

Amended copy

ZONING BOARD OF ADJUSTMENT

JULY 7, 2020

MEMORIAL BUILDING

Amended Aug 4, 2020

7:00 P.M.

The following are to be considered draft minutes until approved by the Board.

Zoning members present via Zoom: Chairwoman, Susan Chiarella; and Alternate, Tanner Jacques.

Zoning members present at the meeting room: Cody Patten, Justin Hastings, and Bryan O'Day.
Absent Peter Abair. Others present in the meeting room: George McCusker, David and Cynthia Twombly.

Others present via ZOOM: Zoning Coordinator, Whit Smith; Wendy and Dell Rice, Wayne Smith, Dick Hendl, Marla Binzel, Sue Ann Kazenas, Attorney Sheridan Brown, Christine White, Gene Hayes, Jocelyn Colena, Samantha Hutchins, Mike and Beth Hansen, and Chris Stearns.

Susan called the meeting to order and explained ZOOM is being utilized for access to listen and if necessary, to participate. A helpline is available at 763-4805 if someone has issues. Notice was given to the public for necessary information to access the meeting. All votes taken during the meeting will be done by roll call. Any member of the public who wishes to speak needs to be recognized by the chair, stating their full name and address and interest in the case, and whether an abutter or party to the case. You also must state whether the is anyone in the room with you.

After discussion, Board members agreed to review the minutes of previous meetings since they pertain to some of tonight's cases.

Minutes of June 2 and 9, 2020: Justin moved to approve the minutes, seconded by Cody.
Susan appointed Tanner to sit in as a board member in Pete's absence. Justin, Cody, Susan, and Tanner voted in favor Bryan abstained.

Minutes of June 23, 2020: Justin noted a correction in the 5th paragraph, second line change Victor to Audrius. Justin moved to approve the minutes as amended, seconded by Bryan, and unanimously approved.

Continued Special Exception hearing concerning the request by David B. and Cynthia W. Twombly seeking a Special Exception to build a garage on a non-conforming 1.28-acre lot within the 35' setback. Property is located at 247 Twin Lake Villa Road, Tax Map # 06, Lot 670-220.

Mr. and Mrs. Twombly are present in the meeting room. Tanner stepped down. Susan mentioned there is a 4-member board and asked the applicants if they wished to go forward with the hearing. They agreed. All the Board members had been to look at the property. Justin stated the map does not show the other driveway and asked why the garage would not go there. Mr. Twombly stated they wanted the garage attached to the house. Justin stated to grant a special exception it is typically because there is no other place for relief. Mrs. Twombly stated where the driveway is there is now a leach field. Justin stated most of the cases people are asking for relief from something because they cannot go anywhere else. The plan presented does not give any idea of how the rest of the property looks so his question was to find out why they would want to put it closer to the neighbor's property line. His concern was it appeared there were other places the ~~house~~ ^{garage} could go without encroachment on the property line. Susan stated she believed they said at the initial hearing that they tilted the garage, so they did need some area of relief and instead of flush to the house. Justin stated there was a setback issue with the location presented. His question was why it could not go on the other side of the house, but the answer is that there is a septic there. The proposed location is 15' from the property line. Susan asked if Bryan had concerns about the garage. He did not. Susan asked if the Board wished to close the hearing and deliberate. Cody stated now that he understands why they are locating it where it is, he has no issues.

There were no abutters present other than Tanner. Justin moved to close the hearing and move to deliberations. Motion seconded by Bryan. Cody, Justin, Bryan, and Susan voted in favor.

Susan stated her issue is in making the ~~lot~~^{lot} more non-conforming and would like to know everyone's thoughts on that, as there has been a meeting with planning to talk about non-conforming lots. Justin stated that is why he asked if there was a better place on the site for it.

On the lower side of the house where the driveway is there is a septic. Susan stated the Board does not know where the septic is it could be in the back or more in the front, that information is not there. It is possible to tear down the shed and put a garage there. The Board needs to be comfortable in understanding when decisions like this the Board needs to be sure there is literally nowhere else the garage can go. Otherwise it makes a more non-conforming lot.

