

TOWN OF WILMINGTON
Decision 2019-035
Addendum to 2016-038 & 2016-077
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND CONCLUSIONS OF LAW
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Joseph R. Montano Jr**

Owner/Applicant(s) Mailing Address: **PO Box 1450, Wilmington Vermont. 05363**

Address of the subject property: **25 Haystack Rd**

Tax Map: **20-20-0004.000**

A copy of the application is filed in the office of the Board and is referred to as: # **2019-035**
Addendum to # 2016-038 and #2016-077

Description of Case per Public Notice:

Owner; Joseph R Montano. Application is being made for a reconsideration of Condition B of decision 2016-077 Conditional Use review to construct a (8150sf) Mini Storage Facility. Commercial Residential zoning district 25 Haystack Road.

Notice for a public hearing was posted in three public places and was published in the Valley News on: **August 8, 2019**

Notice was posted in three public places on: **August 6, 2019**

A copy of the notice was mailed to the applicant and to the abutters on: **August 6, 2019**

Public hearings were held on: **September 5, 2019 and September 30, 2019**

A site visit was held on: **September 17, 2019**

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 November 16, 2019.

The Approval expires on October 17, 2020

EXHIBITS

Application (Three pages, not numbered)

A. Abutters List

B. Abutters Notification Letter

C. Public Notice Posting

D. Sample of screening proposed for Storage Unit B

E. Sample of screening proposed for Storage Unit C

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.

Summary of Application History related to this development.

1. June 20, 2016 Applicant applied for three self-storage units Case # 2016-038
Approved by DRB July 11, 2016
2. September 17, 2016 Applicant applied for four self-storage units, addendum to Case # 2016-077
Approved by DRB December 1, 2016 including Condition B Landscaping and Screening
3. June 27, 2017 Applicant reapplied for four self-storage units, providing additional plot plans including two new retaining walls.
Applicant was permitted by ZA citing the decision of Decision of December 1, 2016, without going back to the DRB for reconsideration of newly added retaining walls.
4. August 5, 2019 Applicant requested reconsideration of Condition B. Landscaping and Screening from the DRB September 17, 2016 application/December 1, 2016 decision.

FINDING OF FACTS

September 5, 2019 Hearing

Applicant testified:

- The required fencing and plantings have been completed along Haystack Rd on the westerly side of the property.
- No screening has yet been installed on the northern and southern sides of the property as required in decision #2016-077 Condition B dated December 1, 2016.
- He believes the fencing is not attractive and that his storage units are more aesthetically pleasing than the fencing and plantings installed as required in decision #2016-077 along the roadway on the westerly border.
- He requests that Condition B of #2016-077 be modified to eliminate any required screening on the north and south sides of the property.

Interested Parties testified:

- Susan Haughwout and Ken Spicer, each representing separately a group of 10, testified that they do not believe the storage facility units are unaesthetic. They find them neat, tidy and aesthetic. Further they each testified that they believe the fencing installed along Chimney Hill Road on the westerly side of the boundary is unaesthetic and should not have been required. They do not wish to see any further screening of any kind, particularly not fencing.

General Public testified:

Mary Jane Finnegan, Geralyn Kogut, and Jennifer Fitzgerald, having failed to achieve a group of 10, spoke as members of the general public, echoing the sentiment voiced by the Interested Parties noted above.

September 17, 2019

A site visit was held, attended by Joe Montano, Merrill Mundell (agent for the applicant), and DRB members Wendy Manners Seaman, Diane Abate, Charles Foster, Paul Lockyear, and Cheryl LaFlamme

September 30, 2019 a final hearing was held.

The Applicant testified:

- He had looked at cement planters but found they were too large for his application.
- He would like to place Arborvitae in pots along the tops of retaining walls of Storage Unit B (Exhibit D) and Storage Unit C (Exhibit E). While the planters are representative of the type he would like to use and 5 foot Arborvitae are his preferred planting, the applicant testified there would be more planters than illustrated in the exhibits to create a full screening horizontally across the building ends as seen from the southern approach on Haystack Road.

The applicant testified he prefers planters over a raised bed as he has experienced rotting of raised bed timbers and feels pots will be more durable. The board raised the question of the ability of Arborvitae to overwinter in pots. The applicant testified he still prefers to plant in pots and will replace Arborvitae as needed if they should die.

