

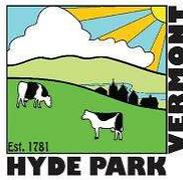
Town Development Review Board
AGENDA

Tuesday, June 23, 2020

Starting at 6:00 p.m.

344 Route 15 West - Community Meeting Room

1. **Welcome & Public Comment** – There are a few minutes at the beginning of each meeting to receive public comment on any matter that does not pertain to another agenda item.
 2. **Welcome** new member Mary Walz & review DRB Rules of Procedure.
 3. **PUBLIC HEARINGS** – The Hyde Park Development Review Board (DRB) shall hold a public hearing on Tuesday, June 23, 2020 at 6:00 P.M. in the Municipal Office Building, 344 Route 15 West, Hyde Park, VT to take comment on and consider the following applications. All guests are invited to attend online:
 - Application #2020-20 submitted by Timothy Budziak for a Home Business exceeding 25% of the finished floor area of the primary residential structure at 803 Battle Row Road (Parcel ID 15-006-039). The property is in the RR2 Zoning District and the application will be reviewed under Section 7.8, Home Businesses of the 2020 Town Land Use and Development Regulations.
 - Application #2020-28 submitted by K.A. Harvey's Manufactured Housing, Inc. for creation of a private permanent right-of-way for one interior residential parcel on the west side of VT100 just north of Mudget Drive (Parcel ID 01-100-473) and the creation of two residential lots with a waiver request for the required preliminary hearing. If the waiver is granted, this first public hearing will be the final hearing. The property is in the North Hyde Park Village District and the application comes under Section 9.13, Subdivision - General, of the 2020 Town Land Use and Development Regulations.
- Town Notice:** Per Title 24 V.S.A. §4471, Appeal of DRB Decision to Environmental Court: Only an interested person who participates in the DRB hearing may appeal a decision. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding. The full application may be examined at the Hyde Park Municipal Office between the hours of 8:00AM and 4:00PM, Monday through Friday, or by calling 802-888-2300 x 2. Questions may be submitted via email to ron@hydeparkvt.com.
4. Other Business
 5. Adjourn



Development Review Board STAFF REPORT

Prepared by Ron Rodjenski, Hyde Park Town Zoning Administrator

Agenda & Application Materials Public Hearing – Tuesday, 06-23-2020 starting at 6:00 PM

Public Notice – Public notice for the hearings was achieved by publishing a notice of public hearing in the *News and Citizen* on 06/04/2020, posting the notice in three locations in the municipality and delivering notice by US Mail to adjoining neighbors, the applicant, and agents for the applicant on 06/08/2020.

HEARING #1

Application #2020-20 submitted by Timothy Budziak for a Home Business exceeding 25% of the finished floor area of the primary residential structure at 803 Battle Row Road (Parcel ID 15-006-039). The property is in the RR2 Zoning District and the application will be reviewed under Section 7.8, Home Businesses of the 2020 Town Land Use and Development Regulations.

This application proposes to use a portion of an existing residential garage for auto-detailing business and roof gutter installation service. The auto-detailing business will include washing, waxing, tire changing and general cleaning following the 2020 Town Zoning requirements for a home business (see pages 51 & 52). The gutter business activity will be off-site (storage of vehicles and materials only at this location).

Permit History

Highway Access Permit for a second driveway off Battle Row Road has been issued for a residential garage (#2018-32 – a.k.a. the 19 VSA 1111 permit). The new 911 locatable address is 821 Battle Row Road, Hyde Park, VT.

Town Zoning Permit for a 32' x 40' residential garage (#2018-33) which is the subject of this home business application (garage is located north of the home) is in compliance with town regs.

Existing Conditions

The existing home has one garage foundation (to be rebuilt soon) located on the south side of home. The second existing residential garage is approved for residential use and is proposed to contain home business activities. Two approved driveways exist, one for the home and one for the proposed home business (the driveways will not connect per the Selectboard's 1111 permit). The existing home has a rental unit with the 3.4-acre parcel being primarily open and no significant natural features.

Considerations at Hearing

Wastewater and water supply capacity are unknown and not presented for review. The State of Vermont may have rules for auto-detailing, so compliance with state permits is always a condition of local permits.

In the RR2 District, auto service businesses are prohibited unless the DRB makes a finding that a majority of the land uses in the neighborhood are “non-residential”. However, since this a “Home Business” – then only the Standards in Section 7.8 apply so no “finding of majority” is required – e.g. all home businesses are limited to no more than 100% of the homes Finished Floor Area which is 2,102 sf. per the town assessment card.



To show compliance with Section 7.8, the total square footage of the business is added up (any use inside the primary home & the portions in the accessory garage), i.e. gutter material storage and auto detailing vehicle space (which would include a proposed lean-to on the garage which has not been approved yet). The garage on the north side of the home is 1,280 sq. feet and the lean-to is about 200-400 sf – so the home business is approximately 1,500 sf – 1,700 sf. which should be confirmed at the hearing. If 1,700 will be used for the two home businesses, then 81% of the home’s FFA will be used for the Home Business activities.

No public comments have been received regarding the application and no significant environmental or regulatory issues are presented by this project.

HEARING #2

Application #2020-28 submitted by K.A. Harvey's Manufactured Housing, Inc. for creation of a private permanent right-of-way for one interior residential parcel on the west side of VT100 just north of Mudget Drive (Parcel ID 01-100-473) and the creation of two residential lots with a waiver request for the required preliminary hearing. If the waiver is granted, this first public hearing will be the final hearing. The property is in the North Hyde Park Village District and the application comes under Section 9.13, Subdivision - General, of the 2020 Town Land Use and Development Regulations.

This application proposes to create two residential lots off VT100, across the street from the North Hyde Park Industrial District (Robert's Landscaping). The State of Vermont has reviewed the access and will issue a permit after the town permits are secured. A wetlands delineation is on the site plan and no land development is proposed to occur within 50-feet of the delineation. Steep slopes exist (over 10% slope of original ground) but the new impervious area proposed on the lots will not exceed 5,000 sf which is the trigger for a requirement to complete engineering of stormwater and erosion controls. The subdivision application seeks one waiver, asking that the DRB vote to waive the preliminary hearing requirement and make this first hearing a final hearing, allowing a decision to then be made following the closure of this first hearing.

Permit History

Highway Access Permit is managed by the State of Vermont under 19 VSA 1111 and preliminary approval, or Letter of Intent to issue a 1111 permit, was issued June 2, 2020 to allow a 20-foot wide shared access to enter VT100 for the two proposed lots. A final state 1111 permit will be issued when the new subdivision plat is recorded in the town land records.

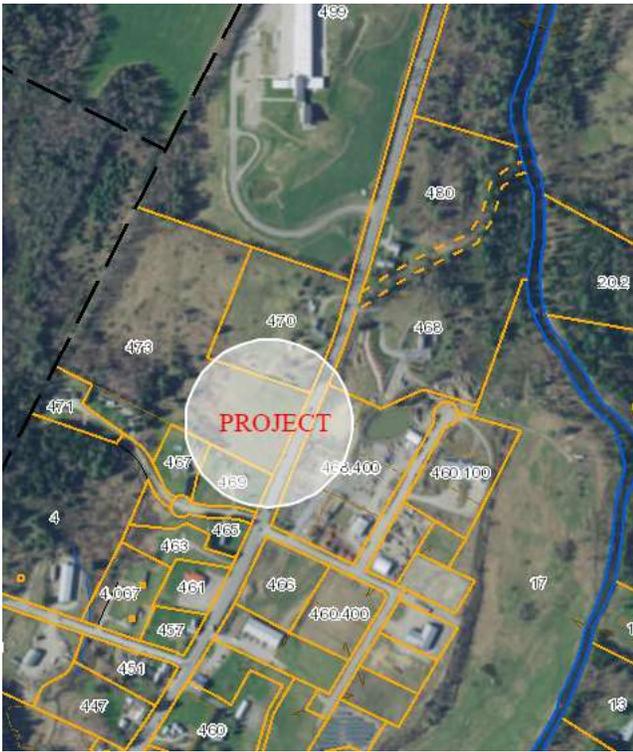
Town Zoning Permit #2020-15 was issued for a boundary adjustment to reduce the size of this lot from 14 acres to 2.8 acres. The minimum lot size in the NHPV District is 1.0 acre per dwelling unit.

State Wastewater Permit application is being prepared by Grenier Engineering, PC and their site plan has been submitted for this DRB review, dated 06/16/2020 and entitled "Overall Site Plan KA Harvey".

911 Locatable Addresses will be issued for Lot 1 (5937 VT100) and for Lot 2 (5939 VT 100).

Existing Conditions

The existing conditions of the parcel is open meadow in the North Hyde Park Village District. A wetland exists on the westerly portion of the project and the required 50-foot setback is delineated on the site map. The northerly portion of the lots have steep slopes (exceeds 10%) however, those areas are not proposed for development or will have less than 5,000 sf of impervious area if on 10% or greater slopes (Section 8.11, Steep Slopes requirements are not applicable).



Considerations at Hearing

Applicant will testify as to status of State wastewater and water supply permit.

Residential uses are allowed in the WHPA-3 well protection overlay as long as the uses do not involve the collection, handling or disposal of hazardous materials or hazardous wastes. Residential household products that are stored and used properly are allowed in this overlay.

Setbacks of 10-feet to a maximum of 36 feet are required for front yards and 6-feet is required for side/rear yards which are met in this application. Moving the homes and driveways could result in non-compliance with steep slope review requirements and wetlands. The DRB should consider establishing building envelopes as a condition of approval.

No public comments have been received regarding the application and no significant environmental or regulatory issues are presented by this project.

End of Staff Report

Hyde Park Selectboard

Procedures and Standards for Technical Review Fee

TECHNICAL SERVICES ESCROW FOR LEGAL AND ENGINEERING REVIEW BY The Hyde Park Development Review Board

Effective January 10, 2013.

To limit the taxpayers' exposure to the costs that may be incurred by the Development Review Board (DRB) during the DRB's legal and engineering review of development proposals, and as authorized by 24 VSA 4440(d) and Section VI, F, Fees of the 2009 Hyde Park Zoning Regulations, the Selectboard hereby adopts these procedures and standards.

