

Hardwick Development Review Board
Conditional Use and Floodplain Review Request
The Civic Standard – landowner and applicant
42 South Main Street, Hardwick
Application #2024-013
April 3, 2024

To consider a Conditional Use and Floodplain Review request by the Civic Standard for a change of use of an existing Historic non-conforming structure in the Compact Residential zoning district. The Change of Use requested is Mixed Use with Community Center, Cultural Facility, and Office uses. Development would be non-substantial improvement in the Floodway in the Flood Hazard Area Overlay.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.1 Central Business District; 2.8 Flood Hazard Area Overlay; 3.9 Nonconforming Structures & Nonconforming Uses; 3.11 Performance Standards; 3.12 Protection of Water Resources; Section 3.13 Parking and Loading Requirements; Section 4.12 Mixed Use; Section 5.2 Conditional Use Review; Section 5.2 G(1) Central Business District Standards; and 5.3 Flood Hazard Review.

Warnings were posted on Monday, March 11, 2024 in 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: Norma Spaulding; Joshua and Thomas Nudell; Elizabeth Dow; Duane Wells, LLC; Rachel and Bert Hooper; Lynn Delaricheliere; Mike's Gulf Service Center Inc; Cornerstone Restoration CP, LLC; Jeudevine Housing Limited Partnership; 35 South Main LLC; Quickfox Hamilton RE Holdings; Bemis Block Housing Lmted Partnership; Wei Gao; Hardwick 87 LLC on Monday, March 11, 2024. It was also published in The News and Citizen on Thursday, March 7, 2024.

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

Development Review Board members absent: N/A

Others present: Kristen Leahy, Zoning Administrator (acting clerk); Rose Friedman, Applicant; Tara Reese, Applicant; Norma Spaulding, Neighbor; Adam Haley, Resident; and Paul Fixx, Editor of The Hardwick Gazette.

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

1. Email letter from Sacha Pealer, State of Vermont Flood Plain Manager, dated March 1, 2024
2. Email letter from David Upson, Jr. Town Manager re: Town water and sewer capacity and allocations, dated April 2, 2024.

Summary of Discussion

Chair John Mandeville began the hearing at 7:43 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 applicants to present their proposal. Rose Friedman testified about the recent history of The Civic Standard. Originally the structure served as a location for a printing press and the office of The Hardwick Gazette. The Civic Standard began as a community office space but has turned into something more complex. The Civic Standard is requesting a change of use to move from office space to Mixed Use with three

use identifiers – Community Center, Cultural Facility, and Office. The combination more accurately reflects the work that is being done in the building.

The Civic Standard has hosted living room concerts (small group and individual), meetings and organizing sessions, tutoring sessions, after school “hang-out” space, a haiku group, music practice, art spaces, weekly community dinners, and mending circles. The small space has been a vibrant addition to the downtown area of Hardwick center.

The Fire Marshall has capped their attendance at 49 individuals. Currently, the weekly community meals have had the largest attendance. Once the warmer months arrive, they will move these meals outside into the “Peace Park.” Ruth Gaillard inquired about their plans for when they have a larger gathering than 49 people. Rose and Tara will be considering approaches for next winter when they return to the interior of the building. Currently, events that are anticipated to be larger are scheduled in alternative spaces such as the American Legion.

There are 2-3 employees per shift. They park in the long-term parking by the Town parking area near the Diner and on Creamery Road.

The Town Water and Sewer allocation is currently sufficient (See Exhibit #2).

No physical changes will be made to the inside or the outside of the structure at this time.

People attending their functions have walked or parked in longer-term lots. They have worked with Mike Brochu next door to use his lot after hours.

The hearing ended at 8:05 pm. Kole made the motion to enter into deliberative session after the hearing and Kate Brooke seconded. All members were in favor.

Findings of Fact:

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

2.1 Central Business – the existing structure is non-conforming as the building does not meet the rear setback in the Central Business district. In addition, the location is within the 75 feet from the Lamoille River. Mixed Use, Community Center, Cultural Facility, and Office are all listed as Conditional Uses in the district. Applicants are requesting to change their use from an existing office to Mixed Use with Community Center, Cultural Facility and Office included. **Location meets the 0 feet setback from the front setback and the 0 feet from the sidelines. The Lamoille River has reclaimed all land to the rear of the structure – 15 feet from the water’s edge is not existent.**

2.8 Flood Hazard Area Overlay District – The Flood Hazard Area Overlay District lists “Non-Substantial improvements to existing structures” as a Conditional Use for Floodway properties. **No updates are currently being requested by the applicants. Future updates will return to the Development Review Board. The Floodplain Manager also reviewed the request and submitted a letter on March 1, 2024 (See Exhibit #1).**

3.9 Nonconforming Structures & Nonconforming Uses – the Structure is non-conforming due to its location next to the Lamoille River. No physical changes will be made the existing structure. The requested uses conform with the zoning 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 Floodway in the Flood Hazard Area Overlay. The existing building is within the setback required from the Lamoille River. The requested change of use will not impact the location of the building.

