

Hardwick Development Review Board  
Conditional Use Hearing  
*Delores Massey – Applicant*  
*Randy Bulpin/Hardwick Land and Learning – Landowner*  
*Central Business Zoning District – 39 North Main Street*  
*Application # 2016-040*  
September 21, 2016

*To consider a conditional use request by Delores Massey to convert a former school to a retail/catering location in an existing structure in the Central Business District.*

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.1 Central Business District Table; 3.10 Parking and Loading Requirements, 3.11 Performance Standards; 5.2 Conditional Use Review; and 5.2 G Central Business District Standards.

**Warnings** were posted on September 6, 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: Kombinowac LLC c/o Sara Urban; Glenn Mink; and American Legion Post #7, on September 6, 2016. It was also published in the Hardwick Gazette on Wednesday, September 7, 2016.

**Development Review Board members present:** Ruth Gaillard, Edward Keene, John Mandeville, Cheryl Michaels (Chair), and John Page

**Development Review Board members absent:** Daniel Bandit (Vice Chair) and Helm Notterman

**Others present:** Delores Massey, applicant; Michael Bielawski, Hardwick Gazette Reporter; Roberta Drown, member of the public; and Kristen Leahy, Zoning Administrator (acting clerk).

**During the course of the hearing the following exhibits were submitted:** N/A

### **Summary of Discussion**

Cheryl Michaels, chair, began the hearing at 7:06 pm. She noted the hearing was quasi-judicial, explained the procedure for the hearing, asked if there were any conflicts of interest, and swore in all those who wished to speak at the hearing. Mrs. Michaels then asked Delores Massey to explain what she wanted to do at 39 North Main Street in Hardwick.

The proposed development will be retail based. Nodeli's will provide pre-portioned, pre-packaged meals which are ready to be cooked and eaten. The meals will be ordered/purchased on site but not consumed on site. Three selections will be available each day and they will also provide side orders such as salads, as well as assorted baked goods. Very limited cooking will occur on site. There will be baking which will occur at this location (breads, pies, etc).

The model would indicate a relatively quick turnaround for customers. Customers will arrive, select and order food, obtain their order and depart. The items will be sold on premise and will not be shipped to other locations.

Due to the size of the space (larger than necessary for the actual business), Nodeli's will also be renting shelf space to other retail items (such as crafts, etc). They will essentially be expanding the retail aspect.

The Fire Marshall has been on site and the Health Inspector has been involved in the planning aspect.

Parking for the employees (2 employees) has been guaranteed at the adjacent Kombinowac parking area. Customer parking will be on-street (several 2 hour parking spots are located directly in front of the existing building). The anticipated duration of a visit of each patron is significantly less than 2 hours. The hours of operation will be 11am to 7pm.

The question of solid waste disposal was posed by the American Legion in a prior email inquiry. Mrs. Massey stated that she plans to bring any compost material home for her own use daily. She will be sharing Randy Bulpin's dumpster (landowner). Recyclables will also be removed by her as needed and will require no storage outside the building. The best part of the business is that there will be limited trash of any sort. The email response from the American Legion was that their questions were sufficiently answered.

Chair Michaels reviewed the Performance Standards with the applicant. Mrs. Massey was confident in her ability to adhere to the performance standards.

The hearing ended at 7:32 pm. John Mandeville made the motion to enter into deliberative session and Edward 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 District** - the proposed retail/catering use is allowed by conditional use in this zoning district. Structure is pre-existing.

**3.10 Parking and Loading Requirements** – parking requirements in the Central Business District require off-street parking for employees on the basis of one space per 2 employees per shift. With 2 employees and a contract for one space in the Kombinowac LLC's parking area, the proposed use meets the requirements.

**3.11 Performance Standards** – the proposed project intends to meet all performance standards and no testimony was offered to question this intention. Questions regarding solid waste disposal were sufficiently addressed.

## **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.** Proposed use of retail/catering will not impact existing or planned community facilities/services. The Town of Hardwick has agreed to provide water and sewer connections to the proposed development. No issues with these capacities were identified.

2. **Character of the area affected.** Proposed retail/catering use is in keeping with the surroundings uses.

3. **Traffic on roads and highways in the vicinity.** Proposed retail/catering use will have limited impact on the traffic of North Main Street.

4. **Bylaws in effect.** The applicant has already spoken to the Town Manager about the Town Water and Sewer



connections. The Select Board approved the conversion to the proposed use. No other bylaws will be impacted.

5. **The utilization of renewable energy resources.** N/A

#### **F) Specific Review Standards:**

1. **Siting & Dimensional Standards.** The proposed retail/catering use will be located in a pre-existing structure. The particular use is not defined in Article 4 and the site does not impact surface waters.

2. **Performance Standards.** The proposed retail/catering use intends to meet the performance standards as specified in Section 3.11.

3. **Access & Circulation Standards.** The proposed retail/catering use meets applicable access management standards as specified in Section 6.6.

4. **Landscaping & Screening Standards.** N/A

5. **Stormwater Management & Erosion Control Standards.** N/A

#### **5.2G Central Business District Standards**

1. **Central Business District.** This pre-existing structure is conforming to the stated standards of the Central Business District.

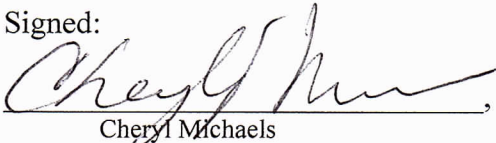
#### **Decision and Conditions**

Based upon these findings, the Development Review Board voted 5-0 to approve the Delores Massey application as presented with the following conditions:

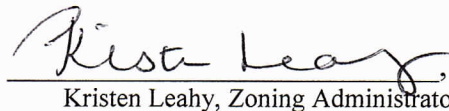
#### **Conditions:**

1. Any and all necessary state and federal permits must be in place before development can commence.
2. All Performance Standards (Section 3.11) will be adhered to by the applicant. (Copy of the Hardwick Performance Standards is attached).
3. As delineated in the agreement between Kombinowac LLC and Randy Bulpin, parking for all employees will be provided off-street, in the adjacent Kombinowac parking area.

Signed:

 , chair  
Cheryl Michaels

Date 9-27-2016

 , acting clerk  
Kristen Leahy, Zoning Administrator

Date 9.27.16

#### **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.

## Hardwick Unified Development Standards

### Section 3.11 Performance Standards

- (A) The following performance standards must be met and maintained for all 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 use, 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;