

**Zoning Board of Adjustment  
27 School Street  
HILLSBOROUGH, NH  
May 13, 2024**

**DATE APPROVED: 06/10/24**

**TIME:** 7:00 p.m. – p.m. 8:40 pm

**CHAIRPERSON:** Larry Baker

**VICE CHAIRPERSON:** Keith Cobbett

**MEMBERS:** Lucy Pivonka, John Segedy, Dave Fullerton

**PLANNING DIRECTOR:** Robyn Payson

**ALTERNATES:**

**EXCUSED:** None

**Public Present:** Arthur Jurkowitsch, Kim Hanson, Alison Sheehan-Dion, Lee Avery, Jason Avery, Matt Zinicola, Stephen Mayer, Kathryn Luiz

**CALL TO ORDER:**

Larry Baker called the meeting to order at 7:00pm and introduced the Board.

**Pledge of Allegiance**

**Public Hearings**

**Special Exception**

606 second NH Turnpike (Map 7 Lot 63)

Alison Sheehan-Dion

Robyn Payson said that this application has already been through the Planning Board Hearing process and was approved for a home business. The only thing the Board should be considering is the retail use in the Village Residential Zone.

Larry Baker asked Ms. Sheehan-Dion to read from her application.

Ms. Sheehan-Dion said they intend to use their existing barn as a retail store. There will be no public toilet and the electrical work will be done by an electrician. There will be no street signs, only one small sign on the barn and an open flag. There will be one small light outside for safety that will be turned off at closing. There will be parking in front of the barn with three spots maximum.

**A. The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Table 4 Chart of Uses:**

Finding of Fact: The use is specifically authorized in the Table 4 Chart of uses.

**B. The requested use will not create undue traffic congestion or unduly impair pedestrian safety:**

Ms. Sheehan Dion said; this will be a small shop in her barn with no more than three parking spaces on the property.

**C. The requested use will not overload any public or private water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets. :**

Ms. Sheehan-Dion said this is a small retail store with no manufacturing and no use of their septic, no bathroom for the customers.

John Segedy asked about the jewelry she made and wanted to know if she would have a “shop” area there or does she do it in the house.

Ms. Sheehan-Dion said she does it in her house. She said she might do it in the upstairs part of the barn later but not now because it is not finished.

**D. The requested use will not create excessive demand for municipal police, fire protection, schools , or solid waste disposal services.**

Ms. Sheehan-Dion said there would be no solid waste. Any cardboard from shipments would be taken by them to the transfer station.

**E. Any requirements and standards for the specific use as set forth in the Zoning Ordinance are fulfilled;**

Ms. Alison-Dion said this application fulfills the requirements in the Zoning Ordinance.

**F. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to or out of character with the adjacent neighborhood.**

This is just a small gift shop. They plan on selling some cooking herbs and teas, handmade crafts from local artists and art by her husband and herself.

**G. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan**

Ms. Sheehan-Dion said this is consistent with village development. It’s an area with many aspiring Art businesses. This will be a small unobtrusive business that will blend well with the neighborhood.

Larry Baker opened the public hearing.

Katherine Louise asked where the store would be located.

Ms. Sheehan-Dion said it would be just past “Williams Store”

There being no more comments or questions Larry Baker closed the public hearing, and moved into deliberations with the Board,

Lucy Pivonka said it’s a nice rural area and that a shop like that would fit really well.

Keith Cobbett said he felt it would be a valuable asset to the town.

Findings of fact:

- A. The use is allowed by Special Exception in the Table 4. Chart of Uses
- B. We find that the planned maximum of three vehicles will not create traffic congestion or unduly impair pedestrian safety.
- C. This is a small retail store with no Town water and sewer.
- D. There is no excessive demand for municipal services.
- E. The Planning Director reported that Planning Board has approved this as a Home Business
- F. Because this is a small gift shop it doesn’t have the ability to cause any of those hazards or be out of character with the adjacent neighborhood. Many of the homes on that road have small businesses in them and there is no change in character of the building. There are minimal changes being made to the exterior of the building with one sign, an open flag and a light that will turn off at closing.
- G. This is a use allowed with a Special Exception.

John Segedy made a motion to approve the Special Exception. Dave Fullerton seconded the motion. The motion carried unanimously.

