

Conditional Use Amendment
Highland Center for the Arts
May 3, 2021

To consider a request by the Highland Center for the Arts to suspend Condition #5 in their 2014 Conditional Use permit. Condition #5 prohibits amplified sound outside of HCA's physical building.

Warnings were posted on April 14, 2021, at the Greensboro Town Hall, the Greensboro Post Office, the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to the applicant and the following abutters and neighboring property owners: Mountain View Country Club; Town of Greensboro; Patricia Mercier; the Bishop Family Trust; NEXT 1, LLC; the Niemi Trust; David Allen; Hardwick Electric Department; Arthur and Julie Brochu; Brendan and Lindsay Beer, on April 14, 2021. It was published in the Hardwick Gazette on Wednesday, April 14, 2021.

Development Review Board members present: Jane Woodruff, Nat Smith, Lee Wright, Linda Romans, Wayne Young, BJ Gray, and Jan Travers (alternate).

Development Review Board members absent: Mike Metcalf; MacNeil recused himself and attended as a member of the public.

Others present: Brett Stanciu; Lise Armstrong; Julie Brochu; Meghan Rublee; Adelaide Tyrol; Maya McCoy; Brent McCoy; Keisha Luce; John Stone; Ginny Callan; Rob Halpert; Liz Steel; Justin Lander; Christine Armstrong; Karl Stein.

Correspondence from interested persons:

Letter from Tom and Carla Fortmann, DRB exhibit #1

Letter from William and Martha Niemi, DRB exhibit #2

Letter from Shaun Hill, DRB exhibit #3

Supplemental State of Vermont Health Guidance from Maya McCoy, representing HCA, DRB exhibit #4

Letter from Todd Hardie, DRB exhibit #5

Letter from Isa Oehry, DRB exhibit #6

Letter from Elsa Schultz, Chad Sims, Kevin Kane, and Ginger Hall, representing Highland Lodge, DRB exhibit #7

Letter from Jennifer Ranz, DRB exhibit #8

Letter from Judy Carpenter, DRB exhibit #9

Letter from Naomi Ranz-Schleifer, DRB exhibit #10

Letter from David Kelley, DRB exhibit #11

Letter from Tim and Bobbie Nisbet, DRB exhibit #12

Letter from Kelly Papke Nottermann, DRB exhibit #13

Letter from Sophie Barsalow, DRB exhibit #14

Letter from Justin Lander, DRB exhibit #15

Letter from Lindsay and Brendan Beer, DRB exhibit #16

Letter from Lucy Mitchell, DRB exhibit #17

Letter from William and Irene Hill, DRB exhibit #18

Letter from Maureen Mitchell, DRB exhibit #19

Letter from Alain and Fiona McMurtrie, DRB exhibit #20

Letter from Robert Benoit, DRB exhibit #21

Letter from David Allen, DRB exhibit #22

The hearing was conducted by electronic communication (ZOOM).

Summary of Discussion:

Ms. Woodruff, chair, began the hearing at 7:02 p.m. She noted the hearing was quasi-judicial, explained the procedure for the hearing, and asked the clerk to swear in any person who wished to participate in the hearing. She entered all letters into evidence and asked the clerk to specify that correspondence was received by adjacent property owners William and Martha Niemi; Lindsay and Brendan Beer; David Allen.

Ms. Luce and Ms. McCoy, representing Highland Center for the Arts, said HCA had determined that, due to the unpredictable nature of the virus, social distancing, masks, and outdoor performances were the safest choices this season. Staff had crafted a plan to impact neighbors and the community less this year than the previous year. These plans include a fixed stage and speakers to more accurately measure and monitor sound. The stage will be set on the lawn, facing the terrace, on the west side of the property. Sound measurements will be taken at the end of the driveway. Speakers will be aimed south-southwest between the Wilson Farmstand and the golf course. All amplified sound will cease at 8:30 p.m. All performers understand HCA's sound restrictions. Decibel checks will take the day's current decibel reading, then allow the performers to rise 10 decibels higher at the most. Performers have been specifically chosen, in part, to require minimal sound and will be the least obtrusive to neighbors. Performances include classical music; poetry readings; comedy; jazz, folk, and Celtic music ensembles; Vermont Vaudeville; and children's performances. Some events will utilize the tent.

The Board clarified that approximately thirty events might be planned. Four or five Vermont Vaudeville shows are planned; last year, Vaudeville performed eight shows, due to the restrictions regarding audience size. Other activities in the tent, such as the Get Thee to a Funnery summer camp and WonderArts programming, will not require amplified music. The Board asked how HCA would control sound levels. Ms. McCoy said the Center had hired a sound engineer. Ms. Luce noted staff had learned from last year, and she was confident they had chosen performers who would be compliant.

Ms. Woodruff then asked for public comment. Ms. Carpenter noted she was in favor of granting the waiver. She had attended performances last year without amplified sound and could not hear the performance. Mr. Stein asked why this condition existed for HCA. Ms. Woodruff answered that the condition was placed on the initial permit, and HCA had agreed to it. Mr. Stein asked if a warned hearing would be required for that condition to be permanently removed. Ms. Woodruff said that was correct.

