

August 30th, 2021

Town of Temple  
Zoning Board of Adjustment  
423 Route 45, P O Box 191  
Temple, NH 03084

RE: Application of Isabella Martin, Trustee, Tax Map 9B, Lot 14  
Owner of Record: Isabella H. Martin, Trustee of the  
Isabella Hagner Revocable Trust  
Isabella Martin, Map 9B, Lot 15  
Owner of Record: Isabella Martin, Trustee, Isabella McDaniel Revocable Trust

Dear Members of the Board:

As Abutters, we respectfully submit this letter that outlines our concerns regarding the pending application before the Zoning Board of Adjustment for a Special Exception for Stepping Stones Farm and Event Center, LLC for Tax Map 9B, Lot 14 and Tax Map 9B, Lot 15.

**I. Preliminary observations.**

As discussed further in this letter below, detailed analysis of the application for a special exception is thwarted by the applicant, Stepping Stones Farm and Event Center, LLC's multiple filings with the Board. In fairness to those who are concerned about this application for a special exception, the Zoning Board of Adjustment should require the applicant to submit one complete application specifying all its parts and withdrawing prior filings which are not incorporated into the resubmitted application.

1. The Zoning Board of Adjustment is also requested to have independent expert review of the reports provided to the Board on issues of sound, light, traffic and safety assessments. From the reports filed with the Board, it appears the applicant, Stepping Stones Farm and Event Center, LLC is the source for the data upon which the reports

were issued. No attempt was made to verify that the data supplied by the applicant is in fact accurate. By example, the sound study assumes that the applicant will control sound, which based upon recent reports, shows the applicant is not able to do. As further examples, the traffic study does not 1) consider the concentrated flow of the traffic and the possible deterioration of level of service at the intersection of Route 101 and Webster Highway and possibly 50 to 100 motor vehicles are attempting to exit the venue center within a short period of time, 30 minutes to possibly an hour, and 2) overlooked the fact that the proposed application/Site Plan has ALL traffic entering and exiting the site via Putnam Road. Putnam Road, unlike Webster/Burton Highways is a dirt road, is a one way street (Due to the closure of a bridge deemed unsafe for vehicular traffic within 600 yards of the proposed Wedding Venue), and runs parallel and adjacent to a dangerous below grade watercourse.

**II. No completed application under Temple Zoning Board Rules of Procedure is before the Board.**

To date, after review of the documents available on the web site under “ZBA Martin Files,” there appears to be no general application completed by Stepping Stones Farm and Event Center, LLC and the four (4) separate submissions for a special exception contain no signatures. While the lack of a signed application by the owner of record may seem to be a trivial matter, that failure to have a signed application means that the Rules of Procedure of the Temple Zoning Board of Adjustment have not been complied with and any hearing held on the application is not in compliance with the Board’s own Rules of Procedure. Further, the failure to have a signed application means that all representations made to the Board either in writing or at any hearing

conducted by the Board have been made without actual authority from the property owners. Without the signature of the property owners for Tax Map 9B, Lot 14 and Tax Map 9B, Lot 15, any decision of the Zoning Board of Adjustment on this application will not be in compliance with the Temple Zoning Board of Adjustment Rules of Procedure and will not be binding on the owner of record of those lots.

**III. “Agritourism” does not exempt Stepping Stone Farm and Event Center, LLC from obtaining a special exception under the Temple Zoning Ordinance.**

The claim is made by the applicant that the statutory provisions relative to agritourism do not require a special exception from the Temple Zoning Board of Adjustment. This position misstates the statutory provisions made under New Hampshire Revised Statutes Annotated Chapter 674, Section 32-b to 32-d. For the term “agritourism” to apply to the application for a special exception for Tax Map 9B, Lot 14 and Tax Map 9B, Lot 15, the Board needs to be satisfied that there is actually conducted on each lot agriculture. With respect to Tax Map 9B, Lot 14, 19 Putnam Road, 3.54 acres, no state of facts sustains the assertion that there is an existing agricultural use on that parcel. If there is no existing agricultural use on that parcel and as the statements make clear to the Board the use of that parcel would be solely for the event center/wedding venue, the use of this parcel does not fall within the provisions of New Hampshire Revised Statutes Annotated Chapter 674, Sections 32-b through 32-d and the definitions as found in New Hampshire Revised Statutes Annotated Chapter 21, Section 34-a. The use of this parcel must be incident to, ancillary to or in conjunction with a farming operation. No evidence is before the Board that this parcel consisting of 3.54 acres and a two-story lodge built in 1976 meets the requirement of “incident to, ancillary to or in conjunction with farming operations.”

