

# **TOWN OF GREENSBORO, VERMONT**

## **Development Review Board**

Application for Site Plan Review and Conditional Use Permit

### Findings of Fact, Conclusions of Law and Decision

**In Re:** Application of Circus Smirkus d/b/a Circus Barn, Inc., applicant.  
Permit Application No. 2013-022

### Introduction and Procedural History

1. This proceeding involves review of an application for conditional use submitted by Ed Leclair of Circus Smirkus d/b/a Circus Barn, Inc. under the Town of Greensboro Zoning By-law, as Amended on March 5, 2013, for the construction of a "Circus Smirkus" commercial enterprise at 409 Breezy Avenue and 421 Breezy Avenue in Greensboro, Vermont.
2. The Zoning Office received the application on May 16, 2013. A copy of the application is available at the Town of Greensboro Zoning Office, located at 81 Lauredon Avenue in Greensboro, VT and is also located on the Town's official website.
3. On June 5, 2013, notice of a public hearing was published in the Hardwick Gazette.
4. On May 24, 2013, notice of a public hearing was at the Greensboro Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office.
5. On May 24, 2013, notice of a public hearing was also mailed to the applicant and the following abutters: Lacey Smith for the Smith Trust; George and Karen Gowen; Lou Ron Schneider; Vermont Land Trust; Lakeview Inn Enterprises; Susan, Sarah and Rachel Williams; Constance Peterson, et al. and Lynn Holbein; John and Jill O'Brien; John Moffatt; Mountain View Country Club; and Audrey Suhr.
6. The application was considered by the Development Review Board (DRB) at a public hearing on June 19, 2013. The DRB reviewed the application under the Town of Greensboro Zoning Bylaw, as amended on March 5, 2013.
7. During the course of the hearing, the following exhibits were submitted to the DRB:
  1. Noise Impact Assessment by Resource Systems Group for Circus Smirkus
  2. Noise Pollution Clearinghouse Report for Connie Peterson and Bruce Holbein
  3. Letter from Greensboro Fire District #1 (town water committee)
  4. Letter from abutters Rachel, Sarah and Susan Williams
  5. Letter from abutters Connie Peterson and Lynn Holbein
  6. Letter from Laurence I. Hewes, IV, H. Patrick D. Hewes, and Mary C.D. Hewes
  7. Letter from Laurence I. Hewes, II and Mary D. Hewes

These exhibits are available at the Greensboro Town Clerk's office.

8. Development Review Board members present at the hearing included Bud Harvey, Linda Romans, Nat Smith, Sean Thomson, Janet Travers, Jane Woodruff and Wayne Young. Ms. Woodruff recused herself from participation in the decision.

### **Findings of Fact**

The following findings are facts that were entered into the record for this application and relied upon by the Board in formulating its conclusions and decisions. While other evidence may have been or is also entered into the record, if it is not included herein, the Board has determined that it is either not relevant evidence or that it is not a fact. Based on the application, testimony, exhibits, and other evidence, the DRB makes the following findings:

### **Project Description**

9. Circus Barn Inc. d/b/a "Circus Smirkus" currently operates a number of programs in Vermont, including a Big Top Tour and an artist in residence program. The current proposal is for the construction and operation of a summer camp for children ages 6-16, with a total occupancy of 122 people (84 campers and 38 staff). The camp will have a 3 to 1 ratio of coaches to campers and an 8 to 1 ratio of counselors to campers. Construction of the camp is scheduled to occur in the year 2014. A total of four buildings is proposed in addition to the existing house and barn on the property. A 2 ft. x 3 ft. rustic-looking wooden roadside sign with the Smirkus Camp logo has been proposed, as well as small directional signs for the driveways on the property.
10. The property lies in the Village District and Rural Districts. The majority of the proposed construction is within the Village District. No part of the property lies in the Lakeshore district.
11. The conditional use permit requires a review under the following sections of the Greensboro Zoning By-law: § 2.3, Greensboro Village District; § 2.6, Rural Lands District; § 3.10, Structures and Uses per Lot; § 4.4, Site Plan Review and § 5.4, Conditional Uses.

