

Amended Conditional Use and Site Plan Review Hearing  
Greensboro Performing Arts Center Trust (GPACT)  
November 30, 2015  
DRAFT VERSION

*To consider an amended conditional use application and site plan review for the September 19, 2014 Greensboro Arts Alliance and Residency (now known as the Greensboro Performing Arts Center Trust) decision.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.5 Rural Lands District; 3.12 Height Exemptions; 4.4 site plan review; 5.4 Conditional Uses.

**Warnings** were posted on October 29, 2015 at the Greensboro Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office, and Willey's and Smith's Stores. On October 29, 2015, the warning was sent to the following abutters and neighboring property owners: Mountain View Country Club; Town of Greensboro; Patricia, Jeremy and Jennifer Mercier; Gertrude Osterhout & Elizabeth Bishop; NEXT 1, LLC; Martha Niemi Revocable Trust (William & Martha Niemi trustees); David Allen; Hardwick Electric Department; and Arthur & Julie Brochu. It was published in the Hardwick Gazette on Wednesday, November 4, 2015.

**Development Review Board members present:** Linda Romans, Nat Smith, Sean Thomson, Janet Travers, Jane Woodruff, and Wayne Young.

**Development Review Board members absent:** MacNeil; Alternate, Lee Wright; Alternate, BJ Gray (all recused for conflict of interest)

**Others present:** Sabra Jones; Charlie & Lily McAteer; Rob Halpert, attorney for GPACT; Daria Pizzetta, architect for GPACT; and Kristen Leahy, Zoning Administrator; for others see the sign-in sheets.

**Correspondence from interested persons:**

emails and letters, both pro and con

**During the course of the hearing the following exhibits were submitted to the Development Review Board:**

- #1 Kristen's folder of the letters and emails both pro and con received before the hearing
- #2 Greensboro Petitions submitted by Christine Armstrong
- #3 Letter from James A. Dumont, attorney for Christine Armstrong, et.al.
- #4 Letter from William & Martha Niemi
- #5 Memorandum from architect, Jules Chatot, hired by Christine Armstrong
- #6 Written comments from Rusty Newhouse

## **Summary of Discussion**

Ms. Woodruff, chair, began the hearing at 7:07 PM in the Fellowship Hall of the Greensboro UCC church. She began by entering the first four exhibits into the record. The last two exhibits were entered during the course of the hearing. She then explained that we were here to consider the application of GPACT for a conditional use permit for a cupola, or collar, to be affixed to the roof of the cylindrical part of the proposed theater and a 30 x 50 foot shed to be used to store props and wardrobes. She then went on to explain what the Development Review Board was and what it can and cannot do. Ms. Woodruff noted that in the first hearing in September 2014 the DRB decided that the conditional use application by GAAR for a theater and café was consistent with the Zoning By-law and granted the permit with 11 conditions. One of the conditions was that the building would not be higher than 35 feet. GPACT is now asking that the height be amended to 42 feet to accommodate the added height required for a collar. In the 2014 hearing the DRB also granted a variance for the sign to be within the required 50 foot setback from the road. GAAR then sought and obtained an Act 250 permit. The place to raise concerns about the size, style that's not in keeping with the character of the community, lighting that is intrusive, or traffic problems caused by the theater was in an appeal to the environmental court last fall (2014). The DRB has no jurisdiction to consider those questions at this hearing. There are only two issues to be considered at this hearing: 1) should the DRB give GPACT permission to erect a collar atop the already

approved building and 2) should the DRB allow GPACT to build a 31 x 51 foot shed to house their props and wardrobes. Testimony about these issues is relevant. Testimony about any other issue is irrelevant and cannot be considered by the Board for their decision at this hearing. Ms. Woodruff then explained the procedure for the hearing, and asked the clerk to swear in all those who wished to speak at the hearing. Ms. Woodruff then asked Mr. Halpert, attorney for GPACT, to explain what GPACT wants to do on the property at 2853 Hardwick Street.

