

Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3593

Applicant(s): Andrew Lynds

Parcel ID: 08-072.009

Reason for Application: Requesting amendment to Conditional Use Permit #3453 to allow for up to 27 amplified special events between the roughly the first weekend in May and the first weekend in November for 2021 - 2025

Public Hearing Attendees: Attending DRB Members: Shane Mullen (Chair), Lindsay Browning, Pete Ludlow, Mike Quenneville; ZA: JB Weir; Public: Andrew Lynds, Joshua Bewlay, Richard Ruback, Elaine Ruback, Adam Beard, Truxton Pratt

Introduction and Procedural History:

1. Conditional Use application # 3394 was filed on August 15, 2016 requesting conditional use approval under Section 2.4, Table 2.3 (C) (2) of the Fayston Land Use Regulations to construct a wedding and event pavilion and Section 4.14 (B) for special events in excess of ten (10) per calendar year. Pursuant to the Notice of Decision dated October 14, 2016, this Board approved no more than one (1) amplified event per week during permitted period (Memorial Day weekend through Columbus Day weekend), approximately 21 events.
2. Conditional Use application # 3453 was filed on December 19, 2017 requesting to amend Conditional Use Permit #3394 allowing for 21 amplified special events. Specifically, applicant sought to increase amplified events from the 21 approved by this Board to the 23 permitted by the State in its Act 250 permit. Pursuant to the Notice of Decision dated February 23, 2018, this Board approved no more than one (1) amplified event per week during a revised permitted period of two weekends prior to Memorial Day through two weekends after Columbus Day, approximately 23 events.
3. This Development Review Board application was filed on July 17, 2020 requesting to amend Conditional Use Permit #3453 allowing for no more than 23 amplified events (one per week) within the time period of roughly two weekends prior to Memorial Day through two weekends after Columbus Day. Specifically, applicant requests to host no more than one (1) amplified event per week during a revised time frame of the first weekend in May through the first weekend in November for years 2021 – 2025. 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. Conditional use is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended June, 2018. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.
4. Notice of the hearing was properly published. On July 23, 2020 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.

5. Abutters to the property were properly notified of the hearing. Receipts of the certified notice are on file.

6. The application and plans were considered by the Development Review Board at public hearings which occurred on August 11, 2020. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended June, 2018.

The following exhibits were submitted to the Development Review Board:

Exhibit A. Conditional Use Application #3593

Exhibit B. Notice of Decision for Conditional Use Application #3453

Exhibit C. Notice of Decision for Conditional Use Applications #3394-3395

Exhibit D. Letter to adjoining landowners with project description

Exhibit E. Receipts of certified notice to abutters

Exhibit F. Applicant's request via narrative

Exhibit G. Warning placed in the Valley Reporter on July 23, 2020. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Findings:

1. The subject property is parcel 08-072.009, located at 2849 Mill Brook Road, in the Town of Fayston, VT.

2. 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.

3. The applicant's parcel is adjacent to land owned by SV Reserve, LLC, Robin Robinson and the Mad River Corporation.

4. Applicant Andrew Lynds (d/b/a Mad River Barn) requests to amend Conditional Use Permit #3453 which allowed the Mad River Barn to host no more than 23 amplified events (one per week) within the time period of two weekends prior to Memorial Day through two weekends after Columbus Day. Specifically, applicants seek to increase allowable amplified events to 27

(one per week) within an adjusted time frame of the first weekend in May through the first weekend in November for years 2021 – 2025.

5. Applicant testified that, due to the Covid-19 pandemic and limits on gatherings, the Mad River Barn had to cancel all 20 weddings it had booked for 2020. In March, Andrew furloughed 34 staff members. Applicant is seeking to recoup the financial losses of 2020.

6. Applicant proposes to host an additional four weddings during roughly the same time frame over the next five years. Applicant requests these additional 20 events be spread out over the next five years, up to 27 events through 2025. No changes to the hours of amplified music, the days of the week upon which events are allowed, the number of guests or to any other condition of their prior permits are requested. The additional events would maintain the consecutive nature of weekends contemplated by the prior approvals and bookend the same permitted time frame.

7. Applicant is in the process of amending their Act 250 permit with the State. Act 250 approval of the amendment is a prerequisite to hosting any amplified events outside of the approved 23 events between roughly Memorial Day weekend and Columbus Day weekend.

8. Applicant understands the concern that having weddings into November would overlap with hunting season. Applicant noted the presence of no trespassing signs that he hopes deter the public from leaving the Barn property and trespassing onto the adjoining property owned by Mad River Corporation.

Decision:

DRB members present voted unanimously to approve application #3593 with the following conditions:

Conditions:

1. No more than one (1) amplified event per weekend during the permitted season of roughly the first weekend in May through the first weekend in November.

3. No more than 27 amplified events can take place within the time period of roughly the first weekend in May through the first weekend in November

4. All other conditions set forth in this Board's approval of Conditional Use permit #3394 remain applicable and are hereby incorporated within this decision.

5. All other conditions set forth in this Board's approval of Conditional Use permit # 3453 remain applicable and are hereby incorporated within this decision.

6. No increase in the number of events or deviation from the previously-approved time frame is allowed until applicant's Act 250 amendment is approved.

7. Obtain and follow all applicable State and federal permits.

Dated at Fayston, Vermont, this 15th day of September, 2020.

A handwritten signature in black ink, appearing to read 'S Mullen', written above a horizontal line.

Shane Mullen, 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.