

Conditional Use and Variance Hearing
Robert Hurst & Jay Caroli
Willey's Store
August 24, 2015

To consider a conditional use application by Robert Hurst and Jay Caroli to repair and restore a legal non-conforming structure (Willey's Store) and to consider a variance from the road and brook setbacks. The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.3 Greensboro Village District; 3.8 A-2 Nonconformities; 3.9 Protection of Water Resources; 5.4 Conditional Uses and 5.5 Variances.

Warnings were posted on August 5, 2015 at the Greensboro Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to the following abutters and neighboring property owners: John & Lydia Makau; David Massey; Red Rooster LLC; Janet Long; Thomas and Merrill Hurst; Greensboro Historical Society; and Weathervane LP. It was published in the Hardwick Gazette on Wednesday, August 5, 2015.

Development Review Board members present: MacNeil, Linda Romans, Nat Smith, Sean Thomson, Janet Travers, Jane Woodruff, Wayne Young and Lee Wright, alternate.

Others present: Robert Hurst, applicant; Jay Caroli, architect; Kristen Leahy, Zoning Administrator; for others see the sign-in sheet.

Correspondence from interested persons: none

Exhibit:

#1 schematic drawings from Jay Caroli

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:06 PM. She noted the hearing was semi-judicial, explained the procedure for the hearing, and asked the clerk to swear in all those who wished to speak at the hearing. Ms. Woodruff then asked Mr. Caroli and/or Mr. Hurst to explain what they want to do at the Willey's Store. Mr. Caroli began by saying that the drawings had been revised since the application was sent to Ms. Leahy and the Board. Mr. Hurst then began to explain what they wanted to do at Willey's. Ms. Woodruff stated that she was marking the drawing as exhibit #1 and writing details on it as Mr. Hurst spoke. Mr. Hurst first stated that he recently found out that Perron Road is not a class 4 road as he stated in his written description of the project, but a right-of-way in contention. He then went on to describe the proposed project, beginning with the East Street side (sketch 2.2 in exhibit #1). They would like to replace the loading door closest to Makao's with a fire escape door. It would have a roof over it as required by law. They would also like to put a roof over the loading door closer to the gas pumps to keep the ice and snow off. These small roofs would also provide a place to put security lights. There would be a three foot wide loading dock between the two doors so two smaller trucks could unload at the same time or a large semi could unload from its front and back doors. The porch above the gas pumps would be extended and a new staircase put in to provide a fire exit for the upstairs. The roof over the office on the second floor will be extended over the stairs since they will be a fire escape and must be covered. Lighting will be added under the roof. He would also like to put a roof and lighting over the gas pumps to keep the rain, ice, and snow off the pumps. The window by the gas pumps would be enlarged to its historical size and opened up to the possibility of using it as a service window for the gas pumps, as well as a check-out for the store. Because of the possibility of lead paint, Mr. Hurst wants to take the clapboards off all three sides of the building and replace them with new clapboards painted on both sides for durability. He said he doesn't know what they will find under the clapboards so they plan to do one section of the project at a time so they can deal with any surprises they find as they tear the clapboards off. They will put insulation, a rain barrier and wind guard up before the clapboards are replaced to increase the store's energy efficiency. Mr. Hurst then turned to the Breezy Ave. side of the

building (sketch 2.1 in exhibit #1). On this side, he would like to repair and enlarge the downstairs front windows and restore them to their historical size. The upstairs windows will be left as they are; either restoring them or replacing them as needed. The advertising boards would be taken from beside the front door and moved to the blank wall on the front side of the building towards the Historical Society. They would be replaced with locked metal containers so he has more control of what is placed there. He would like to restore rather than replace the front door, if possible. The roof over the front door and the sliding door will remain in place. Mr. Hurst also plans to install a railing along the front sidewalk to protect the side of the building from cars and to provide safety for customers. The railing would be next to the building. The present sign would be refurbished and stay in the same place. The loading door on the Hardware side will remain as is. Mr. Hurst then addressed the Perron Road side of the building (sketch 2.3 in exhibit #1). The repairs on this side would mostly be removal and replacement of the clapboards and repair of the windows. However, he would like to replace the present sliding door on the lower level with a garage door or a better sliding door that can be locked for enhanced security. This door may have to be enlarged somewhat to accommodate the size of the available door. He would also like to put another door down there for employees to use. They will probably have to put cement under the door to keep the water that drains down Perron Road from going under it. He would also add a hitching post and watering trough for horses in the back. The hitching post would be nice but not a must have.

