

ZA ORIGINAL

Approved
Town of Wallingford, VT Development Review Board (DRB)
Findings of Fact, Conclusions of Law, Decision & Order(s)

Application #17-13: Request for addition to residential substance abuse treatment facility.

Applicant/Owner: Recovery House Inc. (a.k.a. Serenity House) Postal address: PO Box 207 Wallingford VT
Subject Property Location: 98 Church Street Wallingford VT 05773 **Town Parcel:** 0170098

INTRODUCTION

The Zoning Administrator (ZA) received an initial application on 4/28/2017, which was reviewed per Article V Wallingford Zoning Regulations (effective Sept. 2015). The ZA determined that the application involved a conditional use which required DRB review, and was denied. An Appeal of the ZA decision was received on 5/9/2017, and the application referred to the DRB. Abutting property owners were notified on 5/26/17 (documented by Certificate of Mailing, 5/27) that a Public Hearing was scheduled for 6:30 pm, 6/13/2017, at Town Offices, 75 School St. Wallingford Village. Public Notice was also given by Rutland Herald on 5/27/2017, property location POSTER, and in two other public buildings.

Accordingly, a Public Hearing was convened by the DRB on 6/13/17, with a quorum of DRB Members in attendance. The Zoning Administrator and the Applicant's representative were present. Other interested parties were in attendance (refer to roster) and presented oral testimony; or had submitted written testimony. The Hearing was continued until 6:00 pm July 3, 2017, at Town Office, so that the Board Members could preview the site and additional testimony could be submitted. On 7/3/2017, after receiving additional testimony from Applicant and all others present; the DRB voted to close the Public Hearing.

Jurisdiction was taken by Articles IV (Specific District Regulations) and V (Review of Conditional Use) of the Zoning regulations; and the DRB deliberated the following:

FINDINGS of FACT

1. The subject property consists of one+/- acres with a residential care building within the Residential 15000 Zoning District. The building is serviced with municipal sewer and water.
2. The use of the property as a non-conforming "rooming house for transient persons with drinking problems" was first granted by the Wallingford Board of Adjustment May 6, 1976 and Permit #76-4 was issued on June 24, 1976. The present operation treats both residents and day visitors with alcohol and drug related substance abuse problems.
3. Recovery House Inc. operates several facilities in central VT. Residents are subject to an application process; and admitted by management approval. Residents are free to leave as they wish; except for Dept. of Corrections inmates.
4. The Applicant also works with a number of other private and VT organizations to address the increase in opioid and alcohol abuse. Some of these other organizations use the Wallingford facility for day treatment sessions.
5. The existing facility is presently licensed by the State of VT for 24 residential beds.
6. The Applicant requests construction of a 27' X 32' two-story addition to the south side of the building. This would accommodate 10 additional residents (5 bedrooms), & add two bathrooms. Other updates to the existing facility are planned to improve exterior appearance, efficiency, and occupant's comfort.
7. The existing week day shift staff (7:00am to 5:00 pm) averages 11 counselors, nurses, office maintenance, office, and kitchen personnel. All evening and overnight shifts (5:00 pm to 7:00 am) presently have one to two employees. With the additional capacity, the evening/overnight staff would increase to two or three employees.

8. The Site Plans detail two existing accesses to Church Street. Approximately 9200 sq. ft. of asphalt surfaced parking area exists on the west & south sides of the building. A preliminary parking area layout suggests the lot could accommodate 18-20 standard (9' X 20') parking spaces, if accurately marked & signed.
9. Neighbors relayed concerns about the additional parking the expansion would need; truck deliveries backing off the narrow town road; and on-street parking.
10. The Applicant stated that Residents are discouraged from bringing their own vehicle to the facility. He believes that a clearly marked parking lot (so to maximize the use), scheduling staggered appointed visitor hours, and planning truck deliveries whenever possible would reduce congestion.
11. Applicant states that current security measures include "full camera coverage, inside & out". The monitors are secured in the Charge Nurse Office and the system has multiday recording capacity. Exit doors are locked from outside entry at 10:00 pm daily. Some doors have alarms to signal when they are opened; but not all exits have such alarms.
12. Three property Owners on Church Street expressed their opposition to the expanded operation. Reasons for deciding against the application included:
 - a) expansion of a commercial facility in a residential zoning district (i.e. a use not similar as other uses in the same zoning district); as being unacceptable;
 - b) the proposal did not conform to current zoning standards as a Conditional Use;
 - c) The opinion that the expansion would increase in traffic and outside noise; impacting the residential property owners.