**Special Exception**

143 West Main Street (Map 11P Lot 187)

Matt Zinicola

Robyn Payson said that this project has already been approved by the Planning Board. Steve Mayer of Allen& Major Associates Inc. presented the application to locate a full-service laundromat in the Central Business District. The business will have 28 parking spots.

John Segedy asked what was meant by a full-service laundromat.

Mr. Zinicola said in addition to self service laundry, they do laundry for people. They also have delivery vans so they can do door to door and delivery. They do commercial accounts. They do dry cleaning, but it is sent off site to a drycleaning provider that they shuttle to and from. They do small commercial accounts for summer camps and small businesses. They have a police department as a customer. They have partnerships with seamstresses, so they do alterations and repairs.

John Segedy asked if the van was the size of a passenger vehicle.

Mr. Zinicola said it was.

**A. The ZBA shall hear and decide requests for Special Exceptions that are specifically authorized in Table 4 Chart of Uses:**

Mr. Mayer said the Table 4 Chart of Uses requires a Special Exception for a laundromat use in the Central Business District. This will serve as the Finding of Fact.

**B. The requested use will not create undue traffic congestion or unduly impair pedestrian safety:**

Mr. Mayer said the project has been designed to provide adequate parking and vehicular access to and from the site. Sidewalks are proposed against the building to provide safe pedestrian access into the building,

Finding of Fact: The Planning Board addressed this through Site Plan review as relayed by the Planning Director..

**C. The requested use will not overload any public or private water, drainage, or sewer system or any other municipal system, nor will there be any significant increase in storm water runoff onto adjacent property or streets.:**

Mr. Mayer said the project has been designed such that stormwater runoff from the development area will be infiltrated for all design storm events including the 50-year storm event. The peak rate of runoff at the street and adjacent properties is maintained or lowered for all design storm events. The Water and Sewer department has been contacted and public water and sewer are both available to the site. The department has confirmed capacity exists to service the use.

Finding of Fact: The Planning Board addressed this question through Site Plan Review as relayed by the Planning Director.

**D. The requested use will not create excessive demand for municipal police, fire protection, schools , or solid waste disposal services.**

Mr. Mayer said (to be used s finding of fact) the project has been designed to allow for a fire truck to maneuver through the site. The site will provide adequate lighting to ensure visibility

and public safety at night. The project will not impact schools and solid waste disposal will be managed by a private contractor at the direction of the owner.

Dave Fullerton asked what the hours of operation would be.

Mr. Zinicola said he guessed he would start at 6:00 am to 9:00 pm.

**E. Any requirements and standards for the specific use as set forth in the Zoning Ordinance are fulfilled;**

Finding of Fact: There are no requirements or standards for this specific use.

**F. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to or out of character with the adjacent neighborhood.**

Mr. Mayer said (Use as Finding of Fact)The project has been designed to provide safe vehicular and pedestrian access and adequate lighting has been provided. The proposed use is I character with the neighborhood which includes restaurants, office space, and other commercial uses.

Lucy Pivonka said it is in character with the rest of the neighborhood. There are a lot of retail businesses and commercial uses in that area.

**G. The requested use is consistent with the spirit and intent of this Ordinance and the Master Plan**

Mr. Mayer said the requested use is consistent with the spirit and intent of the ordinance because it is a use which is allowed by Special Exception. It is consistent with the Master Plan because (for Findings of Fact)it will provide commercial growth in the Central Business District and support existing and future residents. The architecture is a colonial style which compliments the uses in the surrounding neighborhood.

Larry Baker opened the public hearing.

Kathy Luiz asked if the entrance to the building would be on the west side.

Mr. Mayer said it would be on the east side.

Ms. Luiz asked if there were going to be two driveways.

Mr. Mayer said there is just the one.

Ms. Luiz asked if they were planning on blasting.

Mr. Mayer said they did not find any conditions that would require blasting.

Larry Baker closed the public hearing and asked for further discussion from the Board.

John Segedy made a motion to approve the application. Dave Fullerton seconded the motion. The motion carried unanimously.

## **WORK MEETING**

### **Audio Recording**

Larry Baker reported that on the advice of town counsel the policy on Audio Recordings should stay in place and he also advised against voting on the Findings of Fact. He said he would ask the Board for their take.

Lucy Pivonka said she felt they should stick with Town Counsels Advice

Keith Cobbett said they should leave this alone.

