

Hardwick Development Review Board
Conditional Use Review
Tyler and Michelle Demers
902 Vermont Route 16, East Hardwick
Application #2018-033
September 19, 2018

To consider a Conditional Use Review request by Tyler and Michelle Demers to change the use (Reclaimed Gravel Pit to new Storage Units) of a newly subdivided lot in the Rural Residential zoning district at 902 Vermont Route 16, East Hardwick.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.6 Rural Residential Table; 3.11 Performance Standards; 3.12 Protection of Water Resources; 3.13 Parking and Loading Requirements; 3.14 Sign Regulations; 5.2 Conditional Use Review; and 5.2 G4 Rural Residential and Compact Residential District Standards.

Warnings were posted on September 4, 2018 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: Judy Jarvis and Bruce Kaufman; Dennis and Lori Demers; Robert Block and Joan Block Life Estate; and George Whitney on September 4, 2018. It was also published in The Hardwick Gazette on Wednesday, September 5, 2018.

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

Development Review Board members absent: Kate Brooke; Helm Nottermann

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Tyler and Michelle Demers, applicants; and Dennis Demers, abutting property owner.

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

N/A

Summary of Discussion

Chair John Mandeville began the hearing at 7:02 pm. He noted that 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.

The applicants, Tyler and Michelle Demers, were asked to describe the proposal to the DRB. They would like to build storage units on a reclaimed section of the adjacent gravel pit. They would initially construct one building which would have between 20 and 25 individual units. Eventually, they plan to have up to six (6) buildings on site. Each building would have security lights on the four corners. The lights would be illuminated between dusk and dawn and would be LED, down-lit fixtures. The applicants plan to have stay-mat installed on the driveway and around the buildings. The landscape would be seeded with grass surrounding that area of the currently sand/gravel site. They plan to plant trees parallel with Route 16 but not enough to completely shield the sight of the structures as the actual storage units will serve as a visual advertisement. Each storage building will be pale gray in color and the dimensions will be 20' by 100' by 12' in height.

Mr. and Mrs. Demers do not plan to install an on-site office for the storage facility. No hurricane fences or security fences are planned at this time. The access to the site will be from Hillary Drive, which is a private road.

The performance standards were reviewed. The lights are indicated on the site plan and should not impact the vehicular traffic as they will be LED and down-lit security lights. No dumpster will be installed on site. The possibility of dust being generated by visiting traffic should be mitigated by the installation of grass and stay-mat.

The hearing ended at 7:36 pm. John Page made the motion to enter into deliberative session after the following hearing 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 – all setbacks and dimensional standards are met for this district. Conditional use of Warehouse/Storage is allowed. Applicant is requesting a Change of Use from pre-existing Extraction of Earth Resources (reclaimed).

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

3.12 Protection of Water Resources - Arrowwood Environmental has identified and delineated wetlands on the parcel. **Proposed project will need to be at least 50 feet from delineation.** In addition, a year-round stream currently runs under the access driveway through a culvert. **The project will need to be 75 feet from the stream. The site plan indicates that the proposed project will have the required setbacks from the wetlands and from the stream.**

3.13 Parking and Loading Requirements – The requested use (Storage) requires the parking to be determined under the conditional use review. **The DRB found that adequate parking exists on site.** Non-residential parking areas typically are located to the side or rear of the building. Non-residential parking areas typically require screening from the adjoining residential properties. **In this request, the DRB finds that no testimony from neighbors was received which would indicate a need for screening. Furthermore, applicants testified that they will be planting trees parallel to Route 16 and the existing vegetation will remain on site.**

3.14 Sign Regulations – The application includes requests for signs. One free-standing sign is allowed. In addition, a principal business shall be allowed one hanging wall-mounted sign per building face. Signs in the Rural Residential District shall not exceed 9 square feet. **The applicants are granted the ability to have a free-standing sign (outside of the Highway ROW if located near Route 16) and on each building face of the storage units. No individual sign may exceed the 9 square feet in sign area.**

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.** Proposed Change of Use is compatible with the area.
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). **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. See Condition #2.**
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 changes.**
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 as proposed in the application was accepted.**
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.**

5.2 G4 Rural Residential and Compact Residential District Standards. Within the Rural Residential District, development shall be designed in accordance with the following standards:

- A) Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the scenic and rural qualities of the site as experienced both on-site and from other vantage points in the Town. **The change of use is proposed for a previously existing gravel pit where agricultural land and natural habitat is not present. The project is partially shielded by existing vegetation which will remain on site, additional trees will be planted. The project will not extend into the delineated wetlands or into the year-round stream.**
- B) Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these features to the

extent feasible in order to minimize the loss of productive agricultural and forest land, and to avoid physical and visual impacts. **The access driveway for the proposed units is already in place.**

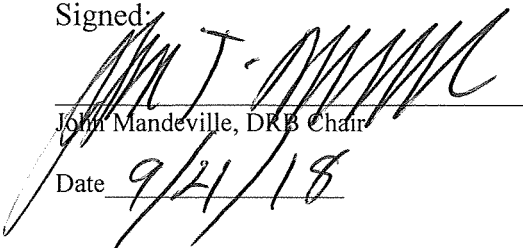
Decision and Conditions

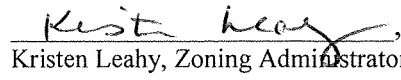
Based upon these findings, the Development Review Board voted 5-0 to approve the Demers application as presented and amended with the following conditions:

Conditions:

1. Any and all necessary state and federal permits must be in place before development can commence.
2. The Applicants will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. All signs must be in conformance with the sign regulations in 3.14. Individual signs will not exceed the 9 square feet in sign area.
4. Additional trees will be planted parallel to Route 16 and grass will be installed around the stay-mat areas.

Signed:

 , Chair
John Mandeville, DRB Chair
Date 9/21/18

 , acting clerk
Kristen Leahy, Zoning Administrator
Date 9/21/18

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:
 - 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;

