

Zoning Board of Adjustment

Application for Conditional Use Review

Findings and Decision

Permit Application No.: 19.05.29.Z
Applicant Name: Jeffrey Spurr
Landowner Name: Jeffrey & Lynda Spurr
Project Location: 4215 Route 106, Perkinsville, VT
Parcel ID#: 07-02-12

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review of an application for a zoning permit for a Conditional use submitted by Jeffrey Spurr under the Town of Weathersfield Zoning Bylaws.
2. The application was received by Zoning Administrator Sven Fedorow on 5/29/2019.
3. Notice of a public hearing was published in the Valley News.
4. Notice of the public hearing was posted at the following places:
 - a. The municipal clerk's office
 - b. Town of Weathersfield, VT website
 - c. Proctor Library website and bulletin board
 - d. Ascutney and Perkinsville Post Offices
 - e. Ascutney Market
5. A copy of the notice of a public hearing was mailed to the Applicant.
6. A copy of the notice of public hearing was mailed to the owners of properties adjoining the property that is the subject of the application.
7. The Zoning Board conducted a Site Visit at approximately 6:30 PM on Thursday June 27, 2019.
8. The application was considered by the Zoning Board of Adjustment at a public hearing at approximately 7:00 PM on Thursday June 27, 2019.
9. The Zoning Board of Adjustment reviewed the application under the Town of Weathersfield Zoning Bylaw, adopted by the voters on March 5, 1974 and including all subsequent amendments through October 21, 2013 (the Zoning Bylaw).
10. Present at the site visit were the following members of the Zoning Board of Adjustment:
 - a. Willis Wood, Chair;
 - b. Todd Hindinger, Vice-chair;
 - c. John Broker-Campbell;
 - d. Jim Cahill, Clerk.
11. Also present at the site visit were:
 - a. Jeffrey Spurr, Applicant;
 - b. Sven Fedorow, Zoning Administrator.
12. Present at the hearing were the following members of the Zoning Board of Adjustment:
 - a. Willis Wood, Chair;

- b. Todd Hindinger, Vice-chair;
 - c. John Broker-Campbell;
 - d. Jim Cahill, Clerk.
13. Also present at the hearing were:
 - a. Jeffrey Spurr, Applicant;
 - b. Sven Fedorow, Zoning Administrator.
 - c. Diana Stillson, who takes the minutes of the meeting.
14. At the outset of the hearing, the Zoning Board of Adjustment afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The following were determined to meet the definition of interested persons:
 - a. Jeffrey Spurr, Applicant and abutting property owner.
15. At the outset of the hearing, the Zoning Board of Adjustment asked if there were any persons present who wished to give evidence or testimony during the hearing. The following were sworn in by the Chair:
 - a. Jeffrey Spurr, Applicant.
16. Board members disclosed any potential conflicts of interest. Todd Hindinger noted that he has had work done on his vehicles in the past by Jeff Spurr but felt he could treat the Applicant fairly without any conflicts. Neither the Applicant nor any member of the Zoning Board expressed concern about conflicts of interest.
17. During the course of the hearing the following exhibits were submitted to the Zoning Board of Adjustment:
 - a. Exhibit #1 - A packet prepared by the Zoning Administrator containing several relevant exhibits, as follows:
 - i. The Zoning Board of Adjustment Agenda, 1 page.
 - ii. Table of Contents of Application Material, 1 page.
 - iii. Zoning Board of Adjustment Notice of Public Hearing, 1 page.
 - iv. The application with attached site plan, 3 pages.
 - v. Public Hearing Notice, 1 page.
 - vi. Resources Atlas which shows an aerial image of the property and surrounding area, 1 page
 - vii. One page of the a previous decision of the Zoning Board of Adjustment dated October 23, 2012
 - viii. Complaint/request for investigation dated July 24, 2013, 2 pages.
 - ix. Documents dated on top 2014.09.29, highlighted excerpts for earlier Zoning Board of Adjustment pages (2 pages) and site plans (2 pages), 4 pages total.
 - x. Letter dated October 28, 2014 from Jeff Spurr to Jacalyn Fletcher (Court Manager for the Vermont Environmental Court), 1 page.
 - xi. A letter from Charles Wise (Zoning Administrator) dated February 25, 2015 to Jeff Spurr, 1 page.
 - xii. An email from Charles Wise (Zoning Administrator) dated February 25, 2015 to Jeff Spurr (2 pages) and a sketch plan dated June 15, 2015 (1 page), total 3 pages.
 - xiii. Appendix, excerpts from Zoning Bylaws, 5 pages.

b. Exhibit #2 - An email from Nate Stearns, Town Attorney, dated June 26, 2019 to Sven Fedorow.