Justin stated that is why he brought up in granting special exceptions and variances, that it cannot be put any place else. Susan stated she is not sure of that and questions if the Board can allow this to go forward. The garage could be put right in front of the first driveway. Justin stated that is why he asked the question earlier. Bryan stated unless it is a pumped system more than likely it is on the downhill side to be a gravity system. Justin stated it would be preferable to have a map of the whole property. Bryan stated with the leach field is there, with the garage in front of it how would you get to it. A leach field does eventually wear out and will need to be repaired and maintained. Justin stated the drawback to not having maps that are all encompassing the Board does not have an accurate picture of the property.

The Board reviewed the checklist (page 34 of the Zoning Ordinance)

- A. The use will not be detrimental to the character or enjoyment of the neighborhood etc....Bryan stated he drove around the neighborhood and he thinks they are the only one without a garage of all the buildings up in there. He does not think this changes the character and enjoyment of the neighborhood.
- B. The use will not be injurious, noxious, or offensive and thus detrimental to the neighborhood etc. Justin stated this is no different than any other house there.
- C. The use will not be contrary to the public health, safety, or welfare by reason of undue traffic etc..... This is a garage and is not adding any traffic or other increases.
- D. The location and size of the use and nature and intensity of the operations involved, the size of the site in relation to the proposed use etc..... Justin stated the specific size is ~~not~~^{not} out of the norm for what they are asking for. The biggest issue is how close to the abutting property it is. Without hearing from the neighbors and assuming the garage on the under end of the home would be a hinderance or impossible because of the septic system, he is not sure there is a better location with the information that has been given. Susan questioned the location where the shed is. Justin stated the shed is within 35' of the road. Susan agreed and with what Bryan has said about dealing with maintenance of the leach field. Even though looking at the lot it looks like a garage could go there, the leach field changes that.
- E. Operations in connection with the use shall not be more objectionable to nearby property by reason of noise, fumes, odor, or vibration etc.... Susan stated this question is more of a use-criteria, so this question does not apply in this instance.

Bryan moved to grant a Special Exception for the proposed two-car garage to be no closer than 15' on Northwest Corner, built per the plan presented. The dimensions of the garage as written to 26' x 28'. The motion was seconded by Justin. Cody, Justin, Bryan, and Susan all voted in favor.

Whit reminded the Twombly's they still need to apply for a Zoning Permit before they begin construction on the garage.

Continued Special Exception Hearing for Wendy and Dell Rice called to order at 7:40 p.m. Tanner stepped back in. Susan affirmed everyone has looked at the site. Susan asked if in looking at what the Board has to do to look at this project to decide whether or not these people can move forward as presented, the Board should be looking at the shoreland portion of the Zoning Ordinance as this is within the Shoreland of the lake. Bryan stated the garage and septic are outside the 100' wetland setback. The house is within, but more than 50' per the State's request. Susan asked the Board to look at page 14 and 15 of the Ordinance for the things that could have an impact on the lake and those are things the Board needs to consider. Susan stated she did research on her own of the Edmunds lot who sold to Mullins on Woodcrest that came before the board of a non-conforming lot requesting a special exception. She looked at those files to see what was presented to the board and there was a map prepared by an engineer, that included a lot of information that enabled the board to decide. Her issue with what is before the board tonight, is that a lot of the information that would be gathered in an engineering study is lacking in this application. Applicant Wendy Rice stated there was a shoreline permit issued years ago that should be in the office. Susan stated she also looked at Austin's file to see what was presented at that time, which was a very complete study that addressed septic alarms, lighting, footing drains, silt fence barriers, and grassing over. Susan proposed having the applicant get a study done by an engineering firm because she cannot discern what is going on with this lot. Susan stated she does not understand the design as presented. This is a project on a small lot on Lake Krolelemook that should be to the point where everything is completely clear, and this is not clear. The lake is an important resource to keep in mind to protect. It is right next to the town beach. Bryan asked what she did not understand. Susan stated she does not have a good perception of what is being built there. If this plan was compared to others that have been built for development on Lake Krolelemook, does the Board have a good perception. She has heard at times that this is a one-story house, and now it is a two-story house, so it is not clear to her what is going on. Tanner stated he would be interested in knowing what the impact and footprint of a construction project like this. It is a small lot and on either side of where building is taking place there is not a lot of land, and the equipment necessary to put up a house he would like to see a plan for mitigation to protect not only the town property but also the lake. The lot is narrow and given the scope of the project he would be concerned to approve anything without seeing what can be done to protect the lake front and the town beach. Susan agreed. She does not think it is on the plan, and just because there is something from the State of NH saying you can do x, y and z, does not mean the Board cannot do due diligence by requiring some extra information. She would like to see a silt fence etc. Wendy Rice stated all the plans on the shoreline application there was a whole engineering study done that shows what Susan is looking for. There is a septic plan and all of that on file. Susan stated she had all of that in front of her.

