



**TOWN OF BRANDON
DEVELOPMENT REVIEW BOARD
APPLICATION FOR CONDITIONAL USE
FINDINGS AND DECISION**

In Re: Applicant: Compass Music & Arts Foundation

Landowner: Jim & Nancy Leary

Permit Application No. 6035

Introduction and Procedural History :

This proceeding involves review of an application for conditional use submitted by applicant: Compass Music & Arts Foundation and Landowner: Jim and Nancy Leary under the Town of Brandon Zoning Bylaw.

The application was received by the Town of Brandon on July 25, 2019. A copy of the application is available at the Brandon Town Office, 49 Center St.

On August 24, 2019 a notice of public hearing was sent for publication to the "The Rutland Herald".

On August 24, 2019 a copy of the notice of the public hearing was mailed to the applicant and landowner by certified mail and to the adjoining property owners by regular mail. List is included in the file, located in the Brandon Town Office, 49 Center St., Brandon.

The application was considered by the Development Review Board at a public hearing which was opened and closed September 10, 2019.

The Development Review Board reviewed the application under the Town of Brandon Zoning Bylaw, as approved May 7, 2012.

Present at the hearing were the following members of the Development Review Board: Sam Stone, Bob Clark and Tom Bohler.

Jamie Simpson, Nicholas Tocci, Brent Buehler, Joshua Collier, Russ McColman, Gary Meffe, Claire Black, Nancy Leary, Jim Leary, Gordon Nailor, Kjell Thompson, Sharon Stearns, Lyn DesMarais, Laura King, Eve Beglarian, Edna Sutton, Stephen Sutton, Kerrie Quinn, Christine Gahagan, Alyssa Mohl and Jeff Biasuzzi, Zoning Administrator, were sworn in. Also present for the hearing were: Greg Smela, Frank Spezzano, Ettorina Spezzano, Lorraine Kimball, Warren

Kimball, , Tom Brown, Joan Rowe, Jack Schneider, John Moulton, Ed Thomas, Judith Reilly and Bernie Carr.

The following individuals requested and were granted interested party status: Sharon Stearns (900 Pearl Street), Lynn DeMarais, Gordon Nailor (929 Pearl Street) and Kjell Thomas

In addition, the following people who expressed concern about the project by petition were also granted interested party status: Norma Nailor (929 Pearl Street), Karen Campbell (962 Pearl Street), Ellen Sheffer, (1024 Pearl Street), R.H. Scheffer (1024 Pearl Street), Andrea Bergenn (11 Long Swamp Road), Bianca Bergenn (11 Long Swamp Road), Cheryl Sanderson (1485 Pearl Street), Bill Sanderson (1485 Pearl Street), John Pockette (806 Pearl Street), John Moulton (52 Pearl Street), Andrea Orvis (1136 Long Swamp Road), Ralph Ethier (56 pearl Street), Francine Ethier (56 Pearl Street), Robert Weeden (1007 Pearl Street), Cheryl Weeden (1007 Pearl Street), Duane Martin (995 Pearl Street), Ann Hughes (995 Pearl Street), Erin Pockette (806 Pearl Street), Gerry Kenny (76 Pearl Street), Ann M. Clark (623 Pearl Street) and Kimberley McDere.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

The applicant seeks a conditional use permit to change the use of the property from Agricultural to a Community Support and Recreational Use by renovating an old dairy barn and turning it into a concert hall which will host events called barn operas.

The property is located at 1321 Pearl Street (Parcel # 9-01-02).

Sharon Stearns presented a petition of Brandon residents who she said lived in the vicinity of the barn and who are concerned about the proposed change of use.

The barn and property have been sold to Compass Music & Arts Foundation by Jim and Nancy Leary who are no longer the owners of the property.

The barn is located on Pearl Street which comes out of downtown Brandon and changes into Long Swamp Road. This road does have some residences and horse pastures but few immediate neighbors to property in question. There have been gymkhanas held from time to time along Pearl Street/Long Swamp Road.

The parcel is in the Rural Development Zoning District.

In accordance with the Brandon Land Use Ordinance, the permit requires a Development Review Board Hearing.

The occupancy for events is expected to be no more than 120 people.

The footprint of the building would not change. Insulation will be added to the building to make it more sound resistant.

The proposal utilizes renewable energy resources. The barn will be the first carbon neutral building of its kind. Solar Panels are currently installed on the barn property.

The parking lot will be made of an impervious surface and will hold 60 vehicles. There will be no parking allowed on the road. There is an existing driveway between the two barns that will be used to obtain entrance into the parking lot in the rear of the barn.

Compass Music and Arts Foundation plans to have individuals located at Sanderson's Bridge and outside the barn both before and after performances to direct traffic and facilitate parking.

Based on height and weight restrictions tractor trailers cannot use Sanderson's Bridge and would not be used for any performances.

Large scale events at the barn would take place quarterly, in the evening. The music at performances would be acoustic. There would typically be two performances per event. Rehearsals would take place during the week before the event. There will be no more than 12 performers per event, many of whom won't have cars.

Sharon Stearns and several other neighbors testified that Pearl Street and Long Swamp Road are fairly heavily traveled, particularly in the summer:

Waste water will not be added onsite. Waste water will be removed from the toilets by Dundon's following each performance

Compass has plans reflected on its website for activities in addition to the opera. These were long term plans, which were not the subject of this proceeding. However, such activities should be of a limited scale if they are to take place in a Rural Development District.

Section 305 of the Brandon Land Use Ordinances provides that a Rural Development District "includes those lands that have been determined to be unsuitable for extensive development..."

The repairs to the dairy barn and the addition of a parking lot would not be considered extensive development within the meaning of Section 305 particularly with the conditions set forth below.

Periodic performances in old dairy barn and other activities at the barn would not change rural character of this part of Brandon particularly with the limitations set forth below. Section 1012(b) of the Brandon Land Use Ordinances.

The full capacity events and other activities as limited by the conditions set forth below would not significantly add to traffic on Pearl Street and Long Swamp Road above current levels. Section 1012 (b)(3)

The project will make use of renewable energy. Section 1012 (b) (5).

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board voted 3-0 to approve the conditional use permit #6035 for change of use from an Agricultural use to a Community Support and Recreational use with the following conditions:

1. Full capacity events will not exceed five times per year.
2. If the applicant wishes to have more than five full capacity events per year or is wishes to have other less than full capacity activities on the property which would generate more than 30 cars per day in traffic, the applicant is required to ask the Town for a new permit.
3. Full capacity is considered to be 120 people. Fire protection standards are not to be exceeded.
4. There will be no change to the footprint of the building.
5. There will be no addition of any impervious spaces on the property.
6. There will be no parking on the road. Parking will be limited to the parking area.
7. Parking and bridge attendants must be present before and after performances to aid in traffic control and parking at events.
8. There will be no restaurant added to the site.
9. There will be no permanent bar on site.
10. There will be no plumbing added to the barn.

Dated at Brandon, Vermont, this *17* day of *October*



Samantha Stone, Chair

NOTICE: This decision may be appealed to Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken 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.