A minimum \$500.00 fee shall be submitted by an applicant 1) with an application for land development predetermined by the DRB to necessitate the technical services fee be submitted in order to complete an application, or 2) upon the request of the DRB, as a condition of continuing a public hearing review. Under #2 above, the DRB may request the fee whenever a majority of the DRB votes to request the fee, which may be higher than the minimum fee of \$500.00 depending on the scope of work to be completed by the DRB.

The DRB may request that the applicant re-fund the escrow account at any time prior to issuing its final decision, and may ask for fees to pay for the town's inspections, reviews and permit compliance reports detailed in the final decision.

Land Development requiring a \$500.00 fee to be paid as part of a complete initial application are:

- All subdivision proposals to create 10 or more residential lots;
- Any industrial project;
- Any commercial project with a new building or expansion of a building exceeding 5,000 sq ft of finished floor area
- Any project containing a new road, or extension of a road.

Examples of land development which the DRB may collect a technical services fee after the initial review include, but is not limited to; ponds with dams, new construction being offered to the municipality, projects potentially impacting other properties and projects that may require expert testimony such as in the case of noise, light or hazardous emissions.

The escrow shall be held by the town treasurer for the DRB's use to pay for the legal, engineering or other technical reviews related to an application. If additional funds are required during the town's review of an application, then the applicant shall receive written notice of the funds required and the application will be continued until the funds are deposited with the town treasurer. The DRB may retain or request an estimated amount, as determined by the DRB, to complete any post-approval review, inspection and reporting and make such payment a condition of final approval.

After all appeals are final and there are no on-going permit conditions that require the town's use of the escrow fund, the remaining balance shall be returned to the person that submitted the fee.

Adopted at a duly warned meeting of the Hyde Park Selectboard on January 10, 2013.

**HYDE PARK
DEVELOPMENT REVIEW BOARD (DRB)**

**Rules of Procedure and
Conflict of Interest Policy**

Re-Adopted without revision: June 3, 2014

**THE HYDE PARK DRB IS THE APPROPRIATE MUNICIPAL PANEL (AMP)
FOR THE ADMINISTRATION OF THE TOWN OF HYDE PARK ZONING AND
SUBDIVISION BYLAWS AND THE VILLAGE OF HYDE PARK ZONING BYLAW BY
RESOLUTION OF THE SELECTBOARD AND VILLAGE TRUSTEES**

Section I: Authority.

The Development Review Board of the Town of Hyde Park hereby adopts the following rules of procedure (hereinafter referred to as these Rules) in accordance with 24 V.S.A. § 4461(a) and 1 V.S.A. §§ 312(e), (f), and (h).

Section II: Policy.

These Rules are adopted to ensure consistent and fair treatment of applicants and interested persons, and participants, orderly and efficient public proceedings, and compliance with state and federal law. These Rules shall also ensure that no board member will gain a personal or financial advantage from his or her work for the board, so that the public trust in municipal government will be preserved.

Section III: Definitions.

- A. “Board” means the DRB.
- B. “Board member” means a regular or alternate member of the DRB.
- C. “Conflict of interest” means any one of the following:
 - 1. A direct personal interest of a board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the DRB and as clarified by the Vermont Supreme Court regarding fair judgment in a case.
 - 2. A direct or indirect financial interest of a board member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the DRB.
 - 3. A situation where a board member has publicly displayed a prejudgment of the merits of a particular proceeding before the board. This shall not apply to a member’s particular political views or general opinion on a given issue.
 - 4. A situation where a board member has not disclosed ex parte communications with a party in a proceeding before the board, pursuant to Section XII of these Rules.
- D. “Deliberative session” means a private session of the board to weigh, examine, and discuss the reasons for and against an act or decision, from which the public is excluded. There shall be no taking of evidence or submission of testimony, nor need

a deliberative session be publicly noticed. By motion and majority vote, the board may enter deliberative session during a hearing to consider a matter before it.

- E. “Executive session” means a session of a public body from which the public is excluded, pursuant to 1 V.S.A. § 313. Such private session may only be held for one of the reasons permitted by the statute, and no binding action may be taken in executive session.
- F. “Ex parte communication” means direct or indirect communication between a member of an appropriate municipal panel and any party, party’s representative, party’s counsel or any person interested in the outcome of any proceeding before the panel, that occurs outside of a public proceeding, and concerns the substance or merits of the proceeding.
- G. “Official act or action” means any legislative, administrative or quasi-judicial act performed by any board member.
- H. “Public deliberations” means the weighing, examining, and discussing, in a public proceeding, the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.
- I. “Recuse” means to remove oneself from a particular board proceeding because of a real or perceived conflict of interest.

Section IV: Regular Officers.

The DRB shall consist of seven regular members. After Town Meeting but prior to May 1, or at other times throughout the year as needed, the DRB shall hold an organizational meeting and elect by majority vote, a Chair, Vice Chair and Clerk.

- A. The Chair shall preside at all meetings, hearings, and deliberations, decide all points of order or procedure, and appoint members to any committee of the board. The Chair may administer oaths and may request the attendance of witnesses and the production of material germane to any issue under consideration.
- B. The Vice Chair shall assume the duties of the Chair whenever the Chair is absent, or at the Chair’s request. The Clerk shall assume such duties whenever the Chair and the Vice Chair are absent, or at their request.
- C. It shall be the duty of all members to review the minutes and other official records of DRB meetings and actions, and correct and ratify these when appropriate and necessary.
- D. The Clerk shall take minutes of all meetings, unless delegated to staff.

Section V: Alternate Members.

The Selectboard shall annually, or as needed, appoint up to two alternates who may temporarily serve as DRB members in the event of a recusal or absence of one or more members.

- A. An alphabetical roster of all alternate members shall be kept by the DRB. The assignment of alternates for active duty will begin with the first alternate in alphabetical order and rotate through the list until all alternates have served and rotation will be repeated.
- B. Whenever a regular member has a conflict of interest or is expected to be on extended absence from the DRB, the chairperson of the DRB, or his or her designee, shall appoint an alternate to serve as an active member of the DRB by selecting an individual from the roster as provided in paragraph A.
- C. If the chairperson of the DRB does not appoint an alternate as required under paragraph B, a majority of the members of the DRB present and voting may appoint an alternate to serve in accordance with paragraph B.

An alternate member who is called upon to serve shall be required to be a part of the DRB until a final decision is made on any application heard by the DRB while serving as an active member. Participation includes attending deliberative sessions and any continuance of a public hearing if the application has been tabled or adjourned to another date.

Section VI: Regular and Special Meetings.

Regular meetings to conduct business of the DRB shall be held in the Town Offices, 344 Vermont Route 15 West, at 7 p.m. on the first Tuesday of the month, or as warranted. The Chair may cancel meetings at any time.

- A. Special meetings may be called by the Chair, provided at least 24 hours notice is given to each member and the time and place of each special meeting is publicly announced at least 24 hours before the meeting.
- B. A quorum shall consist of a majority of the entire board.
- C. Members may participate by telephone or video as long as the absent member can hear everything that is occurring at the meeting and everyone present at the meeting can hear the board member.
- D. All meetings shall be open to the public unless the board, by majority vote, has entered a deliberative or executive session. The board may only hold an executive session pursuant to the reasons permitted by 1 V.S.A. § 313, and only after a majority vote to enter executive session.

- E. There shall be an agenda for each meeting, with time allotted for each item or group of items to be considered. Those who wish to be added to the agenda shall contact the DRB Chair or Town Administrator to arrange for a convenient time. The Chair shall determine the content of the agenda.
- F. All business shall be conducted in the same order as it appears on the agenda, except that by majority consent, the Chair may alter the order of items to be considered and/or the time allotted.
- G. The Chair shall rule on all questions of order or procedure and shall enforce these rules pursuant to 1 V.S.A. § 312(h).
- H. At each meeting, there shall be a five minute period of time reserved for public comment near the beginning of the meeting. The Chair may extend or reduce this period of time as necessary. Speakers may participate at other times throughout the meeting but only when recognized by the Chair. Such comment shall be limited to a few minutes per speaker, unless by majority consent the board sets a different time limit. The board shall apply consistent time limits to all recognized to speak.
- I. Notice for hearings on the adoption, amendment, or repeal of the bylaw and other regulatory tools shall be pursuant to 24 V.S.A. § 4444, as amended.

Section VII: Public Hearings and Order of Business.

Public hearings shall be conducted as quasi-judicial proceedings pursuant to 1 V.S.A. § 310(5)(B). Hearings shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2), as amended. Hearings shall not exceed three hours in length unless approved by a majority of members present.

Public comment may be offered during the hearing with the permission of the chair. Such comment, if recognized, shall be limited to [three minutes] per speaker, unless by majority consent the board sets a different time limit. The board shall apply consistent time limits to all persons recognized to speak.

The Chair shall conduct the hearing in the following manner:

- A. Open the hearing by reading the warning of the hearing.
- B. Review the order of events, remind all present that the proceeding will be conducted in an orderly manner, and make copies of these Rules available.
- C. Request disclosure of conflicts of interest and ex parte communications.
- D. Review the definition of interested persons in 24 V.S.A. § 4465(b).

- E. Explain that, pursuant to 24 V.S.A. § 4471(a), only an interested person who has participated in this proceeding may take an appeal of any decision issued in this proceeding.
- F. Ask all who believe they meet the definition of interested person to identify themselves and to provide contact information. The board shall not make any determination as to party status in all proceedings except for appeals of administrative officer decisions. As these Rules do not differentiate between persons with interested person status and those without, anyone seeking to participate in a proceeding may do so, subject to these Rules and those established by the Chair.
- G. Direct the applicant or his/her representative and all interested persons to step forward and take the following oath: *I hereby swear that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth so help me God (or, under the pains and penalties of perjury).*
- H. Accept written information presented to the board.
- I. Invite the applicant or applicant's representative to present such application or proposal.
- J. Invite board members to ask questions of the applicant or applicant's representative.
- K. Invite interested persons and members of the public to present their information regarding the application or proposal.
- L. Invite the applicant or applicant's representative to respond to information presented.
- M. Invite more questions or comments from members of the board.
- N. Invite more questions from interested persons and members of the public.
- O. Allow final comments or questions from the applicant or his/her representative or members of the board.
- P. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time certain, or close the proceedings by stating that this is the final public hearing on the matter.
- Q. The board shall then conduct public deliberations, or may vote to enter deliberative session. See Section III-D of these Rules, 1 V.S.A. § 312(e).