Wendy stated all the notes show the protections. Susan noted she cannot look at the plan the Rice's submitted and understand what they are doing. There are too many colored lines, crisscrossed lines and she cannot look at the plan and faithfully say go ahead and then turn it over to the town to make sure it is done right. As far as she is concerned the plan presented is not acceptable. Wendy responded that at the site meeting this is what she was told to do, and she also wrote up two pages of the setbacks that are being asked for. Comparing that with the map it should be able to be understood a little better. As far as the protection from the lake, the beach, and the road, it is all engineered and is all on the shoreland permit which the town has. Bryan stated the plan does have every existing tree listed and labeled and shows areas to remain unaltered. To him the red lines are not

confusing, they are precise where everything falls. It does not show what the house or the garage looks like, but the actual site plan itself as to layout is quite complete. The leach field must pass a State requirement for approval and the State allows 75' from the water, this one is behind the 100' setback. Other than whether the house is one story or two story the plan is understandable. Justin stated the only thing he sees lacking on the plan is the silt fence but that is on the wetlands. Susan stated the Board could require some of the things that were offered on some of the other lake developments, would be a septic alarm if the septic fails. Wendy stated the septic is a pump system with an alarm on it. Susan also is unclear how there is going to be a buffer when the land is disturbed so close to the property lines as it is. How will the buffer be maintained without disturbing it? Wendy stated there will be no more trees cut then they have to get the foundation in, and they are going to follow the instructions on the shoreline permit. Susan stated it is one thing to have everything in writing, it is another thing to physically do it. Wendy responded, "why would I"? Susan stated she did not see how it is possible to do it without cutting down some of the trees. Wendy stated the area where the foundation is going will obviously require cutting down a few trees. Susan asked if what the percentage of lot coverage that this project is going to take. Wendy stated the plan says no more than 22% of the area of the lot within the protected shoreline shall be covered by impervious surfaces unless additional approval is obtained by DES, read from the shoreline impact permit. Susan asked if Tanner could clarify. Tanner stated it means you can't have more than 22% of it covered by buildings or some sort of structure, so between the garage, the house, the patio, or deck, you can't consume more than 22% of the lot. If you add square footage it is very close to that. That is a lot and is a drastic increase to what was there before. What was there before was close to 800 square feet, and the proposal is around 2400 s.f. That is a large increase. Wendy stated there was no garage there previously so there are two buildings going up. The Board discussed the square footage of the garage and the house, and the patio.

Tanner stated that is a not a small project considering the size of the lot. The two abutting lots the town owns needs to be taken into consideration, most especially on the beach side. There is going to be 22' from the southwest corner to the lot line. That does not leave a lot of room for construction purposes. It is disconcerting to him to allow something to go up so close without requiring some type of buffering or some mitigation to protect the town's area. There have been concerns stated by the Rice's that they have had issues in the past, and he thinks that goes both ways. He feels this is a lot to ask for considering what was there beforehand, and what is being asked for now, and there has been such fluidity as to whether it is a one-story or two-story, without more definition it is hard to grant something. Wendy stated she wrote back that they would go with two-story as was asked at the site visit. Wendy confirmed two-stories above the foundation. Tanner stated that is a large structure. Wendy stated it is to be a full-time home two-bedroom home. Tanner stated that a two-story home with a basement is 3,000 sf home with a 600 s.f. patio. He has concerns about the size of the structure. He encouraged other members to say how they see this. Susan stated she would like to have an engineer come and explain the project and what controls will be used to mitigate, any impact on the lake, and the exact lot coverage and a plan that is clean. This is a major construction project on the lake and the Board needs to proceed carefully with it. Wendy asked that the Board pay attention to the plans that have been drawn up by the engineer and the shoreline. Susan stated she would like more explanation as to what is going to be done to mitigate any impact on the lake. Wendy said they mitigated impact when they tore down the other cottage. There was no disturbance to the lake.

