

Minutes approved at the August 21, 2017 meeting.

**MINUTES  
GILFORD PLANNING BOARD  
MONDAY  
AUGUST 7, 2017  
CONFERENCE ROOM A  
7:00 P.M.**

The Gilford Planning Board met in regular session on Monday, August 7, 2017, at 7:00 p.m. in Conference Room A of the Gilford Town Hall.

Chair Wayne Hall the Pledge of Allegiance, welcomed everyone, read the rules of procedure and introduced Board members and staff.

Planning Board Members in attendance were Chair Wayne Hall; Vice Chair Carolyn Scattergood; Secretary Richard Vaillancourt; Selectmen's Representative Richard Grenier; Regular Members Richard Egan, William Johnson and Jack Landow; and Alternate Emily Drake.

Member absent was Alternate Isaac Howe.

Also present was John Ayer, Planning Director and Sandra Hart, Technical Assistant.

**1. PUBLIC HEARINGS**

- 1.1 ANDREW HOWE** – Applicant proposes to host “farm-to-table dinners” and Agritourism activities at 285 Gunstock Hill Road on Tax Map & Lot #225-001.100 in the Single Family Residential (SFR) Zone. Site Plan Review. Application #2017000259. **Tabled from the July 17, 2017 meeting.**

Motion made by C. Scattergood, seconded by R. Vaillancourt, to take the application off the table. Motion carried.

Presentation

Attorney Ethan Wood of Patrick Wood Law Office represented Andrew Howe and he displayed the proposed site plan for everyone. He said that he address the questions and concerns the Board had at the last meeting. He reviewed J. Ayer's report on these questions in the staff report. He the ordinance is clear that agritourism events can continue until 10 p.m. but said even in the summer it is dark by that time. He said they would like to have downcast lightning only for the events. He said and there will be some lighting required when it's dark. He said the ordinance says “artificial lighting” so they propose tiki torches or something similar to light the way so that people can find their way. He said they also understand that there should be emergency lighting and that will only be on during an emergency situation so that everyone is safe.

J. Landow said that he was looking at the staff report and he didn't know if tiki torches fall under the term “general lighting”. E. Wood said that he is not sure what “general lighting” may mean, but it is OK with the NH Society for the Protection of Forests.

W. Hall wanted to know if it was all run by a generator. E. Wood said it was.

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J. Ayer said that the term general lighting is what would typically be around the building and parking lot. He said once the sun goes down it would be nice to have lighting around a building so that people can safely walk around it. E. Wood said that his clients would like to have very unobtrusive lighting.

W. Johnson asked if the fire department is OK with generator power and would that be appropriate in the case of emergency. J. Ayer said that they are aware that they will be using a generator.

W. Hall said another option besides tiki torches might be solar lights. E. Wood said that he thought his clients would be fine with solar lights as well. J. Ayer said that there would also normally be lighting between where the event is to where the portable toilets are so people can safely find their way. W. Johnson said that maybe flashlights should be made available.

J. Landow asked where the bus pick up location would be and E. Wood explained that it would be at the end of the farm road and showed on the plan.

C. Scattergood said that she had been thinking about this a lot over the last few weeks and there are many houses with lighting from the house to the barn without objections at all, so she's not sure why it's such a huge deal other than that is in the ordinance, because everyone in town has lighting to their barn or garage. E. Wood agreed.

R. Egan said as a follow up to C. Scattergood's comment, wouldn't excessive lighting be an issue in the town's nuisance policy. J. Ayer said he is not sure about the new town ordinance addressing nuisances, but Article 6 of the Zoning Ordinance addresses them. He read Section 6.2, Nuisances, and also the definition of agritourism. R. Egan said that he agrees that most homes have this, so why not here.

C. Scattergood said that another thing to think about is that this is only going to be used a couple of months out of the year for agritourism. If this wasn't a venue for agritourism any lighting would be allowed here. She said lighting should be to the barn so they can use it in the winter as well.

