

DRAFT—NO LEGAL VALUE

Zoning Board of Adjustment Meeting

May 8, 2019

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

The meeting was called to order at 7:05 PM by the Chairman. 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 Cases scheduled for this meeting.

Case Number #412

Petitioner: Jessica Arneil is requesting a Special Exception under Article 1.4.1K of the Zoning and Land Use Ordinances in order to allow the construction of an approximately 750 square foot, two-bedroom, one-story Accessory Dwelling Unit on the front end of the existing home. The existing home and proposed addition meet all setback requirements and the ADU will meet the required criteria under Article 1.4.1K. (36 Beaver Road, Tax Map 37, Lot 76, Owners: Jessica and Eric Arneil)

Jessica and Eric Arneil, petitioners, were present. There were no abutters present.

Jessica Arneil advised the Board that they do hope to go forward with the construction of an ADU, but not as originally planned. They have recently received estimates for the construction of the ADU unit as proposed, and it would be too costly. They are now considering downsizing the project, and are even considering moving forward with an ADU unit in their walk-out basement. The septic system design for the increased living area has been submitted to the state but they do not yet have an approval.

Board members suggested that they would need to see revised plans before approving the ADU to be sure that the zoning criteria are being met. Ms. Arneil asked if the Board will require the same set of detail, including elevations, floor plans, etc. Board members indicated that the Arneils can prepare the plans themselves, but that they will need to adhere to the dimensions as approved by the Board. Susan Arnold then made a motion to continue the application forward. Jean Ewen seconded the motion, there was no further discussion, and the Chairman called the vote. The vote was unanimous in the affirmative. The applicants were directed to contact the Board once their plans are finalized to be scheduled for a meeting.

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. Susan Arnold said that the Planning Board has sent the case to this Board, but that before the Board hears the application for Special Exception, the Board needs to address a request from Atty. Bennett to consider the question of whether the proposed use is

an allowable land use under Article 1.4.2 (C) of the Zoning and Land Use Ordinances as “taking of boarders or the leasing or renting of rooms or buildings” or whether the Parker Mountain Lodge proposal is commercial and needs a Special Exception under Article 1.5. While appreciating the discussion, Ms. Arnold said that she feels that there is a distinction when the events are not family events and there is a web site encouraging rentals. Charles Burnham said that he feels that the proposal is commercial and that he would like to hear the attorney comment on they think it is not a business. Rick Ferreira said that nowhere do the ordinances speak of event venues, and that he feels that the Exception is required.

The Board then called on Atty. Bennett and asked him to explain the request. Atty. Bennett said that the ordinances do allow places of assembly such as churches, schools or golf courses as allowed land uses and the ordinances allow the rental of structures. He said that they feel that the Site Plan regulations protect the town as they look at the impact on neighbors. As the rental agreement provides is a building, he said, similar to the way that the Kitz Farm operates, although the Kitz Farm did not require a Special Exception because it falls under agrotourism. Atty. Bennett said that he feels that the issues are being addressed by the Planning Board as part of their site plan review, but that the applicants are more than willing to go ahead and seek the Special Exception. He said that there are other places that are rented that do not require site plans. Ashley Rowe said that he feels that it is a stretch, and that event rental was not the intent of the language in the ordinance. Susan Arnold said that she feels that the intent of the language of “taking of boarders and renting of rooms” was long-term habitation, but that she appreciates that the applicants are willing to go ahead. The Board needs to take note, she suggested, and work with the Planning Board regarding the language of the ordinances. Susan Arnold then made a motion that she believes that a Special Exception under Article 1.5 is required for the proposed use. Charles Burnham seconded the motion. There was no additional discussion on the motion. The Chairman called the vote; there were four aye votes and one nay vote from Herman Groth. The motion carried by majority vote.

Atty. Bennett then addressed the Board to present the application for Special Exception. He advised that there is an application for Non-Residential Site Plan Review before the Planning Board at this time, and that a site walk is planned and this Board is invited. Mr. Carter has made substantial changes to the property over the last few years, and it is a nice setting for events. It is also good because there are no proposed changes to the historic lodge structure; events will be held in tents, portable toilets will be provided, and there are no plans to construct a parking lot, so there will be no change in the grading or landscaping, no change in the appearance of the neighborhood, and there are only three close neighbors, he said, so it is similar to the Kitz Farm venue. He said that he agrees that there will always be some impact, and he allowed that nobody likes change. Atty Bennett then addressed the criteria for exception under Article 1.5.

