

# ZONING BOARD OF ADJUSTMENT

## STAFF REPORT

NOVEMBER 7, 2019

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5 Proposal: The applicants are proposing to operate an 'Equipment, Sales and Rental' business  
6 located at 74 Upper Main Street.

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8 History: The property was originally used for the sales, service, and rental of recreational  
9 vehicles. The Ehlers operated trade-ins towards the purchase of an RV; A gas  
10 station has been on the premises from the beginning of the business. A number of  
11 tenants have occupied space through-out the years, such as auto repairs; office  
12 spaces; small engine repairs; dry storage; boat/vehicle storage; health/fitness, etc.  
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### PROPOSED FINDINGS:

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16 1) The landowner is Ehlerville, LLC, Deb Ehler Holland, Agent. The property is located at 74  
17 Upper Main Street, Essex Town, Chittenden County, and State of Vermont.  
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19 2) This is a 13.56-acre lot with 223.30 feet of frontage. The landowner owns the abutting 3.19-acre  
20 lot, known as 76 Upper Main. The combined frontage of both lots is 434.70 feet. The parcel is  
21 served by town water and private sewer. The property is located in the Mixed Use  
22 Development-Planned Unit Development (MXD-PUD), Subzone Retail-Business (B1) and in  
23 the Business Design Control (B-DC) Overlay District. It is a conforming lot, however an  
24 existing automobile service station and convenience store exists on the premises as a  
25 grandfathered use.  
26  
27 3) The applicant submitted an application to operate 'Equipment, Sales, Rental, or Repair', which is  
28 defined as follows:  
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30 *Equipment Sales, Rental, or Repair: Any lot or area of land, including the building or*  
31 *buildings thereon, which is used primarily for the sale or rental of equipment, tools, etc., not*  
32 *including motor vehicles, and including any ancillary service, repair or office facilities*  
33 *associated with the sale or rental of equipment.*  
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- 35 4) The proposal includes using approximately 7,500 s.f. of the existing building (previously  
36 occupied by Fit2Excel); outside display of equipment within the previously utilized "Display"  
37 areas to the west and south of the building; a 30' x 50' fenced area to protect small equipment  
38 from theft; an earthen ramp near the northwest corner of the paved area to allow for tractor  
39 unloading and an additional screened dumpster area (as the existing screened dumpster area is  
40 being fully utilized by Maplefields.)  
41 The remainder of the building houses an easternmost bay, which continues to be utilized by the  
42 Ehlers; a Maplefields and a deli.  
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**ZBA Staff Report  
Ehlerville, LLC  
November 7, 2019**

- 44 5) The applicant submitted the following plan:  
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46 “Ehlerville, LLC 74 Upper Main Street Essex, VT Site Plan”, as drawn by O’Leary-Burke  
47 Civil Associates, PLC and dated 10/07/19.  
48
- 49 6) The application is being reviewed under the *Town of Essex Outside the Village of Essex*  
50 *Junction Official Zoning Regulations, Article V, Section 5.7 Conditional Use.*  
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- 52 7) At its 10/24/19 Planning Commission (PC) meeting, the Zoning Administrator informed the PC  
53 of this application and the plan to resurrect the outside display in the area (including minor  
54 improvements) previously used by Ehler RV Sales and Service. The PC agreed that a site plan  
55 review was not necessary.  
56
- 57 8) Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the  
58 property.  
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- 60 9) The abutting property owners were notified of this meeting by certified mail.  
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- 62 10) The applicants were mailed a copy of this Staff Report prior to the meeting.  
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- 64 11) David Burke and Casey Mathieu spoke on behalf of this application. No one from the public  
65 commented on this application OR \_\_\_\_\_ provided the following comments on  
66 this application.  
67
- 68 12) In an email dated 10/15/19, the Recreation Director said, *Recreation has no issues with this*  
69 *conditional use.*  
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- 71 13) In an email dated 10/18/2012, Public Works said,  
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73 *Public Works has reviewed the proposed Conditional Use application with associated*  
74 *documentation as submitted by the applicant for approval, and offers the following*  
75 *comments.*  
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- 77 ***Transportation***  
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- 79 *Public Works staff understands that the traffic impacts due to the change of use generated*  
80 *by the proposed equipment sales should be minimal. Being that the signalized intersection*  
81 *accessing the site off of VT RT 15 is owned, operated and maintained by the Vermont*  
82 *Agency of Transportation, (VTrans), the applicant will be required to provide a letter from*  
83 *VTrans stating that the traffic impacts to the signal have been reviewed and approved.*