J. Landow said the generator running all the time could become a nuisance as well. C. Scattergood said that her neighbor has one and she can barely hear it and they are much closer than this would be. R. Vaillancourt asked where the generator would be located. E. Wood said that it would be located behind the barn near the southeast corner and the barn is almost 900 feet from the nearest abutter.

E. Wood said the Board has already said that this site plan is materially different from the earlier one. He said they aren't looking to have two site plans for this project and this is significantly different and much less intrusive to all of the surrounding properties than the first proposal. So, it's really much more compact and coming in under the new ordinance.

J. Ayer pointed out that Town Counsel had recommended that the Planning Board require, as a condition of approval, that the new site plan would supersede the old one.

J. Landow asked if this Board says yes will this go to litigation. E. Wood said that they anticipate that there may be an objection if this site plan is approved. C. Scattergood said that she thought that one site plan had to supersede the other. E. Wood said that they are both different site plans. The use may be the same, but this is materially different from the first application.

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C. Scattergood said that she disagrees that the new site plan wouldn't supersede the old site plan. J. Ayer said he disagrees as well and said that it was Town Counsel who recommended the condition of approval to specifically state that the new site plan would supersede the old site plan. J. Ayer read the recommended condition for everyone. E. Wood said that he can't guarantee what other people will do, but it would be premature to say that the other site plan would become invalid. W. Hall explained that the other site plan was several parcels of land, and this site plan is for one parcel. E. Wood said that this is coming in under the new ordinance and has material different conditions as far as the number of events, lighting, etc. W. Hall said that you have to pick and choose which one you want to exercise. E. Wood said that when they get a final decision they will notify the Board.

W. Johnson asked if the first application would come back before the Board. J. Ayer said it would not unless the judge, for some reason, remanded it back to the Planning Board.

E. Wood said question 3 is about the Board wanting to review the conditions of approval of the earlier approval. He said it is his understanding that they have been provided for the Board's review.

E. Wood said question 4 is about the site access on the curve and will buses have a problem there. He said that they would have about five school buses, but they will have someone out there to direct traffic. He said they are committed to making sure that someone is out there. R. Vaillancourt asked if a turnaround would be built for the buses. E. Wood said that they aren't building any more road, but they will turn around at the end of the farm road in an empty field, which he explained.

J. Landow asked if it would be a family member or a police officer directing traffic. He said he would hope that this person would have some experience in directing traffic. E. Wood said that we are talking about 4-5 buses coming in and going out and perhaps a small number of other vehicles, but three won't be a lot of traffic. R. Egan said he understands there will be someone out there with a flag at 6 p.m., but how will it work closer to 10 p.m. when it is dark. E. Wood said that there would be a limited number of vehicles, so maybe they would have a flashlight. He said they don't envision a lot of traffic at 10 p.m.

R. Egan said that it would be difficult for a school bus coming down that hill making a right hand turn. E. Wood said that the road has been widened (apparently referring to some tree trimming that has occurred recently along the road).

C. Scattergood asked if there is a power pole out there with a light on it. E. Wood said there is not. C. Scattergood pointed out that there are many places in town where the site distance is horrible at night, but we manage. A. Howe said that there is no pole, but they will do whatever it takes to make sure that it's safe. R. Grenier said that it may be safer at night just because you can see headlights of approaching vehicles.

E. Wood said that question 5, asking if the intent of the new Agritourism statute was to allow both public and private events or public events only, has been answered noting that it said it was intended for both types of activities. J. Ayer said that as he thought about this since the previous meeting, he noted that even land owned by the public (Town-owned land) can be reserved for and used exclusively by private groups.

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E. Wood said that he wanted to address parking. He said that it is one of the differences about the plan because they aren't using the field for parking. He said that at this time they would like to update this plan to show 100 parking spaces on this plan, but he stated that their intention would be to not use the parking area at all. He said it would cover the Town's site plan regulations to have parking.

R. Egan asked if the easement would allow for parking. E. Wood said that the Town of Gilford wouldn't be able to police that. It's up to the owners of the easement. R. Egan said that E. Wood previously brought up the easement saying that it prohibits sewer and power. He asked again if it prohibits parking.

