



TOWN OF NEW IPSWICH

661 Turnpike Rd, New Ipswich, NH 03071

ZONING BOARD OF ADJUSTMENTS



Meeting Minutes October 12, 2023

The Zoning Board of Adjustments held a special meeting at the Town Office, 661 Turnpike Road, New Ipswich, New Hampshire, on Thursday, October 12, 2023 at 6:00 p.m.

1.) Call to Order

Chairman Walker Farrey called the meeting to order at 6:10 PM.

Present at the meeting (roll call) were Chair Walker Farrey, Member David Lage, Alternates Dwayne White, Jay Hopkins, and Brett Kivela, Madeline Osbon, Town Counsel. Staff present included Town Administrator Debbie Deaton.

a. Case ZBA-2023-09(R): Continuance of Public Hearing

Walker stated the public comment portion of the hearing was closed on September 21 and we will start the session with deliberations. Walker asked if anyone felt the need to recuse themselves. Dwayne stated he did not feel his comment is the basis for recusal. He said his comment saying he would go was referring to going to the property to see the neighbors properties, what the noise levels were so he could see each person's side better. He doesn't have any bias in this case but out of an abundance of caution, he will recuse himself to avoid holding up any further progress. Dwayne sat in the audience.

David Lage stated he doesn't feel the need to recuse himself and Ms. Clark's comments were inaccurate.

Nancy Clark stated she had two new recusal requests based on listening to the recording of the October 5th meeting. At the 1:14:18 mark when Ray Holmes was yelling at the Board about motions to recuse (Ray interjected stating he did not yell), Walker Farrey stated "If it gets remanded again, we do this all over again". Nancy emphasized "again" being the operative word. The conversation goes on at the 1:20:41, Walker states "the bias is automatic grounds for a remand so we just want to make sure we do our due diligence". Nancy goes on to say these two quotes indicate Walker Farrey is predicting there is a remand on the table and that this situation could only possibly occur if he already knew that the variance was going to be approved. At the 1:20:50 mark, Ray Holmes says "you do understand this is just a tactic for her to keep pushing this out". Dave Lage responds at the 1:20:56 mark "that's how this whole

process has been". Nancy said "this is another biased statement where Dave Lage is attacking me personally as the attorney representing the petitioners and he must recuse himself."

David said he will stand by his earlier comment and will not recuse himself. The discussion of how things happened are a matter of public information and no bias was shown.

Walker stated he feels he didn't show bias by stating procedural manners.

The Board had the application in front of them. Walker informed Jane there was less than a full 5 member board and if she wishes to proceed, she will have to have 3 members vote in the affirmative to receive approval. Jane said she is fine with 4 members.

1. The proposed use would not be contrary to the public interest because:

- David stated it is a limited part time use occurring no more than 4 times per month. The property is screened. Off street parking was accommodated in response to the neighbors' complaints about public safety. He feels the business will enhance the town by bringing people in from out of town.
- Walker said he feels it falls within the purpose of the Zoning Ordinance as far as being harmonious with the town, the applicant has provided an engineered septic plan, the parking is off street per the plan and shows water flow.
- Jay commented it would be minimal impact because it is only 144 hours per year.
- Brett said he feels a Bed & Breakfast which is allowable by Special Exception, would be more disruptive than teas. He added the character is appropriate for the Village District and the attendees would probably patronize other businesses in town and could potentially move here.

2. The use is not contrary to the spirit of the Zoning Ordinance because:

- David said the first part of the applicants response was a little off track because it was addressing a minimal impact home occupation which this business does not meet, but he could see the comparison that was trying to be made. He went on to say it meets the spirit of the ordinance because it coincides with the Master Plan which promotes small business. David added he can understand the residents of the district thinking we should keep it limited to residential use but our Zoning Ordinance allows a resident to submit an application for a variance. We can't be so narrow focused to think only residences would be allowed. He also said looking back on all of the businesses that have been in that neighborhood, this seems to fit in.
- Walker said the ordinance does not prohibit small business in Village District I. There are some uses we allow via Special Exception which are somewhat similar to this. The frequency and level of use are comparable to a place of worship which is an allowable use.
- Jay said he agreed with David and Walker.
- Brett said it would be impossible to list all possible uses in the Zoning Ordinance. Walker and David agreed. Walker said if the use is similar, it's in the same spirit.

3. Granting the variance would do substantial justice because:

- Walker stated he didn't agree with the first portion of the response of the applicant stating financial hardship but the response went on to add, and he agrees with, the cultural experience of a small business and contributes to the tax base. The community can take part in a culturally British experience.
- David commented a good point to consider is most of the people who live in Bank Village won't see this use, which is mostly inside the home and the parking area is off Currier Road. He added, having never attended a tea party, he would envision this as a quiet party with women and their children. He sees the justice to the applicant of allowing this. Her hours of operation have been narrowed from the original request. This would negate the complaint of headlights bothering neighbors. There is no injustice that outweighs the justice to the applicant. The property is well maintained and most of the activity is inside the home.
- Jay said a concern was noise but our Noise Ordinance would take care of this. He also mentioned dogs running around the neighborhood and our leash law would take care of that. He doesn't feel this would diminish the property.
- Brett added he feels this would add to the cultural value and pride of the town and the teaching of proper manners and respectfulness.

