

i.

Hardwick Development Review Board
Conditional Use Hearing
Northeast Kingdom Community Action Inc (NEKCA)
112 Spring Street, Hardwick
Application #2016-015
May 4, 2016

To consider a conditional use request by Northeast Kingdom Community Action Inc. (NEKCA) to change a use from a beauty salon and residence to an Early Education School in the Village Neighborhood zoning district at 112 Spring Street, Hardwick.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.2 Village Neighborhood Table; 3.10 Parking and Loading Requirements, 3.11 Performance Standards; 4.13 Protected Public Uses; 5.2 Conditional Use Review; and 5.2 G Village Neighborhood District Standards.

Warnings were posted on April 20, 2016 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: Mary and Steven Baker; Carrie Adams and Douglas Taft II; Karen Colburn and Eugene Atwood; Scott Smith and Charles Smith; Tammi and Scott Smith; Kasey and Jeffrey Kerr; Jaclyn Harman; Kara Grant; Vanessa Fournier; Corinne Brochu; Leo Renaud and Kathy Walker; Lillian Richardson; and William and Douglas Bedell, on April 19, 2016. It was also published in The Hardwick Gazette on Wednesday, April 20, 2016.

Development Review Board members present: Daniel Bandit; Ruth Gaillard; Edward Keene; John Mandeville; Cheryl Michaels, Chair; Helm Nottermann; and John Page.

Development Review Board members absent: None

Others present: Andre Messier, Landowner; John Killion, NEKCA representative; Joe Patrisi, Executive Director of NEKCA; Mark Wheeler, Architect for NEKCA; Linda Michniewicz, NEKCA Program Director for Head Start; Denise Hill, Hardwick Head Start Center Manager; Kristen Leahy, Zoning Administrator (acting clerk) and for additional names, see the Sign-In Sheets.

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

- Exhibit #1 Letter from neighbor – Mary Lou Baker
- Exhibit #2 Letter from neighbor – Vanessa Fournier and Petition from neighbors
- Exhibit #3 Letter from neighbor – Lillian Richardson
- Exhibit #4 Letters submitted by NEKCA – 15 in total
- Exhibit #5 Letter from neighbor – Victoria Norman
- Exhibit #6 Transportation Schedule submitted by NEKCA

Summary of Discussion

Chair Cheryl Michaels began the hearing at 7:12 pm. She noted the hearing was quasi-judicial, explained the procedure for the hearing, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing. Chair Michaels asked if there were any other exhibits or letters for the DRB. NEKCA delivered a folder containing 15 letters (Exhibit #4). Chair Michaels then asked the applicant to explain their proposal.

Joe Patrisi, Executive Director of NEKCA, began by delivering a brief overview of NEKCA's programming. NEKCA provides a variety of programs, including the Hardwick Head Start program, with a focus on anti-poverty and assistance to low-income residents. The Head Start relocation to 112 Spring Street from the current location in the Masonic Temple would be a move from a tiny space into a better space.

Linda Michniewicz, NEKCA's program director of Head Start, presented an overview of the Head Start program. Head Start is a national education program for 3-5 year olds. The national model also provides early education and pre-natal information. Their goals include the promotion of children's health, school readiness for children, and assistance for parents and children to connect with necessary resources. Ms. Michniewicz testified that the 112 Spring Street location would be a better location for the Head Start program. The current location in the Masonic Temple has been utilized for 32 years. The space is in the basement of the structure and the space is not handicap accessible. NEKCA has reviewed the possibility of upgrading and changing the current space but as they do not own the space, it is not financially feasible. As a result, NEKCA has been seeking a new, accessible building. 10% of the children enrolled at the Hardwick Head Start program have disabilities. Currently, 4 children have Individual Education plans. In addition, the financial threshold for enrolling is 100% poverty level.

