

MINUTES
PLANNING BOARD
March 1, 2023 7:00pm
In-person/Zoom

Present: Deirdre Daley (Chair), Josh Muhonen (Vice Chair), Shawn Talbot (Ex-Officio) - in person, Craig Smeeth- recused himself for the Silver Scone Hearing as he attended as a citizen/abutter, Tim Somero, Liz Freeman-in person, recused herself for the Silver Scone Hearing as she attended as a citizen/abutter, Jennifer Minckler- in person .

Citizens in attendance – Bert Hamill-in person, Ashley Saari-, Monadnock Ledger – in person, John Cook Sam Benedict- in person, Joe Edwards- in person, Gary Buscer-in person, Jane Elwell- in person, Savanna Elwell-in person, Ray Holmes-in person, Robin Blackburn-Ellis-in person, Kathleen Sheldon- in person, Robert A. Fasanella (Representative for Silver Scone)-in person, Abigail Fasanella-in person, Nancy Cark (Attorney for abutters) – in person, , Stan Sabierek-in person, Ann Marie Fournier-in person, Robert Fournier-in person, Abigail Fasanella –in person, Louise Delpapa-via Zoom, Stan DelPappa-via Zoom, Judith Holmes- via Zoom , Raymond Holmes-in person, Sharin Smeeth-via Zoom, Marilyn Stowe-via Zoom, Heather Schoff-via Zoom , Glen Shaw-via Zoom

Selectmen/Chair/Land Use Report- Selectman Talbot advised that the police department renovation is complete and looks great. Candidate's night is March 7 at 7PM at the Town Office and The Election is being held on March 14, 2023 at Mascenic School

The Land Use Clerk mentioned the issue of storage on Dropbox and asked if we need a vote to increase storage. It was determined that the Land Use Clerk will research. The Land Use Clerk also questioned the need for Dropbox for the public. The conversation will continue at a later time, and the board may seek input about what aspects of Dropbox the public may value. She announced that the Green Center and the transfer station will be closed this Saturday. The Land Use Clerk advised that she is assisting with the Zoning Board of Appeals in the absence of the Land Administrator

The Chair revisited the decision letter provided to Mr. Edwards at his request to clarify the business use for his property following the ZBA decision. A motion was made to adopt a change to the decision letter with the wording for automotive repair and welding by Selectman Talbot. Motion seconded by Josh. Roll call vote. Motion carries. Updated letter is to be sent out.

Accura Construction was to be heard tonight but the applicant identified an old document from the 1980's of an application with the Zoning Board decision that now has expired. Accura wishes to continue with the Planning Board on the site plan review but will also submit an application to the Zoning Board of Appeals. The hearing was continued to a date certain March 15, 2023 at 7:15pm.

Chair Deirdre suggested to the Board members to think of how we can get public input on the master plan. Many suggestions were made-the market, town dump, churches, green center library, town office etc.

Minutes of February 8, 2023- to be reviewed at the March 15, 2023 meeting because of time

A break was taken from 7:42-7:45pm

7:45- Public Hearing- Site Plan Review for Silver Scone-Jane Elwell, Map 11 Lot 128 99 River Road, New Ipswich NH 03071- Both Liz Freeman and Craig Smeeth recused themselves from the Planning Board. Chair Deidre completed a recap of what occurred at the last hearing. The Planning Board had gone through the application for completeness but there were submissions received too late so we continued the hearing to this evening. The plan for the evening would be to check the application for completeness, followed by an overview of project, the Planning Board will ask questions and then seek public comment. The Planning Board reviewed the application on pages 3, 4 and 5 and then the checklist. On page 3 of 8, item #2 was a waiver accepted at the

last hearing which was the stamping of the land surveyor. Page 4 of 8- the parking lot, side walk and pathways were added later under proposed development and the walkway was item #9. Page 5 of 8- no items to discuss. Robert Fasanella asked about comments or recommendations from the Building inspector or the Fire Department. Chair Deidre advised that the Building Inspector did submit something but limited information which is not relevant this evening. The Fire Chief would be under certificate of compliance. It would not necessarily be required to be received for the application to be considered complete to discuss completeness of the submission. Robert asked if the comment of the building inspector was relevant to the checklist. Chair Deidre advised it is not generally looked at by the Planning Board as that is not criteria set by the Board for completeness. She also noted that her understanding was that the applicant was consulting with the Building Inspector and not receiving a formal certificate of compliance. Selectman Talbot advised that this is to review the application for completeness. Motion to accept the application for completeness by Josh. Motion seconded by Tim. Roll call vote. Motion carried.

Chair Deidre advised the group would proceed to discuss compliance. Robert Fasanella presented a more detailed presentation orally as well as a power point presentation. Chair Deidre advised there will be questions, then will be opened to public comment. Robert Fasanella reviewed the project. This is a site plan review under RSA 143-A:3 Article V. This is to be a four time a month business which involves hosting tea parties with guest permission only. The business is not open to the public. The business itself is not visible from the outside with exception of summertime when activities take place outside on a courtyard (on the north side of the house) not viewable from River Road or Currier Road. The property is a 36 acre parcel with 3 acres located in the Village District 1. The other 33 acres of the property are in the rural area. Most of the 33 acres are under a conservation restriction, monitored by the Monadnock Conservancy who have been monitoring this since the restriction has gone into effect. The land is owned by Jane Elwell. Some of the portions of the property have activity approved the Monadnock Conservancy for walking, forestry and agriculture. The variance by the Zoning Board was granted as it is consistent with the Master Plan. The activities allowed by special exception including day care, bread and breakfast inns, kindergartens would pose a greater impact on the surrounding neighborhood. The applicant feels that the review should have fallen under an expedited review as the alterations outside do not exceed 800 square feet but are willing to go through a full site plan review. No parking area exceeds 20 parked cars.