4. The proposed use would not diminish property values because:

- Jay said he has spoken to a realtor in town who stated this would not bring property values down by having a small business. Jay added this will only be 4 times per month.
- David said the applicant noted most of the activity will be inside the home and when it is outside, there will be minimal impact. There will be limited signage which will be limited by our Sign Ordinance. The signage on the day of the event will be limited to directing people to the parking area and will be removed immediately after the event. David added this property is unique because of the acreage and the historic nature of the home.
- Walker said there is a fair amount of frontage as a buffer between the applicant's home and the neighboring properties. The walking area from the parking lot to the home may be visible but it would be minimal. There is a buffer and screen which would also limit the view of the outdoor seating area.
- Brett added the improvement and upkeep of the home is necessary because of the type of business and the ambiance people expect when going to an English tea party.

5. Literal enforcement of the Zoning Ordinance would result in unnecessary hardship to the owner because the following conditions of the property distinguish it from other properties in the area:

- David said the applicant noted in their response the property consists of 36 acres of which 33 acres are in conservation. When you have that much property, it makes it unique in that area. For an "English Tea" business, he would expect the home and property to look like it does and that is one thing that makes it unique. David added the attendees can also walk through the conservation area. Brett added this is a proper use of the conservation land. David said he feels the hardship is on the applicant because the Zoning Ordinance doesn't list ~~is~~ this use specifically, but allows similar businesses by special exception.
- Walker stated it's a large parcel and even the non-conservation portion is 3 acres which is 3 times larger than the required acreage for the district. The Zoning Ordinance not listing this particular use creates a hardship because it's so similar to other allowed uses.

The property and business has been brought in line with our Zoning Ordinance and Master Plan.

- Brett mentioned in the past, this particular house was owned by the president of the bank and the vice president of the bank lived across the street. He would expect people would be gathering there regularly.

5a. No fair and substantial relationship exists to the general public purpose of the ordinance provisions and the specific application of that provision to the property because:

- Walker said requesting use for something not listed as a Special Exception just because the use isn't specifically listed happens all the time. This property is unique and appropriate for this use and it wouldn't be fair to disallow it.

- David added we are able to accept this because there are such similar uses allowed by Special Exception and not to would be unfair to the applicant.

5b.This is a reasonable use and does not alter the character of the neighborhood because:

- David stated it maintains the character of the Village District, there is limited use so it doesn't take away from the neighborhood.

- Walker added it is working in conjunction with the character of the district, the curb appeal, the uniqueness of the property. He considers it a reasonable use for that location and does not alter the character of the neighborhood. Jay agreed.

David said the application met the 5 criteria and he would like to make a motion to approve the variance. Walker said he would prefer to discuss the conditions of the approval first because the approval goes with the land and these things need to be considered.

The Board agreed on the following conditions:

1. Silver Scones Teas shall operate no more than 4 days per month as outlined in NH RSA 143, A:3 V.
2. Silver Scone Teas operate as an "Occasional Food Service Establishment" as defined in NH RSA 143, A:3 V.
3. The operating hours shall be from 9:00 am to 6:00 pm on any day of the week but limited to 4 days per month pursuant to NH RSA 143, A:3 V.
4. Each tea party shall have no more than 50 guests. If multiple events are held on the same date, total guests per day shall not exceed 50 guests.
5. The business shall primarily take place inside the residence except in summer when tables and chairs shall be set up in the back courtyard area behind the house. An existing or improved vegetative buffer shall screen the public view. No tables or chairs shall be set up in the front or side yard bordering River Road or Currier Road during tea parties.
6. Guests of the tea parties shall not park on the Monadnock Conservancy easement.
7. Off road parking will be required.
8. The interior conditions required by the Fire Chief and Code Enforcement must be met.
9. This approval shall be for tea party events only.
10. Temporary signage to guide parking to the lot shall be removed immediately after the event has ended.

11. This variance does not include any relief from wetland setback requirements that may be necessary per drawing SP-1 dated 5/31/23 as prepared by Fieldstone Engineering PLC.

Walker said he feels the conditions fit in with the Zoning Ordinance.

David made a motion to approve the application in accordance with the conditions discussed. Jay seconded the motion and it passed unanimously. (4 in favor 0 against)

Adjournment There being no further business to come before the zoning board of adjustments, David motioned to adjourn the meeting at 7:54 p.m. Jay seconded the motion and it passed unanimously.

Respectfully Submitted,

Debbie Deaton
Town Administrator