

## **BOARD OF ADJUSTMENT**

**September 6, 2022**

## **MEMORIAL BUILDING**

**7:00 P.M.**

Zoning Members present: Susan Chiarella, Cody Patten, Bryan O'Day and Rob Thorp and Tanner Jacques

Also present: Jonathan Silver, Roy Tilsley, Anthony Pavarati, Matthew Ruppel, Greg Aucoin, Lori DeConick, Courtney Herz, Barbara McKelvy, Tyler Geno, Kenneth Jacques, Richard Gendl, Poul Heilmann, Eugenia Snyder, Beth Sulleberger, Kristine Wooten, Steven Dzubak, Sandy Burke, Sidum Li, Cynthia Kelsey, Dave Twombly, Peter Tourin, Jean Twombly and Whit Smith

Susan called the meeting to order at 7:00 p.m. Asked for a Roll Call all Board members were present.

Minutes of Aug 2<sup>nd</sup> were reviewed. Bryan moved to accept minutes as written, Rob seconded Board voted to accept.

Susan asked if all Board members had read the letter written by Selectman Poul Heilmann on behalf of the Select Board. She asked for thoughts on the subject, treating each Short-Term Rental of Guest Facilities Business Special Exception hearing equally and if conditions are attached, they are consistent. Tanner and Rob both voiced their agreement that consistency is important. Bryan pointed out that the August hearing was done using the smallest Board legally possible. Susan asked Whit if past approved Special Exception applicants have visited Planning and obtained the required Site Plan approval. Whit replied that Planning is working to update their Site Plan Checklist to assist in working through Site Plan for Short-Term Rental of Guest Facilities Business equally. Approval should be this month and the first applicants who want to work with the Town should be heard in October. Susan recognized Richard Hendl who reiterated that the Select Board were concerned that the two previous hearings were identical and one had conditions placed on it while the other had none. The Select Board were concerned that the two properties were not treated the equally.

Susan addressed the audience stating that due to the amount of business before the Board all comments, concerns and questions would be directed to the Board only. She then stated to the Board that the meeting would end at 10pm, asking for a vote of agreement. All agreed.

Susan opened the hearing for TAP, LLC at 7:10pm

Roy Tilsley presented to the Board that his client Anthony Pavarati rents out his property using either VRBO or a local realtor. Attorney Tilsley stated that use of the property is of a residential use whether it is used by the owner or renter. He rents to a max of 8 individuals at a time. There has been no history of injurious or noxious activity at the property. Mr. Pavarati vets each renter himself by directly contacting the renter, contacts previous landlords and views past reviews, he does not utilize the instant booking method. Each booking requires significant deposit amounts or insurance. 1 in 4 inquiries ends in an actual booking. When using a local real estate agent, the renter is a small family of 3-4 members and rents for 2-3 nights. November and mud season have shown to be very low rental time periods. Parking is limited to 2 vehicles even though there is space for 3 outside and 1 in the garage. Trailers of any sort are not allowed per the rental agreement. Minimum length of stay is 3 nights. Cole Pond Builders acts as the property manager and is available for any issues that arise during a rental.

Mr. Cahill recently had the septic system which is shared between the two properties pumped for the first time and it showed no adverse conditions.

Susan shared with Mr. Tilsely and Mr. Pavarati that the presentation tonight was much more thorough than what was presented to the Board at the previous hearing. Mr. Pavarati stated that Cole Pond Builders were not adequately prepared for the hearing.

Peter Spath, property owner at 135 Woodcrest Rd letter read.....

To the Zoning Board of Adjustment:

We are writing this letter to the Zoning Board of Adjustment in objection to the approval for the special exception of TAP Properties LLC. Not specifically related to the property owners or their desire to rent their property on a temporary basis but specifically due to the implications this could have on the lake and similar properties within the town. Should the board approve this special exception it will set a precedent and in the event another property owner's request be denied could put the town at risk of litigation. My family have been taxpayers and property owner's within the Town of Springfield since the early eighties and one of the main reasons we chose this location was due to the quiet enjoyment and close community it provides and we feel this could have a significant effect on that environment.