Dell Rice stated he would like exact questions with exact information the Board wants so they can give exact answers. He thought that was done as to what was asked for during the site visit. He wants exact questions and exact information, so they do not have to go through this again and again. If the Board needs an engineer to interpret the prints, they should get one and have him look at it for them. Engineers drew these up. The State is satisfied, and everything has been done by the rules and regulations. The house is not going to be 3,000 s.f. The house they live in now is bigger and is not 3,000 s.f. He questioned how the Board arrived at that figure.

Justin stated the plan says the home is 1,000 s.f. per floor, so two stories above foundation plus a walkout basement that comes to 3,000. Wendy asked what if she went one story with a finished basement? Tanner stated one of the concerns is the Board does not know what it is.

Susan pointed out the Board can request an expert present this case so the Board can understand what is going on. It is not up to the Board to provide a list, if they wish for an expert and request the applicant to have someone come in and present it so they understand, that is within the Board's purview. She would like to see an expert come in and present this and explain it so the board can understand it. That is pretty much how the lots around Lake KOLELEMOOK have been handled.

Bryan stated other than a floor plan or an actual picture of the house, he does not see that an expert is needed. Every dimension is on the plan. Wendy asked if there were any engineers or people with building experience on the board. Susan stated it is not up to the Board to provide that kind of information. This is a citizen's board that looks at what is presented. Susan asked to hear from Cody and Justin. Justin stated he could read the map fairly well, but he does understand that the other sites that have been dealt with typically have had a more in-depth engineering plan to go on the record as stating what is going to be constructed and followed and for future references. He can look the plan and he can understand it himself. The thing that is concerning is over digging and over bearing of the foundation. Two floors above the concrete is substantially larger than a ranch on top of a basement, and that is concerning. He himself, does not read the plan read to him. It is not as in-depth as some of them, but he can understand it. Any septic system that is a pump-up system up hill is going to have an alarm system in it. His concern is the two-floors as opposed to one wooden floor, because a concrete basement with two wooden floors is 3,000 s.f. Susan asked if the Board could tell anything about erosion control from this plan. Dell stated the erosion control should be shown in the shoreland plan in detail. Susan stated it is within the purview of the board to require more than what DES requires. This is a substantial project on the lake next to the town beach and should not be taken lightly without getting as much information as possible on what the applicants are going to do. She would like a cleaner plan, not one with a lot of drawing on it, and she would like an engineer to come forward and present the project. Justin stated he can understand that. Tanner has been reviewing some of the conditions on the State plan, and condition 4 speaks to the disturbance of vegetation and his concern is that is where the house is being built and it seems to him that once a foundation is in the ground, the footprint around it becomes larger than what is expected. There are areas that are shown to be unaltered on the plan, and he is interested to know how that is going to be preserved. Dell stated the overhang from the roof is built into the design with the DES. That must be specific as to how the roof is pitched. As far as protecting the lake and the beach is done with black non-permeable plastic with hay bales around the lake. They drilled a well, and nothing entered the water because that is exactly the way they did that and when tearing down the cottage. The person they have contacted has built on lakes and is familiar with the process and how to do it. How is he going to tell the engineer how to prepare if they do not know what the board wants? Tanner stated the south edge of the house is 22 to 24 feet from the town beach and there is a note of area to remain unaltered. It seems to him that is no more than 8 to 10 feet from where the foundation is to go in. He is interested in how that is specifically going to be done and does not understand how a large piece of equipment could be fit in that area. On the north side of the house, the stone material is almost on top of the area to be unaltered. He would like to know how that can be installed without altering the area to remain unaltered. Dell stated as far as he knows from talking to his builder, they do not feel there is a problem. Perhaps one of them could come in and speak to satisfy what the Board wants. Tanner stated his opinion is having the contractor to come in and explain the building process and his mitigation process would be helpful. Being able to ask him direct questions on the building process and how he proposes to leave the unaltered terrain unaltered and exactly how he is going to put the foundations, he would find helpful. This is a citizen's board and he would like to have clarification, but he does not want to speak for the other four members. Mr. Rice has no problem bring someone in to answer the questions, he just does not want to make this a continuing cycle. He wants all the

issues to be dealt with attended to at one time. Susan responded that is not exactly how the process works. Coming to the Board with an application the Board is within its purview to require more information and there is no guarantee that the board will act favorably in granting or not. This is an ongoing situation where the answer is not always given right away. If things are continued it is because the Board needs more information and they can continue until get that. Susan stated she thought Tanner's ideas is not a bad one. She would prefer a civil engineer, but she would like to hear from the remaining board members as to where they want to go with this. Susan stated as to the information she is looking for she would point the Rice's to the Edmunds and Mullins and look at the plan on file at the town office and look at the plan presented to the Board to see what was provided.

