

Town of Moretown Development Review Board
79 School Street, Moretown, Vermont 05660

Minutes for Hearing Held December 19, 2019

Application of Thomas Jacobs and Bridget Harty for Creation of Event Space as a Cottage Industry at 7166 Vt. Route 100B.

The meeting was called to order at 6:30 PM. Present for the Board were David Russo, John Riley, Craig Oshkello, and Paula Woods. Also present were the Applicants, Thomas Jacobs and Bridget Harty, and Zoning Administrator, David Specht.

The meeting began with David Specht summarizing the manner in which he analyzed the application. Applicants purchased the 2.9 acre residential property at 7166 Vt. Rt. 100B in May 2018. It is located in the Agricultural-Residential District. The property consists of a residence with attached barn. Bridget, with support from Thomas (who has a full-time job elsewhere), operates a flower business growing flowers for sale. David Specht considers the scope of the flower business activity to be largely exempt from Moretown zoning as an Agricultural Practice within the agricultural exemption under Vermont law (see Ordinance Section 6.3A(3)).

Prior to filing the Conditional Use Application, Applicants secured a permit for a 58 foot by 36 foot barn that would be built towards the rear of the parcel. According to the application, the barn will be two stories with a small loft. This would be “Event Space” available for rent for weddings, anniversary parties, or other family gatherings. During the course of the hearing Bridget indicated it might also be used for workshops associated with the flower business, and gatherings of other types.

Based on discussions with the Zoning Administrator, the application has been framed as a “Cottage Industry”. Ordinance Section 3.7 is titled “Home Based Businesses”. Home Occupations are allowed in all zoning districts as a permitted use. Cottage Industries, on the other hand, are also allowed in all zoning districts, but require conditional use approval. (See Tables 2.1 through 2.4 of the Ordinance).

In support of the application, Applicants submitted two handwritten pages of sketch plans. These are not drawn to scale, but generally locate existing structures and the site of the to be built barn. The “detail page” also shows a new drive off the existing driveway which will go to a parking area.

Mr. Jacobs and Ms. Harty have recently acquired the abutting residential property to the north on Route 100B but according to David Specht it is not involved in the present application.

The completed Cottage Industry Application indicates Applicants wish to expand their current flower farm business (Farmhouse Flowers LLC) to include an events space which would allow hosting of weddings, workshops, anniversary parties and other events. Events would not be allowed to run past midnight. And Applicants would not allow amplified music to occur after 10 PM and it would occur inside the new barn. During discussion, Applicants confirmed they would be willing to accept an approval condition which would require events to end no later than 11 PM.

There is no expectation of outdoor storage of materials, vehicles or equipment. The only changes in outward appearance would be construction of the new barn. And there would be more flowers and landscaping. As shown on their site plan, and in their presentation, Applicants believe there is ample room on their parcel for parking of 100 cars consistent with the Ordinance's 9 by 20 foot per space requirement. Parking will be designed to minimize headlight glare on nearby residences when vehicles are exiting.

In response to a question, Thomas Jacobs indicated the existing entrance is sufficient for access by emergency vehicles, such as fire trucks. The Moretown Volunteer Fire Department could access the property via Rt. 100B. Also, the Middlesex Fire Department and State Police Barracks are nearby.

The site plan and application do not indicate any exterior lighting will be installed. Applicants do not anticipate having running water or a bathroom in the new barn. They expect to deploy portable toilets for events. At the time of the hearing, they had not inquired whether the regular use of the barn for special events might require a State water or wastewater permit.

Dave Russo asked the Applicant and Zoning Administrator whether consideration had been given to seeking approval for the proposed activity under Ordinance Section 3.9, titled "Special Events". This section permits up to two special events in any calendar year as an allowed use not requiring a zoning permit. Under Ordinance Section 3.9(C) use of a parcel for hosting Special Events for more than ten days as an accessory use to another principal use requires DRB approval in accordance with Article 5. Article 5 is the Ordinance section which provides for conditional use review.

David Specht advised that it seemed to him that the application should best be presented as a proposed Cottage Industry.

There was discussion as to the number and size of events. Bridget Hardy commented that the new barn represents a significant financial commitment. There is a need to utilize its space on a regular basis to justify the expense. Applicants feel they need to be able to utilize it for events at least three times per month, especially during the short summer. Although they are amenable to a condition that only two of these would be larger events.

Bridget and Thomas indicated that they had spoken to their contiguous neighbors before submitting the application who did not have objections. No parties other than the Applicants appeared at the hearing.

