

Those present in the conference room of the Town Clerk's office for the 7 p.m. meeting were Board Members: Benjamin Adams, William Biddle, Gary Briggs, Dakota Butterfield, Bruce Denio, Dennis McLam, George Pierce, & Karen Stark; Secretary, Shirley Warden and others as signed in & follows:

BARNET ZONING/PLANNING BOARD MEETING

ATTENDANCE

DATE August 7, 2018

MUST GIVE FOR FUTURE APPEAL PLEASE PRINT LEGIBLY

NAME (LEGAL)	MAILING ADDRESS (FULL)
Bruce P. McLam	P.O. Box 1 Passumpsic VT 05861
MATT STARK	995 MORRISON HILL 05821
NAME McLam	884 Barnet Cntrl Rd 05821
James Evans	P.O. Box 1 Passumpsic VT 05861
Brenda Stanton	967 Morrison Hill, Barnet, VT 05821
Pat & Paul Sturtevant	441 Harvey Rd Barnet
Steve Adler	1002 Morrison Hill Barnet VT 05821
Geoffrey Hanson	875 Morrison Hill Rd.
Eligbeth Evans	
AMY WHEELER	846 MORRISON HILL BARNET 05821
John Robbham	

Vice-Chairman, Biddle called the meeting to order at 7 p.m..

New member, Dakota Butterfield and reappointed member Dennis McLam were welcomed to the Board, and election of officers was held as it was the first meeting after July 13th. Denio nominated Biddle as Chairman and Adams as vice-Chairman. All voted yes for them. Warden was appointed as Secretary for the board by Adams and approved by the Board.

The hearing continued for Application #15-18 from Matthew & Karen Stark for and Auction barn at 995 Morrison Hill, lot #08-01-03.

Biddle started by reading from the letter submitted the Starks dated July 9, 2018. This letter is part of these minutes see (A) page 4, 5, 6. Points made were; Auctions held Saturday or Sunday mornings starting at 10 a.m. for 3 or 4 hours; for the months of May to October; one a month; abutting neighbors would be notified; night auctions; signs would be day of the auction, no permanent sign; parking would be on their property.

Steve Adler said night auctions was new they had not heard of this before. He made some other proposed conditions He submitted them in writing and they are part of these minutes, see B page 7.

Adler also submitted a letter from his wife Lisa Adler who could not attend, this was read by Biddle and is part of these minutes, see C page 8 & 9.

Joyce Evans talked about the Stark Brothers trying to start a small business in Town and this should not be discouraged, and it should not take this long.

Mona Marceau said this had taken far too long and wanted to know if all other conditional use permits issued had these conditions.

Warden said all conditional use permits had conditions for their use.

Briggs moved to strike the letter the Starks submitted from the public record. He said it was issued under duress. Not seconded.

Adams had concerns for night auctions. Butterfield asked if the permit could be for a trial period. Warden said no but the Starks could ask for a new permit if what they are doing requires changes.

Elizabeth Evans said from the information in the letter and past information it is not clear what the Starks want to do.

McLam suggested 8 auctions in a season May to October, no night auctions, rather than one per month.

Briggs said the Starks can't control the public right of way.

Mr. Adler said this seems a moving target, last year it started out as 3 to 5 during June, July & August. Night Auctions in October starting at 5 and going for 4 to 5 hours would be in the dark. He felt one month on the week end from 10 a.m. to 2 p.m. would be preferred.

Denio said there is no way to control the number of cars attending an auction.

Mr. Stark said he did feel pressured to give this information, and can't tell how many cars or people would attend. He also took exception to Mrs. Adler's letter stating the Auctions would lower property values.

Briggs moved to allow auctions from May to October. Bruce seconded. This motion and second was withdrawn.

Butterfield suggested polling the Board on key points. May to October (agreed) one a month. Denio said it was better for a number a season. She then made a list of possible conditions: date May to October; number in a season (7)?; notice to abutters; daytime; signs; parking control; porta potty; & no commercial food vendors.

McLam moved to approve the conditional use for auctions to be held in an existing barn, with the following conditions: Auctions maybe held from May to October, on weekends during the daytime; may have 7 per season; there will be NO permanent auction sign on the property; signs on the day of the auction and taken down at the end of the auction; notify the abutters a week before; parking off the Town right of way; have a porta potty on site & No commercial food vendors. Adams seconded and all except Stark, who abstained as applicant, voted to approve the conditional use.

Biddle read the notes he made from the site visit held July 25, 2018 at 4 p.m. on the Robotham's right of way across Bruce Ellison's property on Pavillion Lane. They are part of these minutes. (D) page 10.

The Robothams were at the meeting to see if Mr. Ellison would carry through with fixing their steps.

It was pointed out that the Zoning Board has no jurisdiction in this matter and could not really be of any help.

