

Town of Danville, Development Review Board
Permit 2024-11, Conditional Use-Waiver Hearing

Applicant: Martin J Beattie Ent, Inc. DBA Marty's First Stop

Site: UEO2-018.000, 421 Rt 2 East, Danville VT 05828

Zoning District: Rt-2 District.

Project Description: Expansion of existing grocery store from 12,585 sq. ft. to 22,877 sq. ft.
Reconfigure parking.

Warning: 18 March 2024 (Caledonia Record).

Hearing Date: 03 April 2024.

Development Review Board Members Present: Mickey Bullock, Brian Henderson (Chair), Terry Hoffer, Craig Morris, Wes Standish.

Development Review Board Members Absent: Bob Magro, Bruce Palmer, Larry Rossi.

Interested Parties Present: Rob Balivet, Lindsey and James Beattie (Applicant), Martin Beattie (Applicant), Garren Calkins, Rhonda Drew (Abutter), Chuck Gallager (Applicant's Agent), Dana Gray (Caledonia Record), Dennis Marquise (Zoning Administrator), Greg Prior, Chris Vance.

Correspondence from Interested Parties: None.

Disclosure of Conflict of Interest: Craig Morris is/has been employed by the Beattie's and recuses himself.

Disclosure of *Ex Parté* Communication: None by board.

Applicable Bylaws:

This application requires a review by the DRB under the following section of the Danville Bylaws:

Sec 304, page 18, Waivers

Sec 405, page 21, Off Street Parking

Sec 502.3, page 31, Conditional Use

Sec 513, page 44, Rt-2 District

Findings of Fact:

Applicant's response follows in bold italics.

304.2 General Conditions for a Waiver. The applicant must demonstrate for each requested waiver:

a) that the waiver, if authorized, shall not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the lawful use or development of adjacent property, reduce access to renewable energy sources, or be detrimental to the environment or public safety;

Applicants submit this request for a waiver, believing that our proposed facility expansion will not alter the "essential character of the neighborhood or district" in which we will continue to do business. While precisely articulating "the essential character" of an area can be difficult, Danville's zoning ordinance offers guidance stating that the Route 2 District includes "development along the eastern and western gateways to Danville Village (that) is compatible with the historic character and scale of the village and enhances the viability of existing village businesses." The ordinance also encourages that development within the Route 2 District should be "sited and designed so as to complement and enhance the visual character of the village core, to create a pedestrian-friendly environment that encourages walking from one business (and district) to the next, and to extend and replicate the efficient patterns of land use that are typical of the historic Village Core." Marty's was originally designed, and

has once been redesigned, to "fit in" with and "not alter" the essential character of the area. Our design goals for this proposed expansion remain the same. Further, we believe this proposed expansion will remain consistent with the "long-range intent of our zoning district's stated mission to attract a critical mass of local businesses and community facilities that, together, establish Danville Village as a "full service" village that provides for the daily needs of its residents within easy walking distance of most of the village's residential neighborhoods." This is our goal too.

b) that the waiver, if authorized, will represent the minimum waiver necessary to afford relief and will represent the least deviation possible from these bylaws and the goals and recommendations of the Danville Town Plan.

Customer demand for the services Marty's 1st Stop provides grows every year. In our busiest moments, it is not unusual to feel like we can't fit another person in the store. Among owners and staff who share tight quarters in all our workstations, there has been a growing awareness that we have been on the verge of "busting at the seams".

When we began weighing options as to how best to keep pace with growing demand, we first explored reconfiguration of the existing footprint that could accommodate upgrades to heating/cooling and refrigeration systems. In considering the need to create more efficient work areas for staff, as well as a better shopping experience for customers, it was difficult to see how fixing one problem did not create another.

Accomplishing all our goals within the existing footprint felt like wishful thinking. At the suggestion of our Associated Grocers of New England advisors, we hired a market analysis group (WGS Consulting LLC) to help quantify where we are in terms of demand and delivery of services. The significant finding of the WGS Analysis confirmed what we were feeling. We are, in fact, "busting at the seams".

The principal measure of operational strain considers the "weekly sales per square foot average". According to Bill Snow who conducted and published the market study, brick and mortar grocery stores with average weekly sales of around \$10.00 per square foot should start considering operational/layout/footprint adjustments, particularly in cases where the strain on customers and employees is already apparent.

The study determined that Marty's 1st Stop is already over a weekly sales average of \$15.00 per square foot. Even if Marty's stopped growing today and our only challenge was to adequately accommodate the demand for services we face today, we would need to expand. However, we know that demand for the services we provide to Danville and our expanding region will grow and planning for continued growth seems prudent. There is a growing awareness of the economic, environmental, lifestyle and recreational advantages of our region.

In the face of our ongoing operational experience and the new information gained through our recent market study, we have concluded that we either grow our service capacity or risk the very customer and employee experience that fuels success.