The existing conditions plan prepared by Meridian was reviewed. There is an existing parking area (reflected on plan highlighted in pink). This has existed since at least 1950 and two historic photos from Bank Village have been submitted to the Planning Board from 1950 and 1960. This parking area was probably a much larger area than proposed, has existed and was probably associated with logging which took place on conservation restriction area which is still permitted. This area is proposed for a parking lot to alleviate parking on River Road and Currier Road as this was a primary objection of the abutters complaining of parking on River Road. There are no prohibitions of parking on these roads but this will allow for off-street parking. The tea party will take place four times a month for only two or three hours per occasion.

The wetland areas are highlighted in green. The blue line looking to west of the green area is the 25' setback line and the orange line further west is the 50' set back of the existing wetlands. The parking area reflected is larger than proposed and is outside of the 50' setback. No wetlands are being affected by the existing parking area or entryway from Currier Road. The opening has changed from 14' to 20' widened by permit approved by the DPW and the Board of Selectman. Appealed to the Zoning Board of Appeals and upheld.

The decision was recently published and dated February 22, 2023 and Robert Fasanella requests it become part of the record. He provided a copy of the decision letter to the Land Use Clerk dated February 22, 2023. The Land Use Clerk questioned if this copy was the revised decision letter. Robert Fasanella states this is the Notice of Decision from the Zoning Board of Adjustment on the appeal that was taken by the abutters and neighbors by the Board of Selectman's approval on the driveway permit.

There were a number of appeals which Robert Fasanella covered which were: There was no existing conditions wetlands map provided to the Board of Selectman. This is the plan that was shown on the screen (Existing Conditions by Meridian). This was provided to the Board of Selectman. This was also approved by the ZBA and they found the parking lot complied with the 50' setback. The 2nd issue raised by the abutter is that they claim that the purpose of granting the existing driveway that has been there for 50 years was an illegal use and the activities to be proposed are illegal. The business was found to be legal and permissible by the ZBA. Bob Fasanella went on to advise that the 3rd appeal was that the existing access onto the existing parking area did not comply with the scenic road bylaws and the scenic road statutes because a portion of the roadway entrance had a rock moved which violated the scenic road bylaws. There was a decision and opinion issued by Town Counsel and the Chair

of the Conservation Commission supporting the alteration of the existing opening. It was also reviewed and not found to be applicable by the ZBA. These are the 3 principal reasons of the appeal of the Board of Selectman decision to grant the driveway access modification and was upheld by the ZBA.

Robert Fasanella feels that the application fully complies with the site plan review standards with the exception of not having a detailed Engineer plan. In reviewing the existing conditions plan from Meridian, he feels that is sufficient. The only alteration to take place on existing parking area is where about half a dozen trees will be removed. The parking lot is level and graded. The buffer zone will be vegetated with planting and seasonal grasses. Area for snow and ice removal are shown on the plan in blue. Parking spaces will be 9"x18" long. There will be 9 parking spaces on the east side and 7 parking spaces on the west side for a total of 16 spaces. There will be a walking path which exists in part already. It will have a 4" base and 2" top coat of gravel that is permeable. During construction phase, There will be siltation fences (showed in green on plan) and will be removed after construction. There is an existing wetlands crossing and is going through the approval process from the DES. There is an existing bridge over the wetlands crossing being approved by the DES as well. There is a 6' wide walking path to provide access to the front and back which will be lit with downward lighting used infrequently as lighting will only be needed in the winter time because of the hours of operation.

Bob Fasanella provided a copy of the decision of ZBA regarding of 14 Counts dated February 22, 2022.

Chair Deidre asked at this point to move to public hearing session. Chair Deidre explained the reason for not conducting an expedited site plan review which was that we were educated by NHMA that we have limited ability to do so because we do not have processes in place for expedited review. We do have some limited capacity that are reflected in our site plan review regulations which are that the Board may waive any submission requirements, including the need to submit a plan prepared by a certified engineer, or one to be filed with the Registry of Deeds. The Planning Board could complete an expedited review when the activities proposed cause little or no impact on traffic, parking noise, lighting or environment. Public interest and involvement in the application hearing is consistent with a conventional application review.

Chair Deidre states there are an appropriate number of car spaces based on yield calculations in zoning regulations but asked what if there are not 3 people to a car? Jane Elwell advised that state law in the town regulations state that a restaurant allows to have 3 people per one car. She is allowed 50 people at the tea party. Seventeen parking spaces would allow for 51 people. There are 16 parking spaces where the clearing area is and one handicapped parking space in the front. There is more room in the driveway but it is like any other restaurant, it goes by the same rule- 3 people per 1 car. If more cars come they find other places to park. There is no law that they cannot park on River Road or Currier Road. The chances of parking lots being full is very slim. Chair Deidre questioned that there are reservation so Jane knows she won't have more than 50 people. Jane confirmed as she needs to know how much to bake and advised her cooking is done prior to the party. She is just serving at the party. Jane said that after an hour and a half, people are ready to go home and do not sit there all day. Chair Deidre advised if there are no questions from the Board, we can go into public hearing. Robert Fasanella questioned if he could present PowerPoint and would need 15 minutes. Chair Deidre advised that her intention would be to do an hour of public hearing and that would bring us to 10:00PM if we use full time.

Robert Fasanella presented the PowerPoint which showed the outside of the property, the location of the property on a map, the 1963 aerial photograph by USDA with the existing parking lot with access to Currier Road. Interior picture of space being used by Silver Scone. Total square footage of house is over 6000 sq. ft. The area of the house used for Silver Scone will be approximately 30%. A picture of the typical set up showing food prep and station set up for table with food served. There is a view of the library area looking to the porch area, the dining room with typical set up for 10 people and a set up for 6 people, the library area set up during Christmas, a family gathering on the porch (private session), interior of the house of the porch, library area, and living room area set up for tea, hallway to area transformed to a second bathroom, angle corner of Currier and River Road, photo of the back of the house where tea parties could take place in the afternoon, tea part in the back in the court yard area which shows there is no way to see from the road, Monadnock Conservancy map managed by the Conservancy to show the stone walls, photo of the permit allowed by the DPW and a blue arrow showing the rock which was not part of the original stone wall to open up the area, a picture of the existing parking area off Currier Road where the trees are shown that are to be removed. Deidre asked a clarifying question about plans to gravel and if the plans presented did indeed plan to remove the top layer of material and confirmed that what the Planning board has is accurate. Deidre stated this property has never been reviewed as a commercial property previously and she asked if the private parties, such as a bridal shower tea party and a tea party count for the 4

approved. Jane Elwell confirmed that each private event counts as one of the four allowed. All events are private.