Section VIII: Site Visits.

Site visits shall be open to the public; however, no testimony shall be taken and no ex parte communication shall occur. Site visits shall be held pursuant to the following conditions:

- A. If, prior to a hearing, the Chair determines that a site visit will be necessary, the site visit shall be scheduled immediately prior to a public hearing. Such site visits shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2).
- B. If necessary, the board may recess a hearing to conduct a site visit at a property which is the subject of an application before the board.
- C. If necessary, the board may adjourn a hearing to a time certain to conduct a site visit at a property which is the subject of an application before the board.
- D. The minutes of the proceeding shall reflect that a site visit was held, who was present, and the nature and duration of the site visit.

Section IX: Service List.

The Clerk shall create a list of all individuals who participated. The list shall include those who participated orally and those who participated in writing. All decisions of the board shall be mailed to those on the list. The list shall include:

- A. The names of those who participated in the proceedings.
- B. The nature and content of participation by those who participated.
- C. The mailing address of each of these persons.

Section X: Decisions.

The board shall make its decisions by public deliberation, unless by majority vote it has determined to make a decision in deliberative session. Deliberative sessions are not open to the public and need not be warned. 1 V.S.A. §§ 312(e), (f). Members of the board who have not heard all testimony and reviewed all evidence submitted for a particular application or proposal shall not participate in that proceeding. Absent board members may participate if they have reviewed the audiotape of the proceedings, and any evidence submitted, subject to the written consent of the applicant and all interested persons. The following rules shall apply to voting on decisions:

- A. Motions shall be made in the affirmative.
- B. The chair has the same voting rights as all members and can make motions.

- C. No second shall be required for a motion to have the floor.
- D. All members present are expected to vote unless they have recused themselves.
- E. Abstentions are strongly discouraged and shall not count towards either the majority or the minority.
- F. For a motion to pass, it must receive the concurrence of a majority of the entire board, regardless of how many are present. 1 V.S.A. § 172; 24 V.S.A. § 4461(a).
- G. The board shall issue a decision within 45 days of the final public hearing.

Section XI: Conflicts of Interest.

Participation, disclosure of conflicts, and recusal shall be governed by the following procedures:

- A. **Participation.** A board member shall not participate in any official action where he or she has a conflict of interest in the matter under consideration. A board member shall not, personally or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in any proceeding pending before the DRB.
- B. **Disclosure.** At all hearings, the Chair shall request that board members disclose all potential conflicts of interest. When recognized by the Chair, any person may request disclosure of potential conflicts of interest.

Nonetheless, after disclosing a conflict or perceived conflict, a member who believes that he or she is able to act fairly, objectively, and in the public interest, shall disclose the nature of the potential conflict of interest, and the reason(s) why he or she is able to act in the matter fairly, objectively, and in the public interest. This shall be noted in the minutes of the proceeding.

- C. **Recusal.** A board member shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:
 - 1. The applicant or any person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself.
 - 2. A board member who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity.

3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict, and if appropriate, adjourn to a short deliberative session to address the conflict.
4. The board may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

Section XII: Ex Parte Communications.

Ex parte communication is prohibited. Any board member who inadvertently conducts ex parte communication must disclose such communication as required below.

- A. **Disclosure.** At each hearing, the Chair shall request that members disclose any ex parte communications. Board members who have received written ex parte communications shall place in the record copies of all written communications received as well as all written responses to those communications. Members shall prepare a memorandum stating the substance of all oral communications received, all responses made and the identity of each person making the ex parte communication, which shall become a part of the record of the proceedings.

Section XIII: Removal.

Upon majority vote, the board may request that the legislative body remove a board member from the DRB. Board members may be removed for cause by the legislative body upon written charges and after public hearing. 24 V.S.A. § 4460(c).

Section XIV: Amendments.

These rules may be amended at any regular or special meeting by a majority vote, provided that each DRB member has been presented a written copy of the proposed amendment at least 24 hours before the meeting at which the vote is taken.

Adopted and made effective on this 5th day of June, 2012 by a majority of the Hyde Park DRB.

Attachments and Templates

**TOWN OF HYDE PARK
RULES OF PROCEDURE
INTERESTED PERSON INFORMATION SHEET**

Who are interested persons?

Interested persons are those persons who, under Vermont law, have the right to appeal an act or decision of the [insert name of Town] zoning administrator or DRB. Interested persons include:

- The applicant or, if the applicant does not own the subject property, the person owning title to property.
- A municipality that has a plan or bylaw at issue in an appeal, or any municipality adjoining that municipality.
- A person owning or occupying property in the immediate neighborhood of a property that is the subject of any zoning decision or act who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will violate the municipal plan or bylaw.
- Any ten persons, either voters or landowners, who, by signed petition to the DRB, allege that the decision or act, if confirmed, will violate the municipal plan or bylaw. The petitioners must designate one person to serve as their representative.
- Any department or administrative subdivision of the State owning property within the municipality, and the Agency of Commerce and Community Development.

Why is interested person status important?

Though many members of the public may be interested in a zoning permit application, only statutorily-defined interested persons may appeal a decision of a zoning administrator or DRB. If an interested person fails to make a timely appeal, all interested persons are bound by the officer's or DRB decision or act.

Interested persons must participate in a hearing to protect their appeal rights.

Only those interested persons who have participated in a DRB proceeding may appeal a decision rendered in that proceeding to the Environmental Court. Pursuant to State statute, participation consists of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

24 V.S.A. § 4461(b).

“Interested person” means any one of the following:

A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case. 24 V.S.A. §4465(b)(1). This is typically the applicant, or if the applicant does not own the property, the property owner.

The municipality that has a plan or bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality. 24 V.S.A.4465(b)(2).

A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person’s interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. 24 V.S.A. § 4465(b)(3).

Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal. 24 V.S.A. § 4465(b)(4).

Any department and administrative subdivision of this state owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the agency of commerce and community development of this state. 24 V.S.A. § 4465(b)(5).

Who's Got the Power? Roles and Responsibilities in Planning and Zoning

Vermont League of Cities and Towns

I. Role of the Selectboard

The selectboard has general supervision of the affairs of the town and responsibility for all duties of towns and town school districts not committed to the care of any particular officer. 24 V.S.A. §872.

Election and Removal

Selectboard members are elected to three-year terms. 17 V.S.A. §2646(4). 24 V.S.A §963. While the selectboard serves an executive function in the town, with limited exception, no single board member has the authority to act independently. 1 V.S.A. §172. Vermont law provides no provision for removal of wayward selectboard members. While this insulation from the political process can provide elected officers with significant, albeit temporary, political power, the insulation is often the source of gridlock and impasse.

Adoption of Town Plans and Zoning Bylaws

With regard to zoning and planning, the selectboard plays an important but indirect role. Perhaps the most direct role is in the adoption of municipal plans and zoning bylaws. In some communities, the selectboard may adopt a municipal plan or bylaw by majority vote. In other communities, the plan or bylaw is adopted by the voters. In either case, the selectboard is given some limited authority to make changes to the plan or bylaw prior to final adoption, which gives the selectboard a direct hand in the creation of these tools. 24 V.S.A. §§4385, 4442. The selectboard may also adopt interim zoning bylaws. Interim bylaws are intended as an emergency measure, may only be adopted after a public hearing, and have limited duration.

Appointment and Removal of Zoning Officials

The selectboard's primary power in the zoning process comes from its authority to appoint and remove members of the planning commission and the zoning board of adjustment or development review board. 24 V.S.A. §§ 4323, 4460. The selectboard, upon nomination from the planning commission, also appoints the zoning administrator. While seldom used, the selectboard's removal authority serves as a significant check on the autonomy of the planning commission, ZBA/DRB, and the ZA.

The selectboard's authority to remove zoning officials has some subtle nuances that are worth noting. Planning commission members can be removed without cause, but removal requires unanimous vote. 24 V.S.A §4323. DRB and ZBA members may only be removed for cause, upon written charges and after a public hearing. 24 V.S.A §4460. A ZA may only be removed for cause after consultation with the planning commission. 24 V.S.A. §4448.

In some towns, voters have chosen to elect planning commissioners. If a municipality chooses to elect its planning commissioners, the voters set the commissioners' terms. Elected planning commissioners cannot be removed by the selectboard. The selectboard can only fill vacancies until the next meeting of the municipality, at which time the voters elect a commissioner to fill the unexpired term. 24 V.S.A. 4323(c).

Role in Enforcement and Administration

In most cases, the selectboard plays no direct role in administration or enforcement of a town's zoning bylaw. However, the indirect role that the selectboard plays in zoning enforcement is a powerful one: Enforcement actions, especially those requiring a court order, can be expensive. While the ZA can unilaterally initiate an enforcement action, the selectboard controls the town's purse strings. Accordingly, a ZA must work closely with the selectboard, or face being undermined by the selectboard in enforcement efforts.

Role in the Hearing Process

Selectboard members play no official role in the typical conditional use or variance hearing. However, board members occasionally seek to participate individually as members of the public or as statutorily defined interested persons. 24 V.S.A. §4465. In such case, selectboard members may, intentionally or otherwise, seek to add weight to their testimony by reference to their office.

Role in Appeals to ZBA/DRB and Environmental Court

Only statutorily defined interested persons may appeal a zoning decision. In some limited instances, the municipality may initiate such an appeal as an interested person, but only if it alleges that the ZBA/DRB has exceeded its statutory authority. Generally, so long as the ZBA/DRB acts within its authority, the wisdom of its decision cannot be challenged by the selectboard through an appeal. See, *Rossetti v. Chittenden County Transportation Authority*, 165 Vt. 61 (1996). As a practical matter, some selectboards will participate in appeals to the environmental court when the appeal is first taken by an applicant or other party dissatisfied with an adverse decision. In such cases, the selectboard's intervention is usually in support of the DRB/ZBA decision.

