

Hardwick Development Review Board
Conditional Use Review Request
Applicant: Bombastic Industries LLC – Blue Donkey
Landowner: K2 Realty LLC
47 Mill Street, Hardwick
Application #2022-068
December 14, 2022

To consider a Conditional Use Review request by Bombastic Industries LLC for the conversion of a pre-existing Motor Vehicle Service structure into a Restaurant in the Central Business zoning district. Development would occur at 47 Mill Street in Hardwick, VT. The application also requests two expansions to the existing structure, including a minor incursion into the 75 feet setback from Surface Waters.

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

Warnings were posted on Monday, November 21, 2022 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: Bair, LLC; Jeffrey Newman; Rural Arts Collaborative Inc.; Buffalo Mountain Coop Inc; Town of Hardwick; and the William Hill Trust on Tuesday, November 22, 2020. It was published in the News and Citizen on Wednesday, November 23, 2022 and in The Hardwick Gazette on Wednesday, November 23, 2022.

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

Development Review Board members absent: None

Others present: Kristen Leahy, Zoning Administrator (acting clerk); William Chidsey, facility manager for the Buffalo Mountain Market; Nora Lakhani; Chris Clewes, Contractor; Jimmy Goldsmith, Owner of the Blue Donkey; Jack Clewes, Contractor; and Andrew Figliola, General Manager.

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

1. Sewer Allocation letter from Town Manager, David Upson, Jr., dated December 1, 2022.
2. Simplified site plan from the applicant.
3. Photograph of the steel pole in the potential sidewalk ROW.
4. Visual rendering of potential sidewalk

Summary of Discussion

Chair John Mandeville began the hearing at 7:30 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 the proposal. Jimmy Goldsmith, the owner of the Blue Donkey in Stowe, testified that the existing structure was utilized as a service station for many years. The goal is to improve the existing building and convert the use from Motor Vehicle Service to Restaurant (Blue Donkey). This will be a 30 seat restaurant. The design calls for two additions. A new entry way would be added to the right of the existing building and additional space for restrooms and the kitchen would be installed in the rear of the building.

The front of the building would not be converted to parking. Trees would be installed in containers to install a green aspect next to Mill Street.

John Mandeville inquired about toxic oil clean up. The spill occurred in 1991. Remediation has transpired and the State has been testing on a yearly basis. New test pits were installed recently and they have not indicated any problems. The environmental monitoring is about to be completed.

The applicant does not intend to have live music – the performance standard requirements are understood.

The lighting will be down lit and to scale.

The hope is that the front of the building will be a community friendly entrance and a common area for downtown Hardwick. A patio will be installed in the rear of the property.

With regards to the existing trees on the Lamoille River, noting will be removed or augmented unless explicit permission is received from the State of Vermont.

The restaurant will have 3-4 employees per shift and one shift per day (currently 11:30 am to 10 pm).

The deliveries will occur on the left side of the building. Angled parking spaces will be installed next to the former Bank building. Additional spaces may be available in the rear, next to the Lamoille River. Two access points will be created with a one-way traffic flow established. No parking will occur in the front or on the right of the building. The applicant hopes to deter the current pattern of U-turn maneuvers in the extensive parking lot.

The current T111 on the exterior of the structure will be difficult to match with the exact colorway. To mitigate the existing rot, the contractors will be using corrugated metal – 4-5 feet from the bottom. Minimal changes are envisioned. The entire structure will be repainted. Beige and neutral colors will probably be utilized.

Dumpsters will be located in the rear of the building. A hood system is being installed in the kitchen.

A sign permit will be necessary.

Bill Chidsey, from the neighboring Buffalo Mountain Market, brought photos to demonstrate that the current steel sign post is set in the future path of a pedestrian walkway. The applicant agreed to move the sign post out of the town's ROW. The sign post can continue to be utilized but will be moved inward on the parcel.