Susan asked if Cody and Bryan had anything they wanted to add. Bryan stated the Board could go through the process and add any restrictions or stipulations, whether it is a fence or retain the buffer or whatever. He does not know what other specifics Susan is looking for. Susan stated she does not want to saddle the town with this plan where she is having a hard time with it. She would have a hard time constructing how to accept this given the plan and the amount of relief being asked for. She would like information and present a plan that is better understood and include about silt fences, and buffer, and disturbances etc. Tanner stated a greater understanding is warranted on this project. Things are listed and he finds most of it easy to read, he just has questions about the process in which they are going to do it. There is town property on either side. Justin stated he understands the biggest concern is how much undisturbed soil will remain undisturbed and there is the curiosity has to how that is going to be done on a very restrictive site, so he can see getting clarity on how this is going to be done. Susan the concern is of lot coverage and the concern of the construction process and what it could do to the surrounding area. She asked if the Board wanted to request that someone come in speak to the Board as to how that is going to happen. Tanner agreed and suggested either the contractor or RCS Designs. RCS put the plan together, but short of barring communication with them, he would be interested to hear from the contractor exactly what they are going to do. Justin stated it would be better to hear from the contractor because the design is all done. The contractor is the one to carry out the plan. Mr. Rice asked for a written request. Susan noted this is a verbal request. Mr. Rice asked that the members look over these prints in detail and spend some time looking at them. There are a lot of answers there that obviously no one has read them completely. He is being asked to do some things, and he is asking the Board to that for them. Janet Roberts pointed out that the Board members have had these new maps for two weeks, so they are not just sitting down tonight and looking at them.

George McCusker, Selectman commented that there are already two contractors Cody and Bryan sitting on the Board. There is also a third one not here, the Town Road Agent and a significant contractor that does this kind of work. There are three experts at Board's disposal to look at those plans. Bryan has come up with little that he disagrees with and this is what he does for work. So, if anyone can look at the plan and see if it could be done with no impact it would be Bryan or Cody. The Board has significant resources at their disposal to help with this. Susan commented that it is not up to the Board to interpret what these folks are going to do. It is up to these folks to come to the Board with what they are going to do. The Board can review what is being asked for, but it is not the job of the members of this Board to do this. *Justin wants to make clear it is not up to Board members to make professional opinions.*

The Board discussed whether to hear from an engineer, the designer, or the contractor.

A motion was made by Tanner to require the applicant to enlist the assistance of their contractor to explain the details of the construction to the Board, seconded by Justin. Cody, Justin, Bryan, Tanner and Susan were all in favor of the motion.

A motion was made by Justin to continue the hearing to the next meeting on August 4th, seconded by Cody. Cody, Justin, Bryan, Tanner and Susan were all in favor. Susan encouraged Mr. and Mrs. Rice to go to the Town Office and look at similar applications of improvements and construction on the lake.

Kazenas - Special Exception request by Sue-Ann and Audrius Kazenas for a Special Exception to operate a Dog Kennel/"Pet Vendor" as defined by NH RSA 437:1; meaning a person or entity that transfers more than 25 dogs per year between July 1 and June 20. Property is located at 373 Hogg Hill Road, in a Rural Residential Zone. Tax Map # 10, Lot 098-189.