Act 250

The municipality in which a project is located, and any adjacent Vermont municipality (if the project is located on a boundary) are statutory parties in Act 250 proceedings. 10 V.S.A §6085(c)(1)(C). Generally, the selectboard represents the interests of the municipality in Act 250 proceedings and can offer testimony under any of the Act 250 criteria.

II. Role of the Planning Commission

The planning commission is principally responsible for drafting the town plan and zoning bylaws and, in towns that do not have a development review board, the planning commission also

performs site plan review, subdivision review, and approval of planned unit developments. Planning commissions may prepare building, housing and safety codes, undertake capacity studies, and prepare and present a capital budget.

Statutory Authority

The planning commission's planning authority is primarily found at 24 V.S.A. §4325. Its authority to conduct development review (subdivision and site plan) is derived from 24 V.S.A. §4460.

Appointment or Election

In most towns, planning commission members are appointed by the selectboard for such terms as the selectboard determines. 24 V.S.A §4323. A planning commission may have as few as three, but not more than nine members. 24 V.S.A. 4322. A majority of the members must be town residents. 24 V.S.A. § 4322. The selectmen of a rural town are ex officio, nonvoting members of the town's planning commission. Id. In some towns, planning commission members are elected. 24 V.S.A. § 4323(c).

Removal

Appointed planning commission members may be removed, without cause, upon unanimous vote of the selectboard. 24 V.S.A 4323(a). While the lack of a cause requirement for termination may effectively eliminate the opportunity to challenge the removal, the likelihood of a unanimous removal vote, in some towns, may be so remote as to make removal impossible. Elected planning commission members cannot be removed by the selectboard. 24 V.S.A. § 4323(c).

Role in Enforcement and Administration

The planning commission plays no direct role in zoning enforcement or administration of zoning bylaws. As its name implies, the planning commission is largely responsible for the proactive, planning phase of the land use process. In that regard, it is responsible for drafting the town plan and the town's zoning bylaws. In those towns without development review boards, the planning commission also performs a quasi-judicial function in subdivision review, site plan approval, and approval of planned unit development. 24 V.S.A. §§ 4416, 4417, 4463.

Role in the Hearing Process

Planning commissions hold a wide variety of hearings, including hearings on town plans and proposed zoning bylaws. 24 V.S.A §§4384, 4441. A planning commission conducting development review functions will also hold hearings in conjunction with site plan review, subdivision, and planned unit development review. 24 V.S.A. §§ 4416, 4418, 4417. Like selectboard members, planning commission members may occasionally seek to participate in zoning hearings conducted by the DRB or ZBA as members of the public or as statutorily defined interested persons. 24 V.S.A. § 4465. In such cases, the planning commission members are acting as individuals, but may, intentionally or otherwise, seek to add weight to their testimony by reference to their office.

Role in Appeals to ZBA/DRB and Environmental Court

Like the ZBA or DRB, once a matter has been appealed to the Environmental Court, the planning commission's role in the process ceases. The planning commission has no authority to participate at the Environmental Court in any way.

Act 250

The planning commission for a municipality in which a project is located, and the planning any adjacent Vermont municipality (if the project is located on a boundary), are statutory parties in an Act 250 proceeding. 10 V.S.A § 6085(c)(1)(C). The planning commission is primarily afforded party status to give testimony under Act 250's criterion 10, though it can offer testimony under any of the Act 250 criteria. This may put the planning commission in conflict with the selectboard.

III. The Role of the Zoning Administrator: 24 V.S.A. §§ 4448, 4449

The zoning administrator is the face of zoning in any municipality that has zoning regulations. State law requires that the ZA "shall administer the bylaws literally and shall not have the power to permit any land development that is not in conformance with those bylaws."

Statutory Authority

The ZA's statutory authority is found in 24 V.S.A. §§ 4448 and 4449. Some zoning bylaws may also confer additional powers on the zoning administrator to perform administrative review of certain types of development, and to grant waivers in certain instances.

Powers

While the role of the ZA may vary from town to town, the general powers of the zoning administrator are the same: To grant or deny zoning permits (or building permits, as they are sometimes called), to enforce the zoning bylaw and other land use regulations, and to assist applicants in the zoning application process.

Appointment

Act 115 of the 2003 adjourned session changed the appointment process for the zoning administrator: “An administrative officer . . . shall be nominated by the planning commission and appointed by the legislative body for a term of three years . . .” The planning commission’s role has become more limited than it was under the prior law, which enabled the PC to appoint the ZA with the approval of the selectboard. Now, the law envisions the PC playing a more minor role in the appointment process, while the role of the ZA is more closely regarded as an employee who is appointed and evaluated by the selectboard.

For the appointment of an acting or interim ZA, “The planning commission may nominate and the legislative body may appoint an acting administrative officer who shall have the same duties and responsibilities as the administrative officer in the administrative officer’s absence.”

Removal

Removal of the ZA can occur “for cause at any time by the legislative body after consultation with the planning commission.” The term “for cause” requires that a reason be given for the removal of the ZA, coupled with notice and an opportunity to be heard. This means that to remove the ZA, the legislative body would have to hold a hearing to consider the ZA’s employment. At that hearing, the ZA would be able to state why he believes he should not be removed from office.

Role in Administration

In most towns, ZA is the first contact point for anyone seeking a zoning permit or simply inquiring about zoning. By statute, the ZA is charged with “providing an applicant with forms required to obtain any municipal permit or other municipal authorization required under this chapter, or under other laws or ordinances that relate to the regulation by municipalities of land development. If other municipal permits or authorizations are required, the administrative officer should coordinate a unified effort on behalf of the municipality in administering its development review programs.”

The ZA needs to be a Jack/Jill-of-all-trades in the town zoning office. The ZA’s function is not only to issue permits, but also to provide assistance to those who need it, whether it is an applicant, an adjoiner, or another municipal official.

Role in Hearing Process

The ZA’s role in the hearing process is ill-defined at best. Each board that works with the ZA should consider what they want the ZA’s role to be when he/she appears before them, and apply those principles consistently in all hearings. In most towns, the ZA spends more time reading and administering the bylaw than anyone else. Because of this, the ZA tends to have specialized knowledge of how the regulations have been interpreted over time. Those experienced ZAs therefore tend to provide a fair amount of assistance to PCs, ZBAs, and DRBs in their hearings. Keep in mind that the ZA is not a party or an interested person in a typical zoning application

hearing. The ZA is a municipal official who may have specialized expertise in zoning matters that could be helpful to the board in issuing a decision.

Role in Appeals to ZBA/DRB

The ZA's role in appeals to the ZBA/DRB is somewhat different than it would be in a direct application to one of those boards. In the appeal context, the ZA is more like a party. As such, the ZA should be allowed by the board to present evidence concerning the appeal. For example, if the appeal is of a notice of violation that was issued by the ZA, the ZA should have the opportunity to present evidence of the violation to the board, in much the same way that the landowner should be allowed to present evidence concerning the appeal.

The ZA does not have the authority to appeal a decision made by the ZBA/DRB.

Role in Appeals to Environmental Court

The ZA has very little, if any, role to play in appeals to the Environmental Court. If the case gets as far as an evidentiary hearing, the ZA may be called as a witness in the case. Otherwise, the ZA may be the point of contact for the mailing of Environmental Court decisions.

Appropriate Municipal Panels

Act 115 of the 2003 adjourned session created the term, "appropriate municipal panel," a catch-all term used by the Legislature to apply to any local zoning-type board that conducts development review. Part of that act, 24 V.S.A. § 4460(e) permits zoning bylaws to designate which boards will conduct which reviews.

IV. The Role of the Zoning Board of Adjustment and the Development Review Board: 24 V.S.A. §§ 4460, 4461, 4464

The zoning board of adjustment (ZBA), or the development review board (DRB) is the quasi-judicial board that has authority over applications for land development in the municipality. Typically, the ZBA has jurisdiction over conditional use applications, variance requests, and appeals of ZA decisions. There may be other jurisdiction vested in the ZBA by the zoning bylaw.

The development review board (DRB) has jurisdiction over all quasi-judicial review of requests for land development. Essentially, the DRB handles every review that the ZBA performed, plus the reviews performed by the Planning Commission (PC). This statutory authority would include conducting every single development review authorized by the zoning bylaw. Once a DRB is established, the ZBA shall cease to exist.

Statutory Authority

The primary statutory authority for the ZBA/DRB comes from 24 V.S.A. § 4460. This law is enabling only, in that it simply requires that there be a ZBA or a DRB in a town with zoning regulations.

State law now requires the municipal zoning bylaw to specify those functions to be performed by the ZBA/DRB. Under the prior version of 24 V.S.A. Chapter 117, the ZBA would hear conditional use requests, variance requests, and appeals of ZA decisions. Most towns will likely continue with this structure for the immediate future. Some towns will likely consolidate all quasi-judicial review authority in a DRB.

Powers

The ZBA/DRB's authority is to grant, grant with conditions, or deny a permit. The requirements that must be followed by the ZBA are spelled out in 24 V.S.A. § 4461, which requires the board to adopt rules of procedure and rules of ethics with respect to conflict of interest. The statute also provides that the board may administer oaths and compel the attendance of witnesses and the production of material germane to any issue under review. Meetings and hearings of the board must be open to the public, except for deliberative and executive sessions (it is unlikely that ZBAs/DRBs will have occasion to hold an executive session). The ZBA/DRB must keep minutes of its proceedings, and must keep a record of the votes of its members. Any minutes or written decisions of the board shall become public records.

Appointment

The ZBA in a rural or an urban town where the members of the ZBA also serve as members of the planning commission may be constituted of as few as three or as many as nine members, as determined by the legislative body. 24 V.S.A. § 4460(b). Where the ZBA/DRB and PC are separately appointed, the legislative body shall set the number of members of the board (If there is a DRB, the membership shall be not less than five nor more than nine). ZBA/DRB members are appointed by the legislative body of the municipality to terms established by the legislative body.

Removal

ZBA/DRB members may be removed by the legislative body for cause, upon written charges and after public hearing.