The minutes for July 3, 2018 were approved with a motion by Denio, a second by Stark and yes vote.

Warden reported that the Selectboard had adopted the Barnet Zoning Bylaw on July 23, 2018 and they will become effected on August 14, 2018. She had Copies for the Board.

Warden also passed out copies of the existing rules of procedures for the Board and a sample rule of procedure from VLCT. These need to be reviewed and updated.

Warden had a form for the reporting of proposed farm structures. which is required by the new bylaw.

There was a notice from St Johnsbury Planning Commission of a change to their zoning By-Law received July 5, 2018.

Biddle requested a list of Board Members with phone numbers, he also asked for e-mail addresses, which Board members wrote down.

Warden said that he should have had the 2016 list, she didnot do a list for 2017 as there was no changes.

The meeting adjourned at 8:45 P.m..

Shirley Warden
Shirley Warden, Secretary
Barnet Planning/ Zoning Board

*approved as 10-2-18
corrected the motion
for page 2 should read as follows*

I changes the wording on the application from what is in the draft minutes. McTam moved to approve the conditional use for auctions to be held in an existing barn, with the following conditions: auctions may be May through October, on weekends, during day time; may have up to 7 per season; there will be no permanent auction sign on the property; directional auction signs are allowed on the day of auctions and must be removed at the end of the auctions; must notify the abutters a week before an auction; parking must be off the Town road right of way and any litter removed from the Town right of way; have a porta potty on site and no commercial food vendors. Adams seconded and all except Stark, who abstained as the applicant voted to approve the conditional use."

July 9, 2018

Conditional Use Permit-Additional Info
Matthew and Karen Stark
Application #15-18
Parcel ID 008-01-03

Proposed Use, Activity, Change Etc: To use our existing barn structure as an auction barn.

Proposed/Possible Conditions:

- 1.) **Time and Date-** Stark Brothers' Auctions are willing to share the proposed dates and times of auctions with the abutting neighbors. If possible, they will share at least two weeks in advance. It is likely that most auctions will be held on Saturday mornings beginning at 10:00. While there is really no way to predict the duration of the auction, most auctions that the Stark family have conducted have finished within 3-4 hours. The Starks had hoped to have an auction Harvey's Lake weekend, but have tentatively changed that date to August 11th.
- 2.) **Frequency-** Stark Brothers' Auctions is a family operated business with the two business partners residing over two hours apart. All members that assist with the auction business have full time careers that monopolize time. It was the hope that auctions could be held between the months of May to October. Given all the prep and work that is involved in hosting a successful auction, the Starks are only able to realistically host a few auctions in their barn. Abutting neighbors would be notified. Though Stark Brothers' Auctions prefers not to set a particular limit on auctions, they would understand if there was a need to suggest only one per month from May until October. Stark Brothers' auctions recognizes that there might be months when their own busy schedules would prohibit an auction occurring. For example, this summer, June would have been a month in which an auction could not have been held. This is why limiting to one per month poses slight challenges.
- 3.) **Traffic Flow-** It is unlikely that Stark Brothers' Auctions would be able to control the traffic flow on auction days. It is difficult to predict the number of cars that might travel the road or even the number of people that might attend. In all honesty, it depends on the quality of items that are up for bid. Stark Brothers' Auctions had a little over 60 people attend their last offsite auction that was held in May. Once traffic reaches the Stark property, vehicles would park in the hay field and would be hidden from view of neighbors (perhaps Mr. Dorsey would be able to view some of the vehicles from the back of his house).
- 4.) **Advertising-** Stark Brothers' Auctions is not erecting a permanent sign on their property. Rather, signs will be advertising auctions at least one day in advance and will be taken down immediately following the auction. Much of the advertising for Stark Brothers' Auctions occurs through FaceBook, AuctionZip and local newspapers. It is likely they

will hang posters up at some of the local stores to help promote the auction to those that don't use social media.

- 5.) **Food Services/Alcohol-** Stark Brothers' Auctions is not licenced to sell food or alcohol. In previous auctions, their children set up a "By Donation" only table in which they provided bottled water, coffee, donuts, chips, and popcorn. Stark Brothers' Auctions have 3 trash barrels on site. Alcohol is prohibited.
- 6.) **Bathroom-** Act 250 permits the use of porta potties on site for a one day event, such as an auction. That said, Stark Brothers' Auctions would be renting a porta potty to ensure adequate bathroom facilities are provided. The minimum regulations indicate one porta potty per 100 people.
- 7.) **Noise-** There is no music played at an auction. The auctioneer does have a sound system in which he is able to project his voice. During the 2017 auction, Mrs. Stark walked down to the bottom of the driveway and the sound system could not be heard from the road. It is likely that the Starks create more noise while haying than they would during an auction.
- 8.) **Communication-** If there is a conflicting date with any of the abutting neighbor's due to a special event they might be hosting, Stark Brothers' Auctions politely requests communication of such event. Stark Brothers' Auctions is willing to work with abutting neighbors to ensure auction dates have the least impact on the neighbors' day to day lives.