E. Wood said that the easement doesn't expressly prohibit parking. He said they interpret the easement to say that. It's something to work with them on, but they don't ever intend on using that parking area. If the easement holder said that this is an issue, then they would work with them on it, and if that easement goes away, then the Town can go ahead and tax them on that.

J. Landow said that one of the previous discussions was that there wasn't going to be any parking which contributed to this being a substantially different application, but now we have parking proposed. E. Wood said that your ordinance requires parking.

W. Johnson said that he understands the intent of showing the parking, but couldn't someone say that they're going to put something in a site but have no intention of actually putting it in. J. Ayer said that when they show it on a site plan they're supposed to develop what they show on the site plan.

J. Ayer said this proposal is unacceptable on its face because the applicant has said over and over that parking is not allowed on this site by the easement. In fact, the reason given by the applicant for the parking waiver request is that parking is prohibited by the conservation easement. In the two cases where the Board has allowed busing or shuttles, they have been allowed only because the applicant has shown the ability to provide parking on site and the parking could actually be used as shown. In this case, the applicant couldn't have vehicles parked there if it wanted to. The Town requires providing the parking or a variance from the requirement.

J. Landow asked what if the Society says no.

W. Johnson asked if the town requires them to have parking or show parking. J. Ayer said that parking has to be provided.

C. Scattergood said that it seems that the plan as submitted shows no parking and if the applicant is able to renegotiate the easement, then he can come back and amend the site plan.

E. Wood said it is not the Town that is prohibiting the parking. He said the ordinance never requires that the parking be used. C. Scattergood said that if you were going to propose the parking you would be required to show us that it is OK to use that property and we have to know that it is allowed. J. Landow said that we need to know whether the easement holder will allow that before we pursue this.

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Chan Eddy, Chestnut Drive, said point of order and asked if the Board could still approve it conditionally. R. Grenier said that at the July meeting the applicant presented a plan without parking to reduce impacts on the neighborhood, and now the applicant is proposing to amend the plan to show parking. R. Grenier said he is concerned if the applicant wins in court and then goes back and offends everyone.

E. Wood said it is hard to know which plan will be used. The first one may win on appeal and someone may file an appeal on this one. He said but when one is finalized, that's the one they will use, and they will withdraw one of them. R. Grenier said that if this plan is so much better, why not drop the first one.

J. Ayer said that similar to a condition in the original approval, the Board could require a condition of approval to have the easement revised within 60 days so it would allow parking. If it isn't done within 60 days then the approval would be void.

E. Wood said that they would be happy if the Board wanted to make that a condition of approval, but they would request very specific wording because the easement doesn't actually say parking is not allowed. It's the Society who interprets the easement to say that. He said they don't ever want to park there and they will make their easement holder aware of that. J. Ayer said that it's kind of what the Planning Board would need, but didn't know how it would work.

E. Wood said that the site plan requires parking spaces, so a letter from the easement holder saying that they understand that no one will ever park here would need to be submitted. W. Hall said that doesn't really answer the question. C. Scattergood said that it sounds like this is an attempt to make sure that you don't have to go for a variance that you might not get. E. Wood said that they can't speak for other boards but if the Planning Board approves this without parking, then they will have to go to the Zoning Board for a parking variance.

J. Landow said that there will probably also be some people who will get dropped off by someone other than the bus. E. Wood said that they can't prevent anyone from walking there or getting dropped off on their own.

J. Ayer said while the Board may not enforce the conservation easement, it enforces the Town's laws and if the Board were to allow the parking now proposed by the applicant, it could require that the applicant allow guests to use the parking as it is shown on the plan. If guest parking is shown on the site plan, it must be provided on site and available for use by guests. They may have an arrangement for something else such as buses, but if someone wanted to drive there, it doesn't seem as though they could legally be denied the opportunity to park there since it's part of the approved site plan.

W. Hall said that this is a different type of use. It's different from a store or another use that is open every day. J. Landow said that if there are 20 events, that's one a weekend.