18. This application was reviewed under the following sections of the Weathersfield Zoning Bylaws:

- a. Section 4.3.2 (f)-Highway Commercial zoning district
- b. Section 7.23 - Self-storage Facility
- c. Section 7.8 - Site Plan Review

FINDINGS

The following facts are deemed relevant to the Board's decision on this application. These facts are compiled from the application project documents including the written application, the items listed in the exhibits, testimony and evidence provided by the Applicant and other parties present at the hearing.

F1. Parcel# 07-02-12 is located at 4215 Route 106. Its size is 1.10 acres.

F2. Access to the property is via an existing curb cut off Route 106. Route 106 is a state highway.

F3. The property is located in a Highway Commercial Zoning District.

F4. The property is owned by Jeffrey and Lynda Spurr.

F5. There are two existing single story self-storage buildings on the property, one measuring 160' x 30', one measuring 175' x 25' with a total square footage of $4,800 + 4,375 = 9,175$ square feet. The Self-Storage Facility has received previous approval under several earlier Zoning Board of Adjustment decisions and related follow up correspondence.

F6. The Applicant proposes to construct one additional self-storage building measuring 170' x 30' with a square footage of 5,100 sft. After the new building is constructed the gross floor area for self-storage buildings on the lot will be $9,175 + 5,100 = 14,275$ sft.

F7. The Applicant proposed to dedicate an area for outdoor storage of $70' \times 40' = 2,800$ sft.

F8. The new building will be arranged on the property as shown on the Site Plan.

F9. Self-storage facilities greater than 10,000 sq. ft. of gross floor area are a Conditional Permitted Use in the 4.3.2(f) Highway Commercial Zoning District. Site Plan approval and a Certificate of Occupancy are required.

F10. The Applicant will be the owner and manager of the self-storage buildings.

F11. The access drive to from Route 106 into the project site exists. The driveways around the new units will be refined for the new building. The travelled areas will be gravel. No pavement is proposed.

- F12. The self-storage building will be purchased as a prefabricated metal structure that will be the same color and materials as the existing structure.
- F13. Grass will be maintained on all surfaces which are not access drives, building footprints, or the outdoor storage area.
- F14. Any storm water which does not infiltrate into the gravel soils underlying the lot will largely be directed into a holding depression at the north east corner of the property where infiltration will occur. Stormwater is thus to be retained on the property.
- F15. Existing exterior lighting on the existing two building consists of four downward-directed LED bulbs, located in pairs at the corners of the building. The lights will be activated by photovoltaic cell. Their purpose is to provide a low level of security lighting rather than to provide lighting to customers accessing their self-storage units after dark. Cut-off lighting fixtures are not installed. New exterior lighting is proposed similar to the existing units, also activated by photovoltaic cell located at the corners of the proposed building. Cut-off lighting fixtures are not proposed or installed.
- F16. Section 7.20 of the Zoning Bylaws, Outdoor Lighting requires that, "...All exterior lighting shall be directed downward and shielded from public roads, nearby residences, and distant vantage points. Full cut-off fixtures shall be used."
- F17. There will be no electrical service provided within the self-storage buildings.
- F18. Abutting land uses include:
1. Villagers, which is a seasonal snack bar on the north side.
 2. A single-family dwelling and an automotive repair business, both owned by the Applicant, on the south side.
 3. A residential property on the east side.
 4. An unoccupied structure across Route 106 on the west side.
 5. A cell phone tower on the southeast side.
- F19. The proposed Self-Storage Facility is partially screened from Route 106 by topography; it is located on a plateau above the level of Route 106.
- F20. The Site Plan shows the existing storage units as having a front set back of 40 feet. The proposed self-storage building is shown on the Site Plan as having a 45ft set back. There will be 25 feet between each of the self-storage buildings. The new building will have a 90ft side setback to the north and all of the structures will have a 35 ft rear setback.
- F21. Pursuant to Zoning Bylaw 7.23h, a 70' x 40' = 2,800 square foot portion of the property will be used as an outdoor storage area. The outdoor storage area will be used for vehicles associated with the Applicant's auto-repair business, which is located on the adjacent lot to the south. The location of the outdoor storage area is shown on the site plan. A setback of 25' is provided to the north, more than 40ft to the east and west. The 2,800 square foot size

of the outdoor storage area is less than the 20% of the 14,275 square feet gross floor area of the of the combined three self-storage buildings on the lot.