It is important to note that Stark Brothers' Auctions is providing a service to the community. The clients that hire them, might have specific needs and a timeline that is necessary for them. Stark Brothers' Auction is willing to communicate such needs with abutting neighbors. For example, a client may request an evening auction.

Section 307- Conditional Uses

307.01- General Standards: The proposed use shall not adversely affect:

- A. **The capacity of existing and planned community facilities-** Stark Brothers' Auctions does not feel their auction barn has any negative impact on existing community facilities. If anything, perhaps auction goers would stop by the local farm stands, West Barnet Store, etc. providing additional business to the area.
- B. **The character of the affected area-** Stark Brothers' Auctions strives to ensure that they provide a family oriented auction atmosphere with attention to detail. They would by no means wish to negatively impact the character of Morrison HL. It is the hope that cross generations would come together for a positive cause.
- C. **Traffic on the roads/highway-** While there is no way to control the traffic flow on Morrison HL, on auction days the Starks could place "drive slowly" signs near their auction signs as a reminder to those traveling the road.
- D. **Bylaws then in effect-** Stark Brothers' Auctions would comply with bylaws related to advertising signs, setback, and ensure parked vehicles were on their property and not parking on Morrison HL.

page 3 of letter A.

- E. Protection of renewable resources-** Stark Brothers' Auctions was already in contact with Act 250 and is in compliance. The Starks hay their field and auctions would likely occur after haying unfolds.

307.02- Specific Standards

- A. Stark Brothers' Auctions is in compliance with lot area, setbacks, parking, and lot coverage.
- B. Parking would occur on the Stark property and traffic flow would likely only be steady for the 45 minutes leading up to the auction and the 30 minutes after the auction.
- C. Signs would only be erected the day prior to an auction and taken down immediately following the auction.
- D. Auction items are stored inside the barn or in the carport. They are out of view of neighbors.
- E. Porta potty rentals would be held in compliance with Act 250 regulations and the porta potty would be hidden from view of all abutting neighbors.
- F. There would be no additional lights or glare from the auctions.
- G. The barn has been inspected by the State Fire Marshal and there are no fire, explosive, or safety hazards that endanger abutting neighbors.
- H. There are no highly flammable liquids on property.
- I. There are no odor emissions on the property as a result of the auction. The Starks do not currently fertilize with manure, so there is also no odor from haying.
- J. There are no emissions that would cause air pollution.
- K. There are no vibrations that would cause damage to other property owners.
- L. While there will be a sound system to project the auctioneer on the auction days, it cannot be heard from the road.
- M. There is no sand, soil, gravel or rock removal.
- N. There is no landfill/dump.

Please let us know if there are additional conditions that you feel should be established. Thank you for your insights.

Permit Application 15-18

Proposed conditions:

1. Frequency: 1/month between June-October; maximum of 5/year on site
2. Hours: Saturday mornings, beginning at 10am and ending no later than 2pm
3. Signage: No permanent signs; day of auction signs erected the morning of auction and removed immediately following
4. On site parking limited to 60 cars
5. Attendance limited to 75 people
6. Notify all neighbors at least a week in advance of auctions on site

Respectfully submitted,

Steve Adler
1002 Morrison Hill
Barnet, VT

TO: BARNET PLANNING/ZONING BOARD
FROM: LISA ADLER
1002 MORRISON HILL
BARNET, VT 05821
RE: ZONING PERMIT APPLICATION OF MATTHEW & KAREN STARK FOR
CONDITIONAL USE PERMIT 15-18

I regret that I am unable to attend the August 7th continued meeting in person, although I did appear at the originally noticed hearing on July 3, 2018. Please accept my written comments as my appearance at the hearing pursuant to 24 VSA § 4471(a).

When Steve and I originally received notice of a hearing on the Stark's permit application the use that they were applying for did not comply with the zoning regulations in place at the time. The Zoning Board has recently amended the zoning regulations to allow auction barns as a conditional use in the Agricultural District. The current hearing is the first time that the board is able to consider this application with regulations that allow for this conditional use.

Our home is directly across the street from the Starks. We have lived on Morrison Hill since 1984 and have put up with the challenges of rural living on a steep dirt road because we love the quiet and the privacy. I would never have built my house in this location if there was an auction barn across the street from me.

Character of the Neighborhood

As we stated in our earlier letter to the zoning board, this is a rural, residential area. There are no businesses on Morrison Hill although some farm related activities occur such as haying of fields. In a given day there are probably less than half a dozen cars that drive by that aren't residents of this street. I believe that having this auction barn will change the character of the neighborhood. I also believe that this will affect my property's value. All that being said, it is clear that the board is going to allow this use and the only question is what the conditions will be.

