

**Cornwall Development Review Board (DRB)
MINUTES • April 7, 2021 • 7:00–9:35 0pm
Meeting • Virtual via ZOOM**

MEMBERS PRESENT: Barbara Greenwood, Shari Johnson, David Anderson, Magna Dodge, Ross Gregory

ALTERNATES PRESENT: Joan Lynch, Cheryl Cesario

ATTENDEES: Kayla and Cam Schaefer (Applicants), Jim Dumont (Attorney for concerned parties), 31 members of the public

1. **CALL TO ORDER:** at 7:00pm by Barbara, DRB Chair
2. **ESTABLISHMENT OF QUORUM**—Established
3. **APPROVAL OF AGENDA**—Magna MOVED, Shari SECONDED, to approve the Agenda as proposed. *Motion passed.*
4. **APPROVAL OF MINUTES:**
 - *March 3, 2021* (hearing)—David MOVED, Magna SECONDED, to approve the **March 3 Minutes** as amended. *Motion passed.*
5. **PUBLIC MEETING ATTENDEE SIGN-IN:**
 - **Interested Persons**—Barbara explained what “interested person” means and why it is relevant, according to 24 V.S.A 4465(b). Pursuant to 24 V.S.A. 4471, only an interested person who has participated in this proceeding may make an appeal of any decision issued in this proceeding.
 - David asked each participant for their name, address, and whether they are claiming interested person status in the hearing on the Barn on the Flats matter. Barbara noted that attendees would be left unmuted and requested all to refrain from rustling papers or talking until it is their turn to speak in order to minimize disruptions. When all had signed in David administered the oath and those who planned to speak were sworn in.
6. **HEARING: Barn On The Flats LLC, Conditional Use**
 - **Introductions & Housekeeping**—Barbara opened the hearing noting that she would be chairing the meeting, and David Anderson would be handling the Zoom aspects. She introduced the DRB members in attendance: David Anderson, Magna Dodge, Shari Johnson, Ross Gregory, and herself. Also present were alternates Cheryl Cesario (who subsequently recused herself) and Joan Lynch, plus Board secretary, Robin Conway, and the hearing’s applicant, Barn on the Flats, LLC, represented by Kayla and Cam Schaefer.
 - As set out in the warning that was posted, published in the paper, and mailed to abutters, this is an application for conditional use approval brought by Barn on the Flats, LLC. The Applicant seeks conditional use approval for the property located at 1683 West Street, Cornwall, Vermont and owned by Kayla and Cam Schaefer, to allow the barn to be used as a commercial event venue for private parties.
 - **The Hearing’s Procedure**—Barbara explained that after some housekeeping matters, the Applicant would be asked to present the application, to be followed by Board questions, and then an opportunity for any public comment. The Applicant would have an opportunity to respond to any comments or questions posed by the Board or the public. She noted that the Board may have further questions. Following the public comment period the Board would then either close the hearing or adjourn it, to be resumed at a specified date and time.

She ended this portion of the introduction by noting that the hearing would be conducted in an

orderly manner and in accordance with DRB rules of procedure. Additionally, as there would not be screen sharing at the hearing, she requested that everyone who refers to a particular document, be very specific about which document they are talking about, and which portion of it they are talking about.

• **Conflicts of Interest**—Board members were asked to disclose any conflict of interest, ex parte communications, or visits to the property:

