

WADLEIGH, STARR & PETERS, P.L.L.C.

WILLIAM C. TUCKER
JAMES C. WHEAT, Of Counsel
MARC R. SCHEER
GREGORY G. PETERS
FRANK P. SPINELLA, Jr.
DEAN B. EGGERT
MICHAEL R. MORTIMER
KATHLEEN C. PEHL
RICHARD THORNER
CHARLES F. CLEARY
CHRISTINE GORDON
TODD J. HATHAWAY
ALISON M. MINUTELLI
MICHAEL J. TIERNEY
DONNA J. BROWN

Attorneys At Law
95 Market Street
Manchester, New Hampshire 03101
Telephone (603) 669-4140
Facsimile (603) 669-6018

WWW.WADLEIGHLAW.COM

Serving New Hampshire since 1899

ROBIN D. MELONE
CRAIG S. DONAIS
ALYSIA M. CASSOTIS
CHRISTOPHER P. MCGOWN
TIERNEY M. CHADWICK
STEPHEN N. ZAHARIAS
ABBY TUCKER
STEPHEN M. BENNETT, Of Counsel
ALLISON M. TAMPOSI
ELIZABETH E. EWING
WILLIAM P. REDDINGTON
MICHAEL G. EATON
GRETCHEN M. WADE
AUTUMN H. KISH
CATHERINE C. BOUSQUET

Direct Dial: (603) 206-7239
mtierney@wadleighlaw.com

June 9, 2022

Temple Zoning Board of Adjustment
423 N.H. Rt. 45
PO Box 191
Temple, NH 03084
Via email at boardassistant@templenh.org

Re: Motion for Rehearing – RSA 677:2
Boo Martin/Stepping Stones Event Center Special Exception Application

Dear Zoning Board:

Please accept this letter as a Motion for Rehearing, pursuant to RSA 677:2, of the ZBA's May 12, 2022 decision to grant a special exception pursuant to Article 4, Section 13 of the Temple Zoning Ordinance to commercial use of the Barn. As you know, this firm represents Alec MacMartin and Arlene Laurenitis, both individually and in her capacity as Trustee of the Arlene Laurenitis Revocable Trust. In addition to residing in close proximity to the proposed Stepping Stones Event Center, my clients own the abutting properties to the north and east of the proposed Event Center.

I. The Burden is On the Applicant to Meet all Criteria in the Ordinance

The Supreme Court has recognized that "In an application to obtain a special exception from a zoning board, the burden of proof is on the applicant to present sufficient evidence to support a favorable finding on each of the requirements for a special exception." *Jensen's, Inc. v. City of Dover*, 130 N.H. 761, 765 (1988). Stepping Stones has not met its burden of proof for several criteria in the Temple Zoning Ordinance and, therefore, the application should have been denied. For several of the criteria, however, the ZBA erroneously found that the criteria were met in the absence of evidence. This was clear error and for this reason rehearing must be granted.

II. The Applicant Fails to Meet the Standards of Section 13(A)

The applicant has the burden of demonstrating compliance with each of the criteria of Section 13A. This has not been done and therefore rehearing must be granted.

1. Section 13(A)(1)'s Requirement of a 500 foot Setback Has Not Been Met

The applicant has failed to prove that there are no dwellings within 500 feet. The ZBA discussed that they will measure the 500 feet from the barn as there can be no outdoor events. Nevertheless, the applicant has failed to provide a surveyed plan showing that there is no dwelling of another owner within 500 feet. First, the applicant fails to show the distance between the Woodcock Farm/Russell dwelling and the Barn. Second, the applicant provided a scaled site plan showing the Lodge dwelling within 200 feet of the Barn. In her application, the applicant tries to gloss over this failure by suggesting that these three dwellings are all owned jointly. This is false. Lot 9B-15 is owned by the Isabella Martin Revocable Trust by a deed dated December 12, 2012 and recorded at the HCRD at BK8502, PG2526. Lot 9B-14 is currently owned by the Isabella Hagner Revocable Trust by a deed dated November 25, 2020 and recorded at the HCRD at BK9386, PG0956. The Martin Trust and the Hagner Trust are different property owners. Furthermore, Section 13(A)(1) allows the 500 foot dwelling setback "may be reduced in any amount to a minimum of two hundred feet, but only if written permission is obtained." The applicant failed to supply written approval of the Hagner Trust but, even if written approval was provided, there is less than 200 feet between the Lodge dwelling and the Barn. Therefore Section 13(A)(1) is not met and the special exception cannot be granted.

