

Conditional Use Amendment  
Highland Center for the Arts  
May 8, 2023

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

**Warnings** were posted on April 7, 2023, 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; David Allen; NEXT 1, LLC; the Niemi Trust; Brian Niemi; Hardwick Electric Department; Arthur and Julie Brochu; Brenden and Lindsay Beer, on April 7, 2023. It was published in the Hardwick Gazette on Wednesday, April 12, 2023.

**Development Review Board members present:** Jane Woodruff; Nat Smith; Mike Metcalf; Wayne Young; Tim Brennan; Lise Armstrong; Joann LaCasse; BJ Gray; Brett Stanciu (ex officio member).

**Development Review Board members absent:** MacNeil recused himself and did not attend.

**Others present:** David Kelley; Keisha Luce; Julie Brochu; Christine Armstrong.

**Correspondence from interested persons:** None.

The hearing was conducted by electronic communication (ZOOM).

**Summary of Discussion:**

Ms. Woodruff, chair, began the hearing at 7:02 p.m. Ms. Woodruff noted that an additional event was added to the original April 1, 2023, request. She accepted this additional request since tonight's hearing was warned not specifically by event but generally as a request for temporary relief of the prohibition of amplified outdoor sound. She noted the hearing is quasi-judicial and requested the clerk to swear in members of the public.

Ms. Luce said the Highland Center for the Arts has three requests. The first is for four Sunday poetry readings: July 9, July 23, July 30, and August 6, from 3 p.m. to 4:45 p.m. These readings will be held in the tent. Previous readings have had no sound bleed. The second request is for the ensemble Dirty Cello. This proposed Saturday, July 8 concert, from 6:30-8:15 p.m., has the possibility of sound bleed, but similar groups have had no problems on the property. The third request was initiated by the Town of Greensboro's Funky Fourth Committee. The request is for The Mallett Brothers Band to play on the patio on July 1, from 5:30-7:30 p.m. At 7:30 p.m., activities will be moved inside. HCA had already planned to have a dance and concert inside the building. Mr. Kelley, who is a member of the Funky Fourth Committee, said he arranged this free concert and hopes for good weather and a family Fourth of July picnic event. Ms. Luce added that, since HCA has limited outdoor events this year, the Center does not have access to last year's elaborate stage. HCA will build a stage for this event and put it on the patio.

The Board noted Condition #5 agreed upon in 2014 prohibited amplified sound. In the past few years, the Board granted waivers due to pandemic restraints. The Board questioned why a waiver should be again granted when the pandemic restrictions have lifted? Ms. Luce replied that the public greatly appreciates outdoor concerts. HCA proposes these two concerts as a community

benefit. She acknowledged that this request has altered from the original waiver request. The Board questioned if a concert could be held without amplified sound. Ms. Luce answered that the Center tried unamplified concerts with poor results. Musicians cannot play without amplified sound. Mr. Kelley added that the Funky Fourth Committee envisions the July 1 concert as a community family celebration on the lawn. Ms. Luce noted that the pandemic is not over for everyone. The Center partners with Backroads Readings who requested outdoor readings.

Further questioning from the Board inquired if a performance could be moved to the Hardwick Street side of the tent to muffle sound, or hold a concert in the tent. Ms. Luce acknowledged that could be considered. Questions confirmed that the sound engineer controls the decibel level, not the musicians. The Board clarified that the July 1 activities would be moved indoors after 7:30 p.m.

Ms. Brochu noted that she had not realized the July 1 concert was included and wished for more time to consider that request. Her family generally has an event on the Funky Fourth, and HCA's concert will be heard at her residence. Mr. Kelley confirmed that the Town will not have fireworks; a community picnic and dessert auction will be held in the village after the parade.

Ms. Christine Armstrong noted traffic has been a problem. She stated the Center's capacity is about 250 and questioned the safety of a proposed 400 attendees. She questioned the repeat requests for waivers as an attempt to circumvent the Development Review Board's previous decision. Ms. Woodruff replied that the Center is not circumventing the process but requesting relief from the Board's 2014 decision. The Board considers these requests on an ad hoc basis so the public can hear the requests and offer comments. Due process allows HCA to ask; the Board listens and deliberates. The standard the Board uses is whether the request is reasonable.

