

## CONDITIONAL USE Demolition & Retention of Non-Complying Allowances

<b>Owner &amp; Applicant:</b> Vestry Community Center Inc., c/o Rolf Kielman, P.O. Box 453, Hinesburg, VT 05461	<b>Property Address, Tax Map Number, Area &amp; Zoning District:</b> 10765 VT Route 116, 20-50-30.000, 0.065 Acres, Village Zoning District.
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**BACKGROUND** - The Applicant is requesting Development Review Board (DRB) conditional use approvals to demolish a principal structure in existence before 1940 as required in Section 5.22.3(1) of the Hinesburg Zoning Regulations (HZR) and to retain non-compliance allowances per Section 5.10.3(4) of the HZR for the Vestry building, which is located on a 2,836sf (0.065-acre) property at 10765 VT Route 116 in the Village Zoning District. The property is located next to the entrance and parking area for St. Jude’s Church and is in the municipal water and sewer service area. The property transferred from the United Church of Hinesburg to the Applicant on January 24, 2022.

The current principal structure is approximately 1500sf in size, covers much of the 0.065-acre property and was reportedly constructed in or about 1840. It has been used as a chapel, a vestry and a meeting place. A kitchen was added in 1910. More recently it was used for storage for several community groups, which previously included the Town’s Recreation Department and the Boy Scouts. The building is in very poor shape and needs a lot of remediation. The Applicant is still seeking funds for remediation of the property, including removal of the building, installation of a new foundation, and reconstruction of another building (possibly with some salvaged components of the original building). The cost to repair the structure as it stands would be extremely high and much greater than the economic benefit the structure could provide as a meeting place. The structure is in danger of collapsing, which is why the Applicant is proposing to remove the structure.

According to the past site plans submitted, the property is rectangular with a width of 28.6-feet and a depth of 99.5-feet. The existing structure meets the front and rear 10-foot-wide setbacks that is permitted per Table 1 in Section 2.4 of the HZR, but is only setback about 4.5-feet on the north side and has almost no setback on the south side. The maximum width of a structure on the property that would conform to the side-yard setbacks would be only 8.6-feet. This is why the Applicant is requesting to be able to retain non-compliance allowances per Section 5.10.3(4) of the HZR to be able to rebuild without needing to obtain a variance from the DRB. The property has a conforming lot coverage of 60%, which could be up to 75% according to Table 1.

The Applicant received a variance approval from the DRB on January 21, 2020 from Section 5.11 of the HZR, which prohibits development on a property with less than 1/8<sup>th</sup> an acre of land. This Approval has expired per Section 8.5 of the HZR, however new State legislation removes the prohibition of development on small properties located in municipal water and sewer service areas. The Applicant received site plan approval from the DRB for a community center on May 18, 2021, which has also expired per Section 8.5 of the HZR. With the exception of a single-dwelling or two-dwelling unit use, the Applicant will need to return to the DRB for a new site plan approval, should they choose to move forward with redevelopment of the site. Should the Applicant obtain conditional use approval to retain the non-compliance allowances, the approval

would expire within two years unless they obtain a zoning permit from the Zoning Administrator for a new structure prior to the expiration,

The application was submitted on April 23, 2024 and deemed complete on May 6, 2024. The Applicant submitted the application form (and hopefully the fee), and a narrative. Staff has added from the 2021 DRB approval the narrative that describes the setbacks, a site plan of just the Vestry property provided by the Applicant in 2021, a site plan showing the adjacent church, a location map and a site map from the Town GIS program. All submissions, which are part of the record are contained in the document file 20-50-30.000 in the Hinesburg Planning & Zoning office.

**Conditional Use Review – Non-complying structure replacement, Section 5.10.3(4)**

Unlike non-complying residential structures, when a non-complying non-residential structure is replaced, the non-compliance allowances are supposed to be eliminated. However, section 5.10.3(4) provides an exception via conditional use review, if the elimination of such allowances makes continued use of the property impossible. Technically, the Zoning Administrator is supposed to make a finding on this, but in this case, the extremely small size of the lot makes it clear that continued use of the property (i.e., with a structure of any sort) would be impossible if the existing, non-complying setback allowances were eliminated.

**Conditional Use Review – General, Section 4.2.2**

- 1) ***The capacity of existing or planned community facilities.*** – Removing and/or replacing a structure on this property should have no adverse effect on any community facilities.
- 2) ***The character of the area affected, and the essential character of the neighborhood or district in which the property is located.*** – Replacing the existing structure with a similar size structure would help maintain the character of the area. However, with only 28.6-feet of frontage, not replacing the structure will likely have a minor impact on the existing streetscape, and may not be noticed. Furthermore, Section 5.22.3(1) allows for historic building demolition without DRB approval, if the Zoning Administrator determines that the structure, “poses an imminent public health/safety threat.” It is evident that the Applicant has spent considerable time and energy trying to stabilize and save the structure. However, given the current condition, it could be reasonably argued that the structure still poses a public health/safety threat.
- 3) ***Traffic on the roads and highways in the vicinity.*** – The Applicant would be required to return to the DRB for site plan review at minimum, since the approved community center use and site plan have expired. This specific application should have no effect on traffic.
- 4) ***The Town Plan and bylaws in effect.*** – These applications should have no effect on the Town Plan and bylaws.
- 5) ***Utilization of renewable energy resources.*** – This development will not adversely affect the use of renewable energy resources.

- 6) ***The appropriate use or development of adjacent property.*** - These applications should have no effect on adjacent property, as long as the demolition does not spill over to the adjacent properties. The DRB may wish to increase the existing setback on the south side of the property to create some separation between a replacement structure and the south property line.
- 7) ***The public welfare in any other matter.*** – Removing and replacing a structure on this property should have no adverse effect on public welfare as long as any contaminants, such as asbestos are abated properly.

**STAFF COMMENTS** - The Applicant should recognize the time limitations to replace the existing structure as well as the additional approvals that will be needed (e.g., likely site plan approval, possibly conditional use depending the proposed use). The Applicant should discuss how any contaminants and/or debris from the demolition would be contained. The DRB will need to determine if the existing setback reduction should be maintained or modified. Although very small, the property is prominent along the streetscape. As such any approval should include conditions to protect public safety as well as proper interim and permanent site remediation. For example: removal of all structural materials, site regrading to address safety and drainage, site stabilization and ground cover planting.

Respectfully submitted,

Mitchel Cypes P.E.,  
Hinesburg Development Review Coordinator