

Town of Starksboro  
Development Review Board  
Minutes of May 23, 2019  
Unapproved

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**Board members present:** Dan Nugent, Jon Fenner, Rob Liotard, Marjorie Dickstein, Richard Warren, Ben Campbell, Arnell Paquette

**Staff:** Rebecca Elder, ZA

**Visitors:** Nick Bissonnette, Helen Camara, Steve Cooper, Jane Cooper, Wilfred Bissonnette, Ellen Bissonnette, Dana Curtis, Morgan \_\_\_\_, \_\_\_\_, Bissonnette, Raymond Marcotoullio, Eric Hanson, Ellen Hanson, Christy Grauer, Timothy Morse, Susan Klaiber, Mary Claire DeHaven, Jim Scheid, Jody Higgs

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Chair Dan Nugent called the meeting to order at 7:30 p.m. Introductions were made. All board members were present.

**Application #2019-DRB-04-CU** is a request by Nickolas Bissonnette (applicant) and Leonard Denice (landowner) for a conditional use permit to operate a commercial firewood processing and firewood storage business on Parcel F41L1N. The parcel is located at 991 Jerusalem Road and is in the High Density Residential and Commercial district. As proposed, this project requires site plan review and conditional use approval by the Town. Prior to the scheduled hearing, the DRB will conduct a site visit at 6:30 p.m. at 991 Jerusalem Road to allow board members to orient and familiarize themselves with the application request. The hearing review will be conducted pursuant to Sec. 424 and 425 of the Starksboro Land Use and Development Regulations.

D. Nugent performed the swearing in of those present (listed above and on sign in record).

Nick Bissonnette was then invited to present responses to the criteria set forth in Sec. 424 and 425.

D. Nugent explained the procedure: applicant will go through his responses to the criteria, then the board members can ask questions, then the chair will take questions from the audience. Comments will be limited to 3 minutes.

Presentation of criteria – Nick Bissonnette

**Siting and design** – Applicant stated that he is proposed the same use of the land as it has been for many years. He plans to cut wood, dry it, and store. Long term goal is to continue at the same pace. He moves the wood processor 6x/year. He keeps it in S. Starksboro. He doesn't expect to be there more than two months out of the year and would process 1-2 truckloads a week (10-22 cords a week).

- Box trailer is used to dry wood. Might not happen this year. May kiln dry wood. He would need to be in the area to do the drying and processing.
- Processing – an hour to do a week's worth of wood.
- Schedule changes regularly. The work load depends on the time of year. Nick preliminary plan was to be on this site only in the summer.
- He will not be processing for A. Johnson any longer.
- Nick currently processes about 1000 cords a year, most isn't in Starksboro. Right now his equipment is in Bristol.
- He does not foresee processing wood in S. Starksboro for entire year.
- B. Campbell: How will the wood be dried?
  - Nick stated he would use waste wood or oil.
  - Would use a furnace inside the box; oil or wood drying
- J. Fenner: Is there a written agreement for using the property?
  - No. Nick has known Len Denice for 36 years.

- Power line across property:
  - D. Nugent asked if the equipment is placed under the line.
  - Yes, it has been under it. The power company said they were going to move the line to road side in the next year or so.
    - Applicant does not have written permission to set up under the power line.
  - M. Dickstein: Are you planning to do the same thing you have been doing? Why put in the application now?
    - Nick stated the use will continue to be the same. He applied because of noise complaints from neighbors.
  - J. Fenner: – are you planning to run electricity?
    - No. But if he service was needed, it would be right off the pole.

Questions from the audience:

- Jody Higgs: Asked for clarification of what the activities will be and what duration. She said there was a time that was 7 days a week.
  - Applicant stated that the intense period referred to will not be repeated in Starksboro. The work he did over the summer is what he plans to do going forward.
  - Applicant said it takes 25 minutes to fill the truck. If he can process it in one day and sell it locally, then he cuts and delivers.
  - No plans to hire staff.
- Jane Cooper: Stated she has great neighbors and it was okay with the operation when it was smaller. She has seen it expand in the last year.
- Mary Claire Dehaven
  - How much will the business change?
    - Applicant: log truck loads; 10 cords per truck load
  - How many days per week and how many hrs per day?
    - Applicant stated it depends on the season. He can consolidate into some work days. Firewood is only part of what he does.
- Jane Cooper asked the board for clarification on “commercial” vs. “industrial” uses. She stated the sound makes this industrial zoning.
- Eric Hanson asked if there will be any site improvements? Gravel?
  - Applicant said yes, but not immediately. He plans to make changes slowly.
- Steve Cooper stated he lives next to the site. His main concern is the value of his property and being able to sell. They are retiring and want to sell. The wood processing operation takes away from the beauty and quiet of his property.

