

Hardwick Development Review Board
Conditional Use Hearing
Northeast Kingdom Community Action Inc (NEKCA)- Applicant
Vincent and Katrina Razionale - Landowners
192 Richardson Road, Hardwick
Application #2016-046
October 19, 2016

To consider a conditional use request by Northeast Kingdom Community Action Inc. (NEKCA) to change a use from a former Day Care Center and Single Family Dwelling to an Early Education School in the Village Neighborhood zoning district at 192 Richardson Road, 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 September 30, 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: Holly Jo and Jonathan Williams; Gary Richardson; Jessica and Ross Gouin; Mary and William Thompson; Brenda Bolieu; Benjamin Notterman; and Laurent Bellavance and Paul Menard, on September 30, 2016. It was also published in The Hardwick Gazette on Wednesday, October 5, 2016.

Development Review Board members present: Daniel Bandit, Vice-Chair, Acting Chair; Edward Keene; John Mandeville; Ruth Gaillard; and Helm Nottermann.

Development Review Board members absent: Cheryl Michaels and John Page

Others present: Vincent Razionale, 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 Brenda Bolieu
- Exhibit #2 Letter from William "Bill" Thompson
- Exhibit #3 Letter from Mary Thompson
- Exhibit #4 Letter from Cynthia Moulton
- Exhibit #5 Letter from Gary Richardson
- Exhibit #6 Petition to Deny Change of Use at 192 Richardson Road
- Exhibit #7 Letter from Dian Holcomb
- Exhibit #8 Letters from Eric Richter, Trudy Lakus, Roger and Sandy Howard, and Maggie McGuire.

Summary of Discussion

Vice Chair Daniel Bandit began the hearing at 7:05 pm. He noted the hearing was quasi-judicial, explained the procedure for the hearing, and asked board members for any disclosures of conflict of

interest. Members of the audience requested the removal of Helm Nottermann since his son's home is in the 192 Richardson Road neighborhood. Mr. Nottermann declined to recuse himself on the grounds that he has no personal biases derived from the location of his son's home. Mr. Nottermann felt that he would be able to render a fair judgement. Chairman Bandit swore in all those who wished to speak at the hearing and asked if there were any other exhibits or letters for the DRB. Seven letters were delivered and marked as Exhibits 1-7. Exhibit #8 from NEKCA was received prior to the hearing. Chairman Bandit then asked the applicants to explain their proposal.

Joe Patrisi, Executive Director of NEKCA, began by explaining that the Hardwick Head Start provides education for 3-5 year old children. The current enrollment of the program is 16 and the maximum enrollment is 20 children. The program has one recess period during its school days and the school will be closed for the summer months. During the evening hours and the summer hours, the Hardwick Head Start does not have a large amount of activity.

Mark Wheeler, Architect representing NEKCA, testified that the proposed parking area will utilize the existing Right-of-Way to the property. The current driveway will also be utilized in the proposed parking schematic. Mr. Wheeler initially discussed the transportation patterns – cars will be arriving for approximately 10-15 minutes per day at two times per day. One time occurs in the morning and the second time occurs at 12:30. There will be four staff spaces and one visitor parking space to the left of the driveway and six parking spaces for the delivery and the pick-up of the students. The parking area will be gravel and each parking space will be 9x18 as per the zoning requirements (with one handicap accessible space). There will be a pedestrian path created in the front of the parking areas to the right which will lead directly into the school. A buffered island of vegetation will be left next to the ROW.

A new vinyl 4 feet high privacy fence will replace the current picket fence surrounding the play area. The classroom space is at grade and will not require structural adjustments. The fenced area can be accessed from the classroom.

Joe Patrisi added that if the drop-off traffic becomes an issue due to the students arriving at the same time, then the Head Start staff will stagger the drop-off times to ameliorate the situation. NEKCA currently has 9-10 Head Start Centers under their umbrella. The issue of traffic has never been a problem. However, if a problem arises, they will contact the parents and create a transportation schedule.

Responding to a board question regarding the plowing of the R.O.W., Gary Richardson stated that Billy Thompson (adjacent property owner) has always plowed the R.O.W.

Dian Holcomb asked NEKCA where a dumpster would be located on the site. Mr. Wheeler responded that an open area was deliberately left near the fenced play area for a dumpster location. The Hardwick Head Start, however, may not utilize a dumpster but rather barrels.

Dian Holcomb also inquired as to where the snow will be plowed in the staff parking area. The existing trees will interfere with the plowing on that side of the parking area. She also stated the concern that the driveway loop will become blocked with the snow during the winter.

Joe Patrisi responded that NEKCA/Head Start has identified possible locations on site for snow removal and if the area becomes too congested with snow, they will remove the snow (by truck) from the site.

The Head Start has not had a winter in the new location so they become more familiar with their snow removal needs after an initial winter.

