

Starksboro DRB meeting
Hearing on application #2019-DRB-01-CU
Karen and Kit Harris
Minutes of 3/28/19
unapproved

Present: Dan Nugent, Marjorie Dickstein, Ben Campbell, Arnell Paquette, Rich Warren, Jon Fenner, and Rob Liotard

Staff: Rebecca Elder, ZA

Visitors present: Jason Barnard, Karen and Kit Harris, Susan Wallis, Heather Ragsdale, Eric Ragsdale, Kathleen Norris, Samantha Sawyer, Tony Porter, Koran Cousino, Linda Dague, Doug Dague, Chris Child, Joanna Birbeck, Jefferey Cox, Pamela Cox, Jodi Higgs, Ann Kowalksi, Donna Lescoe, Ali Sensac, Justin Sensac, Peter Ryersbach, Judy Bache, David Schantz, Evelyn Boardman, Ryan Sleeper, Joanne Gifford, Bob Gifford

The hearing was called to order at 7:45 p.m. by Chair Dan Nugent.

Application # 2019-DRB-01-CU

D. Nugent read the request as posted to the public and printed on the warning and agenda.

The chair explained the process of the quasi-judicial proceeding. The applicant will go through criteria as laid out in the bylaws. The board members then can ask questions and the applicant can respond. Following questions from the board, the chair will allow questions and comments from interested parties. Comments will be limited to 3 minutes each.

D. Nugent explained as a matter of procedure that this is a new application from Kit and Karen Harris. Though the application is the same as that submitted for 2018, this meeting isn't about the last decision. This is a new hearing and the two will not be compared. New information and testimony will be presented.

Dan Nugent introduced himself and then the other board members: Ben Campbell, Rob Liotard, Marjorie Dickstein, Rich Warren, Arnell Paquette, Jon Fenner. Rebecca Elder is the ZA and note-taker.

D. Nugent then read the oath and all present were sworn in. The list of attendees is as follows:

The chair then invited the applicants to present their application.

Jason Barnard introduced himself. He is from Barnard & Gervais, the firm assisting Kit and Karen Harris with their project site plan and permitting processes. Jason was present for the previous application as well so understands the history of the project.

J. Barnard gave a summary of the project as described in the application. The Harrises own a 76±acre parcel of land located at 3556 VT Route 17 in Starksboro. The project has already received Act 250 approval from the State of Vermont as well as wetlands approval. All information is recorded with the town. The property is developed with a single-family home, several ag buildings, maple sugaring infrastructure and various ag endeavors. The Harrises want to share their land and are committed to being responsible neighbors. They have adjusted their request in response to the board's concerns and neighbor comments from the past. The project was scaled back to just 4 events. They are requesting to hold these 4 events between June 1 and October 15, 2019 in order to incorporate the foliage season. Dan Nugent paused the presentation to note that the board has received quite a few written statements from people who were unable to attend the hearing. He asked the board if they are willing to accept written testimony from such parties.

Motion: Jon Fenner made a motion to accept to the written letters submitted to the DRB/ZA regarding the Harris project.

Discussion: Marjorie Dickstein asked if a person isn't present if their written statement can be accepted. D. Nugent stated that the board would be voting on each letter later as they are read.

Motion carried. All in favor. 7/0

J. Fenner asked if the request for events has changed. J. Barnard stated the request is still for only 4 events, but the time period is adjusted to extend to October 15 instead of ending at Labor Day.

Susan Wallis: What is meant by the property "being enjoyed by the community"? J. Barnard responded that the Harrises hope the community will come to events and enjoy what they are trying to build at Shangri-La Farm. S. Wallis stated that to her a community doesn't involve fees.

Karen Harris stated that they would be happy to put on an event free of charge, but there are costs associated with bringing in music, food, and other services. They hope to hold a community event in the future. J. Barnard said that anyone can hold private events on their property without DRB approval. Chris Child noted that the 2018 decision and permit stated that all events, public or private, were part of the total event count. D. Nugent reminded everyone that this is a new hearing and the previous decision is no longer applicable.