2. Section 13(A)(2)'s Requirement of a 55 Foot Parking Setback Has Not Been Met

Section 13A(2) provides that "off street parking shall, at a minimum, be set back at least fifty-five (55) feet from all lot lines." The applicant's plans show a parking lot, consisting of 9 spaces, including required handicap accessible parking, within the 55 foot setback.

3. Section 13(A)(3)'s Requirement of No Excessive Noise or Property Value Diminishment is Not Met

a. Noise

Pursuant to Article IV, Section 13A (3), Stepping Stones has the burden of showing that it will not create "excessive noise . . . not typical of permitted uses in the area." Article IV, Section 31(5) sets forth the standards for compliance with the Temple Noise Ordinance. In the Rural Residential and Agricultural District, the absolute limits are 35 dBA (10-min L10) for nighttime noise "anywhere at any time on another property." In Stepping Stone's application, they acknowledge that they cannot meet this standard and instead argue that it is agritourism and therefore can violate the limits of the noise ordinance. Nevertheless, where the Selectmen

June 9, 2022

Page 3

determined that the Event Center is not agritourism and that determination was not appealed to the ZBA, Stepping Stones cannot claim agritourism allows it to violate the ordinance.

Alternatively, Stepping Stones submits a response from Reuters Associates alleging that “it would be impractical to conduct objective measurements.” This does not meet the applicant’s burden of proof. “In an application to obtain a special exception from a zoning board, the burden of proof is on the applicant to present sufficient evidence to support a favorable finding on each of the requirements for a special exception.” *Jensen's, Inc. v. City of Dover*, 130 N.H. 761, 765 (1988). The applicant does not even try to show that it can meet the 35 dBA (10-min L10) absolute limit.

In their application, Stepping Stones claims that “there have been no incidences of excessive noise . . . associated with Stepping Stones since it started up on September 1, 2020.” Application, p. 5. This is demonstrably false.

On Friday, May 5, 2021, abutters and others met with the applicant for a sound check using a home stereo, without a subwoofer, playing at 85 dBA measured in the middle of the barn space. See Mr. MacMartin’s May 11, 2021 submission. This resulted in sound measured 40 to 45 dBA at the property lines, in excess of the 35 dBA (10-min L10) absolute limit.¹

As further explained in Mr. MacMartin’s May 24, 2021 email, the event held the weekend of May 21st greatly exceeded the limits of the Temple Zoning Ordinance. In particular, outdoor sound at the property boundary on Putnam Road (approximately 1,100 feet away from the outdoor sound source located at the NW corner of the Homestead), read 50-65 dBA at 5:15 PM. Sound levels in Mr. MacMartin’s yard at 46 Collins Road in Wilton (approximately 2,500 feet away) were 50-53 dBA at 5:30 PM. From 8:00 PM to 10:30 PM, when the sound moved to the barn, the sound was even louder than that, with the bass being the loudest.

Furthermore, as explained in Herbert Singleton of Cross Spectrum Acoustic’s August 20, 2021 letter, the 35dbA limit of Section 31(5) is further lowered by an additional 5 dbA to 30 dbA due to the low tones that will be present in the music played at events. Stepping Stones has failed to meet their burden of demonstrating that 45 during the sound test or 65 decibels on May 21, 2021 is lower than 30 decibels. Mr. Singleton points out that in order to meet the 30 dba limit outside, the music needs to be limited to no more than 72 dbA inside. Nevertheless, in Stepping Stones’ submission, they indicate “[a]mplified music in the Barn must be limited to

¹ In the summer of 2021 the applicant submitted a variance application to the Temple ZBA. It is unclear the exact date when this was submitted to the ZBA, but abutters were never notified of the variance application and therefore the ZBA cannot consider it. Nevertheless, as part of the variance application, the applicant admits that it cannot meet the requirements of the noise ordinance. Therefore, the requested special exception must be denied based on this admission in the variance application.

June 9, 2022

Page 4

80db as measured from the southern interior wall.” In other words, Stepping Stones is planning on exceeding the noise ordinance by 8 dBa.²

The noise complaints are not limited to my clients but include the Temple Board of Selectmen who point out, in a letter from Town Attorney Chris Drescher, that “several abutters/neighbors [had] complaints of noise and loud music.” In fact, the Town Attorney noted that Ms. Martin “ignored sound restrictions.” See Town Attorney Letter in Martin 1 files incorporated by reference. Therefore, the assertion on page 5 of the Application that “there have been no incidences of excessive noise . . . associated with Stepping Stones since it started up on September 1, 2020” is clearly false.

