

**TOWN OF WESTFORD
DEVELOPMENT REVIEW BOARD MINUTES**

Minutes for May 13, 2024.

Approved on June 10, 2024.

Board Members Present: Dennis Angiono, Bill Cleary, Francois Ross, Matt Wamsganz, Peter Armata, Jesse Labreque

Board Members Absent: Andrew Collier

Also Present: Harmony Cism (DRB Coordinator, Zoning Administrator), Callie Hamdy (Minute Clerk), Steve Plouff, Mickey Palmer, Matt Thomas, Jack Chase, Donna Buchanan, Kevin Buchanan, Sherri Buchanan,

The meeting began at 7:20 pm

Site Plan/Conditional Use Hearing – Underhill Rod & Gun Club Property; Applicant: Myron Palmer (approx. 113.25 acres) located off Buchanan Lane in the Rural 10 and Water Resource Overlay Zoning Districts. This is a proposal to construct a new accessory structure, upgrade drainage infrastructure, approve after-the-fact permitting of existing structures, and a request to vacate the December 25, 2005 ZBA Decision regarding the Club.

Bill disclosed that he is a member of the Underhill Rod & Gun Club. He felt he could operate without a conflict of interest. The board members did not have a problem with this.

They are requesting the permit for a cover for the five stand and shooting portion. It would be an enclosed building with a small storage area. The storage area is required by a grant the Club has received from VT Fish & Wildlife. They are also requesting permits for drainage of field one. There was also four storage areas near the parking lot and the safety area that separates the pistol range from the rifle range and a weather cover for the shooting bench. They are open all year round and people often want to shoot in all sorts of weather. The club services the local area and has also served as a training club for six different law enforcement agencies. Many of their buildings and practices predate Westford Zoning and Act 250 so they feel they are grandfathered.

They feel the hearing should be continued for a future date for legal reasons pertaining to some items that have come up pertaining to the items they feel are grandfathered. They are looking into that. It would be nice to proceed, but with all the current questions it leaves the Club open to being shut down.

Matt said that they had gotten the town attorney's opinion and they had also suggested continuing the hearing. Matt suggested still going through the staff report.

Matt went through the staff report.

Gun clubs are neither permitted nor a conditional use in town meaning the use is non-conforming. An owner may continue an existing non-conforming use indefinitely but will be subject to conditional use review. Alterations may not exceed 20% of the land area dedicated to the nonconforming use on the property as it existed on the effective date of the regulations (June 10, 2021). Matt referenced the 2005 decision from the Zoning Board of Adjustment which says that any development on the property will

require DRB conditional use and site plan review. Matt asked if this also applied to anything grandfathered. Harmony thought this was a gray area that we needed legal review on. The things they are asking for in the current application, besides the new five station structure, are for all things from 2005 to present to be permitted and for the 2005 decision to be rescinded. They feel it is a punitive decision. The DRB did not enforce, and the Club did things they did not apply for. They want to be up to date on permitting while still being able to keep the grandfathered uses and activities. Harmony explained that any non-conforming use, regardless of what activities it is, needs to come before the DRB for expansion/addition. In this way the Club is not being singled out. The Club asked if they were a commercial or residential operation. It is not a residence, so they are commercial, but are applying for non-profit status. Matt asked if there are any differences in our regulations for non-profit vs residential vs commercial? Harmony was not sure; non-profits are not mentioned in our regulations. Even if they were a non-profit the current consensus was that they are not a residential property, so they had to be evaluated as commercial.

Prior to 2004, hours were listed as Sunday 9-5, Tuesday & Thursday 3-8. Currently the hours are 9-dusk 7 days a week. Hours of operations will need to take into account performance standards, specifically those dealing with noise. Matt asked if the 7 days a week hours were approved anywhere or if it is grandfathered. The club noted it had been this way since the club's inception, the prior to 2004 hours had been taken from a withdrawn application where the hours were listed.

The applicants should verify all structures adhere to setbacks. One storage tank is currently within the setback. The Club had measured the structured and all other structures are 25 feet from the boundary line. The storage tank had been there over 40 years so is grandfathered.

The Club is accessed by Buchanan Lane, which is listed by Staff as a Private Road, however the road is owned by the Central Vermont Railway. The DRB should discuss if the road needs to be upgraded to minimum road standards. The Club does not own the road so Matt was not sure they could make them put turnouts in something they do not own. Dennis thought that the wording "private road" should be struck from the application/staff report. Matt asked if they have a legal right of way. The Club stated they have used the road for over 15 years, so it is adverse possession. Matt asked if the club has ever approached Central Vermont Railway in purchasing the area. The Buchanans had, but the company expresses absolutely no interest in selling it.

The wastewater permit allows 24 visitors per day, and while there is not a specific number of parking spaces required for non-conforming uses, private clubs are required to provide 0.33 spaces per maximum occupancy. They have 15 spaces. The Club has never experienced issues with parking. When they have had a registered shoot, even without their overflow parking they had plenty, even with vehicles that contained trailers.

Nonresidential development must provide 1 small off-street service space for trucks with overhead space and maneuvering area. The club already gets deliveries and they fit in the parking lot area no problem. Matt explained that this space needs to be identified on the site plan.

Sounds must not exceed 70 decibels between 7:30pm-7:30am. The sound is measured from the property line. The applicant and the DRB should discuss if the Club can conform with the criteria or if the Club's hours should change to meet this criteria after 7pm. The board discussed that the regulation seemed geared towards continuous noise, not necessarily the sound of gunshots. The Club read out a

state statute that dealt with noise. The Club does not allow automatic fire on their range. Matt asked if they were willing to have a conditional approval that they do not allow machine guns. Even though it is part of their rules already this would help the application. They allow up to 50bmg sound. That would be a threshold where that would be adverse to the neighbors. Francois thought it would be good to get an opinion on the lawyer about the statute and how it relates to our regulations that way there is no question. The Club had done decibel readings 4 years ago for skeet. It never got above the level of the rustling of the leaves in the trees during that testing. The Club also questioned if they were grandfathered because they had been in operation prior to these regulations on sounds. Francois still thought it needed to be in front of an attorney that way there is something on the books that covers both entities. Bill thought we either rely on an expert that knows about decibels or if there was a complaint the town would deal with it then. We do not have a clear way to enforce or determine decibel level as a town. The Club also wanted the town to ask if they are grandfathered. Harmony will look into questions with the town attorney. The Club thought any complainant should have to prove the decibels, not the Town or the Club. The Club was on a timeline because of the grant they were working with, to get things invoiced by June 30th.

The board proposed the 10th of June to continue the meeting. The Club asked for severability on the things the town could approve. Harmony again mentioned the 2005 decision. Bill thought if we can resolve the legal questions the rest can be resolved quickly. Matt was not sure we could approve them as a DRB if there were not the non-conforming items and the 2005 decision. That is something that could be permitted by Harmony in a normal situation. Because of this he feels they do not need to go through the structures one by one. What we do need to do is go through our legal process and he does not feel anything can be broken out and approved separately tonight.

Matt opened up the floor for any further discussion. Francois Motioned to continue the hearing until June 10, 2024 at 7pm at the Library. Dennis seconded. Motion passed 6-0.

Citizens to Be Heard, Announcements & Other Business

There were no other citizens to be heard.

Minutes

Francois motioned to approve the minutes of April 22, 2024 as presented. Dennis seconded. Motion passed 6-0.

Adjourned 8:30 p.m.

Submitted by,
Harmony Cism, DRB Coordinator

Callie Hamdy, Minute Clerk