- **Barbara**—Visited the property on March 24th, noting the crescent-shaped driveway and little parking lot by the kiosk, she walked around the barn and across the field where parking is proposed. She also spoke with the Applicants in connection with the scheduling of this application, telling the Applicant that the Board would be looking for information on whether the proposed use would result in undue adverse effect on the criteria set out in §355 and invited her to submit information in advance of the hearing.
 - **Shari**—Visited the site on March 24, did not speak with anyone.
 - **Ross**—Visited on April 3 and did not speak with anyone.
 - **David**—Visited on March 23, speaking with no one.
 - **Magna**—also visited but was unsure of the date, she spoke with no one.
 - **Cheryl**—Recused herself as an abutter and interested person with comments to make.
- **Exhibits**—Barbara then read the list of materials that had been marked as exhibits. This includes all the materials filed by the applicant as part of the application as well as some additional material such as written comments received prior to the hearing.
- **Exhibit 1**—Warning (which was posted in a timely fashion at the Town Hall and Town Garage, and on the Town website; the property was also posted)
 - **Exhibit 2**—Warning as published in the *Addison Independent*, March 11, 2021
 - **Exhibit 3**—Proof of service – certified mail receipts for abutters dated March 8, 2021, together with list of abutters and copy of the warning provided to abutters
 - **Exhibit 4**—Application as filed on February 5, 2021, consisting of: application form; warranty deed for lot on the west side of West Street on which the barn sits (1683 West Street); copy of part of survey showing lot on which barn sits as “lot 2”; and list of abutters. [*Note* the ZA found the application as originally filed incomplete. He declared it complete March 8, subject to the filing the following day of the materials marked *Exhibits* 5 and 6.]
 - **Exhibit 5**—Part of application filed March 9, 2021—Letter “to whom it may concern” dated February 16, 2021 from Cam & Kayla Schaefer explaining basis for their application
 - **Exhibit 6**—Another part of application filed March 9, 2021—February 15, 2021 email from Kayla Schaefer providing information to address elements of §353 of the Zoning Regulations, and attaching two maps—PDF is titled “barn developed for events” but actual document is titled “1683 West Street—Barn on the Flats Parking” and PDF titled “barn to scale” [actual document is titled “1683 West Street—Barn on the Flats”]
 - **Exhibit 7**—March 12, 2021 email from Kayla Schaefer addressing the criteria set forth in §355 of the Zoning Regulations
 - **Exhibit 8**—Cornwall Conservation Commission’s review of application, dated March 27, 2021
 - **Exhibit 9**—Cornwall Road Foreman’s assessment of the potential traffic impacts of the proposed conditional use, as set out in an email dated March 18, 2021
 - **Exhibit 10**—Written public comments received prior to hearing:
 - 10A – from Will Amidon, in an email dated March 31, 2021
 - 10B – from Susan Parsons, in an email dated March 31, 2021
 - 10C – Cesario letter dated April 6, with a map of the property showing the path of the

access road and near-by lots.

10D – Letter from James Dumont, Esq., dated April 6, on behalf of his clients the Cesarios, R. Kincaid, the Menkarts, the Berninghausens.

10E – Branch & Collier with comments, dated April 6 Email from

- **Exhibit 11**—Warranty deed for land on which Schaefer's house sits (1776 West Street)
- **Exhibit 12**—Declaration and Establishment of Covenants Regarding Barn
- **Exhibit 13**—warranty Deed between West Street Properties LLC and the Agency of Natural resources
- **Exhibit 12**—Warranty Deed between West Street Properties LLC and Holmes Jacobs regarding the spring easement.

Barbara noted that there were many gaps in the information conveyed in the application and it appeared likely that the hearing would need to be continued on a date and time to be specified. She noted that it will be incumbent upon the Applicants to identify under which use, as listed in §260(B) of the Zoning Regulations, their project will fit since event venues are not an allowable listed use in their district. She also requested that the Applicants show, if planning to rely on “home-based business” as the basis upon which they seek approval, how they plan to meet the criteria in §407, and will fit the definition of a home-based business, as well as demonstrate there will be no adverse impacts on the criteria listed in §355. She then turned the hearing over to the Applicants for their presentation.

• **Applicants' Presentation**

- **Kayla** introduced her husband Cam, and went on to provide some details regarding their proposal.
 - **Events**—to be scheduled May through October, possibly two per month
 - **Lighting**—Minimal; primarily in the parking area, powered by generator(s)
 - **“Curfew”**—11:00pm Friday and Saturday nights, 10:00pm Sunday through Thursday
 - **Criteria**—They seek to be approved as a §260(B) allowed listed use under Adaptive Reuse, and meet the criteria in §407 as a home-based business being a local enterprise and using an accessory building on their parcel, and show that there will be no undue adverse effects from the Conditional Use, if approved, on the criteria in §355.
- The Schaefer's intent was to learn what the public concerns are and they appreciate the fair amount of public input received so far. They explained they supported the use of private land by the public and had been open to the ANR right-of-way across their land, though disappointed in how some have made use of their parking area.
- They were encouraged by references in the Town Plan to the promotion of home businesses, and hoped the Board would address some of the issues they found troubling in the Regulations. *Barbara observed that the DRB can not amend the Regulations, they can only use existing provisions as the criteria in deliberating their decisions.*
- **Barbara** asked for clarification on the parcels (barn parcel and house parcel) and whether they were two lots or one. The Board needs clarification/proof that the parcels are one lot and are not just being treated as one lot for tax purposes *Cam noted that their house is the principal building on their lot and the barn is the principal business. Kayla said it is one lot, they have the tax bill showing it as such with one span number, and they are confident they can prove it is one lot and they will fit the home business criteria.*