J. Barnard stated that from an Act 250 point of view, if no money changes hands, then it isn't an event. Jody Higgs asked if a suggested donation counts as money changing hands. Two years ago, an event was held at Shangri-La Farm and guests were asked for a \$20 donation. D. Nugent stated that the applicants are coming before the DRB with an application in order to be able to collect money for events they sponsor. The DRB is looking forward and the Harris family is presenting an application to do the right thing per local laws.

Site Plan Review Criteria per Sec. 424.D

- 1. Siting and Design:** J. Barnard described the site including The siting of the performance/gathering areas in the northeast corner of the property abutting state forest is designed to take advantage of existing natural features and to maximize compatibility with the surrounding setting and context. The only building associated with the project is the 304 square foot stage which, at only 24 feet wide by 16 feet deep, is a diminutive wood frame structure of rural character in keeping with its setting. The applicant presented a site plan map for review. D. Nugent asked if there were any questions. None asked.
- 2. Vehicular Traffic and Circulation:** J. Barnard: As part of the Act 250 process, Jason met with Randy Snelling from VTrans. The line of site was determined as adequate for ingress/egress from the property. The driveway has been brought up to B71 standards, which provides a 50' access for the driveway and comes up to meet the grade of the road. Upgrades were done for safety and at considerable expense to the landowners. A turn-around for emergency vehicles is provided. Jon Fenner ask if the pull-off area as been completed. J. Barnard said it is there but not graveled over. The Act 250 permit specialist asked for the area to be left open. Tom Estey has personally viewed the area for compliance. D. Nugent asked if there were any questions from the board. None asked. D. Lescoe stated she understands it is wider, but asked if the driveway is wide enough for in/out so that there won't be congestion. J. Barnard said the drive naturally widens and will accommodate traffic needs. J. Barnard: There are 4 possible parking areas; they do not expect to have 200 cars on site but will have capacity and overflow lot areas. Parking capacity for each area is indicated on the site plan. There will be parking attendants at each event and they will manage the flow of cars in/out of the property and exiting onto Route 17.

S. Wallis asked about departure time from events and if all people would be leaving at the same time. J. Barnard responded that guests leave at a variety of times and there will be attention paid by the staff.

A visitor (unknown) asked if there will be alcohol permitted at the events.

K. Harris responded that there is not a plan to sell alcohol but that events such as a wedding will have a caterer who would have an event license to provide alcohol. That person will be responsible for the liquor license and compliance.

Rich Warren asked a question related to criteria #1: He requested more information about the stage. J. Barnard and K. Harris described the stage design and size. It will be noted on the site plan.

3. Pedestrian traffic and circulation – Primary parking is planned to keep cars out of the direct flow from the house to the event. Parking will be directed by attendants to ensure vehicles will be parked in an orderly fashion and without straying into pedestrian occupied areas. Once vehicles are parked, pedestrians have ample space to circulate throughout the site and separate from moving vehicles.

B. Campbell asked about parking capacity. Lot 1 = 59, Lot 2 – 25 cars (overflow lot), Lot 3 = 63, and Lot 4 = 54.

J. Fenner asked about parking restrictions near wetlands. Do all have the 50' buffers?

J. Barnard met with wetlands office representatives and they didn't have a problem with parking in the buffer zone.

J. Fenner asked about the wildlife protections. J. Barnard stated that all reviews were part of the Act 250 permitting process. All recommendations from the State have been observed.

J. Higgs asked about the location of parking lot 2 in relation to the wetlands. J. Barnard said it is in the grass and it will remain grass (not gravel).

Karen Harris stated that the Act 250 permit protects the natural resources. They went through the property using the State evaluation criteria and careful scrutiny. The Harris family is also interested in preservation and maintaining the beauty of the environment in South Starksboro.