Finally, Stepping Stones had proposed that they merely require their guests to promise not to be loud, and give them three chances prior to enforcing any noise limits. In other words, a five hour wedding reception needs to have three separate visits to complain about the noise in order for there to be any serious action taken. This does not meet the requirements of the ordinance. The Temple Zoning Ordinance requires applicants to provide “[p]re-construction modeling estimates and post-construction compliance noise measurements . . . independently performed by a qualified professional chosen by the Selectmen.” Stepping Stones has not provided the independent modeling by a professional chosen by the Selectmen. The ZBA erred in deferring to the applicant’s noise plan instead of requiring noise measurements as provided in the Temple Noise Ordinance

b. Property Values

The applicant also bears the burden of proving that the use shall not adversely affect property values. Having a commercial event center clearly does negatively impact property values. There was no competent evidence that a commercial event center would not adversely affect property values as compared to a well-maintained farm. The minutes reflect that the applicant’s expert testified that “when looking for tangible evidence for diminished property values he couldn’t find it. If farms go into disrepair, then that will diminish property values. The spirit of the ordinance is to support farms. He has found no instance to where property values diminished based on being next to or near a farm/wedding venue. If this application is not approved and the farm discontinues, then residents may see housing lots instead of a farm.” The ZBA erred in relying on this testimony from Mr. Peterson. First, Mr. Peterson’s statement that he could find no tangible evidence does not meet the applicant’s burden of affirmatively establishing that the commercial event site will not negatively impact the abutters’ property values. Second, Mr. Peterson was highly biased having already agreed to market and sell the subject property as soon the zoning process was complete. In fact, Mr. Peterson listed the property on May 23, 2022, the same day that the Notice of Decision was issued. Third, Mr. Peterson stated that a wedding

² This also presumes that the barn doors are kept closed. See Singleton Letter. It is difficult to imagine that Stepping Stone will be able to keep the barn doors closed during August weddings. Therefore, it is almost certain that the noise ordinance will be violated as it was violated several times in 2021.

June 9, 2022

Page 5

venue was better than a farm that goes into disrepair. But the ordinance requires comparison between a commercial use and the “permitted uses within the area.” Both farms and housing lots are permitted uses and both would have a more positive effect on abutters’ property values than a commercial event center. The applicant did not meet her burden of proof by comparing the effect on property values between a commercial use or a residential use but erroneously only compared it to a farm that is in disrepair.

4. Section 13(A)(4)’s Requirement that the Site Has Appropriate Water Resources is Not Met

Section 13(A)(4) requires that the ZBA to confirm that the site has sufficient water resources to have a commercial event venue for 119 people (99 guests and 20 staff). They assert that their 1977 well will be sufficient but provide no evidence. In fact, the State of New Hampshire has documentation that Stepping Stones’ well is only sufficient for 54 people. Nevertheless, Stepping Stones is asking the ZBA to approve more than doubling that capacity to 119 people. The ZBA should have declined to grant a special exception until it obtains confirmation from NH DES that either their 1977 well or a new well can serve that many people at once.

Furthermore, the ZBA cannot grant a special exception, pursuant to Article IV, Section 13(a)(4) without confirming that Stepping Stones has sufficient room to install a septic system to handle 119 people on site at the same time.³ The fact that Stepping Stones does not have the ability to provide sanitary facilities means that their property is not appropriate for a commercial event venue.

5. Section 13(A)(6)’s Requirement Regarding Traffic Safety is Not Met

Section 13(A)(6) requires that the applicant affirmatively prove that 119 people leaving the site at 10 PM “shall not present a safety hazard to the community for either vehicles or pedestrians.” In support of her application, the applicant states that there will be less traffic than her previous daytime horse business. Nevertheless, the commercial event venue will create night time traffic. The applicant is not replacing one type of daytime traffic with a different type of daytime traffic but creating a new type of traffic at a different time. Furthermore, the applicant asserts that not all 119 people will leave at once as many will be staying overnight on the site. But the applicant chose not to have lodging be part of her application and the ZBA conditioned the approvals on their being no overnight lodging consistent with the application. It was therefore wrong for the applicant and ZBA to assert there would be no traffic safety issues without requiring a traffic study as was the case in other special exception applications.

³ In their March 14, 2022 application, the applicant admits that its septic cannot meet the guests coming on to the property and will need to have portable toilets. The admission that portable toilets are necessary precludes the granting of a special exception as the applicant is unable to meet the requirements of Section 13(a)(4) of the Temple Zoning Ordinance.

June 9, 2022

Page 6

Furthermore, the application provided no analysis of the effect on Putnam Road nor did the application provide any analysis of the effect on the safety of pedestrians (on Putnam Road or any other road). Section 13(A)6 requires the applicant to affirmatively demonstrate that there will be no safety hazards to vehicles or pedestrians as well as demonstrate that all roads, including Putnam Road, can handle the increased traffic.