Tanner agreed to be an acting member. Susan noted the Board had not yet accepted the application for this request. Susan prefaced the acceptance of this application by treating it similarly to how the second application was treated. There was one application in 2016, and a second application in December of 2019. At that time, the Board was given guidance from the Town Attorney to review certain things to decide whether to hear that application. Susan reviewed the same criteria to determine whether to hear the current application as follows:

1. *Has the Zoning Ordinance been amended since 2016 in a way that changes the criteria required for a Special Exception?*
2. *Has the Zoning Ordinance been amended since 2016 in a way that changes the way this type of proposed use is regulated by the Town?*
3. *Has the applicant identified any other State Law that has been amended since 2016 in a way that affects the standards by which the ZBA is required to evaluate this application for Special Exception?*
4. *Does the application propose a use that is factually different from the first application, in other words is there any specific aspect of this application that is different from what they proposed to do the very first time, such as the size of the operation, the number of employees, vehicles, structures, customer visits, area or configuration of where on the property it will take place; any additional precautions against noise or other impacts to the neighborhood?*

Susan stated those are the determining factors to decide with the Board is going to decide to accept and hear this application. Justin stated he is not sure there has been a significant change anywhere. Attorney Brown stated the Board accepted the application when they scheduled a site visit. Susan stated they did not. Attorney Brown responded by saying if you want to get sued this is a great way to do it. They already have one claim in against them. Susan stated the Board was advised by Town Counsel. Attorney Brown responded to come out and do illegal fact gathering and then reject an application. Susan asked Attorney Brown to hold comments until recognized. She continued with asking the Board if they wished to go on. Susan asked if the Zoning Ordinance has been amended since 2016 in a way that changes the criteria for a Special Exception. Justin stated he did not believe so. Bryan no, Cody no, Tanner no.

Question 2 – Board agreed no it has not.

Question 3 - Justin stated he does not see how the State law that was changed effects the way the Board.....(sentence not finished). Susan clarified that if the RSA changes, or something has been changed by the legislature that changes the way the Board could grant a variance, is basically what that question refers to. Attorney Brown stated the State Law was not part of the application that is in front of the Board and he asked for an opportunity to speak to the specific points.

Question 4 – Susan asked if there was any specific aspect of the application that is different from what was first proposed. Tanner stated he would say yes. He would like to hear a considerable amount more about the noise monitoring because he thinks that is a considerable change from either application presented. He would be interested to know more about it, but he does think it changes the application and exactly how it works. Susan stated the way she interprets it is there something in this new application that gives the Board information on additional precautions against noise that is different from the 2016 application. Susan stated there is law that says you cannot keep applying for the same thing and the Board must determine if there is a material difference between the 2016 application and this one. Susan stated the Board monitored the decibels, but she is not sure that really is a material difference in the operation. She presumes the decibels were there before. Tanner looking at the application filed in May, the application states that noise will be continuously monitored by electronic sensors placed at the property line and noise will be kept below 55 decibels measured at the property line. He stated he did not believe that was offered in a prior application and would be interested in knowing more about it and he would say it is different in a functionality. That is his interpretation.

Susan stated limiting the number of adult dogs and limiting the numbers of dogs outside at the same time is pretty much the same that was presented before. Acoustafence was mentioned in the first application. She is not seeing anything materially different between the first application and this one.

Justin stated he is not sure if this is a material change in how the business is operating. It is the same exact business they are adding things they may change in the business, but it is still the same business plan that came before the Board before. Susan agreed. Bryan stated the business is pretty much the same. Cody did not have an opinion on this. Justin stated the only difference is the State licensing requirement. Susan reminded the Board there was an application in 2019, that the Board did not accept because it failed on all four of these points. This application is being compared to the one that was heard in 2016. Susan made notes from 2016 and summarized them with the Board. The application outlined it as being a non-commercial dog kennel. The play yard and dog kennels were not visible, the neighbors would not hear loud barking, they were going to come forward with Acoustafence. Visits to the property would be infrequent. There would be no emissions, they did not anticipate any additional growth. Direct abutters were not residents, but unoccupied garages and an existing kennel was two houses away.

Justin stated in the original special exception application, it was stated as a home business and this one in 2020 is also stated as a home business. He does not believe there has been enough of a material change in the rest of the application to say that it is anything other than the same application from 2016. It is still being called a home business. Susan stated she would perceive a material change the addition of a building or something significant on the property.

Susan let the Board know that through her, there were several letters received from neighbors and abutters. She asked if the Board wished to allow Attorney Brown to speak at this point in time? The Board agreed.

