

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED April 2, 2024**

APPLICANT

Name: Pest Pro
Address: PO Box 609, South Hero, VT 05486

LANDOWNER

Name: Quackenbush Properties

APPLICATION

Type: Site Plan Amendment

Number: 24-45-RT238

PROPERTY

Location: 238 US RT 2

Hearing Date: February 28, 2024

Jon Quackenbush, owner of Pest Pro, submitted an application on February 2, 2024, requesting an amendment to his site plan to allow for an expansion of Pest Pro’s parking lot at 238 US RT 2. The application was in response to a summer 2023 Notice of Violation that was upheld by the DRB upon appeal in October. Per Section 805 of the South Hero Development Regulations, a warning for the public hearing for the site plan amendment appeared in the February 7, 2024 issue of the Islander and was posted in the Town Office, the Post Office, and the Town Library, and abutters to the property were notified. The hearing was held on February 28, 2024. Jeff Sikora presented the application on behalf of the Applicant. A list of those attending and participating in the hearings is included in the minutes.

During the course of the hearing, the following exhibits were submitted:

- Town of South Hero Development Regulations, effective September 13, 2021
- Site plan review application, dated December 26, 2023; rec’d Feb. 2, 2024.
- Site Plan, dated Feb. 2, 2024, by Jeff Sikora.
- Planning Commission Site Plan decision, dated December 17, 2014.
- Site Plan titled “Pest Pro” by David Tudhope, dated September 26, 2014.
- Zoning Board of Adjustment conditional use decision, dated December 22, 2014.
- State of Vermont Superior Court Environmental Division decision, dated October 9, 2015.

- Warning Ad, Abutters’ Notice, and Hearing Letter for February 28, 2024 DRB hearing.
- Staff report by Zoning Administrator for February 28, 2024 hearing.
- Minutes from the February 28, 2024 DRB hearing.

Based on the application, supporting documents, and testimony of Jeff Sikora, **the Development Review Board makes the following Findings and enters the following decision:**

Findings:

1. Pest Pro is located at 238 US RT 2, an 8.4-acre property in the South Hero Village zoning district.
2. The Applicant received Conditional Use approval from the Zoning Board of Adjustment in a decision dated December 22, 2014.
3. The matter was heard jointly with the Planning Commission, and the Applicant received Site Plan approval in a decision by the Planning Commission dated December 17, 2014.
4. The 2014 Site Plan Approval and Conditional Use Approvals were appealed to the Vermont Superior Court, Environmental Division.
5. An October 2015 Environmental Court judgment reduced the number of parking spaces from nine to eight. Except for parking, the judgment stipulated that all other conditions of the site plan approval and conditional use approval shall remain in effect.
6. In July 2023, the Applicant enlarged the parking lot to accommodate additional vehicles without an application to amend the original Site Plan approval. Condition #4 of the December 17, 2014 Site Plan decision says “Any change of use or to the Site Plans as presented shall require re-submission for conditional use/Site Plan approval...”. Consequently, a notice of violation was issued.
7. To cure the violation, the Applicant came back before the Development Review Board with an amended site plan which was heard in a February 28, 2024 hearing.

Conclusions of Law:

- A. The 2014 ZBA and Planning Commission applications were reviewed and approved under the 2013 Development Regulations, which required conditional use and site plan review for professional services.
- B. Pest Pro is now in the South Hero Village zoning district, which was created by the March 2020 Development Regulations. Professional services are permitted and require only site plan review, per Table 2.1 (Allowed Uses).

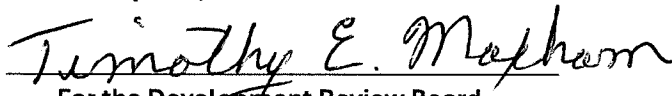
Decision:

Due to the Environmental Court Judgment and based on the advice of counsel, the Board must deny the permit. If the Applicant obtains appropriate relief from the Judgment through the Environmental Court, then the DRB can reconsider the permit application.

On April 2, 2024, G. Hunt moved to approve the application, with the findings of fact listed: D. Patterson second. The board voted as follows: T. Maxham - Deny; D. Patterson – Deny; L. Kilcoyne - Deny; M. Welch - Deny; G. Hunt - Deny; E. Reid - Deny, and J. Brightwell - Deny.

A quorum of the Board voted to deny the application.

Dated: April 2, 2024


For the Development Review Board

APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division) within 30 days of the date the decision was issued, pursuant to 10 V.S.A. Chapter 220. The Notice of Appeal must comply with the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must file with the Notice of Appeal the entry fee required by 32 V.S.A. §1431 and the 5% surcharge required by 32 V.S.A. §1434a(a). A copy of this appeal must be filed with the Zoning Administrator or the Town Clerk within thirty (30) days from the date of issuance.