III. The Applicant Fails to Meet the Standards of Section 13(B)

Section 13(b) provides that any time the ZBA “grants a special exception, any such use SHALL comply with the following additional conditions and the Board of Adjustment may not waive compliance with the following conditions as part of its decision regarding the special exception: 1) All buildings shall be set back at least one hundred feet from all lot lines . . .” The ZBA erred in waiving Section 13(B)(1) when the ordinance clearly prohibits the waiving of individual mandatory conditions.

CONCLUSION

Stepping Stones failed to demonstrate compliance with the special exception criteria and the ZBA erred in granting a special exception. For the reasons stated above, in the previously submitted requests for rehearing of the related variance application and any reasons raised by Woodcock Farms, the ZBA should grant rehearing and properly deny the special exception request.

Very truly yours,



Michael J. Tierney

MJT

cc: Mr. Alec MacMartin
Ms. Arlene Laurenitis

NOTICE OF DECISION
TOWN OF TEMPLE
ZONING BOARD OF ADJUSTMENT
423 NH Rt 45
PO Box 191
Temple, NH 03084

May 23, 2022

Isabella Martin, Trustee of the
Isabella Martin Revocable Trust
19 Putnam Road
Temple, NH 03084

Re: Case No. 2022-01-SE

You are hereby notified that by the unanimous vote of the four sitting members of the Temple Zoning Board of Adjustment (ZBA) on May 12, 2022, you have been granted a Special Exception pursuant to Section 13 A and 13B of the Temple Zoning Ordinance to allow only the Barn on Tax Map 9B, Lot 15 to be used as an Event Center, subject to the following terms and conditions:

1. Site Plan approval must be obtained before any events are held.
2. The Homestead and other dwellings on the property shall be used as a private residence either by the owner or long-term tenants and shall not be used as a short-term rental, bed and breakfast, air bnb or housing for event guests or staff.
3. The Lodge shall not be used in conjunction with the Barn events unless a second Special Exception is obtained for the Lodge use.
4. No events shall occur outside the Barn unless another Special Exception is obtained showing the areas of such outdoor use.
5. All advertisement for the Homestead and the Lodge must be removed in association with Barn events.
6. The only building on Map 9 Lot 15 to be used for events is the Barn; and only one Barn event can occur at a time.
7. No more than 15 Barn events (up to 35 guests) be held per calendar year and no more than 15 Barn events (up to 99 guests) be held per a calendar year. 30 Events total per calendar year.
8. Barn must meet all fire and safety codes before the first event takes place. Barn must be inspected and signed off by the Select Board and Fire Chief before such use.
9. There shall be no event open to the general public.
10. Events and set-up can take place between 8 a.m. and 10 p.m.
11. No alcohol or food is to be consumed outside of the barn.
12. Alcohol is only allowed to be served inside the Barn and by a licensed and insured Bartender in compliance with all applicable State laws and regulations.
13. Last call shall be 9:30 p.m. and the event shall end by 10:00 p.m.

14. Any and all fees are to be paid associated with the Variance and Special Exception Application within 30 days of the date of this Notice of Decision
15. If existing paddocks or riding arenas should be used as event parking, permanent fencing or curbs should be installed limiting parking to 55 feet from the lot line.
16. Fire lanes shall be kept clear during events.
17. Amplified music is only allowed inside the Barn and shall be subject to the Town's Sound/Noise Ordinance as stated in the application.
18. There should be no changes to the Barn other than to meet safety/fire standards. Expansion of the Barn is not allowed.
19. The Operator of the Barn must fill out the first page of the Temple's special events application for each proposed Event which would give the Select Board necessary information on date and number of guests attending, the health officer confirm information to confirm adequate number of porta potties at event and to allow the number of events to be tracked.
20. The driveway on the corner of Putnam road and Webster Hwy should be roped off during events but in such a way that would not affect the long-term resident that lives there.

See minutes of the Board's May 12, 2022 meeting.



Deb Harling
Vice-Chair, Zoning Board of Adjustment

Note: Within thirty days of the ZBA's vote referenced above, the Select Board, any party to the action or any person directly affected by this action has a right to appeal this decision. See NH Revised Statutes Annotated Chapter 677. This notice will be placed on file and made available for public inspection in the records of the ZBA on May 23, 2022. Copies of this notice have been distributed to the applicant, Select Board and Town Clerk.

Town of Temple, NH

ZONING BOARD OF ADJUSTMENT

May 12, 2022 Public Hearing- Special Exception

APPLICANT- Stepping Stone Farm and Event Center LLC

ZBA Members Present: Emily Sliviak, Deb Harling, Allan Pickman, James Stein, Bill Ezell, Lucas Tabolt

Non-Meeting 5:15 p.m. (RSA 91A:2 Discussion with Attorney Boldt ; Ezell did not participate

Ezell Recused himself from Public meeting

Harling began the hearing at 6:04 p.m.