First, the venue will not be detrimental to the neighborhood. There will be no change in appearance, and there will only be up to 20 events per year and the venue would be operated seasonally, from May 15 to November 1st. Anything brought in for the event will be removed from the site within 72 hours, so there will be no long-term changes. Atty. Bennett then advised the Board that they are only asking for a Special Exception for this year until November 1st and not beyond to additional seasons. He said that Mr. Carter has decided not to go beyond the 2019 season and has no interest in trying to sell the lodge as a wedding venue so there would only be a short-term impact. Usually there is one event per weekend, usually on Saturday, and on the other days there would only be 10 people in the lodge. He noted that renting the lodge is an approved land use. So, he said, they are really talking about a Special Exception for 20 days this year, which shows how limited the use will be. The duration is limited, there are no permit changes, events are in back and are shielded from the road. They anticipate that most events will be about 100 people, and he notes that there are no restrictions on the number of guests at the Kitz Farm. Mr. Carter will terminate events at 11PM; music will stop at 10PM. Rick Ferreira asked about the number of people, noting that the application states 175 people. The applicants clarified that events are typically about 100. Weddings are typically 3, 4 or 5 hours, Atty. Bennett continued, so of limited duration during the event day. As regards light pollution, the will be using solar ground lights for the parking areas, and the lights will be off by 11:30 PM. There is some lighting within the tents, but they do not allow bright lights or spotlights, and the focus is toward the back of the property. The property is going to look good, as the rentals depend upon it.

Secondly, property values. There are no proposed changes to the property, and the proposed use would be limited to one year, so the impact is minimal. There will be no long-term impact on people's property values, so it will not devalue neighboring properties. The use will not be polluting, and there will be no marks on the land from the proposed use, because it is temporary use. Hazards and safety? They are located on NH Route 126, and will have less impact than the Kitz Farm because they only have 39 spaces on site and one of them is the on-site manager. Their NH DOT permit is in process, and they will be providing portable sanitary facilities, not using the farmhouse bathrooms. The on-site manager will monitor this. Trash will be placed in a dumpster and they have contracts for trash removal. The dumpster pad is near the road and will be fenced.

Will the proposal adversely affect the character of the neighborhood? As they have spoken previously, there will be no permanent changes, and only 20 events, so a temporary use between June and November. Once the tent and toilets have been removed, the property will look like it did a few days before. Rick Ferreira asked how they are delineating the parking areas on-site. The applicants said that they will have markers and the solar lights. Mr. Ferreira noted his concern that the grass will not hold up. It was noted that the Planning Board is also asking for a pervious material to handle the water and mud and that the plans will be presented to the Planning Board on June 6th. Herman Groth suggested that they could use lime, or string, to delineate the spaces. Mr. Carter has every reason to keep the place in good shape, Atty. Bennett noted, as they hope to market it as a residential property. They understand the concerns of the neighbors, he noted, but they propose limited use. In closing, Atty. Bennett said that they think that they have met all the conditions for a Special Exception. Charles Burnham said that he was concerned with the comparisons to the Kitz Farm, as the Kitz family has a larger property, more room, and they live at the farm, so it is not an absentee owner. Mr. Burnham noted that he has toured the property with the Historical Society and has tended the cemetery on the property. He said that he feels that this is a small property for this many people and that there could be environmental damage. Ashley Rowe asked Tobin Farwell where things stand with NH DOT. Mr. Farwell responded that DOT requested additional information about the turning radius into the property and that the applicants are now proposing a paved apron. They have given them plans and checked that they have adequate sight distance for the existing entrance and the new proposed exit.