Role in Administration

The municipal zoning process can be looked at as occurring in two phases: An administrative phase, and a quasi-judicial phase. The administrative phase is handled almost exclusively by the administrative officer, while the quasi-judicial phase is conducted by the PC, ZBA, or DRB.

The ZBA/DRB's role as a quasi-judicial body is purely reactive: To respond to applications presented to it. The ZBA/DRB has no role in the administrative phase of the zoning process.

Role in Hearing Process

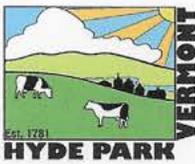
Hearings are where the ZBA/DRB conducts its business. By law, a hearing is required to be held on conditional use reviews, variances, ZA appeals, and final plat reviews. Hearings are usually required by zoning bylaws in most other types of reviews, including site plan and preliminary plat reviews. These hearings must be warned in accordance with 24 V.S.A. § 4464, and they must follow the procedural requirements of 24 V.S.A. § 4461 (see Powers, above).

Role in Appeals to ZBA/DRB

The ZBA/DRB is the arbiter of the appeals process at this level. An interested person who is aggrieved by an act (or non-act) of the ZA may appeal that action to the ZBA/DRB. The ZBA/DRB's job is to take evidence from the appellant, any other parties, and from the ZA, to determine whether the appeal should be granted or denied. The ZBA/DRB has the power to run the hearing pursuant to its rules of procedure and pursuant to state law.

Role in Appeals to Environmental Court

Once a matter has been appealed to the Environmental Court, the ZBA/DRB's role in the process ceases. At this point, the ZBA/DRB becomes just another train station on the track, which started at the ZA level, progressed to the ZBA/DRB, and now has gone on to the Environmental Court. The ZBA/DRB has no authority to participate at the Environmental Court level in any way.



MUNICIPAL ZONING PERMIT APPLICATION
 & Development Review Board (DRB) Application
 POB 98, Hyde Park, VT 05655
 Visit us at: www.hydeparkvt.com
 802-888-2300 x2

PERMIT # 2020-20
 FEE \$ 265.00 ck11072
 Complete Application Received: 04/29/2020
 (Administrative Use)

APPLICANT: Please complete the below information and submit the required fee to "Town of Hyde Park".

Check all that apply:

<input type="checkbox"/> Construction	<input type="checkbox"/> Subdivision (DRB)	<input type="checkbox"/> Conditional Use Review (DRB)
<input type="checkbox"/> Home Occupation	<input type="checkbox"/> Sign	<input type="checkbox"/> Appeal or Waiver Request (DRB)
<input type="checkbox"/> Site Plan Review	<input type="checkbox"/> Boundary Adjustment	<input checked="" type="checkbox"/> Other <u>Home Business 50%</u>

Applicant(s): Tim Budziak Parcel ID# 15006039

Landowner(s): Tim Budziak Applicant Phone OR email: timbudziak66@gmail.com

(Please list all individuals with deeded ownership)

Property Address: 803 Battle Row Road Hyde Park VT

Applicant Mailing Address: Same

CREATING HEATED / COOLED SPACE?
 If yes, then you are responsible for complying with the State's Energy Conservation requirements.
 Free Copies:
<http://publicservice.vermont.gov/energy/efficiency/rbes>
 or call (855) 887-0673.

Describe Project: (ex. build one 24' X 24' detached garage):

See attached

Sketch Required – A drawing showing all proposed & existing land development and approximate parcel boundary lines with the distance of new land development to the nearest boundary line. After review, additional documentation may be required by the administrative officer before a determination is made that the application is deemed complete. Use reverse or attach sketch.

Timothy R. Budziak
 Signature of Landowner or Authorized Agent (Agent to submit written authorization)

4-20-2020
 Date Signed

Office Use Only *Office Use Only*

Decision & Appeal Rights

Zoning District: RR2 Overlay District(s): None

Below Action Taken by the Administrative Officer (signature): _____

- Approved on _____; Conditions: _____
- Denied on _____; Reasons: _____
- Referred on 04/29/2020; To Whom & Purpose: Town DRB for conditional use review

If not appealed by _____, this decision is final and all conditions are binding on applicant.

State Permit Notice:

You are advised to contact the state's regional permit specialist to obtain relevant state permits, per 24 VSA 4448(c). To contact the State Permit Specialist: 802-505-5367 or <http://dec.vermont.gov/environmental-assistance/permits/specialists>

Appeal Rights:

For Administrative Officer Appeals: An applicant or interested person may appeal any decision or act taken by the Administrative Officer (aka Zoning Administrator) by filing a written notice of appeal to the Hyde Park Development Review Board (DRB) **within 15 days** of the act or decision [See: 24 VSA §4465]; submit to the Hyde Park Town Clerk, P.O. Box 98, 344 VT15W, Hyde Park, VT, 05655. A notice of appeal shall include the application form & fee (currently \$210.00) & the requirements in the zoning bylaw. Proceeding before the DRB is the exclusive remedy for challenging decisions of the zoning administrator; See 24 V.S.A. § 4472(a). Under 24 V.S.A. § 4444, this decision will be final in fifteen days unless a request for a hearing is timely filed.

For DRB Decision Appeals: Appeals must be filed **within 30 days** of the date of decision to the Vermont Environmental Court following the procedures in 24 VSA 4471 & VRECP.

Office Use Only – Do not use space below

PERMIT EXPIRES ON:

Sunday, April 19, 2020

Tim Budziak

803 Battle Row Rd,

Hyde Park VT 05655

802-673-8305

timbudziak66@gmail.com

To: Ron Rodijnski

The current purpose of the proposed business located on the property of the dwelling that is *803 Battle Row Rd, Hyde Park VT 05655*, is to provide gutter installation services to any given client that seeks it. Furthermore, the business will offer vehicle preventative care to said clients. This basic detailing care can include but isn't limited to: Washing, Waxing, Tire Changing, General Cleaning, etc... The business will follow the guidelines stated in the **Town of Hyde Park Land Use and Development Regulations 2020 Town Zoning Bylaw**); including hours of operation, number of customer visits in a given week, and number of packages delivered to the business. I hope you'll take the time to consider this proposal. I look forward to hearing back from you.

Sincerely,

Timothy Budziak



803 Battle Row Road

Hyde Park, VT

1 inch = 67 Feet



April 17, 2020



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

7.8 Home Businesses

The purpose of these provisions is to allow for small home-based businesses within residential areas while reducing the risk of any undue negative impacts on neighboring households.

Defining Home Businesses:

- Home businesses are more likely than home occupations to have an impact on neighboring properties. Home businesses are treated as accessory uses to single-family residential properties and may not exceed the square footage of the residential finished floor area (“FFA”) of the primary residential structure on the same parcel.
- Home businesses shall be carried on within the principal residential structure or within one accessory structure on the parcel. The home business may be carried on partially within the primary residential and accessory structures as long as the total square footage allowed is not exceeded. The-square footage allowed for a home business is determined below:

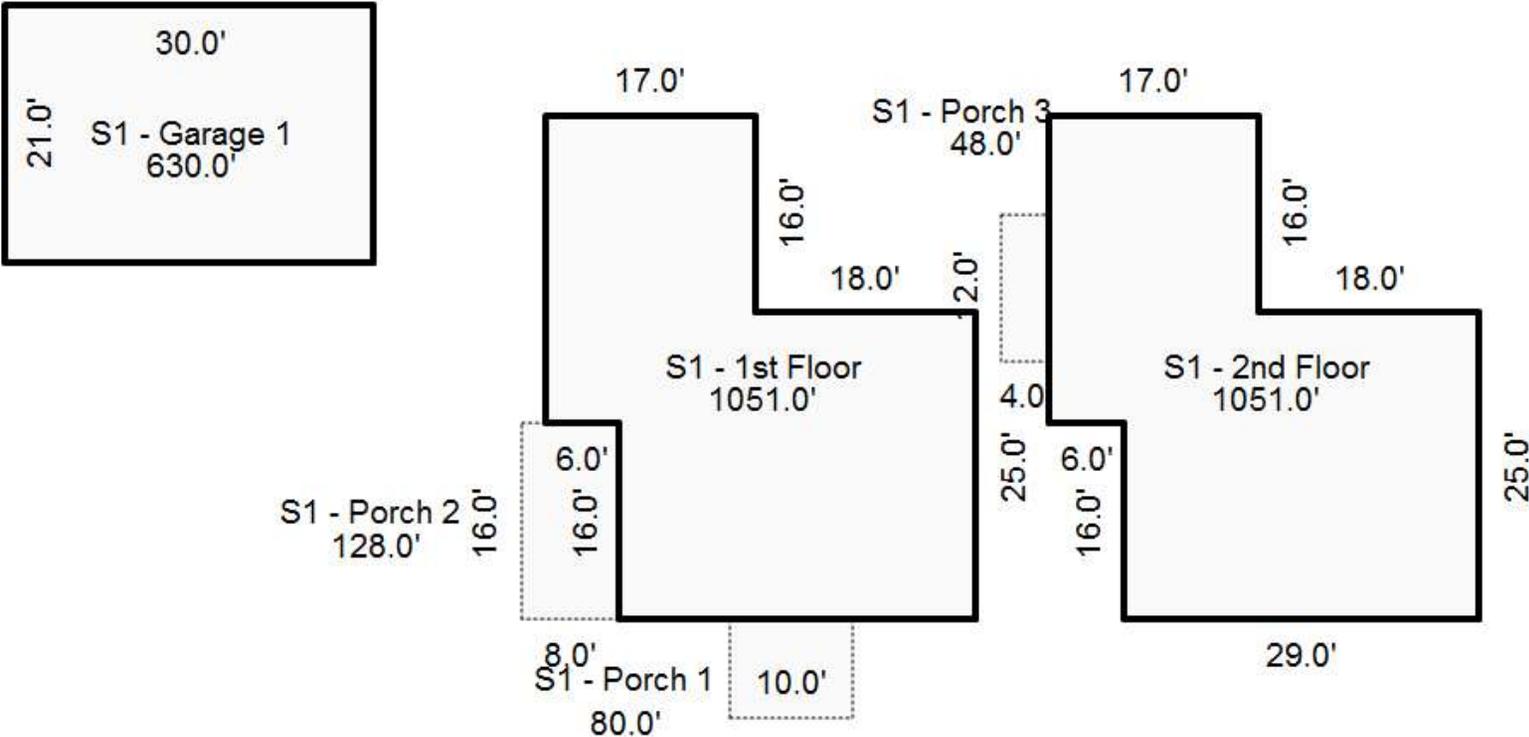
Square footage of home business use:	Application review by:	Special Conditions:
25% or less of FFA	Administrative Officer	None
More than 25% to 50% of FFA	Development Review Board	None
More than 50% to 100% of FFA	Development Review Board	None for interior use of existing structures. New structures and additions shall either be constructed using Traditional Vermont Building Types (as defined in the Definitions Section) or situated so as to be screened from neighboring properties and any public road in accordance with Section 10.1 Landscaping. Screening may be accomplished by either existing vegetation, landscaping or a combination thereof.