The access to the property is a private road not maintained by the town but by the property owner's. It is not appropriate for the balance of the property owner's to incur the additional cost to maintain the road due to increased traffic. The road is a gravel road and is highly sensitive to the freeze thaw cycles in springtime. This would require additional maintenance or even road improvements which we are not prepared to make.

Creating a revolving door for individuals that are not personally vested in the town or are residents of the lake community will allow for unvetted individuals to case other residences and put their properties and homes at risk. Our home was broken into several years ago and had the mechanical systems severely damaged which as a result cost us substantial expense to repair and prevented us from enjoying the use of our home.

Additionally, our family has owned commercial and residential rental properties for over twenty years and the very nature of these lease's can be exceptional, good, poor or worst case the tenant forces us to get the attorneys involved. Our property and the location has provided us the means and ability to rest and recharge ourselves, we do not want to see that change now or in the near future.

Sincerely:

Peter A. Spath, Sr.  
Peter A. Spath, Jr.  
133 Woodcrest Road  
Springfield, NH 03284  
Peter A. Spath, Jr. - 860-921-7346  
Peter A. Spath, Sr. - 203-395-2664

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Mullins letter read....

Hello,

My name is Jenny ( and Jay) Mullins and I am writing in favor of Anthony - TAP LLC and the request to allow Anthony to rent his lake home.

My husband and I have a lake home at 141 Woodcrest Rd. and wanted to write in favor of allowing Anthony to rent his home. Everyone we have met that has rented the home has been very kind and courteous. My husband and I are happy to have people around, it has in no way interfered with our enjoyment of the lake.

Please feel free to reach out with any questions. Thank you!

Jenny and Jay Mullins  
141 Woodcrest Road  
Springfield NH  
(603)568-9494

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Cahill letter read....

Da: **Bernie Cahill** <[bwcahill@yahoo.com](mailto:bwcahill@yahoo.com)>  
Date: sab 3 set 2022 alle ore 17:26  
Subject: Re: 140 Woodcrest Rd - ZBA hearing  
To: TAP LLC <[tapllc6484@gmail.com](mailto:tapllc6484@gmail.com)>

Dear Anthony,

Thank you very much for your email. We have no concerns regarding your pending application before Springfield's ZBA.

Regards,

Bernard & Katrina Cahill  
150 Woodcrest Road  
Springfield, NH

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Kara Zaleskas attending via Zoom voiced her concern and that of her sister who is a part-time resident on Woodcrest Rd relating to the private road, potential for increased vandalism and noise. They know their neighbors and because of that there is a trust level.

Ken Jacques pointed out to the Board that when a Special Exception is granted it follows the property until the activity no longer is occurring for an extended period.

Attorney Tilsley reiterated that the rental of property is an allowed use by the Zoning Ordinance.

Susan closed the hearing at 7:58.

Susan stated that she felt there was very little difference in owner occupancy vs. renter occupancy.

Board discussed the parking situation and agreed upon allowing 3 vehicles with no campers or trailer being allowed, occupancy at a max number of 8, and requiring the septic to be pumped at 2-year intervals.

Tanner moved to grant the Special Exception with conditions of parking being limited to 3 vehicles, no campers or trailers, max occupancy at 8 individuals, and the septic pumped every 2 years with verification submitted to the town to be kept on file in the property folder. Bryan 2<sup>nd</sup> motion, a voice vote was taken with all members voting in favor. Attorney Tilsley and Mr. Pavarotti left the meeting.

8:10 Susan opened the Special Exception hearing for Stephen Handley requesting to operate a Short-Term Guest Lodging Facility Business located at 298 Twin Lake Villa Rd. Attorney Herz introduced herself stating she was representing the property owner Mr. Handley (who was not in attendance due to being out of state) and his daughter Barbara McKelvy. Attorney Herz presented to the Board:

- #1 Cabin have been used as rentals for years
- #2 The use is of a residential nature
- #3 No more than 4 individuals and a max of 2 cars per cabin
- #4 the property is 3 acres and the cabins have been rented for years
- #5 the cabins could be used by family and would be used in the same manner.