Chair Deidre announced that we are going into public hearing. She advised that it will be limited to an hour. One person will talk and will stand to present. Those online, if an abutter will need to raise their hand to speak. Chair Deidre stated that the abutters will speak first and confirmed that the questions are to be directed to the Planning Board and requested that the speakers provide name and address and what impact or benefit this would have on you. Attorney Nancy Clark stated that she is representing the abutters in attendance and although Liz Freeman is not a formal abutter, she will be out of town if this is continued and all of the abutters have asked she be allowed to go first. Someone from the audience asked if there is going to be a time limit. Chair Deidre responded by stating she was not going to try to keep a time limit but requested individuals not to repeat what someone else has mentioned. The abutters have authorized Liz to speak so she will be able to do so. One person to speak at a time. This is not social media or general discussion. The goal of the comments is intended to inform the Board to make decisions on the application. Liz will be heard and then Louis and Marilyn who were online, so we respect individuals attending virtually as well as in person.

Liz Freeman, 410 Ashby Road- owns property on the River Road abutting Bank Village. Liz has served on the Planning Board for 25 years and is currently an alternate but has recused herself and is speaking as a private citizen but is well versed in Planning.

Liz has some concerns about this application. She is concerned that people say this business may have less impact than what is allowed by special exception in the Village, but she questions a B & B, nursing home, assisted living having more of an impact than this. She stated if your next door neighbor was having a party for 50 people that would be okay but what if your neighbor was having a party for 50 people every weekend? Plans have been submitted for 5000 sq. ft. gravel parking lot and a walking path that she estimates to be about 1200 sq. ft. which is 6200 sq. ft. of new structure. That is equivalent to the parking lot and walking area in front of the School Yard, paved area at Trustee Auto and the paved area in front of Dollar General. This project is considerably more than what people associate with a tea party. The granting of the variance and the driveway permit have been appealed to the Housing Appeals Board. This is a contentious project.

Liz has said that in the past there have been tricky hearings and the Board has invited legal counsel to meet with the Board and often times it is a stitch in time, with expense up front and she knows legal expenses are an issue with the Board of Selectman but asks Selectman Talbot to think about it. The Board is absolutely correct in being reluctant to ask the applicant to incur unnecessary expenses but when you talk about an unnecessary hardship, you have to remember the word unnecessary as well as hardship. If in providing information that the Board needs to act on an application that is not unnecessary. It may cost the applicant but it is not unnecessary.

Liz noted if she was acting on this application, she would be very uncomfortable with the statement on the Meridian plan outlined in black that states: *existing boundary information is approximate. This is not the result of a precise survey by this office. Boundary lines to be verified by licensed land surveyor prior to construction.* Liz, if acting on this, seeing the parking lot squeezed between the wetlands and the boundary of conservation land and the boundary on that plan are an estimate, would have a concern. There is room to reconfigure the parking lot but would think carefully about if you needed a stamped official survey.

Liz was concerned of the granting of the 2nd waiver request. The regulations say you can waive the requirement if the shape, size, height and location of the proposed structure including expansion of existing buildings. The reason given for the 2nd waiver request is that no expansion of the existing building is proposed. This is essentially a new structure. There is some contention about whether this is an expansion of the existing parking lot. Just the graveling of it, you are putting gravel on 6200 Sq. ft. That is an expansion. Liz is concerned that that may have been waived properly. Also, if you do not have survey plans, how do you comply with section VI of the site plan regulations that require an as-built? How do you know it has been built according to that plan if it is not surveyed? Because this is under appeal and maybe eventually the application won't be approved by the ZBA, it may be tough to ask the applicant to pay for survey plans now but may be an important condition of approval.

Liz states that the 16 parking spaces without a handicapped person of the 50 people attending, then there are only 16 spaces not 17. It is illegal to use the handicap spot [for a car without a handicap placard or plate]. A minimum of 17 spaces is required. A condition of the variance is that there will be no on-street parking. Liz stated that people come to help serve with the tea party and they need parking space. Where will this parking go?

Liz mentioned that storm water and erosion control will be discussed by others that are more knowledgeable than Liz. Liz states there is an over 10% slope on the plan. She also asked several questions including: How is the grading going to be done, what is happening with storm water runoff? Liz mentioned vegetation and is there any evidence that this will be sufficient? There is a snow storage area reflected on the Monadnock Conservancy plan. Have they approved that? Will you have an inspection scheduled as this is built?

Liz advised that there are a couple of things to be included as conditions of approval. The appeals have to be resolved before the Housing Appeals Board. The proposed walkway crosses the wetlands and she believes there is an application for a permit for that walkway. The septic system for residential use is being proposed for use with the Tea Party and Liz is not sure that the DES allows that. Liz states there was nothing said on the application about the driveway. Liz questioned if the Monadnock Conservancy has approved gravel for the driveway, she feels they have said it cannot be gravel. Is the existing driveway sufficient for all-season use as is required by the Zoning Ordinance?

Liz noted the Planning Board is different from the ZBA but she has heard one too many times that the Master plan supports this use but she states clearly it does not. The Chapter III author was Liz and nowhere does it support this use.

