

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Randy Schoonmaker of Deerfield Valley Transit Association**

Owner/Applicant(s) Mailing Address: **PO Box 429, West Dover VT, 05356**

Address of the subject property: **45 Mill Street, Wilmington, VT 05363**

Tax Map #**20-21-026.100**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2014-008

Description of Case per Public Notice:

Application # 2014-008; owner: Deerfield Valley Transit Association. Application being made for Conditional Use and Flood Hazard review to allow construction of a 16,100 sq. ft. Maintenance Facility ; Flood Hazard Area Regulation Sections 804, 811 & 820.B and the Zoning Ordinance Section 270.B & 513; location: 45 Mill Street.

Notice for a public hearing was published in the Valley News on: **2/14/2014**

Notice was posted in three public places on: **2/14/2014**

A copy of the notice was mailed to the applicant on: **2/14/2014**

A copy of the notice was mailed to the abutters on: **2/14/2014**

The public hearing was held on: **3/3/2014**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environment Court.

Appeal period for this Case expires on: April 9, 2014

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator
Mark Bannon Witness for Applicant
Carolyn Palmer, Spokesperson for petitioners (Exhibit F)
Bill Palumbo, Agent for Andrew and Christine Palumbo

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

Application (seven pages)

- A Plan set “Deerfield Valley Transit, Wilmington, VT” by Maclay Architects.
 - a. Site Overview, 02.23.2012
 - b. Conceptual Site Plan, 1/10/2012
 - c. Scene 1, 02-23-2012
 - d. Scene 2, 02-23-2012
 - e. Scene 3, 02-23-2012
 - f. Scene 4, 02-23-2012
 - g. Scene 5, 02-23-2012
 - h. Scene 6, 02-23-2012
- B Abutters List
- C letter of authorization from abutter Andrew Palumbo, February 19, 2014
- D Plan set “Deerfield Valley Transit, Wilmington, VT” by Bannon Engineering.
 - i. Existing Conditions, C-1, 2/4/2012, revised 6/29/2012
 - j. Erosion Control Plan, C-2, 2/4/2012, revised 6/29/2012
 - k. Proposed Site Layout, C-3, 2/4/2012, revised 6/29/2012
- E Building Elevations by Maclay Architects, A2.1, 10.31.13.
- F Petition requesting interested party status (two pages)

1. The subject property is in the Village District (outside of the Historic Review District) of the Town of Wilmington. The property is identified as Tax Map 20-21-026.100.
2. This property was the subject of a nearly identical application referred to as DRB Case #2012-096. On September 26, 2012 the DRB approved “the application for Conditional Use review to allow construction of a Transit Terminal and supporting roads and parking areas in the Commercial District. It also noted that there was a

walking path that would continue to be located on the property.” The decision also stated that “If unused, the Approval expires 1 year from the date of issue.” While there are provisions for extensions, no application for an extension was submitted and the permit expired on September of 2013. The Applicant did not realize that it had expired and is before this Board in order to receive new approval and permit.

3. Since the expiration of the Approval the Town of Wilmington passed new zoning regulations. This application has been reviewed under the new Zoning Ordinance.
4. The Deerfield Valley Transit Association (DVTA) has used the site for a number of years for the maintenance of its buses and for the creation and storage of the fuel needed for the buses. The DVTA has also done significant work on the site, including but not limited to the removal of old buildings and debris.
5. The main part of the application is the construction of a 16,100 square foot building. This building will be used for maintenance of the buses and the administrative offices of the DVTA. When the administrative offices are moved to the subject property, all of DVTA’s operations will be at this site. While the building is located near the river, it is designed so that the bus parking area and the maintenance area will be shielded from view from both Route 9 and the walking trail. The structure height is measured from the average grade to the average between the eave and the ridgeline. The structure height is 31 feet 7 inches (Exhibit E). There are two cupolas on the building. Other than people stopping by the administrative offices, there will not be public access to the building. There is not now, nor will there be in the future, any public bus stop on the property. There could be up to 10 office and maintenance employees on site at any one time. Since the maintenance personnel are already working at this site, only three to four additional employees will be on site.
6. The new building will be sprinklered for fire safety. The allocations for Town water and sewer have been received.
7. The building that is used as the bio-diesel shop will remain and will continue to be used for that function.
8. The existing maintenance shop will be removed once the new building is ready for occupancy.
9. In the previous application the wood shop building next to the silo was going to be fixed up. It has been determined that it is disrepair and, therefore, will be removed. The silo will remain although there are no definite plans for its use.
10. There is a public trail for pedestrians and non-motorized vehicles that runs from the easterly side of the property along the river and will connect with a trail in the back of the property. People may access the path from the subject property or they may enter the trail at another point and just be walking through the property. There will also be some benches and some display panels giving historical information in conjunction