She stated that the use of the property as rental is a residential use just as it is when used by the property owner.

Susan thanked Attorney Herz and stated that a number of letters had been received and would like them read into the minutes.

Eugenia Snyder letter read.....

283 Twin Lake Villa Rd

New London, NH 03257  
August 27, 2022

Zoning Board of Adjustment  
Town of Springfield  
2750 Main St.  
P.O. Box 22  
Springfield, NH 03284

Re: Application by Stephen Handley for Special Exception to operate short-term rental facilities

Dear Members of the Board,

We are writing to object to the granting of a special exception for Mr. Handley to operate short-term rentals at 298 Twin Lake Villa Rd., the property that is immediately across the street from our home. Our reasons for objecting to a special exception are the following:

1. In Section I of his application Mr. Handley claims that “since their construction, various owners of the Property have used the Cabins as rentals,” and that the cabins have been consistently rented since he purchased the property in 2010. According to the posting for the Hideaway cabins on the Airbnb website, Ms. McKelvy has been engaging in renting at least one Hideaway cabin since August 2018—for four years. It is during that period that rental activity significantly increased as a result of the Airbnb affiliation and began to have a negative impact on the neighborhood. Mr. Handley and his daughter have engaged in rental activities for an undetermined amount of time without first obtaining a special exception from the Town as required by the ordinance.
2. The number of short-term rental units on Mr. Handley’s property actually *doubled* after the Town notified him months ago that he needed to apply for a special exception in order to conduct short term rentals. Ms. McKelvy decided to double the number of units she was renting short term despite the fact that the Town was courteous enough to allow her to continue to engage in her rental business while her father hired attorneys to fight the Town over its decision to ask him to apply for a special exception. The expansion of the business shows a general disregard/disrespect for the Board and the Town’s ordinances. Given the magnitude of the home on the property, we have strong concerns that Ms. McKelvy may ultimately want to expand her short-term rental activity even further and invite guests to stay in the large home after her older children leave. What would stop her?
3. In Section II A of his application Mr. Handley alludes to rental activity in residential homes in the neighborhood without providing any specifics. There is no other short-term rental activity in any of the residences on Twin Lake Villa Rd. The majority of homes are occupied full-time by their owners and a few are used seasonally or on weekends by their owners. There are no additional cabins or guest facilities on the properties. There are two homes that have occasionally been rented out for long periods of time in the past. There has been no discernable impact from these long-term rentals.
4. In his application Mr. Handley makes much of the fact that Twin Lake Village is less than a half mile to the east of his property. The fact that Twin Lake Villa legally operates a commercial business in an area that is zoned for that activity is totally irrelevant to what goes on in the residential zone of Twin Lake Villa Rd. The resort area is a different neighborhood and environment from the residential section of Twin Lake Villa Rd., and the activities of guests at Twin Lake Villa do not impact the residential area of the road. TLV guests almost never drive up here (there is no reason to) and they only occasionally walk or jog up the road. They do not have dogs with them, and their presence here has actually declined since the Kidder Brook Trail at the

boundary of the TLV property was closed earlier this year. To some extent Ms. McKelvy's rental business rides on the coat tails of and competes with Twin Lake Village catering to similar clientele. It has the effect of expanding the vacation/rental environment up Twin Lake Villa Rd., and residents on this road do not want that commercial activity in this neighborhood. (And Mr. Handley's claim that Twin Lake Village sets off fireworks is not true; it is Ms. McKelvy who sets them off to the chagrin of her neighbors.)