R. Egan said that if they have a barn what's to stop them from using it year round. J. Landow said it isn't heated.

W. Hall said that they could have remote parking. J. Ayer said with the original application they provided remote parking and the Board made a recommendation that they provide a shuttle service. He read the condition of approval that addressed the shuttle service. J. Ayer noted,

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however, that one of the reasons that this second application was found to be materially different from the earlier one was that no parking was proposed, so if parking is proposed now, the question should be is it still a substantially different application. If it is not still substantially different, can the Board hear it.

E. Wood said that they don't parking along the road and they don't want anyone parking on site.

R. Vaillancourt asked if the road at the turn into the farm had a history of washing out which would make it difficult go over the gully. A. Howe said no.

E. Wood noted that they have identified all of the waivers that they are requesting.

Public Input

W. Hall asked if there were any members of the public who wished to speak.

Bill Seed of 177 Gunstock Hill Road said that regarding the easement, there are deeds that Andy Howe's parents executed that are available at the Registry of Deeds which say no commercial uses can be conducted. At what point are these deeds considered changed when commercial uses are proposed. He said they don't have the right to change those deeds. He said he discussed it with the Society and they wanted to see where the litigation ends up. B. Seed wanted to know how much money is made from farming and how much from agritourism and said that Timber Hill Farm doesn't have much today in agricultural production and agritourism is supposed to be accessory to the agricultural operation. This use at Timber Hill Farm is primarily to hold functions and not to support the farming operation. B. Seed said if this is put in place how much of that land will continue to be used as agricultural. He said he supports agritourism and agriculture, but he doesn't support this.

C. Scattergood said that the Board did not feel the dollar amounts and figures were appropriate and weren't going to talk about that.

A. Howe said that every square inch of the lot is being used for agriculture and that his main income comes from agriculture. He said that there is far more agricultural activity on and income from that property than there will ever will be with agritourism. He explained each agricultural use of the property.

B. Seed said that he did see some squash, and cattle, but the Board should take a look at it because he didn't see that it was all being used.

Bob Pomoroy of 231 Gunstock Hill Road said is this agritourism if it is attracting visitors for the purpose of eating a meal and he read the definition. He doesn't see that there is a difference from the earlier application. The venue is exactly in the same spot and it's not materially different and that's going to be an issue. The safety of the road could be an issue, but busing is great and an improvement. They are talking about having 20 of these events all summer and that's every weekend. He's not denying anyone of have a wedding. He said a judge has twice sided with Mrs. Twomey and asked if everyone wants to go down this road again. He said one can see that the neighbors are not excited about his plan and Board members wouldn't be either if they lived on this road.

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Ryan Crawford 232 Gunstock Hill Road said that weddings are not agritourism. He said he is in the coalition for the neighborhood and referred to the state's definition of agritourism. He said the word wedding was intentionally not put into the wording of the bill. He also reported that Isaac Howe said at a hearing on the legislation that agritourism would be the primary income for this property. He said they want to remove local control and they want to remove the Planning Board process from this and if that was so then we wouldn't be here right now. He said that A. Howe has tried every way to get this passed and if this was straight forward, then it would be clear to see that it was something that would be allowed. He said that they said the road was fine to handle the buses, but you wouldn't believe the amount of work that goes into making a road and there is no way you should allow buses down there. He said at the last meeting the applicant's attorney wasn't present and there seem to be many differences from what his attorney has said tonight and what was said at the last meeting. He said it seems like the Board is pushing for this and it is not the right thing to do. None of you would ever want to have this in your neighborhood.

Bob Pomeroy, Gunstock Hill Road, said that there were a few things the town voted on regarding this property which were not approved. He said they were turned down emphatically.

Monique Twomey of 255 Gunstock Hill Road asked what does the third party mean that was added to the zoning amendment. She said that she is in favor of agritourism and agriculture, but that she doesn't believe that alcohol and music fall under that.