3.13 Parking and Loading Requirements – In the Central Business District, “off-street parking will be required only for employees, on the basis of one space per two (2) employees per shift, and for dwelling or lodging units as provided for in Table 3.1” **The building will have 2-3 employees per shift. Employees park in the long-term parking spots on the Town parking areas (near the Diner and on Creamery Road). Visitors park on street and in the open spaces created after hours (Brochu Garage).**

4.12 Mixed Use – more than one principal use may be allowed within a single building subject to provisions: 1) each of proposed uses is allowed as a permitted or conditional use within the zoning district, 2) the uses in combination meet all applicable standards for the district, and 3) the mixed use shall meet all applicable general regulations under Article 3. **The requested uses are a conditional uses in the Central Business district.**

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 Central Business district matches the purpose of this district and the character of the surrounding area.
- 3. Traffic on roads and highways in the vicinity.** The Central Business district circulation and traffic pattern on Main Street is directed by the existing uses in the area. No adverse effect was identified.
- 4. Bylaws in effect.** Town water and sewer concerns were addressed by the Town Manager (See Exhibit #2).
- 5. The utilization of renewable energy resources.** Not applicable.

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 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. **No additional plans were indicated as necessary.**

5.2G1 Central Business District 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 proposal utilizes a pre-existing 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. Buildings located on corner lots shall either be oriented toward the major street or include a corner entrance. The Board may impose a maximum setback, relative to adjacent buildings, to achieve a consistent streetscape. **The proposal utilizes a pre-existing structure with an established orientation.**
- c. New buildings and additions to existing buildings shall be designed to be compatible with, and not stand in contrast to, historic structures located within the district with regard to building scale, massing, materials, orientation and rhythm of openings. **No new buildings or additions are presently being requested.**

5.3 Flood Hazard Review

C. No repairs and improvements are proposed for the property at this time.

D. The Town of Hardwick prohibits “Critical Facilities” from being established in the Flood Hazard Area Overlay. The definition of a Critical Facility is as follows: “Includes police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster.” The Civic Standard did provide critical support during and after the flooding in 2023, their location was not critical. Rose testified that they are not a Critical Facility.

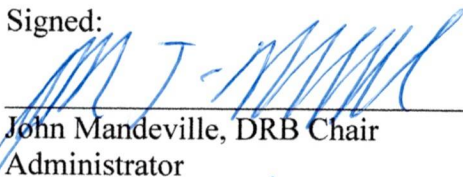
Decision and Conditions

Based upon these findings, the Development Review Board voted 5-0 to approve The Civic Standard 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).

Signed:


_____, Chair
John Mandeville, DRB Chair
Administrator


_____, acting clerk
Kristen Leahy, Zoning

Date 4/8/24

Date 4/8/24

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);

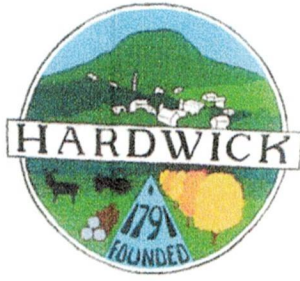
(4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

(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;



Town of Hardwick
Office of the Town Manager
P.O. Box 523

Hardwick, Vermont 05843

phone: (802) 472-6120 • e-mail: david.upson@hardwickvt.gov • fax: (802) 472-3793

April 2, 2024

The Civic Standard
PO Box 256
Hardwick, VT 05843

Re: Sewer Allocation

Dear Rose and Tara,

The purpose of this letter is to confirm that the Town of Hardwick currently has the wastewater collection capacity, and potable water supply capacity to accommodate the recent change of use located at 42 South Main Street in Hardwick, VT from an Office Use to a Mixed Use (office, cultural facility and community center).

If you have any questions, please don't hesitate to contact me.

