

**TOWN OF MARSHFIELD
DEVELOPMENT REVIEW BOARD**

**122 School Street, Room 1
Marshfield, Vermont 05658**

(802) 426-3305

July 17, 2019

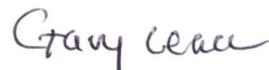
Henry Harris
1356 Ennis Hill Road
Marshfield, Vermont 05658

Re: Conditional Use Permit

Greetings:

Enclosed, please find the decision and order of the Marshfield Development Review Board approving, with conditions, your application for a Conditional Use Permit.

If you have questions regarding this action, please contact the Development Review Board at the address above.



Gary Leach, for the Marshfield
Development Review Board

Enclosure

Cc:

Suzan Condon, Meghan Stotko, Rob Billings, Julie Medose
Mitch Osiecki, Zoning Administrator
Members of the Development Review Board

**TOWN OF MARSHFIELD
DEVELOPMENT REVIEW BOARD**

Henry Harris, Applicant
1356 Ennis Hill Road
Marshfield, Vermont 05658

Re: Marshfield Parcel ID# EN029
Application for Conditional Use Permit

Findings of Fact, Conclusions of Law, and Order

I. Background and Procedural History, Findings.

Pursuant to Town of Marshfield, Vermont Zoning Regulations, Section 235, and other authority, the Marshfield Development Review Board (DRB), following public hearing in the above-captioned matter, credits the testimony of the witnesses before it and finds as follows, based on that evidence and record in this matter.

A. Background.

1. Henry Harris (Applicant) resides at 1356 Ennis Hill Road, Town of Marshfield, and occupies at that location a parcel of approximately 168 acres.

2. On June 21, 2019 Mr. Harris filed with the Town of Marshfield an application for a conditional use permit, attaching a one-page hand written description of his proposed use. Mr. Harris' application included the following statements regarding his proposed use:

a. operation of a short term youth camp or up to 20 campers, ages 13-19, and intended to provide recreational and educational opportunities for youth;

b. the operation will be an overnight camp that will be staffed by approximately six full time staff, including cooks and "on-call medical personnel";

c. on site camping dates will be July 28 to August 2, 2019 (5 days); off-site camping dates are August 2-4, 2019;

d. "[t]here will be no signs, additional lighting, [or] additional automotive traffic";

e. camp activities will occur at a location "far from" neighbors, without amplified sound, and with no anticipated noise pollution, impacts on water or waterways, nor wildlife and habitat.

3. Mr. Harris' application was referred to the DRB for hearing and determination.

B. The DRB Hearing, July 11, 2019.

4. After public notice, Mr. Harris' application was considered by the DRB in public hearing on July 11, 2019, under the conditional use provisions of the Town of Marshfield Zoning Regulations. The DRB members present for the hearing were: James Arisman, Gary Leach, and Les Snow; Robin Schunk served as DRB alternate (and clerk) for the hearing. Also present was Mitch Osiecki, Zoning Administrator. Mr. Harris appeared on behalf of his application and testified before the DRB. Others in attendance for this hearing: Suzan Condon, Meghan Stotko, Rob Billings, and Julie Medose. All testifying witnesses were placed under oath.

5. Mr. Harris testified that his proposed use was for a one-time camp on his property for approximately 16 young persons who would engage in recreational activities such as tent camping, workshops, making art, "capture the flag" games, group storytelling, and meals together. Camping would take place on the Ennis Hill property from July 28 to August 2, 2019.

6. Mr. Harris testified that he was interested in the possibility of providing camping opportunities on his property in the future. However, following questions and discussion, Mr. Harris affirmed his understanding that his application was intended only to cover the specific dates in 2019 that he had identified in his application. Any future events or activities of a similar nature would require at any later date a complete, new application for conditional use, with another public hearing, specifically for any proposed event(s) of a continuing or recurring nature. Any subsequent application for DRB consideration would require greater content detail and attention to required reviews and permits from State of Vermont agencies, including the Department of Environmental Conservation and the Department of Health. ZA Osiecki testified that he would assist Mr. Harris in contacting the State of Vermont permit specialist in the future who would be able to consider with Mr. Harris what permits might be required for a proposed use at a later date.

7. The DRB members emphasized to Mr. Harris during the hearing that it would be useful for him to be able to describe and document how this summer's camp had proceeded, identifying any problems or needs, thus creating a record that could be reviewed at a later date by the DRB if Mr. Harris were to be interested in operating a camp or other events on a continuing basis in the future. Mr. Harris testified that he was interested in having future events on his

property for youth and adults, although he expected these would be of shorter duration than his present proposed use.

