

Conditional Use Amendment
Highland Center for the Arts
November 15, 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 October 27, 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; Patricia Mercier; the Osterhout Trust; NEXT 1, LLC; William and Martha Niemi; Arthur and Julie Brochu; Brendan and Lindsay Beer, on October 27, 2021. It was published in the Hardwick Gazette on Wednesday, October 27, 2021.

The hearing was conducted at the Collier Room, Greensboro Town Office, and by electronic communication (ZOOM).

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

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

Others present via Zoom: Brian Neimi; Keisha Luce; Tiffany Quinn; Jody Austin; Rick Ely on behalf of Mountain View Country Club; Lise Armstrong; Christine Armstrong; Julie Brochu.

Others present in person: Brett Stanciu.

Correspondence from interested persons:

- A one-page letter from Keisha Luce, representing Highland Center for the Arts, dated October 20, exhibit #1
- Email from William Niemi, dated November 7, exhibit #2
- Email response to Mr. Niemi's email from Ms. Luce, dated November 8, exhibit #3
- Email rebuttal from Mr. Niemi, dated November 10, exhibit #4

Summary of Discussion:

Ms. Woodruff, chair, began the hearing at 7:08 p.m. She noted the Highland Center for the Arts has requested a temporary suspension of Condition #5 of their conditional use permit, which prohibits outdoor amplified music. HCA requests this suspension for an outdoor holiday market on December 4, from 11 a.m.-3 p.m. The Center requests permission to amplify outdoor traditional shape note holiday carols in 20-30 minute intervals. HCA's winter festival is during the weekends of February 11 and 12, and February 18, 19, and 20, from 5:30-8 p.m. The Center would like to play outdoor amplified music at 30 minute intervals during this time.

Ms. Woodruff 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 asked the clerk to enter all correspondence into evidence.

Ms. Luce explained the Highland Center for the Arts' request is for a reprieve of Condition #5 of their conditional use permit, not an amendment. HCA plans to collaborate with WonderArts for their December market, which is modeled on a German festival. Maria Schumann will lead shape note holiday carols during the market. During winter's darkest days, HCA will host a winter festival, on February 11 and 12, and February 18, 19, and 20. The Center requests to play outdoor amplified music in 30 minute intervals from 5:30-8 p.m. Last year, the temperature for this event was negative six degrees. This year, HCA plans to locate the musicians in the indoor gallery space and locate a dance floor on the exterior patio. The intent is to encourage people to dance and have fun outside. The Center will not hold any indoor events this winter, due to high Covid cases. The staff will build wind breaks. These breaks will be located towards the Brochu house and extend towards the rock wall. These will be close to twenty feet in height. In addition, hopefully there will be snow for these events which functions as a good sound absorber. Given all conditions that winter provides, Ms. Luce does not expect sound will be heard outside the property.

Ms. Woodruff clarified that the musicians would be outside on the December dates, weather permitting. Ms. Luce affirmed this and noted that this event includes shape note singing which is folk-based. In February, musicians will be inside the building. Sound will be controlled through speakers. Ms. Woodruff clarified that Ms. Luce would be personally present at those dates to ensure a chain of command for possible complaints.

Mr. Niemi noted he was present at this hearing due to the nature of the wording. He is in favor of these events, but remains opposed to a permanent amendment. He wished HCA luck with these winter events. He noted summer noise was little loud in some events when the wind was prevailing on the country club. Ms. Brochu reiterated Mr. Niemi's comment. A temporary reprieve is acceptable to her, and she is in favor of these winter events, especially with Covid. Mr. Ely said the Mountain View Country Club is not opposed to these dates. He is personally in support of these events. Ms. Luce reiterated that HCA desires to be good neighbors and community members.

Ms. Woodruff thanked Ms. Luce and all attendees for participating. The hearing ended at 7:30 p.m. The Board entered into deliberative session at 7:31 p.m. and came back into public session to announce their decision at 7:46 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 on December 4, 2021, and February 11 and 12, and February 18, 19, and 20, 2022. The Board has the expectation that these events will take place as presented at the November 15, 2021, hearing. Namely, traditional holiday shape note carols may be performed on December 5, in 20-30 minute increments, from 11 a.m. to no later than 3 p.m. The February 11, 12, 18, 19, and 20 winter festival dates may include live indoor music amplified outdoors through speakers. These dates will include amplified music in 30-minute intervals, from 5:30 p.m. to no later than 8 p.m. HCA will monitor sound levels, with a goal of not exceeding an average of 10 decibels above the average ambient sound of

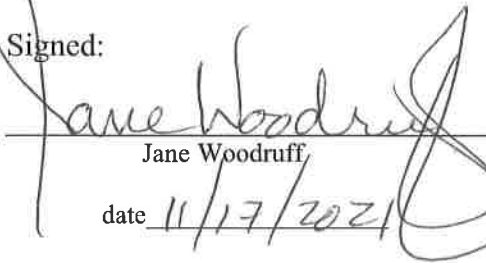
Greensboro at the edge of the Center's property. The Board sees this short-term suspension of Condition #5 as only short-term; this suspension should not be interpreted as the beginning of outdoor, amplified sound concerts at HCA.

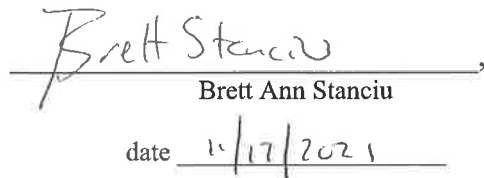
The Board voted unanimously (7-0) to approve this waiver. Jan Travers, alternate, voted in place of Lee Wright. Mike Metcalf, alternate, voted in place of MacNeil.

Conditions:

1. All amplified sound shall end no later than 3 p.m. on December 4th, and no later than 8 p.m. on the five February dates.
2. Every performance shall employ a sound engineer to control sound levels.

Signed:


_____, chair
Jane Woodruff
date 11/17/2021


_____, clerk
Brett Ann Stanciu
date 11/17/2021

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.