At approximately 7:55 PM a motion was made by Craig, seconded by Dave, to close the evidence. All approved.

Dave then moved that the board go into a deliberative session, not open to the public to consider the application. Paula seconded. All approved except Craig (abstain).

The Board engaged in a deliberative session for approximately 35 minutes and resolved that the Board Chair would draft a proposed decision for review and comment by participating board members. The result of the Board's deliberations, and subsequent written decision with member input, follows below.

Proceedings on Moretown Holdings, LLC

At approximately 8:30 PM the Board exited deliberative session and convened the hearing on application of Moretown Holdings, LLC relating to denial of Permit Application No. 19-41.

As it was known before the hearing that only four board members could attend, the Applicant requested the hearing be continued to a future date when a full board was available. Earlier in the evening David Specht had advised the Board that January 23 would be a convenient date for the Applicant.

It was noted that no other party had appeared to be heard in relation to Moretown Holdings' appeal this evening. Paula moved that the Moretown Holdings LLC application be continued to Thursday, January 23 at 6:30 PM. David Russo seconded. All approved.

There being no further business the meeting adjourned at 8:35 PM.

Decision of the Moretown Development Review Board With Respect to the Application of Thomas Jacob and Bridget Hardy.

After consideration of the Applicant's proposed use of their property as an Events Space, and review of the relevant provisions of the Moretown Zoning Ordinance, the Board concludes that the Applicant's proposal is best understood and analyzed as a proposal to host more than ten Special Events in a calendar year. This is addressed by Section 3.9(C) of the ordinance. Section 3.7 allowing for Cottage Industries is structured to allow under certain circumstances a residential parcel to be used for small business purposes. It is more logical to consider the present application under the Special Events section which specifically applies to the current proposal.

Although the meeting was warned as an application for a Cottage Industry, it specifically stated the application was for the purpose of hosting Special Events such as weddings or other gatherings. That the proposal is to use the Applicant's property for "Special Events" was adequately noticed and publicized and does not raise procedural or fairness concerns if the application is considered under the Section 3.9(C) criteria. The language of the Section, and the application of its provisions were reviewed and discussed during the December 19 hearing.

Under Section 3.9(C) a parcel can be used to host Special Events for more than ten days within a calendar year as an accessory use to another principal use with the approval of the DRB in accordance with Article 5.

Prior to a grant of approval, the Applicant is required to demonstrate adequate provision for temporary wastewater disposal, solid waste disposal, and noise, traffic and crowd control as appropriate. The DRB has authority to impose conditions regarding the number of participants, hours of operation and other limitations relating to scale and intensity as deemed appropriate.

The Applicants presented information in these areas both in their application and during the presentation. And it was also discussed that with respect to parking elements, and noise aspects of the application, hosted events would need to comply with the Performance Standards set forth in Section 4.10 of the Ordinance.

The application of Thomas Jacobs and Bridget Harty to host Special Events at their residential property known as 7166 Vt. Rt. 100B is hereby approved, subject to the following conditions:

1. Applicants are approved to host up to twenty (20) Special Events in any calendar year between the months of April and October. Up to three (3) Events per month are allowed. Provided, however, only two (2) of those Events can involve more than 125 people attending. Any Events which qualify as being within the Accepted Agricultural Practices (which is an exempt use under Section 6.3 of the Ordinance) would not count towards the limit.
2. Amplified music associated with any Event shall take place within the barn and end no later than 10 PM. The Event itself shall have a scheduled ending time no later than 11 PM.
3. Applicants hosting of Special Events shall be done in a manner consistent with Section 4.10, Performance Standards, including but not limited to:
 - A. Noise is not permitted which is excessive at the property line or incompatible with the reasonable use of surrounding areas. Excessive noise is considered a sound pressure level which exceeds 65 decibels at the property line on a regular or recurring basis.
 - B. No glare, lights, or reflection is permitted which could impair the vision of a driver of any motor vehicle or which is detrimental to public health, safety and welfare. Outdoor lighting shall be cut off fixtures; wall mounted fixtures shall be shielded and downcast. Fixtures shall be directed so as not to cause glare on adjacent roadways, cause excessive of illumination, or result in direct illumination of neighboring properties.
 - C. No fire, explosive or safety hazard shall be permitted which significantly endangers other property owners.
 - D. All parking spaces shall meet Section 4.9 requirements including dimension, set back from nearest property line.

Dated this 24th day of December, 2019.

Moretown Development Review Board

By: 
John P. Riley, Chair