

## TOWN OF TEMPLE ZONING BOARD OF ADJUSTMENT APPLICATION FOR A VARIANCE

You must provide answers to the following five questions:

**1. Granting the variance would not be contrary to the public interest because:** The sound levels that were recorded in numerous tests on May 24<sup>th</sup> by professional audio engineers Ben Rogers of Loud Sun Studio in Jaffrey, NH and Henry Moreau of More Sound Company of Jaffrey, NH did not represent a disturbing level of noise when compared to ambient background sound levels. With music on louder than it would be for any event, we recorded an increase of only two decibels when compared to ambient noise levels in and some cases no increase at all.

**2. The spirit of the ordinance is observed because:** We are not creating excess noise. Although the readings of both professional sound engineers listed above and our own measurements done with a calibrated sound machine exceed the 35dB requirement, they remain less than or equal to the readings of the background ambient noise. There is no appreciable difference when there is a large event when compared with typical background noise levels. However, in an effort to minimize sound pollution even during these events, we will take the following steps to further mitigate sound disruption:

We purchase our own audio equipment (speakers, amplified) and position them down into the dancefloor and guests to absorb sound and minimize leakage.

We will set the sound levels of the sound equipment to a maximum volume equivalent to 80dB (10 dB lower than the volume during the tests) and all DJs, bands and guests will be required to use this equipment and maintain this maximum volume level.

We will proactively work with our neighbors, guests and staff to ensure we are mitigating all sound and taking proper steps to ensure the rural and quiet nature of the neighborhood remains.

**3. Substantial justice is done because:** This property belongs to a loyal citizen of Temple, NH who has run a safe and successful business in this town for 50 years. According to the Temple Master Plan, "Agriculture, as traditionally defined, will not be a notable land use, nor will it be a significant contributor to the local economy." The town recognizes that agricultural use will not be a notable land use and there are very few alternatives for a property of this unique style. With a large, antique barn; a large 10 bedroom lodge and large farm house, there is no other viable use for the currently zoned use of the property. The granting of this variance allows one of the largest tax payers in the town to not only meet her financial obligations to the town but also to run a successful operation that will attract guests and visitors to the area and other local businesses and keep with the rural and friendly values of the town.

**4. The values of surrounding properties are not diminished because:** Please reference opinion of Andrew Peterson that was provided for the initial application. There are two lots that have recently been sold in the area with the buyers being aware of the potential for this type of business in the area. The sound levels, as previously stated, do not cause harmful levels of noise pollution. Please keep in mind that these readings were taken from the lot lines and that for two of the three abutters, their dwellings are many thousands of feet away from the lot lines.

**5. Literal enforcement of the provisions of the ordinance would result in an “unnecessary hardship” because:** It is impossible to meet this standard due to the background ambient noises levels measured by sound experts stated above. The ambient noise levels as measured by professional engineers exceed the maximum 35db requirement in Section 31 of the Town Ordinance when there is no one on the property and no noise, sound or music being generated. The infusion of guests, music and noise during an event raises these readings by only 2dB which is an inaudible difference. Enforcement of this ordinance creates an unnecessary hardship as literal enforcement would cause the applicant to shutter her business and list the property for sale on the general market. The historic and unique layout of the property is of significant historical and cultural value to the town and has no alternative suitable use as stated in section 3 of this application.

a. For purposes of this paragraph, “unnecessary hardship” means that special conditions of the property distinguish it from other properties in the area.

(i) Owing to these special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

(ii) The proposed use is reasonable since:

b. If the criteria in subparagraph (a) are not established, an “unnecessary hardship” will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The following special conditions of the property make the variance necessary in order to enable a reasonable use of it: the unique layout and historical significance of the property and the limited alternative use require that the variance be granted to allow noise levels of up to 45dB to be measured from the property lines.