with the trail.

11. Parking: There will be 32 bus parking spaces plus 57 visitor/employee parking spaces. The bus parking area will be on the side of the building away from the river and the employee/visitor spaces will be closer to the river. This parking area will also be used by people accessing the trail. Nine additional parking spaces will be located next to the bio-diesel shop (Exhibit D3).
12. The roads into the property will be reworked so that those going to the offices or to use the trail will be kept separate from bus access. The new configuration will reduce the curb cuts from four to two.
13. A 12,000 gallon above ground fuel tank for diesel fuel and the existing 1000 gallon above ground tank for bio-diesel fuel will be used. The larger tank will have a canopy over it. The propane tanks and the dumpster will be in a screened structure. (Application)
14. Electrical wires to the new building will be placed underground to ensure greater safety. (Application)
15. Landscaping: There will be landscaping consisting of tree plantings and perennials. The Applicant is aware that the new construction is large and is planning to plant trees that will match the size of the building. The Applicant has been working with Interested Parties Andrew and Christine Palumbo so that their property will be visually screened from the subject property. Agent William Palumbo stated that he is satisfied with the present plans.
16. Lighting: All exterior lighting will be on timers and/or motion detectors. The parking lot fixtures will be mounted on 16 foot tall poles and will have a “full cut-off lens so that no light source is visible above 90 degrees of the fixture.” The designs will be selected so as to limit the amount of spillage to areas that do not need to be lit (Application). Exterior lights will not be turned on during daylight hours.
17. Although a portion of the property is in the Flood Hazard Area (FHA), the site of the new building is not in the FHA. The Applicant noted that the building site did not receive water during Tropical Storm Irene in August, 2011. The project was reviewed by VANR Flood Plain Administrator Rebecca Pfeiffer on 4/20/2009 (Application). In addition, Shannon Pytlik, VANR River Scientist conducted a site visit in April of 2011 and determined that the project did not “pose further encroachment on the FEH Floodway.” (Application)
18. This property was also the subject of DRB Case #2011-019. The decision was signed on June 28, 2011. The Board approved with conditions “to allow a 9 (+/-) acre parcel to be divided into two lots of at least 1 acre and 8 (+/-) acres.” The subdivision has not occurred. The expiration date for this approval is June 28, 2016. The Applicant is still considering doing this subdivision. Agent Bill Palumbo is interested in having

input if the subdivision moves forward.

19. Spokeswoman for the Interested Party petition Carolyn Palmer spoke in favor of the Application.

II. The Board CONCLUDES:

With regards to the criteria for Conditional Use review, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. **Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** The DVTA has been using this location for a number of years. The only increase in staff on the location will be a few administrative personnel. Water and sewer allocations have been received.
- B. **Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** The buses have already been operating from this site. The additional traffic will be from the additional staff members and any members of the public either visiting the offices or parking in order to access the public trail. These vehicles will have a minimum impact. The redesigned roads into the property will increase safety for all and result in a better traffic flow.
- C. **Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located? The purpose of the Village District is:**

***Purpose:** To retain the character of the existing village, provide for future residential and commercial development through historically appropriate structures and business types at appropriate densities, and promote residential and tourist quality of life by preserving and developing a clustered village reflecting a visibly vibrant and energized community. The village district will encourage development which creates a visible sense of excitement and activity, drawing people to stop and participate. Examples of desired activities include village stroll, street fairs, retail markets, art display, outdoor dining, street-front dining, public seating areas, performance arts venues, street performance and clustered communal areas. Building structures will be reflective of the historic nature of the town. Outdoor spaces will reflect the rural and bucolic nature of the area.*

The cleaning up of a property that has, until recently, had large buildings in extreme disrepair has gone a long way to make the Village more attractive and

vibrant. The design of the new building is specifically designed to look like a traditional barn. The DVTA supplies a vital service for residents and visitors as it supplies no-cost transportation through-out the Valley and region. To have all its facilities in one location will add to the vibrant community. The trail that goes through the property and the parking spaces for people accessing the trail will also add to the vibrancy of the Village area.