Dave Fullerton was in favor of retaining the audio recordings.

John Segedy spoke in favor of retaining the meeting recordings (approximately 10 years). He said this was an issue of transparency.

Larry Baker asked the Board to raise their hands if they thought they need to make a change to the Audio Recording policy. John Segedy and Dave Fullerton raised their hands.

John Segedy made a motion to change section 5.5 of the Rules of Procedure to read: "All Board meetings shall be recorded. The purpose for recording meetings is to promote transparency of the Board's activity to the public. All recordings shall be retained for a minimum of 10 years."

Dave Fullerton seconded the motion.

Dave Fullerton said that he and some of his friends have been in some situations and one of them is getting recordings made five years ago because of what's been going on. Some of this has to do with what is going on with his property in the Town.

There was discussion about the 72 hour time limit for a recording to be maintained for the length of an appeal process.

Larry Baker said that the meeting recordings will be retained up until the meeting minutes are approved, not just 72 hours.

Lucy Pivonka said that John Segedy's opinion that the reason for having the recordings is to appear transparent to the public is not the reason we make the recording. The only reason we make the recordings is to help the secretary make sure her notes and minutes are appropriate for what happens. She said everybody has at least 30 days, sometimes 60 days or longer to request a recording. And then they are deleted because legally the written minutes are the legal record of the meeting.

Keith Cobbett asked the Planning Director if the recording of the meeting is digital. He asked if anyone could get a copy of those minutes.

Robyn Payson said yes until the meeting minutes are approved.

Keith Cobbett asked if he or any of the public could get a copy of that recording.

Robyn Payson said if people ask for a recording it will be sent to them. She said having a list of people she had to automatically send the recordings to would be burdensome.

John Segedy said for clarification that the minutes can't be e-mailed because they are too large and need to be sent via dropbox. In terms of more effort, he said as far as he knows two people are getting them all the time. He said in his opinion asking for them each time created more work for her because she had to respond to that e-mail. But now she's got it set up to send it to two names which could easily be 2, 10, or 20 names. It would be a premade list of people in her e-mail folder. That is nothing.

Dave Fullerton said he is concerned about the RSA 33A3 he said he would like to see it. He said he was told the police were required to charge for their services at school events. The RSA actually says the Town is required to see if their services are needed and they may charge. He said there is a big difference between may and shall. What they were telling me was that they were required to do this. They weren't it could be up to their discretion.

Lucy Pivonka said she takes issue with Mr. Segedy deciding what Robyn's procedure is and what she has time for. That seems really inappropriate.

Larry Baker called for a vote on the motion.

### **Roll Call Vote**

John Segedy-Yes, David Fullerton-Yes, Keith Cobbett-No, Larry Baker-No, Lucy Pivonka -No. Motion fails in a vote of 3 against 2 in favor.

### **Voting on Findings of Fact**

Larry Baker asked John Segedy if this was something he wanted added to the Rules of Procedure.

John Segedy said it was but he didn't have any specific language. He said as long as anyone can ask that they be voted on at any time. He said it would be cleaner to have it in the rules but you can poll people to see where their at.

Larry Baker said his opinion was that he doesn't think they should be doing that because the whole point of switching to one vote on the application as a whole as opposed to each criteria was to make it more efficient moving through the application. The Board is going to discuss

every criteria and do the Findings of Fact on every one of them but voting on the individual finding of fact is bringing it right back to voting on the individual criteria.

Lucy Pivonka said the reason for voting on the application as a whole is the legal reason.

Keith Cobbett said he would reiterate what Lucy Pivonka said.

Larry Baker asked Dave Fullerton if he had any comments. He said no.

John Segedy said that the fact that the legislature saw fit to change the law last year to require the Findings of Fact by the Board indicates they, who outweigh us, these decisions should have Findings of Fact.

Larry Baker said everyone is in agreement with that. If they are going through the findings of fact and there is a disagreement someone can always make a motion.

Lucy Pivonka said the Findings of Fact are something that the Board should compromise on.

Larry Baker said that the Board did that very well at this meeting.

## **Meeting Minutes**

### **February 12, 2024**

John Segedy made a motion that the changes proposed by the Planning Director (See attached) be approved. Keith Cobbett seconded the motion. The motion carried unanimously.