Sliviak made a statement "Tierney (MacMartin's attorney) stated that her husband Ben Fisk verbalized support for the application on the last hearing in regard to traffic and overall support of the application. That was a completely false statement. Fisk corrected MacMartin's statement in regard to his own business hours. At no time did he mention traffic or Martin. Because I don't want to affect the applicant and process later, I will recuse myself from voting tonight even though Tierney's statement is again, completely false. I will continue to take minutes."

Harling gave the option for Martin to continue tonight with only 4 members or wait for the opportunity with a full voting board.

Peidra, representing Martin agreed to continue the hearing with 4 voting members.

Harling addressed the regional impact, she feels the towns have been notified more than once and the board will not be taking another vote. Notices were sent to towns and regional planning commissions, sent minutes, notified of variance application, etc. All members agreed.

Harling continued that the application and hearing tonight will include the variance application as well and asked the Applicant to make their presentation.

Piedra stated the board does have the authority to grant a variance from a special exception requirement. The applicant is asking for relief from the special exception criteria on the 100-foot setback. Buildings are preexisting and predate the zoning ordinance. The only potential impact would be to the smaller lot which is also owned by the applicant. If there is ever a potential new buyer of the lot, then they will have notice to the setbacks on the property. Property values would not be diminished, and it would be unreasonable for Ms. Martin to not be able to use her property as the owner.

Harling asked if the board had any questions. Harling asked if there was any representative from the Town of Wilton, Town of Lyndeborough, Southwest regional planning commission or Nashua regional Planning Commission. No one came forth.

Carrier, representing Woodcock farms stated the application does not meet all criteria and it should be denied. The 100-foot setback is meant for commercial properties, the applicant is seeking approval for a 33 foot setback. This would go against the spirit of the ordinance. The board must consider the impact from both properties, the applicant has not demonstrated that surrounding properties values wouldn't

be diminished. The applicant created the hardship for herself in 1977 when the subdivision took place between the 2 lots.

Harling commented that all submissions from the abutters came in less than 2 hours before the hearing and the board had not been given the chance to review. Notices were sent well outside of the 14 days for both the Special exception and Variance application.

Tierney wanted to address the spirit of the ordinance before granting the variance. The board must determine the spirit for the 100-foot setback for commercial uses by looking at the Temple Zoning Ordinance. The 100-foot set back is not to protect the abutting property owners but the authors of the Temple Zoning Ordinance decided to protect the character of the rural and agricultural zones. Can you go from 100 feet to 33 feet and still maintain the spirit of the ordinance?

Harling opened the hearing to public comment.

Ivy Bibler stated that the proposed use will have a positive impact and every dollar generated will contribute to Temple's economic value.

Olivia Holmes stated the applicant wants to stay country and rural by continuing to operate the farm. There are no new buildings, just a change in use.

Andy Peterson, a realtor since 1979 stated that boards often give dimensional variances. Property rights go both ways, however when looking for tangible evidence for diminished property values he couldn't find it. If farms go into disrepair, then that will diminish property values. The spirit of the ordinance is to support farms. He has found no instance to where property values diminished based on being next to or near a farm/wedding venue. If this application is not approved and the farm discontinues, then residents may see housing lots instead of a farm.

Mike Beebe stated that the Town must be flexible or else housing lots are a real possibility.

Piedra disagrees with the abutters' interpretation of the zoning provisions and believes there is no legitimate purpose of zoning setbacks since the applicant owns both lots.

Tierney stated Temple could have chosen not to have zoning rules. But that is not the case, and it is the boards obligation to apply it as written.

Carrier suggested the board should take more time to review the latest documents/submittals.

Harling asked if there were any other public comments. Hearing none, Harling closed the public hearing at 6:52 p.m.

Harling asked the board members if they would like to continue the hearing or go into discussion of the variance request. All in Favor of continuing into discussion.

Criteria 1- The variance will not be contrary to the public interest:

Pickman stated the 2 parcels are under the same ownership and intertwined so that no public interest is harmed by the board approving the variance.

Harling stated that if approved it does not set any precedent and each case going forward will be unique and looked at separately.

Stein agreed with Pickman's statement. There is no harm to the public. Harling agreed that the properties are under common ownership and a possible condition may be made that they cannot be sold separately.

Criteria 2- The spirit of the ordinance is observed.

Stein stated the Spirit of the ordinance is observed based on the ownership of both lots. Pickman and Tabolt agreed. Harling agreed the Spirit is observed since the lots are owned and operated and have not had any issues over the years while in operation.

