

## SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

### MEETING MINUTES

**July 23<sup>rd</sup>, 2019**

#### GENERAL BUSINESS

Present: Tim Lang, Chair, Don Bormes, member, Doug Rasp, member, Glenn Fredericks, alternate, Steve Cobb, alternate, Paul Dexter, member

Paul Dexter made a motion to approve the draft minutes of 5/28. Doug Rasp seconded the motion and the motion passed unanimously.

#### New Business

a. ZBA Members – Chair Lang explained that Melissa Anderson would like to move from a full ZBA member to an alternate. He made a motion to move her to an alternate position, and move Glenn Fredericks to a full member. Paul Dexter seconded the motion and the motion passed unanimously.

#### PUBLIC HEARINGS

Chair Lang re-ordered the agenda as the public hearing for a variance would likely be shorter than an appeal. Glenn Fredericks was seated as voting member in place of Melissa Anderson.

**2019-6: Application for Zoning Variance (2019-6) – Sanbornton Zoning Ordinance Article 15, Section F.1(b) - Applicant: Alden Beauchemin on behalf of Walter Tyson (current owner) and Paul and Suzanne Diulio (pending ownership), Hueber Dr., Tax Map 3/Lot 149.** Alden Beauchemin explained that his clients are seeking construction of a building 25' from wetlands and a septic system 75' from wetlands, whereas a minimum setback of 75' and 100' is required, respectively, per Sanbornton's ordinance. He noted that they would meet the State's requirements for setbacks, but Sanbornton's are more restrictive. Mr. Beauchemin explained that moving the proposed building would require blasting which would cause more environmental impact than this proposed plan. He stated that this plan was discussed with the Conservation Commission earlier this month and they did not have concerns with it (noted in Conservation Commission minutes of 7/11). Abutters Tom Kerwin and Harmon Kiley stated that they had concerns about the septic system location as it is close to both of their property boundaries. Mr. Beauchemin responded that the septic location could be tweaked if needed and will speak with abutters about this issue. Chair Lang made a motion to continue this public hearing to the August ZBA meeting to give him time to do this; Paul Dexter seconded the motion and the motion passed unanimously.

**2019-5: Application for Appeal - Applicant: Tara Stewart & Stuart Westlake-Toms, 12 Davis Rd, Tax Map 10/Lot 116. Applicant seeks appeal of Planning Board denial of site plan application to host events at their farm in accordance with NH RSA 674:32.** Tara Stewart explained that the application to host agritourism events at her farm at 12 Davis Rd was denied by the Planning Board; the Planning Board stated that "the proposed events venue is not an accessory use to the primary farm operation". She explained that the Planning Board made an unlawful use determination which is normally reserved for the ZBA, and that the decision is contrary to the Right to Farm provision in Sanbornton's ordinance and to the agritourism statute set by the State. The farm is currently growing blueberries and vegetables, raises alpacas and chickens, sells wood ash and firewood, and recently started growing hydroponic tomatoes. She explained that she is willing to exclude weddings from the plan and would do corporate events and parties up to 100 people in the barn on the property. The site plan provided to the Planning Board included information about noise levels, off-street parking in paddocks, lighting, etc.; Chair Lang noted that the ZBA will only be deciding if the proposed use is allowed or not, not the merits of the site plan, though they can make recommendations to the Planning Board.

Abutter Richard Mills stated that he spoke with the Commissioner of Agriculture and was told that agritourism events could not make more money than farming as it needs to be accessory to the primary use of the land. He is worried about event goers parking in the road and stated that this happened recently. Abutter Terese Trepanier explained that she can clearly hear noise from events at the farm and that having events venue next door would impact the sale of her home. She doesn't feel that there is enough farming taking place to host events, and she has spoken with the Commissioner of Agriculture as well and was told that the Town can ask for proof of income from events and farming from the property owner. Chair Lang stated that he does not think the Town can ask for that information. Ms. Trepanier also stated that she does not think that 100 people would be contained in a barn during a summer event. Claire Mills explained that there is a buffer of trees on her property and she would worry about being able to see events if she cut wanted to cut those trees in the future. George Boyer of 258 Upper Bay Rd stated that there have been weddings held at the farm in the past and these did not affect him though he did see slightly more traffic. He said that he does see the applicants working on the farm every day and reminded the ZBA that KREBS Farm had a similar proposal several years ago which was approved. Chair Lang asked how many events would be held at the farm, and Ms. Stewart responded that there will be very few and if the farm is not producing anything then there will be no events held during that time.

Paul Dexter stated that this farm is just starting out and he does not think the intention of the RSA is to begin with agritourism as the primary objective of a farm. Chair Lang explained that the Agritourism RSA was created to help farms to gain revenue while preserving green space; he noted that this farm currently meets 4 of the 11 definitions for a "farm" according to RSA 21:34-a but they only need to meet one. Don Bormes noted that the ZBA already approved one agritourism events venue at KREBS Farm several years ago; he noted that income gained from farming versus from events can no longer used as a benchmark for determining accessory use. Steve Cobb stated that he feels the ZBA needs to decide if this level of farming is primary or accessory use, as the Planning Board decided it was not. Chair Lang noted that he feels the language in the RSA is a matter of perception and "accessory" could mean a small area of the property itself being used for events rather than farming. Doug Rasp suggested that an appeal be granted to allow for events but could require review every several years to make sure that events are still accessory to farming; Chair Lang responded that the appeal could be granted with recommendations made to the Planning Board for their site plan review process as was done with the KREBS Farm proposal. Glenn Fredericks noted that RSA 674 has a non-exhaustive list of events that are permitted as agritourism.

The Board discussed what "accessory" is defined as, as the legislature removed a dollar amount threshold from the RSA in 2016, so it could be related to days in a year used for events, time spent farming versus hosting events, or percentage of land used for farming versus events. Through discussion, the members agree that Ms. Stewart's plan would constitute an "accessory use". Don Bormes made a motion to appeal the decision of the Planning Board and to allow for agritourism events at 12 Davis Rd as the property qualifies as a farm, meeting 4 of the 11 definitions of farming under RSA 22:34-a. Paul Dexter seconded the motion and the motion passed unanimously. The decision will be relayed to Town Planning Assistant Steve Laurin by Audry Barriault. Tara Stewart noted that she has heard the concerns of abutters and will be adjusting the site plan accordingly.

**Meeting adjourned at 8:50pm.**

Respectfully submitted, Audry Barriault