John Segedy made a motion to amend on page one, two thirds of the way down to cross out "following the discussion" and insert the phrase "While John Segedy was trying to explain this point Lucy Pivonka said John Segedy was out of order" then and "Gave him a warning". The motion failed for lack of a second.

John Segedy made a motion to amend page three insert the statement "Lucy Pivonka told John Segedy he needed to raise his hand to speak." The motion failed for lack of a second.

John Segedy made a motion to add the phrase "without raising his hand" where it says Keith Cobbett

The motion failed for lack of a second.

Amending the first two lines in page eight John Segedy made a motion to add "John Segedy made note no one else has needed to raise their hand and had spoken back and forth. Lucy said because you keep speaking we can all talk when we ask to speak"

The motion failed for lack of a second.

Larry Baker said to John Segedy that it seems that we are going to go through this whole process.

John Segedy said yes.

John Segedy said If nothing else it will get them into these minutes.

John Segedy made a motion, continuing on page eight, at the beginning of section “Method of voting” insert “when discussion began John Segedy raised a point of order that hands had not been raised.”

The motion failed for lack of a second.

Larry Baker made a motion to approve the minutes February 12<sup>th</sup> 2024, as amended with the Planning Director’s changes. Keith Cobbett seconded the motion. The Motion carried with John Segedy voting No, and Dave Fullerton abstaining.

### **Minutes of April 8, 2024**

John Segedy said on the second page just before the work session, insert “Lucy Pivonka said all the changes John wants to make are quite petty he is [getting back at me] because I did call the police”

Lucy Pivonka made a point of order on decorum. She said this is not a place for personalities, this is a public Town meeting. We should bring our most professional sides here.

Larry said he agrees and once these minutes are done we are done with this. He said he did have a statement to that fact. He asked John to continue with his motion.

John Segedy said before he does, on the issue of decorum the decorum should have been when these things were said.

Larry asked John Segedy to move on.

(John Segedy continuing his statement) “ Larry said I don’t want to get into that. Lucy said all the times that John has banged his hands on the table and screamed and yelled and the time he flipped the table was ever put in the minutes. I have seen him ...”

Lucy called on the chairman.

Larry Baker said he had reached his limit.

Larry Baker said to John Segedy that they think we are getting his point.

John Segedy said “Larry said he would review with Robyn. To respond he claimed about flipping over tables that she was making that up, that never happened. That was around Christmas at the firehouse.”

John Segedy said “So moved that that be inserted.”

The motion failed for lack of a second.

Larry Baker said he wanted to make a statement about the Board. He said using the word decorum is perfect. He said we have had entirely too many personal issues brought to this Board that should not be. Any personal issues should be outside of a public meeting. Going forward we are only going to be dealing with ZBA issues, we are not going to be re-hashing things from the past, it's done. We are going to follow our rules of procedure including decorum to the letter going forward. All discussions will be about the ZBA business at hand. We are not going to go down this path, it doesn't look good for the Board, it is just wrong overall. Going forward I am going to insist and enforce that we are going to stick to ZBA business only. We are not going to delve into other board's business, we are not going to delve into personal issues we are going to focus on what we need to do as a Board.

Larry Baker made a motion to approve the meeting minutes of April 8<sup>th</sup> as presented. Keith Cobbett seconded the motion.

Lucy Pivonka asked for discussion. She said on page three about 2/3rds of the way down there is a quote "John Segedy said, after that, delete the following six paragraphs because she doesn't feel the discussion was necessary.

Larry withdrew his motion to approve the minutes as presented. Keith Cobbett withdrew his second.

Lucy Pivonka made a motion to adjust the April 8<sup>th</sup> minutes to remove the second to last paragraph on page three where John Segedy said "this was for a couple of reasons" to page four at the top thru where Larry Baker said "John Segedy or anybody was free to record any public meeting they wanted to"

Larry Baker said to be clear, that was the first five paragraphs on page 4.

Keith Cobbett seconded the motion.

John Segedy said that was absurd. That was a major part of the whole discussion and that does belong in there. It was Board business. You are continuing to not be transparent.

Larry Baker called for a roll call vote:

Lucy Pivonka-Yes, Larry Baker-Yes, Keith Cobbett-Yes, David Fullerton-No, John Segedy-No  
Motion carries.

Dave Fullerton said on election day he got attacked online. He said he wanted to give advice to everyone which is just let it go. Because continuing this makes it go back and forth forever. If you stop it, it ends.

