

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
September 1, 2022**

PRESENT: Wendy Juchnevics-Freeman, Walker Farrey, Vice Chairman; David Lage; Danielle Sikkila; Susan Mallett, Secretary/Alternate

In room were Mitch Gluck, Finance Committee representative; Bob Fasanella, representative for Jane Elwell; Jane Elwell, applicant; Nancy Clark, Attorney;

Audience sign in sheet attached to minutes also for observers.

Via Zoom were Andrew Tine, Attorney for 151 Main St.; Ashley Saari (also came in); Beth Duval; Charles Dickson; Michael Danis; Debbie Deaton; Joe Wichert; Kim Bock; Nicole Talbot

Wendy Juchnevics-Freeman called the meeting to order at the Town Office at 7:05 p.m. with a member roll call, David Lage, Wendy Juchnevics-Freeman, Walker Farrey and Danielle Sikkila. Wendy motioned to have Susan serve as fifth member for this meeting, David seconded, and all were in favor.

Wendy noted the room was very crowded, and asked the audience to be mindful of the meeting to prevent side conversations. Wendy noted we have two hearings this evening. Before moving on to the Hearings, Mitch Gluck of the Finance Advisory Committee described the budget process. Finance Advisory Committee has been given some guidance and is using a process that can be used across departments. Goal is to make the process transparent, and keep the Town's taxes down as much as we can control. Departments will give Finance Advisory Committee (FAC) the worksheets, and the FAC will bring to the Board of Selectmen (BOS). Departments are encouraged to attend the BOS meetings. Mitch will send the worksheet to Wendy and she will have it ready for the October 6th meeting.

7:10 Jane Elwell (Silver Scone Tea Parties), 99 River Road, Map 11 Lot 128 - HEARING

Application for Variance to allow a minimal impact home business

Wendy noted it was reported to her that members of the neighborhood were not allowed to participate in the tour, any time there are three members of the board it is a public meeting. Because only two Zoning board members were in the home, it was not considered a public meeting. Walker was there as a ZBA member, and David came later to do the outside tour. The neighbors were able to tour the proposed parking and that area.

Wendy reiterated that there was not a quorum at any time at the site visit, David and Walkers observations can be used. The fact that there was not a quorum, alleviates concern about right to know. The issues discussed were more pertinent to the Zoning Board. Also, there were minutes taken that are available to the public for the site visit. Wendy does note that if there were a quorum it would be a different issue that the abutters were not allowed inside the home.

Bob Fasanella (Jane's representative) asked if we can do another site visit with the whole Zoning Board and a representative of the abutters, namely, Nancy Clark. Wendy repeated that she does not feel the

second site visit is required, she can rely on what was reported back to her. She does ask that the applicant have plans that show schematics that show the property and how it will be used, as previously discussed for the next meeting. She will rely on what she heard as she was not able to attend.

Bob Fasanella notes that they have plans and also pictures that they will bring to the next meeting in October 2022. They also shared pictures with the public to view.

Nancy Clark is the attorney for abutters and also an abutter herself. She feels the RSA 91-A:2 I regarding Public Meetings open to the Public applies and by Jane not allowing the residents on and in her property there was a violation. David reiterated that this RSA notes if there is a quorum, and there was not a quorum when the site visit started. Wendy asked Nancy to recite the law and Nancy replied she sent copies to Susan and Debbie on Monday August 29th.

The August minutes edits were discussed briefly, and Wendy felt revisions were necessary. The text of the 5 criteria were added.

Wendy repeated that even though advertised as a public meeting, there was not a quorum, and we will make the site visit minutes available for the public's knowledge in the interest of transparency.

