

CITY OF RUTLAND, VERMONT

Development Review Board Minutes

Wednesday February 6, 2019

Development Review Board Members: Stephanie A. Lorentz, Al Paul, Jim Pell, Steve Wilk and Mike McClallen.

Members present for 1st hearing: McClallen (Chair), Paul, Pell and Wilk.
Lorentz joined for the 2nd hearing.

Also present: Zoning Administrator Tara Kelly.

HEARING #1 – 46 NORTH MAIN STREET

At 6:04 PM Chair McClallen called to order the Public Hearing to consider a Variance application for 46 North Main Street to change the use of an existing commercial building (formerly a bank with approval to convert to a physical therapy office) to a restaurant and convenience store.

Chair McClallen explained the DRB hearing process and that participation in the hearing was a prerequisite to the right to appeal. Anyone wishing to participate in the hearing was given a chance to swear in. In attendance for this hearing were the applicants, Rina and Bobby Harchind, and Patrick Griffin of Enman Kesselring Consulting Engineers. Other members of the public in attendance were:

- Ray Ault, Realtor 93 Olympus Rd, Proctor VT
- Peter Chilos 26 Watkins Ave
- Phil Dwyer 45 North Main Street

After swearing in the applicant and members of the public, Chair McClallen asked the applicants to explain their request. The following testimony was offered by the applicants and Mr. Griffin who led the presentation on their behalf:

- The site had been a bank for decades, but has sat vacant for more than 3 years.
- The proposal is to convert the existing commercial building to a restaurant serving Indian food, with an ancillary retail component.
- The restaurant will be primarily take-out.
- There will be 15 seats for customers to sit and eat, but there will not be any table service.
- Retail space is to sell specialty items that would be of interest to customers of the restaurant (soda, alcohol, and Indian spices/groceries) versus a general convenience store.
- Exterior changes to the building are not anticipated other than removal of the bank drive-thru canopy.
- The building has 3 doors. The door facing North Main Street will not be used, except for emergency egress. The other two doors (facing Aiken Place and the parking lot) will both be used by customers.
- Six parking spaces currently leased to adjoining property (labeled A-F on the site plan). These would remain as such.

- Dumpster would be put behind the existing garage.
- No changes to sidewalk or ADA parking space (which is on Aiken Place).
- All lights are existing under canopy on the building.
- Water and sewer service are not changing.
- Existing landscaping is extensive and will not change.
- Mature trees along the north and east sides of the property will remain.
- Snow storage from main parking lot would use the grassy area to the north in the parking lot.
- Will remove 2 parking spaces along Aiken Place (closest to North Main St). 15 spaces will remain overall. Harchinds feel strongly the remaining 4 spaces along Aiken Place will be critical to their operation. It is anticipated the spaces will be used similarly to the way the bank operated. It does not appear that there has been a history of problems there.
- Peak traffic hour along North Main Street is 3:30 – 4:30PM, outside of the time of the restaurant's peak hours.
- Prior approval was granted for a physical therapy office at this site (in 2016) which anticipated 72 customers per day.
- Circulation on-site will be one-way with all vehicles exiting onto North Main Street from the parking lot.
- In the 2 spaces along Aiken to be removed, the asphalt will be removed and top soil with grass will be installed. These spaces will be used for snow storage.
- Deliveries will be to the north door in the parking lot (not on Aiken Place). Enough space exists for customer cars to maneuver around a parked truck.
- West door (facing North Main Street) will not be used for deliveries or customers.
- Variance criteria from application were reviewed. Site is already an outlier in this district having been developed as a bank several decades ago. Current layout is not conducive to the uses anticipated in this district and building has been vacant for several years. Level of investment to adapt the building for most other uses does not seem to be supported by the market.
- Ray Ault, realtor, shared that the prior approval for physical therapy office was never done because of the cost of renovations needed in order to change the building for their use.
- Site is surrounded by more permissive districts that allow restaurants and retail uses.
- Site is not being altered in any way so therefore is not going to create a negative impact to the neighborhood.
- New business will have two employees. They will park in the back parking lot.
- Removal of canopy includes removing the stanchions.

DRB members asked questions about the retail store part of the application.

- Retail 9AM – 8PM 7 days per week. Restaurant 11AM – 8PM on Mon thru Sat.

- Will sell Indian spices and specialty groceries as well as have coolers for soda and alcohol. They also hope to have already-prepared food by the restaurant available for sale in the coolers.
- Restaurant does not require a large kitchen.
- Based upon experience with restaurant at the gas station was West St and Crampton they are expecting 25 – 30 customers per day.
- Going for a niche market of people interested in Indian food. Not going to carry general convenience store goods.
- Expect to use wall space and a couple of aisles to display products on shelves and in coolers.
- Seating will be by the kitchen.

Comments were provided by members of the public:

Ray Ault noted:

- historically there have been many uses along this section of North Main Street including restaurants and markets directly across the road from this property;
- there will be a change to the exterior in terms of exhaust fans and vents on the roof;
- was the realtor marketing this property for a few years and found it difficult to identify the right purchaser/occupant given the layout/configuration of the building;
- the storage space is limited in this building and therefore it can be noted that the retail space will be fairly minor or it would need more storage;
- he contacted all of the abutting property owners and found a lot of support from neighbors, including Chris Book and the Woolfs who signed letters of support (in the file);
- owner of property at 4 Aiken Place concerned about dumpster and headlight trespass onto his property which is a residential property. Would like a fence or other buffer to be considered.

Mr. Griffin noted there is vegetation along with east side that provides a buffer. He also noted an elevation difference that may be enough to shield headlights from shining onto the residential building.