Sincerely,

David Upson
Town Manager
Town of Hardwick
Wastewater Treatment Facility 3-1143

Cc: ZA

Zoning Administrator's Office
Town Clerk's Office
Public Works Foreman

Kristen Leahy
Tonia Chase
Tom Fadden

(802) 472-1686
(802) 472-5971
(802) 472-6029

Is there any development that could have floodway impacts?

I noticed foundation repair and bank stabilization work are not included as part of this application. I mention this work because we had discussed it with the applicant at our site visit on 11/29/23. If that work is not part of this application, then floodway requirements under Section 5.3 H are not applicable at this point. However, please keep in mind that foundation/bank repair work will need to be reviewed and permitted under Hardwick Bylaws Section 5.3 H for floodway impacts, so I wanted to touch on it briefly as a reminder. A partial elevation certificate (prepared by Aaron Fuller, dated 3/15/23) suggests that most of building (including lowest floor) is above the effective base flood elevation, except for the foundation which extends below base flood elevation. Therefore, foundation work or bank stabilization/reconstruction is likely to be below base flood elevation in the floodway and so would require floodway certification from an engineer. Also, foundation work would likely be an improvement to the structure itself which brings us back to substantial improvement/historic structure considerations discussed above.

Does the proposed use itself present any concerns under the flood hazard area regulations?

Again, flood hazard regulations typically do not focus on the use per se. However, if the proposed use converted the building into a critical facility, as defined in Article 8, then it would not be allowed under Table 2.8 D. The use described in the application does not sound like a critical facility, but the town may want to confirm that.

Please let me know if you have any questions.

Best wishes,



Sacha Pealer (she, her), CFM|Northeastern River Scientist & Floodplain Manager

Vermont Agency of Natural Resources | Department of Environmental Conservation

Watershed Management Division, Rivers Program

1 National Life Drive, Davis 3 | Montpelier, VT 05620-3522

802-490-6162 office & cell

Sacha.Pealer@vermont.gov

<https://dec.vermont.gov/watershed/rivers>

From: Kristen Leahy <zoning.administrator@hardwickvt.gov>

Sent: Thursday, February 8, 2024 9:49 AM

To: Pealer, Sacha <Sacha.Pealer@vermont.gov>

Subject: Development Review Submission (x2)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.



Kristen Leahy <zoning.administrator@hardwickvt.gov>

42 S Main Street - Civic Standard - Flood Hazard Review

1 message

Pealer, Sacha <Sacha.Pealer@vermont.gov>

Fri, Mar 1, 2024 at 9:22 AM

To: "zoning.administrator" <zoning.administrator@hardwickvt.gov>

Hi Kristen,

Thanks for sending this application in for state floodplain review comments under 24 V.S.A. §4424.

I agree this structure is in the Special Flood Hazard Area (Zone AE) and floodway and subject to review under Hardwick's Flood Hazard Area Regulations (Section 5.3 of Hardwick's Unified Development Bylaws).

In the application packet, I noticed the comment "no changes to the building" other than "change of use." In general, flood hazard regulations focus on physical changes to the structure or land that could increase flood hazard or damage. On the surface, it appears this application does not include any physical changes. However, below are three questions to help you confirm that all is in line with the flood hazard regulations.

-

Is this an improvement to the building?

Sounds like there may not be any actual physical alterations to the building proposed. Assuming there are no improvements (alterations), then the simplest thing would be to clearly note that in the permit file. Please recall, though, that the National Flood Insurance Program considers both exterior and interior changes to a structure as improvements that need review and permitting under your local bylaws. Improvements are changes to the structure itself rather than the contents. For example, with a change in use, there are often changes in floor/wall finishings, electrical, plumbing, heating, built-in appliances/furnishings like cabinets, etc., that qualify as improvements to the structure that need review and permitting within the Special Flood Hazard Area. If there are improvements, then Hardwick would need to check whether the project is a substantial improvement. Article 8 of Hardwick Bylaws defines substantial improvement as follows:

Substantial Improvement: For purposes of floodplain management, includes any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of this bylaw, the cost of which, over one year, or over a period of a "common plan of development," cumulatively equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: a) Any project for improvement of a structure to address violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

When checking for substantial improvement, the town would also look at whether the project meets the criteria for historic structures highlighted in part b of the definition above. I see that you did find this structure is listed as historic on the National Register, so if there were alterations to the building proposed, then I'd suggest the town request confirmation (e.g., from the state Historic Preservation office) that the project would not change the "historic structure" listing.