Louis DePappa 9:00PM: She advised that Nancy has a letter from Patty Hoffman so she is all set

Marilyn Stowe 9:09PM 97 River Road: Marilyn stated that with the exception of the Dollar General, TD Bank, the School Yard and the New West Mall there are no other businesses located in a commercially zoned areas of New Ipswich that she has found anyway, that have parking lots near the size of the one that Silver Scone is attempting to building in a residential area. Both the School Yard and the New West Mall have parking lots that serve multiple businesses. So that really only leaves two parking lots in town, the Dollar General and TD Bank that have close to bigger parking lots. If they intend to increase to 20, they would be bigger than the TD Bank and Dollar General.

The question Marilyn had for the Board is how this in any way adhere to the spirit of the Zoning Ordinance which states *the purpose of this district is to retain the character of the long established villages in New Ipswich*. She doesn't feel it does. It does impact us. We live right next door to 99 River Road. We are at 97. Having 50 people on a weekend, every single weekend or during the week whenever they choose to have their parties is disruptive. Her property sits higher on the hill, so they do see the applicant property. Even after putting up a large fence to protect our dogs, they can definitely see activity there and are concerned of how this is going to grow into something that is more than 4 days a month. She has heard a number of things from the representative of Silver Scone tonight which she feels are inaccurate. She knows they are not. Especially the opening of the parking lot itself. When the property was purchased by Jane Elwell and her husband Jake, there were actually two large poles that blocked that so called driveway. It was maybe 3 or 4 ft. wide at the most and somehow now has grown from 14ft. to 20ft. after they purchased it.

Chair Deidre asked Nancy if she was next and Nancy responded that she thinks other abutters that she represents give time to speak.

Stan Sabierek 9:13PM 81 River Road: He has lived in Bank Village for 21+ years. It is his opinion that granting a 16 space parking lot in the middle of Bank Village which is adjacent to wetlands and then allowing traffic to enter and exit that parking lot onto one of the Town's few scenic roads is neither a wise or proper thing to do. Despite Zoning and Select Board apparent approval for Ms. Elwell's restaurant business, there still is not enough parking for 50 customers that the Zoning approved her for. Also, additional parking spots for the people she needs to assist her to prepare and serve those 50 customers will undoubtedly cause an overflow problem at nearly every one of her events. The parking situation is untenable as the business has already overgrown the residence. No real solution to overflow parking has ever been suggested by Ms. Elwell what so ever. The neighbors are simply trying to preserve the original intent of ordinances that were written for Village District 1 which were meant to maintain the rural residential integrity of the Bank Village. He is asking the Planning Board to not allow this parking lot, as it is not needed for residential use. Its sole intent is to accommodate a restaurant in the middle of Bank Village. It is not what the vast majority of residents of Bank Village want to see and he thanks the Board for their time and consideration in this matter.

Nancy Clark has two abutters statements that she wants to read and she has her own statement on behalf of the 13 clients she is representing. The first is from Chris Allen abutter of 97 River Road. Nancy read the following:

To the Planning Board of New Ipswich NH

Should Silver Scones receive authorization from the planning board to install a parking lot on the 99 River Road property the board must require that the lot conforms to all standards and regulations that every other commercial business must adhere to. There should be no reason for Silver Scone to be allowed to cut corners on the building of the lot (i.e., gravel instead of paved). Why should any other business be held to a set of standards if Silver Scone is not?

Also, in the twenty years that I have lived next door to 99 River Road (the current location of Silver Scones) there has never been a parking lot on that property as the owner has repeatedly and erroneously claimed. And since the requirement for a use to be grandfathered in is that it must have been in continuous use, any claim regarding a previous parking lot dating from decades ago would be moot in any case.

*Christopher Allen (Abutter)
97 River Road
Bank Village
New Ipswich NH*

Nancy read the following letter from Robert Fournier, abutter 111 River Road

Robert Fournier 111 River Road

Expert opinion qualifications.

- *Construction Senior Project Manager. Currently employed at Destefano & Associates, Portsmouth NH. 25 years + of construction management experience.*
 - *Notable local projects include, The LaBelle Winery, Amherst NH. The Copper Door, Bedford NH. The SNH Walk-in Health Clinic, Amherst NH. The NH Nurospine Institute, Bedford NH. And The SNH Walk-in Health Clinic, Pepperrell MA.*
1. *We feel the board was incorrect in waiving the requirement for a proper survey. Without an accurate survey, there is no way to determine if there will be less than 800sf of disturbed area.
Furthermore, the proposed parking lot is shown right tight up against the wetlands buffer. Without an accurate survey, there is no way to determine if there is enough room for the proposed 16 to 18 parking spaces without encroaching on the wetlands, the town right of way, or the conservancy lands.
If Jane cannot afford a simple survey how can she be expected properly run her business within the town/state building codes and regulations?*
 2. *The applicant provided lighting fixture cut sheets and a generic plan, but a photometric metric drawing showing proper lighting locations and light spread was not provided. Without a proper photometric plan, there is no way to determine if the lighting is adequate for the proposed area and if there will be light spillage onto the neighbor's property. Their so-called parking lot lights are currently tied to trees with ropes and one is aimed directly at the neighbor's property.*
 3. *The snow storage plan lacks a survey, there's no way to tell if it encroaches into the wetlands.*
 4. *The walking path lighting should be included in the photometric plan.*
 5. *Items missing per New Ipswich Site Plan Regulations.*
 - *Proposed grades not indicated.*
 - *Direction of travel not indicated.*
 - *Stormwater management system not indicated.*
 - *The existing conditions drawing indicates there is a nearly 10-foot drop in elevation from the upper left EN corner of the parking lot closest to Currier Road to the lower right SW corner of the proposed parking lot next to the walking path (elevation 314 to 304, 10% grade). This will cause excessive water to run off onto Currier Road and the walking path.*
 6. *A van-accessible handicap parking space is also required to have a paved surface, painted marking indicating wheelchair access, painted hash lines delineating the van loading area, and a HC only parking sign indicating van access. Jane or anyone else would not be allowed to park in front of or block access to the HC space at any time. I don't believe the space next to the garage is paved.*

Side notes:

1. *New bathroom does not meet HC code, just at a glance from the power point photos.*
 - *Toilet is closer than 18" from the adjacent wall.*
 - *Flush mechanism is on the wrong side of the toilet for HC access.*

