

Fair Haven Planning Commission
Town of Fair Haven - October 2, 2024 - Regular Meeting

Commissioners Present: Robert Richards - Chair, Patrick Frazier, Linda Sienkiewicz

Commissioners Absent: Jason Coupal - Vicechair, Cindy Pritchard

Others Present: Phil Adams - Zoning Administrator, Jennifer Jackson - Minute taker, Bill Heffernan- applicant, Barbara Corbiey, Paul Corbiey

Agenda

1. **Call to Order:** The meeting was called to order at 7:04 pm by Chairman Richards.

2. **Review of Minutes of Previous Meeting:**

Approval of Minutes: Regular meeting - September 4, 2024

September 18, 2024 Canceled

Mrs. Sienkiewicz **motioned to accept the minutes from the September 4th meeting as written.** Mr. Frazier seconded the motion, but made note that he was not in attendance. All were in favor and the motion passed.

Chairman Richards noted from the agenda that the September 18th meeting was canceled due to lack of attendance.

3. **New Business:**

Bill Heffernan representing Champlain Valley Fuels, Inc. - Application #2024-034 for approval of the expansion/extension of the Non-Conforming Use of the existing Bulk Fuel Storage Depot by the addition of a 10,000 gallon containment tank with retail pumps for the retail sale of clear diesel to existing fuel customers, haulers of Champlain Valley Fuels and for fueling Champlain Valley Fuel, trucks. The containment tank has been installed in the existing, three-sided shed. Location: 96 Academy Street. Fair Haven Tax Map #26-01-39-02.

Chairman Richards asked ZA Adams to start off the discussion of the application. ZA Adams received a complaint from Mr. Corbiey about the tanks at Champlain Valley Fuels saying there was an additional tank at the property. ZA Adams sent a letter to Mr. Heffernan asking for a permit application. ZA Adams researched the property and the non-conforming use in the district and only found two permits on record. One for a temporary office trailer and the other for reconstruction of an existing tank. He has no record of when the tank farm was constructed. The property and business is now considered a Non-conforming use and needs to go through the Planning Commission for permits. Mr. Heffernan and ZA Adams spoke together about the zoning and Mr. Heffernan completed an application for the tanks that were already installed.

Mr. Heffernan stated he has been trying very hard to make things legal with the property. The one tank with retail sales prior to the last meeting was selling to commercial customers as well as filling their own tankers from tanks on their property. Chairman Richards asked if Mr. Heffernan still wanted to add another tank. Mr. Heffernan stated that when the 10,000 gallon tank was illegally added a 3,000 gallon tank was removed. He currently only wants to be filling his own trucks, but there is one company he is having trouble stopping from purchasing fuel.

Mr. Corbiey states that there is a truck that he notices exiting the neighborhood that he isn't sure how it comes in. He also is concerned about the containment of the tank. Mr.

Heffernan stated that the tank is in the building and it has a 110% containment. He also stated that if he isn't selling commercial fuel then he doesn't see the need for a 10,000 gallon tank. He will sell it. Mr. Corbiey states his agreement with Mr. Heffernans ideas. He also assumes people do not realize there are such large fuel tanks in the area. Mr. Heffernan states that there is an 85,000 gallon tank just over the bank and that there already has been a large spill off Academy Street not too long ago.

Mr. Corbiey stated his belief that "if you see something, say something."

Mr. Heffernan with his tanks up until July 1 of this year they had been inspected every three years, now they are to be inspected every 4 years. Mr. Corbiey stated that he is concerned with adding a new tank, he is concerned about all the environmental and health concerns. He believes that if there is no retail sales then the larger tank isn't needed.