W. Hall explained that the difference would be who's in charge of the event.

M. Twomey said that she is still concerned about that and to her they would need to get a liquor license. W. Hall explained that the land owner has to maintain control, but that a third party would have a contract with the owner. It may not be the best wording, but we were trying to protect the community. M. Twomey asked if the Howes could hire someone to serve alcohol. W. Hall said that anyone can hire anyone to do that. M. Twomey said that it is her opinion that it's not agriculture.

Stephen Legro of 299 Gunstock Hill Road said that not the entire neighborhood is against this and he sees that the agriculture is progressing, things are changing and we need to let them evolve. He asked who will take care of the property if the Howes are not successful there. He has seen A. Howe out there and he has cut hay twice this year. He said that when he was purchasing his property he asked if he could post no trespassing signs and he was told he can. He does not want a buffer and he wants them to continue to take care of the land.

R. Grenier said that if the requirement is that there be a 50 foot buffer, can a neighbor say that he doesn't want it there or is it required to be there. J. Ayer read what the ordinance requires. J. Ayer said the Board would determine if the buffer that's provided satisfies these requirements.

W. Hall asked what if the two parcels are in different zones. J. Ayer said both lots are zoned residential and said agriculture and agritourism uses were not likely taken into consideration when the buffer ordinance was being reviewed.

B. Crawford said that if Mr. Legro was there when Mr. Howe hosted weddings temporarily with a tent, he might understand the issues and impacts of having weddings at this site.

B. Pomeroy reviewed the definition of agritourism. He asked if the Board is saying that if Mr. Howe provides alcohol he can hire someone to serve it, etc. and it is still considered his responsibility. W. Hall explained what they envisioned. B. Pomeroy asked, do we envision anyone else having weddings with 250 people on any other conversation land.

J. Ayer read from the May 15, 2017 Planning Board minutes what the Board discussed relative to the meaning of “third party”. He said the determination was that if the farmer is in control of the alcohol and music then they are permitted as long as it relates to agritourism. He said regarding parking that if they do provide parking, there is a note on the plan that will need to be modified to reflect the change.

A. Howe said he would like to address a couple of things. One is that this use is on 8 acres of land. They call this the Gully Field because it is in the center of the property and lower than surrounding areas, and if you stand in the middle of that parcel you can’t see anything and it is the best place to do this activity. He said they have done a lot of things to address all of the problems. The barn will be insulated so that the sound won’t go through it. He explained how far they were from everyone in the area. The farm is the farm and agritourism is not going to be the primary income. He said the guests will be eating food from the farm and emphasized that it’s all about agriculture.

R. Vaillancourt asked what the time table for the events would be. A. Howe said that they would be held between June and October.

R. Vaillancourt said that some of us have been on a site visit here but there are new members and they may benefit from going on one as well.

R. Grenier asked how much of the field will be used and A. Howe explained the area to everyone.

W. Hall closed the public hearing and moved on to item #2.

- 1.2 WINTER HARBOR YACHT CLUB, INC. C/O RICHARD LETENDRE** – Applicant proposes to amend the site plan to make an addition of approximately 470 square feet at the rear of the existing club house building on property located at 42 Welch Island on Tax Map & Lot #249-007.000 in the Island Residential (IR) Zone. Amended Site Plan Review. Application #2017000304.

J. Ayer said that the application was complete, but that there are a number of waivers that will need to be granted as well and the Board will want to reserve the right to address those later. Motion made by C. Scattergood, seconded by R. Egan, to accept the application as complete. Motion carried.

### Presentation

Richard Letendre, applicant, said that he has been a member of the Winter Harbor Yacht Club since 1978 and there are 26 families and they’ve had a club house there for a long time. He explained that they have a couple of bathrooms, a dining room and a kitchen and a good septic system on 43 acres. He said they are planning to build a small addition onto the back of the club house. The addition consists of an expansion of the kitchen by 6 feet and adding a couple of showers. The showers will be moved inside from the current outbuildings, which will be removed. R. Letendre went over the waivers that they are requesting.

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W. Hall asked if they had applied for a wetlands Permit by Notification. R. Letendre said the application has been completed and it's in the process, and that's being handled by Jon Rokeh.