- *HC grab bars are missing.*
 - *Sink is not wheelchair accessible. Pedestal sinks may be used but the bowl needs to be elongated to allow for a wheelchair.*
 - *No Mirror.*
 - *Door handle needs to be a lever style and at least 18" from the adjacent wall.*
 - *Bathroom not large enough for a 5' wheelchair turnaround radius.*
2. *The two letters from the conservancy only give access permission for maintenance vehicles.*

Nancy Clark advised that the two letter from the Monadnock Conservancy that she believes is in the Dropbox, only allow access for maintenance vehicles. If cars are to be parked on property, the applicant will need additional permission from the Monadnock Conservancy. Mr. Fournier, given his 25+ years of construction management experience is giving his opinion that for purposes of a parking lot, in order to satisfy the requirement in the Zoning Ordinance that the surface needs to be for year round access, needs be paved, rather than impervious gravel. Nancy submitted a diagram that Mr. Fournier put together showing that if you have two cars in the driveway, the handicap spot would be blocked. She presented a photograph of what is now the driveway into the parking area, taken on July 7, 2015 approximately a year after Ms. Elwell and her now ex-husband bought the property. As you can see, the break in the stone wall is very small than it is now and there was no parking lot that exists here at this time. Nancy submitted to the Planning Board, a diagram that Mr. Fournier has put together showing that if you have two cars parked in the driveway that given drive way configuration the handicap spot would be blocked, a photograph of what is now the driveway into the parking area taken July 7, 2015, as you can see the break in stone wall is very small and there is no parking lot that exists at this time. She provided the applicant's submission with proposed conditions and Mr. Fournier's mark ups showing his 10% grade calculation, mentioned in his comments. Nancy provided a larger plan with the depiction of the two cars blocking the handicap parking space with the 10% grade that was mentioned. This is another view of what was submitted already.

9:41PM Nancy Clark read her **statement of objections** dated March 1, 2023 and provided a copy to the Land Use Clerk which is **provided at the end of the March 1, 2023 meeting minutes**.

No further abutters wanted to speak. Comments were then allowed from Non-Abutters.

Kathleen Sheldon ended at 9:47PM: She is not an abutter but lives in New Ipswich. She is a friend of Jane's and has attended many tea parties over the past couple of years when they were operating. Kathleen had no prepared comments for tonight, understanding that tonight was primarily to talk about the expansion or creation of a suitable parking area. The references made to the other parking lots in New Ipswich, she feels are irrelevant to this case. Kathleen states that perhaps she doesn't understand the legalities and technicalities but the parking area at Silver Scone Tea is not even visible from River Road. If you were to drive up or walk up to River Road, you would not even see this parking lot. It is an incredibly low impact, very natural, fitting in with the landscape. You would have to go out of your way to even see the parking lot. The usage when thinking of Dollar General or Silver Scone Tea, Dollar General is open 7 days a week, she is not sure how many hours a day, cars going in and out all the time. That is not the kind of traffic this parking area over River Road or Currier Road would get. It's nearly 4 days a week for a couple hours at a time. The use of the parking lot is only minutes at a time. So in terms of erosion and wear and tear and volume and destruction on the neighborhood, just thinks that is not relevant or true. She thinks she had heard a lot of alternate facts here tonight. She doesn't understand why when we are talking about a parking area, why are we talking about the bathroom, about the septic system? What relevance does that have? Those areas were covered with other hearings, with other Boards. The parking lot is natural, well thought out, it's not an eye sore, not intrusive. This is a low impact business with minimal operation by a very lovely lady with a charming business. She has been to several tea parties brought friends from Colorado, Massachusetts and H. For the most part if you are looking to see if there is a tea party going on, you could walk by Jane's house and never even know there was a party going on over there, unless you were looking through the hedges or trying to find the tea party going on, you would not

even know what is happening. It is a wonderful addition to the town, people that have been love it. She would love to live next door. The parking area, the extra room in Jane's driveway for overflow cars. She know someone said there would be additional parking allowed on the street but she is not sure if that is correct, but there is plenty of room. Many times there are more than 3 people in a car. That needs to be factored in as well. Kathleen is totally in favor of this. She thinks Jane and Silver Scone have gone out of their way to create a suitable, appropriate, incredibly low impact parking area to support her business and provide a wonderful experience to the community and friends and family.

Chair Deidre advised from an education perspective that this application would be different if there was not already an existing building, this hearing must look to the entirety of the business since it has never been reviewed in the past. Chair Deidre confirmed that the Board does not need to go into depth over Bathroom and septic as far as installation of plumbing as that will be more specific to code enforcement.

Jane Elwell: Jane has worked closely with Monadnock Conservancy for the 9 years she has owned the house. The gap off of Currier Road was a lot smaller at the time. She has worked with them asking about her plans as she bought farm machinery and put up a fabric barn. They were very happy to let her open the wall to fit things through. The rock was the very last piece to be moved but was not part of the wall, it was past the wall. She is not sure how this is relevant and has received an email from Conservancy confused as to why the neighbors are still complaining and they [the Conservancy] is okay with what she is doing. As far as graveling a parking lot, she notes it is called a parking lot/parking area because that is what we have been talking about. Yes, it has publically been a logging road. Photos show it was an open space before. Mrs. Hoffman may have let it grow out of control for a little bit but it has been an open space. It has not been a parking lot as such. She has parked cars out there. There have been cars and trailers parked there before in the 9 years she has lived there.

The other thing she wanted to say was the culvert is a moot point because DES and Meridian are working on this, the permit is being put in and per DES, once the paper work is received and it will be closed. It does not have any reference to the decision of the Planning Board. Chair Deidre stated it may have be a condition of any potential approval.

