

Hardwick Development Review Board  
Conditional Use Hearing  
*Danny and Tamara Hale,*  
*Application #2016-011*  
April 6, 2016

*To consider a conditional use request by Danny and Tamara Hale to expand a pre-existing Nonconforming Use (Contractor's Yard) in the Village Neighborhood zoning district at 143 Mackville Road.*

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: 2.2 Village Neighborhood Table; 3.7 Height Requirements; 3.9 Nonconforming Structures and Nonconforming Uses; 3.10 Parking and Loading Requirements, 3.11 Performance Standards; 5.2 Conditional Use Review; and 5.2 G Village Neighborhood District Standards.

**Warnings** were posted on March 16, 2016 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: Philip Greaves, Lamoille Housing Partnership, Marie Sholan, John Appleby, Carla and Richard Allen, Beverly Thompson, Gary Richardson, and Brenda Bolieu, on March 16, 2016. It was also published in the Hardwick Gazette on Wednesday, March 23, 2016.

**Development Review Board members present:** John Mandeville, Cheryl Michaels (Chair), John Page, Ruth Gaillard, Edward Keene, and Daniel Bandit.

**Development Review Board members absent:** Helm Nottermann

**Others present:** Danny Hale, applicant; Marie Sholan (neighboring property); Lesa Cathcart; Jim Lovinsky of Lamoille Housing Partnership; and Kristen Leahy, Zoning Administrator (acting clerk).

**During the course of the hearing the following exhibits were submitted:**

None submitted.

### **Summary of Discussion**

Chair Cheryl Michaels began the hearing at 7:13 pm. She noted the hearing was quasi-judicial, explained the procedure for the hearing, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing. Mrs. Michaels then asked Mr. Hale to explain what he wants to do at 143 Mackville Road in Hardwick.

Mr. Hale is proposing to level a section of his 11+ acres to park his personal trailers and his trailers from his work affiliation – Vermont All Terrain Vehicle Sportsman's Association (VASA). This leveled section would be a place to park and to store personal and VASA equipment. In addition, Mr. Hale would like to construct a pole barn to provide storage for equipment and materials. Mr. Hale reported that he has several pieces of equipment. Currently, he rents storage space for some of the equipment for the winter months. The proposed barn structure would act as storage primarily from October to April and would not be utilized as extensively in the summer months.

When asked about screening for the proposed expansion, Mr. Hale replied that he has left trees in the proposed area and he feels that what he wishes to store is familiar in the Vermont landscape.

Mr. Hale reported that he has been bringing equipment home all of his life. He has lived in his current location for 25 years and he has been involved with VASA since 2000. The equipment and materials have been parked there since that time.

When asked about employees, he reported that he occasionally has an assistant. The main body of work is trail maintenance and creation. This has occurred since 2003/2004. The main office for VASA is in Barre Vermont. The organization's 10 year plan includes the intention to build a shop to house this equipment.

The usage of his house as a Contractor's Yard has increased since 2003/2004 – at first, this use was primarily on the weekends. Mr. Hale reported that he is not really trying to increase beyond the current (including that which is off-site in storage). When asked about the amount of equipment in question, he estimated that the worst case scenario (everything there at the same time) would be (for VASA) 2 trucks, 3 trailers; excavator; 2 rangers, materials such as railroad ties, culverts, etc. and (personal) would be 1 truck, 1 camper, 1 atv, bulldozer, motorcycle, 1 trailer. Etc.

The Conditional Use application request is for the expansion of the Contractor's Yard not merely the relocation and for the pole barn structure. The access to this expansion will be gravel and the structure would be pine boards with no walls at first.

Mr. Jim Lovinsky from the Lamoille Housing Partnership testified. LHP manages Evergreen Park which abuts the property. He stated a few concerns: Screening. The proposed expansion is elevated above the park and the pole barn structure will be even higher. LHP is currently funding extensive improvements to Evergreen park. The joint property line is a drainage ditch, therefore LHP cannot place a barrier on their side without impacting the efficacy of the drainage ditch. They are willing to work with Mr. Hale to provide screening for the project. A suggestion was made of a cedar hedge. And Mr. Lovinsky proposed that he and Mr. Hale collaborate on the work and share the cost.

Mr. Lovinsky stated that there is no concern with noise from the proposal and that the issue of run-off is currently under control. He will speak to the town regarding issues with the culverts. His final concern was the pile of used tires which may be a site for breeding mosquitos. Mr. Hale responded that the tires had been there for years and were not in the proposed expansion area, but rather in the existing section of the Contractor's Yard.

Neighbor Marie Sholan also testified. She reported that she has no objections to the project as proposed. She would like, however, respect of the temporary ROW which runs over her driveway. She presented photographs for the board to view of the driveway as it existed previously. Mrs. Sholan also informed the board that her run-off has increased over the years and she is concerned with silt. She will be happy to see the equipment move to the other side of the property.

The hearing ended at 8:00 pm. John Mandeville made the motion to enter into deliberative session and Dan Bandit seconded. All members were in favor.

### **Findings of Fact:**

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

**2.2 Village Neighborhood District** – the proposed expansion and construction of a structure will meet all the required setbacks (5 feet from the boundary lines).

**3.7 Height Requirements** – the proposed structure will be 16’ which meets the requirements.

**3.9 Nonconforming Structures and Nonconforming Uses.** Mr. Hale has had a Contractor’s Yard at his home since 2000 – a time frame which correlates to his involvement with VASA. The expansion and construction of this yard must be reviewed under the conditional use criteria.

**3.10 Parking and Loading Requirements** – plan provides for parking of multiple vehicles and pieces of equipment. Size of parcel and area of expansion allows for adequate space.

**3.11 Performance Standards** - Each subsection was reviewed and, with no testimony to the contrary, the proposal does not appear to adversely affect these standards.

## **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 expansion will not affect the capacity.
2. **Character of the area affected.** The project is located in the Village Neighborhood. But as a pre-existing Nonconforming Use it has been in place for 15+ years. The request to expand does not appear to change or negatively affect the area.
3. **Traffic on roads and highways in the vicinity.** Expansion will cause only minor increases in traffic. Departure and arrival times are standard working times (6am to 5 pm approximately). Occasionally more traffic will occur but this will not be a regular occurrence.
4. **Bylaws in effect.** N/A
5. **The utilization of renewable energy resources.** N/A. No power will be in place at the proposed structure.

### **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). **The proposal is located near a spring drainage but no streams are indicated near the site. Drainage has had control measures incorporated.**
2. **Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **These were reviewed and found to not be an issue in the proposal.**
3. **Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **N/A**

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. **See Conditions.**

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. **These are being incorporated at the time.**

**5.2G Village Neighborhood Standards** – The proposal has nothing indicated in the front yard of the property; the expansion would occur in the rear of the property. All structures will meet the required height limits.

**Decision and Conditions**

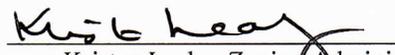
Based upon these findings, the Development Review Board voted to approve the application as presented with the following conditions.

**Conditions:**

1. Any and all necessary state and federal permits must be in place before construction can begin.
2. The proposed structure and all storage in the expansion area must meet the accessory structure setbacks (5') from the property side line.
3. A natural hedge will be provided in such a way to adequately screen the extended Contractor's Yard from Evergreen Park.

Signed:

  
\_\_\_\_\_, chair  
Cheryl Michaels  
date 4-11-16

  
\_\_\_\_\_, acting clerk  
Kristen Leahy, Zoning Administrator  
date 4/11/16

**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.