Larry Baker said that is why we are sticking to Board Business moving on.

## **E-mail Communications**

There was a discussion about the addition to Rules of Procedure about Email Communications.

- 5.7 E-mail Communication:** - In order to comply with the requirements of RSA 91-A concerning Open Meetings, e-mail communications are to be limited to informational items sent from the designated “Point of Contact” (Planning Director or the Chairperson of the Board) on matters that provide information to the Board (e.g., copies of agendas, minutes, articles of interest, meeting scheduling, etc.).

Members may respond to the Point of Contact email individually and may email the Point of Contact only to ask questions; but Members **shall not** use “cc.”, “bcc” or “Reply All” or otherwise send e-mails to other members concerning any Board issue.

Discussion of the particulars of any matter before the Board **shall not** occur via email. Due to the severity of potential penalties for violations of RSA 91-A, a member’s repeat violations of this policy may be considered as grounds for removal of that member from the Board.

John Segedy said the words “to be” should be changed to “should be”

Larry Baker said that Land Use Counsel had reviewed this and approved the language. He said the intent of this section is to avoid making mistakes.

There was discussion about the reasoning behind the proposed addition to the Rules of Procedure.

John Segedy said there is no difference between sending something to all people rather than sending something to one person who then sends it to the group. In terms of whether it will violate RSA 91-A it’s the same difference.

Larry Baker said the point he was going to disagree with is while from a mechanic standpoint you are right. By changing our habits to only send to the Chair and Planning Director, if we all follow that there is no way we can accidentally send something to everybody and have someone accidentally reply all to everyone.

John Segedy talked about a legal case that he sent out to the Board that he wanted on the agenda he said there was nothing wrong with that especially because it did not end up on the agenda. He said he thinks it is perfectly legal to send an interesting article or something like that as long as we are not discussing it.

Larry Baker said to the Board that this language has been approved by counsel to cover things in the way that we want; so he is in favor of keeping the language exactly as is.

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Lucy Pivonka said the first phrase “in order to comply with the requirements of the RSA” is the most important point.

Larry asked if anyone wants to make any changes to the policy.

Keith Cobbett said he thought it was fine.

Dave Fullerton asked how “Reply to All” worked.

Larry Baker explained it to him.

John Segedy said he had a problem with the part of the policy that said, “otherwise send e-mails to other members concerning any Board issue.” He said as long as e-mails do not result in discussion there is no reason I can’t send e-mails to individual members of the Board, as long as it doesn’t meet a quorum and doesn’t get into a back-and-forth discussion. He said he didn’t think this is constitutional. He said everyone has a right to communicate with each other. He doesn’t think it has any validity legally.

John Segedy said the part in terms of violation of the policies seems to refer to the whole section and trying to use it as grounds for removal. At most it would be violation of that paragraph in terms of the discussion of the particulars of that. He said the word “policy” in the middle of the third line should be changed to “paragraph”. In addition, this Board has no power to remove somebody from the Board anyway. Even if it did it would be unconstitutional as long as they aren’t violating the 91A part.

Lucy Pivonka made a motion to add the word “Policy” to the title of the section, so it reads “E-mail Communication Policy” Larry Baker seconded the motion. The motion carried with John Segedy voting No.

John Segedy made a motion to change policy in the middle of the third line to paragraph. Motion failed for lack of a second.

The vote on the Email Communication Policy will be held at the next ZBA meeting.

Larry Baker made a motion to adjourn. Keith Cobbett seconded the motion.

Meeting adjourned at 8:40 pm

Respectfully Submitted,  
Robyn Payson, Planning Director

**Changes to 2/12/24 Minutes-Planning Director**

**Page 1:** He said 2/3rds of the way down where it says “John Segedy said that there was a disagreement on”, He said he would cross out the word “that” and say “disagreement on which things affect the criteria”

**Page 5:** At the top in the sentence that began with Mr. Hoegen to cross out “were apartments” and change it to “was an apartment.”

**Page 8:**

1. John Segedy said halfway down where “John Segedy said the benefit of voting”, halfway through the second line the word “not” does not belong in there because it is a double negative.
2. John Segedy said the next part further down on that page, the section from “following discussion Keith Cobbett recommended” up until “a change in voting must wait 60 days to take effect. Those four lines all took place after the vote for Vice Chairman so it’s not in its right place.