

Town of Temple, NH

ZONING BOARD OF ADJUSTMENT

April 14, 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-Public Session 5:30 p.m. (RSA 91A:3 II(I) Discussion of Attorney Information

Ezell Recused himself from Non-Public meeting

Harling made a motion to go back into a public session, Second by Stein.

Harling made a motion to seal the minutes of the Non-Public minutes, second by Pickman.

Ezell called hearing to order at 6 p.m. for the Martin Application.

Ezell recused himself as an abutter and turned the hearing over to Harling.

Harling summarized the application in which is only pertaining to the use of the old barn on Map 9B lot 15. The applicant intends to use the barn for events, no more than 30 events per calendar year and up to 99 guests. Hearing was noticed in the Monadnock Ledger newspaper. All receipts were received besides 1. Harling confirmed notifications were sent to all abutters, Town of Lyndeborough, Town of Wilton, South-West Regional planning Commission and Nashua Regional Planning Commission.

Attorney for Alec MacMartin, Michael Tierney requested that Sliviak recuse herself as a voting member because her mother-in-law signed a petition that the applicant submitted in her application. Sliviak stated that her mother-in-law does not have any influence over her voting ability, and she does not feel recusal is necessary.

Attorney Israel Piedra from Welts, White and Fontaine, P.C. is representing Isabelle Martin from Stepping Stones. Piedra began presenting for Martin, summarizing the appropriateness of the application and the proposed use. Piedra stated that the proposal focused on the historic barn, no new structure was needed, it would maintain its rural and agricultural character and no modifications were needed for the existing buildings.

Harling asked where the 99 guest capacity came from. Piedra stated that the Temple Fire Chief approved the limit and it had been discussed with Martin. Piedra started to discuss the standards of 13 A and 13 B.

13 A. Statements/comments from Peidra

1. Proposed use must be set back 500 feet. Piedra stated that the closest structure/abutter was 600 feet. Requirement is satisfied.

2. Standard is satisfied based on no street parking and plan shows 75 spaces.

3. Property value on adjacent properties. There will be no unreasonable impact on adjacent properties and there are only vacant lots that abut the property. There will be no obnoxious sounds and music will

be able to be managed. The applicant has spent time and money on a sound engineer who determined the sound ordinance will be complied with. Many abutters have signed a petition agreeing that sound has not been a concern and support the proposal and believe it will not affect their property values. Exhibits H and I include opinions from realtors that include data and experience showing that the proposal will not affect property values.

4. Proposed site is appropriate for the proposed use. Piedra stated that this standard is met. The business has been in use for 50+ years and will continue to be used as a rural and agricultural business with events.

5. Hazardous Waste does not apply to this application.

6. Traffic generated from the proposed use will not have an impact on the area and South-West Regional planning agreed. This proposed use will cause less traffic than the previous uses.

7. Appropriate buffering and landscape is satisfied but the Planning Board can require additional buffers if they deem appropriate.

8. If this application is approved the applicant is prepared to seek Site Plan Review.

13 B. Statements/comments from Peidra

1. Building setback 100 feet from Lot Lines, he believes this ordinance does not apply due to the existing building being grandfathered in. Both lots have the same owner, and all ordinances have to be interpreted. This ordinance is supposed to protect the abutters but the only abutter is the smaller lot owned by Martin and this would go against the spirit of the ordinance if required. If the board does disagree with this then we ask the board to grant the application with the condition the applicant make a lot line adjustment, allowing the barn to be set back 100 feet from lot line and also maintain the 35 foot setback to the lodge located on the other property. The Lodge is not subject to the 100 foot setback requirement since it was granted by a variance in 1977. The only way to consider a merged lot is to ensure both lots do not lose its grandfathered status on all other buildings between both lots.
2. Driveway Access, barn events will be limited to 2 driveways measuring no more than 32 feet for each.
3. The lot is 23.5 acres in size and meets the 1/8th size requirement.
4. Proposed use is on a maintained state road.
5. All food shall be served and consumed inside; this element is satisfied.
6. No drive thru service, does not apply.
7. No new facilities will be constructed, does not apply.
8. Retail operation does not apply.
9. There will be no outdoor good displayed, does not apply.

Martin has proceeded in good faith, has been seeking permission since January 2020.

Testimony/Statements from Abutters & Neighbors

Tierney, representing MacMartin stated the application does not include the entirety of the use which includes both lots and multiple buildings. The application requires a special exception from the board, to use it in its entirety as a commercial venue for hosting events together with the lodge. The 1977 approval was for a special exception granting permission for the lodge to be used as a religious retreat. This was utilized for years but then the use changed when a special exception was applied for in 2000 where it was stated the use would not be used for residential or require evening hours. Once a use is no longer used for 2+ years then a new or changed use must be applied for.

