described in the application, includes setting the home on blocks on the slab with "metal strapping anchored from the home to the slab and bolted". The town may want the designer to comment on how the anchoring/foundation system was selected for the floodplain setting. For example, the town may want a little more detail about how extensive the strapping will be (number, location), how it will be maintained over time, if blocks would be stacked or bonded, or the thickness of the slab. Because the home is proposed to be on a slab that is more than 1.5' above BFE, the anchoring system would not need to be as robust as if the home were much lower in the floodplain. Based on the FEMA flood study, this location is expected to have relatively low flood velocities (average 1.6 feet/second

in the floodway at cross section I) and shallow flood depths during the base flood (at least part of the site is already above BFE). The elevated slab will greatly reduce the flood damage risk; however, some flood damage risk could remain for the home if flooding exceeds the slab and/or in the event of debris impacts. Although not a specific requirement in the bylaws, the applicant may want a qualified installer to review the considerations for foundation and ground anchor types in *FEMA Publication 85: Protecting Manufactured Homes from Floods and Other Hazards* (2009).

Utilities & Fuel Tank: 5.3 (G)(1)(e) & (h)

All mechanicals or utility systems located below BFE are required to be protected from flood damage. From the project description, it sounds like the only items below BFE might be the connections to the existing water/sewer service or electrical (if buried). Most likely, all connections that come up from the ground beneath the house are buried or encased in the concrete slab until they are above BFE. I suggest getting a little more information to confirm. Where buried below BFE, these lines should be protected in watertight conduit.

Hardwick's regulations require fuel tanks to be elevated at least 1' above BFE and to be anchored. The town will want to make sure the separate slab for the fuel tank is meeting this elevation requirement and that the tank is bolted or otherwise anchored. I recommend the tank's slab elevation be checked when the main slab elevation is checked and request the tank slab elevation be noted by a land surveyor on the as-built Elevation Certificate for the installed home.

Site Elevations & Letter of Map Amendment

The Elevation Certificate for the existing slab suggests part of the site is above BFE, although it is unclear if the expanded footprint for the new home will be on land already above or below BFE. Once the project is complete, if everything (new slab, house, anchors, fuel tank) is shown by survey to be on land above BFE, and the land is not raised by fill after 6/15/1984 (the date of Hardwick's first Flood Insurance Rate Map), then the new home may be eligible for a Letter of Map Amendment (LOMA) to remove it from the Special Flood Hazard Area. However, without a LOMA, the home site is mapped as in the Special Flood Hazard Area, and the town would need to consider the home in and require future review and permitting under Hardwick's flood hazard regulations.

Please let me know if you have any questions. You may consider this email as ANR flood hazard review to assist with the local permit process per 24 V.S.A. §4424.

Best wishes,

Sacha Pealer, CFM|Northeastern River Scientist & Floodplain Manager (she, her)
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