

**TOWN OF SOUTH HERO, VERMONT
DEVELOPMENT REVIEW BOARD
DECISION DATED July 24, 2024**

APPLICANT

Name: Steve Nedde/Seb's Snack Bar
Address: 295 US RT 2, South Hero, VT 05486

LANDOWNER

Name: Tappan South Hero, LLC

APPLICATION

Type: Conditional Use and Site Plan review for an Added Use – Family Movie Nights

Number: 24-90-RT295

PROPERTY

Location: 25 US RT 2

Hearing Date: July 10, 2024

Steve Nedde, representing Tappan South Hero/Seb's, submitted an application on June 12, 2024 requesting a conditional use and site plan review to add outdoor family movie nights on the lawn at Seb's, 275 US RT 2. Per Section 805 of the 2021 amended South Hero Development Regulations, a warning for the public hearing appeared in the June 13, 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 July 10, 2024. 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 January 1, 2024.
- Site Plan titled "Seb's Snack Bar" by Krebs and Lansing, project #18264, page C-1, dated Feb. 22, 2019 (used for original 2019 Site Plan approval).
- Base Drawing – View 2 by JRMA Design Studio, date February 2, 2019 (used for original 2019 Site Plan Review).
- DRB decision #19-39-RT298, date March 13, 2019.
- Warning Ad, Abutters' Notice, and Hearing Letter for July 10, 2024 DRB hearing.
- Staff report by Zoning Administrator for July 10, 2024 hearing.

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

Findings:

1. Steve Nedde is the general manager of Seb's Snack Bar and Viva Marketplace, at the intersection of RT 2 and South St. The property is owned by Tappan South Hero, LLC and is in the South Hero Village zoning district.
2. The business received conditional use and site plan approval by the Development Review Board on March 13, 2019 to add an escape room to the business and to reconfigure the parking lot.
3. The Applicant is asking for approval to add outdoor family-friendly movie nights on the lawn on the west side of the property, between the building and South St. There will be no charge for the public to attend.
4. The application is asking for initial approval to host 3 movie nights this summer (2024) and, if successful, to expand it to up to 8 nights thereafter. The movie nights will be during the months of June, July, and August.
5. The snack bar windows close at 9PM and the movie will start shortly after that. The current closing time is 10PM, allowing enough time for the employees to finish up their closing routine. Mr. Nedde is asking the Board to extend that time to 11PM on movie nights. Some of the movies may last as much as an hour and a half. Pushing back the closing time will allow customers to be on the property past the 10PM deadline. The snack bar will not be open during the movie.
6. A temporary movie screen will be set up in front of the trees at the south end of the lawn. Those watching the movie will be in the area between the screen and apple trees at the center of the lawn area. The seating will be either at picnic tables or people can bring their own lawn chairs or blankets.
7. Speakers will be directed at the seating area and will be low enough not to allow sound to travel to surrounding homes on RT 2 and South St.
8. Port-o-lets are located at the back of the west wing of the snack bar, across the driveway from the lawn area. The area is well lit.
9. Since Seb's will be closed, the existing parking lot at Seb's/Viva Marketplace will be available. The bank has given permission for overflow parking.
10. Rebecca Weaver (9 South St.) asked if cars leaving after the movie exit to RT 2 rather than by the South St. access, to reduce noise and headlight glare for the homes nearby on South St.

The site plan was deemed complete, and Chair T. Maxham closed the hearing on July 10, 2024.

Conclusions of Law:

- A. Per Table 2.1 (Allowed Uses), accessory uses in the South Hero Village Zoning District require conditional use and site plan review.
- B. Per Sec. 302.D.2, the proposal, as related to the purpose of the South Hero Village Zoning District (Sec. 203 – "...places for the community to gather for social and cultural events;..."), will have no impact on the character of the neighborhood area.

- C. Per Figure 3.2, no Undue Adverse Effect will be created on the resource in question. The project does not have an unfavorable impact on Seb's/Viva Marketplace. Efforts have been proposed to mitigate impact on nearby residences.
- D. The application meets the requirements of Table 3.2 (Final Site Plan Requirements) and Sec. 302.D (Final Site Plan Review).

On July 24, 2024, J. Brightwell moved to approve the application, with the findings of fact listed and with the following Conditions; M. Welch second. Whereas Final Approval was granted to the application with Conditions, with the following people voting in the affirmative: T. Maxham; L. Kilcoyne; M. Welch; N. Hayward; Tim Mullen; and James Brightwell.

Conditions:

1. Applicants shall comply with all evidence as presented at the hearing or as amended by this decision.
2. No alcohol or other controlled substances will be allowed on the property during movie nights.
3. Cones or barriers will be placed to prevent cars from leaving by the South St. access or to be in the area of the port-o-lets.
4. The Applicant will meet with the Board after the first season to assess the successful operation of the event
5. All activity on the property shall be concluded by 11PM on movie nights.
6. It will be the Applicants' responsibility to obtain all required State permits and submit copies to the Zoning Administrator.
7. The Town of South Hero's responsibilities are limited to ensuring compliance with the approvals and permits issued by the Town of South Hero. The Town accepts no responsibility for compliance with the conditions of any permits or approvals issued by any other entity. The Town of South Hero will not be liable for the failure of the applicants to carry out their duties and responsibilities.

Dated: July 24, 2024


For the Development Review Board

APPEAL RIGHTS

Any appeal of this decision must be filed with the Superior Court, Environmental Division (located at 2418 Airport Road, Suite 1, Barre, VT 05641-8701) 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), which is \$262.50 as of January 2011. 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.

