

Hardwick Development Review Board
Conditional Use Review
Landowner: Town of Hardwick
Applicant: NEKarts Council
127 Church Street, Hardwick
Application #2023-065
October 18, 2023

To consider a Conditional Use Review request by the NEKarts Council to construct an addition on a pre-existing nonconforming Public Facility (Hardwick Town House) in the Village Neighborhood zoning district at 127 Church Street, Hardwick.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.2 Village Neighborhood zoning district; 3.9 Nonconforming Structures & Nonconforming Uses; 3.11 Performance Standards; 3.13 Parking and Loading Requirements; 4.15 Protected Public Uses; 5.2 Conditional Use Review; and 5.2 G Village Neighborhood District Standards.

Warnings were posted on October 3, 2023 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: Joshua and Rhea Allen; Roger Heilig Jr. Trust; Kim Greaves; Adam Merchant; Nicholas Volk and Juliette Hancock; Douglas and Nicole Desgroseilliers; Coco Browne-Holton and Richard Holton; Lamoille Housing Partnership Inc.; 106 Church Street, LLC; Lucky Number Seven, LLC; Lynn Angebrannt; and Ivan and Brenda Menard on October 5, 2023. It was also published in News and Citizen on Thursday, October 5, 2023.

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

Development Review Board members absent: None

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Shari Cornish; Dave Gross; Sally Anstey; Maya McCoy; and Brent McCoy.

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 7:00 pm. He noted 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 applicants to present their proposal. Shari Cornish and Dave Gross were the attending representatives from the NEKarts Council.

The proposed addition to the Hardwick Town House will continue the efforts to make the structure accessible to everyone. The first level and the bathrooms have been made accessible, but the stage continues to present a problem as it is currently accessed by narrow, steep stairs. The addition would include a lift to the stage. In addition, the fire escapes were deemed unsafe and were removed. The addition will also include an external stairwell for emergency egress from the balcony seating area.

The addition's aesthetics are being reviewed and approved by The Preservation Trust of Vermont. The windows and siding will match that which is currently in place on the original structure. The lighting will be

down-lit and over the entrance to the addition.

The hearing ended at 7:15 pm. Helm Nottermann made the motion to enter into deliberative session and Ruth Gaillard seconded. All members were in favor.

Findings of Fact:

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

2.2 Village Neighborhood District – all setbacks and dimensional standards are not met for this district. The Hardwick Town House is a pre-existing nonconformity (rear setback). The proposed two-story 17' by 12' addition would be an accessory to the existing conditional use (Public Facility).

3.9 Nonconforming Structures & Nonconforming Uses – A(4) states that a nonconforming property may, “subject to conditional use review under Section 5.2, undergo alteration or expansion which would increase the degree of nonconformity solely for the purpose of meeting mandated state or federal environmental, safety, health or energy regulations(e.g. handicap access ramp in accordance with ADA standards).” **The addition will not extend beyond the existing nonconforming rear section of the Hardwick Town House. The proposed addition would house the fire escape for egress and a lift for stage accessibility.**

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

3.13 Parking and Loading Requirements – Non-residential parking areas typically require screening from the adjoining residential properties. Parking areas shall be located to the side or rear of the building. The number of parking spaces will be determined by the Development Review Board. **In this request, the DRB finds that no testimony from neighbors was received which would indicate a need for screening. Furthermore, natural vegetative screening already exists on the perimeter of the parcel. The parking will not be impacted by the addition.**

4.15 Protected Public Uses – the proposed addition to a Public Facility would be located in the Village Neighborhood District. This District is specified as a designated district for “State or community owned and operated institutions and facilities [see Public Facility].” **Testimony was received that the Hardwick Town House is a community-owned Public Facility as defined by this section. The proposal can be “regulated only with respect to size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements and only to the extent that regulations do not have the effect of interfering with the intended functional use.”**

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.** The proposed addition to the Public Facility would replace the unsafe fire escapes and would install a lift to the stage for the Hardwick Town House. Character of area should be improved by installation of the addition.

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). **Discussed previously in the hearing.**
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. **Due to the historic nature of the structure, the access and circulation are pre-existing. The addition will not make access or circulation more non-conforming.**
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 to be 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 requirements were made by the Development Review Board.**

5.2G Village Neighborhood 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 addition will not impact the use of the front yard and will not change the outdoor storage, parking or loading areas.**
- 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. The Board may impose a maximum setback, relative to adjacent buildings to achieve a consistent streetscape. **The addition will be oriented toward the public access.**
- C) The scale and massing of new buildings, including height, width, street frontage, and roof type, shall be compatible and harmonious with surrounding residential structures. Consideration shall be given to buildings serving special civic, social or cultural functions, including place of worship, that may be designed to serve as prominent focal points within the district. **Proposed addition is within the height limitation and is in keeping with the Hardwick Town House and the Depot. The addition's exterior will be as similar as possible to the existing structure. The Preservation Trust of Vermont will be assisting with this aspect.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve the Town of Hardwick and NEKarts Council's 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 Town of Hardwick will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11

Signed:

 _____, Chair
John Mandeville, DRB Chair

Date 10/20/23

 _____, acting clerk
Kristen Leahy, Zoning Administrator

Date 10/20/23

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;