Nancy read a portion of the RSA 91-A:2 I, David noted that RSA, says a meeting convening of a quorum portion of the RSA was not read by Nancy. He noted that she paraphrased, and did not include the part regarding the quorum. Ms. Clark agreed to Mr. Fasanella's offer to have a second site visit, alternatively we can take that up at a hearing after a decision is made. David's notes while it is a generous offer, the concern is that if there are abutters that Ms. Clark is not representing, they would also have to have ability to attend. Wendy proposed an alternative, and asked Ms. Clark and other abutters, if it would be acceptable to have a Town representative such as a Building Inspector tour and report back. Ms. Clark said that was not acceptable. Nancy noted that people noticed lots of furniture being removed from the house prior to the site visit and feels that it would not be representative of what an actual event looks like. Wendy said that whether proper facilities are available is important, it's not the ZBA decision, but Building Inspector and Planning Board to do a site review. Wendy feels the Board will have more than enough information to consider for this application for variance, and not to make a show out of this home.

Wendy said if you feel the ZBA violated the right to know law in any way, then you have a right to petition the Superior Court. She also noted that we will document our minutes and share with the public and have not held any meetings in secret or in private.

She covered the procedure of the public hearing process next. First the applicant will come before the board, and show the Board and the audience as much as possible exactly what they intend to do. Next the board will ask their questions. Following that the applicant will go through the 5 criteria, established by a state statute that have to be met by the applicant, the burden of proof is on the applicant. Once the application presentation is done, the Board open up to the abutters based on the sign in sheet for their questions or concerns. The questions and statements should be directed to the Board. There are a lot of people in the room and Wendy is just setting the ground rules so there is order in the room. Once all the abutters (based on the sign in sheet) have the chance to ask their questions of the Board, there will not be back and forth with the audience at this point. It will be opened up to the rest of the audience (non-abutters) to speak.

At such time as all have had their chance to speak, the Board will vote whether or not to close the meeting and start their deliberations. The public is allowed to stay and listen to the deliberations, but the discussion at this point is among the Board only.

The Board will go through the five criteria, and discuss amongst themselves to see if the applicant has proven their case.

Wendy reiterated everyone will be allowed to speak at the proper time during the hearing, and she will continue the hearing if necessary if it gets out of hand, but she really doesn't want to do that.

Bob Fasanella spoke on behalf of Ms. Jane Elwell of 99 River Road, and noted they submitted a Variance Application, which included a site plan of the property. The property is 36 acres, 3 acres is in Bank Village, and the rest is outside the Bank Village and in the Rural zone. They are applying for Variance of the proposed Limited Part Time Minimum Home Occupation with two subsections of the Home Occupation.

There would be no more than 4 tea parties per month (in a 30 day period). This type of activity is described as an by NH State Statutes occasional food service establishment under RSA 143-A:3 5 and does not require local regulations.

Bob and Jane feel this falls under Minimum Home Occupation.

Wendy notes it is a Home occupation when it is the homeowner, however when bringing the public in it becomes something else. She gave an example of a person who creates a product and the interaction with the public is very minimal. The activity should only be carried out by the resident of the property.

Bob feels this allows Ms. Elwell to conduct the business within the house, but they are asking for exception to also use the outside of the house. He noted there is currently no signage, and the lighting is low impact. He does admit there would be some increase in activity, due to the parking. He also briefly mentioned they have a buffer from neighbors, and they would be happy to increase that.

Bob noted RSA 143-A regarding "Food Service Licensure Act" that allows for limited to 4 times a month. RSA is not noted in the package, Bob Fasanella Read the RSA (Note: I've added the RSA's noted to the end of these minutes)

The map shows access to parking off of Currier Road with an existing opening in the wall. Bob noted there are already breaks in the stone wall to the proposed parking lot area to allow entrance and egress. He also noted that there would be an appropriate wetlands buffer for the parking lot. They will drive along the existing Wood Road conservation area to get into the parking lot. The parking lot is laid out to have 18 parking spaces.

Wendy read the letter from the Monadnock Conservancy outlining their requirements.

The house map was reviewed to see what the flow was, and to outline the areas that would be part of the events. Bob told the Board that activity is inside 90 percent of the time, but sometimes they go outside for a picture or to walk the circle gardens. Bob explained that the events are 2 hours and tend to be in daylight hours so no outside lighting is used for the parties.