Criteria 3- Substantial Justice is done.

Pickman, Stein, Tabolt and Harling agreed that substantial justice is done because both properties are owned by the applicant.

Criteria 4- Values of surrounding properties are not diminished.

Stein stated property values have gone up and has been in operation for years. Harling stated because there is no longer a horse operation there, she believes that property values will not be diminished.

Pickman and Tabolt agreed that property values would not be diminished.

Criteria 5- The Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

The board agreed that the application meets the criteria for hardship under the first standard.

Tabolt and Stein stated that the buildings have been there for many years without any complaints and does not affect the general public. Harling agreed it does meet the hardship criteria because Martin owns both lots. In 1977, Harling stated the PB approved the subdivision and that is what created the 33 foot setback. The board would like to have clarification with a surveyed plan to determine the exact measurements during Site Plan Review for the record.

Pickman stated that this does not affect the board's decision on the variance. A surveyed plan should be provided to the ZBA in regard to the use and building overall. If there is going to be outdoor activities the applicant should provide a plan indicating the area of activities. The Burden of Proof falls onto the applicant.

Harling agreed that there should be some record for the above discussion for the site plan review process. Harling asked the members if they agree and all were in favor.

Stein made a motion to grant the variance with the conditions as discussed.

The two Properties cannot be sold separately to third parties; if sold separately, then the variance is void. Distances of the 2 buildings must be confirmed via the Site Plan approval process; and if the special exception is approved, then all conditions of the special exception must be met. Second by Tabolt, roll call, all in favor.

Harling began a 5 minute recess.

Harling called the continued hearing for the Stepping Stones application to order at 7:37 p.m.

Harling gave the opportunity for the Applicant to speak.

Peidra referred to the prior testimony. While sound ordinance is not part of the special exception, it falls under the possible impact on adjacent properties. Bottom line is the applicant will comply with the Temple Sound Ordinance and welcome this as a condition. If sound is not complied with, then the Select Board will step in and enforce it, the element is satisfied. Adjacent property values will not be affected, and the signed petition confirmed that the bulk of abutters and neighbors are okay with the proposed use. Peidra believes that the plans submitted show necessary distances to make a determination. This application is not asking for a huge commercial application, it is a 23-acre farm asking to have rustic weddings 15 times a year.

Pickman asked if the application includes any outdoor events like dancing or ceremonies, if so, where will they be located and how will the sound ordinance be kept?

Piedra stated there will be no outside music and the use will be within the barn. There will be no events like dancing happening outside. Ceremonies could be located right outside the barn but there would still be more than 500 feet from the nearest dwelling and that could be confirmed during site plan review.

Stein stated that there has been concerns about loud guests outside, what measures will be taken to ensure control is met?

Piedra replied that there are very explicit agreements that have to be signed by the wedding party in regard to guests and a deposit made as a deterrent and forfeited if there is a violation.

Harling asked if the applicant would be willing to have a condition that set a certain radius to how far outside guests could wonder outside of the barn.

Peidra stated they are not opposed to it, but it would be hard since guests would have to come and go from their cars.

Harling asked again if there are any representative from the Town of Wilton, Lyndeborough, Nashua Regional planning commission or South-Werst regional planning commission. No one came forth.

Carrier representing for Woodcock farms stated it is the boards job to review all submittals and feel that more time should be given to go over conditions. Carrier feels that this application should be required to hire additional experts and information like the Ben's Sugar Shack application was required to do. The application does not account for all of the existing business activities like horseback riding, lessons or use of the hotel. Driveway width has not been determined since there are no official plans submitted. Traffic data has not been determined and may affect Putnam Road (Dirt Road that is closed off/dead end). There is no sufficient buffering between the Woodcock farm side and the applicant's side, buffering should be up to the applicant. Wedding guests should be limited to using only 2 out of the 6 driveways. This application should be treated as the Ben's application and require additional experts. Woodcock Farms urges the board to include the scope of the proposed use to both owned lots since the website indicates full use of both properties are allowed when booking weddings. Woodcock expects continued issues and/or violations with guests trespassing onto their property, installation of a commercial sign for Stepping Stones at the corner of Webster Hwy and North Road, operating the Lodge and Homestead as a hotel without documented approvals, placing the indoor arena on an unapproved

lot, operating after a cease and desist order and holding other events not approved. For these reasons Woodcock Farms suggests the board deny the application and take more time to review.

Harling asked Woodcock Farms (Opposing abutter) where the camping cabin is located and what it consists of? Also if there is a permit for the cabin? Tax Records do not show the cabin.

Pickman asked where the camp is in relationship to the applicant's property.

