

Town of Starksboro  
Development Review Board  
Minutes of April 25, 2019  
Unapproved

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**Board members present:** Dan Nugent, Jon Fenner, Rob Lotard, Marjorie Dickstein, Richard Warren

**Staff:** Rebecca Elder, ZA

**Visitors:** Nancy Orvis, Susan Klaiber, Stephen and Ann Kowalski, Susan Wallis, Billie Tolmach, Jeffrey Coy, Heather Ragsdale, Douglas and Linda Dague, Ali Senesac, Chris Child, Joanna Birbeck, Jason Barnard, Bob and Blair Hall, Jody Higgs, Peter Ryersbach, Gary Koval, Kit and Karen Harris, Donna Lescoe, Eric Ragsdale, Nancy Boss, Brad Boss, Daniel Yonkivig, Bobby Stoddard, Melissa Moran, Keegan Tierney, Tony Porter

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At 7:30 p.m. Chair Dan Nugent opened the regular meeting and asked visitors to sign in.

**Changes to the agenda:**

- The board will not be going over the decisions on the Norris or Ogilvie decisions. They will be reviewed at the next meeting on 5/9/19.

The was a break until the hearing start time.

The hearing was called to order at 7:45 p.m.

Chair Dan Nugent stated that the board was resuming the hearing for **application 2019-DRB-01-CU** from 3/28/19. Tonight there are new participants as well.

As part of the legal proceeding, Dan Nugent swore in those who were new participants in the hearing.

D. Nugent then noted that there was an amendment to the application submitted by Kit and Karen Harris, which was also distributed via postal mail.

The board then invited the HARRISES' representative, Jason Barnard, to describe the amended application. He said that after the last hearing, the HARRISES discussed their business plan and decided that 4 events won't work and therefore amended the request to 6 wedding-type events (yoga retreats, farmers' market, etc.) with a max. of 200 guests (noted that number doesn't include staff, vendors, or family members). The request also now includes one event for 300-500 people – a concert event, to allow the public in, share the land. There would be no overnight camping. They expanded the time period from May 15 – Oct 31 to take advantage of the foliage season and Memorial Day weekend.

D. Nugent stated that due to the amount of written testimony received, the letters will be entered as exhibits and sent to interested parties.

Due to the amendment, the chair asked the applicants to revisit to the criteria related to pedestrian traffic and vehicular traffic. Applicant stated that the driveway was expanded to commercial standards. ANR and AOT believe there is adequate space for traffic ingress/egress. There is room for additional cars to the north, overflow below. For the bigger event, there would be traffic directors by the house and by 17 to ensure safety. The applicants will hire professionals for directing traffic circulation. The farm is located on a state highway; a paved road with good visibility. They can get two cars wide at the entrance/exit. There is a narrowed area farther into the property that will be managed by traffic direction.

M. Dickstein asked if the Act 250 application included events up to 500 people. Applicant stated, yes, application at that time was for 500-700 person events.

Karen Harris introduced herself and gave a summary of what the family is trying to do, described their love of the land and property, stated that she, Kit, and brother Gary want to maintain and keep the farm operational. The events will be supplementing the farm income. They intend to honor their neighbors and are going through the proper channels to hold events in the spirit of the community.

D. Nugent then asked about if any board members wished to revisit any of the criteria that was presented on at the last hearing session. The board did not. He then asked the audience for any new questions or information to add on the newly amended application.

C. Child asked for the definition of events. What is the spectrum? Would something like a chainsaw carving contest be considered an event? Karen Harris said they want to host events that people want to see there. They have thought of things like the Mozart festival, bluegrass festival, yoga retreats, etc.

D. Nugent reminded the audience that the board is focused on: the number of events and the number of people permitted along with the impact of the event(s). The subject or audience is not relevant to the bylaw criteria.

A question was asked about how a "one day event" is defined by the applicant and the board. Would there be set up the day before? Break down the day after? J. Barnard stated that these definitions would be put in the decision and condition from the board. Starksboro does have a noise limit. In terms of set up, things can come in the day before, but they would adhere to the noise requirements. Events require setup and breakdown but that can be done while adhering to the conditions of the DRB decision.

Bob Hall said he has lived in S. Starksboro for a long time and has seen a lot of change since he's been there. He has seen it as a community-oriented place. He supports what the Harris are trying to do. He said the community should get behind them and help them hold successful events.

Jon Fenner asked if there would be any overnight guests such as staff. Applicants stated there would be no overnight camping at all. There was some discussion about campfires and managing those as the events end and guests leave.

**NOISE:** Sec. 321a reads: "Land use activity should not be out of character from the area's ambient noise..."

J. Barnard said both in the previous permit and in the Act 250 permit, noise is measurable with quantifiable points of data. The stage is located abutting the state forest and is built to face the south. The applicants have 76 acres of property. It is an ideal location for a limited number of events. There are penalties if there are violations and conditions will be in the DRB decision. The HARRISES will agree to having sound testing performed. The testing methods and equipment must be proven and submitted to the board for review.

J. Fenner asked for the distance from the stage to the property line and to the closest neighbors.

J. Barnard said roughly 150 ft. and details on map will be submitted to the board.

The sound expert for Shangri-La was present at the hearing. Patrick Quimby is a local sound technician who does +/-50 weddings a year and works with bands and DJs. He stated that 85 dB is average street level noise. The subwoofer is what will have sound travel (this part of the sound system is the deep bass tones). In the Old Lantern example in Charlotte, (submitted for information to the board as part of written testimony) the event venue had to eliminate the subwoofers at a certain time. In the Mad River Valley, the sound cut off is at 10 pm. In Burlington the cut off is at 8:30 p.m. As a demonstration, Mr. Quimby used a sound measuring app on his smart phone to test the voice levels in the room during the hearing. He reported 55-60 dB for voices on mic.

