

Hardwick Development Review Board  
Variance Request  
*Heather Davis*  
1120 Nichols Pond Road, Hardwick  
Application #2017-031  
October 4, 2017

*To consider Variance requests by Heather Davis to construct an Accessory Dwelling (Apartment) at an existing Single Family Dwelling site in the Rural Residential zoning district at 1120 Nichols Pond Road, Hardwick.*

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.6 Rural Residential Table; 3.12 Protection of Water Resources; 3.13 Parking and Loading Requirements; 4.2 Accessory Dwelling (Apartment); and 7.4 Variances.

**Warnings** were posted on September 19, 2017 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: Eric Remick and Sarah Morgan; Hardwick Electric; Brett McNeill and Erwin Gilcris; Guy Patoine Life Estate; Janet Howard; Darryl Appleby, Jr. and Joann Marckres; Paul Rabuano and Mary Talbot-Rabuano; Jean Dutton and Harry Miller on September 19, 2017. It was also published in The Hardwick Gazette on Wednesday, September 20, 2017.

**Development Review Board members present** Cheryl Michaels; Edward Keene; John Mandeville, Chair; and Helm Nottermann.

**Development Review Board members absent:** Ruth Gaillard, John Page, and Daniel Bandit

**Others present:** Kristen Leahy, Zoning Administrator (acting clerk); Heather Davis, applicant representative.

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

- Exhibit 1: Introduction to DIY Network's The Treehouse Guys
- Exhibit 2: Economic Impacts of Home Sharing
- Exhibit 3: Images of Tree house projects

**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. Chair Mandeville asked if there were any exhibits or letters for the DRB.

Heather Davis presented her proposal. This tree house has been in the planning stages for approximately 5 years. Ms. Davis hired the Treehouse Guys (who have a show on the DIY Network but are based in the Warren/Waitsfield area) to visit her site. These builders have 17 years of experience of building tree houses. (Exhibit #1)

Ms. Davis also introduced Exhibit #2 which relates to the economic impact of Air BnB on a community. She has been renting her primary house on a part-time basis for 3-4 years. This rental aspect has allowed her to achieve economic viability.

Ms. Davis also provided pictures of similar treehouse structures. These images reflect the aesthetics of the proposal rather than the actual design. The Treehouse Guys have been hired to do the framing of the structure but were not retained to create the final design.

If the requested variances (from the side setback and the perennial stream setback) were granted, the structure would be elevated above the ground. The closest tree to which the treehouse would be attached is 24 feet to the stream (which serves as the boundary of the property). The ramp to the treehouse is the only element which actually meets the ground. The ramp will be 60-70' feet from the stream. Ms. Davis walked the property with the treehouse professionals. The tree configuration necessary for a treehouse was only identified at this location. The trees need to be a certain size, health and distance for the placement of a treehouse.

The treehouse will have adequate parking (2 spaces) for the visitors and will be less than 800 square feet in size. The water and septic of the primary structure will be utilized for this space.

The hearing ended at 7:20 pm. Helm Nottermann made the motion to enter into deliberative session and Ed Keene seconded. All members were in favor.

### **Findings of Fact:**

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

**2.6 Rural Residential District** – the rear and side setbacks for this district are 50 feet for a principal structure and 20 feet for an accessory structure. A single family dwelling exists on this site. The proposed building would be an accessory dwelling (apartment) which is a permitted use. The Accessory Dwelling must, however meet the setback requirements for a principal structures. **The requested 24 feet setback from the side/rear property line would need a variance to proceed.**

**3.12 Protection of Water Resources** – all structures shall be setback a minimum of 75 feet from all streams. A perennial stream serves as the property line boundary for this parcel. The proposed structure would be 24 feet from the stream but would be elevated. **A variance would be required to proceed.**

**3.13 Parking and Loading Requirements** – Parking requirements in the Rural Residential zoning district include off street parking for business owned vehicles and the vehicles of all owners, occupants, employees, customers, or other persons expected to be on the premises in accordance with Table 3.1. This use (Accessory Dwelling) requires 2 spaces per unit. **The applicant, Heather Davis, testified that the space would be utilized for only 1-2 people. The driveway will be improved to provide 2 additional parking spaces for cars.**

**4.2 Accessory Dwelling (Apartment)** – A dwelling unit may be allowed as an accessory to another principal use, subject to the following provisions:

- 1) One attached or detached dwelling unit that is an accessory to an owner-occupied single family dwelling located outside of the flood hazard areas defined in Section 5.2, shall be allowed as a permitted use. Such accessory dwelling shall not exceed 800 square feet or 30% of the total existing living area of the principal dwelling, whichever is greater, and shall meet all other applicable requirements under subsections (3) and (4) below. **Applicant testified that the size of the proposed structure will be less than 800 square feet.**
- 2) N/A
- 3) All accessory dwellings shall:
  - a) Meet setback requirements for principal structures for the district in which they are located; for nonconforming structures, the degree of nonconformance shall not be increased by the addition of an accessory apartment or dwelling. **Variances are necessary to meet this requirement.**

- b) Have adequate potable water and wastewater systems in accordance with applicable municipal and state regulations; and (**Condition #1 requires the applicant to obtain all applicable permits from the State of Vermont**).
- c) Be provided with off-street parking for the residents of the dwelling in accordance with Section 3.13.