Regarding the septic system, Jane advised that Zoning Board said that as long as a [updated] septic system design was filed with the state, which she does, that is all that is needed. She said we need to remember she only does tea parties for 1.6 % of the time. The other 98% is her residential house. She does not have people using the bathroom all the time. There are not 50 people rushing to the bathroom at the same time. Since the [Select Board issued a] cease and desist, that part of the house has been closed. Not all people while at a tea party use the bathroom, maybe 8 or 10 people at a time. Trying to put in a septic system for equivalent of 56 people in her house is ridiculous when only doing this for 8 hours per month.

Robert Fasanella 9:52pm: He stated there has been some comments made about the surface area of the parking lot and whether it needs to be year round surfaced paved. He requested Bert Hamill be asked his opinion of these questions as he is an Engineer [Planning Board Consulting Engineer] rather than taking into consideration Mr. Fournier who may not be an Engineer at all, whose made these opinions as well as Nancy Clark and Liz Freeman that the parking lot will not have sufficient flow, needs storm water management, or needs erosion control plan.

Bert Hamill addressed Mr. Fasanella by stating that a gravel parking lot is installed pretty much everywhere throughout New Ipswich. There are dozens of them, literally. They are maintainable during the winter months. It a compromise between a paved surface and having a semi-permeable surface. It minimizes the the run-off. There is some siltation and sand motion from parking lot area but it is negligible. It should be pointed

out that the wetlands we are talking about are not prime wetlands, just run of the mill wetlands. They are not terribly significant. We are protecting them and regulations do we require we protect them but impact of that parking area with a gravel surface will be negligible.

Heather Shaw 9:54PM: A Greenville resident who grew up on Old Ashby Road. She graduated from Mascenic. She is a long time resident of nearby town. There was a picture submitted and is a member of that picture and did not realize it was being submitted. From that picture, we can see that she has also been someone who has helped Jane out in the past. She can speak with certainty that her car would never be problem as she can be dropped off. She note helpers are all capable of carpooling or having spouses or whomever drop us off. That is not a viable argument to put towards her [the applicants] 16/17 spots. She knows a lot of talk has gone on about the impact of Silver Scone about the neighborhood and the people. She can be sympathetic to that as she grew up here. Jane, years ago donated a tea party to 20 girl scouts and refused to accept a cent. She wants the abutters to know that this person brought culture and a different way of looking at things to children as well as their parents and other people in the community. Support is coming from everyone. She has been asked when the tea parties will come back again. Heather would invite, if allowed people to come and see how 50 people would never fit at one time in that facility, not with the amount of class and caring that is given to the customers. It would be a cattle call and that is not the spirit of this business. Heather understand she needs parking for 50 people but there would never be a time with 50 people. Her other thought is with non-paving, how does Pickety Place operate without their parking area being paved even though she know different town. Heather has a graveled driveway. She thinks this is extremely nit picky. We are losing sight of the spirit of this. This is turning into a playground.

Bert Hamill commented that Ms. Elwell has held events prior to the shutdown and may have guest lists. He asked if she retained those records and if she can she provide to the Board how many attended. It may be helpful to show that she is not hitting that 50 mark. Jane advised that she can host 50 easily and the Fire chief said she can have 78 in the rooms she is using. The ZBA limited to 50 and she is fine with that. She rarely has that many but hopes that she does sometimes. She can fit 50 especially in the summer months if we have the sun porch open. In the winter months it would be harder. Chair Deidre asked if she has one or sometimes two seating's out of curiosity. Jane can do two seating's but the ZBA has limited her to 50 a day. She would need to do half for each seating.

Robin Blackburn-Ellis10:02PM- From Peterborough but parents lived in New Ipswich for 25 years. She is a very good friend of Jane's. She helped her with some of the tea parties. Robin always parks on the street. When she parks on River Road and her parents lived on Perry Road, there are no no-parking signs on the street. She did not realize Bank Village was a gated community. She did not realize neighbors can say do not park in my house. Jane has accommodated the neighbors. She has open land, a parking lot. All she hear was you can't park on the street, you can't have a parking lot. It is a four day a month business. She mentioned that people do visit people in assisted living. Robin asks if a neighborhood can ask not to park on the street or on our street. If a tea party is not in session and parking lot is only used for parties or home use. Is there are reason why a wheel chair space cannot be used by Jane. Can she put a sign over it when not in use? She asked if the audience has driven down the scenic road. She states there are 3 junk cars and piles of metal right on the scenic road. There are sheds all broken down. There are walls that are caved in. She has problems with the negativity and feels it is more than a tea party 4 days a month. She hopes all come together and be nice to each other.

Liz Freeman questioned if the Board is aware that the parking in the zoning ordinance does not allow parking in the driveway. Chair Deidre advised we do have some homework to do. Jane asked is they are saying she cannot park in her driveway. Chair Deidre advised it is new to her. She is not sure if you can count your driveway and park in your driveway when there is a handicap space. That might be what we are hearing. Jane responded that the sign goes up when there is a party and down when it is not. Chair Deidre said we are going to do our homework and asked Jane if she will be around in two weeks. She will not. Jane stated for the March 15, 2023 meeting Bob Fasanella will be here.

After board discussion on the calendar, the hearing was continued to a date certain March 15, 2023 at 6:00PM. Chair Deidre noted the public hearing would not be closed as there will likely be additional questions. She asked rhetorically of those not in favor of the parking lot want it paved or graveled. We will stop and continue at the next meeting. Tim asked about the other scheduled business at our next meeting. Chair Deidre said we will hear this until 7:15 and if 7:15 does not occur we will do other business. We will review minutes of 2/8/2023 at the next meeting.