The home business shall be carried on by residents of the dwelling unit. Up to three (3) additional employees who are not residents of the dwelling unit are permitted. If the property transfers, the home business permit expires unless the new property owner is a resident of the primary residential dwelling and is the owner and operator of the previously approved home business. Some home businesses include, but are not limited to, antique dealers, woodworking shops, small engine repair, and hair styling.

7.8 Home Businesses - continued

Standards: In order to ensure that a home business will not change the character of the residential area, the owner must demonstrate that it will comply with all of the following standards:

- All business activities or transactions associated with the home business shall be carried on entirely within the dwelling unit or accessory structure.
- The business shall not necessitate any change in the outside appearance of the dwelling unit, other than the addition of a sign meeting the standards in this Bylaw or any conditions imposed by the Development Review Board or state or federal laws or other permit requirements.
- No traffic shall be generated which would be uncharacteristic of the neighborhood. This shall mean:
 - For Administrative Officer Approvals (with no DRB review) - no more than two (2) package deliveries per day and no more than five (5) customer visits per week
 - For Development Review Board Approvals - no more than two (2) package deliveries per day, and no more than five (5) customer visits per day unless specifically set by the DRB at a higher or lower amount.
- If the home business involves outside employees, then one (1) additional parking space per employee shall be provided in addition to the minimum required for the residential use. New parking required for the home business shall be provided off-street and shall be at least 25 feet from any adjacent property unless the adjacent property owner submits a "letter of no objection" to parking spaces being less than 25 feet from their property line.
- No vibration, odor, smoke, dust, electrical disturbance, heat, or glare shall be produced by the home business which is evident at any property line or from any public or private road right-of-way. Noise generated by the business, except for vehicles entering or leaving the property, shall not be discernible at any property line between the hours of 8:00 p.m. and 6:00 a.m.



1,051
1,051
2,102 Total



MUNICIPAL ZONING PERMIT APPLICATION

& Development Review Board (DRB) Application
POB 98, Hyde Park, VT 05655
Visit us at: www.hydeparkvt.com
802-888-2300 x2

PERMIT # 2020-28

FEE \$ 215.00 ck 36934

Complete Application Received: 06/01/2020

(Administrative Use)

APPLICANT: Please complete the below information and submit the required fee to "Town of Hyde Park".

Check all that apply:

- | | | |
|---|---|---|
| <input type="checkbox"/> Construction | <input checked="" type="checkbox"/> Subdivision (DRB) | <input type="checkbox"/> Conditional Use Review (DRB) |
| <input type="checkbox"/> Home Occupation | <input type="checkbox"/> Sign | <input type="checkbox"/> Appeal or Waiver Request (DRB) |
| <input type="checkbox"/> Site Plan Review | <input type="checkbox"/> Boundary Adjustment | <input type="checkbox"/> Other _____ |

Applicant(s): K.A. HARVEY'S MANUFACTURED HOUSING Parcel ID# 473

Landowner(s): SAME Applicant Phone OR email: 802 888-5995
(Please list all individuals with deeded ownership)

Property Address: VT. ROUTE 100

Applicant Mailing Address: 270-2 HARRELL STREET
MORRISVILLE, VT. 05661

CREATING HEATED / COOLED SPACE?
If yes, then you are responsible for complying with the State's Energy Conservation requirements.
Free Copies:
<http://publicservice.vermont.gov/energy/efficiency/rbes>
or call (855) 887-0673.

Describe Project: (ex. build one 24' X 24' detached garage):

CREATE 2 LOTS SERVED BY 50' R.O.W. FROM RT. 100

Sketch Required – A drawing showing all proposed & existing land development and approximate parcel boundary lines with the distance of new land development to the nearest boundary line. After review, additional documentation may be required by the administrative officer before a determination is made that the application is deemed complete. Use reverse or attach sketch.

Karen A. Harvey

Signature of Landowner or Authorized Agent (Agent to submit written authorization)

6-1-2020
Date Signed

Office Use Only

Decision & Appeal Rights

Office Use Only

Zoning District: NHPV Overlay District(s): WHPA-3

Below Action Taken by the Administrative Officer (signature): _____

- Approved on _____; Conditions: _____
- Denied on _____; Reasons: _____
- Referred on 06-01-2020; To Whom & Purpose: Town DRB for ROW & Subdivision Review

If not appealed by _____, this decision is final and all conditions are binding on applicant.

State Permit Notice:

You are advised to contact the state's regional permit specialist to obtain relevant state permits, per 24 VSA 4448(c). To contact the State Permit Specialist: 802-505-5367 or <http://dec.vermont.gov/environmental-assistance/permits/specialists>

Appeal Rights:

For Administrative Officer Appeals: An applicant or interested person may appeal any decision or act taken by the Administrative Officer (aka Zoning Administrator) by filing a written notice of appeal to the Hyde Park Development Review Board (DRB) **within 15 days** of the act or decision [See: 24 VSA §4465]; submit to the Hyde Park Town Clerk, P.O. Box 98, 344 VT15W, Hyde Park, VT, 05655. A notice of appeal shall include the application form & fee (currently \$210.00) & the requirements in the zoning bylaw. Proceeding before the DRB is the exclusive remedy for challenging decisions of the zoning administrator; See 24 V.S.A. § 4472(a). Under 24 V.S.A. § 4444, this decision will be final in fifteen days unless a request for a hearing is timely filed.

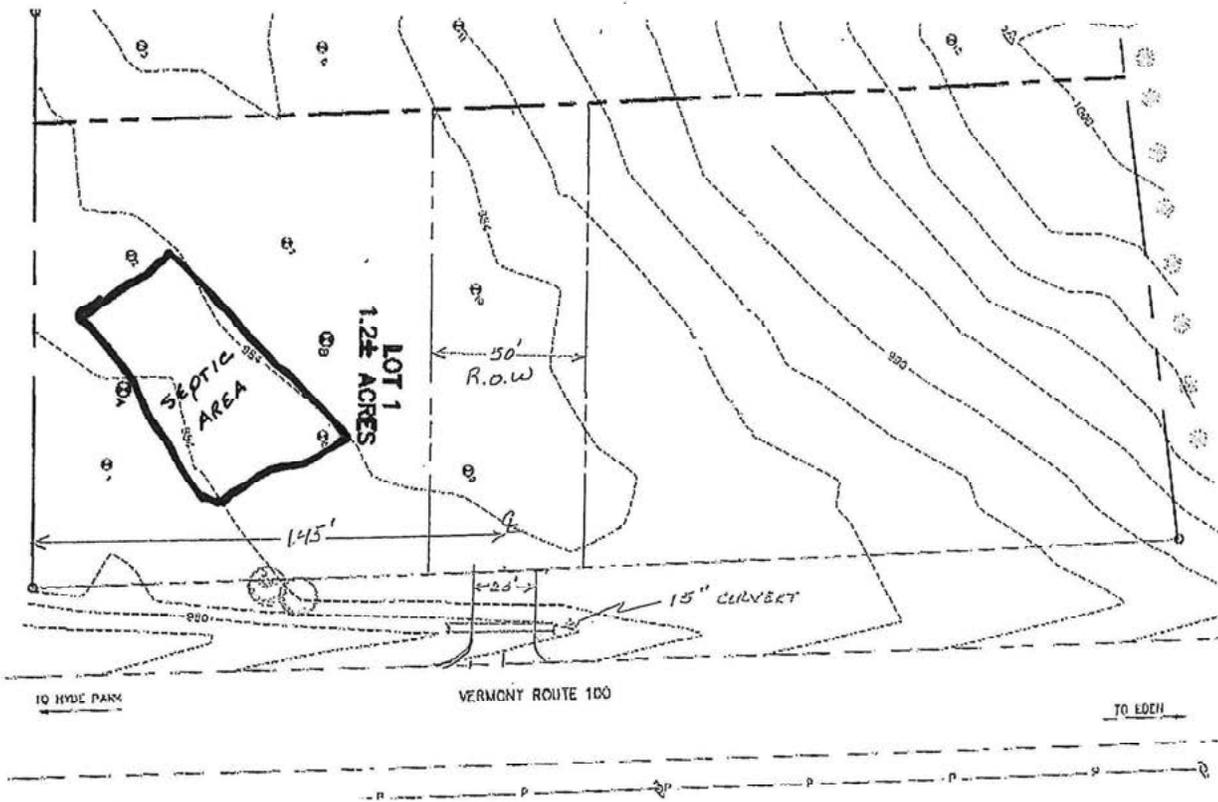
For DRB Decision Appeals: Appeals must be filed **within 30 days** of the date of decision to the Vermont Environmental Court following the procedures in 24 VSA 4471 & VRECP.

Office Use Only – Do not use space below

PERMIT EXPIRES ON:

PROPOSED ACCESS TO 2 PROPOSED LOTS IN NORTH HYDE PARK

LOT # 2 1.6 ± ACRES



State of Vermont
Policy, Planning & Intermodal Development Division
Policy, Planning and Research Bureau
Development Review & Permitting Services Section

Barre City Place, 219 North Main Street
Barre, VT 05641

[phone] 802-636-0037
[ttd] 800-253-0191

vtrans.vermont.gov

! LETTER OF INTENT !
THIS IS NOT A PERMIT

June 02, 2020

Harvey's Manufactured Housing
Kenneth Harvey via email: kaharveysmfg@yahoo.com
270-2 Harrel Street
Morrisville, VT 05661

Subject: Hyde Park, VT100, L.S. 0313+10 LT

Dear Ken,

Your highway permit application to construct a 20' wide access to serve two residential lots, at the above-referenced location, has been reviewed and found to meet the requirements for work within the highway right-of-way.

