

**Findings and Decision**

**Lonie Parker dba Porky's Backyard Barbecue, 7404 Ethan Allen Highway  
Booska Appeal of Certificate of Occupancy 2020-DRB-04-AP**

**In re: Lonie Parker dba Porky's Backyard Barbecue**

**Application No. 2020-DRB-04-AP Booska**

**INTRODUCTION AND PROCEDURAL HISTORY:**

1. This proceeding involves Rita Booska's Appeal of Zoning Administrator's Issuance of a Certificate of Occupancy for Porky's Barbeque Pavilion located at 7404 Ethan Allen Highway. The appeal is based on approval of all state permits including wastewater and the amendment site plan required within 60 days for the portable toilets on site.

2. Present via remote for the hearing were the following members of the Development Review Board (DRB):

- Charles Roy, Chair
- Kathy Barret, Vice Chair
- Susan Smiley, part of meeting
- Carol Charbonneau
- Tom Fyles

3. Names of others present via Remote at hearing:

- Aaron Brown Zoning Administrator & Town Administrator
- Karen Gallott Minute Taker for Town of New Haven

4. The names of other persons present via remote and to provide testimony:

- Jeremy Ouimette, Esq for Lonnie parker
- Kevin Brown, Esq for Rita Booska
- Lonie Parker
- Chrystal Yantz

5. During the hearing the following exhibits were submitted to the DRB:

1. The following state licenses provided by Jeremy Ouimette, Esq: Meals and Rooms Tax License, Board of Health License to Operate – Restaurant Seating 26-50, Board of Health – Caterer's License, and Third-Class Restaurant/Bar Licenses for On-Premise Consumption and Outdoor Consumption.
2. Correspondence from Jeremy Revell, licensed wastewater designer, dated February 13, 2020.
3. Appeal application dated February 25, 2020 signed by Kevin Brown, Esq. on behalf of Rita Booska.
4. 2019-DRB-07-SP Parker Site Plan Amendment
5. 2019-DRB-09-AP Parker Appeal of Notice of Violation

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**FINDINGS OF FACT:**

Based on the testimony provided to the DRB makes the following findings:

1. The applicant represented by Kevin Brown Esq appeals the decision of the Zoning Administrator. The appeal is based on the issue that the Certificate of Occupancy should not have been issued.
2. The following issues were presented by Kevin Brown Esq:
  - Required approvals from the State Department of Conservation were not provided.
  - There is nothing in the state regulations to coincide with the DRB decision regarding the meaning of an event to only hours of operation beyond 9 PM.
  - An event constitutes use of facility not the hours of the event.
  - Currently there is no disconnect between the Lincoln Applied Geology's letter the indicates 28 events per year based on state regulations and 48 events permitted by the DRB.
  - Conditions imposed by the DRB in their findings and decisions, allows the DRB to require evidence of adequate wastewater.
3. Verbal testimony from Jeremy Ouimette, Esq. cited a letter from Lincoln Applied Geology about exemptions for updating as long as Lonie Parker used a mobile food truck for food preparations, clean up and dishwashing. Also in the letter provided which stated that there were no more than 28 events and the outdoor pavilion would be exempt from waste water permitting. Other information provided:
  - The DRB does not have jurisdiction over wastewater.
  - The State does not write letters of compliance.
  - The wall enclosures were dealt with in the amended decision of the site plan.
  - Food preparation will be provided by a licensed catering food truck, which is covered under a separate catering license.
4. Verbal testimony was provided by Aaron Brown Town of New Haven Zoning Administrator. The Zoning Administrator issued the Certificate of Occupancy based on supporting documents from a licensed designer from Lincoln Applied Geology and Vermont Department of Health. The applicant provided the information requested by the DRB for state wastewater and health permits.

**DECISION:**

**Carol Charbonneau made a motion to maintain and uphold the Certificate of Occupancy issued by the zoning administrator.**

**Second by Victor Laberge**

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Vote:

Aye: 5 (Barrett, Charbonneau, Fyles, Laberge and Roy)

Nay: 0

Abstain:0

Dated at New Haven, Vermont, this 21 day of May 2020

  
Charles Roy, Chair

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Kathy Barrett , Vice Chair

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Susan Smiley

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Carol Charboneau

\_\_\_\_\_  
Tom Fyles

  
Victor Laberge

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding before the development review board. Such appeal must be taken 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.

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**Vote:**

Aye: 5 (Barrett, Charbonneau, Fyles, Laberge and Roy)

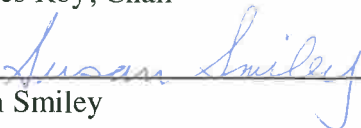
Nay: 0

Abstain:0

Dated at New Haven, Vermont, this 5th day of May 2020

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Charles Roy, Chair

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Kathy Barrett , Vice Chair

  
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Susan Smiley

\_\_\_\_\_  
Carol Charboneau

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**TOWN OF NEW HAVEN**

**Development Review Board**

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**Vote:**

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Nay: 0

Abstain:0

Dated at New Haven, Vermont, this 5th day of May 2020

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