Jane noted she stops the events around Christmas and starts up again around Mother's day.

Bob went on to note 20 to 40 people attend, it is pre-arranged, by invitation and no walk-ins are allowed.

(at ~1 hour in)

Jane provided the ZBA with pictures to view. She pointed out the library, the parlor/living room, dining room and the sun room for Wendy.

Bob explained that it is minimal activity, and asked if there were questions on the activity. Wendy asked about bathroom space if you have 20 to 40 people. At most, there might be 50 guests for a rare event.

Bob noted there is an advanced environmental tanks, there are two 1250 gallon tanks, and went over his calculations and explained he feels the septic is sufficient. It was installed in 2014.

Wendy said she is more concerned with a large number of people using just one bathroom. Bob noted there is a closet that they would like to convert to a second bathroom if the use is approved.

Bob noted that the Fire Chief and Building Inspector were at the site visit and both recommended adding additional bathroom. He also noted that the well water is not used, Jane serves bottled water to guests. He also mentioned Fire Chief / Building Inspector recommendations:

- Additional Smoke/Fire detectors are needed in the hallway and living room at minimum
- Fire Exit sign/lights, removable ones are ok as long as they are up while tea parties are occurring
- It must be a smoke free venue per NH law regarding public venues
- Additional bathroom is needed to service the amount of people she has attending
- Temporary Handicap ramp for handicap entrance

Wendy asked them to confirm the number of guests. Jane says 20 to 40, but possibility of 50. David said he is looking for a maximum limit. Jane says friends help her serve (not bake or cook) so she is able to handle the maximum of 50 when it occurs. Wendy says she doesn't feel this fits the home occupation. Wendy noted based on the size of rooms it was possible to have more, but wanted to be sure Jane was ok with a limit of 50.

She noted also, what about parking when it's 50 guests, where would they put 50 cars. Bob said it wouldn't be 50 cars, as the guests arrive together.

Wendy asked David if we have a parking space guideline, and David said it is Zoning guidelines. They found the guideline, and it indicates one space for 3 seats, so 17 spaces would be sufficient.

David went on to note that Bob referenced that the lot is in two zones, Village I and Rural, but is considered Village I as it's one lot. Bob said zoning map shows two zones. David noted if property is subdivided it becomes Village I.

He also asked for Jane to confirm the events are no more than 4 days on calendar in a month. If she has multiple seatings she considers it one event day.

David mentioned he heard them say the events would be all indoors, and asked Bob or Jane to confirm if that is correct. Bob said the guests could be asked to remain indoors, if that was the requirement for them to get approval. Wendy wanted to confirm if it would be inside or outside. They asked that the guests be able to use the circle garden. They also want to do the Fox Hunt outside in the trails. Jane says they have experts who do walks with the guests. Wendy emphasized, that they are not setting

guideline for 1 event a year, but rather the guidelines for all the time. Meridian surveyed and flagged the wetlands. David said he wants to see it on paper, so that we have the documentation to back up. Wendy says the map plan needs to come from wetlands scientist. Jane said she can get that done, but there was not time to get it for this meeting. David asked to see the plan in comparison to the parking lot. Not having this is keeping the ZBA from proceeding to deliberations this evenings. David asks that the Conservancy letter noted no widening the entry, and also no change to the road. There is no way to not update the road, and then not have rutting. She needs to ask the Conservancy people how she can reinforce the road within their guidelines. Jane says they don't want her to do that. David says it will be prudent to work with them because on a rainy day 18 cars will cause damage. Ray noted that it was once used as a logging road, and they put gravel before the trucks used the road so there is a base there. David noted that is a concern, how Jane handles it is up to her.

Walker discussed his concern with the septic system next. Rated at 450 gallons a day, during those days of high occupancy you will put a serious strain on the systems leach field. He feels it's prudent to look at a backup plan and spot to put a new field if it became necessary.

