

Starksboro DRB meeting and hearings  
June 13, 2019  
Unapproved

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**Present:** Marjorie Dickstein, Rich Warren, Rob Liotard, Dan Nugent

**Unable to attend:** Ben Campbell, Arnell Paquette, Jon Fenner

**Others present:** Rebecca Elder, ZA; Nick Bissonnette, Helen Camara, Wilfred and Ellen Bissonnette, Jim Scheid, Phil Bissonnette, Ray Marcotoullio, \_\_ Bennett, Scott Ploof, Leonard Denice, Peter Ryersbach

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The hearing for #2019-DRB-06-SP was opened by Chair Dan Nugent.

Introductions were made—board members present, ZA Rebecca Elder, and Mathew Norris.

Description: The application is a request from Mat Norris to construct one duplex residential housing unit of approximately 1300SF. on parcel D211644W.1 located on VT Route 116 and Brookside Drive, south of the village.

The applicant submitted a zoning permit for this project. The ZA referred the application to the DRB for a site plan review due to some questions related to orientation to the roads and placement of homes for maximum solar exposure and other factors.

M. Norris explained the basic architectural and site plan. Each residential unit will have a 1-bay garage. Roof-mounted solar and a ground-mounted solar array in the northeast corner of the lot are proposed. Permits have already been applied for at the State level.

M. Norris stated that one of the main reasons for siting the structure as presented is to get an east/west roof line which is good for solar gain. Orientation of the homes will also allow for both front and back yards. The proposal meets all set-back requirements from neighboring properties.

The applicant has also submitted a proposal for a subdivision of this lot, with plans for a future second duplex unit. The homes will use the same curb cut—Brookside Drive—which serves the Brookside mobile home park as well.

R. Warren asked about the goals for putting in solar and if the residents will benefit from the solar gain. M. Norris state that the power will be used for the buildings, either with electricity included in the rent or net-metered and sold back to the tenants at a reduced rate.

The duplex is designed for energy efficient usage. Heat pumps and LED lighting will be used throughout.

**Vehicular traffic/circulation:** There will be 2 living units that will make use of the current curb cut. There is no adverse impact on traffic flow expected. Average two cars per unit. provided.

**Pedestrian traffic** – All surfaces will be gravel; no pavement. Applicant intends to keep the rest of the land open for lawn/yard. There are no sidewalks to connect to.

**Parking:** Applicant's plans include 4-6 spaces in front of the units; 1 garage bay and 2 outdoor spaces.

**Snow storage, etc.** – The site has excellent soils; contours are flat ground; there is great drainage. The site tech does not expect standing water areas.

**Lighting** – All exterior lighting will be down-shielded; LED lights to be downcast, dawn to dusk automated lights.

R. Liotard asked if the lights would be motion-sensitive. Applicant said no.

**Signs** – n/a

**Landscaping** – Trees will be placed on the back side of the property to shield the solar panels from view. There are existing pine trees that he will leave on the property. The septic was designed so as not to remove trees. There is good existing natural vegetation as well. There is one opening in the hedgerow cut by a neighbor.

M. Dickstein asked how tall the vegetative growth would be and noted the regulations ask for a variation in height. Applicant stated the plantings will be roughly 4-5' with some spacing between.

The solar array will be a racking system, not trackers.

**Energy conservation:** Applicant has been working with Efficiency VT. They are doing the air testing at the completion; all lighting is LED; walls are R25; ceiling R60; heat pumps for heating/cooling.

**Compatibility with the town plan** – building something that is permitting. Density is ½ per living unit. Premium soils allow for conventional septic. Plenty of lawn. Room for solar array. 116 – facing the road, people don't use their front porches; 50 MPH, so he oriented perpendicular to the road so that people could have the front and back yard situation. Fits the character of the village.

The board asked questions related to the pump and well. Applicant will obtain permits from the Fire Marshall. The septic plan approved by the State will approve the water capacity. The well will serve all units. The appropriate set-backs have been observed per adjoining properties. There will be a conventional septic system.

System is pressurized. The alarm is in the pumping system so you don't burn up your pump.

All wastewater permit application materials have been submitted to the State. Applicant asked if the ZA can issue the zoning permit conditioned upon receipt of the approved wastewater permit. The board agreed and noted that a CO would not be issued if the WW permit is not confirmed.

**Motion:** Rich Warren made a motion to deliver the zoning permit application back to the ZA. Rob Liotard<sup>2nd</sup>

**Motion carried.**

The site/sketch plan review hearing was closed by Chair Dan Nugent.

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## Continuation of the Bissonnette/Denice conditional use hearing for application 2019-DRB-04-CU

Introductions were made around the room including board members, ZA, applicants, and interested parties.

D. Nugent read the public warning as shown on the agenda.

Parcel #F41L1N - 991 Jerusalem Rd. owned by Leonard Denice, who was present at the hearing.