CONCLUSION(s) of LAW

1. The DRB has determined that proposed addition does conform to Article IV for minimum lot dimensions and setbacks, and maximum building height, in accordance with current Zoning.
2. Article IV states that in the R15,000 Zoning District, "Other uses not listed here (as a specified Conditional Use) may be permitted if the finding by the DRB shows that such use is clearly of the same general character as those permitted in the area, and which will not be detrimental to the other uses within the district or to adjoining land uses, or the natural and human environment.. and so long as not prohibited ..." The DRB notes that the Serenity House has over four decades of treatment history at this location, with almost no major incidents. Further, Wallingford Village has other types of treatment facilities, many of which have been permitted to expand. Thus, the DRB finds the application in keeping with the same general character as those permitted in the area, and the use has not been proven detrimental to other uses, per the Specific Zoning District Regulation.
3. Article V, under Conditional Use Approval, require four standards to consider, so that the Application or Project will not adversely affect:
 - a) The capacity of existing or planned community facilities: The Applicants have NOT yet documented that the Town has capacity to supply additional sewer & water services to the facility; and this would be a condition of any approval. It is not anticipated, but uncertain, if the Application will eventually add significant burden to other Town services (schools, transportation, police, fire, ambulance, recreation, etc.), and this may be a long term consequence of expanded operations.
 - b) The character of the area affected:
 - 1) The proposed expansion to the rear of the existing building will not noticeably change the road side aesthetics of the property. Further, the project includes other updates to the main structure which could improve exterior appearance and function of the property.
 - 2) The addition of 10 residents does have the potential to increase outside activities; and result in an increase in noise. The DRB expects the Facility's Management to appreciate this as an issue with neighbors, and institute a policy that sets reasonable hours or location for outdoor

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- activities, playing of music, and other noise. Increased or upgraded security measures could also prevent potential incidents outside of the facility. This situation may be addressed by Management and Conditional Use permit requirements.
- c) **Traffic on roads & highways in the vicinity:** There is no evidence that the expansion will significantly add to weekday traffic congestion, as day staff is not expected to increase. It is reasonable to assume the existing delivery truck traffic can handle the supply needs of the 10 additional residents. The improvements proposed to better utilize the existing parking area, include scheduling Visitors so to stagger weekend congestion (especially on Sunday mornings when nearby Church is in session), and work with delivery services on delivery schedules are considered acceptable improvements to the current situation and, when installed and in practice, to be in compliance with this section of the Conditional Review criteria.
 - d) **By-Laws then in effect:** Under Article V, the DRB may impose reasonable Conditions of Approval of an application, such as requiring reasonable Off Street Parking Space in the R15000 Zoning district. This includes prohibiting parking between the street line and the front building line; in front of building exits; or on the street.

DECISION & ORDER

Based on the Application documentation, Testimony of Record, and Review of the applicable regulations, the Wallingford Development Review Board hereby APPROVES APPLICATION #17-13 with CONDITIONS, as follows:

