

Findings and Decision

**Joseph Bodington dba Champion Auto Glass, 3378 Ethan Allen Highway
Conditional Use Application # 2020-DRB-13-CU**

In re: Joseph Bodington, property owner and dba Champion Auto Glass

Permit Application No. 2020-DRB-13-CU

INTRODUCTION AND PROCEDURAL HISTORY:

1. This proceeding involves review of a request to conduct two separate home businesses at 3378 Ethan Allen Highway. Joseph Bodington's Champion Auto Glass, which has existed for several years, proposes to continue its operation as a primarily mobile auto glass repair and replacement business, with occasional on-site work. Bodington's son Rick Bodington, who also lives on the property, proposes to repair diesel vehicles in the same existing garage where Joseph prepare glass for installation. The proposal also includes plans to build a 28' by 28' office space, remove a 30' by 15' storage building, install a small business sign, and sell up to 8 vehicles per year.
 2. The application was considered by the Development Review Board (DRB) at public hearings on October 5 and 19, 2020. The DRB reviewed the application under the Town of New Haven Zoning Bylaws adopted August 21, 2012. The applicant was Joseph Bodington, owner of Champion Auto Glass.
 3. Present at the October 5, 2020 hearing were the following members of the DRB:
 - Kathy Barrett, Vice-Chair
 - Donald Johnston
 - Tom Fyles
 - Charlie Roy, Chair
 - Susan Smiley
 - Absent: Paul Audy, Carol Charbonneau, Victor Laberge
- Present at the October 19, 2020 hearing were the following members of the DRB:
- Paul Audy
 - Kathy Barrett, Vice-Chair
 - Carol Charbonneau
 - Tom Fyles
 - Donald Johnston
 - Victor Laberge
 - Charlie Roy, Chair
4. The names of other persons present and available to provide testimony at both meetings:
 - Aaron Brown, Zoning Administrator
 - Karen Gallot, Minute Taker
 - Joseph Bodington
 - Rick Bodington (October 5, 2020 only)

Findings and Decision

**Joseph Bodington dba Champion Auto Glass, 3378 Ethan Allen Highway
Conditional Use Application # 2020-DRB-13-CU**

5. During the course of the hearing the following exhibit was submitted to the development review board:

- Application 2020-DRB-13 CU
- Supplemental Questions Answered by Joseph Bodington

This exhibit is available at the New Haven Town Office by request from the New Haven Zoning Administrator.

FINDINGS:

Based on the provided site plan, testimony, exhibits, and other evidence, the DRB makes the following findings:

1. The property is located at 3378 Ethan Allen Highway (tax map #8, parcel #0454-000) in the Rural Agricultural 10-Acre (RA-10) District as described on the Town of New Haven Zoning Map on record at the Town of New Haven Town Office and in section 1005 of the Zoning Bylaws.
2. The applicant seeks to bring into conformance a majority remote-based auto glass repair business that he runs out of his residential property and to permit a diesel repair business on the same location.
3. Conditional Use approval is requested to operate a home business as that term is defined in Sections 130 and 540 of the Zoning Bylaws
4. The application was properly warned and noticed.
5. The applicant proposes to devote space in the existing garage to his son's diesel repair business.
6. The applicant proposes to sell vehicles at the property in a number not to exceed state requirements for a dealership license.
7. The applicant proposes to add a new garage door that will measure 9' by 12'.
8. The setback requirements for the RA-10 for non-residential uses are 150' from the centerline of the highway, 75' from the rear yard and 75' from the side yards. According to the site plan provided, all setbacks comply with requirements.
9. The Applicant provided the following in testimony which was relied upon by the DRB in making its decision and is hereby incorporated as part of that decision:
 - The existing garage measures 32' by 50' and was built in the mid-1990s.
 - Champion Auto Glass operate on-site for 20% of its business during winter months and 5% of its business during summer months.

Findings and Decision

Joseph Bodington dba Champion Auto Glass, 3378 Ethan Allen Highway

Conditional Use Application # 2020-DRB-13-CU

- Rick’s Automotive, the diesel repair business, operates from 8 am – 5pm Monday through Friday.
- Signage will be placed on the existing garage building.
- A 28’ by 28’ office space and bathroom will be added to the existing garage.

CONCLUSIONS:

As required under Section 352 “Site Plan Review Procedure,” the following was reviewed:

1. Harmonious relationship between proposed uses and existing adjacent uses.
The proposal is to bring into conformance the use of an existing accessory structure for a home business operation. While the immediate surrounding property is agricultural, highway commercial zoning exists nearby. The office addition will bring the accessory structure above the total maximum allowance of 1,200 square feet.
2. Maximum safety of vehicular circulation between the site and the street network.
No changes between the road network and the site are being proposed.
3. Adequacy of circulations, parking and loading facilities, with particular attention to safety.
The applicant proposes to install several new parking spaces near the office addition.
4. Adequacy of landscaping, screening and setbacks in regard to achieving maximum compatibility and protection to adjacent property.
All setback requirements are met.
5. Freedom from flooding and ponding.
No known flooding or ponding hazards exist.
6. Adequacy of landscaping and screening with regard to the potential shading of the most southerly facing wall and/or roof of adjacent buildings.
The applicant proposes no changes to landscaping or screening.
7. Protection of renewable energy resources.
No changes to the use of renewable energy resources.

DECISION AND CONDITIONS:

Based upon the application record, testimony, above findings, and conclusions, the DRB determines that application # 2020-DRB-13-CU for an amended site plan complies with the requirements pursuant to section 350, 351, and 352 of the New Haven zoning regulations and hereby **APPROVES, subject to the following conditions,** #2020-DRB-13-CU as submitted.

The following conditions are applied to this site plan approval:

Findings and Decision

Joseph Bodington dba Champion Auto Glass, 3378 Ethan Allen Highway

Conditional Use Application # 2020-DRB-13-CU

-
1. All findings as recorded in this decision are included as conditions in the granting of this approval.
 2. All new lighting will be downshielded as required under the New Haven Zoning By-Laws.
 3. Only 500 square feet of the existing garage may be used for business purposes. The remaining area is for personal use only.
 4. Business hours are limited to 8:00 am – 6:00 pm Monday-Friday and five (5) additional Saturdays per year.
 5. No more than 8 cars may be sold from the property on an annual basis.
 6. New signage must conform to Section 750 of the New Haven Zoning Bylaws and be reviewed by the Zoning Administrator.
 7. This permit applies to the current property owner and does not transfer home business rights to a future property owner.
 8. The applicant must secure any additional state or federal permits required for the proposed development. The applicant may contact the Agency of Natural Resources Permit Specialist at 802.282.6488 for more information.
 9. The owner and his/her representative shall abide by the practices in the Vermont DEC Low Risk Site Handbook for Erosion Prevent and Sediment Control as necessary to ensure that sediment and sediment laden water do not leave the project parcel. Contact 802.540.1748 for a hard copy or visit <http://dec.vermont.gov/watershed/stormwater> for more information.

Dated at New Haven, Vermont, this __th day of _____, 2020.

Paul Audy

Kathy Barrett, Vice-Chair

Carol Charbonneau

Tom Fyles

Donald Johnston

Victor Laberge

Charlie Roy

Susan Smiley

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding before the development review board. Such appeal must be taken 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.