There were new people present that did not attend the first hearing, so D. Nugent performed the swearing in of new parties and all accepted the oath.

The last hearing left off with the board providing the applicant with a list of items that required more information. This list was sent to interested parties and is part of the record. N. Bissonnette was invited to respond to the various questions from the board.

**Sound level testing:** Testing was performed at the Roleaus' farm on Route 116 on "Fuller flats" just north of the entrance to Bristol. The testing was performed in open air. They had to wait for traffic to go by as

the traffic noise was louder than the machine operating. It was noted that there is no buffer or trees in the way to mitigate sound as there is at the site on Jerusalem Road. A sound testing report was received from Julia James dba Blue Skies Rock, LLC and will be entered as evidence. At 160', which is a little less than the distance at the application site, the levels were around 50dB and can spike to 70 dB on rare occurrences and was tested at full throttle and not at idle. The dump truck was tested at the edge of Jerusalem Rd. 160' is about where the machine would be to the center line of road – distances are 160' to front corner and to the house is 300'.

Will Bissonnette asked what the current bylaws permit for sound level. The regulations state 60 dB.

Peter Ryersbach stated that he talked to Nick about how much time it takes him to process a cord and was told 10 minutes. He typically processes 350-400 cords per year. This is not a business that will be operating there 24/7 and 5 days a week. In total, if working 8 hours a day, it is two-three weeks a year.

Jim Scheid stated that noise is the primary issue for him. If the sound report reading is accurate, then that's the way it is. He stated that the reason they have gone through this process is because of the impacts of the noise issue. He was surprised by the reading. He ruined relationship with neighbors because of this situation. He asked if the processor has different speeds and if there are various decibel levels at different speeds.

The board noted that if the permit is given and there is still trouble with noise mitigation, then a permit can be revoked through the notice of violation process. That process is outlined in the bylaws and is managed by the zoning administrator.

D. Nugent asked if the equipment was tested at the highest levels. N. Bissonnette stated yes, the sound of the engine itself if not that loud. It is the blade intersecting with the wood that causes the loudest noise.

The applicant noted the ambient noise was 40dB for mowing and road traffic.

Zoning Administrator Rebecca Elder stated she performed a site visit to 991 Jerusalem Rd. on Monday, June 10, with the applicant and Julie James (sound technician).

M. Dickstein asked about the spikes of the sound. The applicant stated the spikes are generally in the first few minutes when the truck is empty. The loudest recordings were of the first logs hitting the empty truck bed. N. Bissonnette described how the wood can fall differently and/or cut differently.

**Power line proximity to work site:** The power company signed a waiver. The box trailer needs to be moved slightly if it is used and will have a stove inside. If it is just for storage then it doesn't need to move. Power lines will be moved in the next 5 years.

M. Dickstein asked the applicant if he would be open to painting the trailer so that it was one color and blended with the surroundings. N. Bissonnette said yes, he could make it less obtrusive. His idea is to put split firewood in front of it to screen it. Yes, he can remove the sticker portion the trailer would be white or red.

**Impact on the roads:** A letter from Road Foreman Tom Estey was received stating there is not an adverse impact on the roads. Road can be posted for heavy loads if needed.

**Stormwater permit and State requirements:** The applicant met with Jamie Bates of the State stormwater division. She was okay with everything currently on site. She does not think the site needs a permit but the kiln operation would. The applicant state he will get the state permit if he is granted the local permit. There is an upfront cost of \$700 and then \$160 per year. A ditch was installed and a silt fence placed along the site area borders. The ZA inspected and took photos. If the trailer is just used for storage, no permit needed. The kiln would require a yearly inspection. If he just uses the processor and it is less than 12 months a year and it moves, then a permit wouldn't be needed. Only the kiln requires it.

R. Elder asked for the documentation from Jamie Bates re: State permitting post-site visit. N. Bissonnette will submit to the ZA for the record.

**Landowner agreement:** Len Denice is present. A signed document from him was received for the record.

**Site Plan:** The applicant presented a site plan for review. He will use the entrance off the driveway, so there is one curb cut. The curved line on the site plan is the tree line. Silt fence is placed appropriately.

The board asked questions about where trucks would turn around, what the surface will be and how it will be maintained, and about log storage. M. Dickstein asked if there would always be logs on site and about how many. N. Bissonnette said yes, there will always be logs. If he is preparing for the next year, it would be the whole length. If he is processing wood, it would be by the trailer, all the rest would be log length until ready to cut. Applicant said he would like to have a year's worth of wood stock. This is normally 2 loads a week until they are processed and gone, then more come in. Applicant estimates 6 months out of the year there may be no logs.

**Hours of operation:** Applicant stated he will continue M-F 8-5; he added Saturdays, but it is not likely. Saturday work would be occasional and would most likely would be for loading and making deliveries. Some customers request Saturday deliveries.

The board asked about the total months of operation. Applicant said it would be less in the winter; May to September would be the likely cutting season (when he would be operating the processor). He would be active on the site year round, but winter would be sporadic.

