

DRAFT—NO LEGAL VALUE

Zoning Board of Adjustment Meeting

May 30, 2019

Members present: Rick Ferreira, Chairman, Susan Arnold, Charles Burnham, Jean Chartrand Ewen, and Scott Hodgdon and Ashley Rowe Alternate members.

The Board met in a work session at 6:30 PM. The public hearing was called to order at 7:05 PM by the Chairman. Noting that Herman Groth was absent, the Chairman advised the gathered audience that Scott Hodgdon is designated as a voting member for this evening. Notices for tonight's meeting were posted at the Strafford Post Office and at the Strafford Town Hall. Notice was published in Foster's Daily Democrat on or before April 24, 2019 There was a large audience of interested parties for the Case Number #413, continued forward from the May 8, 2019 meeting, and scheduled for this evening.

Case Number #413

Petitioner: Tobin Farwell, Farwell Engineering Services is requesting a Special Exception under Article 1.5 of the Zoning and Land Use Ordinances in order to allow the Non-Residential Commercial use of land for the operation of a seasonal venue for weddings and family functions of up to 175 persons to be known as Parker Mountain Lodge. The venue would operate from May 15th through November 15th and would host one event per weekend; up to 10 of the guests could be accommodated in the lodge structure overnight. Most events will be hosted in outdoor tents. Events would be required to end by 11PM and guests are encouraged to carpool or use other transportation options due to limited parking. (496 Parker Mountain Road/NH Route 126, Tax Map 10, Lot 3, Owner: Michael Carter)

Tobin Farwell, petitioner, was present accompanied by Atty. Stephen Bennett. Michael Carter, owner of the property, was present, accompanied by Carey Garneau, the property manager. A number of abutters and interested parties were also present.

Board members introduced themselves to the large audience. It was noted that since the last meeting, the Board had held a site review and the Chairman asked if there were any questions or comments. Atty. Bennett addressed the Board and said that one of the concerns expressed by the Board and citizens was that a decision on this application would result in a precedent if granted. He agreed that Special Exceptions do run with the property, but he said that that does not mean that a Special Exception cannot be limited. He said that they are proposing June 13th through November 1st; they have cancelled the weddings books for 2020 and refunded the deposits. He agreed that this does not really address the concern with precedent but he noted that there is still the Planning Board, who have also expressed many of the same concerns. He advised that RSA 676:4a allows for the revocation of site plan approvals, and said that site plans can be revoked by agreement of the land owner and the Board, and that the process allows for a public hearing, so that the neighbors could attend and go on record. He said the revocation would be recorded at the registry of deeds and would appear on the chain of title. He also noted that there is a difference between expressing concerns and evidence/reasonable belief of a problem. He noted that they are asking for 14 events this year, which will not be every weekend. He noted that weddings are typically 4 to 5 hour events; there is music but most people are well-behaved as weddings are happy occasions. In the case of trouble, one would get people to leave in the same way that one would get people to leave any other location, by calling the police. One plans for what is reasonably likely to occur, and he noted that he has not heard of any 'out of control' parties. He noted that some of the abutters have spoken to the question of whether there is a way to allow Mr. Carter to host the weddings for this year even if they do not love the event venue permanently. Finally, Atty. Bennett said that he feels that they meet the Special Exception requirements, and he asked if the Board had any questions following the site walk.

Tobin Farwell advised that they have corresponded with the New Hampshire Department of Transportation, and that they want a stop sign and a 'do not enter' sign on the new exit, as well as a paved

apron and stop bar, and clarifications regarding the bus turning radius. They are requiring that there be 'no parking' in the road right of way, and the existing fence is to be removed from the right of way area. Mr. Farwell noted that they do have the required sight distance. He noted that the average attendance at events is under 100, and that they may have sufficient on-site parking at 3 persons per vehicle. There will not be a constant flow of tourist busses, he noted, for many events the on-site parking will be sufficient. This should address safety concerns stemming from parking along the road, he noted. He advised that they have tried to address the concerns of the neighbors, by reducing attendees, and adding the cut-off for music, which is the same as the Kitz Farm. Carey Garneau confirmed that the average number of attendees is under 100 although some events are 175 and some 40 to 50 persons. Rick Ferreira noted a concern with there not being enough parking. Charles Burnham noted that they have said that they hope to sell the property, and asked how the Board stops a new owner from continuing with this business. Atty. Bennett said that they have had several ideas, including conservation easements. He agreed that any citizen can apply for a Special Exception, but said that you cannot expect that people will not follow the laws. He said that Mr. Carter is before the Board now and is trying to meet the concerns expressed as he does not want angry neighbors, and he again noted that site plan approval is revocable.