Wendy noted the likelihood is that the septic could hold up just fine, but have to have a plan. She says they should show they can put in a system that can handle 930 per day, then Jane would meet the criteria for having sufficient septic for her use. She doesn't have to install, just have the plan to install. She should provide this in addition to the wetland delineation previously mentioned.

At this point they will go through the 5 criteria:

1) The proposed use would not be contrary to the public interest because:

Limited use of small portion of the house, 4 tea parties principally inside the house, parking lot off Currier will alleviate on street parking issue, including a limited amount of Handicap parking in driveway.

Wendy noted in the written addendum, that the activities would be carried out by the owner of the premises and then noted that the public is also participating. David noted that they are acknowledging they meet all of the criteria except that the owner is not sole person working there.

2) The use is not contrary to the spirit of the ordinance because:

Within Banke Village a minimal impact home occupation, inn, nursing home, bed and breakfast, day care, kindergartens along with other uses and they submit the tea parties are less intensive because those activities create longer business hours, traffic that would be caused by other permitted activities.

Wendy noted also that in addendum there would be evidence of the activity, but parking and being outside having tea parties are doing just that. They discussed putting in hedges to buffer the property. Wendy asked if this was their intent. Bob said if that is what the board would require they will to buffer Currier and River Road. Wendy was concerned about the buffer and abutters being able to see. David said there would be noise. Jane said they would be ladies. David said consider the Boards position, if Jane sold and they had approved outside use the next occupant could have music blaring. He understands they are not loud, but the decision will stay with the property. Bob says they can condition so minimal decibels are required, or only classical music if required. Wendy said it's preferred that the applicant come up with the conditions, rather than the Board. Ray said isn't there a noise ordinance in place that would cover what Jane is doing? Wendy said that is why they come up with conditions. Bob

said they can come up with for the next meeting. Wendy said they would be approving a food and beverage business 4 times a month, and that's why the board asks what conditions the owner would proposes.

3) Granting the variance would do substantial justice because:

Most of the residents of Banke Village won't hear or see the activities at the residence, because outside activities, parking and the circle gardens can be screened from neighbors, the guests are civil, they are served tea and other beverages and scones and other appetizers, landscaping is kept up.

Wendy asked about how is allowing this doing justice to the neighbors. Bob says that the allowed uses by special exception, have more impact to neighbors. Wendy notes it isn't just allowed, other applicants would have to justify too. Wendy noted if they had to apply for exception for inn, they would be required to justify as well.

4) The proposed use would not diminish property values because:

The use is mostly within the house, except for a limited portion. The house, grounds, and landscaping will be well maintained and are consistent with the rest of the neighborhood. The signage and ground lighting around the residence will be discrete and not offensive to the neighborhood. The use as noted before is less noticeable and more compatible than an Inn, Bed and Breakfast or other used that are allowed by special exception.

5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner because the following special conditions of the property distinguish it from other properties in the area:

The applicant's property is one of the largest parcels in the Bank Village neighborhood, however a majority of the parcel has a conservation restriction which limits the use of the parcel to agriculture and forestry and doesn't allow many commercial uses generally permitted in a rural district. A small 3 acre portion of the property is located in Bank Village district. Thus the conservation restriction limits the full use property in the Rural District and activities normally permitted without any special exception or variance. Most other properties in Bank Village are much smaller parcels. The applicant property provides great open space, wildlife, recreation, and natural benefits to the rest of the Bank Village. With these benefits and restrictions the proposed use will maintain the historic character of the house, neighborhood and hopefully generate sufficient income for the applicant to pay real estate taxes, and maintain the current use and maintenance of the property.

AND

a) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

Most residents of Bank Village will not even see or hear any activities which take place mostly inside the residence other than parking. Use of the rear of the property for parking and events, will be screened from public view.

b) The proposed use is a reasonable one because:

The house, grounds and landscaping are and will be well maintained and are consistent with the neighborhood. The signage and ground lighting around the home will be discrete and not offensive in any way to the character of the neighborhood. The use is less noticeable and more compatible than an Inn, Bed & Breakfast, nursing home or daycare. Also the use will be no more than 4 times a month.