8. Suzan Condon, a neighbor, expressed concerns regarding possible vehicle traffic, noise, and the presence of dogs on the Harris property during the period of camping. She testified that a previous camp in the area at Ellen Cooke's property had operated without permits and had caused "problems" in the Ennis Hill area. She stated that she had seen young children who were at the camp and who appeared to have no adult supervision and who were out in the open during inclement weather. Ms. Condon also testified that traffic on Ennis Hill Road was a concern to her because of the curves in the road and blind corners that limited the sight lines of drivers, many of whom are teenagers driving too fast for conditions. Mr. Harris testified that there would be limited traffic to the camping event, with most campers being dropped off. Ms. Condon asked that the DRB require that drivers coming to the camp be directed to use the Brook Road route to the camp rather than Ennis Hill Road, with the former being straighter and safer. Ms. Condon also requested that appropriate signage be posted to direct campers and their drivers onto the Brook Road route to Mr. Harris' property.

9. Rob Billings expressed concern about events that might put a "constant flow of traffic" into the area that he wanted to see maintained as a rural and residential area. He stated that he would be opposed to future uses that would change the present quiet character of the area.

10. The hearing also included discussion as to whether the collection of "donations" meant that some events would be treated differently in zoning matters than if an admission "charge" were required of participants? This question was not before the DRB as a matter to be resolved in deciding the instant application, and thus we do not consider it here. However, Mr. Harris testified that "donations" at his event would go to his organization and then would go toward meeting offsetting the costs of these events.

II. Further Findings and/or Conclusions of Law.

A. Section 245-Conditional Use, General Standards.

11. Under the requirements of the Town of Marshfield Zoning Regulations, all Conditional Use applications are reviewed under the provisions of Section 245. The DRB reviews and enters its findings in determining whether the proposed use will have an undue adverse impact upon: the capacity of community facilities; the character of the area; traffic; bylaws; the capability of the land to support the proposed use; utilization of renewable energy resources;

and the goals of the Town Plan. We review the individual Section 245 criteria below with regard to the applications before the DRB.

a. **Capacity of Community Facilities:** the subject property consists of approximately 168 acres. The size of this property should provide ample capacity for camping and recreation, provided that sites are carefully chosen and are safe for participants and unlikely to disturb neighbors. The small numbers of participants and vehicles are generally compatible with the local area and unlikely to overwhelm community facilities. However, Applicant will be required to make use of signage and contacts with campers and drivers that will direct traffic onto Brook Road as a safety measure.

b. **Character of the Area:** the parcel in question is located in the Agricultural and Rural Residential zoning district. The quiet rural character of this area is of great value to its residents. We find that the proposed use raises concerns as to how to the existing rural character of the area and the rights of residents to the quiet enjoyment of their homes and grounds can be protected. We find that conditions of approval are required to protect the character of the area.

c. **Traffic:** We find that the events proposed for this one-time camp will marginally increase traffic over existing levels and may require parking for vehicles. Thus, limited conditions of approval will be required in this regard to prevent adverse impact.

d. **Bylaws:** the proposed use of the site, as a one-time camp venue, is consistent with the Section 420 of the Zoning District as a recreational use. However, we also find that the specific proposed use as camp site can be best deemed appropriate to the Zoning District with the conditions of approval that we set forth herein.

e. **Capability of the Land to Support the Use:** The parcel in question appears to be able to support such limited use for small numbers of campers and associated vehicles, with limited conditions.

f. **Utilization of Renewable Energy Resources:** We find that the proposed project is unlikely to affect renewable energy resources.

g. **Goals of Town Plan:** The Town Plan supports maintenance of Marshfield's existing rural character and supports new development that is consistent with the character of the Agricultural and Rural Residential Zone. The Town Plan also encourages development that reinforces and complements existing neighborhoods. We find that the proposed use for this one-time event will be consistent with Town goals if specific conditions of approval are imposed to protect the Zone's quiet rural character and protect its residents and homes from adverse impact.

12. **Conclusion of the DRB, Section 245-Conditional Use, General Standards:** for the reasons and findings set forth above, we conclude that the project proposal by Applicant may be found to be consistent with the Section 245 general review criteria, as weighed by the DRB, if certain specific conditions are required with the approval. Thus, when the proposed use as represented in the applications and testimony before the DRB is weighed with the required conditions set forth below, we are able to find that the use of the site in question for a one-time camping event will not result in undue adverse impact upon the immediate neighborhood, residents and adjoining areas, and the quiet character of the Zoning District.

B. Section 245-Conditional Use, Specific Standards.

13. Pursuant to the requirements of the Zoning Regulations, all Conditional Use applications are reviewed under the specific requirements of this section. The DRB reviews and records its conclusions under standards that include the following: conditions to be imposed, if any, necessary to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration, or similar nuisances; to preserve open spaces; landscaping and fencing to maintain the zoning district character; to promote adequate vehicle circulation, parking, loading; to meet water and sewer standards; setbacks required to accommodate the proposed use; and the design and location of signs and lighting to maintain the character of the neighborhood.

