

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3453**

Applicant(s): Mad River Barn

Parcel ID: 08-072.009

Reason for Application: Requesting amendment to Conditional Use Permit #3394 to allow for 23 amplified special events.

Public Hearing Attendees: Jon Shea (Chair), Kevin Wry (Vice-Chair), Shane Mullen, Mike Quenneville. **ZA:** John Weir. **Public:** Gunner McCain, Heather Lynds, Andrew Lynds, Ron Shems, Jim Depres, Charlie Gibbons, Jane Gibbons, Ryan Haac, Peter Monahan, Edward Sheehan, Chris Austin

Introduction and Procedural History:

1. The Development Review Board application was filed on December 19, 2017 requesting to amend Conditional Use Permit #3394 allowing for 21 amplified special events. Specifically, applicants seek to increase amplified events from the 21 approved by this Board to the 23 permitted by the State in its Act 250 permit. Conditional use approval is required under Section 5 of the Fayston Land Use Regulations, pursuant to Section 4.14 (B) for special events in excess of ten (10) per calendar year. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.
2. Notice of the hearing was properly published. On December 19, 2017 the legal warning for a public hearing for review of this application was published in the Valley Reporter. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.
3. Abutters to the property were properly notified of the hearing.
4. Interested parties with regard to this application were deemed as follows: Andy Hallam, Charlie and Jane Gibbons, Ted Sheehan, Jim Depres, and Chris Austin.
5. The application and plans were considered by the Development Review Board at public hearings which occurred on January 9, 2018. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended August 29, 2012.

The following exhibits were submitted to the Development Review Board:

Exhibit A. Conditional Use Application #3453

Exhibit B. Conditional Use Applications #3394-3395

Exhibit C. Letter to adjoining landowners with project description

Exhibit D. Warning placed in the Valley Reporter on December 19, 2017. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Exhibit E. Land Use Permit Amendment #5W0765-2 (Memorandum of Decision on Motion to Alter)

Exhibit F. Revised Land Use Permit #5W0765-02

Exhibit G. RFG Noise Assessment for Wedding Pavilion

Exhibit H. Post-Construction Noise Assessment

Exhibit I. Applicant's request via narrative

Findings:

1. Applicant waived her right to be heard by a full five-member board.
2. Applicants Heather and Andrew Lynds (d/b/a Mad River Barn) request to amend Conditional Use Permit #3394 allowing for 21 amplified special events. Specifically, applicants seek to increase amplified events from the 21 approved by this Board to the 23 permitted by the State in its Act 250 permit. The subject property is parcel 08-072.009, located at 2849 Mill Brook Road, in the Town of Fayston, VT. Conditional use is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended August 29, 2012.
3. The property is located in the Recreation District as described on the Town of Fayston Zoning Map on record at the Town of Fayston municipal office, also described under Article 2, Table 2.3 of the Town of Fayston, VT land use regulations.
4. The applicant's parcel is adjacent to land owned by SV Reserve, LLC, Barbara Flores and the Mad River Corporation.
5. Andy Hallam is deemed an interested party to this application.
6. Charlie and Jane Gibbons are deemed interested parties to this application.
7. Ted Sheehan is deemed an interested party to this application.
8. Jim Depres is deemed an interested party to this application.
9. Chris Austin is deemed an interested party to this application.

10. In granting conditional use approval for application #3394, this Board permitted the applicants one amplified event per week from Columbus Day through Memorial Day. This time frame allows applicants a total of 21 events.

11. According to the Act 250 permit language, "There shall be a maximum 23 amplified music events per season, which equates roughly one per week from Memorial Day weekend through Columbus Day weekend. Amplified music shall be for a duration of four and ½ hours for any single event and shall cease by 9:30 pm."

12. In granting conditional use approval for application #3394, this Board set a noise decibel restriction of not more than 60 decibels within a half-mile radius. In applicants' Act 250 permit, noise levels were further restricted to 50 decibels at any house.

13. After the pavilion was built, applicants and their engineers monitored the sound levels at Ted Sheehan's house (in the right-of-way) as well as one other neighbor. Those readings came in at 46 decibels. These were measured when the music at the back of the pavilion reached 97 decibels as opposed to the 87 decibel maximum (at the back of the pavilion) set during events. The governor control for the stereo system does not allow amplification of music over 87 decibels.

14. There is a sound engineer from Dark Star Productions at every event. The engineer controls the sound levels with an iPad and music cannot exceed 87-88 decibels (89 decibel average) at the back of the pavilion.

15. Sound monitoring during the events matched the 46-47 decibel level achieved during the post-construction assessment.

16. Neighbors in the vicinity – Jim Depres, the Bergs, the Membrinos, Chris Austin, Jep Peacock, and Andy Hallam – do not hear amplified music coming from the Barn since the applicants have constructed and utilized the wedding pavilion for these events.

17. Other neighbors – Ted Sheehan and Charlie Gibbons – do hear music and other noises emanating from the events held at the Barn.

Decision:

DRB members present voted unanimously to approve applications #3453 to increase amplified events from the 21 approved by this Board to the 23 permitted by the State in its Act 250 permit with the following conditions:

Conditions:

1. Noise from amplified events cannot exceed fifty (50) decibels within ½ mile radius from the venue.

2. No more than one (1) amplified event per weekend during the permitted season from two weekends prior to Memorial Day through two weekends after Columbus Day.

3. No more than 23 amplified events can take place within the time period of two weekends prior to Memorial Day through two weekends after Columbus Day.
4. All other conditions within the Act 250 permit are and remain applicable.
5. All other conditions set forth in this Board's approval of conditional use permit #3394-3395 remain applicable (with the exceptions of #1 and #3 so revised above in conditions #1-2).

Dated at Fayston, Vermont, this 23rd day of February, 2018.


_____,
Jon Shea, Development Review Board Chair

NOTICE: This decision may be appealed to the 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.