### **Site Plan Review**

In accordance with the review process stated in § 5.8 of the Zoning By-law, the Board makes the following findings of fact in regard to the site plan, as set forth in § 4.4 of the Zoning By-law.

12. Section 4.4 (B) Site Development Plan (SDP) Map and Supporting Data. Two sets of site plan maps were submitted with the required information as follows:
  - 1) The map included name and address of the firm that prepared it, as were the scale, north point, and date;
  - 2) The map of the property depicting existing features, including contours, structures, large trees, streets, utility easements, rights-of-way, land use and deed restrictions; and

- 3) A depiction of the proposed structure location and land use areas, driveways, traffic circulation, parking, landscaping plans, designs and screening as well as site grading.

The map and supporting data meet the requirements of § 4.4.

13. Section 4.4 (C)(2) SDP Review Procedure:

- (a) The site plan map depicts adequate parking areas, traffic access and circulation for drop-off and pick-up of campers;
- (b) The proposed landscape design and screening will provide adequate sound and visual screening for the abutting neighbors;
- (c) The proposed plan shows low level, solar outdoor lighting;
- (d) The proposed plans call for low solar lighting along the paths outside, as well as lit exit signs and entrance lighting at the dormitories; and
- (e) Circus Smirkus has proposed one 6 square-foot wooden sign at the entrance to the camp and several small signs directing traffic on the site. None of the signs will be internally lit and all will be in keeping with the character of the area.

### **Conditional Use Permit Review**

In accordance with the review process stated in § 5.8 of the Zoning By-law, the Board makes the following findings of fact for the commercial enterprise conditional use application, as set forth in § 5.4(D) of the Zoning By-law.

14. Applicant has requested approval for a “Conditional Use Permit for a Commercial Enterprise” for the project under § 2.3(D)(4) and § 2.6(D)(3) of the Town of Greensboro Zoning Bylaw. The DRB considered the general criteria for conditional uses under § 5.4(B) of the Greensboro Zoning By-Law and the Board makes the following findings:

- 1) The proposed construction of a commercial enterprise in the village and rural lands districts would not have an adverse effect on the capacity of existing or planned community facilities;
- 2) The camp is compatible with other structures in the area. Circus Smirkus plans to retain the existing house and barn which fit into the area and the additional structures will largely be screened from the road. All signs are to be 6 square feet or less in area, must be in keeping with the character of the area, and may not be internally lit.
- 3) The DRB finds that this proposal will not present an undue adverse effect on traffic in the area. The camp is located on a paved, accessible town road with a posted 30 mph speed limit in that area. The camp would not increase the school population or school traffic as the camp will operate in the summer;

- 4) The DRB finds that this proposal meets the requirements of the By-law and ordinances presently in effect; and
  - 5) The program does not affect utilization of renewable energy resources. The chair of the Greensboro Fire District #1 (water committee) has provided a letter (Exhibit 3), stating that by 2014 there will be adequate water to meet the needs of the circus camp. The septic system is a mound system designed by qualified engineers.
15. The DRB considered the specific criteria for conditional uses under § 5.4(C) of the Greensboro Zoning By-Law and the Board makes the following findings:
1. The proposal satisfies the minimum lot size for the Village and Rural Districts;
  2. All structures meet the Districts' setback requirements;
  3. Landscaping, screening, and noise abatement alterations are required as set forth in the application;
  4. Exterior signs will not be internally lit, and will be compatible in size, materials, and workmanship to the area;
  5. The location of structures and service areas is compatible with other structures in the area affected;
  6. The specific criteria of the Village and Rural Districts are satisfied by the proposal; and
  7. Applicant has considered noise, air pollution and effects on the character of the neighborhood. Circus Smirkus has consulted some abutting property owners for input regarding reduction of noise, and has presented a noise abatement plan as part of the application. The plan includes landscaping, screening, sound monitors, and placement of the dorms away from neighboring homes. Circus Smirkus retained Resource Systems Group, Inc. to do a Noise Impact Study (Exhibit # 1). The Resource Systems Group believes the projected noise will not be above 48 decibels at any of the neighboring structures.
16. Based on the above findings and subject to the conditions below, the DRB approves the application for a conditional use approval for a commercial enterprise, as presented.
17. Approval for a sign larger than two square feet is requested for the project under § 2.3(D)(15) and §2.6(D)(12) of the Town of Greensboro Zoning Bylaw. The DRB considered the general criteria for conditional uses under § 5.4(B) of the Greensboro Zoning By-Law and finds that the proposed wooden signs are not internally lit and the signs will not have an adverse effect on the following criteria under § 5.4(B):
1. The capacity of existing or planned community facilities;
  2. The character of the area;
  3. Traffic in the vicinity: The signs will help keep traffic flowing by giving directions to drivers;