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**Water and Sewer**

*The current building located at 74 Upper Main Street was previously approved for five separate uses as noted in the table below from Public Works previous review memo dated October 24, 2012. The applicant purchased all the required water and sewer allocation prior to construction of the approved additions and currently has 2,135 GPD of both water and sewer allocation. As noted in the applicant engineer’s narrative, the proposed change of use at this location will be located at the 7,500 SF former Health / Fitness portion of the building. As noted below, the former fitness use has 375 GPD of purchased water and sewer allocation.*

<b>Category of Use</b>	<b>Existing (GPD)</b>	<b>Proposed (GPD)</b>
<i>Health / Fitness</i>	<i>375</i>	<i>375</i>
<i>Small Engine Repair</i>	<i>60</i>	<i>60</i>
<i>Dry Storage</i>	<i>0</i>	<i>0</i>
<i>Service Station/Store</i>	<i>1,000</i>	<i>1,500</i>
<i>Deli/On Site Food Prep</i>	<i>n/a</i>	<i>200</i>
<b>Total Allocation Required</b>	<b>1,435</b>	<b>2,135</b>
<b>Allocation Purchased</b>	<b>1,635</b>	<b>1,635</b>
<b>Required Purchase</b>	<b>(200)*</b>	<b>500</b>

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*\* 200 GPD of purchased allocation in reserve*

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*It does not appear that the applicant will be required to purchase additional water or sewer allocation for this proposed change.*

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*Public Works does have a concern with the connection of the existing floor drains within the building to the existing grease trap located at the southwest corner of Maplefields. Although this is the appropriate thing to do, it is also understood that the new proposed use may increase the flows to the grease trap, and may require additional inspection, and / or cleaning. Also, the Town will require the installation of a 5/8” water meter, to be located before the service piping to any wash bays that may be proposed in the service areas. The flows will be monitored for a year. Any substantial increase of water usage over the existing purchased allocation will have to be purchased from the Town.*

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110 14) In an email dated 10/18/19, the applicant’s engineer responded as follows,

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**Transportation:** *We have requested confirmation of “No undue adverse impact” due to minimal traffic, the signalized intersection and no changes to the previously approved*

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115 access.

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117 **Water and Sewer:** As you mentioned, the connection of the existing floor drains to the  
 118 existing grease trap is the appropriate thing to do and we concur will add flows to the  
 119 grease trap. However, with the floor drain connected and maximum hose use, the overall  
 120 flows will essentially be unchanged based on the following:

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<u>Category of Use</u>	<u>Existing GPD</u>	<u>Proposed GPD</u>
Health & Fitness	375	0
CCR Sales & Service	0	345 ((13 max. emp. X 15
gpd/emp. + 30 min. max hose use/day x 5 gpm) = 345 gpd)		
Small Engine Repair	60	0
Ehler's Bay	0	85 ((4 emp max x 15
gpd/emp. + 5 min. max hose use/day x 5 gpm) = 70 gpd)		
Service Station / Store	1,500	1,500
Deli / On site Food Prep	<u>200</u>	<u>200</u>
	2,135	2,130

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133 Based on the above, we request further consideration as to the need for water meters and  
 134 monitoring for one year. We will be applying for a WW Permit Amendment based on the  
 135 above "Proposed" flows. Thank you in advance for your reply.

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137 15) In an email dated 10/21/19, Public Works said

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139 *Your breakdown is acceptable. The Town will monitor the water usage over a period of a year*  
 140 *to confirm whether there is a need for the applicant to purchase additional allocation.*

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142 16) In an email dated 10/16/19, the Fire Chief said,

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144 *The fire department does not object to this property being used for this purpose.*  
 145 *We would request to meet with the Applicants to update keys in their Supra Box and would*  
 146 *ask that they maintain emergency contact information with the Essex Police Dispatch*  
 147 *Center regardless of any third party alarm monitoring.*

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149 17) The Police Department did not provide comments.