Attorney Brown stated the material change in the proposal is the addition of some new pieces to mitigate noise with electronic monitoring. Throughout this whole thing the major issue raised has been noise and so they proposed a more robust proposal how to monitor and mitigate if necessary. The Board opted not to do a site visit the first time around so there was no analysis of the noise from the first application. Another change comes from the way the Board has treated these proposals recently for example the recent Cote application for commercial firewood processing, doing a site visit, getting a reading of 58 decibels at the property line and accepting that as consistent with the Zoning Ordinance. In granting the special exception the Board needs to find that is not an obnoxious use, so the Board's standard is that 58 decibels at the property line is not an obnoxious use. As far as he and the law see it, the Board either accepted the application by scheduling and

going out for a site visit, or access to the property was obtained by a fraudulent nature. The Board can decide to accept the application, or all end up personally named on as defendants on the suit that they have against the town for trespass and deprivation of civil rights. His clients are looking for what everyone else has gotten in town with similar noise impacts, and for some reason his clients cannot get anyone to apply an objective standard. It is materially different because they have tried to respond to the alleged noise concerns.

Tanner asked if he could question Attorney Brown and Susan told to go ahead. Tanner stated one difference he picked up on was about the electronic sensors and wondered how they work, and who it alarms if the noise is breached? Susan stated she was not sure it is appropriate to be asking these types of questions since the application has not been accepted and there is no hearing. Given those facts and asked that questions be held until the Board decides on the application to move forward. Susan asked the Board whether they were going to accept the application and open this up for a hearing. Justin noted the Cote case that was referenced was for a business for commercial activity and not a home business. Susan stated each hearing stands on its own merits. Each case needs to be handled separately.

A motion was made by Justin that there was not a substantial change in the application, seconded by Bryan. Susan clarified those voting in favor of the motion are voting the application is not accepted. Cody yes, Justin yes, Bryan yes, Tanner no, Susan yes. The application for a special exception is not accepted.

At 9:20 p.m. Susan read the **Request by Michael Hansen d/b/a/ Hansen Bridge for an amended Special Exception** pursuant to Article 11:42 of the Springfield Zoning Ordinance. Applicant proposes to expand the scope of the current business to include the treatment of wood to withstand harsh environmental conditions. Although referred to as "pressure treating" wood materials, the evolution of the technology and the chemicals used, (along with containment procedures) are now environmentally safe. The expansion of the business will be conducted in enclosed building(s) with concrete containment structures. Upon finding that the application is complete, a public hearing on the merits of the proposal will immediately follow application acceptance. Property is located at 163 Hansen Road, Tax Map # 03 Lot 560-485.

Susan recused herself and turned the meeting over to Bryan. Tanner ~~said in on case~~ ^{was appointed to set in on the case}. Michael was reminded there was less than a 5-person Board. The abutters have all been noticed. Bryan asked Mike to go ahead and explain what he was going to do. Mike Hansen stated they put together timber bridge packages they put together and sell. They do the treating of the holes before the packages are sent out. They can't treat their beams and they would like to be able to treat the beams which can be up to 40' long. Pressure treating with the chemical Copper Naphthenate (QNAP) and containment would be attached to the existing building to be able to treat the timber bridges. The question was if this was a change of business and in a way it is because they have never been able to treat their own beams before. They have done posts and holes but never a whole beam. The question was also raised about doing other people's stuff which would be a change in business. He would like the opportunity to be able to do telephone poles or railroad ties, etc. in the downtime. They will build the containment themselves and test it and keep a roof over the entire thing to keep the weather off and so it cannot be seen. There is no noise, it is just pressure vessel. The chemical cycles through under pressure and then it goes back into the tank and gets recycled. George McCusker asked if there are state regulations or if it requires monitoring of the process. Mike has looked into that with the DES and it is not on any list, the stuff can be bought through the mail. They will be using a .05% Copper Naphthenate. Up to 2% can be bought in the mail. It is not on a watch list and a special permit is not needed. As treating has changed over the years, it has become less caustic and more environmentally friendly. According to the salesman it can be dumped on the ground and it is not a hazardous waste site. The diesel fuel it is cut with has more restraints than the chemical. Justin asked what is used to pressurize the vessel. Michael stated it is air. 1,000 gallons of chemical would be stored on site, and another tank with 1,000 gallons of diesel

fuel. Everything would be in the containment under the roof. Justin stated the biggest concern would be a leak, or spill or a fire of some sort. He asked if there had been any thought of a suppression system. Mike said there has not. It is a giant metal cylinder. The diesel fuel could catch on fire. He did not have the information on the fire rating of the chemical.