Susan Arnold asked what happens at the lodge on weekends without weddings. They said that six weekends are open and one weekend has been rented by people whose event is scheduled for Kitz Farm. In response to a question about 'green' weddings, and Mr. Carter indicated that balloons, rice and fireworks are already prohibited in the event contract. Rick Ferreira asked if the sample contract in the site plan application packet has been updated. Carey Garneau indicated that they have emailed the updated information to their clients, although the contract in the package is what they have signed. The new information includes the requirements for parking, lighting, and outdoor septic. Jean Ewen asked if there would be somebody on-site to manage the venue, and Mr. Carter indicated that there would be a manager. The events are all planned as 'open bar' with bartenders; a police detail is only required if alcohol is available for purchase. Ashley Rowe asked if one site manager can cope with 175 people drinking alcohol if things get rowdy. Ms. Garneau indicated that the manager could call the police for assistance. Board members suggested that an off-duty officer on-site during events would insure that there is no issue with rowdy behavior.

Rick Ferreira asked about the number of people staying at the lodge, noting that the AirBnB listing says 10 guests, but no charge for additional guests. Atty. Bennett advised that he believes that AirBnB rentals are allowable under Strafford zoning. Mr. Ferreira asked if the event venue is just for the event, or for the whole weekend period. Michael Carter noted that wedding guests are invited/known entities. Families typically come on Thursday or Friday to set up, and most events take place on Saturday or Sunday. Often family members come from a distance, which is why they allow Thursday to Monday.

The Chairman then reopened the hearing to the audience, requesting that speakers identify themselves and keep their remarks to 5 minutes or less. Nancy Savage spoke first, noting that her property is just to the west. Her main concerns are noise and impacts to the river and wetlands from people, vehicles, vendor trucks, and busses. She said that these are a big concern for her, and that she objects to the categorization from the applicants that there are only a few neighbors. She noted that people on the mountain have a passion for the area and that Mr. Carter is not present for these events and has no first-hand knowledge of how these events sound. She said that she is concerned that there will be events 14 out of the 20 possible weekends, and she noted that these events are outside, rather than in a barn as at Kitz Farm. She said that the neighbors have already had a test period as there were events last summer frequently enough that the neighbors know what it sounds like. She said that they have been advised that once it is approved, it sets a precedent and leaves it open for others to follow. She expressed concern that other people would not want to live next door to the venue and that this impacts the value of her property. Gloria Reinfurt spoke next, noting that this proposal is commercial and that the neighborhood is residential and conservation land. We are here weighing a commercial proposal, she noted, and expressed concern for safety and health. Scott Schroeder noted that he is one of the two closest neighbors. He said that his concerns align with those expressed by the Blue Hills Foundation. He said that he does not want to see the commercial use go on, but also recognizes that Michael Carter is in a predicament. He noted that he does not see any particular environmental concern from the wedding events. As neighbors, he said, he feels that they should help get Mr. Carter out of a bind, and live with the events for one year. Any new owners should have to come back

before the Board. Don Clifford spoke of concern with precedent, noting that if Mr. Carter is in a spot, it is not of the town's doing. He noted that the Town had reached out to Mr. Carter.

Steve Reinfurt spoke next, noting that events have been taking place at the lodge for over two years. The venue was originally advertised for groups up to 350 but it is now down to 175. He asked about NH DOT, noting concerns with drop-offs, and the speed limit on the road. He said that he has a real concern with safety, health and welfare regarding the traffic, and suggested that people need to be ticketed for parking along the road because it is such a safety concern. Board members indicated that DOT permits would be connected with the site plan, which is the Planning Board's responsibility. It was noted that having an office on-site would also address the parking issue. Nancy Savage spoke again, noting that she did not mean to imply that Michael Carter is not concerned with the environment. She said that the issue is commercial vs. residential and noted that 100 to 150 people is a tenfold increase in the load on the river and wetlands from people, trucks, cars, busses, etc.