The Chairman then opened discussion to the public. He asked speakers to state their names and to limit their remarks to 5 minutes. Eric Rowe spoke in favor of the venue, noting that Mr. Carter has invested in the restoration of the lodge and saying if not Mr. Carter, then who. Nancy Savage spoke next, advising that she owns 50 acres that comes within about 200 feet of the property. She said that her land is preserved and protected. She said that the pond on the Parker Mountain Lodge property feeds into her ponds and is part of the Little River system. She said that her concerns are primarily the environmental impact, especially the water, including surface water, storm runoff, groundwater, etc. which will all be impacted by what happens. She is concerned with the use of pesticides, herbicides and fertilizers and the impact on the Blue Hills Foundation land and on her land. She said that she is also concerned about the traffic and people on her land. She noted that it is usually quiet, and that 20 events per season means that there will be noise every weekend, noting that there has already been partying and music blasting at the site. She noted that she has had to fish helium balloons out of her pond, and noted the environmental impact of the balloons. She suggested that even one season at the lodge could have environmental impacts, and she also wondered if it would affect property values if she were to sell this current summer. Cal Schroeder echoed these same concerns, noting that he owns a vacant lot across the road. He also asked if Mr. Carter allows swimming in the pond, and expressed concern with water testing, algae, etc. Mr. Carter noted that swimming is not allowed, and he said that there are leeches in the pond, which helps discourage possible swimmers. Don Clifford noted that he is an Alternate member of the Planning Board and that he has just learned that the request is for a temporary approval. He said that he is still concerned that if approval is granted, it would be easy for a new owner to come back with a new application, and if this has been approved, that the precedent would be set, so he feels that it is not necessarily one year. Ashley Rowe said that a Special Exception would run with the land for a particular use, and felt that a new owner would need to start over.

Steve Reinfurt addressed the Board and advised that he and his wife have submitted a letter to the Board, and he asked if Board members have received the letter, Board members indicated that they have. He said that they came here in 2001 and he wants to thank Mr. Carter for what they have done to restore the lodge.

He said that his concerns also include the pond, noting that the pond was once pristine. He expressed concern about the condition of the dam, and said that he feels that land management is an issue. He also noted that the property is in the middle of a corridor of 7000 acres of conservation land, and that this is a direct impact on the wildlife corridor running along the Blue Hills. He addressed Mr. Carter and said thank you for what you have done, but that he cannot agree with this proposed use. Scott Schroeder spoke, noting that his brother lives across the road and that his own home is about 600 feet in direct line of sight to the tent area for the events. Mr. Schroeder said that he would like to understand more about why they are now proposing only temporary use as an event venue, and what assurances there might be that they will not be looking for new approvals next season. Michael Carter responded, saying that backing up to the first meeting on the site plan, he was taken aback by the objections of the neighbors. When he made the original purchase, he went out of a limb, he said. He has used only local contractors in the restoration and has put great care into maintenance of the property, noting the original fireplace built of local stone and noting that all the interior timbers are from Strafford. He said that he is keen on historic preservation and noted that he is a board member for Historic New England. He noted that all of these historic properties are looking for revenue, and that the number one opportunity is for wedding venues. He said that when they put the property on Airbnb, the phone started ringing, and he said that the families are mostly from New Hampshire, with a few from Maine, not Boston. He said that he has significant concern and excited brides scheduled for this season. He has spoken with the Blue Hills Foundation he said, and has made a pledge to preserve the property and to work with the Foundation. He said that he doesn't like that the proposal has upset the neighbors but that he also does not want to ask people to try to find another venue on such short notice.

Gloria Reinfurt then spoke, beginning by thanking Mr. Carter for taking care of the lodge building. She expressed concern for the wildlife corridor along the Blue Hills, and said that she feels that the lodge is an integral part of the mountain area. She said that she feels that Mr. Carter's goals now are different from the original plans and said that she feels that the neighbors are being impacted, even though she agrees that nobody wants to see an unhappy bride. She noted that we are here because the Fire Chief had learned of the wedding venue, and that although it is a beautiful site, there are also health and safety concerns. She said that she is certain that contracts for this summer were arranged far in advance and she said that even the summer months could have a heavy impact. She noted that sound travels in this area, and she also noted parking issues with guests coming to the venue, including parking problems by the Willey Ponds. In response to several comments, Ashley Rowe asked if there were any deed restrictions on the property. Mr. Carter said that there are not.