5. In his application Mr. Handley stressed the size of his property and provided numerous pictures to portray the lovely wooded setting. What he failed to show in his pictures are the homes (including ours) that are directly across the street and in very close proximity to his property and Cabin A. Our property is just outside of the edges of his photos. We can see Cabin A and much of the rest of his property very clearly from the front of our property (and from our home, when the leaves are gone.)

6. Much of what Mr. Handley stated in sections II B-E of his application is nothing more than conjecture—claims and impressions that he wants members of the Board to believe. Mr. Handley has plenty of money to own several properties and hire attorneys to make his case for him, but ***he does not even live on Twin lake Villa Rd.*** He may never have actually spent a night here. Neither Mr. Handley nor his attorneys have any first-hand knowledge of or experience with the impact of Ms. McKelvy's short-term rental activities and guests within this neighborhood. And whether or not her renters want a quiet environment in which to vacation or to engage in activities in the region is irrelevant to a special exception. Their reviews of their stays in the cabins are irrelevant to a special exception. Contrary to Mr. Handley's assertion that short term rentals are "residential," the rental activity is just a business operated for profits at the expense of residents on Twin Lake Villa Rd. Ms. McKelvy's rental activities over the years have already been noxious and offensive and detrimental to the neighborhood. That is why residents here contacted the Town last year to seek relief. Ms. McKelvy's rental activities negatively impact the neighborhood in the following ways:

a. Increased traffic: We watch vehicles stream in and out of Mr. Handley's property all day every day. Ms. McKelvy said in a recent email to us that there are seven licensed drivers living in her home. This includes a man named Tyler Geno who operates his business, Geno Property Services, from that address. (Is he yet another renter? Mr. Handley said in his application that only his daughter and her children resided in the home). So other than Ms. McKelvy and Mr. Geno there are five other drivers living there. Apparently she has that many children of driving age or are there other renters staying in her home? With two rental units and up to two vehicles per unit, that means there are sometimes four more vehicles coming and going as a result of rentals in addition to seven licensed drivers at the home. That is *a lot* of traffic in front of our house and in a quiet residential neighborhood that Mr. Handley does not live in. Further, we have observed renters coming and going throughout each day to and from their various activities and, most important, that many renters driving on Twin Lake Villa Rd totally ignore the 15 mph speed limit which is intended to safeguard the many residents and dogs walking on the road. They blast down the road on their way to skiing or swimming or hiking or golf or whatever, and we frequently have to signal them to slow down.

b. Noise: One of the most annoying things about the vehicles coming and going is that Ms. McKelvy's dogs bark loudly when vehicles drive up and down her driveway. They are

frequently outdoors contained in an invisible fence. This happens throughout each day, and their barking makes other dogs in the neighborhood bark in response. The same dogs charge down to the front of her property and bark aggressively when anyone (including both us and her renters) walks down the road. The presence of renters coming and going and walking down the road generates a lot of annoying noise.

c. Security: One of the benefits of a purely residential neighborhood is the security achieved by knowing your neighbors and being able to identify strangers and activities that are not normal. Because of Ms. McKelvy's rental activities we have people from many different states arriving here, walking the neighborhood, and living next door to us. We don't know them, they don't know us, and as visitors they don't have any reason to respect the neighborhood. They are on vacation. The overall security of our neighborhood is compromised by having an extensive number of strangers wandering around here. And we mean *extensive*. Ms. McKelvy operates a busy rental business, and the calendars on AirBnb show how fully booked her cabins have been this year.

d. Dogs: Ms. McKelvy permits her renters to bring their dogs. As a result we have strangers walking their dogs in our neighborhood. We know nothing about their dogs—whether they have been vaccinated or whether they might be aggressive. Recently we saw one of the renters standing in the opening of our driveway talking on her cell phone while her dog was eliminating on our property. We were walking up the road with our dogs and had to ask her to let us by to come up our own driveway. Our dogs have to be vaccinated and licensed and on leashes in Springfield. The renters' dogs don't have to meet the same standards.

e. Lack of concern: Ms. McKelvy has made no effort to be sensitive to the concerns of her neighbors about her rental activities. Rather than making an attempt to get to know and work with other residents here, she has chosen to deny that her dogs bark (which is truly remarkable), send nasty emails, and accuse neighbors of costing her "massive legal fees" associated with her appeal to the Town regarding the need for a special exception. She has "no trespassing" signs posted all around the property, and one of her dogs has bitten one resident and another resident's dog. The environment here is not as tranquil as is portrayed by Mr. Handley's attorneys in his application.