R. Egan asked about the outbuildings being removed. R. Letendre said they will be tearing those down and putting what's in them inside the addition. R. Egan said there isn't any change from those outbuildings. R. Letendre said they are taking two showers out and putting two showers in.

J. Ayer said he discussed the waivers with J. Rokeh and said the letter addressing them explains that these waivers are for checklist items that are essentially not needed for the application. W. Hall asked if the waivers were squared away. J. Ayer said he sees no issue with these waivers.

### Public Input

W. Hall asked if any members of the public wished to speak. Hearing none W. Hall closed the public hearing.

## **2. ACTION ON ABOVE**

W. Hall said the Board would vote on the second application first.

### **1.2 WINTER HARBOR YACHT CLUB, INC. C/O RICHARD LETENDRE**

Motion made by C. Scattergood, seconded by R. Vaillancourt, to grant the following waivers as requested:

- Item 11 and 12 – Wetland and Land surveyor stamps
- Item 15 – Buildable Area
- Item 16 – Overlay zones
- Item 17 -- Signs
- Item 18 – Building setback lines
- Item 19 – Existing and proposed lot lines
- Item 20 -- Benchmarks
- Item 21 – Survey Monuments
- Item 22 -- Contours
- Item 23 – Steep Slopes
- Item 24 – Areas at or above critical elevation
- Item 25 – Error of closure statement

Motion carried with all in favor.

### Motion

Motion made by R. Vaillancourt, seconded by C. Scattergood, to approve the application subject to the applicant obtaining any other federal, state, or local approvals that may be required. Motion carried with all in favor.

## **1.1 ANDREW HOWE**

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C. Scattergood said that when she walked into the meeting today she thought the applicant would have to go to the ZBA to get a variance for parking. She said the Board can't assume that the conservation easement is going to change to allow parking so an approval would have to be made subject to that happening. W. Hall said that either the easement needs to allow the parking or they need to get a variance. R. Egan asked why a variance would be acceptable if they didn't get an easement, they are two different things. E. Wood explained that if they go to the ZBA to get a variance it would be because they don't have parking.

C. Scattergood said that if the ZBA doesn't grant a parking variance, that means that this application can't go forward any further even if the Board approves it subject to the variance. It would be null and void.

R. Grenier asked in the event that the first plan the Board approved under the old ordinance gets upheld in court, would it still be under the old ordinance. C. Scattergood said it would be.

J. Landow said the agritourism definition is very clear. If the Board is trying to approve this under agritourism, all of it must be followed.

C. Scattergood said if the ordinance allows events to go until 10 p.m., what were we thinking not allowing the lighting. J. Landow said then it just means that they would have to be limited to daylight hours. You can call it whatever you want, but it is still lighting and it says "shall not have it" and this entire proposal is under agritourism.

C. Scattergood said the definition includes allowing serving a meal which meets the proposed use. J. Landow said that he has an issue with that because what is proposed here is still a wedding venue and they are going to enjoy the wedding and it doesn't matter where the wedding will be, the guests will go because it is a wedding reception. He said it is not the farm operations, or education, or the farm environment they are going for, they are going for the event itself. C. Scattergood said it is the people who are contracting with the Howe's who are choosing to have a meal at the farm for the farm environment, and so therefore that is agritourism.

R. Vaillancourt said that the farm atmosphere as part of the wedding event. J. Landow said that to him it is a commercial enterprise. He said it is a wedding venue that happens to be on a farm and he thinks it doesn't fit the definition of agritourism.

W. Johnson said that his issues are with regard to the lighting and the bad corner on the road. C. Scattergood said that if the Board were to approve this without lighting then they would have a problem as far as a safety issue, or they could hold the events during the day. R. Egan said that the town requires lighting for safety but the tourism definition does not allow lights.

R. Grenier said back in 2016 he voted yes on the original site plan, but in light of the two ordinance amendments that were passed at town meeting, he said the new site plan doesn't meet the requirement and he said he is going to vote no.

W. Hall said that lighting is a big issue for him as well. R. Grenier said that even the music and alcohol are issues. W. Johnson said that if lighting is not allowed, then everyone has to be out of the event safely before dark, so it's the people running the event that have to make sure of that.