The hearing ended at 8:05 pm. Helm Nottermann made the motion to enter into deliberative session and Kole 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 Use – all setbacks and dimensional standards are met for this district. Applicant is requesting the conversion of an existing 37' x 33' building with two additions. Minimum setbacks from the front (0 feet) have been met. Side setback with addition will be 10 feet and a setback of 80 feet exists. Rear setback is proposed to be 48 feet which meets the district setback (See 3.12 for the Surface Water setback). Restaurants are allowed as conditional uses.

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 – Proposed addition to the rear of the existing structure will bring the structure to 48 feet from the Lamoille River. The Development Review Board may, in accordance with conditional use review under Section 5.2, approve the placement of a structure within the 75 feet setback providing it meets the following standards:

- a) the structure is located within the Central Business District or the Village Neighborhood District. **Structure is located in the Central Business District.**
- b) the building placement will better reflect the historic settlement pattern and character of the surrounding area; **Expansion in the rear of the structure allows the front to reflect the character of the surrounding area.**
- c) reasonable provision is made for the protection of water quality such as, but not limited to, the planting of shade trees adjacent to streambanks, and/or stormwater management provisions to collect and disperse stormwater away from the stream or river; **Currently, a paved parking area with a scattering of trees on the river bank exists on this property. The applicant will not make any changes to the shoreland vegetation unless/until the State of Vermont grants explicit permission.**
- d) the structure, if located in a flood hazard area, shall meet the development standards of Section 5.2 of these bylaws. **Structure is not located in a flood hazard area.**

3.13 Parking and Loading Requirements – The requested use is a Restaurant in an existing Motor Vehicle Service structure. “Off-street parking will be required only for employees, on the basis of one space per two (2) employees per shift, and for dwelling or lodging units as provided for in Table 3.1” **There will be 3-4 employees and one shift per day. The applicant will install 5+ parking spaces and provide off-street space for deliveries. The DRB found that the parking requirement had been met.**

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 conversion of the structure to a Restaurant 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.** The proposed change to the Restaurant has received an allocation from the Town water and sewer. See Exhibit #1.
- 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.**

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 G1 Central Business District 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 proposed development will utilize the front yard as pedestrian and landscaping (container plantings as the pavement should remain).**

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. **Front façade includes the main entry and pedestrian access to the Mill Street. A bench and a bike rack may be incorporated.**

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. **The additions that are being proposed with this conversion will be compatible with the historic structures in the district.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve the 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. There shall be no on-street parking for employees or owners.

Signed:

 _____, Chair
John Mandeville, DRB Chair

 _____, acting clerk
Kristen Leahy, Zoning Administrator

Date 12/20/22

Date 12/20/22

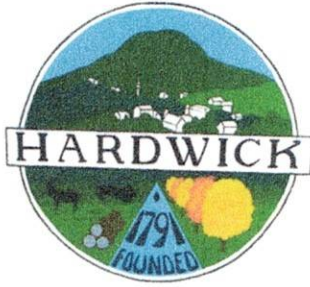
NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 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:
represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or
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;



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December 1, 2022

K2 Realty LLC
PO Box 3383
Stowe, VT 05672

Re: Sewer Allocation

To: James Goldsmith, Owner

The purpose of this letter is to confirm that the Town of Hardwick currently has the capacity to serve your proposed 30 seat restaurant with both municipal drinking water and wastewater treatment for the design flow rate allocation of 810 gallons per day as outlined in the State Wastewater Permit # WW-7-5982 for the located at 47 Mill Street in Hardwick, VT.

The assignment of this allocation is conditioned upon the availability of capacity at the time of the connection, upon the applicant paying all applicable fees and costs associated with the line extension and connection, as well as complying with the Town's water and wastewater treatment ordinances.

If you have any questions, please don't hesitate to contact me.