For those reasons Bob feels the parcel is unique, and denying would present a hardship to owner if denied.

Wendy stated it's around 9:00 the plan is to hear abutters and then stop this hearing at 9:30 so that the other hearings and applications can be heard.

Marilyn Stowe noted that they have an attorney (Nancy Clark) and would like Nancy to speak for a group.

Nancy Clark NH licensed attorney (gave her bar number) announced the 13 abutters she represents are concerned with that location. She also notes she sent in a letter requesting an hour to present the presentation but given the hour she will do a portion for this evening, but reserves right to share at future meeting.

Wendy asks if she can limit to what might produce actions for the applicant to do before next meetings. For instance, bathroom, wetlands delineations.

Nancy again asks that she can continue her remarks, she read her list of clients, says that the history of the group is that they are all friends, have BBQ's, are dear friends and she is proud to be attorney in this matter. She says plenty of places that the business could operate other than Village district I. Nancy and the clients believe that applicant has seriously misled the Board of what she plans to do with the property. It says on application that it is an event venue not a tea party venue. Applicant's web site says "Event Venue". Wendy says are we in agreement that she is applying for a limited home occupation? Nancy says she disagrees. Applicant's own web site says "Event Venue", and that she can host up to 70 people at a time and Nancy's clients regularly observe 20 to 40 people at an event, and has events twice a day for a total of 40 to 80. Nancy also is going to submit a video of the inside of the house and she can't confirm this is 99 River Road, because they were not allowed inside. Applicants are not limited to tea parties, she has reservation system, so anyone can do that. Private events are bridal parties, also multi course dinners that she has not mentioned along with Halloween. There was giggling in room and Wendy asks that we be respectful to each other. Nancy notes that the Fox Hunt scheduled for 24th of September on the Conservation agreement and is a violation of the commercial restriction of the agreement.

Wendy notes that since there is a cease and desist order that this event will not be occurring.

Nancy noted that customers parked cars on Currier and River Roads and the parking increased dramatically in 2022. Increase in customers stopping privacy for neighbors. One of the movies on the drive shows the parking situation. She feels a lot of this parking is trespassing because they park on lawns, block driveways.

Wendy notes the concerns about people attending events, but that is not the application that is being presented now, and that's why we put limits and boundaries. The parking is a sin of the past because there is a parking lot.

Nancy notes the people congregate outside and an abutter can see the parade of people, and the client is afraid of using her property because of harassment and intimidation. Everyone who owns a home has a right to privacy. This business also interrupts the culture of the neighborhood and residents feel that they can't go outside. One client was having coffee on her patio when the applicant's daughter screamed obscenities at her and the police were called.

Wendy reminded that the Board won't get into arbitrating disagreements between citizens.

Nancy noted that if one person knows what is going on all know as they are friends. They submitted a joint complaint to the Town.

Wendy said she understands the Board of Selectmen ordered cease and desist letter early summer. The only ones who can do enforcement is the Board of Selectmen, and if Jane continues to hold events and ignore the letter they are the place to go.

Nancy had photos of events that happened. Also noting a newsletter that the applicant noted that she put in a bathroom.

1 ½ years she didn't have meals license and we are missing out on revenues per RSA 78A (Tax on Meals), she is not exempt from this. (She served clotted cream, tuna, ham, bacon, scotch eggs and others)

Also that she served alcohol at two separate events. Applicant needs an industrial kitchen because she serves foods that can spoil quickly.

Applicant has filled in wetlands on northwest side of residence, we know this because applicant submitted septic plan of prior owner Lamar had septic design was shared in interest of showing the septic location. It showed the wetlands of the property that existed, and Nancy would like to see the wetlands now to see if they were filled in.

Wendy got clarity on the septic issues. When Mr. Lamar owned the property he filed septic plan May 2014, and that shows the wetlands on it that exists.

Illegal driveway and parking lot on Currier Road was created, within 50 feet of the wetlands, was created just before site visit, all without a town permit. Nancy feels doesn't fit the driveway regulations.