Mr. Halpert stated that since the first application there have been some changes. He began with an overview of the history of the theater project. David Allen, land owner, and GAAR were the applicants for the conditional use application in September 2014. Since then a decision was made to make GAAR responsible for providing the arts, cultural events, and performances associated with the Mirror Theater. GPACT was formed to deal with the financial and operational aspects of the organization. It is this organization that purchased the land. There have been some changes in the project since it began as often happens when people build their own houses. As time went on, GPACT felt they would like to change the access to the site by changing the drive and the parking area which had been in four distinct lots. It is now in one area. This allows a better traffic pattern on the site. The select Board granted GPACT approval for a new curb cut with the provision that the DRB approved it, which they did in March 2015. The next step was to go through the Act 250 process. Act 250 didn't like the proposed flat roof on the cylinder portion of the structure and wanted GPACT to submit an alternate design. The architect then designed the collar addition to the building and Act 250 approved the design. The collar makes the height of the building 42' 2". GPACT feels that the roof with the collar qualifies under By-law 3.12 which allows exemptions from the height limit for appurtenances higher than 35 feet. There has been an increase in the building's area, but not the 30% it is rumored to have increased. The increase in the building is entirely on the first floor and that would be about 16 – 17% bigger. The total square footage of the building has gone from 26,000 square feet to 26,293 square feet, which is less than a 1% increase, and 100% of that increase is on the first floor. They also proposed a separate, 31foot x 51foot, one story (19 feet high) production and prop shed located behind the main building in a low point of the land, instead of including it in the main structure as was in the original plan.

Mr. Halpert went on to say that he feels that zoning is really about allowing people to do what they want to do on their land without causing undue impact on neighboring land owners. None of the changes GPACT is asking for will increase the impact on the area. The changes will not have any adverse effect or increase the scope of use or the number of parking spaces, impact the hours of use, the amount of times it is used, the way it's used, or the people who use it.

The last change Mr. Halpert pointed out was the lighting of the drive and the parking area. The lights in the first application were planned to be mounted on 3 foot or 42 inch bollards. When GPACT went through Act 250 and talked to lighting experts there were some concerns that there would be many slip and fall lawsuits because of the low level of the lights. They are now proposing 12, 20 foot high light poles in the parking area and drive. (The lights on the fire station are about 16 feet high) The light fixtures themselves would be the same regardless of the height

Mr. Halpert then introduced Daria Pizzetta the architect of this project who used a power point presentation to talk about the building plans. The lobby, with the rehearsal room on one side and the café on the other, all open onto a patio and are one story high. A small production room, star dressing rooms and mechanical and electrical rooms round out the building's first floor. The theater itself is based on a 40 foot radial layout and is 35 feet tall. With the addition of the collar, this section would be 42' 2" high. The structure will have geo-thermal wells for the heating/cooling system. The parking area for 87 cars and the 20 foot wide drive are all graveled. The number of parking spaces was based on a 1:3 ratio. The site has been augmented with new trees to help diffuse the sight and sound of the structure from the neighboring properties. In talking about the light poles, Ms. Pizzetta said they compared the light of the higher 20 foot light poles which spread the light out around the parking lot and the lower 3 foot bollards which cast a much more spotty light. It seems safer to have the parking lot illuminated with the higher poles than to just have spots of light with the lower poles. The café is located near the parking lot so it can be utilized without the rest of the building being open. The second floor level has the office suite, dressing rooms, and a costume production shop and can be accessed by an elevator.

The focus of this theater is its flexibility. The stage is movable so different configurations can be attained. The number of people that the theater seats is also flexible, but in the configuration which affords the largest number of seats, it can seat 258 patrons. (The waste water permit was for a 329 person maximum occupancy on the land.) The third level is the technical level and only two people will be on that floor – the lighting and sound staff. There will be no patrons on that floor, but since the Act 250 people designated it as a third floor the elevator had to be extended to that floor and a second set of stairs had to be added so there would be two means of egress. This additional set of stairs created the additional square footage of the primary structure. The cylindrical part and the lobby will be made to look like stucco, while the two one story side parts of the building will be wood siding. The collar is attached with metal framing and all roofs will be standing seam metal. The flat roof of the cylindrical part will be covered with a rubberized membrane. The collar doesn't prevent rain and snow from hitting the roof, but the roof has drains to let the water drain from it. The two one story parts of the structure will be a light gray-green. The cylindrical part of the structure and the lobby will be an off white. The shed will be 31 feet by 51 feet and will be 19 feet high.