Title 19 VSA § 1111 requires that we ensure compliance with all local ordinances and regulations relating to highways. **Your highway permit application will be processed after you provide us with copies of your Act 250 and/or local approvals, including all conditions.** In cases where local zoning does not exist, a letter from the legislative body of the municipality will be acceptable.

When issued, the permit will contain, but will not be limited to, the attached Special Conditions.

This commitment is valid for two years from the date of this letter. Should your other permits require a longer time period, please contact us relative to an extension of time.

This Letter of Intent addresses only access to, work within, and drainage affecting the State highway. It does not address other possible transportation issues, such as access to town highways, use of private roads, and use of railroad crossings. If relevant to the proposed development, such issues must be addressed separately.

If you have any further questions about this matter, please call me at (802) 498-8946.

Sincerely,

E-SIGNED by Edward Pierce
on 2020-06-02 13:37:23 GMT

Ed Pierce
Permit Coordinator

E-SIGNED by Craig Keller
on 2020-06-02 17:54:24 GMT

Attachment

Reviewed by: _____
Craig S. Keller, P.E., Chief of Permitting Services

cc: Town of Hyde Park: Ron@hydeparkvt.com
District Transportation Office #8: Micheal.Chrastina@vermont.gov
Gary Nolan: garynolanvt@gmail.com

SPECIAL CONDITIONS

This permit is granted subject to the restrictions and conditions on the back of the permit, with particular attention given to the Special Conditions listed below. This permit pertains only to the authority exercised by the Vermont Agency of Transportation (Agency) under Vermont Statutes Annotated, Title 19, Section 1111, and does not relieve the Permit Holder from the requirements of otherwise applicable statutes, rules, regulations or ordinances (e.g., Act 250, zoning, etc.). The Permit Holder shall observe and comply with all Federal and State laws and local bylaws, ordinances, and regulations in any manner affecting the conduct of the work and the action or operation of those engaged in the work, including all orders or decrees as exist at present and those which may be enacted later by bodies or tribunals having jurisdiction or authority over the work, and the Permit Holder shall defend, indemnify, and save harmless the State and all its officers, agents, and employees against any claim or liability arising from or based on the violation of any such law, bylaws, ordinances, regulations, order, or decree, whether by the Permit Holder in person, by an employee of the Permit Holder, by a person or entity hired by the Permit Holder, or by a Subcontractor or supplier.

The Permit Holder shall accomplish all work under this permit in accordance with the attached:

- a. detail "A" and the profile and notes of standard drawing B-71.
- b. the attached sketch plan entitled "Proposed Access to 2 Proposed Lots in North Hyde Park", submitted by Ken Harvey and received by VTrans Permitting Services 6/1/2020.

The Applicant must submit an approved subdivision plat to receive this permit.

This permit will allow the construction of a 20' wide access to serve two residential lots.

A preconstruction meeting to discuss work to be completed must be held prior to the Permit Holder's employees or contractor beginning work. The Permit Holder is required to notify the District Transportation Administrator five (5) working days in advance of such meeting.

Please note that the Vermont Agency of Transportation is not a member of Dig Safe. The Permit Holder shall also contact Dan Ertel, State Signal Supervisor, at (802) 343-2188. Mr. Ertel will need to locate and mark all existing buried utility facilities owned by the Agency near the location of the proposed work.

Roadway shoulder areas must be maintained free of unnecessary obstructions, including parked vehicles, at all times while work is being performed under this permit.

Two-way traffic shall be maintained at all times unless permission is granted from the District Transportation Administrator. Whenever two-way, one-lane controlled traffic is authorized to be maintained by the Applicant's Contractor, **the traveling public shall not be delayed more than 10 minutes.**

All grading within the State Highway right-of-way associated with the proposed construction shall be subject to inspection and approval by the District Transportation Administrator or his or her staff. The Permit Holder shall be responsible for ensuring that all grading work in or on the State Highway right-

of-way complies with applicable statutes, rules, regulations or ordinances.

In areas to be grass covered, the Permit Holder shall restore turf by preparing the area and applying the necessary topsoil, limestone, fertilizer, seed, and mulch, all to the satisfaction of the District Transportation Administrator. The Permit Holder shall be responsible for ensuring that all turf restoration work in or on the State Highway right-of-way is in compliance with applicable statutes, rules, regulations or ordinances.

The Permit Holder must install temporary pavement prior to weekend shutdown after completion of backfilling where an open cut excavation has been made through a roadway subject to vehicular traffic or where construction for any roadway widening for turn lanes has been brought to grade. The temporary pavement shall consist of, at least, 2 inches of compacted bituminous concrete. Temporary pavement shall be properly maintained and shall be replaced with permanent pavement prior to completion of the project or suspension of work for the winter season. (This is a contingency condition in the event the "open cut method" is approved during construction.)

The placement, size, shape, and color of all pavement markings must be in accordance with the most recent editions of the MUTCD (Manual on Uniform Traffic Control Devices) and Vermont standards. All existing pavement markings that become disturbed or overlaid with pavement shall be replaced by the Permit Holder with "in kind" (durable or paint) markings to the satisfaction of the District Transportation Administrator. The Permit Holder shall bear all costs associated with this work.

Upon completion of the work, the Permit Holder shall be responsible to schedule and hold a final inspection. The Permit Holder is required to notify the District Transportation Administrator five (5) working days in advance of such inspection.

This permit does not become effective until the Permit Holder records, in the office of the appropriate municipal clerk, the attached "Notice of Permit Action". The Permit Holder, and their assigns and successors in interest, are obligated by this permit to complete, operate and maintain the access(es) in accordance with the Special Conditions.

The Permit Holder shall file a municipal clerk certified copy of the recorded "Notice of Permit Action" within one (1) month of the permit issuance date in the Office of the Development Review and Permitting Services Section.

No change shall be made to the design, operation or use of the approved access(es) without a permit amendment issued by the Agency of Transportation or a jurisdictional opinion from the Development Review and Permitting Services Section that a permit amendment is not required.

The access must be constructed in such a manner as to prevent water from flowing onto the State Highway. If the access is not constructed satisfactorily, the District Transportation Administrator can order reconstruction of the access at the Permit Holder's expense.

This access will serve as the only access to this property and to any future subdivisions of this property unless approved otherwise by the Agency. The Permit Holder is required to allow a connection and to grant an associated right to pass between the access and adjoining properties (in the future) that will result in a combination of accesses to serve more than one property or lot. By issuance of this permit,

the Agency revokes all previous permits for access to this property.

A new "Vermont Agency of Transportation approved" culvert shall be placed under the access. The size shall be **15** inches in diameter. The culvert shall be placed so that existing normal drainage flow is undisturbed and ponding is not created. The Permit Holder may have to excavate the roadside drainage ditch to accommodate the required culvert. Culvert location shall be staked, reviewed and approved by the District Transportation Administrator prior to installation. There shall be no headwalls allowed within the State Highway right-of-way on the ends of drive culverts.

In the event traffic from this project increases to the point where traffic signals, additional lanes for turning or any other modifications are necessary, the Permit Holder shall bear the expense of such improvements or facilities. The Agency may require the Permit Holder to update or provide a traffic study to determine if additional modifications are necessary.

The Permit Holder is responsible for access maintenance (beyond the edge of paved shoulder). "Access maintenance" will include, but not be limited to, the surface of the access, the replacement and maintenance of the culvert, as necessary, the trimming of vegetation, and the removal of snow banks to provide corner sight distance.

In conformance with Vermont Statutes Annotated, Title 19, Section 1111(f), the Agency may eliminate this access in the future where development has burdened the highway system to such an extent that a frontage road or other access improvements (which may serve more than one property or lot) must be constructed to alleviate this burden. The Permit Holder shall bear the expense of the frontage road or other access improvements. The Agency shall determine the need of a frontage road or other improvements based upon and justified by standard Agency procedures.

In the event of the Permit Holder's failure to complete all the work, approved under this permit, by the "work completion date," the Agency, in addition to any other enforcement powers that may be provided for by law, may suspend this permit until compliance is obtained. If there is continued use or activity after suspension, the Agency may physically close the driveway or access point if, in the Agency's opinion, safety of highways users is or may be affected.

The Permit Holder shall at a minimum install and maintain erosion prevention and sediment control measures in accordance with the Low Risk Site Handbook for Erosion Prevention and Sediment Control published by the Vermont Department of Environmental Conservation for the purposes of preventing sediment transport into the Agency's State Highway right of way and stormwater management systems or surface waters of the State. All disturbed earth areas having erosion potential must be temporarily or permanently stabilized, as soon as practicable or within seven (7) days of disturbance or, if precipitation is forecast sooner. Ditches or slopes steeper than 1:3 shall make use of appropriate biodegradable erosion matting composed of planar woven natural fiber. Stabilization measures constructed in the State Highway right-of-way shall be in compliance with the current version of the Vermont Agency of Transportation Standard Specifications for Construction.

Any vegetation removal in the State Highway right-of-way proposed within Stream/Riparian Buffer Zones shall conform to all Local, State, and Federal Regulatory requirements for Stream Buffer Protection. Vegetation removal in the State Highway right-of-way must be pre-approved by the District Transportation Administrator.

The Permit Holder shall verify the appropriate safety measures needed, prior to construction, so proper devices and/or personnel are available when and as needed. Traffic control devices, shall be in conformance with the MUTCD (Manual on Uniform Traffic Control Devices), Agency standards and any additional traffic control deemed necessary by the District Transportation Administrator. The Permit Holder's failure to utilize proper measures shall be considered sufficient grounds for the District Transportation Administrator to order cessation of the work immediately.