R. Warren asked the applicant to please describe any months when he would not be using the processing site. Applicant said it depends on the kiln drying; September to May would be very limited. R. Warren asked how it would impact the operation if it weren't able to operate from Nov – Mar. Applicant stated it would be difficult. Selling 10-12 cords of wood in the winter would be beneficial and help during the slow season. Applicant said there may be a time in the future when he might run a full week in the summer, but at this time he doesn't have the money to pay people to run the operation at that rate.

P. Ryersbach stated he is a customer and waits for his wood delivery until the ground is solid.

N. Bissonnette said he tried to define hours for logs coming in/out. It is usually during daylight hours and during off season it could be a delivery at 5:30-6 am (generally in mud season they come early when the road is in better condition and still firm).

**Screening:** N. Bissonnette said he would like to do maple trees, 35' apart with evergreens in between. He would like to do the minimal possible on the driveway side. L. Denice said the power company said there are plans to relocate the lines roadside. The applicant would like to avoid placing screening that would have to be moved when/if the power lines move.

W. Bissonnette asked about the requirements with the permitting process for screening. He talked to the Governor's office, and if the Legislature had moved ahead on some new proposed rules, the operation would have fallen under Ag exemption, so why is the screening necessary to block an ag process? He also asked about why this screening is necessary when there are lots of farms and places nearby that have skidders and other equipment; that is part of the nature of doing business on the land. Why does the applicant need to hide something that is part of our livelihood.

D. Nugent stated that it is commercial operation as of today. It is not an ag exemption under current laws.

A neighbor across the road from the site (Bennett) stated that she doesn't understand why we are trying to hide something? Why are we hiding a business of someone who is sustaining themselves?

D. Nugent said the degree of screening required will be considered when the board deliberates. The bylaws state it has to be a part of the plan; the board will determine the amount needed and specs.

P. Ryersbach: He hopes that when the board is deliberating, it considers the working landscape. In 1975 dairy was the business in town and now there is one dairy farm left. The State is giving people money to come here and settle. He asked the board to please think about the cost of what you are asking people to

do when putting on conditions; are you going to be putting on so many fiscal limitations that they can't do it and then Starksboro won't have people who want to work here? Or are able to work here?

N. Bissonnette stated that he thinks this process is ridiculous. This is just firewood. It has taken him hundreds of hours to prepare for this. He needs an answer on whether he will be able to work in Starksboro. Based on his experience with this process, he doesn't see anyone moving to Starksboro to do wood processing or admitting they process firewood in town.

D. Nugent said there has to be control and laws because there will be people who take advantage. The bylaw regulations and rules were written by the town. The Planning Commission is elected officials and there were public hearings on the content of the bylaws and changes in 2016. People will take advantage of situations, that's why we have regulations. The people of Starksboro wanted checks and balances and wanted to have a say in the types of activities that are permitted and how. That's why zoning was enacted to begin with.

N. Bissonnette said there's not enough money in firewood to make this process worth it. What he needed to do has been more expensive than it is worth. It makes the permitting process too expensive for young, independent operators.

P. Ryersbach said to correct the record, it was the late 70s/early 80s when towns were mandated by the state to have a Town Plan. D. Nugent stated it was the desire of people of the State that prompted that mandate. Locally, there were public hearings reviewing the proposed changes to bylaws. Residents of the town may request an Australian ballot on future changes.

D. Nugent said he served on the Planning Commission in addition to the DRB. The PC wishes people would come to meetings. They are open to the public and the board wants input.

W. Bissonnette said the town is losing the small operators because they can't comply. It will become a crisis because the permitting process is impeding the ability to work. This is a statewide issue. The town plan stated that we want renewables and we want people to stay in the community and work. But the process is burdensome and expensive. A. Johnson stopped doing wood and people are looking for operators.

N. Bissonnette said the language in the bylaws currently is not adequate. D. Nugent stated the PC has already begun drafting additional language and definitions to be included in the next proposed draft.

W. Bissonnette asked how long the rest of the process will take.

D. Nugent said the applicant answered all of the questions posed by the board. The board has no additional questions.

Julie James arrived and was sworn in by D. Nugent.

R. Warren asked how long the duration of the spikes were. J. James said milliseconds. The average was still the maximum average. The spikes were within but very brief.

The board asked when the equipment was last calibrated. J. James stated one and one-half months ago – variance of 1.5+/- at 1kHz.

**The hearing was recessed until Thursday, June 27, 2019.** At that time, the board will reconvene to accept final testimony and close the hearing. Rebecca will send out the letter received tonight at the beginning of next week. The board will accept responses until the following Monday.

**Motion:** Rich Warren made a motion to adjourn at 10:15 p.m. Marjorie Dickstein 2<sup>nd</sup>.

**Motion carried.**

Respectfully submitted,  
Rebecca Elder, ZA