Josh motioned to adjourn. Tim seconded it.
Adjourn 10:15PM

Respectfully submitted,
Jennifer Minckler

Letter from Nancy Clark of Objections :

March 1, 2023

NANCY M. CLARK, ESQ. T
603.451.4526

Town of New Ipswich, Planning Board
Deidre Daley, Planning Board, Chair
Joshua Muhonen, Planning Board, Co-Chair
Timothy Somero, Planning Board
Lou Guarino, Planning Board
Shawn Talbot, Board of Selectman Representative
Jennifer Minckler, Planning Board
661 Turnpike Road
New Ipswich, NH 03071

Re: Site Plan Review for Silver Scone Teas, LLC: Objections Requiring Planning Board Corrective Actions and Site Plan Approval Conditions

Dear Town of New Ipswich Officials:

I have been retained to represent thirteen individuals representing a total of eight properties as detailed below with regard to Town of New Ipswich matters concerning Silver Scone Teas, LLC. These individuals and properties are comprised of abutters to 99 River Road and others who own property in Village District I and/or in the vicinity of River Road.

My clients and their properties are as follows:

Richard C. and Sharin Smeeth, Tax Map 12, Lot 92, Abutters
Robert and Annmarie Fournier, Tax Map 11, Lot 189, Abutters
Stan Zabierek and Louise Delpapa, Tax Map 11, Lot 191, Abutters
Christopher Allen and Marilyn Stowe, Tax Map 11, Lot 190, Abutters
Gregory and Soyoo Caltabiano, Tax Map 11, Lot 192, Abutters
Christopher O'Leary, Tax Map 11, Lot 193
Elizabeth Freeman, Tax Map 12, Lot 102
Colin Carroll, Tax Map 12, Lot 78

The purpose of this letter is to highlight objections to documents, procedures and decisions that the Planning Board has already made with respect to the Site Plan Review for Silver Scone Teas, LLC and any required action to resolve these matters. In addition, this letter contains a set of conditions that should be issued in conjunction with any Site Plan Approval.

1. Applicant's waiver requests do not meet the requirements of the Site Plan Review Regulations and therefore should have been denied

Article III, Subsection 8 of the Site Plan Review Regulations says:

The Planning Board will grant a waiver to a provision of these regulations only if the Board finds, by majority vote, that 1) strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or 2) specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

An applicant must submit all waiver requests individually and in writing. Each waiver request must identify the specific article of the regulation from which a waiver is requested, why the waiver is needed, and why the waiver should be granted within the guidelines established above.

The Applicant's waiver submission failed to state any ground of unnecessary hardship or specific circumstances that would justify a finding by this Board. Further the waiver request failed to specify the Article of the Site Plan Review Regulations from which the waiver is requested. The Applicant's waiver request only mentions the item number on the checklist which does not satisfy the requirements of the ordinance.

Action required: The Board must reject both waiver requests.

2. The Applicant submitted, and the Board accepted, a Plan of existing conditions with proposed conditions drawn on top in colored ink pen. This submission is insufficient for the Board to be able to determine what and where the proposed features are including but not limited to: whether the parking lot will fit within the area intended; whether the parking spaces are large enough; whether there is enough space for cars to maneuver in the parking lot; and the precise slope of the land.

All of these aspects of the parking lot must be known in order for the Planning Board to comply with the Site Plan Review Regulations Article VI entitled, Inspection, Approval and Acceptance of Improvements, Installations or Facilities. If the location of the individual aspects of the parking lot are not known at the time of the Site Plan Review then they cannot be confirmed later.

Action required: The Board must require the Applicant to submit formal Engineering Plans, stamped from a licensed engineer with existing conditions, known and confirmed, and proposed conditions, known and confirmed either as part of the Site Plan Review or prior to compliance with Article VI of the Site Plan Review Regulations.

3. The Applicant is proposing Site Plan Review for a commercial business operating on a residential septic system. Under NH law, this is not permitted

At the Zoning Board's request, the Applicant was required to obtain and file with the NH Department of Environmental Services, a septic design for a food service business. Under NH Code of Administrative Rules, Env-Wq 1008.03, a food service business (subcategory function room) must have a septic system that has a minimum threshold 12 gallons per customer per day which is equal to 600 gallons per day for 50 guests. This is shown in the upper right hand corner of the septic design that she submitted to this Board. The existing septic has a capacity of 450 gallons per day.

Action required: If the Board approves the Site Plan, it must contain a condition that the Applicant install the proposed septic or receive a waiver from the NH Department of Environmental Services.

4. The Applicant is proposing a brand new 5,000 square foot Parking lot and 1200 square foot walking path and expedited review is improper.

The Applicant claims that the parking lot is an 800 foot expansion of an existing parking lot. [Read Patricia G. Hoffman letter]. In addition, a photograph taken approximately nine months after the Applicant and her now ex-husband bought the property shows that no parking lot existed at the proposed location on July 7, 2015.

Expedited review is only proper when alterations to a structure, in this case a parking lot, are less than 800 square feet. Regardless, the expansion, as shown on the Applicant's submission is equal to 800 square feet which does not qualify for expedited review.

Action required: The Board must reject Applicant's request for expedited review.

5. The Applicant is proposing an insufficient number of parking spaces.

The New Ipswich Zoning Ordinance Article XIII, Subsection G requires 1 parking space for every 3 seats. In the present case, the Applicant received a variance for 50 patrons which requires 17 parking spaces. The Applicant is proposing 16 parking spaces and a handicapped space. For any event where she does not have a handicapped patron attend, she only has 16 parking spaces which does meet the requirements of the Zoning Ordinance. Furthermore, the Applicant admitted during the Zoning Board hearings that she has assistants help her from time to time. Offstreet parking spaces for these individuals also need to be supplied per the variance that was issued. Seventeen parking spaces plus spaces for three assistants would require a total of 20 parking spaces.

Action required: The Board must reject the Applicant's proposal for a parking lot that does not meet the requirements of the Zoning Ordinance and require her to propose a larger parking lot with additional spaces.

6. *The Applicant's driveway permit issued on September 15, 2022 has been stayed as a result of pending litigation over the issuance of the driveway permit.*

As a result, the Applicant has no driveway permit at present.

Action required: The Board must condition any Site · Plan · approval on the Applicant having the driveway permit reinstated.

