

Hardwick Development Review Board  
Conditional Use Review Request  
Applicant: Michele Heneghan  
Landowner: Michael Molleur  
*VT Route 15 and Brown Farm Road, Hardwick*  
*Application #2022-060*  
*October 19, 2022*

To consider a Conditional Use Review request by Michele Heneghan to construct a new Health Clinic in the Rural Residential zoning district. Development would occur at the corner of VT Route 15 and Brown Farm Road in Hardwick, VT.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.6 Rural Residential District; Section 3.6 Existing Small lots; 3.11 Performance Standards; Section 3.13 Parking and Loading Requirements; Section 3.15 Steep Slopes & Erosion Control; Section 5.2 Conditional Use Review; and Section 5.2 G4 Rural Residential District Standards.

**Warnings** were posted on Tuesday, September 20, 2022 at the Hardwick Memorial Building, at the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: George and Melissa Hay; Cynthia Koutny and Laura Berkman; Hugette Bolio Life Estate; Joel and Sara Behrsing; Fisher Family Trust; Ann Gilcris; and Ryan and Melanie Molleur on Tuesday, September 20, 2022. It was published in The News & Citizen on Thursday, September 22, 2022. It was also published in The Hardwick Gazette on Wednesday, October 5, 2022.

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

**Development Review Board members absent:** Kate Brooke

**Others present:** Kristen Leahy, Zoning Administrator (acting clerk); Joel Behrsing, abutting neighbor; Michelle Heneghan, applicant; and an unidentified phone number on Zoom.

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

1. Relocation sketch from Hardwick Electric Department

**Summary of Discussion**

Chair John Mandeville began the hearing at 7:34 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.

Mr. Mandeville invited the applicant to present her proposal. Ms. Heneghan is an acupuncturist who works in the Hardwick area. She is currently renting her clinic space and would like to obtain her own location. She has a purchase agreement on the property which is contingent upon the receipt of her local zoning permits.

The health clinic provides both acupuncture and massage therapy and is currently open Tuesday to Friday from 9 am to 6 pm.

The parcel is limited in space and the structure would be located on the upper side with access from Brown Farm Road. No access will be allowed from VT Route 15.

There is a state approved plan for potable water and a wastewater system. The wastewater system is only designed for the use of a health clinic and could not be used for a residence without an upgrade and additional permitting.

There are three individuals who work in the business and approximately 20 clients are seen on a daily basis. The applicant estimated that she will have 5 parking spaces available for clients. Members of the DRB expressed concern about that number as it would appear to be not sufficient for the client and worker totals. No parking will be allowed on Brown Farm Road. The only deliveries will be from UPS and similar-sized delivery trucks.

Joel Behrsing noted that the driveway will be entering Brown Farm Road where there is a slight blind spot. The road can be busy with farm traffic. He recommended building the access with a safe pull-out that allows the vehicle to observe both lines of traffic.

The proposed structure will be wooden and will utilize natural materials. The single story structure will be designed to blend into the site. The landscaping will not include additional trees or shrubs but will focus on grass and flowers.

Joel Behrsing was asked about rain run-off down Brown Farm Road. He noted that most of the water accumulates in the upper waterway.

The hearing ended at 8:05 pm. Helm Nottermann made the motion to enter into deliberative session after the hearing and Kole 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** – Health Clinic is listed as a Conditional Use in this district. The new structure's footprint would need to be located 60 feet from the centerline of VT Route 15 and 60 feet from the centerline of Brown Farm Road. Furthermore, the structure would need to be 50 feet from the rear and side property lines. **The Health Clinic structure is proposed to be approximately 90 feet from the center of VT Route 15, 62 feet from Brown Farm Road and 50 feet from the rear and side setbacks.**

**3.6 Existing Small Lots** – Any lot in individual ownership from surrounding properties legally in existence on the effective date of these regulations may be developed for the purposes permitted in the district in which it is located, if such lot is at least one-eighth of an acre in area with a minimum width or depth of 40 feet. **The parcel is reported to be 0.7 acres in area and has more width and/or depth than 40 feet.**

**3.11 Performance Standards** – review was made of the performance standards by the DRB. **See Condition #2.**

**3.13 Parking & Loading Requirements** – the property is located in the Rural Residential district which requires “off-street loading space shall be provided for commercial, industrial or institutional uses...” Table 3.1 lists Health Clinic as Other – parking spaces are “as determined under site plan or conditional use review”. **There are three people who work in the Health Clinic and approximately 20 clients per day. No official parking plan was submitted. Applicant planned to install five parking spots. DRB members were concerned that this number would not be sufficient. As a result, 8 parking spots will be required for the health clinic (See Condition #5) and no parking will be allowed on either Brown Farm Road or VT Route 15 (See Condition #4).**



**3.15 Steep Slopes & Erosion Control** – Development shall not take place on slope gradients in excess of 25% with the exception of limited site improvements necessary to facilitate development on contiguous land less than 25% gradient. **Site will be adjacent to the 25% slope section. No fill will be added to mitigate the steep slopes.**

## **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. The same business is already functioning in Hardwick.
- 2. Character of the area affected.** The construction of the Health Clinic matches the purpose of the Rural Residential district and the character of the surrounding area.
- 3. Traffic on roads and highways in the vicinity.** The circulation and traffic patterns on Brown Farm Road will not be impacted by the change of use. No significant increase in traffic will be created by the proposal.
- 4. Bylaws in effect.** N/A
- 5. The utilization of renewable energy resources.** No renewable energy approaches are planned at this time.