Wendy says they have to go back to Monadnock Conservancy for permission.

According to Jane, Peter Goewey says no driveway permit is required because it's pre zoning. (post meeting update – a driveway permit was applied for and approved)

Applicant created a parking lot on conservation easement, Patty Hoffman who used to own the property and Nancy Clark plan on submitting a complaint to Monadnock Conservancy.

Wendy would like to stop this portion of the meeting and move on to the other items on the agenda.

Nancy wants to confirm that she will be able to speak at the next meeting to finish her presentation.

Wendy confirmed that will be possible. Will start with the applicants 'homework', then go to Nancy.

Wendy suggested the hearing be continued. David MOTIONED to continue the hearing to 7:00 pm on October 6th, 2022, Walker SECONDED the motion, and all were in favor.

At about 9:30, Wendy MOTIONED to take a short recess of 10 minutes, Danielle SECONDED the motion, and all were in favor. The room cleared out a good amount while in recess. After recess, Wendy felt considering the hour the Board should hear the applications and then go to the hearing for the 151 Main St property.

Charles Dickson 9 Manley Drive, Map 12/68-0 - APPLICATION REVIEW:

Zoning Board heard an application for a variance from Charles Dickson (who was attending remotely) of 9 Manley Drive requesting a relief from 30 foot front setback, to allow a 20 foot setback for his garage. At prior meeting the movement of septic system was in the plans, he has reviewed and eliminated that. Wendy explained the process to Mr. Dickson.

Susan will verify the abutters and calculate the fees and Charles will return by Wednesday Sept 7th with the payment. Wendy feels the application is complete pending payment. David MOTIONED to accept the Application pending payment, Danielle SECONDED the motion, and all were in favor. The board determined the hearing will be at 7:30 on October 6th, 2022.

Prime Roofing, Garrett Seppala, 485 Turnpike, Map 11/96-0 – EXTENSION OF VARIANCE:

Garrett Seppala explained that the state is slow correcting the lot lines, they have worked out details with the state, and are waiting for the state. David asked if there is any way to reconfigure the parking lot to allow them to move forward. David also asked why a 1 year extension versus say, a 3 month extension. Garrett said 3 months is far too short. Wendy would be ok with 1 year. David MOTIONED to issue a 6 month extension of the Variance, Walker SECONDED the motion, and all were in favor.

Jonathan Gerson aka Ebby's Place, 151 Main St, Map 12 Lot 10-1 - HEARING

Application for Variance to operate housing for individuals in recovery.

Jonathan reviewed their plan, they propose to use 151 Main St as a highly structured recovery home for drugs or alcohol. There would be 26 residents, 4 who will be onsite leaders and caretakers, 2 other staff will come from the outside. The residents will have completed higher intensity programs, so they will be stabilized as far as mental health. They are not medically monitored program, but will go through very

intense spiritual development throughout the day, in an organized living situation. Certain privileges will need to be earned over time. The residents planned stay is 6 months to a year or more.

They will be a certified Level 4 NHCORR operation. Kim Bock is online to speak to what NHCORR is.

Church ok with overflow parking, Jonathan spoke with the abutters to get a feel for what the parking situation on the property and Villa Rd would look like.

Congregate in the back of property not the front of the building, he feels there is an ideal spot in the back. No structural changes, but they would be painting and re-carpeting and such.

Parking was reviewed, every one concurs there are 3 good spaces out front, the map was hard to read, so Jonathan came up to point out what their plan was. Wendy feels that the spot she parked in was small. David asked if there was room for the abutters to get by in spots labeled 7 and 8. The abutters said that there would be in their opinion. The discussion of parking continued for some time, with options and possible changes. David suggests moving shed to accommodate some parking, they were in agreement that was a good idea. David asked if the road was discontinued, the Trempe's confirmed it is private right of way and not public anymore. Trempe's spoke on parking and snow removal (they are required to maintain per right of way agreement). Mr. Trempe noted there is an area he puts the snow, and that could potentially be a parking spot or two. Wendy felt it might be too close to the wetlands. Wendy reviewed the potential spots and counted easily 8 spaces, not so sure about 10. Jonathan said they would be open to moving the shed. David said maybe put parking out back.