The propane tanks, soda machine and air pump remain in the same place near the gas pumps. (sketch 2.2 in exhibit #1) The new loading dock would be 1 foot wider and longer than what is there now. All lights would be down lit LEDs and the lights over the fire escape would be focused on the door. Lights by the gas pumps would be aimed down and toward the building. He hopes to have the lights be motion and light sensitive. He says some of the employees have expressed a desire for lighting in the park to light the way to their cars at night; but that's for the future. Mr. Smith summarized by saying that the Board needs to consider a variance for the roofs over the loading dock doors, the new loading dock, the enlarged porch, and the handrail and hitching post. The Board needs to consider a conditional use permit for the repair, restoration, refurbishment, or reconstruction of the windows and doors. The select board has already approved the three foot wide loading dock and the roofs over the doors and gas pumps, pending approval from the DRB.

Ms. Woodruff then opened the meeting for questions or comments from the public.

Adam Froehlig stated that he and his wife support the project but they are worried about what will be found underneath the clapboards. He added that he personally likes the public notice boards where they are near the front door and thinks the front door itself should be replaced, not refurbished or restored.

The hearing ended at 7:47 and the Board went into deliberative session. They came back into public session to announce their decision at 8:55.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings

5.4 Conditional Uses

The Board considered the repair, restoration, refurbishment, and/or reconstruction of the windows mentioned in this application.

B) General standards

The proposed conditional use will not have an adverse effect on:

- 1. the capacity of existing or planned community facilities.*
- 2. the character of the area.*
- 3. traffic in the vicinity.*

4. *by-laws and ordinances presently in effect.*
5. *the utilization of renewable energy resources.*

The Board found that none of the requested repair, restoration, refurbishment, or reconstruction of the windows would have an adverse effect on any of these criteria.

C) Specific Standards:

1. *The lot must meet the minimum size required for the district unless other standards are given for conditional use lot size in the district.*
2. *Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.*
3. *Fencing/ landscaping may be required for commercial and industrial uses to provide screening if the Board deems it necessary to protect the character of the area.*
4. *Exterior signs shall not be internally lit and must be compatible in size, materials and workmanship to the area in which they are located.*
5. *The proposed structure is compatible with other structures in the area.*
6. *The proposed structure adheres to the uses allowed in the relevant district.*
7. *The proposed structure will not affect the noise or air pollution in the area.*

The Board found that the repair, restoration, refurbishment or reconstruction of the windows would not increase the non-conformity of this structure or the lot or setbacks. Any changes would be compatible with the area and uses in the Village District.

The Conditional Use permit was unanimously (8 - 0) approved for the repair, replacement, refurbishment, restoration or reconstruction of the effected windows.

The Board then considered the repair, restoration, refurbishment or construction of the doors mentioned in this application.

B) General standards

The proposed conditional use will not have an adverse effect on:

1. *the capacity of existing or planned community facilities.*
2. *the character of the area.*
3. *traffic in the vicinity.*
4. *by-laws and ordinances presently in effect.*
5. *the utilization of renewable energy resources.*

The Board found that none of the requested repair, replacement, refurbishment, restoration or construction of the doors would have an adverse effect on any of these criteria.

C) Specific Standards:

1. *The lot must meet the minimum size required for the district unless other standards are given for conditional use lot size in the district.*
2. *Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.*
3. *Fencing/ landscaping may be required for commercial and industrial uses to provide screening if the Board deems it necessary to protect the character of the area.*
4. *Exterior signs shall not be internally lit and must be compatible in size, materials and workmanship to the area in which they are located.*
5. *The proposed structure is compatible with other structures in the area.*
6. *The proposed structure adheres to the uses allowed in the relevant district.*
7. *The proposed structure will not affect the noise or air pollution in the area.*

The Board found that the repair, replacement, refurbishment, restoration, or construction of the doors would not increase the non-conformity of this structure or the lot or setbacks. Any changes would be compatible with the area and uses in the Village District.

The Conditional Use permit was unanimously (8 - 0) approved for the repair, replacement, refurbishment, restoration or construction of the doors mentioned in the application.

5.5 Variances

The select board reviewed the increased length and width of the loading dock, the addition of roofs over the loading dock doors, the enlargement of the porch and extension of the existing second floor landing to provide a roof above the gas pumps, and the railing and hitching post, all of which are in the setback of the road and/or the Greensboro Brook. The select board approved those projects, pending approval from the Development Review Board.