### **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. The location of the structure must observe the ROW for the powerline. See Condition #3.**
- 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. **Additional landscaping was not indicated as necessary.**
- 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. **State approved wastewater and potable water permit have been received for the site. No additional plans were indicated as necessary.**

## **5.2 G4 Rural Residential and Compact Residential District 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 proposed development will not impact agricultural land or natural habitat.**

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 proposed development will minimize the loss of productive agricultural and forest land.**

**Decision and Conditions**

Based upon these findings, the Development Review Board voted 4-0 to approve the Heneghan/Molleur 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. The applicant must receive final approval of the structure's location from the Hardwick Electric Department to ensure that the ROW of the relocated powerline will not be impacted by the structure's location. The final staked layout must be viewed and approved by Hardwick Electric prior to the commencement of construction. The zoning administrator must receive a written verification of the approval.
4. No parking will be allowed on Brown Farm Road or on Vermont Route 15.
5. The applicant must provide a minimum of eight (8) parking spaces on site, each measuring at least 9 feet by 18 feet. In addition, a safe pull-out from the driveway onto Brown Farm Road will be provided. This pull out must have unobstructed sight lines of oncoming traffic in both directions. A new site plan with parking places and accurate dimensions must be approved by the Zoning Administrator prior to the commencement of construction.

Signed:

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

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

Date 10/24/22

Date 10/24/22

**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:

represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or

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;

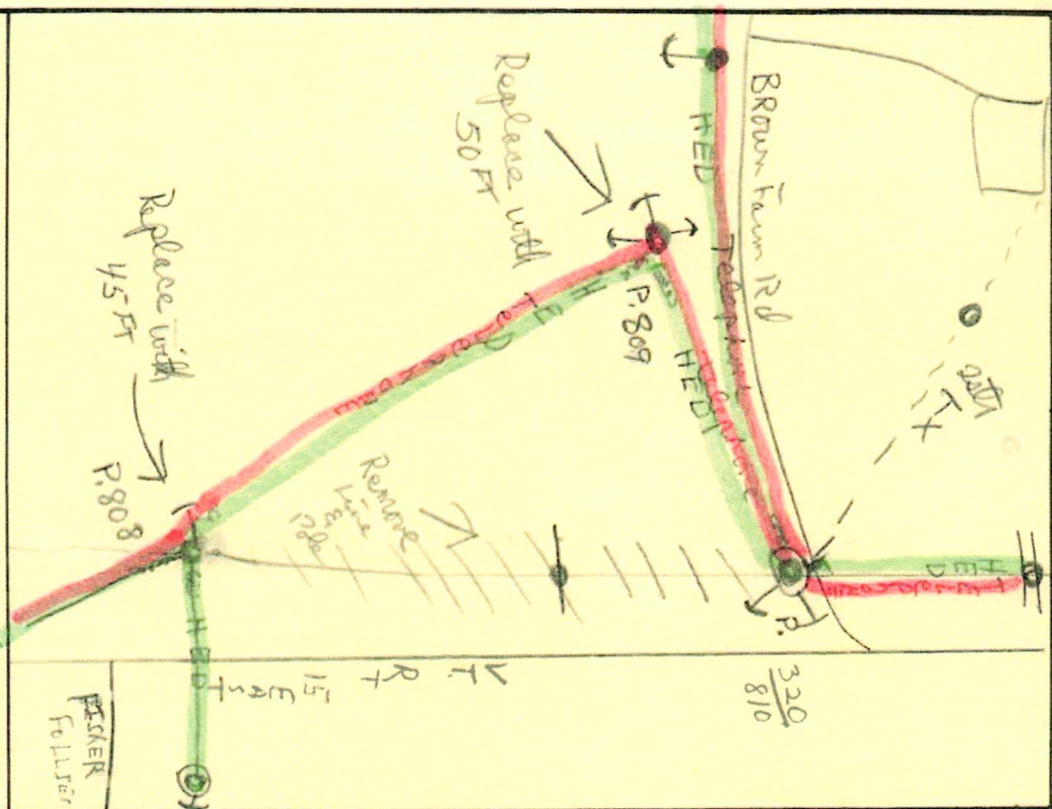
(6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.

(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;



W.O. # 223208 Acct. #



NOTES: Approx 360 FT of 1/2 Primary OH X2 = 720 FT  
 Veneer Over To add 1/2 E. and 1/2 (H Road)

Starting		Material	
H.C.D. Pole #	P.809	P.804	P.808
Tele RT Pole #	320	810	808
Pri. Span Length			
Conductor Size & Type	tol.		
Dist. Road Centerline			
Pole H. & C. Pti. Assembly	35'	50 FT	45'
Ground		A5	A4
Guy			
Lead			
Anchor Transformer Size			
Span Length			
Conductor Size & Type			
Secondary Assembly			
Span Length			
Conductor Size & Type			
Secondary Assembly			
Span Length			
Conductor Size & Type			
Service Assembly			
Loop No. & Size			
Meter Socket			
Main Meter			
Heat Meter			
Reference Sheet #			
Survey By	BF	Map #	
Drawn By	BF	Phase	18
Town	VRT, 15-RT, 15 East	Date Applied	7.2
Name:	Michelle Henscher	Account #	
Work Order #	223208	Released By	
		Built By	
		Posted Map By	
		Date	