The surveyor got sick and was not able to finish preparing the plan, and gave Jonathan what he had with the knowledge that the ZBA may want more information. They got copy of the septic inspection, and as far as locating the leach field, they were going to work with the DES and surveyor was unable to locate. Surveyor said system is very archaic and was not able to locate. David asked what their plan is if the system fails. They need to show there is space for a new system if the old one fails. Jonathan noted that someone was using 4 wheelers where they think the field is, and they will be putting an end to that. It was noted that they need to have a plan in place to replace septic in case of failure. During the site visit it was noted there are trees growing in the leach field and roots may have penetrated.

Check for septic plan on the DES site, which would be a great starting point (UPDATE: Sue looked on DES site and there was none). The abutters were asked if any smell was ever detected, the Trempe's have not noticed anything, Mrs. Trempe noted that there was a pond there at one point.

Wendy feels surveyor and wetlands delineator is needed to determine where septic could go.

Arnold Suokko (abutter) spoke and said the smell has been terrible for years when it rains. He's noted raw sewage near the steep area when it's wet out. Also a 25 foot buffer was encroached when a prior resident was cutting trees. Wendy noted that the Town has a 50 foot setback from the wetlands is a buffer to protect the wetlands. Also a vegetative buffer of 25 is required as well.

To Do's for Jonathan and Andrew:

- Septic Design Plan
- Wetland Delineation
- Parking Design
- Site Plan

- 5 Criteria, be ready to defend each one

Wendy asked if they would like to continue to next month to get those items ready. Jonathan noted there are some non-refundable amounts that they would incur if the use is not approved. He would like to ask if there could be a conditional approval of the use aspect they would feel more comfortable with the rest of the other requests. Wendy said without wetlands and parking there is no way to continue this evening.

Wendy noted we will continue for 15 mins and end at 11:00pm and reconvene next month.

Kathi Saari of Gates Recovery in New Ipswich spoke and noted the government is pushing for more recovery residences. She has spoken with Jonathan and Andrew and feels this is a good model that they have for 151 Main St. The first year of recovery is a really crucial time. She is in favor of this use.

Kim Boch of NHCORR spoke and noted that isolation is bad for addicts. So this residence prevents the isolation that brings people back to addiction. They have 60% better chance of long term recovery when they stay in someplace like this. Ebby's place would create a group of men who can lean on each other for support. Level 4 is the highest structure in the tier and offers more support in recovery. Jonathan and Andrews locations have been licensed many times, she won't say if they would be certified until that time. Kim noted that it would be possible to reach out to DHHS or NHCORR to file complaints

Wendy asked if they are okay with maintaining NHCORR certification, Jonathan said he would strive to maintain it.

Abutters spoke, (Trempe's) and voiced their agreement with this use and feel it is necessary.

Some discussion on timing for this hearing next month. It was decided to do 5:00 to 7:00 pm. Jonathan and Andrew said their due diligence period will be up on September 15th. Jonathan was grateful for the support of the abutters, but is concerned that if we have more hearings, that may change. He asked if anything could be provided that the use would be conditionally accepted based on the other requirements. Various times and dates to continue were discussed but were either too early to get action items done, or too late for the due diligence date.

David made a MOTION to continue public hearing for 151 Main St to October 6th at 5:30, Walker SECONDED, and all were in favor.

Recap for next month:

- Jonathan Gerson, 151 Main St at 5:30 pm October 6th
- Jane Ellis, 99 River Road, Silver Scone at 7:05 pm October 6th
- 9 Manley Rd, Garage at 7:30 pm October 6th

It was decided that due to the late hour, the minutes will be reviewed at the next meeting.

A MOTION to adjourn was made by Mr. Lage, and Mr. Farrey SECONDED the motion, all were in favor.