Phil Dwyer noted that the water main that comes out of Aiken Place and across the road to his building 45 North Main Street had a history of freezing up. He noted that it hasn't frozen since the bank closed and wondered if there was a relationship between the two.

The hearing was adjourned at 6:40 PM. Chair McClallen explained the timeframes for issuing a decision and filing for an appeal of that decision.

HEARING #2 – 258 SOUTH MAIN STREET

At 6:45 PM Chair McClallen called to order the Public Hearing to consider a Site Plan application for 258 South Main Street and 261 Chase Avenue related to the Irving gas station at this location.

Chair McClallen explained the DRB hearing process and that participation in the hearing was a prerequisite to the right to appeal. Anyone wishing to participate in the hearing was given a chance to swear in. In attendance for this hearing to represent the applicant was Hüseyin Sevinçgil from MHF Design Consultants as well as Dennis Dillon of Irving Oil Marketing.

Other members of the public in attendance were:

- John and Dagne Canney owners of 254 South Main Street
- Carlene and Shawn Wiegel 254 Chase Avenue

After swearing in everyone present, Chair McClallen asked the applicant to explain the request. The following testimony was offered by Mr. Sevençgil who led the presentation:

- This application is a resubmission of an application that was denied by the DRB in Oct 2018
- Modifications were made to the last plan based upon comments by the DRB and City Engineer
- The curb cuts (driveways) were changed since the last plan. The southerly one will remain the same. The northernmost 2 curb cuts will be consolidated and curbs changed.
- Six-foot high white vinyl fence has been added to eastern border of property and extent of loam and seed extended.
- Easement to allow access to 257 Chase Avenue has been left open.
- Curbing will be installed that will cut off cross traffic from the South Main Street part of the property back to Chase Avenue.
- Curb and landscaping added to cut off access between Irving site and site to the north.
- Internal circulation evaluated by City Engineer via the truck movement plans.
- Vertical granite curbing will be installed throughout the public ROW as shown on plans and vertical concrete curbing will be used onsite.
- Curbs will be adjusted to allow for existing catch basins to function well.
- Truck entrance sign will be installed on southern curb cut.
- Do not enter sign will be installed on the northern curb cut at the point where trucks are expected to exit.
- Northerly driveway shows a 5' painted island on the site plan but will be made into a scored concrete island per conversation with City Engineer.
- Per ZA comments, applicant agrees that the lots will be merged if plan is approved.
- Comments from Mr. Munger of Chase Avenue regarding cut through traffic and screening from headlights have been addressed in the plans.
- Some existing parking spaces have been eliminated (near the rear boundary of 257 Chase Avenue) to allow for better traffic flow for the trucks coming around the convenience store building and heading to the relocated diesel fuel islands.
- Vehicles, other than trucks, will be able to enter the site via the north and south curb cuts.
- The dumpster will be surrounded by a chain link fence with privacy slats and planting around it.

Ms. Weigel of Chase Avenue expressed support for the new fence along Chase Avenue. She asked about light trespass toward Chase Avenue. The lighting plan was reviewed and showed there will be no trespass from lights onsite. Ms. Weigel asked if there were plans for Irving to purchase 257 Chase Avenue. Mr. Dillon said there are no plans at this time.

There is a fence installed and maintained by 257 Chase Avenue that separates the property from the property under consideration. There is a break in the fence that those residents use to park vehicles in their back yard.

John Canney of Monarchos LLC (owner of property at 254 South Main Street) asked a series of questions related to traffic circulation, particularly for trucks. Mr. Sevençgil explained the following in response to the questions:

- there is sufficient width for trucks to travel around the building and cars to utilize the parking spaces given the ability for trucks to use the existing easement with the property to the south (UHaul);
- the new dispensers are newer and more efficient so it will take less time for trucks to fuel than currently.
- delivery trucks will function similar to how they do now, including to the back of the building;
- No comments regarding congestion and issues with onsite circulation were made as part of the City staff review;

Mr. Canney questioned the length of time a car would need to wait before leaving the site if a truck was also pulling out. The Wiegel's stated they use the site frequently and do not experience any issues.

Mr. Canney questioned the geometry of the curb cut. It was explained the City Engineer has thoroughly reviewed the plans and is satisfied with the new plans.

Mr. Canney stated he felt the new diesel fuel island was too close to and would negatively impact his property to the north due to the following:

- He interpreted the site plan as having the roof of the canopy of the diesel islands being only 5' from their property line when the setback is 10 feet (actual distance shown on plans is 10.5')
- He stated the canopy will be significantly taller than the existing car wash building (canopy will be 18' tall – existing car wash is approximately 16' tall)
- He stated the canopy will be illuminated (letters will be lit, if approved in sign ordinance but all other lights are LED and faced toward the ground)
- He is concerned about fumes from idling trucks
- He stated the fueling island would be open 24 hours (owner stated it closes at 10PM Mon-Fri and 11PM on weekends)
- He is concerned the pitch of the canopy will cause snow and water to fall onto his property (roof is flat and there are internal drains that would pipe water down the columns and into the drainage system)
- Concerned that view from South Main Street will impact the view of their property. (canopy will be open versus a solid building that exists).
- In particular, he felt the new freestanding sign location could be problematic (will be reviewed under sign ordinance as part of a sign permit).

Written comments were provided by Mr. Canney for the record.

Ms. Wiegel commented that she has lived in the area for a very long time. She notes that no traffic issues, specifically with truck circulation, have ever been a concern (other than the cut through traffic to

Chase Avenue). She considers the plans, as presented, to be a major improvement over current conditions and looks forward to the development.

Hearing was adjourned at 7:43PM.

Respectfully submitted,
Tara Kelly
Development Review Board Clerk