Mr Richards interrupted for a moment to summarize for the members that weren't in attendance at the last meeting. He informed them that after the realization that the meeting couldn't be held because of lack of people there was an informal discussion. In that discussion Mr. Heffernan listened to the concerns and stated that he would stop selling retail fuel. Mrs. Sienkiewicz asked if he still was. Mr. Heffernan stated yes and no. He is still selling to the trucks that deliver fuel to him if they need to fill up after depositing the fuel. Mr. Corbiey stated he is totally ok with Mr. Heffernan's business. Mrs. Corbiey stated that trucks should NOT be filling up in the middle of the night. That they are waking her up. Mr. Heffernan stated his trucks are automatic. That the earliest his trucks could be pumping is 5 am and the latest is 9 pm. He stated there is another business in the area with trucks that could be using the streets. Mr. Richards asked how that business is zoned and with inspection possibilities there are. ZA Adams stated there is another non-conforming use business that is a repair shop. It's been there for years. Zoning only has inspection rights after a permit has been issued. Chairman Richards stated that maybe another complaint needs to be made to the repair business from the Corbieys. Mr. Corbiey stated he is fine with Mr. Heffernan's business and is glad they have found some clarification and information to the puzzle. Mrs. Corbiey reminded them that they live in a residential area. Mr. Richards stated that permits haven't always been required, people could do with their property as they chose, how we have come to have non-conforming uses. But now the PC must deal with the application on hand. He states that he is understanding that through this discussion and with the decrease in retail sales the Corbieys are comfortable with how things are going. ZA Adams stated the approval can be conditioned, and he recommends one. Chairman Richards stated maybe an amendment for the decrease in tank size. Mr. Corbiey was happy with the process. ZA Adams asked if a new tank would have the same containment. Mr. Heffernan stated yes, as it is a state requirement.

Chairman Richards suggested the Description of work on the application be reworded to say " 1-3,000 gallon containment tank with limited retail pumps for retail sales of clear diesel to existing fuel haulers of Champlain Valley Fuels. Also for fueling Champlain Valley Fuel trucks." ZA Adams recommended a condition. Chairman Richards suggested a condition of not permitting for general retail sales. Chairman Richards asked if the PC was fine with the condition. The other members were, but Mr. Frazier had a question; how often can the existing sheds be inspected? Chairman Richards stated they have no building codes. ZA Adams stated there would be a final inspection when this permit is complete. Chairman Richards called for a motion. Mrs. Sienkiewicz **motioned** at 7:38 pm **to approve a 1-3,000 gallon containment**

tank with limited retail pumps for retail sales of clear diesel to existing fuel haulers of Champlain Valley Fuels. Also for fueling Champlain Valley Fuel trucks. With the condition that the retail sales of clear diesel fuel from the new tank shall be strictly limited to the haulers of Champlain Valley Fuels and to Champlain Valley Fuel trucks.

The motion was seconded by Mr. Frazier. Chairman Richards asked if Mr. Heffernan was ok with the change in the application. He replied in the affirmative. All were in favor and the motion passed. Chairman Richards stated he appreciated everyone's agreeability. At 7:40 pm the Corbiets thanks everyone for their time and along with Mr. Heffernan they left.

Planning Commission Budget - FY 2026

Discussion was tabled until the next meeting as there was no copy of the budget available for review.

Continue discussion of the Downtown Designation for Fair Haven

Chairman Richards wanted the Planning Commission to know that they were awarded the grant that was discussed with Logan Solomon and Rutland Regional Planning Commission at the meeting of September September 4th. The grant is through the Vermont Department of Housing and Community Development. With the grant RRPC will be able to assist Fair Haven in acquiring a Neighborhood Development Area (NDA) designation, which comes with significant [benefits](https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/CD/CPR/State-Designation-Programs/CPR-NDA-Annual-Report.pdf) (https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/CD/CPR/State-Designation-Programs/CPR-NDA-Annual-Report.pdf) to both developers and municipalities within the designation's boundaries.

Chairman Richards let the PC know that he will be meeting with Mr. Solomon next week and will ask about the exact budget and what RRPC charges per hour. ZA Adams asked if there is any other need for money in the process. Chairman Richards was not sure, but the Downtown Designation Application Guidelines handout is pretty easy to follow. He did mention he brought up the application and the process with the Selectboard and they were all ok with the process.

4. Other Business:

a. Review of Mail: None

b. Public Comment:

Chairman Richards had many additions for the agenda for the next meeting. He will speak with ZA Adams about the adjustments as needed. ZA Adams stated there was an application on the next agenda and asked if it should still be there or moved. Chair Richards asked to keep the application on the agenda, but have it first. ZA Adams asked about the inclusion of Budget Discussion. Chair Richards stated to put it after the Applicant. Then ZA Adams asked if L. Solomon is able to come to the meeting if he should go last. Chair Richards agreed and said he would confirm with ZA Adams.

5. Adjournment:

Mr. Frazier **motioned to adjourn the meeting at 7:57 pm.** Mrs. Sienkiewicz seconded the motion. All were in favor and the motion passed.

Respectfully Submitted,
Jennifer Jackson, Minute-taker

**** Next Regular Meeting****
October 16, 2024