- D. Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** Yes. The Town Plan calls for the settlement pattern within the Village and for efficient transportation systems. This proposal fulfills both of these policies.
- E. Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?** Yes. Although part of the property is in the FHA, none of the buildings are in the FHA.

The Principal Use of this property is a Maintenance Facility in that it is a facility that is used for maintenance, repair or storage of machinery or property associated with a commercial use. The administrative office is considered an Accessory Use to the Principal Use. The creation of bio-diesel fuel is also considered an Accessory Use. As such, both of these uses are considered Permitted Uses by this Board. The building housing the bio-diesel fuel is considered an accessory building. At this point, the silo is not being used and, therefore, is considered an accessory building. Once the existing maintenance building and the wood shop building are removed there will be one Principal Building and one Principal Use. That will meet the Site Criteria for the Village District outside of the Historic Review District. Since cupolas are exempt from the Height Requirement, the new construction meets the Height Requirement. This proposal meets all other Site Criteria in terms of lot size and setbacks.

With regard to Section 320 of the Ordinance, the Board finds that provisions have been made for maximum traffic and parking and there is room for snow removal and maintenance of parking areas and roads (320 D & E)

Landscaping and screening have been planned. Special consideration has been taken with the screening in the area closest to the Palumbo property (320 F).

With regard to Section 340 of the Ordinance, the Board finds that the Application meets the Standards for B. Air Emissions for Commercial Operations, D. Landscaping, E. Lighting and Glare, F. Parking, H. Setbacks and Screening, J. Traffic Impacts and Street Access Control. Other Standards are not applicable.

With regard to Section 355 of the Ordinance, the public parking area has more than six spaces and will be landscaped. The Board finds that because of the locations and uses of the bus parking area and the spaces by the bio-diesel building it is not necessary to landscape these areas. However, plantings shall be placed at points between these areas and the nearest property lines.

III. CONDITIONS for Conditional Use:

This is granted subject to the following restrictions, requirements, limitations or specifications.

1. The present maintenance shop shall be removed within six months after the occupancy of the new building.
2. The design, layout and size of the new building shall be substantially as presented in testimony and in exhibits.
3. All exterior lighting shall be on timers and/or motion detectors. The parking lot fixtures shall be mounted on poles not to exceed 16 feet above grade and will have a “full cut-off lens so that no light source is visible above 90 degrees of the fixture.” They will be selected so to limit the amount of spillage to areas that do not need to be lit. Exterior lights shall not be lit during daylight hours.
4. The propane tanks and the dumpster shall be in a screened structure.
5. Landscaping shall consist of trees of at least two inches in caliper at planting. Special care shall be given to reduce the visual impact of the project on neighboring residential properties.
6. The access roads and parking areas shall be substantially as shown in Exhibit D3 with regard to location, width of roads and number of parking spaces.
7. The parking area that is used by the public and for employees shall be landscaped.
8. The Decision and Conditions stated in DRB Case #2011-019 shall remain in effect.

IV. Regarding the Flood Hazard review, the Board CONCLUDES:

With regards to the criteria for Flood Hazard Review, the Board concludes that the placement of the new building is not in the Flood Hazard Area and does not need further review from this Board. All the other buildings on the property are also outside of the FHA.

V. Conditions for Flood Hazard Review:

1. The new building shall be sited as shown on Exhibit D and shall be outside of the FHA.

Thus, the Development Review Board *does* **approve** the application for **Flood Hazard approval**.

If unused, this Approval expires 2 years from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Nicki (Polly) Steel
Sherry Brissette
Sheila Osler

OPPOSED:
None

For the Board: Polly Steel, Chairperson

Date: 3/10/2014

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.