Denise Hill, Hardwick Head Start Center Manager, discussed the Hardwick program. They currently have 14 children. They can have up to 16 children. Head Start provides 2 meals each day the program is in session – currently Monday to Thursday. The children are dropped off between 8:00 and 8:30 and are picked up at 12:30. Ms. Hill testified that the current location is tricky to utilize. Workshops on site are not possible. They utilize the Memorial Building and the United Church of Hardwick. The location at 112 Spring Street would give the program the opportunity to have a bigger space to accommodate more people at community events or play groups. Hardwick Head Start program collaborates with the Vermont Department of Health to provide workshops for WIC recipients.

Joe Patrisi testified again and touched upon the history of the Head Start program. The Mission of Head Start is to work with low-income families and to empower the parents. Parents govern the program and approve the budgets and the hiring of staff, etc. There is a high commitment from the parents of enrolled children.

Mark Wheeler, Architect representing NEKCA, testified that there are three structural components of the proposal.

- 1) To make the building accessible, there will need to be a ramp attached to the current deck and a new door in the entryway.
- 2) To make the play area accessible, there will need to be a sloped walk-way to the lower elevation of the yard.
- 3) To protect and secure the play area, there will need to be a fence line from the front to the back of garage, with a full enclosure of the play yard.

Mr. Wheeler testified that the available parking will be more than adequate for the Head Start needs. There will be 2 spaces in the garage, 2 in the driveway in front of the garage and 7 additional spaces. The additional spaces will typically be unused except during the drop-off and the pick-up times. The 7 sites available were from the previous beauty salon business. The fence is necessary for the proposed use but otherwise there are only minor structural exterior changes to the site.

John Killion, the Finance Director of NEKCA, testified that the school will open at 8 am, staff are on site until 4 pm, Monday through Friday. The children currently attend the program from 8 to 12:30 on

Monday through Thursday. In the summer, the program is not in session and there is limited activity for those months. The children play outside 1 time per day. There will be the typical noise associated with children. Relocation to this space may allow for expansion to a possible full school year or for five days of instruction or 6 hours of school. Currently the Head Start has 14 enrolled students, last year the number was 18. The program is licensed for 20 children. There are 4-5 individuals on staff. Mr. Killion provided a Transportation Schedule for the DRB's consideration (Exhibit #6) The primary plan would be to have the parents arrive in 5 minute increments, thus in 15 minutes, 3 groups would drop children off. The parents would bring the children into the building. A secondary plan calls for the teachers to be in the parking lot to pick up the arriving students and bring them into the building. Head Start is aware of the need to stagger the drop-off and pick-up times.

Chair Michaels requested questions from the DRB members. NEKCA was asked if the playground will be open to the public. The response was no, the play area will be locked and gated. The proposed fence will be 6 feet high and solid wood.

Responding to a question about snow removal, NEKCA testified that there is additional space beyond fire hydrant (located at the end of the existing parking area) for the disposal of snow.

NEKCA was asked about the frequency of special events. They responded that they occur 3-4 times per year.

Responding to a question about funding, NEKCA testified that they are a private non-profit. They receive funds from the State of Vermont, the Federal government, private foundations, and donors.

Responding to a question about licensing, NEKCA testified that their license for the Hardwick Head Start allows 20 children to enroll. 20 is the maximum allowed for Head Start.

Responding to a question about the presence of other programs in the proposed location, NEKCA stated that there would only be Head Start programs or collaborative programs.

Responding to a question about lighting, NEKCA testified that this space will have only daytime use and they do not anticipate using exterior lighting.

Responding to a question about signs, NEKCA stated that they will need a sign for the usage. *(A zoning permit will be needed for the sign).*

Chair Michaels read 4.13 Protected Public Uses from the Hardwick Unified Development Bylaws to the entire audience.

Vanessa Fournier, neighbor to 112 Spring Street, read her letter (See Exhibit #2). She stated concerns the parking at the 112 Spring Street location, as well as the suitability of the location for a school. Ms. Fournier also read the petition from the neighboring properties (See Exhibit #2).

John Mandeville, DRB member, asked the applicant to clarify whether the request was for a child care center or a school. NEKCA testified that the proposed request is strictly for an early education school.