- F22. Snow removal equipment will be located on the property.
- F23. There is not currently a business sign. The Applicant may propose a sign at a later time.
- F24. The Applicant is not proposing any changes or additions to the existing landscaping on the lot. The existing landscaping is generally:
1. Existing grass and woodland to the east.
 2. Existing trees and small evergreen plantings to the south along the abutting parcel which is owned by the Applicant.
 3. Existing trees and bushes to the north. Several of the northerly bushes in the vicinity of the adjacent business are dead or dying and accordingly have reduced screening.
 4. Existing grassed slope to the west without any tree or bush plantings.
- F25. The Applicant is not proposing any dedicated parking spaces for patrons of the self-storage business. Rather, patrons will use the access drive in front of their rental units for parking during the limited time they are visiting their storage units.
- F26. Compatibility with Surrounding Development
1. The architecture, height and material of the building are compatible with other commercial buildings in the area.
- F27. Traffic Access and Circulation
1. The existing access to the project provides access from Route 106.
 2. The project will not generate enough traffic to constitute an adverse impact to the traffic that currently exists on Route 106.
- F28. Protection of Natural Resources
1. There is an existing abandoned well on the property which could affect the groundwater.
 2. There are no other protected resources on the property.
- F29. Storm Water Management and Drainage
1. Storm water which does not infiltrate into the gravel soils on the site will be directed to an on-site collection area.
 2. The Applicant indicated he is diligent in assuring that vehicles from the repair business will not leak hazardous materials on the soil in the outdoor storage area.
- F30. Landscaping and Screening
1. Landscaping appears adequate except for the northerly bushes in the vicinity of the property line, which are dead or dying.
- F31. There are currently vehicles parked and vehicle parts stored on the property that are not running or functioning. The Applicant said that these are vehicles and parts that have been abandoned by their owners during operation of his auto repair business. Once abandoned he

indicated that it is a challenge to discard the vehicles and parts because he is not the owner or title holder

F32. A Junkyard is defined as “A yard for the deposit, storage, or resale of any junk or discarded materials, machinery, or vehicles; whether or not in connection with any other commercial activity.” Junkyards are not permitted uses in the Highway Commercial District.

F33. There is an existing abandoned water supply well on the property, remaining from previous residential development. The project does not propose the use of a water supply. The location of the well was not provided on the Site Plan.

DECISION AND CONDITIONS

On July 2, 2019 at a deliberative session all four of the deliberating members of the Zoning Board of Adjustment voted unanimously to approve the application for a Conditional Use with the following conditions:

- C1. The project shall be developed as proposed in the application documents and facts.
- C2. Exterior lighting shall comply with Section 7.20 of the Weathersfield Zoning Bylaws. Thus:
 - 1. The facility should be illuminated only at levels necessary to ensure the safety and security of persons and property.
 - 2. Lighting fixtures shall be directed downward and shielded from public roads, nearby residences and distant vantage points.
 - 3. Full cut-off fixtures shall be used for the new lights and installed on the existing lights.
 - 4. Exterior lighting shall comply with the energy efficiency requirements in Sections 7.20.2 and 7.20.3 of the Weathersfield Zoning Bylaws.
- C3. Any deviation from the application documents and facts without prior written approval of the Zoning Board of Adjustment shall constitute a violation of the Weathersfield Zoning Bylaws and the Administrative Officer shall be required to take appropriate enforcement action.
- C4. A Certificate of Occupancy is required for the proposed self-storage building and site changes.
- C5. Outside storage is allowable with this permit in the location shown in the Site Plan, not to exceed 2800 square feet. The outside storage area is to be marked at the site with paint, flagging or similar means acceptable to the Applicant. The marked area is to be clearly visible.
- C6. Permit is valid for 5 years to complete construction. Construction shall begin within one year of approval.

- C7. The landscaping along the northerly property boundary is to be improved. Specifically the bushes in the vicinity of the adjacent business, which are dead or dying, are to be replaced with similar screening bushes that are suitable for use in the drier soils at the site.
- C8. The outdoor storage area is to be maintained so that it is not used as a junkyard and does not, by the accumulation of abandoned vehicles and parts, become a junkyard.
- C9. To protect the natural resources, specifically the groundwater aquifer, the existing abandoned water supply well is to be located and sealed in accordance with current State of Vermont water supply rule. Prior to foundation or driveway construction, provide documentation of this work to the Zoning Administrator. In lieu of completing this work it is also acceptable to provide a letter from the State indicating this work is not necessary.

C10. Dated at Weathersfield, Vermont, this 11th day of July, 2019.

BY: 
Willis Wood, Chair

Members participating in the site visit, hearing, and deliberations:

- Willis Wood, Chair
- Todd Hindinger, Vice-chair
- John Broker-Campbell
- James Cahill, Clerk

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Copies of this decision will be distributed to:

- Applicant (via certified mail)
- Landowner
- Every person or body appearing and having been heard at the hearing
- Administrative Officer
- Town Clerk