S. Wallis and J. Higgs asked for more details on the process if there is a problem and the sound level is not being adhered to. The noise would be reported to the State police for follow up and a complaint can be filed at the town clerk's office during normal business hours.

Chair Dan Nugent stated again that the board is there to review the responses to the criteria outlined in the bylaws.

- 321a – “...shall not generate out of quality sound – plainly audible – comprehensible, - bylaws say this is not allowed. Not generate sounds that are plainly audible.
- Donna Lescoe stated she hopes the board issues a one-year conditional use so that there can be a test period. She encourages the board to see how things go before issuing a permit for more than 4 events and to limit the time period from Memorial Day to Labor Day as she would like to see what it looks like before it goes. Encourages the board to issue a permit for 4 events from Memorial Day to Labor Day. She stated that events to Oct. 15 are more difficult because of the loss of leaves which help with sound muffling. She requests the board enforce an end time of 9pm, with no amplified music after that.
- H. Ragsdale asked the board to consider a longer term approval with conditions as a test.
- Karen Harris stated that people are already booking weddings one to two years out. That's why they amended to open-ended permit.
- Kowalski asked for more details on the noise reference guidelines in the Act 250 permit. Applicants must adhere to local zoning as well as Act 250. T. Porter said noise in South Starksboro can be affected by the air quality, wind, humidity and other factors. He asked where the applicants would test the noise level and when. He noted it will be difficult for the board or ZA to assess the sound levels without test results and data.
- H. Ragsdale noted that the Mad River Barn installed sound proof glass to mitigate noise. There are ways to track the noise and bring data back to the board.
- D. Nugent asked the sound technician what equipment would be used for this type of testing. P. Quimby said a decibel meter would be used. Cost is \$250-500 each time. Log in meter reading are produced by the time and location. J. Barnard said there needs to be some background data about wind, local sound. Data collected prior to event samples so there is a baseline.
- D. Nugent noted that the board is here to take in information and not to solve problems.
- G. Koval said musical events are usually 90 min to 3 hrs. max. while mechanical noises, traveling noises, guns, and other noise trespass is not predictable or controllable.
- Stoddard said he is the closest neighbor, living across the road. He can hear Kit turning his compost. Neighbors need to tolerate various noises from people living on the land. He also commented on the board considering a time limit: perhaps 5 years of permits, with a 3-year check in to allow for planning.
- Yankovig said he went to a nice event at Shangri-La. He lives on Ireland Road and experiences truck traffic and noises from farming and sugaring activity. These are all uses of the land.
- Nugent reiterated that the DRB decision will outline what is allowed, what measurements and data will be required, and what limitations will be in place.
- Bob Hall asked if there is an appeal process after the decision is delivered. Yes, there is a 30-day appeal period.
- Jody Higgs read a statement aloud.
- C. Child does not want to see a commercial operation with numerous weddings. He said the permit carries with the property not the landowner and the community could see increased requests in the future with this owner or a future one. J. Barnard said the DRB can put a sunset on the permit.
- A South Starksboro neighbor asked if the Harrises inform vendors that they will be obligated to meet the sound levels as outlined by the board. Applicants confirmed. Sound technician said that American Flatbread, for example, allows acoustic instruments later in the evening. The frequency of the sound is important. Amplified music will travel farther.
- S. Klaiber asked whether the DRB deliberation happens in open meeting. D. Nugent said no, the deliberative session will be closed.

**Dust, odors and air pollution.** The applicant stated there will be some campfires. When the event is over, based on hours of operation that the board deems appropriate, the fires will be put out.

There were no questions from the board on this criteria. C. Child said the former coffee roasting operation that was in the area a few years ago was an example of how odors can travel from a property and affect neighbors.

**Lighting, glare, reflection:** The applicant described the plan for lighting. Most will be small and low impact such as tiki torches, footpath lights.

There were no questions from board or audience on this criteria.

**Vibration:** It won't be felt off the property.

There were no questions from board or audience on this criteria.

**Traffic:** There will be normal traffic patterns; the applicants will perform traffic control and hire outside help for larger events.

T. Porter asked who determines that there is no impact on the traffic patterns. J. Barnard said VTrans reviewed the proposal.

M. Dickstein said if the board is looking at events that are for 500-700 people then there could be a number of people and staff who might be staying on for break down and clean up. Applicant estimates 10 cars over for staff/crew. B. Boss asked how many vehicles are estimated for that number of people. J. Barnard said an average of 2 ppl per car.

**Junk, refuse:** The applicant said there will not be any accumulate of junk or refuse. They want to keep the place nice; no bulk storage, fueling stations.

J. Fenner noted that one of the provisions states storage is supposed to be screened away from view. Applicant said any storage will be hidden.

Barnard and Gervais has prepared the Site Plan. A copy will be left at the office for the files. It shows the wetlands that were reviewed with the State ecologist on a site visit.

## **PROCESS**

- 1) The board will recess the Harris/Shangri-La Farm conditional use hearing until **May 30, 2019**.
- 2) The board will accept additional written comments to be entered into the record until May 21, 2019. All letters must be submitted by 4:30 p.m. on 5/21/19. The information will then be shared with the interested parties.
- 3) The board will reconvene on 5/30/19 at a special meeting to enter the final exhibits into evidence and close the Harris/Shangri-La hearing.

The DRB hearing then recessed at 9:30 p.m.

Respectfully submitted,

Rebecca Elder

Zoning Administrator