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R. Vaillancourt said that he didn't think people understood some of the changes made. C. Scattergood said that may be so, but the Board is stuck with the ordinance as it is written.

J. Landow said that if there is any conflict with other ordinances this ordinance prevails. R. Grenier said that he did vote yes the first time, but the new application does not meet the requirements of the ordinance.

C. Scattergood said that she voted no last time, however there is a problem with the parking. She said the Board should not toy with any proposed parking. She has changed her mind as to the agritourism, but the problem is that they can't do anything at night.

R. Grenier said that in his mind these are not visitors, because you would need to have parking. C. Scattergood said that the people are attracted to the ambiance of the farm. J. Landow said that they can't have it open to the public for visitors, because they have no parking.

W. Hall said that the Board is hung up on parking and lighting. He said he is not sure that we have the right answers. He said the Board can add conditions, but he is concerned about the lighting. J. Landow said that if someone is going to the portable potty there won't be any lighting to help them find their way. W. Johnson said that they would probably have the nicer type of portable toilets that have inside lighting. C. Scattergood said that they just won't use the property after dark. W. Johnson said that you can light the inside of the tent the barn but not outside area.

### Motion

Motion made by R. Vaillancourt, seconded by C. Scattergood, to approve the waivers requested as follows:

- #2 – Sheet Numbering – There is only one sheet of the site plan.
- #4 – Legend – The plan is a compilation of 3 plans and there was no single legend.
- #6 – Sheet Index – The plan is only one sheet.
- #11 – Stamp & Signature of Wetland/Soil Scientist – There is no wetlands on the plan.
- #15 – Identify Buildable Area – The lot is in excess of 180 acres, this expense was prohibitive. There are no buildings allowed other than agricultural buildings.
- #16 – Show Overlay Zones – The building site is located on ledge and the balance of the soils are protected by conservation easement, including mineral rights.
- #19 – Show Each Lot – Not a subdivision.
- #20 – Show Benchmarks – Benchmarks on certified plans (attached).
- #21 – Locate Survey Monuments – On certified survey.
- #22 – Show Contour Lines – Not applicable.
- #23 – Label Steep Slope Areas – None.
- #24 – Areas Above Critical Elevation – Not pertinent.
- #31 – Parking – Parking prohibited by easement.
- #32 – Site drainage – No significant alteration of existing farm land.
- #33 – Conservation Commission Review – No changes to topography.
- #34 – Identify any Land for Public Use – Privately conserved land.
- #36 – Future development – No development allowed.
- #37 – Flood plain data – No flood plain on property.
- #39 – Provide Overall Percentage of Lot Coverage – Lot coverage is minimal in respect to overall lot size.
- #41 – Provide a Landscape Plan – Financially prohibitive – Agricultural use, lot over 180 acres.

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E. Wood said that the easement doesn't specifically prohibit parking but they would need approval from the Society to allow parking. It wouldn't require a new easement, so it would be up to the Society to enforce the easement.

C. Scattergood explained the difference with the parking addition for tonight's meeting.

Motion carried with R. Egan opposed.

Motion made by C. Scattergood, seconded by D. Vaillancourt, to continue the discussion and extend the meeting past 10:00 p.m. Motion carried with all in favor.

Motion

Motion made by C. Scattergood, seconded by R. Vaillancourt to approve the application subject to the following conditions.