Russell replied it is a 3 season fishing cabin and is approximately 20 x 15 feet, remembers paying for a permit. The camp is located across the street and up the hill from the riding arena, but it is up to the applicant to provide distance. Russell hasn't had the property surveyed but stated the cabin is near the pond.

Harling asked if there are riding lessons taking place on the property, the applicant replied that there are Veteran programs that take place once every 2 months and she only has 2 mini ponies, 2 large ponies and 2 horses. There are no public riding lessons.

Tierney wanted to give Karen Walker from Wilton's Planning board an opportunity to speak on regional impact concerns once contact is made. Tierney then stated that the sound study was improperly done due to the barn doors being closed and fire code requires the doors to be open. There is a small parking lot (9 spaces) with handicapped spaces that are within the 55 feet of a property line. Prior to granting a special exception the board has to determine if the well on the property is adequate. Until the well is verified with DES then the special exception shouldn't be granted. The board should clarify if events are classified as full weekends (1 event= Fri, Sat, Sun) or (single) day events.

In the matter of the Special exception hearing, Sliviak continued to recuse herself again from participating in deliberations and voting. She will remain taking minutes.

Harling asked if MacMartin (an opposing abutter) has a residence on the actual abutting lot to the applicant's property. It was determined that MacMartin has no structure or dwelling on a lot that is abutting the applicant, only vacant land.

Select Board member Ken Caisse confirmed that Woodcock farms did not need a permit for his fishing camp when remodeled but did pull a mechanical permit for gas piping. There is no plumbing or electric and does not show on the tax card in Temple.

Karen Walker, a member of the Wilton Planning Board was given the opportunity to speak through Attorney Tierney's (MacMartin/Laurenitis attorney) phone. Walker believes there may be a regional impact because there is potential pollution from parking and harm to the aquifer. There is not enough information on a storm water management plan. She is concerned that Mill Brook which is Wilton's water source could be affected. Wilton is concerned about the additional traffic on Burton Hwy and wedding guests will likely be routed through Wilton. After serving alcohol to an unfamiliar out of town person it may cause accidents on the windy narrow road and Wilton provides significant back up in terms of the emergency services which would create an additional burden for Wilton.

Harling asked if anyone else from the public had any comments.

Olivia Holmes stated that the aquifer is actually safer under the new proposed use compared to the original use of the farm which kept 70+ horses. Holmes also stated that there is now a lot less traffic

compared to the camps that were hosted and traffic would most likely come from Route 101/Webster Hwy. She finds Walkers concerns very unreasonable.

Piedra commented that the barn doors and fire safety issue concern is inaccurate. The main exit consists of 2 barn style doors (main entrance), the original barn doors were referenced in the fire marshal's letter. During the sound report it was indicated that the correct doors remained opened, and the permanent doors were closed (Because they can't be opened) which is per fire/safety code.

Piedra stated that with 23 acres and 70+ spaces are more than sufficient for the use. The board can safely say that all uses are far from 500-foot setback requirements. When the South-West Regional planning commission weighed in, they did not have any concerns.

Tabolt asked about the driveways and which 2 are going to be used for the commercial use.

Peidra replied that the plans indicate which driveways will be roped off.

Pickman stated he would like to see larger plans that indicate the roped off driveways.

Piedra stated that Martin is entitled to full use of other driveways for the specific uses they serve to the other buildings and property.

George Russell asked how the board will deal with the intermingling of buildings on both properties?

Pickman replied that the board is looking at the Barn only as a commercial use. It is a decision for the Select Board to make in the future for approved uses. The Homestead is going to be used as a long-term single home residence.

Piedra does not want to limit already lawful uses on the property. The application clearly states the use of the Barn is the only commercial use being applied for.

When asked, Boldt stated that the ZBA is authorized to make a decision on issue X of the Application, not A, B, C and AAA that are not before it. The Select Board will have to decide later on those uses and if they are lawful.

Carrier believes a traffic study is warranted for this application and asks the Board to check the parking spaces to ensure they meet the 55 foot setback requirements.

Tierney believes the application includes the entire property since Martin is operating entirely together.

Tabolt asked about the use of the Lodge; Pickman replied that the Lodge has always been used for events, but the application is only on the Barn.

Harling stated that the Homestead should be removed from any advertising in conjunction with the barn and wedding/events.

Ezell stated that if the Lodge should be removed than shouldn't the Homestead be removed as well?

Russell stated that when looking online at the venue, it is marketed as 1 property with full use.

Mike Beebe stated that if the application isn't approved then the only choice might be to sell the land and then it would end up as a subdivision. Staying a farm and maintaining its appearance should be the smarter decision.