Standard 13B 1. States that the applicant cannot have a commercial use on the property if it does not meet the 100 foot setback. You cannot have a condition on a possible merged lot since it would create a different nonconformity which creates 4 dwellings on 2 lots. Regardless of how long commercial events have been going on it has not been a lawful use and has not been permitted. Equestrian use was permitted in 2000 but that was under an approved special exception. The applicant stated she could comply with the noise ordinance, but the board should remember the excessive sound complaint from the applicant only 9 months ago.

Megan Carrier, representing Woodcock Farms stated the application does not accurately reflect the scope of the use. According to the website, the lodge will be used with the commercial use proposed.

The application fails to satisfy numerous standards.

13 A 1 cannot be decided on since the applicant did not submit a surveyed plan depicting setbacks. The applicant cannot satisfy 13 A 3, the wedding guests cannot be controlled, and the forfeiture of the noise deposit will not be enough to remedy the loss of an adjacent property value. Would you buy property next to a wedding event center versus a property not next to a wedding event center?

13 A 4- Proposed use is not compatible or appropriate for the location.

13 A 6- Southwest Regional Planning letter on traffic study does not address potential hazards with pedestrian traffic and does not address issues on Putnam Road.

13 B 1- The set back is relevant to the change in use with the barn, it is not grandfathered in.

Alec MacMartin asked the board to consider the mission statement. There is roughly 76% of property frontage connecting to Martin's property owned by abutters not in favor of the proposed use. The primary focus for the use will be events at night that may last several days in a row. Currently businesses up the road operate sunup to sun down. This application would be a drastic difference in use compared to the other businesses in the area.

Pete Clemmings who lives at 305 Webster Hwy stated he bought his property knowing full well that Stepping Stones was turning into an event center and in the last year he has not noticed any changes in traffic or sound.

Arlene Laurenitis stated the application is inadequate, a surveyed plan has not been submitted that shows set backs or structures. There is no detailed list for proposed uses for each space or area. The application did not describe seasonal outdoor activities, where, when or who will be providing food.

Julie Russell stated weddings last for days now with the dinner/reception, day of and next day brunch. This will adversely affect the property values nearby.

George Russell asks the board to consider the 4 abutters, 1 being Martin's family, 2 abutters that represent 75% of the perimeter and Ezell who is an abutter but also on the Select Board and ZBA. The current commercial use is out of compliance and operating without an approved special exception. For the last 2 years we have been dealing with a large commercial expansion.

Heidi Kennedy works at the farm and stated that only 24 people will be allowed to stay at the property during a wedding. Sound is managed, would like everyone to be happy and will call the police if needed on guests who do not follow the sound rules.

Richard Redding and Karen McDonald live less than half a mile from the farm. Redding stated the petition that Martin submitted depicts inaccuracies, 62 individuals (33 households) some not living on Webster Highway. The petition fails to mention that events can be up to 99 guests and does not mention the number of events planned for the year. It does not mention that noise complaints have been filed and the South West Regional Planning Commission calculated

up to 300 more vehicles for Saturday and 271 on Sunday in addition to the 226 vehicles driving on Webster Highway already.

John Kieley stated the intended use extends to the lodge and the board should review the 1977 minutes and hearing on the special exception application. Reliance on the Temple noise ordinance will not give much protection to its neighbors since Temple does not have a code enforcement officer.

Nicole Concordia lives in an association that is across from one of Stepping Stones' driveway. Concordia states noise has not been an issue and the current wedding events are creating less traffic and noise compared to the previous use and activities of the farm from 5 years ago.

Olivia Holmes stated there is a hunting club and shooting range nearby and she can hear those activities. Wedding events is a wonderful use of the property, and she welcomes this change.

Piedra stated the application only applies to the use of the barn. It does not include the homestead. The lodge is on a different lot and not part of the current application. The overall use is remaining the same besides the barn which will host 15 weddings a year. Driveways are marked clearly on the plans and there will only be 2 driveways for the use of the barn. If the only issue is the setback requirement, then it would be appropriate for the board to grant permission with a condition on a needed variance.

Harling made a motion to close the testimony part of the hearing and start deliberations, second by Pickman. All in Favor, motion carried.

The hearing will continue to a later date and time to give legal a chance to review and the board to discuss conditions.

Standard 13 A- voted on by each member.

1. Meets standard may include condition
2. Meets standard may include condition
3. Meets standard may include condition
4. Meets standard may include condition
5. Meets standard may include condition
6. Meets standard may include condition
7. Meets standard may include condition
8. Meets standard may include condition

13B

1. Consult Legal
2. Meets standard may include condition
3. Meets standard may include condition
4. Meets standard may include condition
5. Meets standard may include condition
6. Meets standard may include condition
7. Meets standard may include condition
8. N/A
9. N/A

Harling made a motion to continue the hearing on April 21, 2022 at 6 p.m., Second by Stein. All in favor, motion carried.

Minutes by Sliviak