With respect to the argument that the use of Tax Map 9B, Lot 15 is exempt from Zoning Board consideration on account of the alleged agritourism use, a careful reading of the statutes relative to agricultural activities and agritourism supports the conclusion that zoning regulation can occur and that agritourism is subject to zoning regulation. Nowhere in the statutes which apply is there a blanket exemption from any local land use board review. NH RSA Chapter 674, Section 32-b, I, expressly provides that any new establishment, re-establishment after abandonment, or significant expansion is subject to a special exception. That subpart, subparagraph II, specifically mentions agritourism as being subject to an applicable special exception. Therefore, the event center, being proposed to be adjunct to agritourism, would still be subject to the provisions for a special exception under the Temple Zoning Ordinance.

The examination of the application, however, as it pertains to Tax Map 9B, Lot 15, should go beyond the assertions made in the written material. First, the Board needs to be satisfied that the primary use of Tax Map 9B, Lot 15 is in fact agricultural. The submissions made by the applicant clearly establish that there is not a primary use of this property for agricultural purposes. Secondly, the Board needs to inquire whether the use of the property for an event center meets the requirements within the definition of agritourism. RSA Chapter 21, Section 34-a makes clear that the agritourism has to somehow be farm or agricultural related. RSA 21:34-a II(b)(5). That Section requires that agritourism be incident to, ancillary to, or in conjunction with such farming operations. The operation of the event center/wedding venue is completely divorced from any agricultural use, if such should in fact exist, of Tax Map 9B, Lot 15. By way of illustration, nowhere in the publicity materials which have been provided to the Board for Stepping Stones Farm & Event Center, LLC is there any mention of how the activities associated with the event center/wedding venue are integrated into any agricultural use. Hay

rides, soft ice cream, minor amusement attractions at pick-your-own orchard operations throughout Southern New Hampshire are all clearly established in conjunction with families coming to the orchard or blueberry plantation and picking fruit and paying for it. No such connection exists with Stepping Stones Farm & Event Center, LLC. The proposal for Stepping Stones Farm & Event Center, LLC could be lifted wholly off Tax Map 9B, Lot 15 with no impact on the alleged “agricultural activities” evident.

The statutory provisions relative to agritourism make clear that this application for a special exception must be made to the Temple Zoning Board of Adjustment and there is no “free-pass” given to Stepping Stones Farm & Event Center, LLC.

#### **IV. No integrated and unitary application is before the Board.**

The Board is urged to require the applicant to submit an integrated and unitary application for a special exception completed and signed by the property owners of record on the general application form before the Board considers the special exception application any further. We, and all abutters are entitled to know which application the Board is considering. The Board is entitled to receive from the applicant a clear instruction and a written withdrawal of any prior submissions. Before the Board acts on the application for a special exception, the applicant should clearly state in one integrated and unitary document how the applicant demonstrates compliance with the provisions of the Zoning Ordinance. Until such time as an integrated and unitary document, complete with a signed general application by the property owner is presented to the Board for consideration, the Board should not proceed to hold a hearing on the merits and certainly should not proceed to any decision on the merits. Further, the Board should permit sufficient time for the parties opposed to review and address the issues

raised in the integrated and unitary documents.

**V. Specific failures under Article IV, Section 13, subpart 13A and 13B**

Subject to the reservation expressed with respect to what is to be considered by the Board as the application for special exception, what is before the Board and its various different communications do not establish that Stepping Stones Farm & Event Center, LLC meets the requirements imposed by Sections 13A and 13B as follows:

1. No written waiver of the 500-foot separation has been filed contemporaneous with the several completed special exception descriptions. Article IV, Section 13A, 1.
2. The applicant includes the “homestead,” 372 Webster Highway, as part of the special exception application. The “homestead” is not setback 100 feet from all lot lines. The “homestead” until recently, 2015 or so, was the residence of Isabella Martin. There is no record that the Zoning Board of Adjustment has ever approved the “homestead” to be used as a bed and breakfast or similar lodging facility. The permitted uses within the Rural Residential and Agricultural District, Article V, B, Section 1, and Section 3, do not permit a bed and breakfast or lodging use. Further, the provision in the Zoning Ordinance with respect to nonconforming structures only allows the nonconforming structure to be continued in the same use. Article VII, Sections 1, 2 and 3. As there is no record of Zoning Board of Adjustment approval under Article VII for any change in the residential use of the “homestead,” the “homestead” is not exempt from complying with the 100-foot setback if it is part of the application.
3. Light and noise adversely affect the values and enjoyment of the adjacent properties. See letter of Christopher Drescher, Esq. dated August 13, 2021. Further, the flow of traffic and the time of its release had not been adequately addressed in terms of the adverse

effect on abutting properties and on those properties on Webster Highway between the location and intersection with Route 101. Section 13A, 3. With respect to light, no change has been made in the present lighting at the venue center which now results in light pollution. No discussion has been made about whether existing lighting will be brought into compliance with what has been proposed. With respect to noise, not all sources of noise have been considered. The focus has been on music. In considering noise, the Zoning Board of Adjustment needs to be cognizant that decibels are measured on a logarithmic scale and not linear. In other words, a decibel level of 110 (live rock music) is 16 times as loud as 70 decibels. 70 decibels by contrast is the noise made by a passenger car at 65 mph passing the auditor approximately 25 feet away. The noise studies need to consider all sources of noise, traffic, entertainment systems within the motor vehicle, crowd noise and the like. For instance, a commonly observed phenomenon is the louder the music, the louder the conversation of those attending.