Respectfully Submitted,
Susan Mallett

RSA's cited in the meeting for reference

91-A:2 Meetings open to the public - I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters.

143-A:3 Definitions. – Food Service Licensure

I. "Commissioner" means the commissioner of the department of health and human services.

II. "Department" means the department of health and human services.

III. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

IV. "Food service establishment" means any fixed or mobile, attended or unattended restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial feeding establishment; food processing plants; food vending operation; private or public organization or institution, whether profit or nonprofit, which routinely serves food; catering kitchen; commissary, or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating and drinking establishment or operation in which potentially hazardous food is served or provided for the public with or without charge.

IV-a. "Food processing plant" means a type of food service establishment that is a commercial operation that processes food for human consumption and provides processed food for sale and distribution to other business entities such as other food establishments. The term does not include an operation that processes food under the oversight of the department of agriculture in accordance with RSA 426, RSA 427, RSA 428, RSA 429, and RSA 434.

IV-b. "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness.

V. "Occasional food service establishment" means any food service establishment where food is served or provided for the public on the premises of the establishment, whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition.

V-a. "Occasional food service events" means events which are not regularly scheduled where food is provided to participants such as extracurricular school events, non-profit sporting events, and periodic events sponsored by religious or nonprofit organizations.

VI. "Person" means an individual, partnership, corporation, association, or other legal entity.

VII. "Retail food store" means any establishment or section of an establishment where food or food products intended for off-premise consumption are offered to the public. The term includes delicatessens which offer prepared food in bulk quantities only. It does not include establishments which handle only prepackaged, not potentially hazardous foods; roadside markets or farm stands; food service establishments; or food and beverage vending machines.

VIII. "Temporary food service establishment" means any food service establishment which operates at a fixed

location for a temporary period of time not exceeding 2 weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

Source. 1986, 106:1. 1995, 310:100. 1997, 256:1. 2004, 211:6, eff. June 11, 2004. 2005, 229:4, eff. Sept. 9, 2005. 2011, 130:10, eff. Aug. 5, 2011. 2012, 114:1, 2, eff. July 1, 2012.

143-A:4 License Required. –

I. It shall be unlawful for any person, unless exempted under RSA 143-A:5, to operate a food service establishment or retail food store within the state without having obtained a food service license to be issued by the commissioner. The commissioner shall not refuse to issue a food service license to any person who has complied with the requirements of this chapter.

II. The license shall at all times be conspicuously displayed in the food service establishment or retail food store and shall not be transferable.

Source. 1986, 106:1. 1995, 310:183, eff. Nov. 1, 1995.

143-A:5 Exemptions. – The following establishments and events shall be exempt from licensure under this chapter:

- I. Food service establishments and retail food stores licensed by city health officers under RSA 47:17.
- II. Food service establishments and retail food stores licensed by town health officers under RSA 147:1.
- III. Temporary food service establishments and occasional food service establishments and occasional food service events which are not under the jurisdiction of city or town health officers under RSA 147:1 and RSA 47:17.
- IV. Recreation camps inspected and licensed under RSA 149.
- V. Health care facilities inspected and licensed under RSA 151.
- VI. Child care facilities inspected and licensed under RSA 170-E.
- VII. Homestead food operations selling less than a maximum annual gross sales of \$20,000 of food, excluding potentially hazardous food as defined in RSA 143-A:12, I(b), from the homestead residence, at the owner's farm stand, or at farmers' markets.
- VIII. A farm owned or operated by a federally exempt poultry producer, as defined in RSA 143-A:14, I, and the direct sale of such poultry to the consumer from the producer's farm, at the producer's farm stand, and by the producer at a farmers market, or when sold to a licensed restaurant in accordance with RSA 143-A:14 through RSA 143-A:17.

Source. 1986, 106:1, eff. Jan. 1, 1987. 2005, 229:5, 6, eff. Sept. 9, 2005. 2012, 163:1, eff. June 7, 2012. 2014, 165:1, eff. Oct. 9, 2014; 171:2, eff. Sept. 9, 2014.