Conditions

***Frequency**

When I originally spoke to Matt Stark about his intention to open an auction barn he said that he planned to have 3 auctions in the summer, one per month in June, July and August. I think that the condition of the roads in May is often not that great and the additional traffic would be damaging. It would seem that the board might want to start out with this limitation and see what kind of traffic is generated from these events. One auction per month seems reasonable for those 3 months which is what was originally requested.

***Time and Date**

In the Stark's most recent summary of their plans they said that most auctions will be held on Saturday mornings. Last year, in their July 17, 2017, p.2, they anticipated "Sunday's mid morning for 2-3 hours." Having an auction during the week or in the evening seems much more disruptive. I hope that the board will limit these auctions to daytime on the weekend. It is my sincere hope that most of the auctions that Stark Brothers run will be held on site rather than on Morrison Hill.

***Traffic Flow**

The additional traffic that will be generated on Morrison Hill on auction days is a big issue - one that is going to be difficult to address. The Starks remarked in their July 17, 2017 letter to the Board that they anticipated 40-75 people at an auction, and that their property "can accommodate 40-60 vehicles." In their most recent submission to the Board dated July 8, 2018, they say that it is difficult to predict the number of cars or people. I would hope that the Board would adopt the Stark's 2017 projections in any conditional use permit.

At times, Morrison Hill is barely more than one lane due to ditching and washouts along the sides, particularly during the summer months. The steepest part of the road isn't really negotiable by two cars at a time. The road is steep and every year we see cars off the road or stuck in the mud, or simply unable to make the grade. Pulling trailers up the hill can be very difficult to accomplish without spinning tires.

I don't know how Stark Brothers Auctions intends to control the traffic but I believe that is a big issue for our neighborhood. I would respectfully request that the board consider how to handle this issue as this permit is a conditional one.

***Advertising**

I am happy to see that the Starks do not intend to have a permanent sign on their property. I am assuming that the board could make that one of the conditions for issuance of the permit. Last year they proposed that "signs go up several hours before the auction starts and are taken down immediately following." That seems reasonable to me.

In the end, this is about the quality of life in our neighborhood. I have lived here on Morrison for 34 years without any conflict; it is truly a great neighborhood and a peaceful one. I am saddened that this proposal has so much conflict. As with any conflict, no one will get everything that they wish for. I thank the board for taking my concerns into account in their deliberations and I apologize for not being able to attend in person.

4:00 PM July 25, 2018 Pavillion Lane, Barnet, VT

Notes of the Barnet Zoning Board's site visit to the Pavillion Lane ~~Rowbotham~~ ^{isong} Right of Way to the Lake across land belonging to Ellingwood.

The following members of the Zoning Board – Biddle, Denio, Pierce, Bowen, Briggs who must recuse himself from any actions the ZB may take in this matter, and ZB Administrator Warden and Biddle at an earlier date) met at the ~~Rowbotham~~ ROW to assess for our own greater clarity the complaint of the ~~Rowbothams~~ that their access to their 20-foot wide deeded right of way to Harvey's Lake is obstructed.

We saw that 2 identical surveyor maps, ones owned respectively by ~~Rowbotham~~ and Ellingwood^{son}, showed the clear ROW.

We saw that the bottom three or four courses of steps of the ~~Rowbotham~~ ROW leading down to the water are broken and unusable, most probably due to the action of winter ice.

There was no ~~Rowbotham~~ dock in the water at that location (and there has been no dock in place all summer) as it would not be useable because of the broken steps. The ~~Rowbotham~~ dock sits on ~~Rowbotham~~ land on the uphill side of Pavillion Lane.

We observed that, despite the earthen berm at the top of the ROW, there is no interruption in a 20-foot wide pedestrian-only ROW down to the water (with these two exceptions: a loose pile of firewood that overlaps onto the 20-foot ROW by about four or five feet, and the broken steps).

Mr. Ellingwood^{son} agreed that he would remove the wood pile. This can be done by one person in a matter of five minutes.

Mr. Ellingwood^{son} agreed that when the lake is lowered in the fall he would have the courses of broken steps repaired and he would maintain them hereafter. He did not agree that the ~~Rowbothams~~ have a right to maintain their own ROW, including maintaining the steps, arguing that the steps are his and that he would care for them (which he has not done this spring or summer, thereby rendering the steps and the ROW unusable for their intended purpose).

The disagreement between Mr. Ellingwood^{son} and the ~~Rowbothams~~ is of long standing, and appears to be based on less-than-earthshaking issues that could be easily resolved but that are, instead, kept alive in order to perpetuate the disagreement.

Notes by Bill Biddle