Gary Richardson testified about the safety issues involved with the intersection of Dewey Street. He voiced concerns about parking. Mr. Richardson lives behind the Hardwick Elementary School and he

has watched to parking for drop-off and pick-up there for years. He is skeptical about the proposed transportation schedule and he is concerned that large family events will create a traffic jam in the Spring Street neighborhood.

Dian Holcomb, neighbor to 112 Spring Street, presented an expanded version of the Site Plan with the Dewey Street intersection denoted. The site plan submitted by NEKCA only shows the Spring Street aspect, does not show the Dewey Street intersection. Ms. Holcomb testified that multiple children departing from parked vehicles at the proposed Head Start location may result in an accident due to the traffic patterns from the intersection. She pointed out that there is no existing sidewalk to walk from the parking spaces to the school structure. She believes that this is not safe and it will be an accident waiting to happen. Ms. Holcomb's mother lives across the street and she is concerned that parents will park on her lawn. In addition, Ms. Holcomb testified that there is a fire hydrant at the end of the existing parking area. She has contacted the state fire marshal's office and was informed that vehicles and garbage storage must be 6 feet away from the fire hydrant. Vehicles cannot be parked in the final parking spot for the entire day. This essentially means that the proposed parking will be reduced by 1 spot to 6 available spots. Ms. Holcomb also stated concerns with snow removal with the placement of a 6' fence. In the winter, Spring Street barely has enough room for 2 cars due to the high snowbanks.

Doug Bedell, neighbor to 112 Spring Street, testified that his partner, Victoria Norman, has a terminal illness and, as a result, must sleep during the day. She will not be able to stand a lot of noise in the neighborhood. He also commented on the cars which speed down Spring Street to bypass traffic at the intersection by the elementary school.

LeAnn Lee, Head Start staff, stated that she is the staff member who is employed during the summer months. She is the home visitor for the Hardwick Head Start. She testified that parents of enrolled children are respectful to the parking situation at the current Head Start location. Pedestrian safety is taught to the students in the first 30 days of school. The students are taught to walk with a rope and the curriculum covers traffic safety. Head Start has been in operation for 32 years in Hardwick and has not had an accident during that time.

Leo Renaud, neighbor to 112 Spring Street, testified that he does not wish to look at a 6 foot high fence. He also stated that traffic is very fast and a problem in this neighborhood.

Corinne Brochu, neighbor to 112 Spring Street, testified that 45 CFR, Subsection 1304 and onward provides very specific guidelines for Head Start programs. She urged the DRB to look at the associated Federal codes. In particular, the parking arrangements are in question. The Federal code specifies that children should never be forced to walk behind vehicles. Ms. Brochu asked how the parking area will conform to the Federal regulations. She stated that the current location at the Masonic Temple is a closed egress, not on the street like the Spring Street location. Ms. Brochu raised 6 kids in this neighborhood, she believes that parking and speed will be issues at the proposed location. Another school was proposed in this neighborhood and was denied by the DRB. She is concerned about traffic, noise, and influx of people onto the street. She testified that this is currently a quiet residential neighborhood and the placement of a school will alter that. The previous commercial entity at 112 Spring Street was a hair salon for elderly people. She requested that the school be located in another area where it would be accepted. Ms. Brochu stated that a car went through the Dewey Street intersection and crashed over the bank into the field where the play area is proposed. Finally, she asserted that property values will decrease if the Head Start school is located in this neighborhood.

Ryan Brown, neighbor to 112 Spring Street, testified that his wife is a teacher at Head Start but he is not

in favor of the proposal. Parking will be an issue, as will the presence of the intersection. He is concerned with the potential for reduced property values. He also stated that there is no sidewalk on Spring Street. Where will the children walk on their rope? He believes that this is not the right location for the Head Start School.

Sheila Fuller, neighbor to 112 Spring Street, testified that she is home during the day and she has previously called the police because of speeding cars – especially during the morning hours. She stated that traffic is a concern, recently a log truck and a dump truck with a trailer of logs ventured onto the street, looking for the sawmill. She does not allow her grand-children to play near the road due to traffic concerns.