- In addition, applicant testified he would be willing to plant Arborvitae left and right of the current sign. When asked by the Board if he would also be willing to plant Arborvitae behind the sign as well as down the embankment to the edge of the driveway, the applicant testified he would be willing to do so.

Interested Party Susan Haughwout was in attendance September 30, 2019. However, she provided no additional testimony,

CONCLUSIONS OF LAW

The applicable Zoning Ordinance in effect June of 2016 states

Section 730

Landscaping and Screening

E. Landscaping and Screening: Shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural nature shall be used to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

a. Landscaping beds, trees, shrubs and plantings: required as needed to meet the stated goals above and shall be maintained in perpetuity for general aesthetic appearance and plant health.

b. Screening and Buffer Areas: required as needed to screen all unaesthetic features to meet the stated goals above. Screening must be of natural vegetation and plantings. Fencing may be used secondary to plantings to achieve screening. (See special provisions for screening unaesthetic features, large and small.)

b1. Screening and Buffer Areas for Unaesthetic Features, Large: For unaesthetic features larger than 200 feet (including but not limited to large mechanical installations or utilities) and within 50 feet of a road or abutting property, creating an undue adverse impact on the aesthetics of an abutting property or state, municipal, or private road, a minimum Buffer Area of 10 feet in depth shall be provided where reasonable and possible.

b2. Screening and Buffering Commercial Structures and Uses: Required when commercial development has an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

THE BOARD CONCLUDES

All of the General Standards for Conditional Use and General Performance Standards approved in all aforementioned decisions related Case # 2016-038 and Case #2016-077 continue to apply with the exception of Condition B of the decision #2016-077 dated December 1, 2016, which is amended as follows:

REVISED CONDITION B:

Screening will be provided to “preserve and protect the aesthetic and scenic value of the town”. The screening will be “of natural vegetation and plantings”. Secondary fencing will not be required to that extent that the applicant can achieve full horizontal screening through evergreen plantings.

All plantings “shall be maintained in perpetuity for general aesthetic appearance and plant health”.

ENTRY WAY & STORAGE UNIT A

Evergreen Arborvitae plantings along the south side of the property will achieve screening of Storage Unit A as well as some of the interior spaces of the storage facility. Such evergreen vegetation screening will commence at the southern end of the current screening fence on Chimney Hill Road and continue down the embankment to the western edge of the driveway. Such screening includes, but is not limited to, screening behind current signage to cover the open area below the sign.

Screening will be Arborvitae of a minimum height of 5 feet from the soil surface level at time of planting. They will be planted directly in the ground and be of sufficient density so as to achieve full year-round screening. To achieve full year-round screening while allowing room for growth, Arborvitae may be staggered forward and back and/or other evergreen filler plants used between to achieve the appearance of full year-round screening at the time of planting. Secondary fencing screening is not required to the extent that the applicant is able to achieve full year-round screening through evergreen foliage.

STORAGE UNITS B & C:

Evergreen Arborvitae plantings will be placed at the tops of the retaining walls along the south side of Storage Units B & C to achieve full horizontal year-round screening. Evergreen plants may be placed one next to the other in line or staggered forward and back as needed to achieve full year-round visual screening horizontally across the ends of storage units B and C as seen from the a southern approach on Haystack Road.

The evergreen plantings of Arborvitae may be in planters or raised beds as the applicant chooses. The Arborvitae will be a minimum of 5’ in height above the soil surface level at time of planting.

SAFETY – STORAGE UNITS B & C:

In addition to satisfying the criteria of Section 730 for Landscaping and Screening, plantings along the retaining walls on the southern side of Storage Units B & C will serve to enhance safety for pedestrians and vehicular traffic.

Existing retaining walls (with a drop-off in excess of 3’ in height on the downhill side) are not currently protected from pedestrian or vehicular accidents. A continuous screening of Arborvitae at the top of the retaining wall will serve as a visual and structural impediment protecting both pedestrians and vehicles. Evergreen plantings will be left in position at the top of the retaining wall year round for pedestrian and vehicular safety as well as full screening of the ends of storage units.

In consideration of the 3 year time elapsed since this initial decision of 2016, this is a one (1) year approval. Development must be completed by October 17, 2020.

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.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

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

Diane Abate
Charles Foster
Cheryl LaFlamme
Paul Lockyear
Wendy Manners Seaman

OPPOSED:

None

ABSTAINING

None

For the Board: Wendy Manners Seaman, Chairperson
Dated October 17, 2019

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.