- a) **Community Facility Conditions:** The Applicant shall obtain and maintain all necessary water & sewer allocations from the municipal service providers. If the expanded use results in additional demands for other regular municipal services (school, transportation, police, fire, ambulance, recreation, etc.) over time, the Town reserves the right to amend this permit to address the impact of these issues to the Town.
- b) **Area Character (Noise & Security) Conditions:** The DRB finds the concerns of Interested Parties to this Application, regarding increased noise and security related issues that the expansion may generate to have merit and reasonable to conditional review: Therefore, the Applicant shall be required to comply with the following:
 - 1) Management will be required to establish and enforce Policies for Residents, Staff, and others visiting the Premises that avoid loud noises, noticeably audible from a location 25 feet from the Property boundary line, between the hours of 11:00 pm and 7:00 am (eastern); exempting emergency response or law enforcement related organizations. Noise Violations will require repetitious complaints (documented by written notice to, and accepted as evidence by, the ZA or Legal Officials).
 - 2) Security measures are to be upgraded throughout the entire facility; to include alarms on all exterior entrances/exits to the building; to be active during the hours of 10:00 pm to 7:00 am (eastern). Security cameras, capable of day & night-vision/low-light surveillance of all exterior areas of building traffic areas, entrances, and parking areas are to be maintained and installed, with a minimum of (secure) 72 hour recording capability, and adequate signage maintained to notify the Public of the presence of these security measures.
 - 3) That exterior lighting of the parking and driveways, building entrances, security systems, etc. be designed and directed to be confined on-site; and not generate light pollution that may impact neighboring ownerships.

- 4) That a minimum of two (2) qualified Staff be on duty on ALL shifts (week day & weekend) between the hours of 5:00 pm and 7:00 am (eastern) in order to supervise the Resident population.
- c) **Traffic & Parking Conditions:**
 - 1) The existing parking lot area is to be clearly marked (on pavement) and signed so to maximize the number of 9' X 20' parking spaces; with a minimum of one (1) A.D.A Parking space, one (1) Emergency Vehicle Parking space, and 18 other regular vehicle spaces. The Traffic pattern is to also provide for travel from the west access, around to the southern portion of the property, and to exit back onto Church Street by the east access location. Such marking is to be maintained to be obvious on a continued basis, and provide for off-space snow removal/piling. The DRB encourages the Owners to have an expert review the available ownership; and design an improved parking & traffic pattern area for the property.
 - 2) Recreation or maintenance areas (example: basketball court, Dumpsters, fuel wood piles) shall be sited so they do not conflict with parking, traffic, or snow removal/piling issues to the facility.
 - 3) Access to the facility requires any truck deliveries of supplies to be to the western side of the building. All truck supply deliveries are to be restricted to 7:00 am and 11:00 pm (eastern) except for emergencies or extreme weather events. Delivery related Violations will require repetitious complaints (documented by written notice to, and accepted as evidence by, the ZA or Legal Officials). During any truck delivery and unloading that may obstruct the western driveway, the alternate driveway Access to the facility is to be kept open; to allow for emergency vehicle access all times.
- d) **Other By-Laws In Effect:**
 - 1) Parking between the front of the building and the street Right-of-Way is prohibited. Parking on or along the front of the property on Church Street and within the Town Road Right-of Way is subject to other Town Regulations, as set by the Select Board.
 - 2) This DRB decision does not release the Applicant from obtaining, and being in compliance with, any and all other local, VT, or federal certifications or permits their Project or Use may require. Any unapproved change in this Town application, false or incorrect testimony presented & regarding this application, or Violation to other local, VT or federal regulations may be considered grounds to revoke this decision & subsequent permit approval.
 - 3) Any Decision by an Appropriate Municipal Panel is subject to appeal by an Interested Party to the VT Environmental Court, within 30 days of the formal decision, as defined in the Town Regulation and 24 VSA 4471(a), with a copy submitted to the Town, in accordance with the Act.

The majority of the Wallingford Development Board APPROVES WITH CONDITIONS Application #17-13, and orders the Zoning Administrator to issue CONDITIONAL PERMIT #17-13, with this DRB Decision attached to and part of the final permit; as follows:

William Brooks: Approve Erika Berner: Approve Jillian Burkett: Approve Dave Ballou: Approve
Carol Ann Martin: Absent

William H. Brooks 7/3/2017, William Brooks, Chairman, DRB

Received by Zoning Administrator: JM Boase 8/14/2017