Janet reminded Bryan the Board has not formally accepted the application. Tanner moved to accept the application as complete, seconded by Cody. All voted in favor.

Justin questioned how many of these there are out there and are they any examples that are readily available and do they have suppression system of some sort. Mike stated the one he looked at in North Carolina did not have a suppression system that he noticed and was in a metal building in a containment. The salesman has not mentioned it during the design phase. Tanner asked how many of these does he know of in the Northeast or eastern half of the US. Mike stated the closest one is in Albany New York and he is going out there to look at it. There are not a lot of them out there. Michael stated the plant itself is built in Europe, and has 2" thick walls, double containment in the cylinder, and is shipped and they put it together in their containment. It comes pretty much prefabricated. Tanner asked if there were any issues or incidents that have come up with it. This is beyond the scope of what he understands and would be interested in hearing from a salesman or expert who does. Mike said the expert would be the guy selling the plant. He has never heard of one of these blowing up. Justin asked if the salesman might be available to ZOOM with the Board. Mike noted he was getting answers to some of the Boards questions while he was speaking. The PSI is 203. No fire suppression is needed. Justin stated he sees that it is rated as 1 under the fire hazard and is not reactive to anything. The protection is glasses and gloves, so it is not a super caustic material by the sounds from the hazard ratings. Justin asked what Mike's timeframe is with this. Mike stated he has no timeframe. He wants to be sure he has done everything the town requires. Janet noted the Planning Board Site Plan has been continued and is contingent on the Zoning Board. Justin noted hearing from the expert would be his preference. There was discussion about how best to set something up with the Planning Board for both Boards to hear the expert. Tanner stated he would be in favor of hearing from the expert, and in the meantime the Board doing research on their own to know what they are looking at. He would like to continue this with the idea to gather more information. George McCusker stated at Planning Board and Zoning Hearings the applicant is asked what their future expansion plans are. If Mike is going to go ahead and expand the business, he should lay that out now for both Boards. Mike stated he would like to have the opportunity to treat other people's stuff in the slow times when they are not doing their bridge packages. Tanner asked if Mike would expect an increase in traffic moving more lumber. Mike stated it would impact traffic. If it takes off, he will want to keep the cylinder busy. A bridge can be treated in a couple of hours, so they would do their product but would like to be able to do other people's stuff too. Mike stated there is a limit to the amount of bridges that can be done a year since there are only so many they can do in year. Right now, some of the packages are shipped and other people put them together. There are probably two or three trucks a month going up there now, and he estimates ten trucks a month bringing up raw materials. It is not a lot of trucks but is an increase. In the past the bridge would have to be pulled out on a drip pad and the chemical drips off. Now the cylinder tilts to allow everything to drain into the recycle area and goes back into the tanks, so it is 100% in the cylinder. It is dry when it is pulled out.

Bryan asked if there were any abutters present with questions. There were no abutters present, and no one else had questions.

Justin asked if Mike would be willing to get in touch with Klaus and see if he would be willing to join the August 4th meeting to explain. The Board discussed inviting the Planning Board to sit in on the August meeting if they wish to hear from the expert.

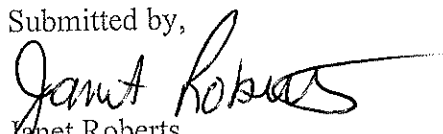
A motion was made by Justin to continue the hearing to August 4th and invite Klaus to enlighten the log treating. The motion was seconded by Cody. Tanner, Cody, Justin, and Bryan voted in favor. The Planning Board will cordially be invited to sit in on the ZOOM meeting.

Mike will try to get the chemical salesman to join in as well. Tanner noted it would be good to hear from the chemical salesman to get a better grasp of what it is. Reading the MSDS sheets it does not seem to be toxic, but he would like to hear a little more about it.

At approximately 9:55 p.m. a motion was made by Bryan to adjourn the meeting, seconded by Cody. Unanimously approved.

These minutes were transcribed using a ZOOM recording.

Submitted by,



Janet Roberts,
Administrative Assistant