The Zoning Board has invited neighbors to attend the public hearing to share any concerns they may have regarding Mr. Handley's application and Ms. McKelvy's rental activities. It is worth noting that two of Mr. Handley's largest and longest-time immediate neighbors are apparently unable to share their concerns with the Board at the public hearing because of their service on two Town Boards. This unfortunately limits the number of immediate neighbors who can share their observations regarding the true impact of Ms. McKelvy's rental activities and object to the granting of a special exception. We ask that the Board keep this limitation in mind as there are fewer neighbors able to participate in the public hearing and voice objections to the granting of a special exception.

As we are sure you agree, zoning exists for a reason, and residential zoning is intended to preserve the residential environment where people are living. The short-term renters who are occupying the cabins are NOT residents and they do not behave like them. Mr. Handley suggests that members of his family could occupy the cabins and have the same impact on the neighborhood—but his cabins are not occupied by family members, they are occupied by strangers.

We believe that the Board and Town of Springfield need to be careful to consider the precedent they set when they grant a special exception for short-term rental operations. If an exception for one resident on a street is made, why wouldn't every other property owner on the street be entitled to a similar exception and opportunity to make money? What would be fair for one resident of Springfield should be fair for all residents in the same location. And should one property owner's desire to have a family member generate money off of his property outweigh the rights of other residents to live in a truly residential and safe environment?

Thank you for your time and consideration and service to the community. We sincerely hope that you find that Mr. Handley has not met the requirements for a special exception and that you will not grant a special exception for short-term rental activity at 298 Twin Lake Villa Rd.

Sincerely,

Eugenia Snyder and Guillaume Georges

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Susan asked the number of individuals living in the house. Barbara responded that there were 6 individuals living in the house. Tyler Geno who runs a landscaping/snow plowing business lives there and keeps his snowplow in the garage. Barbara has 4 children and a friend of her daughter also live in the house. She has 2 dogs.

Cabin A allows for 2 dogs

Cabin B allows for 2 dogs

Barbara doesn't vet her renters, she allows Airbnb or VRBO to do it for her.

She started renting in 2020.

Courtney pointed out that Barbara is on site if any issues arise that the renters need assistance with.

Susan recognized Christine Wooten who is a neighbor. She shared that she has never felt unsafe or had any issues with the activity at 298 Twin Lake Villa Rd.

Susan recognized Ken Jacques who is the owner of Twin Lake Villa. He shared his thought that a site visit might be a good idea for the Board as there is a lot going on at the property.

Susan recognized David Twombly who has had some connection to Twin Lake Villa Rd since 1976. He has significant concern over the amount of traffic on the road as well as fireworks that are being set off at the 298 Twin Lake Villa location.

Susan felt that a site visit would be helpful for her and asked how the Board felt. Bryan is quite familiar with the property, Rob and Cody are also somewhat familiar. The Board determined that a site visit was a good idea and agreed with the applicant that Tuesday Sept 13<sup>th</sup> at 5 pm would work for all. Bryan moved to continue the hearing Sept 13<sup>th</sup> at 5 pm, seconded by Rob, Board unanimously approved.



9:08 pm Susan opened the Special Exception hearing application submitted by Kara Zaleskas for placing a 15x8 shed on a non-conforming lot. Kara (via zoom) presented that she is asking to place shed on her property to store equipment such as kayaks, canoes, and other items. Discussion of the distances especially the right of way for Four Corners Road which is a state road. Tamara pulled up [hub.arcgis.com](http://hub.arcgis.com) for NH DOT Roads which showed the roadway width to be 24' each lane 12' with shoulders of 3'. Question arose as to the location and distance of the existing shed to the road of which Kara stated that it is located closer to the road side stone wall than the new shed will be placed.