4. Bylaws and ordinances presently in effect;
  5. The utilization of renewable energy resources;
19. The DRB finds that the proposed signs comply with the specific standards of § 5.4(C), as follows:
1. The lot meets the minimum lot size in both the Rural and Village Districts;
  2. The structures on the lot all meet the setbacks in both the Rural and Village Districts. All signs on town roads must meet the setback requirements from the road;
  3. Landscaping, screening, and noise abatement alterations are required as outlined in the application;
  4. All signs must be 6 square feet or less in area, must be in keeping with the character of the area, and may not be internally lit. All signs on town roads must meet the setback requirements from the road;
  5. The camp is compatible with other structures in the area. Circus Smirkus plans to retain the existing house and barn which fit into the area, and landscaping will largely screen the additional structures from the road;
  6. The camp meets the criteria for both the Rural and Village Districts; and
  7. Circus Smirkus has consulted neighboring property owners in regard to reduction of noise and has created a noise abatement plan. The plan includes landscaping, screening, sound monitors, and placement of the dorms away from neighboring camps. Circus Smirkus also retained Resource Systems Group, Inc. to do a Noise Impact Study (Exhibit 1). The Resource Systems Group believes the projected noise will not be above 48 decibels in all modeled residences.

### **Decision and Conclusions of Law**

20. Based on the foregoing Findings of Fact, it is the conclusion of the Board that the project described in the application referenced above and including the Applicant's representations at the public hearing, if completed and maintained in conformance with all of the terms and conditions of that application and as required below, meets the requirements of the Town of Greensboro's Zoning By-law, including Site Plan Review for Commercial Use under § 4.4 of the Zoning By-law and multiple structures on the land under § 3.10 of the Zoning By-law.
21. Based on the foregoing Findings of Fact, the Board voted unanimously to approve the number of structures proposed in the application. The lot is large enough for the structures to meet all criteria in both the Rural and Village districts.

22. Based on the foregoing Findings of Fact, and subject to the conditions set forth below, the Development Review Board voted unanimously to approve the Conditional Use application for the construction of a commercial enterprise.
23. Based on the foregoing Findings of Fact, and subject to the conditions set forth below, the Development Review Board voted unanimously to approve the application for signs that are more than 2 square feet in area.

**Conditions of Approval:**

24. The proposal incorporates a conservation easement through the Greensboro Land Trust.
25. All signs must be 6 square feet or less in area, must be in keeping with the character of the area, may not be internally lit and must meet the setback requirements of the district it is in.
26. Landscaping, screening, and noise abatement alterations as outlined in the application are required.
27. The maintenance of all landscaping and screening is required.
28. The DRB finds the three proposed driveway entrances necessary and an integral part of the plan.
29. The approval of this application requires Circus Smirkus to be in possession of all required permits prior to construction. Prior to construction of the Phase 2 structures, Circus Smirkus will need to file a building permit.

Signed:

Nathaniel B. Smith, vice chair  
date July 17, 2013

Janet Travers, clerk  
date 7-17-13

**NOTICE:**

This decision may be appealed to the Vermont Superior Court, Environmental Division by an interested person who participated in the proceeding (in person or in writing) before the Zoning Board of Adjustment. 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.