C. Child asked why the State and ANR are ignoring the high priority corridor in their database.

J. Barnard stated that the application went to the State wildlife biologist. They sent their feedback to the Act 250 coordinator. If anyone in the State agencies within the review process has a problem with the project, they will send the comment along to the Act 250 coordinator. If there's something that needs to be addressed, it will be part of the Act 250 permit. There was nothing included here that indicates there would be a negligible wildlife impact.

4. Parking – All parking, as noted, will be onsite and unpaved, with primary parking and overflow parking areas delineated on the plans. Questions were addressed above.
5. Stormwater and snow storage – The snow and melting water ultimately discharge to the wetland. State doesn't want to see expanded gravel areas and prefers vegetation areas that clean the water. The Harrises do not expect high speeds and there is ample room for cars to travel. They do not anticipate much snow between Memorial Day and Oct. 15. D. Nugent asked if there were any questions. None asked.
6. Lighting – Starksboro's Bylaws Performance Standards Sec. 323 will be observed. Lighting will be minimal. They plan to use tiki torches, luminaires, lanterns, and other non-invasive lighting. The stage lighting will be downshielded.

M. Dickstein noted that if the event ends at 9 p.m. and occur up until Oct 15, there will be an hour or more of dark. There will be a concern about car headlights shining onto other properties. J. Barnard stated that there are no houses directly across from the driveway and the area is wooded. Cars will come out of parking areas pointed toward the Harris' house and will then turn out onto Rte 17.
7. Signs – There used to be a sign, but it was removed during driveway construction. There is no lighting at the sign area and anything in the future would be downshielded. A sign permit has been issued but no construction has begun. The applicants may use a sandwich board sign for a specific event, and it would be placed by the end of the driveway.

8. Landscaping – there is an existing treeline that stretches along the property and is a screen from Route 17. The trees provide some light shielding. No new tree clearing has occurred and nothing was removed except what was required by the permits. D. Nugent asked if there were any questions. None asked.

9. Energy conservation – This criteria doesn't apply. The application is for temporary events and there is no new construction associated with this application.

R. Liotard asked about how power will be supplied for the events. K. Harris explained that there is power available in the accessory structure on the property. Caterers and musicians may bring in generators to address their power needs for a specific event as needed. R. Liotard noted that sound from generators will factor into the overall noise measurements that will be needed.

10. Compatibility with town plan – A full Act 250 permit was approved in 2018. The Starksboro Town Plan supports uses that will help rural agricultural ventures remain viable in a changing landscape.

L. Dague asked if the Act 250 permit is permanent. J. Barnard stated that yes, it is. The permit runs with the land. If the applicant is not compliant, then a report can be filed with the Act 250 regional office and they will investigate the alleged violation(s). The Act 250 office will then send a letter with the criteria that must be met or remedies to any violation to preserve the permit.

C. Child stated that he disagrees with the description of the project as compatible with the Town Plan. He said this is a "conditional use", not a given.

K. Norris stated that the Act 250 process is an exhaustive one and the permit is now attached to the Harris farm forever. The Shangri-La proposal has met the criteria.

J. Higgs asked what would prevent Shangri-La owners from asking to hold more events each year. D. Nugent stated that the DRB grants the approval with conditions. Amendments can be made to decisions in the future. The board is the decision-making body.

J. Barnard also explained that the Act 250 permit is designed to work in conjunction with a local permitting process. Once a permit has been issued, it is rare for it to be revoked or annulled.

J. Fenner asked if the Harrises plan to get the Act 250 permit amended. Yes, an amendment will be filed to hold event after Labor Day and before October 15.

Visitor comment: the Town's bylaws allow for a project like this one. The rules and regulations are in place to help maintain the larger community goals. This project/property is located on a paved, maintained State road. It is an asset to the community and will bring people to Starksboro.