• **Board Questions for Applicants**

- **Shari**—Requested clarification of number of people anticipated at events and the closing times. *Kayla: A maximum of 200 people; closing at 10:00pm weekday nights and 11:00pm on weekends.*
- **David**—How was the number of 200 arrived at, and where would events take place (in the barn or tents erected on the lot)? *Kayla: Expected number of attendees came from checking*

with other similar local ventures; as far as tents go they do not expect people will want the additional expense of them. They are open to an alternative maximum.

- **Shari**—Is water available at the barn? And what about outdoor lighting (concerns about people walking to and from the parking area in the dark)? **Kayla**: *Water is available, but only for ag use, not potable. The outdoor lighting will be only in the parking area and possibly powered by generators.*
- **David**—Is there to be a contract for venue renters, and what will be in it? **Kayla**: *Yes, there will be a contract renters must sign, it will contain issues such as the parking, closing time, bartenders, and so on.*
- **Shari**—Who will be on-site and in a position of authority during events? **Kayla**: *They will be there or they will have a designee in their stead. Abutters will be notified of planned events.*
- **Shari**—Who will deal with traffic issues and how? **Kayla**: *As events will only take up 3% of the year, they do not expect excessive traffic.* **Cam**: *Their goal is maximum flexibility for scheduling as opposed to maximum events scheduled.*
- **Ross**—Water is available but is not potable, correct? **Kayla**: *Yes. To have potable water would require a State permit, they have no plans to do that.*
- **Barbara**—The easement for the well on the Kincaid lot is the water source for the barn? **Kayla**: *Correct*
- **Magna**—Has there been any input from the Fire Chief? **Kayla**: *They have contacted him, but have not heard anything back as yet.*
- **Barbara**—The Board will want to hear from the Fire Chief.
- **Magna**—What about liability insurance? **Kayla**: *They will pursue that if they are approved; The renters will have to have insurance coverage.*
- **David and Shari**—Board will want a copy of the proposed rental contract. **Cam**: *Agreed*
- **David**—Music will only be in the barn? And what constitutes a weekend? **Kayla**: *yes, only inside the barn. The weekend nights are Friday and Saturday.*
- **Barbara**—Who will the business operator(s) be? Where will the business be operated from? What permits do they envision the renters will need? **Kayla**: *Only she and Cam will operate the business, no full-time employees. The primary function of the barn is as a rental, bookings, etc. will be run from the house (via Internet). Renters will need to supply all event permits, supplies, insurances, and will be responsible for running the event. Types of permits will depend on the type of event.*

- **Barbara**—What is the:

Square footage of the barn?

What is the barn's front setback? Please supply.

Flooring?

Indoor lighting?

Do windows open?

Where are entrances?

Plans for signage?

What ag use if any is made of the parcel?

Will events impact haying?

Will ground be too soft at times, farm road too muddy?

Re: ANR public use agreement, any conflict?

Kayla/Cam

40 x 100 (4,000)

Will have to check on that

Concrete

Yes, onsite power; ceiling

No

one each NW, SW; three on the South

No business-type signs

Haying

Not much

Yes, but parking can be shifted

They are working with ANR to use existing small parking lot only for loading and unloading during events.

ADA parking?	<i>Yes, in the small parking lot</i>
Smoking?	<i>No, covered in the contract</i>
Fire Marshall permit for the boat storage?	<i>No, is private storage, permit not necessary.</i>

Note: The Board will want a copy of the ANR agreement for public access with details of what the State wants addressed in the rental contract.

Also submit a Fire Marshall review of the proposed use. Specifically, the DRB expects to receive a copy of any Occupancy Permit that may be issued by the Vermont Department of Public Safety, Division of Fire Safety.