Michael Carter then spoke, noting that they are here because they received a letter from the Planning Board in July of 2018 and had implied from the letter that they could come into agreement with the Board. As they have run into issues they have done their best to backpeddle and comply, he said. They do not want to force the issue, but feel that they were not given a green light, but not given a red light either. Gloria Reinfurt said that he has made an effort going forward but where is the compromise for the neighbors this season—why not 7 events instead of 14. Jean Ewen asked if he would entertain holding fewer events this season. Mr. Carter said “please, no”, noting that wedding planning is usually done well in advance and that it would be an enormous burden on innocent bystanders coming to Strafford to cancel events. They have sent letters to the 2020 clients and three of the six were able to book Kitz Farm instead, he noted. He has given them use of the lodge for their families in recompense for the inconvenience, he said. Jean Ewen asked if any of this year's events could be rescheduled to Kitz Farm, but Mr. Carter advised that Kitz Farm is already booked. Ms. Reinfurt asked if Mr. Carter would donate some of the proceeds to conservation, but they noted that they will be running at a loss already this year. Atty. Bennett advised that Mr. Carter's work restoring the lodge has already made a contribution to the value of the neighborhood. He again noted that there will be no permanent changes to the property as a result of this use, and except for the day of the event, bypassers will not even know that there is an event. All waste goes off-site, and they have already compromised. Atty. Bennett said that he understands that people want no events, but they are asking for a limited approval for this season only, 14 events. He said that Kitz Farm has not reduced the value of surrounding properties; there is no evidence that it has. Mr. Carter has limited the number of attendees, they are following the changes requested by the Board, and NH DOT will address the safety concerns along the road. Rick Ferreira asked Mr. Carter when this season's events were booked—before or after the letter was received from the Planning Board. The applicants agreed that they were not sure but most of the 2019 events were apparently booked by last July. Susan Arnold asked whether any events had been held in 2017; Mr. Carter replied that they had hosted three weddings in 2017; any events before that year would have been personal events. Susan Arnold noted that the commercial use started before Mr. Carter heard from the Planning Board. Rick Hodges noted that he had missed a meeting, and apologized, but wished to confirm that the current proposal is only to host events this current summer. Board members and the applicants confirmed that this is true. Mr. Hodges noted that his is more sympathetic to the current proposal, noting empathy for those who had booked. There were no further comments and the Chairman then closed the hearing to public comment.

Board members began deliberations. Jean Ewen said that Mr. Carter had done a great job of cleaning up a dilapidated structure, and there are also people expecting to get married, but there are also the concerns of the neighbors. Ashley Rowe and Susan Arnold both spoke to the fact that any decision must be framed around temporary use. Mr. Rowe said that he has spoken to people in the field and that he does not think that this will set a precedent. The Chairman continued to express concern.

The Chairman then turned to Atty. Bennett and asked him to briefly summarize the applicant's responses to the criteria for Special Exception. Atty. Bennett summarized the applicant's position regarding the required criteria as follows: First regarding why the proposal would not be detrimental or offensive to the owners of adjoining property, they will be hosting 14 events with a November 1st cutoff, on average less than 100 people per event, with events lasting from 4 to 5 hours, typically on a Saturday. The use is very

limited, they have arranged that music will be turned off at 10PM consistent with the town ordinance, and events will be over by 11PM. Lighting is limited and turned off after people leave and there are no bright lights. There will be an on-site manager to keep things going according to the rules. There will be no permanent changes to the property, no new permanent structures, no excavation, no grading. Regarding environmental concerns; for sanitation everything will be taken off-site and they will not overuse the septic. Michael Carter has an interest in keeping the property looking good, he noted. Jean Ewen asked when things are cleaned up following an event. The applicants responded that the caterers typically remove everything the same night, and all other trash will go to the new dumpster. Ms. Ewen asked if the manager will clean things up so that they do not blow around, noting that she wants to be sure that nothing is left on the lawn, that lawn clean-up is part of the manager's job description. Secondly, as to why the venture would not adversely affect nearby property values, Atty. Bennett again noted that the events are of short duration and will have no long-lasting effect. He said that if anything, Mr. Carter's restoration of the lodge has improved property values, and he said that they have heard no evidence of low values. Thirdly, as to why the proposal does not cause any hazard to health or safety, they will be using portable toilets, trash will be hauled away, and they have tried to limit environmental risks. NH DOT is addressing traffic safety. The Kitz Farm venue works for traffic safety and it is just down the road and there is not a big increase in traffic. They noted that they only have one bus, which is a contracted service, a school bus. And they are following the noise requirements of the town. Fourthly, regarding the character of the area, the lodge will look the same, there are no proposed permanent changes. They meet all setbacks, and there is adequate landscaping—they are not changing anything and the only screening will be for the new trash dumpster area. Fifth, they have an adequate water supply and will be bringing the portable toilets to meet sewerage requirements.

The Chairman then turned to Board members to work through the Board's own decision worksheet. The Chairman addressed each of the criteria in turn.