Ms. Woodruff asked Ms. Luce about parking and congestion. Ms. Luce replied that the indoor stage capacity is approximately 290; outside capacity is greater. HCA consulted with Selectboard members and the fire chief about solutions. Parking will be expanded on a section of lawn. Wilson Farm property is utilized. Attendants have improved parking. Road signs were agreed upon with the fire chief.

Ms. Luce thanked the Board for giving Highland Center for the Arts an opportunity to make their case. The Center strives to be a good community partners and would appreciate hosting the Funky Fourth concert in their beautiful facility.

The Board entered deliberative session at 7:37 p.m. and came back into public session to announce their decision at 8:20 p.m.

### **Decision and Conditions:**

The Board voted (7-1) to approve a temporary suspension of Condition #5 of Highland Center for the Arts' 2014 Conditional Use permit, requested by the Town of Greensboro's Funky Fourth Committee to hold an amplified dance party on the Center's patio on July 1, 5:30-7:30 p.m., with minimal sound bleed. Ms. Armstrong voted nay.

The Board voted unanimously (8-0) to approve a temporary suspension of Condition #5 of Highland Center for the Arts' 2014 Conditional Use permit, for four poetry readings on July 9, 23, 30, and August 6, from 3-4:45 p.m., under the Center's tent for amplified sound that does not bleed.

The Board voted (7-1) to approve a temporary suspension of Condition #5 of Highland Center for the Arts' 2014 Conditional Use permit, for a concert by the ensemble Dirty Cello on July 8, 6:30-8:15 p.m., using amplified outdoor sound with minimal sound bleed. Ms. Armstrong voted nay.

The Board granted these suspensions with the expectation that these events will take place as presented to the Development Review Board at the May 8, 2023, hearing. 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.

**Ms. Armstrong voted nay for the following reasons:**

The DRB had denied HCA's original request to delete Condition #5 from their original permit as that action would adversely affect the character of the area and would add to the noise pollution.

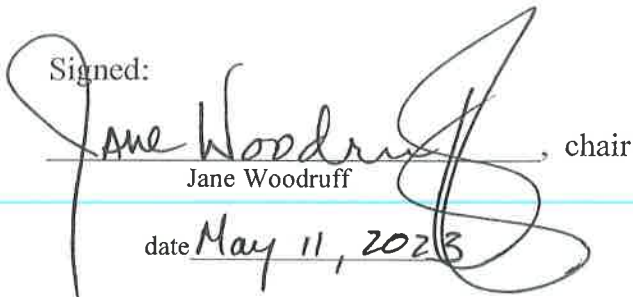
The DRB has been sympathetic to the constraints that Covid-19 has placed on HCA during the Covid-19 health emergency by granting temporary relief to Condition #5 on several occasions over the past few years. However, Covid-19 is no longer a public health emergency, and those constraints no longer apply. Therefore, I do not support this request for an outdoor concert with sound amplification because the reason is not justifiable.

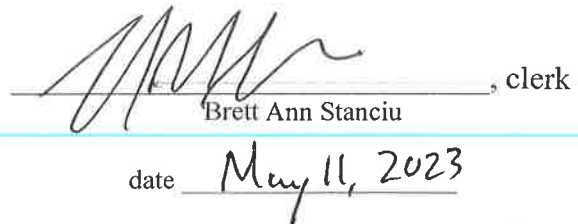
HCA has a big, state of the art, performance space which could, and should, be used as intended.

**Conditions:**

1. Any changes in dates or times will be conveyed promptly to abutters, the zoning administrator, and the Greensboro Fire Chief.
2. Highland Center for the Arts shall comply fully with the Greensboro Fire Chief's parking and traffic requests.
3. Every performance shall employ a sound engineer to control sound levels.
4. HCA shall keep a log of any complaints with name, contact information, and date. HCA will furnish that log, if created, to the zoning administrator by the season's conclusion.

Signed:

  
Jane Woodruff, chair  
date May 11, 2023

  
Brett Ann Stanciu, clerk  
date May 11, 2023

**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.