Ms. Brochu said she is the closest neighbor and doesn't understand the need for amplified sound, as she hears voices on HCA's patio from her property. While Ms. Brochu acknowledged the difficulty of the pandemic, she said knowing the days and times of events would be helpful to her, as the sound does impact on her property. She clarified that the request was for a temporary waiver. Ms. Woodruff affirmed that a permanent relief had not been requested.

Mr. Lander said he is a Vermont Vaudeville performer and appreciated the opportunity to continue working as a performance artist. Mr. Stone, who is on the board of the Mountain View Country Club, offered unofficial support. Ms. Steel voiced her support.

Ms. Christine Armstrong read information from the State of Vermont Agency of Commerce and Community Development, noting effective June 1, one unvaccinated person is allowed indoors per 50 square feet up to 300 unvaccinated people, plus any number of vaccinated people. Outdoors, 900 unvaccinated people, plus any number of vaccinated individuals, is allowed. Ms. Armstrong asked why HCA's events aren't indoors as no state gathering limit is anticipated after July 4. She also noted that a quiet rural area generally has 30 decibels of sound. Ms. McCoy answered that HCA decided to hold all events outdoors. This decision was based on State guidance that outdoor gatherings and events are strongly preferred for community wellness. She agreed with Ms. Armstrong's 30 decibel description, but noted HCA's baseline readings of Greensboro are usually 39 or 40 decibels. Ms. Luce added that the medical community encourages outdoor events. Some discussion ensued around indoor versus outdoor events, before Ms. Woodruff directed the conversation back to the question before the Board.

Ms. Rublee, a staff member at HCA, thanked the Board for the reprieve last summer and noted she appreciated the opportunity to work and stay safe. Mr. McCoy referred to Ms. Armstrong's comments and replied that the pandemic is still very active. He has performed for 15 years and will not sign up for any indoor performances this year. Ms. Brochu asked if masking and social distancing might be enforced more easily indoors. Mr. Stein said the chance of spreading Covid outdoors is less than 1%, whereas spreading inside is in the 30% percentile. Ms. McCoy acknowledged that HCA has the greatest impact on Ms. Brochu; she realized the Center feels like the backyard to the Brochu house when she visited.

Discussion revolved around decibel readings and if there was a cut-off number. Ms. McCoy said too much noise would blast the audience, but HCA will also rely on input from neighbors. Ms. Luce noted the staff person who will take sound measurements will also be mindful of the audience and report back about sound. Ms. Luce said the Center offered art to the community during this hard year, for joyful experiences and to combat isolation. HCA supports local artists, so the arts may survive. Ms. McCoy asked the Board to make a quick decision, as jobs at HCA and contracts with artists are contingent on this decision.

Ms. Woodruff thanked Ms. Luce and Ms. McCoy for leading the discussion, and community members for participating. The hearing ended at 8:16 p.m. The Board entered into deliberative session at 8:18 p.m. and came back into public session to announce their decision at 8:50 p.m.

Decision and Conditions:

As the direction of the pandemic is still uncertain and the Centers for Disease Control and Prevention and the Vermont Department of Health recommends communities remain cautious, the Board proposed to grant the Highland Center for the Arts a suspension of Condition #5 to host outdoor sound-amplified events between June 1 and October 15, 2021, with the expectation that these events will take place as presented to the Board at the May 3, 2021, hearing. Namely, these events will be at most two hours long, ending by 8:30 p.m. at the latest, and that there will be minimal amplification above the ambient sound level. The Board sees this short-term reprieve

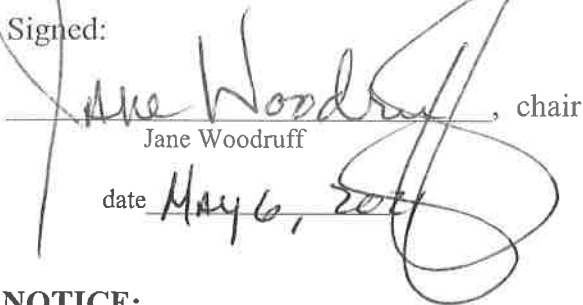
of Condition #5 as only short-term; this reprieve should not be interpreted as the beginning of outdoor, amplified sound concerts at HCA.


The Board voted unanimously (7-0) to approve this waiver. Jan Travers, alternate, voted in place of MacNeil, recused.

Conditions:

1. Highland Center for the Arts shall disseminate to all abutters the season's performance schedule as soon as schedule is set. Any changes to the schedule shall be conveyed in a timely manner to all abutters.
2. All amplified sound shall end no later than 8:30 p.m.
3. Every performance shall employ a sound engineer to control sound levels.

Signed:


_____, chair
Jane Woodruff
date May 6, 2021


_____, clerk
Brett Ann Stanciu
date May 6, 2021

NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.