We feel strongly that the proposed facility expansion is needed and timely. We also believe the expansion will serve our community, our customers and our employees well.

405.1 Off-street parking shall be provided as follows:

a) All required parking spaces shall have a minimum width of 9 feet, a minimum length of 18 feet, unobstructed access and maneuvering room, and a gravel or paved surface sufficient for year-round use. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 300 square feet per space; Off-street parking requirements will be met, however, only when the required number of spaces meeting these dimensions are provided and maintained, in a manner appropriate to the circumstances of the case, in accordance with all bylaws and regulations of the Town.

c) Spaces for persons with disabilities, to be included in the total number of required parking spaces under (b), shall be provided in accordance with American with Disabilities Act (ADA) design guidelines. Accessible parking spaces shall be located nearest to the principal accessible entrance and be clearly marked and signed.

d) All off-street parking areas in excess of 10 parking spaces shall incorporate landscaped areas which, at minimum, equal 10% of the total parking area (30 square feet per space), unless otherwise approved by the Development Review Board due to physical site or access constraints. Landscaped areas shall be integrated into parking lot and storm water management design and shall be regularly maintained.

Parking will be increased from 44 spaces to 70. 33 of those existing spaces will be saved and 37 new spaces added. This includes 4 ADA parking spots and 2 spots for compact cars only. 1 parking space for every 300 sq feet of retail (grocery store) space is required

(20,877/300=70). No new impervious surface is being added to the site to accommodate additional parking. Per the bylaws, landscaping will need to be added to the parking area.

Sec 502.3 *Conditional uses are those uses that may be allowed by the Development Review Board as provided for in 24 VSA §4414 after public notice and hearing. In order for the permit to be granted the DRB must find that the proposed use is in conformance with the specific standards for the district in which it is located, and it shall not adversely affect:*

- a) *The capacity of existing or planned community facilities,
The project is a facility expansion and not a new project/development. As such, impacts on community facilities and services are already being accommodated within the community services network. We do not anticipate such a significant increase in our demand for services such that they cannot continue to be accommodated by the town.*
- b) *The character of the area affected as defined by the purpose of the zoning district within which the project is located, and specifically stated policies and standards of the plan,
Marty's was originally designed, and has once been redesigned, to "fit in" with and "not alter" the essential character of the area. Our design goals for this proposed expansion remain the same.*

Further, we believe this proposed expansion will remain consistent with the long-range intent of our zoning district's stated mission to attract a critical mass of local businesses and community facilities that, together, establish Danville Village as a "full service" village that provides for the daily needs of its residents within easy walking distance of most of the village's residential neighborhoods."

- c) *Traffic on roads and highways in the vicinity,
We will not proceed with construction without a project "sign off" from VTrans. Should VTrans request that we provide an updated trip generation analysis, a copy of that analysis will be provided to the town.*

Our Route 2 access, site distances and traffic volume are all in good shape. Route 2, by all measures, can absorb the increase in traffic resulting from the increase in building square footage.

Pedestrian access from Village to Marty's continues via the existing sidewalk.

- d) *Bylaws and ordinances then in effect,
The proposed project is in keeping with the Town Bylaws and Ordinances except for the Waiver Request (presented herein) for the increase in our building footprint.*
- e) *The utilization of renewable energy resources.
The proposed project will not inhibit the use, or access to, the utilization of renewable energy resources.*

Sec 513.2, Rt-2 District.

Sec 513.4, District Standards.

- d. *Maximum Building Footprint for Mixed Uses. In no case shall the total combined footprint of all principal buildings in a "mixed use" development on a single lot in this district exceed the maximum allowed square footage for the use on the property with the highest individual limit. (Example: a mixed-use project that included a Grocery Store and a Retail Store would have a maximum gross floor area of 20,000 square feet (15,000 plus 5,000), but a maximum building footprint of 15,000 square feet.) If none of the uses included in a "mixed use" development have a specified maximum square footage, the total combined footprint of all principal buildings shall not exceed 5,000 square feet.*

The applicant seeks a waiver of this requirement for a building footprint of 22,877 square feet, vs 15,000 square feet.

- e. *Maximum Impervious Area. The total amount of required parking shall be determined based on the table provided in section 411 of this bylaw, as modified by section 6 below. However, in no case shall the total at-grade impervious area on a single lot (including but not limited to parking, loading areas, walkways, and patios, but excluding building roofs) exceed 15,000 square feet. If the required amount of parking plus other impervious surfaces as shown on the site plan together exceed this ceiling, the applicant shall work with the Development Review Board to implement one or more of the following strategies:*

The site plan indicates a lot size of 3.87 acres, more or less, with an existing impervious area of 1.93 acres, or 84,070 square feet, well above the 15,000 square foot limit above.

It is unclear if the roof area was deducted from the impermeable area calculation on the site plan.