Harling asked if there were any other public comments. Hearing non, Harling closed the public hearing at 9:05 p.m.

Harling opened a discussion on this Application for Special Exception including possible conditions for section 13A and 13B for special exception standards. Harling asked if the Board wanted to adopt their prior vote on the Application or reconsider each of the Special Exception Criteria. Board determined to reconsider each in light of Sliviak's recusal.

Discussion/Thoughts

13A. 1. Pickman said he is comfortable with the 500 feet requirement if it refers to the barn only but believes more information is needed for outdoor uses.

Stein agreed that outdoor events should be shown to ensure setback requirements. Tabolt stated outdoor activities should be shown on the plans. Harling agreed that she would like to know the outdoor activities and where they are, in reference to the Barn. The Board was comfortable with approving events inside the Barn only.

13A. 2. Pickman stated that it is met and would like to add a qualification: if existing paddocks and riding arenas should be used as event parking, permanent fencing or curbs should be installed limiting parking to 55 feet from the lot line.

Stein would like to ensure fire lanes are kept clear during events but standard is met.

13A.3. Pickman added a qualification: amplified music is only allowed inside the Barn subject to the sound/DBA protocols stated in the application.

Tabolt asked if a police officer should be present during events as a deterrent? But agreed with Pickman that all music should stay inside barn only.

Stein stated in order to keep the adjacent property values intact that we should include in the conditions to limit 1 barn event at a time, hard stop at 10 p.m. and only 15 weddings a year. There should be no changes to the Barn other than to meet safety/fire standards. Expansion is not allowed.

Tabolt wanted to include there to be no changes to the exterior of the barn and questioned if the board should state that metal siding should not be allowed in order to maintain its rural character. The rest of the Board did not agree.

13.A.4. Board feels this standard has been met with no conditions necessary

13.A.5. Board feels this standard has been met with no conditions necessary

13.A.6. Tabolt asked the board if an officer should be present, again as a deterrent especially if alcohol is served at events of more than 50 people.

Stein stated that a licensed and insured bartender with a last call at 9:30 p.m. is sufficient and an officer would be excessive to be added as a condition.

Harling stated that she believes this standard is met and does not think there is a safety hazard nor would the application cause excessive wear and tear on the roads.

13.A.7. The Board feels this standard has been met with no conditions necessary

13.A.8. Harling proposed a condition that includes the applicant must fill out the first page of the Temple's special events application which would give the Select Board necessary information on date and number of guests attending. Also have the health officer confirm adequate number of porta potty's at event. This would also allow the number of events to be tracked. Other members agreed.

13.B.1. Received a Variance

13.B.2. Pickman stated that the driveway on the corner of Putnam road and Webster Hwy should be roped off during events but in such a way that would not affect the long-term resident that lives there.

13.B.3. Met

13.B.4. Met

13.B.5. Agreed, no food or drink shall be served outside

13.B.6. N/A

13.B.7. N/A

13.B.8. N/A

13.B.9. Met

Additional conditions:

Site Plan approval must be obtained before any events are held.

The Homestead shall be used as a private residence either by the owner or long-term tenants and shall not be used as a short-term rental, bed and breakfast, air bnb or housing for event guests or staff.

The Lodge shall not be used in conjunction with the Barn events unless a second Special Exception is obtained for the Lodge use.

No events shall occur outside the Barn unless another Special Exception is obtained showing the areas of such outdoor use.

All advertisement for the Homestead and the Lodge must be removed in association with Barn events.

The only building on Map 9 Lot 15 to be used for events is the Barn; and only one Barn event can occur at a time.

No more than 15 Barn events (up to 35 guests) be held per calendar year and no more than 15 Barn events (up to 99 guests) be held per a calendar year. 30 Events total per calendar year.

Barn must meet all fire and safety codes before the first event takes place. Barn must be inspected and signed off by the Select Board before such use.

There shall be no event open to the general public.

Events and set-up can take place between 8 a.m. and 10 p.m.

No alcohol is to be consumed outside of the barn.

Alcohol is only allowed to be served inside the Barn and by a licensed and insured Bartender in compliance with all applicable State laws and regulations.

Last call shall be 9:30 p.m. and the event shall end by 10:00 p.m.

Any and all fees are to be paid associated with the Variance and Special Exception Application within 30 days of the date of this Notice of Decision.

Tabolt made a motion to approve the special exception with conditions as discussed, second by Stein.

All in favor, motion carried.

Pickman made the motion to continue the review of a draft Notice of Decision until Thursday May 19th, 2022 at 6 p.m., second by Stein. All in Favor, motion carried.

Harling made a motion to approve the minutes from April 21, 2022, second by Stein.

Minutes by Sliviak