Sincerely,

David Upson
Town Manager
Town of Hardwick
Wastewater Treatment Facility 3-1143

Zoning Administrator's Office
Town Clerk's Office
Public Works Foreman

Kristen Leahy
Tonia Chase
Tom Fadden

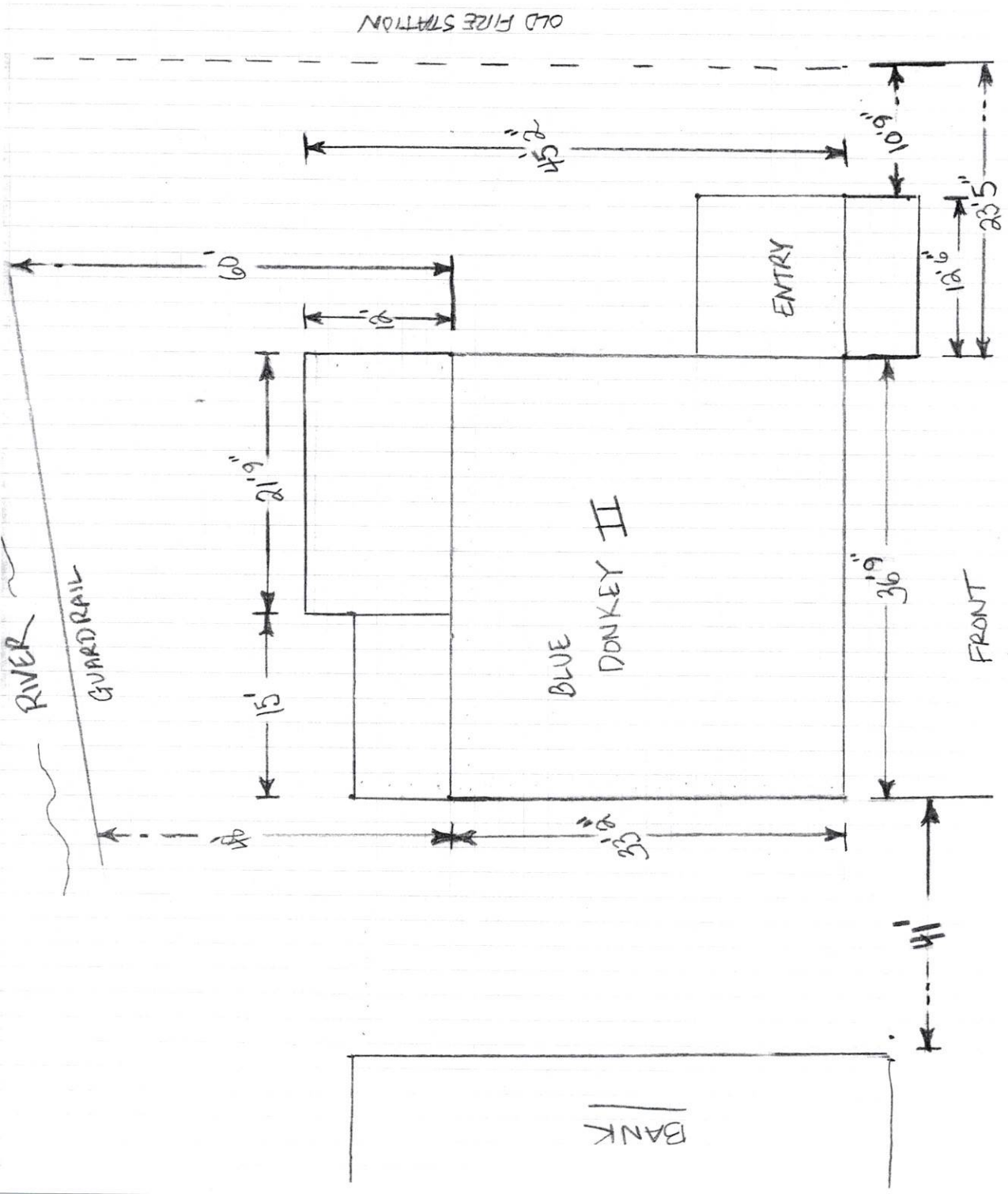
(802) 472-1686
(802) 472-5971
(802) 472-6029

QUESTIONS ?

EXTERIOR LIGHTING

BLUE DONKEY II
HARDWICK VT.

SCALE $\square = 2'$



steel pole blocking sidewalk





A product of the National Cooperative Soil Survey, a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local participants

Custom Soil Resource Report for Caledonia County, Vermont

Side walk from former bank 21 mill
across 47, 59, 75, + 91 Mill Street east