Lester Fuller, neighbor to 112 Spring Street, testified that the placement of the Head Start school will be an undue adverse effect on the neighborhood. The traffic and the speeding are both concerns. He never sees the police in this neighborhood.

Maggie McGuire, neighbor to the current Head Start location, testified that she has never witnessed an issue with the parking at the current Head Start location. There are never many cars there. She believes that the 5 minutes for the drop-off is an accurate estimate. There is not an overwhelming traffic collection – the cars are hardly there for long. The noise generated by the children is short, only about ½ hour, and it is the noise of children playing like any neighborhood might expect. She testified that she has never been bothered by the presence of the Head Start school.

Joyce Mandeville, East Hardwick resident, testified that she lives near a daycare and she was concerned when it was permitted but she has grown to love it. If there are traffic problems, they should be addressed with the police department.

Katy Watson, Associate Director of NEKCA, testified that she has a brother in the police department and she believes that there could be discussion with the police to coordinate police presence during the school's drop-off time.

Mary Thompson, neighbor to 112 Spring Street, testified that there is usually 1 police officer at the Hardwick Elementary School in the morning and if a call comes in, he must leave the elementary school and the school's janitor assists with the elementary school's drop-off.

Responding to a question from the DRB about the organization of a staggered drop-off, NEKCA responded that they have not previously organized a staggered drop-off for the Head Start program because it is not usually an issue.

John Killion stated that they have a large number of regulations to meet in order to move into the Spring Street location. They will need to make an application to Head Start and they will be regulated by Head Start. The location has not been reviewed yet.

Lesia Cathcart, Head Start Staff, testified that this early education school is a 5 Star program. They must meet Head Start expectations and the extensive 5 Star requirements. From the day the children are enrolled, they are taught to walk in front of, not behind, parked cars. The staff members also teach the Head Start students to stop at the ends of private driveways when they are traveling by foot. She suggested that a petition be made to the police to address the speeding violations in the Spring Street neighborhood. Ms. Cathcart stated that the current location in the Masonic Temple utilizes only the basement area. There is no light, nor any windows and 1 office for 5 staff members.

6,

Responding to a question from the DRB about the depth of the proposed parking spaces, the architect, Mr. Wheeler, testified that there is 18 feet to the edge of the pavement. The walk is integrated into the parking area.

Lesa Cathcart testified that Head Start is not allowed to purchase property in the flood zone. Hardwick's program has been seeking a new space for a long time but it is difficult to find a location outside of the flood zone in the central Hardwick area. Some of their parents do not have vehicles so Head Start seeks to be within walking distance of many enrolled students.

Joe Patrisi reiterated that the school would be open from 8 to 12:30 for 4 days of the week. The children are outside for a limited time. There are occasional evening events for the parents of students. The school will stagger the drop-off times. NEKCA and Head Start's first concern is for the safety of the children. NEKCA has a good track record in the Northeast Kingdom.

Linda Michniewicz stated that there is some flexibility in the design of the playground regarding the site plan and the fencing.

Kim Hartting-Welles testified that traffic is a concern in the Spring Street location but speaking with the police might be a better venue. She has watched this program on a professional level and the changes in the lives of the students are amazing. She supports Head Start as a program and believes that the traffic issue is something which should be dealt with elsewhere. She urged communication with the police department for neighborhood safety.

Dian Holcomb testified that she has called the police and had no response. She asked about the property tax implications and was informed by the DRB that this is not in the DRB jurisdiction. Discussion of that issue with the listers or the Town Manager was advised.

Vanessa Fournier clarified that an alternative school was denied by a previous DRB and a daycare was present in the neighborhood but it did not have many children. She stated that she was never contacted by Head Start. John Killion from NEKCA did contact her after the application was filed and she thanked him for his call. Ms. Fournier created the petition because the neighborhood was not in favor of the school and she wished to demonstrate that the neighbors were not in support.

Dian Holcomb clarified that the day care received no objections when it was purposed but cars parked on the street to drop-off children and created an issue with traffic.

Corinne Brochu testified that Spring Street is a residential area with low traffic and low noise levels.