Dian Holcomb testified that the ROW will become much narrower due to snow accumulation. She wondered how Head Start would deal with this aspect.

Joe Patrisi responded that he was confident that NEKCA/Head Start would be able to take care of the snow removal.

Ross Gouin asked if the property lines were surveyed for the purpose of the architectural rendering. Mark Wheeler responded that a licensed surveyor looked at the pins and lines and assisted in the delineation of the proposal.

Responding to a question from the Board regarding the frequency of additional events, Linda Michniewicz, NEKCA's program director of Head Start, testified that the Hardwick Head Start will continue to utilize other locations to have special events (such as a local church). The school will have an evening Open House annually and they do meet with the parents of the students. Typically, the staff meets with parents in the morning hours or afternoon hours.

Responding to a question from the Board about the possibility of other programs on site, NEKCA stated that there would only be Head Start programs or collaborative programs.

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.

Responding to a question from the Board about regulations regarding possible Head Start locations, NEKCA informed the Board that they cannot be located in a flood zone due to their Federal regulations.

Responding to a Board question about structural changes to the pre-existing building, NEKCA stated that they do not anticipate using exterior lighting. The building is essentially handicap accessible with the exception of the door leading to the exterior play area. The front entrance is currently in compliance.

A member of the Board inquired as to whether any discussion had been held with the adjacent neighbors regarding screening from the parking areas. Joe Patrisi responded that NEKCA has not had the ability to talk to the neighbors despite their efforts to communicate with them. He stated that NEKCA/Head Start is open to any ideas regarding screening.

Ms. Michniewicz testified that there are currently 16 students enrolled at the school's current location in Hardwick and the maximum allowed will be 20. Even if more space is available in the proposed location, the Head Start program is not allowed to have more than 20 children in a class.

Dian Holcomb asked if there is enough square footage for the children inside the building. NEKCA responded that they are required to have 35 square feet per child and there is enough for the 20 children in this structure.

Brenda Bolieu asked if the Hardwick Head Start was a school. NEKCA responded in the affirmative. Mrs. Bolieu inquired as to what would constitute a school and asked if their teachers are licensed.

Linda Michniewicz introduced the teachers at the school and stated their teaching credentials. She also testified that they are a pre-school licensed by the State of Vermont. They are currently a 5 Star rated school and they are monitored by the Federal government (with no major deficiencies noted).

Ross Gouin inquired about the actual applicant – Northeast Kingdom Community Action Inc (NEKCA). He wondered what other programs are in NEKCA and why did they apply for the permit instead of Hardwick Head Start.

Joe Patrisi delivered 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. NEKCA serves as an agent for the Hardwick Head Start program.

Dian Holcomb asked if the Head Start intended to use the space for Adult Education classes, etc. And if the zoning permit is for a school, what will the remaining structure be used for?

NEKCA responded that the Early Head Start playgroups will use the living area two times per month and the upstairs will be utilized for staff offices.

Lesa Cathcart, Head Start Teacher, stated that a component of the Head Start programming is that the school works with the entire family of the student. Education is provided for the entire family. The Head Start staff may assist in job searches or other aspects of the family's needs. Parent classes are also offered.

LeeAnn Lee, Home Visitor for Hardwick Head Start, gave an example of these classes. Hardwick Head Start will be holding a workshop with WIC. They will be conducting a health holiday cooking class. Typically, the classes are combined with the Head Start play group so that child care is provided. The upcoming cooking workshop will be held from 10-11:30 am. The classes are developed from parental interest surveys. Some classes are mandated by Head Start regulations. The numbers of attending parents may be 2 or 5 and the program typically hosts 5-6 workshops per school year, usually on Fridays when the school is not in session.

LeeAnn Lee reiterated that the program is not in session during the summer months and the facility will have only a few staff members on site (and off-site) during that time.

Leslie Nelson, Head Start parent, stated that play groups are not always on site because the children will have field trips (apple picking for example). She also testified that parents tend to stagger their delivery of the students and some students/parents carpool.

LeeAnn Lee stated that the only time the current Head Start location has utilized the on-street parking is at the end-of-the-year celebration for the students. Otherwise, only 5-6 parking spots (for staff) are used in the current Head Start parking area.

Ross Gouin asked if any children walk to the school. NEKCA staff responded that this year no one walks to the school facility. Mr. Gouin is concerned with the pedestrian access on Richardson Road. In particular, mud season will be a difficult time for walking children.

Gary Richardson testified that he maintains Richardson Road. If a pre-school is allowed to open at 192 Richardson Road, he believes that the road will need to be paved. He further stated that 3/10ths of a mile has a steep incline and will be extremely difficult to navigate. Everyone who currently lives on the hill has 4 Wheel Drive and, in the snow, drivers have to “make a run to drive up.” Mr. Richardson wanted to know what NEKCA will do with the winter driving conditions.