- 1) Is the venture detrimental or offensive; Susan Arnold said that the answer here would be yes because the neighbors have spoken that they find the proposal offensive.
- 2) Does the proposal adversely affect property values; Susan Arnold noted that the proposal is for operation for a limited time, and that Mr. Carter has made a big investment in a derelict property which has increased property values, so she said that she feels that this criteria is met.
- 3) No hazard to health or safety; there seem to be two main issues, septic/sanitation and NH DOT/road safety. Septic has been addressed in the site plan. There was some discussion about whether NH DOT had asked for a "no parking" restriction along Parker Mountain Road/Route 126. After discussion it was agreed that if the venue has hired a police officer for the duration of the event, the police officer could make sure that there was no parking along the road. In response to questions from the Board, Carey Garneau indicated that events are usually scheduled for afternoons, and may extend into the evening.
- 4) No adverse effect upon the character of the area; Rick Ferreira said that there is a temporary impact, but agreed that it is temporary. Ashley Rowe noted that there are no proposed irrevocable changes to the character of the property or neighborhood. Jean Ewen noted that even temporary impacts change the character of the area; Board members briefly discussed the question of character, with several Board members suggesting that character is a long-term quality.
- 5) Setbacks in accordance with Article 1.5.1; Board members reviewed the site plan and noted some concern with the existing storage building, but agreed that the lodge and the parking area meet the requirements.
- 6) Parking requirements per Article 1.5.1; based on the language of the ordinance, it was agreed that the proposed parking area would accommodate up to 152 persons and that busses are proposed for larger events, provided that NH DOT approves the driveway permit.
- 7) Landscaping; no changes proposed, the primary venue area is located on the far side of the existing buildings.
- 8) Water supply and septic; it was agreed that this has been addressed as long as the guests are not using the bathrooms in the lodge; 10 persons on the weekends are acceptable based on a state approval allowing up to 4 bedrooms for year-round use.
- 9) Signage; there is no proposed signage for the venue, only additional traffic signs as required by NH DOT.
- 10) Dark skies compliant lighting; events will be held behind the lodge, and parking lot lighting will be downcast. There are no spotlights on the lodge/house.

10) Driveway permit; still pending.

Susan Arnold advised that she is considering requiring the use of non-disposable china and glass, etc. Michael Carter said that he likes the idea. Ms. Arnold noted that this would help address the concerns, and if they are not doing balloons, rice, or fireworks as part of their contracts, that also helps. Board members agreed, and said that having an off-duty officer on the premises would also address concerns. Michael Carter agreed with no plastic, and suggested compostable paper products, ideally re-usable tableware. Rick Ferreira noted that even short-term commercial use will have an impact. Susan Arnold and Scott Hodgdon both spoke to the fact that it is bothersome that the venue has already been booked and that the Board has been put in this position. Ashley Rowe noted that Michael Carter has agreed to what they have asked, short of canceling this year's events, and he has said that he does not want to do that. Mr. Rowe noted that he has invested a lot in the project, and it makes it difficult. Mr. Rowe said that moving forward, the town needs to issue cease and desists when needed. Carey Garneau said that they have been working to come into compliance since they received the first letter from the town. Rick Ferreira said that he is still concerned, and spoke to the difficulty of the decision. Susan Arnold queried the most optimal potential compromise, but agreed that it would still not be addressing concerns of the neighbors. Jean Ewen noted that Mr. Carter has put so much time into the project, but said that she hates that the application has come after the fact. She said that it did seem as if the venue would hold 100 people comfortably and that it would be difficult for people planning to get married soon to go elsewhere. Charles Burnham noted that he has been on the Board a long time, and said that this is the most difficult decision that he has faced, advising that this is a no win situation. Ashley Rowe said that any motion should be contingent on revoking site plan approval as allowed under the statutes. Charles Burnham then made the following motion:

To grant a Special Exception [under Article 1.5.1 to allow commercial use of the property] with the strict provision that the Special Exception will expire in its entirety on November 1, 2019 and that the site plan shall be revoked effective November 1, 2019, with the following additional stipulations: an official police officer shall be hired for the entire duration of each event; caterers shall use china, cutlery, glass and reusable table linens, although paper cocktail napkins are acceptable; there shall be no swimming, no fireworks, no helium balloons, or rice thrown, and all other stipulations in the rental contract shall be adhered to; the site manager shall fulfill all duties as listed in the contract and shall contain all trash before departing the site after an event; conditional upon receipt of a permit from New Hampshire Department of Transportation and signage for 'no parking' along Parker Mountain Road (subject to NH DOT approval); and conditional upon receipt of an approval for the Non-Residential Site Plan from the Strafford Planning Board.

Susan Arnold seconded the motion. There was no further discussion and the Chairman called the vote. The vote went as follows: Rick Ferreira—nay, Susan Arnold—aye, Charles Burnham—aye, Jean Ewen—abstain, Scott Hodgdon—aye. The motion passed by majority vote in the affirmative.

Board members turned to several informal items. Ashley Rowe noted that the Fire Chief had mentioned expansion plans at Beam Camp and asked that the Beam Camp site plan be reviewed to see if the expansion is in compliance with the initial plans. Don Clifford asked Board members about the rules regarding development on undersized lots near Bow Lake, noting that the Board of Adjustment has more experience dealing with existing non-conforming lots of record.

There being no further business before the Board, a motion to adjourn was made and seconded. There was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 9:10 PM.