**Access:**

- Applicant uses Len Denice’s driveway for all ingress/egress.
- D. Nugent asked if applicant has a statement from the town regarding impacts to the roads.
- B. Campbell asked about the number of log truck loads coming in/out. Applicant stated he expects a steady flow of 2 loads per week but it can vary. Applicant doesn’t think the area can support him doing 100 cords there.
- J. Cooper asked for a description of the equipment used and stored on the site.
  - Tractor, 2 dump trucks, and trailer. Applicant also uses other equipment for work including a large equipment trailer, a skidder.
- An audience member asked how many families in town are supplied with firewood by the applicant. Applicant stated he has 400 customers in his database, with 300 in Starksboro.
- Applicant said he will cap production at 1000 cords. If he did 100 hours of processing, that would be all the wood for the entire year. 400 cord cap for Starksboro.

Jim Scheid stated he lives across from the lot. He sees a lot of truck traffic, including coming around the house and then coming up the lane next to them. The applicant lives next door and there is a lot of truck traffic. He stated this for the record.

**Pedestrian Traffic:** There won't be any. People will stop by, chat in the field. Not selling firewood from the site.

**Parking:** All parking will be near the trailer. No parking for customers. Will be putting down stone/gravel in the future to control mud and erosion.

**Stormwater and snow storage:** Nick does the snow plowing. There is usually too much snow in the field to do much in the winter.

D. Nugent asked if the applicant has a state permit for stormwater management plan. Applicant does not and will need to obtain one. This is a State requirement. The board saw that silt is going down into the river at the site visit. This must be addressed.

**Lighting:** There is no plan for any lighting. Applicant does not cut at night. Not planning any activity after dark.

**Signage:** Applicant will not put up signs. Two trucks have advertising on them already.

**Landscaping:** Brushhogging will continue to be done twice a year. Everything that is muddy now will be covered in gravel and the field will stay the same.

- M.C. Dehaven: What is the applicants plan for screen requirements?
- Applicant stated he is not planning any screening and has no intention of putting up a fence.
- M.C. Dehaven stated the visual aesthetic of the area is difficult. The box trailer doesn't fit with the character of the residential area. She asked for significant screening to protect the value of surrounding homes.
- Bill Bissonnette stated he likes to see people working in the area. There are some other unsightly things in South Starksboro that are not regulated. This is a working lands use.
- Applicant stated the box trailer has been in South Starksboro for 25+ years. It has been on road side for many years. There are two other skidders sitting on Jerusalem Rd. Why does he need to hide his equipment but others do not?
- Ray Marcotoullio asked what is natural for the area? Skidders and trailers are part of the working landscape. Perhaps the box trailer could help with noise if situated properly, it could help shield equipment. Painting it could help—could do something fun like a mural on it.
- J. Cooper: The bylaws refer to changing the character of the area. There have been working equipment in the area but not right up in front by the road. There may be skidders elsewhere but not in the middle of a bunch of houses.
- M.C. Dehaven stated she agrees and likes to see people working; her only problems are with the noise and the box trailer. If there were a way to cover the colors on the trailer that would be appreciated. She stated she respects the applicants' work.
- J. Scheid said he read landscaping is to be used to create a buffer between incompatible uses, screen elements from view that would detract the character of the area. (316.A) The trailer moved to a location that is much more visible.
- J. Cooper would not like to see a fence as it would be out of character; would prefer something in keeping with the area (trees, hedge, greenery) not a structure that needs maintaining, painting.

**Energy conservation:** N/A; applicant stated he is operating as efficiently as possible; creating a renewable resource. Most of his customers are the immediate area. While operating in Bristol, his gas bill has gone up significantly. The cheapest option for his operation and with the least impact is being in South Starksboro. More driving means prices of wood go up because of transportation costs.

**Compatibility with town plan:** This isn't a new use. Applicant has been doing this in the neighborhood for a long time. He understands he is in a residential area and wants to minimize impacts on neighbors.

- R. Warren asked if the rest of the applicant's work is home occupation type work? Yes, self employed and working for other local businesses. Nick does a variety of work.
- B. Bissonnette asked for clarity on zoning. If denied a permit for that lot, where could Nick be in the neighborhood in Jerusalem? Dan Nugent said it is not the board's job to identify a place for a business. Perhaps a location not so close to houses. Bill said this is a question for the town and Planning Commission: how do you have mixed uses in an area and deal with conflicts in use? Dan Nugent said while commercial uses are allowed, they must fit in the area and not be intrusive on the neighbors. This discussion is not why we are here tonight: we are listening to the application as presented.
- J. Scheid said he doesn't believe it is a suitable location for commercial activity due to the noise in particular. He said they hear the noise in their living room and must play music loud to not hear the machine. It is a neighborhood not a commercial zone.

**Public facilities:** n/a

**Safety & privacy:** No safety issues, set back from the road as much as possible. Privacy is up to interpretation.

- R. Warren asked if work could be scheduled to accommodate other activities in the area. What does the applicant propose?
- N. Bissonnette stated if people come to him and ask, he will try to accommodate requests for non-work times. He can do the same days each week. With notice, he can be accommodating.
- R. Warren asked if it would be too limiting to set regular hours.
- N.B. said he doesn't cut after 5pm.
- J. Fenner asked about safety: is the processor locked at night? N.B. stated there are a series of steps that need to happen in order to make it operate. But yes, he can remove the key to prevent it from being started.
- J. Scheid stated he has a clear memory of hearing machine on weekends.
- J. Higgs: asked about again about timing and amount of traffic; trying to understand how much activity. She said privacy is difficult to address and read a definition.
- Helen Bissonnette said timing is often about when the customer wants wood delivered.