The Permit Holder will perform construction in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, the Permit Holder shall provide a sign package that conforms to the MUTCD (Manual on Uniform Traffic Control Devices) or Agency standards, as well as trained Flaggers. The District Transportation Administrator may require a similar sign package with trained Flaggers whenever it is deemed necessary for the protection of the traveling public. In addition, the District Transportation Administrator may require the presence of Uniform Traffic Officers (UTOs); moreover, the presence of UTOs shall not excuse the Permit Holder from its obligation to provide the sign package and Flaggers.

When traffic control becomes so complex that the traffic control cannot be accomplished using Agency standards, the Permit Holder must submit a traffic control plan to the Agency's Permitting Services office for Agency approval prior to beginning work.

The Permit Holder shall ensure that all workers exposed to the risks of moving highway traffic and/or construction equipment wear high-visibility safety apparel meeting the requirements of ISEA (International Safety Equipment Association) "American National Standards for High-Visibility Safety Apparel," and labeled as ANSI (American National Standards Institute) 107-2004, or latest revisions, for Performance Class 2 or 3 requirements. A competent person - one designated by the Permit Holder's Contractor to be responsible for worker safety within the activity area of the State highway right-of-way -shall select the appropriate class of garment. The Engineer may suspend this permit until compliance is obtained.

Independence; Liability: The Permit Holder will act in an independent capacity and not as officers or employees of the State.

The Permit Holder shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Permit Holder or of any agent of the Permit Holder. The State shall notify the Permit Holder in the event of any such claim or suit, and the Permit Holder shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement, the Permit Holder may request recoupment of specific defense costs and may file suit in the Washington Superior Court requesting recoupment. The Permit Holder shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Permit Holder.

The Permit Holder shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Permit Holder.

Insurance: Before beginning any work under this Permit the Permit Holder must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Permit Holder to maintain current certificates of insurance on file with the State for the duration of work under the Permit. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Permit Holder for the Permit Holder's operations. These are solely minimums that have been established to protect the interests of the State.

Workers' Compensation: With respect to all operations performed under the Permit, the Permit Holder shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the Permit, the Permit Holder shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$2,000,000 Per Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/Legal Liability

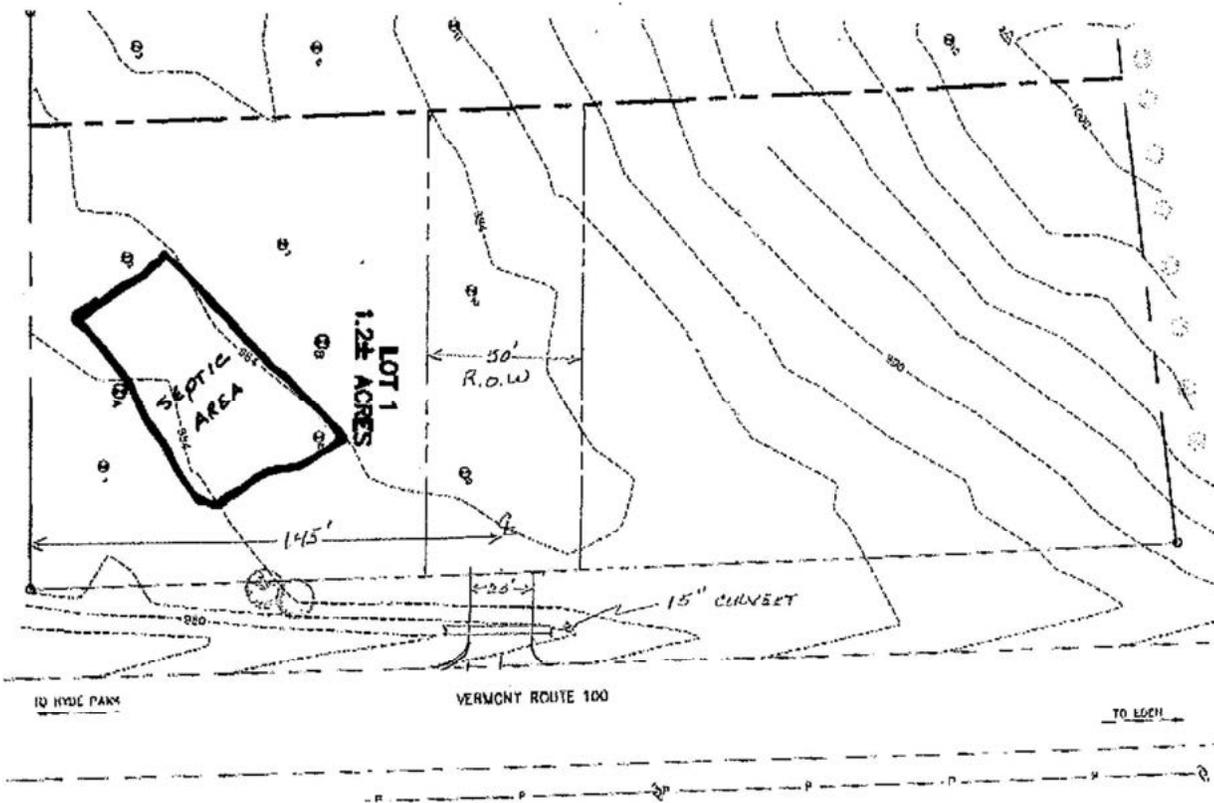
Permit Holder shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Permit.

Automotive Liability: The Permit Holder shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Permit. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Permit Holder shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Permit.

PROPOSED ACCESS TO 2 PROPOSED LOTS IN NORTH HYDE PARK

LOT # 1 1.6 ± ACRES



RECEIVED BY VTRANS
PERMITTING SERVICES
6/1/2020



Hyde Park, VT

1 inch = 267 Feet

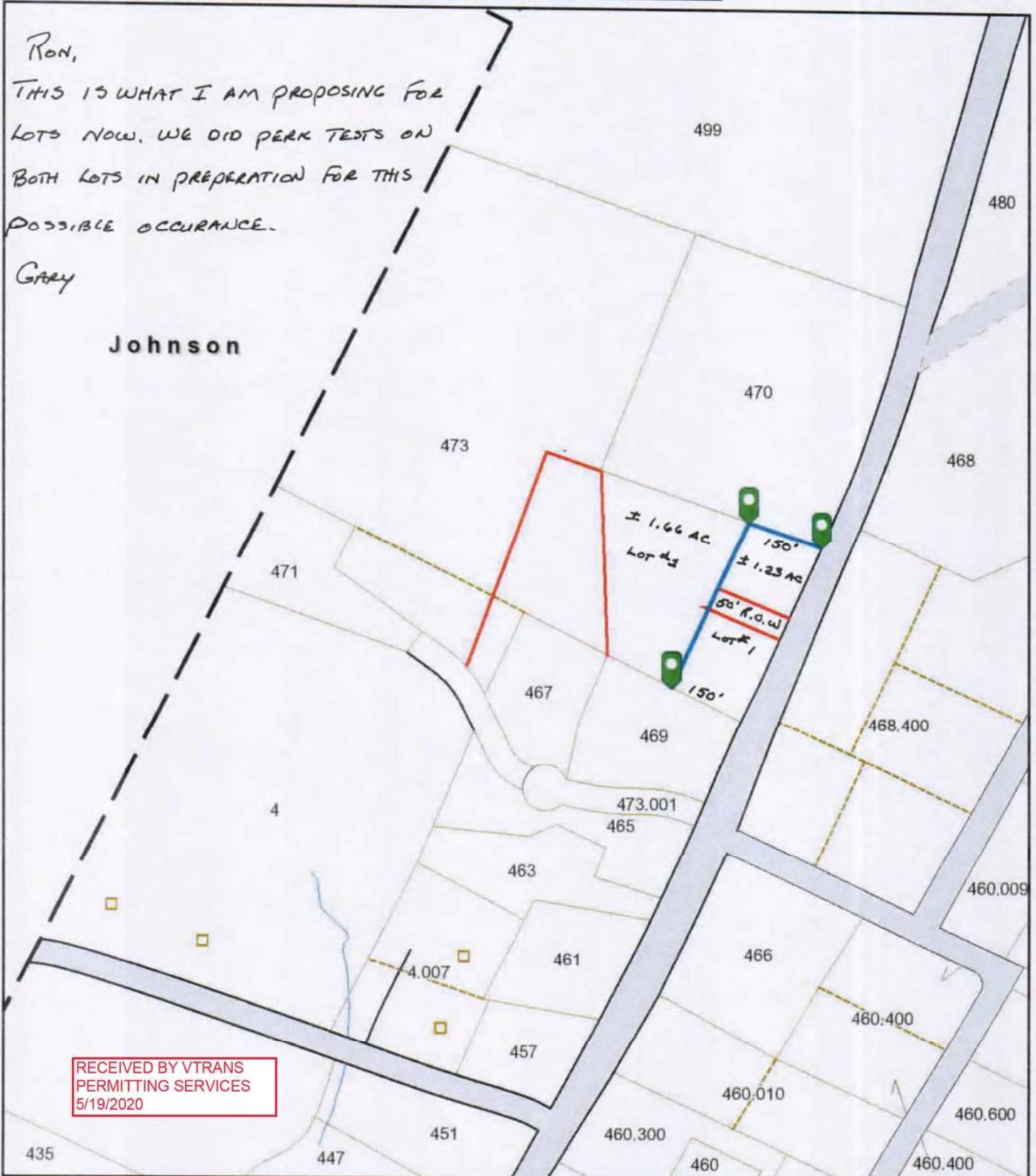


April 29, 2020

Ron,
THIS IS WHAT I AM PROPOSING FOR
LOTS NOW. WE DID PERK TESTS ON
BOTH LOTS IN PREPERATION FOR THIS
POSSIBLE OCCURANCE.

GARY

Johnson



RECEIVED BY VTRANS
PERMITTING SERVICES
5/19/2020

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



- LEGEND**
- Parcels (standardized)
 - Parcels (non-standardized)
 - Roads
 - Interstate
 - Principal Arterial
 - Minor Arterial
 - Major Collector
 - Minor Collector

NOTES

Map created using ANR GIS mapping technology.

1: 5,179
June 2, 2020



263.0 0 132.00 263.0 Meters

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.