- A. The applicant shall obtain variances from the pertinent sections of the Gilford Zoning Ordinance which require providing adequate off-street parking. Failure to obtain the necessary variances for parking shall void this approval.
- B. The location allowed for the temporary tent shall be on the site of the proposed barn only.
- C. The applicant shall remain in control of alcohol service and amplified music at all times.
- D. Adequate toilet and trash facilities shall be provided for each event. Removal of toilet and trash receptacles shall occur within 48 hours of the end of any event.
- E. For all events, the owner shall request that the Police Department evaluate the need for traffic control personnel and/or security personnel in sufficient time for the Police Department to arrange to provide such personnel, if needed. All traffic control and security personnel shall be retained at the owner's expense. The owner shall be responsible for providing all necessary traffic control and security personnel throughout any event.
- F. When events are happening in proximity of the pond, a temporary barrier is required around the pond to prevent accidental falling in to the pond. The fence may be removed when the event is over.
- G. The site plan approved with this I shall supersede and make null and void the site plan previously approved for this site on February 8, 2016 for Andrew and Martina Howe.
- H. A screen complying with the definition of Screen or Screening in Article 3 is found to be adequate, as it exists.
- I. If necessary the applicant shall obtain a variance from Article 3
- J. The applicant shall obtain any other federal, state, or local approvals that may be required.

The motion failed 2-3-1. In favor of the motion were C. Scattergood and R. Vaillancourt, opposed were J. Landow, R. Egan and R. Grenier with W. Johnson abstaining.

J. Ayer explained that this motion didn't pass, so another motion would need to be made. J. Ayer said it is the Planning Board's practice to decide an application with a vote in the affirmative, either to approve or to deny an application. C. Scattergood said that somebody could vote to deny the application under another motion. Discussion ensued about whether the failure of the motion to approve resulted in denial of the application. J. Ayer said it did not. He obtained the Planning Board's bylaws and read the provision requiring motions to be voted on in the affirmative.

R. Egan said that he has a problem with the parking and he is not clear on that. J. Landow said that he has a problem with parking and lighting and he's trying to look at things logically. C.

## Minutes approved at the August 21, 2017 meeting.

Scattergood said that if we don't put that in, it still means that they can get a variance and if they don't get the variance it will become null and void. Discussion ensued.

C. Scattergood said just to make the parking situation clear, any plan that comes before the Board without parking would have to get a variance; but what if the parking variance is not approved by the ZBA. If they get approval from the Society to allow parking, then they would have to come back with an amended site plan to show that.

J. Landow said that he has many concerns and he's voiced all of them and his vote stands.

W. Hall said that we need another motion because the last one failed. He said it can be to deny it, table it, or another motion to approve. C. Scattergood asked what would be the purpose of tabling this now.

Motion made by R. Grenier, seconded by J. Landow, to deny the application.

The motion failed 3-4. Those in favor of the motion to deny were R. Grenier, R. Egan and J. Landow; opposed were W. Johnson, C. Scattergood and R. Vaillancourt; and W. Hall said he doesn't agree with denying the application and voted against the motion.

J. Ayer said another option would be to table this for two weeks and maybe ask town counsel for some advice since it is quite late and hard for everyone to think as clearly. W. Hall said that the issues at this hour are the interpretation of agritourism, parking and the lighting.

Motion made by W. Johnson, seconded by R. Egan, to table the application for two weeks. Only J. Landow and R. Egan were in favor.

Motion made by R. Grenier, seconded by R. Vaillancourt, to take a five minute break. Motion carried.

After the break W. Hall explained what would be needed. His suggestion would be to table it for the interpretation, lighting and parking.

Motion made by R. Grenier, seconded by W. Johnson to table the application until August 21, 2017 for purposes of discussion. Motion carried with R. Vaillancourt opposing.

R. Egan said that he thinks that the definition of agritourism meant to allow alcohol or amplified music. C. Scattergood pointed out that there is no third party. R. Egan asked if this application passes and the Supreme Court agrees with the approval of the first application, we will have two site plans and we have a condition that superseded that one. W. Hall said that the motion was made but it didn't pass. R. Egan said that one of the conditions only addresses the police being consulted with on traffic control, but should there also be something with regard to the Fire Department. R. Grenier said that the Fire Department is more concerned with size of parties (over 500 people) and not with traffic control.

### **3. OTHER BUSINESS**

There was no other business to discuss at this time.

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4. **MINUTES**

No action was taken at this time.

5. **ADJOURNMENT**

Motion made by R. Vaillancourt, seconded by R. Egan, to adjourn the meeting at 10:43 p.m.  
Motion carried.

Respectfully submitted,

Sandra Hart, Technical Assistant