7. *The Applicant is proposing a gravel parking lot and gravel walkway but has not proposed any surface improvement for the driveway from Currier Road.*

It is unclear from the documents that the Applicant submitted as to what portion of the parking lot and walkway are to be graveled. This is because the driveway is subject to a conservation easement and per a letter to the Applicant from the Monadnock Conservancy dated August 18, 2022, she does not have permission to alter or improve the surface of the driveway.

The New Ipswich Zoning Ordinance Article XIII, Subsection G requires that:

All parking areas containing more than 4 spaces and driveways thereto shall be surfaced for year round use and must be graded so as to carry off all surface water. Depending on the findings of this Board for the required surface that "meets year round use", the same should apply for the driveway.

Action required: The Board must reject the Applicant's proposal for an unimproved dirt driveway to access the parking lot.

8. *The Applicant is proposing a gravel parking lot, that by definition, cannot meet the standard established in the Zoning Ordinance.*

The New Ipswich Zoning Ordinance Article XIII, Subsection G requires that:

All parking areas containing more than 4 spaces and driveways thereto shall be surfaced for year round use ...

A gravel parking lot cannot be adequately plowed to avoid the buildup of snow and ice. A gravel parking lot is pervious and therefore will become saturated with rainwater and mud during rainy periods. There are no other businesses in New Ipswich with 50 guests per day that operate with a gravel parking lot. If the Planning Board were to approve a gravel parking lot thereby asserting that it meets Article XIII, Subsection G, it would be setting a new standard, one without precedent, in this Town for parking lots.

The Town Engineer also failed to weigh in on whether a gravel parking lot met the requirements of Article XHI, Subsection G.

Action required: The Board must reject the Applicant's proposal for a gravel parking lot.

9. *One of the proposed snow storage areas is on land subject to the conservation easement and requires permission from the Monadnock Conservancy.*

The land at 99 River Road, New Ipswich that is subject to the conservation easement does not allow any commercial activities per the conditions of the easement. Given this restriction, if the Applicant wishes to store snow from a commercial parking lot on land subject to the conservation easement, she needs to seek permission from the Monadnock Conservancy.

Action required: The Board must require Applicant to submit written permission from Monadnock Conservancy for snow storage on land subject to a conservation easement.

I 0. The Site Plan Review Application contains insufficient information regarding soil erosion and sediment control plan.

Per the Subdivision Regulations which invokes the Site Plan Review Regulations, the following applies:

A soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for a proper one are found in "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" of 1981 and as subsequently amended.

Given the potential contour of the land, which may be equal to or greater than 1 0% depending on the size of the parking lot, the Applicant's statement that the parking lot will be "graded to carry off all surface water" is an insufficient description and does not constitute a Plan as required in the regulations.

Action required: The Board must require the Applicant to submit a written soil erosion and sediment control plan.

11. The Applicant must receive a wetlands permit from the Department of Environmental Services prior to any work over, on or about the wetlands containing the illegal culvert including the walkway over the culvert.

The January 31, 2023 letter from the NH Department of Environmental Services reads as follows:

We find no record of a permit being issued under your name for the work described above but realize that a permit may have been obtained under another name, the work may be exempt from the below regulation(s), or the information provided to NHDES may be unfounded. If work has been performed without a permit or proper authorization, you are requested to voluntarily refrain from carrying out any additional work, except for the installation of siltation and erosion controls, until NHDES further investigates this matter.

In an email from the Applicant to NHDES on February 7, 2023, she indicated that a wetland permit filing for the culvert is forthcoming from Meridian.

Action required: The Board must require the Applicant to obtain a wetlands permit prior to conducting any work on the walkway or adjacent to the wetlands as a condition to final Site Plan approval.

12. The Site Plan Review Application contains insufficient information regarding a storm water drainage system for the driveway.

Article XIII, Subsection II requires that "[a]n adequate surface storm water drainage system shall be designed in order to minimize erosion and sedimentation both during and after construction". The Applicant has not submitted any information on a storm water drainage system for the driveway as required.

Action required: The Board must require the Applicant to submit a written storm water drainage system plan for the driveway on Currier Road.

*Respectfully yours,
(signature on original document was not copied here)*

Nancy M. Clark. Esq

Letter from Patricia Hoffman:

February 26, 2023

Town of New Ipswich Planning Board

Deidre Dailey

Joshua Muhonen

Timothy Somero

Lou Guarino

Jennifer Minckler

661 Turnpike Road

New Ipswich, NH 03071

Dear Town of New Ipswich Planning Board Members:

I am writing to you as a long-time resident of New Ipswich concerning the property at 99 River Road. I understand that the New Ipswich Planning Board is currently considering a Site Plan Review that contains a proposal for a commercial parking lot located adjacent to Currier Road and a few hundred feet north of the intersection with River Road. With this letter, it is my intention to convey my knowledge of the property and its uses and features.

My husband, Carl and I owned 99 River Road in New Ipswich for more than twenty-seven years from May 15, 1973 until I sold the property to William and Jean Lamarre on November 3, 2000. After I sold 99 River Road, I bought and restored a home on Main Street in New Ipswich and then relocated to RiverMead in Peterborough around 2013 and reside there today.

Prior to 1973, a large portion of the property's land that continues to New Hampshire State Highway 124 and west to Currier Road was logged regularly. This activity stopped when I owned the property. As the years went by and I began to ponder the sale of 99 River Road, I had a strong desire to protect the land and trees, and prevent future logging and commercial or residential development. This is the reason I executed the perpetual agreement with the Monadnock Conservancy to place a conservation easement on the property.

Also in the years leading up to 1973, it is logical that there would have been clearings upon the land where whole logs would have been staged for transportation from the property in the vicinity of where the current parking lot is proposed. However, at no time from May 1973 to November 2000 was there a parking lot on the property and there was no evidence of a previous parking lot in May 1973. The vegetation and the density of the woods did not indicate a regularly traveled path by automobile.

I hope that this information is helpful to you in your deliberations and I extend my appreciation to this Board for your public service to the Town of New Ipswich.

*Respectfully yours,
(signature on original document was not copied here)*

Patricia G. Hoffman