• **Additional Questions—**

Kayla/Cam

Any multi-day events as for pre- & post-wedding?	<i>No multi-day events</i>
Camping?	<i>No</i>
Trash & clean up?	<i>Renters responsible, in contract</i>
Caterers?	<i>Renters responsible, in contract</i>
What keeps traffic from backing up?	<i>Not expected to be an issue</i>
Thoughts on area's unpaved road use by attendees?	<i>Do not see it as an issue</i>

- **David**—Is there room for a bus to drive in, load/unload passengers, then .(park, leave and return?) **Kayla:** *There is room but most will deliver, leave , then return to pick up. They do not expect buses to park there.*

- **Public Comment**—Attendees reminded to please identify themselves, state where you live, and speak clearly. Each will have three minutes. The Applicant would have an opportunity to respond at the end, but could choose to respond to individual comments or questions as the hearing progresses. Attendees to be called on by David beginning with the Cornwall Conservation Commission.

- **Conservation Commission**—Mary Dodge spoke to the issue of spring amphibian crossings in the area of the proposed event barn, expressing the hope that mitigation efforts might be put in place to reduce amphibian mortality rates. **Kyla** —*agreed and noted that this was a concern she and Cam shared. She noted that they do not plan any mid-March to mid-April events because of the crossings.*
- **A. Menkart**—concerned about noise and traffic
- **Quintas**—How will no smoking be enforced? Generators are very loud. Will porta potties be removed after each event? Who cleans up the grounds?
- **Berninghausens**—Concerned about noise, lights, traffic. How will barn be ventilated since windows don't open? Air conditioning? If doors are all open, music will escape.
- **B. Menkart**—Is concerned about noise, traffic. A party barn is distressing to think of , is not in compliance with zoning.
- **Zarowin**—Asking renters to take on so much responsibility is troublesome. The owners should be the responsible ones.
- **Dumont**—speaking on behalf of his clients, the rental agreement and Fire Marshall review are essential.
- **Branch**—the plan is not compliant with zoning regulations
- **L. Anderson**—Commented on noise heard from Pink House events.
- **C. Cesario**—Explained how such a venue could have a seriously negative impact on their contract grazing operation.
- **Kushner**—Shares stated concerns and feels there is too much lack of specificity in the plan.
- **Smith**—What is the plan for dealing with mosquitoes? Foggers? Chemicals?
- **Hennesey**—too many unanswered questions.
- **Urband**—Owners are leaving too much responsibility to renters.

- **Kincaid**—Same concerns as others. Noted that sounds tend to be amplified in that area (lives across the road). The curfews are late for her.
- **DeHaven**—Too many vagaries and unanswered questions.
- **Byers**—If approved, should be conditioned on revocation of permit
- **Fuller**—His concerns have been covered.

• **Applicant Response**—

- The Schaefer's thanked the Board and attendees for the feedback, they will work to address the issues raised.

• **Final Board Questions**—

- **Barbara**—What about the mosquitoes? **Kayla**: *No plans.*
- **Magna**—Will the Board be provided with copies of the Rental Agreement and division of duties documentation? **Kayla**: *Yes.*

• **Wrap Up**—

- After short discussion, Barbara adjourned the hearing to July 7 at 7:00pm. Applicants were advised to submit the additional material requested at least 15 days prior to the hearing. There will be no newspaper warning or mailed notices of the resumed hearing.

7. ELECTION OF OFFICERS:

- Chair—Magna NOMINATED Barbara for Chair, David SECONDED. ***Motion passed.***
- Vice-Chair—Magna NOMINATED David for Vice-Chair, Barbara SECONDED. ***Motion passed.***

8. AVAILABILITY FOR NEXT MEETINGS:

- May 5, 2021—All anticipate being available.
- June 2, 2021—All anticipate being available.
- July 7, 2021—All anticipate being available.

9. ANY OTHER BUSINESS:

- ***Old***—
 - David MOVED, Magna SECONDED, to continue holding the Board's meetings on the first Wednesday of each month, at 7:00pm. ***Motion passed.***
 - ***Assistant ZA***—Bill Goodman has pulled his name from consideration as Assistant ZA, so the Selectboard is still looking to fill the position.
- ***New***—Magna and Ross will take the lead for the Trillium hearing.

10. DELIBERATIVE SESSION: none

ADJOURNMENT—Magna **MOVED**, Ross SECONDED, to adjourn at 9:36. ***Motion passed.***

Respectfully Submitted,
Robin Conway, DRB Secretary