A) Variance Criteria

1. *There are unique physical circumstances of lot size or shape or other physical conditions peculiar to the property that make a variance necessary.*

This is a legal, pre-existing, non-conforming structure in the Greensboro Village District. Most of the structure (inside and out) is located within the road, brook and sideline setbacks (see sketch 1.1 in exhibit #1).

2. *Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Bylaws and authorization of a variance is necessary to enable the reasonable development of the property.*

Since the most of the structure is located within the road, brook and sideline setbacks, a variance is needed to do anything.

3. *The unnecessary hardship has not been created by the applicant.*

This is a legal, pre-existing, non-conforming structure. The hardship has not been created by the applicant.

4. *If authorized, the variance will not:*

- a) *alter the character of the neighborhood or district*
- b) *impair the use or development of adjacent property*
- c) *reduce access to renewable energy resources*
- d) *be detrimental to the public welfare*

None of the work requested will alter the character of the neighborhood, impair the development of adjacent property, or reduce access to renewable energy. The updates to the building will enable a better use of the property and provide a safer, access to and use of the property by the public.

5. *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.*

It seems that care has been taken to request the minimum variation from the existing structure and yet provide for better use of and greater safety for the people who shop or work there.

It is the Board's opinion that the handrail is a fence and the hitching post is equivalent to one fence post and therefore they do not have to be considered since fences are not regulated in the zoning bylaws. However, the Board did consider them and found that they fit the criteria (see the notes in the variance criteria above). The handrail was the minimum that would afford relief and provide a safer entrance for the public. The proposed hitching post would be in back of the structure and would not interfere with access to Perron Road.

The Board unanimously (8 - 0) approved a variance for the installation of a handrail and hitching post on or near the pre-existing, non-conforming structure.

The Board then considered alterations to the loading dock. The application proposed that the loading dock be enlarged 1 foot in width and the length extended to the area between the two loading dock doors on East Street.

The Board considered the 5 variance criteria and found that these alterations of the loading dock fit the criteria (see the notes in the variance criteria above). Keeping in mind that the select board already gave permission for this project pending approval from the DRB, the Board unanimously (8 - 0) approved the alterations to the length and width of the loading dock.

Finally, the Board considered the roofs over the two loading dock doors, the roof over the gas pumps, and the extension of the second floor porch. They found these alterations also fit the variance criteria (see the notes in the variance criteria above). Keeping in mind that the select board already gave permission for this project pending approval from the DRB, the Board unanimously (8 - 0) approved the roofs over the two loading docks, the roof over the gas pumps and the extension of the second floor porch.

Decision and Conditions

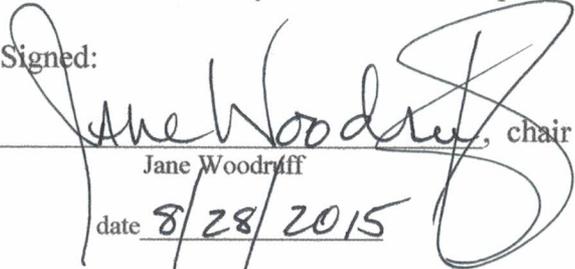
Based upon these findings, the Development Review Board voted unanimously (8 - 0) to approve the conditional use permits for the repair, replacement, refurbishment, restoration or construction of the doors and windows as presented in this application.

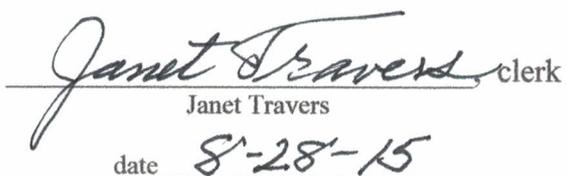
Based upon these findings the Development Review Board voted unanimously (8 - 0) to approve the variances requested for the railing and hitching post, the alterations to the loading dock, the roofs over the loading dock doors, the roof over the gas pumps and the extension of the second floor porch.

The board recognizes the need for outside lighting for safety and security and appreciates Mr. Hurst's efforts to install down-lit lighting focused toward the building.

Conditions:

All necessary state and federal permits must be in place before construction can begin.

Signed: 
Jane Woodruff, chair
Jane Woodruff
date 8/28/2015


Janet Travers, clerk
Janet Travers
date 8-28-15

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made 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.