Lesa Cathcart responded that they have a phone tree among the families and the families typically will carpool. In addition, if the weather is too cold, the students may not attend the school on that day.

Joe Patrisi stated that the families of the students will adapt and the people will carpool.

Cynthia Moulton, neighbor, is concerned with the intersection at the Elementary school. She testified that Richardson Road does become slick on a wet or snowy day. The banks of the road become quite high during the snow season and the intersections have limited visibility.

LeeAnn Lee responded to the concern about the intersection near the Elementary School by stating that the hours of operation for the school are 8:30 to 12:30. These times are not the same as the Elementary school hours.

Dian Holcomb asked about the current location of the Hardwick Head Start and asked why the school was relocating. Chairman Bandit reminded the audience that testimony was being received regarding the request for a change of use.

Mary Thompson, a neighbor, stated her concern with impact to the ROW. She currently has problems with travel due to ice and mud. She is concerned that the extra traffic will make the conditions worse. Mrs. Wheeler read her letter to the board (Exhibit #3).

Gary Richardson asked the DRB if the capacity of existing facilities (including roads) could be met by this request. The DRB will consider this question.

Dian Holcomb asked if this will be a tax-exempt property.

Ross Gouin suggested that the DRB request a traffic study with the potential increase in traffic to the main intersection and to Richardson Road.

Chairman Bandit reviewed the Performance Standards with NEKCA. No issues were identified in the performance standards. The compost area is pre-existing and will be utilized to meet state requirements.

Ross Gouin stated that he has a civil engineering background and he is concerned with the increase in impervious surface area with the expanded parking area and driveway. By his calculations, there will be 4300 additional square feet of hard surface on the top of the hill. This is nearly four times the existing building. Mr. Gouin is concerned that the existing culverts will not be able to handle the potential increased flows. The area already has issues with drainage. A study should be conducted to see if the area will be able to handle the change of use.

Responding to a Board question regarding the parking area composition, Joe Patrisi stated that the Head Start program was seeking the most practical approach to the parking question. They could have chosen to have a dirt surface area, but decided that a light gravel surface would assist in the delineation of the

parking spaces. The parking/access plan leaves the current vegetation on site (with some exceptions). Mr. Patrisi reiterated that NEKCA's experience has been that parents carpool and the parking area is used only 2x per day on average. The parking area, furthermore, is a necessary component of the proposed plan.

Ross Gouin stated that the parking area will become compacted by the car travel and this will change the drainage patterns. Mr. Gouin's house is downhill from 192 Richardson Road. He is concerned that he will have further drainage issues.

In response to reiterated concerns with the snow removal, Joe Patrisi again stated that NEKCA will remove the snow from the site if it blocks the path of traffic.

Gary Richardson reiterated his concern for pedestrian children on Richardson Road (no sidewalks are available).

LeeAnn Lee inquired as to how the previous day care center dealt with these issues. Gary Richardson responded that he was constantly pulling cars out of the snow banks when the day care center was open. He stated that the previous day care center was a different situation in that more land was available for snow storage and parking. The proposed pre-school will only have the lot on which it is sited.

The hearing ended at 8:12 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:

2.2 Village Neighborhood District – the pre-existing structure and proposed parking area at 192 Richardson Road conform to dimensional standards. The use of a school is listed under conditional uses.

3.10 Parking and Loading Requirements - 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 and 5 staff members.

3.11 Performance Standards – review was made of the performance standards by the DRB. No testimony was received which would indicate that these standards will not be met. Written testimony (Exhibit #8) 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. The Town of Hardwick has agreed to provide increased water and sewer allocations to the proposed change of use.
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. No testimony was received to indicate that an early education center would change the character of the proposed location. Furthermore, the pre-existing structure was previously utilized in a similar manner as a day care center.
3. **Traffic on roads and highways in the vicinity.** The limited use of the proposed school (four days, partial year, and limited hours, with limited enrollment) will not significantly impact the current traffic patterns in the Richardson Road 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. Adequate parking area is proposed.**
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. See Condition #4.

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. The parking area is proposed for the ROW front yard. The Board finds that there is no other practical alternative. Furthermore, the front yard facing Richardson Road, will continue to be lawn space. 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.**

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 5 to 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 the school can open.
2. All Performance Standards (Section 3.11) will be adhered to by the applicant. (Copy of the Hardwick Performance Standards is attached).
3. The snow accumulation due to the removal of snow from the parking area/driveway/front roof will be trucked off-site as necessary.
4. The school will make every effort to meet the concerns of abutting landowners regarding the mitigation of possible water run-off.

Signed:

D. BANDIT

Daniel Bandit, Vice-Chair

date 10/24/2016

Kristen Leahy, acting clerk

Kristen Leahy, Zoning Administrator

date 10/24/2016

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.