14. **Conclusion of the DRB, Section 245 Specific Standards and DRB Required Conditions for Approval:** following hearing on the subject application, the DRB has concluded that approval of Mr. Harris' proposed use shall require specific conditions to mitigate possible adverse impact upon residents and their homes and to protect the Zoning District's rural character.

15. **DRB Condition: Noise.** The DRB under the Section 245 Specific Standards will require as a condition of approval that Applicant make good-faith efforts to prevent possible noise disturbances to neighbors and area residents. Such action is necessary to the maintenance and protection of the Zoning District character. Applicant shall not permit any noise, whether amplified or unamplified, that is excessive or disturbing (e.g., drum circles or drumming, bagpiping, etc.) when measured at his property line or that is incompatible with the reasonable and peaceful use of the surrounding area by others. Mr. Harris shall be present, on site, during all outdoor events to regularly monitor sound levels, and shall be responsible for ensuring that sound levels are not excessive. Further, applicant shall not fire or launch incendiaries or "fireworks" or permit attendees or others to do so before, during, or after outdoor activities. In being bound by this order, Mr. Harris is acting to foster compliance with the conditions

herein and recognizes that these terms are intended to protect his neighbors and area residents from disturbance or adverse impact upon their quiet enjoyment of their homes and grounds.

16. **DRB Condition: Event Duration.** As a further condition for approval of Mr. Harris' application, we shall also require that this one-time camping event shall take place on-site only between July 28 and August 2, 2019.

17. **DRB Condition: Event Camping.** As a further condition for approval, safe and clearly identified camping sites shall be made available to attendees. Mr. Harris shall use signage, visible marking, or fencing to clearly designate any areas in which camping is not permitted.

18. **DRB Condition: Driving and Parking.** Mr. Harris shall make reasonable, good faith efforts to direct campers and their drivers to use Brook Road as the route to arrive and depart from his property and to discourage the use of Ennis Hill Road by attendees. Mr. Harris shall post communications and signage reasonably needed to direct traffic onto the Brook Road and away from Ennis Hill Road. Applicant shall communicate to attendees and drivers that safe and legal speeds on area roads are expected of those attending the event. Applicant shall be responsible for the provision of safe and adequate numbers of parking spaces for the expected number of vehicles that may come to his property for the camping event. Applicant shall ensure that any event parking areas shall be clearly marked. These parking areas must be capable of being safely entered/exited, and maintained separate from camping and activity areas.

19. **DRB Condition: On Site Safety and Security.** Applicant shall be responsible during all events for planning and ensuring that the reasonably foreseeable needs of attendees for adult supervision, safe and potable water, toilets, first aid assistance, and safety and security are carefully considered in advance, planned for, and such needs met. Applicant shall provide an adequate number of water stations for attendees, and an adequate numbers of toilet facilities shall be provided. Attendees and others may not bring or keep dogs on-site before, after, or during the event.

III. Decision and Order.

For the reasons set forth above, the Application of Henry Harris for Conditional Use is hereby **approved** and **ordered** by the Marshfield Development Review Board, subject to the required conditions of approval set forth at Paragraphs 14 through 19, above. This approval is for a one-time use, i.e., a short-term youth camping event, for the dates specified herein and no others.

Mr. Harris' compliance with the conditions herein may be considered by the DRB should he apply at a later date for a similar activity or event, but in no case shall this approval be deemed precedential or binding on any party or the DRB.

Applicant shall conduct the proposed use according to the applications, plans, testimony, and submissions in this matter and in accord with the terms and conditions of this order. This approval, with the conditions as required and set forth herein by the DRB, is entered pursuant to the Town of Marshfield conditional use standards. Failure to adhere carefully to and carry out all terms and conditions as set forth in this order may subject Applicant to issuance of a notice(s) of violation.

Any change to plans or the proposed use of the property shall be promptly brought to the attention of the Zoning Administrator, prior to implementation of any such change, for a determination as to whether amendment or further application is required.

DRB Members Voting to Approve: James Arisman, Gary Leach, Robin Schunk (Alternate), and Les Snow. **Not Present and Not Voting:** Jenny Warshow.

DRB Members Voting to Disapprove: None.

So Ordered, at Marshfield, Vermont, this 17th day of July 2019

By:

Gary Leach
Gary Leach, Chair
for the Development Review Board

NOTICE TO RIGHT TO APPEAL: In accordance with 24 V.S.A. §§ 4471 and 4472, this decision may be appealed to the Vermont Environmental Court within 30 days of the date of this decision. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy of the appeal to the Marshfield Town Clerk. Failure of any interested person to appeal this decision to the Vermont Environmental Court within the specified 30-day period shall result in such interested person being bound by this decision or act of the DRB. Thereafter, such an interested person shall not contest, either directly or indirectly, the decision or act of the DRB in any subsequent proceeding, including any enforcement action brought under the provisions of Title 24, Chapter 117 of the Vermont Statutes Annotated.