4. The surveyed site plan demonstrates the applicant does not meet the limitation of two (2) driveways. Without a determination of what driveways to the site will be used, the applicant cannot demonstrate the traffic flow and provision for emergency services have been appropriately provided for. Existing improvements on the property, including the driveways demonstrate a noncompliance with other provisions of Article IV, Section 13. Section 13A. Relevant also to the site plan and the traffic determination is any use made of Putnam Road, which as a cul-de-sac necessarily limits emergency responders to the site.
5. The opinion of real estate agents, particularly those who have been associated in the past or may be associated in the future with Isabella Martin or other members of her family

are not a reliable barometer by which to determine the effect of the proposed operation on abutting properties. The fact there was a recent sale could not demonstrate that that sale was in any way impacted by the proposed use as the proposed use was not legitimately established when the sale did occur.

6. Traffic generation and the comments by the applicant concerning traffic generation are not apposite to this proposal. The hours of operation and the “slug” of traffic need to be separately analyzed in terms of the capacity of the road, clear sight distance, and other factors which must be measured in order to determine whether a safety hazard is presented. Further, the proposed use will clearly raise a danger to pedestrians given the narrowness of the road and the lack of sidewalks or suitable shoulders on which pedestrians could walk. Section 13A, 6. The comments of Southwest Regional Planning Commission relative to traffic ignore any utilization of Putnam Road and the complications it creates as well as ignore the concentrated in time flow of traffic to and from the venue.
7. The requirements for the buildings associated with the proposed use as an event center and wedding venue are not met by this application. The existing structures on Tax Map 9B, Lot 15, do not comply with the requirements of 100 foot setback from the adjacent parcel, Tax Map 9B, Lot 14. Both the barn and the indoor riding area do not meet the 100-foot setback. As a footnote, the existing building constituting the riding arena was built in contravention of the permits obtained for it, is on the wrong parcel and is within 100 feet of the boundary line of Tax Map 9B, Lot 14. The homestead does not comply as the homestead is not 100 feet from the boundary. Both the 3-story barn and the homestead could be considered grandfathered structures as to their locations. However,



neither the barn nor the homestead constitute a grandfathered nonconforming use. The riding area does not qualify under the Zoning Ordinance as either a grandfathered nonconforming structure nor a grandfathered nonconforming use as no approvals were obtained for the riding arena as located on Tax Map 9B, Lot 15. See attached overlay prepared by Aries Engineering which shows by dotted line the 100-foot separation from boundary lines required for a special exception. Please note according to the overlay plan prepared by Aries the only structure on Tax Map 9A, Lot 15 and Map 9A, Lot 14 (note Aries used the labeling provided by Sanford which is in error) is the Stepping Stones lodge. See Plan Attached. All other structures mentioned at some point in the multiple documents filed by Stepping Stones lodge in this matter are wholly or partly within the required 100-foot setback.

8. Limitations with respect to food served and consumed have not been observed to date by the applicant. The Stepping Stone Farm and Event Center, LLC has not conformed to the requirements of the Zoning Ordinance in uses which have been permitted to continue while the special exception application is continued. The applicant, by its own conduct, demonstrates it will not comply with this provision. cf. C. Drescher letter, 8/13/21.
9. The activities of Stepping Stone Farm and Event Center, LLC to date demonstrate the applicant has no intention of abiding by the restriction as to food served at the premises. Section 13B, 5.
10. The plan consisting of 2 sheets prepared by Sanford Surveying and Engineering does not agree with the Town of Temple assessment records in that the labeling on the plan states “Tax Map 8A, Lot 14 and Tax Map 8A, Lot 15.” The plan also does not agree with the Town of Temple tax records and the records at the Hillsborough County Registry of

Deeds reflecting that the owner of Tax Map 9B, Lot 14 is Isabella H. Martin, Trustee of the Isabella Hagner Revocable Trust and the owner of Tax Map 9B, Lot 15 is Isabella Martin, Trustee of the Isabella McDaniel Revocable Trust. Finally, the plans prepared by Sanford Surveying and Engineering do not reflect what buildings on each of the separate lots, Tax Map 9B, Lot 14 and Tax Map 9B, Lot 15, will be used as part of the event center and wedding venue.

Once the buildings within the plan prepared by Sanford are identified as belonging to the special exception application, there maybe more demonstrated noncompliance with the requirements of a special exception.

Respectfully submitted,

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George Russell

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Julie Russell