Susan Arnold then addressed Michael Carter and Atty. Bennett and asked why they had never sought town approval, noting that she was just trying to understand why there was no engagement with the town. Atty. Bennett said that Mr. Carter had never run this kind of business, and that the business had morphed from renting rooms and had grown slowly, and that they just did not know. Atty. Bennett said that he was unaware of any complaints, but that he also noted that Mr. Carter is not responsible for the environment, and he said that many of the comments seem to suggest a different standard unless you are a resident, and that should not be true. He said that Mr. Carter loves the property. Again, Atty. Bennett noted that there are no proposed changes to the property, and he said that it should not be assumed that Mr. Carter will be doing things incorrectly. They have already advertised that there is no swimming, they are taking precautions so that there will be no overuse of the septic, and they are taking care to address the concerns of the neighborhood. He said that they have not heard any evidence of downstream problems. Jean Ewen asked about the septic capacity, noting that the application narrative suggests that portable toilets will be provided for events of 50 and over, and she asked what happens for a group of 49 people. The applicants said that they have changed things so that now all events require portable toilets. Ashley Rowe asked if this requirement has been added to the contracts and the applicants said that it has. The applicants said that they have plans in place to notify people with existing contracts regarding the new requirements once final approvals are in place. He noted that there are also new laws about tents that require inspection by the Fire Chief and assembly permits. Atty. Bennett noted that they recommend vendors to their guests. Atty. Bennett said that Mr. Carter will not apply again for approval for a venue after this November, but that they could not promise down the road for future owners. Jean Ewen asked if they had contacted the Police Chief to see if an officer was required. Mr. Carter said that they had not, but noted that the only 200 person event was a wedding in his own family. It was agreed that the applicants should connect with the Police

Chief and ask. Michael Carter said that they have been good stewards of the property, noting the old septic lagoons and the environmental contamination when he purchased the place, saying that the cleanup was one of his greatest achievements. Herman Groth asked if the property was currently under agreement for a sale, and they said, no, under discussion.

Henry Lovejoy then addressed the group, saying that he and his wife Lisa have been resident for 23 years and that he was speaking on behalf of the Lovejoy family and the Blue Hills Foundation. He said that the family came to Strafford in 1933 and that his father began acquiring the land which has become the Blue Hills Foundation in 1968. The Foundation now stretches from Blue Job to Evans Mountain and includes up to 8000 acres. Their goals is to perpetuate the natural ecosystem. Mr. Lovejoy said that Michael Carter is a good friend and should be commended for the work he has done with the lodge. He said that they oppose the event venue project because the property is uniquely in the middle of 8000 acres in conservation. He noted concern with the noise from events, saying that the various venues can be heard from a mile or mile and a half within the Foundation land. He also noted a water quality concern. Finally he said that he hopes that the Board will allow a way to go forward with this season's events without granting a Special Exception. They want to see this work out for Mr. Carter but from the perspective of the Blue Hill Foundation, the event venue is not a good use of the lodge property. He said that granting a Special Exception would be precedent setting and they are concerned about that. Jodi Schroeder noted that the previous owners had also been noisy neighbors, and said that she feels that Mr. Carter should be able to see it through this season as it is hard to reschedule a wedding. Scott Schroeder also said that he was cautiously supportive of finding a way to allow this season to proceed without setting precedents. He noted that Camp Foss and Beam Camp are also in the area during the summer, but that they do quiet down at night. He asked if there was any way to stop pesticides and herbicides now, and said that it was up to the neighbors—can we stand one summer and not worry about it? He noted that the venue is not putting children in the school. Finally he said that he feels that we should do something in a way that does not set a precedent and allows this summer's events to go forward. Sheila Varden-Straffin noted that the events have brought people and litter to the Willey Pond area and that litter, etc. is always worse when there are rentals. She noted that for a while they were advertising Willey Pond, but that she had noted that they have stopped. She said that she had to put up 'no parking' signs at her home, as did the Reinfurts, due to traffic. She also noted that last summer guests were parking along Parker Moutain Road and she asked if this was still going to happen and noted that the area has a 50 MPH speed limit and noted safety concerns. Board members agreed that this last is one of the issues that will be addressed by NH DOT. Several neighbors spoke in favor of finding a solution for the coming summer. The applicants noted that their first event is scheduled for June 15th.

The Chairman then closed the public hearing. Susan Arnold said that there is a lot for the Board to absorb, and said that given the Planning Board schedule, there is no emergency. She suggested that the Board schedule the site review and plan the next meeting. After consulting calendars, Board members scheduled a site review for 5PM on Monday, May 20th and a meeting for Wednesday, May 30th. Susan Arnold then made a motion to continue discussion of this case to May 30th. Jean Ewen seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative.

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 10:00 PM.