Applicant's Statement: *Marty's 1st Stop is applying to the Town of Danville for a zoning permit that would, if granted, allow expansion to both the size of the present facility and the area dedicated to parking. Our application includes a waiver request to Section 513.3(c) for "maximum allowed building footprint" for a "grocery store"*

(15,000 sq ft). Our proposed project seeks to expand our existing store to better meet customer, employee and community needs. The project also proposes an increase in parking. All the proposed improvements are planned to be accommodated on the same lot that hosts our existing business and within the limits of existing developed areas (no increase in impervious surfaces).

Summary of Discussion:

As there is a comprehensive narrative attached to the initial application, which all the board members acknowledged reading, the Chair asked Chuck Gallagher for a brief summary. He elaborated on the crowded conditions in the store at certain times and the difficulties for the employees to complete their tasks due to limited space. It was generally understood by all familiar with the store that an expansion of the space would be beneficial.

Martin noted that the Danville DRB was the first step in the process, with further permitting required for Act-250, VTRANS approval, wetlands review, stormwater discharge, and others. The project details are not final, pending other approvals and accommodations. He noted that exterior lighting falls under Act-250. Green Mt Power is involved in the existing or expanded EV charging area. RL Vallee, the fuel vendor, is contributing to the parking layout. The fuel island will have increased video surveillance and added voice controls as the cashier station will be moved farther away and out of the line of sight. The pumps may switch to “pay at the pump” only. Martin Beattie noted that the new store would not have a café or inside seating area, while the outside tables would remain.

Parking was the discussion point. The Chair noted that there are many trucks with trailers parked in the lot for the VAST trail. Martin noted that he occasionally plows the lower lot for winter parking. The VAST season is becoming shorter and more erratic, so future trailer parking issues may change. A portion of the parking area is occasionally used for non-store related parking, such as VAST trail, trash pick-up, and semi-truck parking. These other-use spots will have to be considered or relocated. Generally, the semi parking falls outside of business hours.

Water and sewer usage was discussed. As the building will likely require sprinklers, a 6” main will be required, which will require a review by the Danville Fire District. As the Danville Wastewater Facility is approaching capacity, the Selectboard will need to review the new flow.

The Lamoille Valley Rail Trail is a huge asset to the town in both winter and summer. A crosswalk across Rt-2 would be beneficial but is only permissible in a 35-mph zone, and Rt-2 is 40 at that location. This has been presented to VTRANS for consideration as part of their traffic review.

Greg Prior requested to speak. His concern was about granting waivers and setting a precedent for future expansions. It was noted that no precedent is set as each case is reviewed individually. The square foot limit in the bylaws was described as originating decades ago and created to limit big-box stores in town. His other concern was the renovated Train Station at the south entrance to town, also on the LVRT. This town-owned building will have a very small convenience store for refreshments. Greg also inquired about increased light pollution from the parking lot. Martin noted that they did not plan to change the lighting and it is ultimately dictated by Act-250.

Rhonda Drew, abutter and trustee with Everett Drew, also inquired about a precedent set for building size. She was concerned how this would limit development of their adjacent parcel. The Chair again explained that each permit is considered individually and that there is no precedent. The zoning bylaws are also currently undergoing updating/modernizing, so requirements will change. She commented that much of the existing Marty’s is built directly on the property line with no setbacks. It was noted that the store was built decades ago when there may have been no setback requirements or were created after the building existed.

Chris Vance commended Marty’s for being one of the few remaining small independent grocery

operations with a strong local connection. He travels across the state as a retail representative and notes that most similar operations are operated by large, distant corporations.

The Public Hearing was closed, and the Board entered private Deliberative Session.

Decision and Conditions:

After deliberations were concluded, Terry Hoffer motioned to approve a conditional use permit for the expansion of the store and a waiver for the increased square footage, with the following conditions:

1. The applicants will obtain all necessary State approvals and permits.
2. The Danville Selectboard will approve the increased wastewater requirements vs capacity.
3. The Danville Fire District will approve the increased water requirements.
4. The applicants will submit a professionally prepared parking, traffic, and pedestrian flow plan within 90 days to the DRB for their final approval. This plan will address the following:
 - a) Landscaping enhancements as required per Zoning Bylaw 405.1, especially part *d*.
 - b) On site traffic flow to ensure pedestrian safety.
 - c) Directional signage and pavement markings with a crosswalk or pedestrian lane at the store entrance.
 - d) Enhanced lighting, to comply with Act-250 requirements, in the unlit parking areas of the lot.

The motion was seconded by Wes Standish. The Chair called the question and Mickey Bullock, Brian Henderson, Terry Hoffer, and Wes Standish unanimously approved the motion. With four affirmative votes for the seven-member board, the motion passed.

An approved permit will be issued once the above conditions are met and the 30-day appeal period has passed, pending any appeals.

Signed:

Brian F Henderson

Brian Henderson, Chair, Danville Development Review Board

Date of Decision: 03 April 2024

Final Appeal Date: 03 May 202

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings (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.