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151 18) The applicant submitted a Jurisdictional Opinion dated 10/22/19, from James Clancy, Permit  
 152 Coordinator for the State of Vermont, VTrans Division, wherein it states, in part, *VTrans has*  
 153 *no concerns with this use ...* A copy of the letter will be kept in the project file. A copy of the  
 154 letter was provided to the ZBA.

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19) Pursuant to Section 5.7 (Conditional Use) of the Zoning Regulations, the Zoning Board reviewed the following written responses to this criteria provided by the applicants:

**A. General Standards.**

**(1) Capacity of existing or planned community facilities:**

*The project will not affect the capacity for existing or planned community facilities near the project site, as there are no known existing or planned community facilities to be affected (Town Plan, Map 10 - Community Facilities). The long standing access points from Route 15 will not be changed. In addition, the proposed use is consistent with the historic use of the property.*

**(2) Character of the area affected:**

*The proposal is consistent with the historic use of the property. Nearby uses are mostly Retail/Commercial. The project is in conformance with Map #1 - Future Land Use, Map #2 - Commercial Zones and Map 22 - Planning Areas.*

**(3) Traffic on roads and highways in the vicinity:**

*There will be no significant traffic increase for the proposed project as the use is consistent with the historic use. No changes are proposed to the existing access.*

**(4) Bylaws and ordinances in effect:**

*Subject to Conditional Use approval, the project will be in compliance with existing bylaws and ordinances.*

**(5) Utilization of renewable energy resources:**

*The proposal is for continued "like" use of the existing facility. The project will not interfere with any sustainable use of renewable energy source.*

**B. Specific Standards.**

**1. Conformance with the Town Plan:**

*With Conditional Use approval, the project will be in conformance with the Essex Town Plan. The project is in conformance with Map #1 - Future Land Use, Map #2 - Commercial Zones and Map #22 - Planning Areas.*

**2. Site plan review criteria:**

*N/A, the "Use" which triggers this Conditional Use is a re-use of the existing facility and contained within the existing interior and exterior with minor site improvements.*

195           **3. Conformance with community character:**

196           *The project will not have an adverse effect on the character of the surrounding*  
197           *community as it is a return to Sales & Service which was the original/long term use of*  
198           *the parcel. See above replies for further information.*  
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200   **20) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:**  
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- 202           a. There will be no adverse effect on the capacity of the existing or planned  
203           community facilities;  
204           b. There will be no adverse effect on the character of the area/neighborhood  
205           affected;  
206           c. There will be no adverse effect on traffic on roads and highways in the vicinity;  
207           d. The proposed use will be in compliance with the bylaws now in effect;  
208           e. The proposed use will not adversely affect utilization of renewable energy  
209           resources;  
210           f. The proposed use is in conformance with the Town Plan;  
211           g. The proposed use does not require site plan review; and  
212           h. The proposed use is in conformance with community character.  
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214   **PROPOSED CONDITIONS:**  
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- 216           1. Prior to the start of use and/or any fit-up connected with this use, the applicant shall submit  
217           a Zoning/Use Permit and pay the associated fees.  
218           2. The applicant shall meet with the Fire Department to update all keys to the Supra Box and  
219           shall confirm and maintain all emergency contact information with the Essex Police  
220           Dispatch Center regardless of any third party alarm monitoring.  
221           3. The applicant shall secure any/all State permits that may be required of this use.  
222           4. A Certificate of Occupancy inspection shall be scheduled with the Zoning Administrator  
223           upon completion of construction, and/or prior to occupancy.  
224           5. The Public Works Department shall monitor the water usage over a period of one year. The  
225           applicant shall purchase additional allocation should the results show a need for additional  
226           capacity.  
227           6. All previous conditions, except as modified herein, remain in effect.  
228           7. By acceptance of the conditions of this approval without appeal, the applicant confirms and  
229           agrees for himself and all assigns and successors in interest that the conditions of this  
230           approval shall run with the land and the land uses herein permitted, and will be binding  
231           upon and enforceable against the applicant and all assigns and successors in interest.  
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