**5.2 Conditional Use Review** is not required due to the fact that this requested use is a permitted use in the Rural Residential zoning district.

**7.4 Variances** – two variances are being requested for the same structure. Variances would be necessary for the rear/side setback and for the setback from the perennial stream.

A) The Development Review Board shall hear and decide upon requests for variances pursuant to the Act [§4469] and appeal procedures under Section 7.3. The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:

- (1) that there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;

**The treehouse requires a tree configuration which is not located anywhere else on the subject property. Certain tree size, health, and distance are necessary for placement of the elevated structure.**

- (2) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;

**A treehouse is not feasible at any other location on the property.**

- (3) that the unnecessary hardship has not been created by the appellant;

**The trees were not planted by the applicant. They are a pre-existing element.**

- (4) that the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and

**The proposed treehouse is in the Rural Residential zone. As a treehouse, the structure will not require the removal of a large section of woodlands. The proposed structure will not be located in proximity to any other residencies and is not located in a highly visible location.**

- (5) that the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

**The proposed treehouse will be elevated. The only aspect of the structure which will meet the ground is a ramp. The ramp will be at least 60' from the boundary/perennial stream.**

- (B) In granting a variance, the Development Review Board may impose conditions it deems necessary and appropriate under the circumstances to implement the purposes of these bylaws and the municipal plan currently in effect. In no case shall the Development Review Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density. **Requested use is permitted in the Rural Residential zoning district.**


### Decision and Conditions

Based upon these findings, the Development Review Board voted 4-0 to approve Heather Davis's variance requests 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 proposed structure must be built and maintained as outlined in the application with no future modifications or additions. No storage space shall be created or utilized under the structure.

Signed:

  
\_\_\_\_\_, Chair  
John Mandeville, DRB Chair

  
\_\_\_\_\_, acting clerk  
Kristen Leahy, Zoning Administrator

Date 10/10/17

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#### 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.



Christina Gandolfo

Treehouse Guys James "B'fer" Roth and Chris "Ka-V" Haake

DIY Network's *The Treehouse Guys* follows a six-member team of expert builders and designers as they travel across the country to create and build custom treehouses for families, communities, nature lovers and dreamers.

Treehouse designer James "B'fer" Roth says that when he realized his passion for creative building projects, he ended his studies at Michigan State University in order to create universally accessible treehouses for kids with disabilities. He soon met his business partner and fellow builder Chris "Ka-V" Haake when Chris stopped by B'fer's rustic furniture shop, intrigued by all the unusual building materials. For several years, the two built furniture and then transitioned into treehouse building in 2000.

*The Treehouse Guys* team of builders also includes designer and foundation expert Michael Garnier, who is known as a master of platform design—a key element in the beginning stages of a build; designer, trained tree climber and master rigger Jake Jacob; rigger and zip line expert Jason Lindsey and lead carpenter Javier Aranzubia.

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# The Economic Impacts of Home Sharing in cities around the world

At Airbnb, we want to learn about our community's positive impact on the cities we love, visit, and share. Over the past years, we conducted economic impact studies in cities around the world. This is a summary of what we've discovered.

**To date, tens of millions of travelers have chosen Airbnb to experience cities not as tourists, but as locals.**

**79%** of travelers want to explore a specific neighborhood

**91%** of travelers want to "live like a local"

**74%** of Airbnb are properties outside the main hotel districts

**Airbnb travelers stay longer and spend more in diverse neighborhoods throughout the city.**

Airbnb guests stay **2.1x** longer than typical visitors

Airbnb guests spend **2.1x** more than typical visitors

**42%** of guest spending is in the neighborhoods where they stayed

**Hundreds of thousands of hosts worldwide have welcomed these travelers into their homes. Hosting helps make ends meet.**

**81%** of hosts share the home in which they live

**52%** are low to moderate income

**53%** say that hosting helped them stay in their home

**48%** of host income is used to pay for regular household expenses like rent and groceries

**The Airbnb community benefits local economies across the world by supporting residents and local businesses, and encouraging cultural exchange.**

Learn more about the Airbnb community's positive impact on cities around the world.

