

Hardwick Development Review Board
Conditional Use Review Request
Manosh Properties
85 Industrial Drive, Hardwick
Application #2020-005
June 3, 2020

To consider a Conditional Use Review request by Manosh Properties for the creation of additional Mixed Use space (Light Industrial & Warehouse/Storage) at an existing Mixed Use structure in the Industrial zoning district. Development would occur at 85 Industrial Park Road, Hardwick, VT. Site is in the Source Protection Area overlay district.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.5 Industrial District Table; 3.11 Performance Standards; 3.12 Protection of Water Resources; 3.13 Parking and Loading Requirements; and 5.2 Conditional Use Review.

Warnings were posted on Tuesday, February 25, 2020 and May 19, 2020 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: Sedutto Hardwick LLC; Town of Hardwick; Stephen and Taylor Myer; Hardwick Enterprise Group, LLC; Hardwick Enterprise Group, c/o Andrew Meyer; and Center for an Agricultural Economy on Tuesday, February 25, 2020 and May 19, 2020. It was also published in The Hardwick Gazette on Wednesday, February 26, 2020 and on Wednesday, May 20, 2020.

Development Review Board members present: Kate Brooke; John Mandeville, Chair; Helm Nottermann; and Ruth Gaillard.

Development Review Board members absent: Ed Keene

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Kevin Amyot, applicant from Manosh Properties.

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

1. Letter dated **March 10, 2020** regarding the Source Protection Area Overlay District from Town Manager, Shaun Fielder.
2. Site Plan from Grenier Engineering
3. Letter from abutting owner, Andrew Meyer, who is the owner of the impacted Right-of-Way.

Summary of Discussion

Chair John Mandeville began the hearing at 7:00 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 applicant, Kevin Amyot of Manosh Properties, presented the project scope. This will be a 20 foot by 180 foot addition to an existing mixed use structure. The proposed addition will have the same external color and same roof pitch as the existing building. Currently, there are 4 tenants in the building, the new space has not yet been rented out but will be utilized as warehouse, storage space.

There is a slight 3 foot infringement on the existing Right-of-Way to the Meyer lot adjacent to the property. Mr. Meyer's submitted a letter in support of the proposal. The impact on the ROW will not preclude the vehicular travel of tenants or of the abutting property. The addition will have down-lit security lighting.

The hearing ended at 7:19 pm. Helm Nottermann made the motion to enter into deliberative session after the following hearing and Ruth Gaillard seconded. All members were in favor.

Findings of Fact:

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

2.5 Industrial District – all setbacks and dimensional standards are met for this district. The proposed expansion meets the purpose of the district. The Mixed Use is an existing use in the structure. The addition is proposed to expand the Warehouse/Storage use. Warehouse/Storage is a conditional use in this district.

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 – the property is located in the Source Protection Area overlay district. Town Manager rendered the written opinion that the Town accepted the location within the Source Protection Area (see conditions #3 & #4)

3.13 Parking and Loading Requirements – The Industrial District requires parking of 1 space per 2 employees on the largest shift. Furthermore, “off-street loading areas shall be provided for commercial uses which will receive shipments in vehicles too large for a standard parking space.” “Non-Residential parking areas shall be located to the side or rear of buildings unless otherwise approved under site plan or conditional use review and shall be screened from adjoining residential properties.” **The DRB found that adequate parking exists on site. No testimony was received to indicate that screening from adjoining residential properties would be necessary.**

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.** Location within the Industrial District matches the purpose of this district and the character of the surrounding area.
3. **Traffic on roads and highways in the vicinity.** The Industrial District circulation and traffic pattern is directed by an overall framework which is already in place. No adverse effect was identified.
4. **Bylaws in effect.** Source Protection Area concerns were addressed in the conditions.
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). **Proposed expansion meets all standards for the Industrial District.**

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. **Proposed expansion meets all standards for the Industrial District.**

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. **No testimony was received to indicate the need for screening. Proposed expansion is compatible with other uses in the zoning district and is not visible from outside the Industrial Park.**

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. **Extensive plans have been submitted to the State of Vermont. See Condition #5.**

Decision and Conditions

Based upon these findings, the Development Review Board voted 4-0 to approve the Manosh Properties conditional use 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 Applicant will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. Manosh Properties must follow all applicable hazardous materials and waste handling procedures to ensure there is no soil contamination from activities occurring during construction or from the on-going operation of the building.
4. Manosh Properties must provide the Town of Hardwick with an annual inventory of all hazardous materials stored and/or used in the building. The inventory shall be provided to the Town Manager's office by the first of July of each year.
5. Storm water remediation shall occur as designed.

Signed:


_____, Chair
John Mandeville, DRB Chair

Date 6/8/2020


_____, acting clerk
Kristen Leahy, Zoning Administrator

Date 6/8/2020

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.

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;