Questions from Board brought out that the area of the original footprint was 13,680 square feet and it is now 15,972 square feet. The total area of the whole structure went from 26,000 square feet to 26,293 square feet. In addition, the area of the accessory building is 1,581 square feet.

Ms. Woodruff then opened the meeting for questions and comments from the audience which brought out these points:

- The DRB makes all its decisions by referring to the Greensboro By-law; not on their opinions.
- People seem to be mixing "theater" with the theater building.
- The scale, or size, is too large for this small rural community.
- Younger people do not seem to attend live theater, so this building may not be used in the future.
- The screening does not seem to be adequate because the screening trees are very small.
- The theater looks better with the collar.
- This is a warm, comfortable place for people to congregate.
- The size and looks of the building are good.
- In the future attach the actual construction plans of a proposal to the application because these plans have changed a lot since they were first submitted.
- This project has divided the community and it is becoming uncomfortable to live here.
- The capacity, design, orientation, and footprint have changed so much we should be looking at a new application.
- The size is not too big.
- It will be used by many different groups not only the theater.
- It will be a place for children and teens to do something other than get involved in drugs and alcohol.
- It will provide a positive place for the residents of Greensboro.
- It is a wonderful gift to Greensboro, "let's embrace it."
- Keeping the lights shorter would be fine.
- Planning should involve the community.
- The design should take into account the rural character of the area.
- Why is the circus driving the design of this building?
- The parking lot does not have sufficient spaces.
- No reason to grant a conditional use permit for the increased height.
- The theater will bring people of different ages and backgrounds together which is an important quality in a small rural village in the Northeast Kingdom.
- The theater is already much changed from the original plan and is now asking for more change.
- Can the height of the lights in the parking lot be lowered from 20 feet? Perhaps to 12 feet?
- Can the faux roof be put lower on the building so it does not exceed 35 feet and still be attractive?
- Enjoys seeing lights in the village and looks forward to the parking lot lights.

- The size of the building is on less than 1/10 of the size of the lot which is much less than many lots around the lake.
- The lights are a matter of public safety and will be turned off when the performance is over.
- It will be a great asset for the area schools.

During the course of testimonies, Christine Armstrong also verified the receipt of her petition and the entry of it as an exhibit. Ms. Woodruff acknowledged that it had been received and marked as Exhibit #2.

Ms. Woodruff then gave Mr. Halpert time to respond to the remarks. Mr. Halpert noted that the theater group has listened to people's constructive suggestions and gave them serious consideration. Mr. Halpert said he didn't include the size of the shed in the total square footage because an accessory building is allowable in the Greensboro By-law. The real issue with the shed is whether it has a significant impact on the area as compared to the plans in the first application.

Ms. Woodruff then read article 3.12 in the Greensboro By-law which talks about height exemptions. It states that exemptions may be made for appurtenances on a building not used for human occupancy. She then asked Mr. Halpert if the collar would be used for human occupancy. Mr. Halpert answered no, it was not designed for human occupancy. It is there purely for aesthetic purposes and is not really a part of the structure, although it is attached to the structure. Mr. Smith asked if they could look at the lights in the parking lot to see if they could be lower than 20 feet. What is the intent of the lights? They are there so the patrons can get to their cars safely and would be turned off when the patrons are off the premises. The lights will be switch driven or they could be put on a timer. They would be open to having a deadline when they would be off each night as long as the deadline was late enough to light the parking area while patrons are leaving – perhaps 10:45 or 11:00.

The hearing ended at 9:34. Ms. Woodruff said she would give Attorney Halpert one week's time (until Monday, December 7, 2015) to respond in writing to the Board to Attorney Dumont's letter (exhibit #3). Because of the late hour, the Board will hold their deliberative session at a later time.

Signed:

\_\_\_\_\_, chair  
Jane Woodruff

\_\_\_\_\_, clerk  
Janet Travers

date \_\_\_\_\_

date \_\_\_\_\_

**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.