Leslie Nelson, parent of a current Head Start student, testified that when she drops off her student she has some parents which she never sees. Her child has multiple disabilities and the current Head Start location does not have the space in which her providers can work. The proposed Spring Street location is so much better for the students.

David Schwartz, from Heartbeet Life Sharing, testified that ample evidence has been provided that multiple protected classes are involved in this zoning application (income and disability). These classes are protected by both state and federal statutes. He urged the DRB to consult with an attorney to make a fully compliant decision.

Andre Messier, landowner, testified that he used to be a police officer. He suggested that the speeding issue should be presented to the Selectboard. A petition could be made to lower the speeding limit and to enforce that limit in the neighborhood.

Debbie Messier testified that she appreciates that the neighborhood is concerned. She raised children in this neighborhood in the past. She hopes that the neighborhood works with the school and she believes that the school could be a good thing for Spring Street. She stated that it is inevitable that the neighborhood will change and she respects that the neighbors are concerned.

The hearing ended at 8:55 pm. John Mandeville made the motion to enter into deliberative session and Helm Nottermann 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 – the pre-existing structure and parking area at 112 Spring Street conform to dimensional standards. The use of a school is listed under conditional uses.

3.10 Parking and Loading Requirements – the location has a pre-existing parking area and two-car garage. The parking configuration presented by the applicant has 11 proposed spaces. The DRB finds this representation to be accurate and the parking proposal to be adequate for the proposed use as a school with a maximum of 20 students. See Condition #2.

3.11 Performance Standards – review was made of the performance standards by the DRB. There was testimony regarding the potential for noise from the students. The performance standard states that the noise must be in excess of 65 decibels or represent a significant increase so as to be incompatible with the surrounding area. No testimony was received which would indicate that this standard will not be met. Testimony was received from neighbors of the school's current location which supports applicant's assertion that the noise standard will be met by the school.

4.13 Protected Public Uses – the proposed Head Start program would be located in the Village Neighborhood District. This District is specified as a designated district for "public and private schools and other educational institutions certified by the Vermont Department of Education." Testimony was received that the Head Start school is a school 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 Head Start school is already located in Hardwick. The relocation will not result in an undue adverse effect on the capacity of the existing facilities and services.

2. **Character of the area affected.** The school is currently located in the Village Neighborhood zoning district and the proposed location would also be in the Village Neighborhood district. Testimony was received from both the current location and the proposed location. The DRB recognizes that there are concerns from the neighbors of 112 Spring Street. However, Section 4.13 – Protected Public Uses does not include the issue of character in the possible regulatory review of a school.

3. **Traffic on roads and highways in the vicinity.** The limited use of the proposed school (four days, partial year, limited hours, with limited enrollment) will not significantly impact the current traffic patterns in the Spring Street neighborhood.

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. The sound of the children on the playground is accepted as a normal neighborhood sound with no probable negative applicability to the performance standards.**

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 school. The parking area is pre-existing and a transportation schedule will be created. See Condition #2.**

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. **The fencing of the play area is required by Head Start's own regulations. The DRB defers to the Federal mandates in the creation of the screening.**

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. N/A

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 proposed school will utilize a pre-existing Structure and parking area. The proposed play area is to the side of the structure.**

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 proposed school will utilize a pre-existing building and parking area. The structure is oriented to the public street.**

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. **No new structure development proposed for the school.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 7-0 to approve the Northeast Kingdom Community Action Inc (NEKCA) application as presented with the following conditions:

Conditions:

1. Any and all necessary state and federal permits must be in place before school can open.
2. A transportation plan will be actively developed and maintained to minimize congestion during drop-off and pick-up times and to maximize safety.
3. The school will make every effort to meet the concerns of abutting owners regarding the aesthetics of the proposed playground fencing; including consideration of movement of the fence to the lower elevation of the play area.

Signed:

D. BANDIT

Daniel Bandit

date 5/10/2016

, Vice -chair

Kristen Leahy

Kristen Leahy, Zoning Administrator

date 5/9/16

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.