### **Performance standards.**

**Noise:** there will be noise; everything involves noise; up to interpretation. Diesel engine is loud. It is the sound of the blade cutting the wood. Has done a decibel test before. D. Nugent stated the bylaws have a standard table. Applicant stated he would be making the same amount of noise as the other permitted commercial operation in town (D. Casey). The board said equipment produces different levels of sound and the bylaws state it cannot exceed 60 dB from the property line. The board needs some evidence on that. There will need to be a sound tech to take readings on the closest distance of the machine to property lines. Applicant stated the noise will be different depending on season; makes more noise in the winter without leaves to mitigate sound.

- D. Nugent asked if the applicant knows exactly where the boundary lines are. The board wants to see more of a plan on the paper; wetland in the back; power line; need to know more about where things will be set up.
- J. Fenner stated the board requests a sound test be done. It looks like ~150ft from the road. Most processors are reported to operate at 100-110 db. Applicant needs to get the sound meter reading to know if you can make it quiet enough to meet the criteria.
- B. Campbell suggests that if the trailer could be made more visually attractive it could also be shielding the processor from the road.

- J. Higgs: As the crow flies, she is a half mile away and can still hear a lot. She is at higher elevation and the sounds are quite audible.
- M.C. Dehaven stated she cannot talk on the phone inside. She requests a correctly calibrated meter for the testing. She wants to be able to live there and sell the house in the future.
- J. Scheid stated he is concerned about selling the house; taking a financial loss.

**Dust, odors, pollution:** Applicant said there is dust, diesel odors. Doesn't leave machinery running.

**Light, glare:** n/a

**Vibration:** Machines move and in out; doesn't affect neighbors.

**Traffic:** In/out 6x max; trucks coming up with logs – 2 per week avg. more traffic bringing the wood from Bristol.

- D. Nugent: applicant must calculate the number of trips. Provide the board with a worst case scenario. Need to know the pattern will follow.
- M.C. Dehaven: The traffic between the site and onto Harlow Dr and next to where she lives is significant. How much traffic will there be with that? That is a private shared drive. Should that be considered? The board stated that is not part of the application.
- J. Cooper stated she doesn't think the board is getting a clear picture. 7am – pulled out a dump truck with a flatbed. When applicant says 6 trips a day, there is way more than logging taking place. There is much noise not being addressed here.
- Applicant stated he starts at 8am or later. Anything else, like plowing, he leaves early; anything not related to firewood is not staying in South Starksboro.

**Junk and refuse:** Applicant stated there is not much scrap. The bigger chunks and cut offs get dumped somewhere else.

- B. Campbell noted that the applicant might want to be more aware of the debris going into the stream.
- Applicant stated he is aware of what needs to happen; must have a catch for the particulate matter. The board noted some of the material is approaching the wetland area.

**Bulk storage:** Applicant has independent tanks at his house across the road. The processor has a 30 gal. tank. Nothing is stored on site. Storage in behind his garage – once a week to be filled.

The board then summarized what the applicant needs to prepare for a continuation of the hearing. See attached document.

Neighbors asked if property values and the effect of the business could be evaluated. The board said this is not part of the criteria and therefore they cannot review it. Any information can be submitted to the board as part of the official record of the hearing.

Applicant stated that he lives and works in South Starksboro. This isn't a new use. He has been there the whole time and is one of the last people working in the area. The applicant said he feels attacked.

D. Nugent stated that the town came up with the rules and approved them through public hearings and vote. This project does affect the streams and the neighbors: there are impacts. This application process is the cost of doing business. The applicant is progressing into a different phase as an established business and therefore must meet the requirements of the town bylaws.

M. Dickstein asked if there are other people doing this work in town, can the applicant submit pictures of the working taking place? It may be relevant to the application. If he can show that there are other people doing the same thing in the neighborhood, then there are comparables.

J. Scheid stated he does not like feeling this way and having conflict with applicant. J. Scheid said he needs to protect his home and privacy. Everyone in the neighborhood has needs that must be addressed.

**The hearing was recessed at 9:45 p.m.** so the applicant can bring back more information. The board will provide the applicant with a list of items that require more information.

The audience departed.

**Motion:** Jon Fenner moved to enter executive session to discuss DRB schedule and sequence for deliberation and continuation of hearings on the docket. Rich Warren 2<sup>nd</sup>.

**Motion carried.**

**Motion to exit executive session:** Jon Fenner moved. Rich Warren 2<sup>nd</sup>.

**Motion carried.**

*Result of discussion:*

- June 13 – Resume Bissonnette/Denice application hearing. Jon Fenner and Ben Campbell will not be present. Norris site plan review hearing also scheduled.
- June 20 – Special meeting for deliberation on Harris application and others as needed.
- June 27 – Norris subdivision hearing schedule.

**Motion to adjourn at 10:25 p.m.:** Ben Campbell moved, Rob Liotard 2<sup>nd</sup>.

**Motion carried.**

Respectfully submitted,

Rebecca Elder