L. Dague stated that many people present have real concerns as neighbors and they want to discuss noise and sound. D. Nugent said the board is here to address concerns but this is a legal proceeding. The purpose is to review the applicant's responses to the criteria and any concerns about the project.

D. Nugent also explained that once the hearing is closed, no more public comments will be accepted. Then the board will go into deliberative session and make a decision. Interested parties are not invited back at that time because the hearing is closed.

K. Norris stated that the board is made up of appointed people. The board's job is to interpret and enforce the rules and regulations of the town.

D. Nugent said all information is part of the record. The board will do their best to hear all relevant concerns and take them into consideration when it is time to render a decision. There are 7 people on the board to ensure the process is a fair one.

Conditional Use Review Criteria responses

1. Suitability of use – The property is located on a good State-maintained road. It is meant to be a limited use permit. There was a short discussion about multi-day events. The Harrises are not requesting permission for camping or overnight guests. If there were to be events back-to-back, there would be no overnight component and each day would constitute a separate event.
2. Character of area – "Commercial Recreation and Entertainment" is an intended use for the ASRR district. The isolated one-day events four times a year will not alter the character of the rural area.

The town plan describes how diversification can help people stay on the land. Town surveys showed support for this.

D. Dague stated that all of that is true but it needs to be consistent with the area of the neighborhood. South Starksboro is primarily residential. When a concert was held in the past, he said he could hear every word of the lyrics at his home. He doesn't think that level of sound is consistent with the character of the neighborhood. He also is concerned about the number of cars and people that will be driving onto Route 17 at 9 p.m. J. Barnard responded that there have been traffic studies done. AOT would not issue a permit if they didn't think the road could handle the traffic. It is a state highway.

B. Gifford spoke about private gatherings that were held on his property in the past. Others in South Starksboro have also had large private events. When Mad River Glen has a "powder day" there is intense traffic on Route 17. These 4 proposed events will produce less traffic than one of those popular ski days.

D. Nugent noted that the applicants are here to obtain a conditional use permit to hold events in a legal and approved way. Private parties are a different conversation. This process is under scrutiny with the town. The board will be addressing the issues of concern in its decision at the end of the hearing process. The permitting process helps to regulate activities so that everyone is heard and concerns are addressed within the context of the bylaws.

There were several comments offered about the nature of commercial vs. private events. In the 2018 decision, the DRB included both private and public events as part of the total allowed events per year.

The applicants expressed concern that they were unable to hold a family reunion or gathering of more than 25 people and felt this restricted their personal use of their home and property.

S. Wallis stated that for many present, the main concern is with noise. These concerns exist whether the events are private or public.

3. Safety and privacy – the applicants will communicate with fire and rescue departments in advance of each event.
C. Child stated that "privacy" as defined by Webster's dictionary includes "seclusion and quiet."
4. Natural setting – Minimal alterations were made to the property. There will be temporary bathroom facilities for events. M. Dickstein asked where those will be placed. J. Barnard stated that any portable facilities will not be visible from Route 17.
5. Public facilities and services – The applicants will coordinate with the town and will contact officials to ensure the adequacy of public facilities and services. D. Schantz stated that he has concerns about safety. He asked that Starksboro Rescue be warned ahead that there will be ±200 cars leaving the site and alcohol may have been consumed. L. Dague asked how the applicants will know how many people are attending and how many cars are entering the property. K. Harris stated that they will be keeping a count and will stop at 200. D. Lescoe asked if the 200 people would include vendors and musicians and other hired help. The applicants stated that it would be 200 guests.

The hearing was recessed at 10:00 p.m.

The hearing will resume on April 25 at 7:45 p.m.

Rebecca will try to arrange for a larger venue for the next meeting so all interested parties can be present in the same room.

Motion to recess. Ben Campbell made the motion. Arnell Paquette 2nd.
Motion carried.

Respectfully submitted,
Rebecca Elder
Zoning Administrator

Please note that these minutes are not verbatim. A recording of the hearing is available via the zoning administrator.

DRAFT