Bryan moved to accept the application a complete, Cody seconded Board agreed.

Susan moved to grant the Special Exception with the shed being placed no closer than 24' to the Tatro property line, 85' to the shoreline of the lake and 24' to the road right of way line. Tanner seconded and the Board took a voice vote all voting in favor of granted the Special Exception.

9:40 pm Susan opened the Special Exception Hearing request by Greg Acoin and Matthew Ruppel to operate a Short-Term Guest Lodging Facility Business located at 15 Sandy Beach.

Greg presented to the Board he and Matthew's plan for the property. They bought to have a place where their families can enjoy the quiet of the area and the lake. They would like to open the property for other families of similar size to theirs to do the same. The property has 2 bedrooms and 1 bathroom, they will be limiting the number of renters to 8 individuals with a 3-night minimum. Greg vets each renter directly to ensure that they are an appropriate fit for the property. He also does all the maintenance and cleaning of the property before and after each rental activity. He has a laundry service take care of the linens. There are no laundry facilities (washer/dryer) in the home which will keep the amount of septage activity considering the septic system is shared with 4 other properties.

Susan recognized Mr. Silver who lives at 27 Sandy Beach Rd. Mr. Silver voiced his concern for the septic system as it was costly to the shared owners when it failed and needed to be repaired. He feels that 8 people renting the property is excessive and the used could potentially cause damage to the system.

Tanner voiced that he felt 8 people in a 2 bedroom/1 bath home is a lot.

Discussion of who installed the system, Greg stated that Septic Pro located in Keene installed and maintains the system. Questions about whether the company would have an individual speak to the Board concerning the condition of the system. Greg stated he would reach out to them about presenting to the Board their findings after recently pumping the system.

Susan moved to continue the hearing to October 4<sup>th</sup> to allow for a presentation by Septic Pro concerning the condition and effect on the septic system. Tanner seconded and the Board unanimously agreed.

10:33 pm Susan opened the Special Exception Hearing request by Shanli Liu and Sidun Li to operate a Short-Term Guest Lodging Facility Business located at 734 Stoney Brook Rd. Mr. Li presented to the Board that he and his family live in Massachusetts, they purchased the property to enjoy the area and allow his children to experience the lake and outdoor life. He has had to do extensive renovations to it prior to being able to enjoy it with his family. Because of this he would like to be able to rent it out to help recoup some of the expenses and give other families the opportunity to enjoy the peace and quiet of the area. The property has 3 bedrooms of which he will only rent to groups of 6 max, there are 3 parking spaces of which he will only allow 2 cars per renter, there will be no pets allowed, quiet hours are posted in his rental agreement of 10 pm to 7 am. Fireworks are not allowed. There is a 1000-gallon septic tank which he has pumped yearly. Katy Farrell is a neighbor and has agreed to act as his local contact for any issues renters may have. Mr. Li charges a cleaning fee of \$275 per rental which is charged regardless of

number of nights rented, he has hired a cleaning company out of Bradford, Tatro Landscaping takes care of snowplowing and landscaping needs, Lake Sunapee Plumbing is contracted to take care of plumbing issues.

Discussion of conditions included allowing 2 cars, no campers or trailers, a max occupancy of 6 individuals, and quiet hours of 10 pm – 7 am.

Tanner moved to grant the Special Exception with the conditions as stated above. Cody seconded Board took a voice vote with all voting in favor of granted the Special Exception.

Susan requested the Board approve accepting Steven Dzubak to act as an alternate to the Board. Tanner moved to nominated Steve Bryan seconded motion Board voted unanimously in favor. Susan welcomed Steve to the Zoning Board of Adjustment.

Meeting adjourned at 10:58 pm.

Submitted by,

Tamara Butcher  
Administrative Assistant  
Zoning Board