



# Town of Hopkinton

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330 Main Street • Hopkinton, New Hampshire 03229 • [www.hopkinton-nh.gov](http://www.hopkinton-nh.gov)

Tel: 603-746-3170

Fax: 603-746-3049

## HOPKINTON ZONING BOARD OF ADJUSTMENT PUBLIC NOTICE – AGENDA SEPTEMBER 5, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment will meet on Wednesday, September 5, 2018, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, NH, to review and take action on the following.

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I. **Call to Order** (Determine quorum, review attendance of Regular Members and seating of Alternate Members, if necessary).

II. **Applications.**

**#2018-8 Deborah Allen** Special Exception to operate a year-round farm-stand selling products produced on the farm ~~and engaging in agritourism activities~~, located at 258 Dustin Road, owned by Deborah and Mark Allen, in the R-3 district, Tax Map 224 Lot 39. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.D.3.

III. **Review of the Minutes and Notice of Decisions for August 7 and August 20, 2018.**

IV. **Other Business.**

V. **Adjournment.**

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**HOPKINTON ZONING BOARD OF ADJUSTMENT  
APPLICATION FOR APPEAL**

Ten completed copies of the application with all supporting documentation must be submitted.

Name of Applicant: Deborah Allen  
Mailing Address: P.O. Box 276, 258 Dustin Rd., Contoocook, NH 03229  
Telephone (days): 603-860-1956  
Name of Property Owner: Mark & Deborah Allen  
Mailing Address: Same as Applicant  
Telephone (days): Same as above  
Tax Map: 224 Lot: 39 Location of Property: 258 Dustin Road

Zoning of property in question (circle one): R-1 R-2 **R-3** R-4 B-1 M-1 VR-1 VB-1 VM-1

Section of Hopkinton Zoning Ordinance under which your application was denied or you believe your proposal relates to: Section: III Paragraph/Table: 3.6.D.3

*A copy of your denied Building/Use Application or administrative decision must be attached.*

This application is for:  Variance  Special Exception  Equitable Waiver  Administrative Appeal

The undersigned hereby requests a Variance, Special Exception, Equitable Waiver, and Administrative Appeal in order to permit the following:

Special Exception to operate a year-round farm-stand and to engage in  
agritourism activities.

**NOTE: This application is not acceptable unless all required statements have been completed.**  
Additional information may be supplied on a separate sheet if the space provided is inadequate.

1. **Hearing, Abutter, Notification Fees:**
  - Variance – \$100.00
  - Special Exception – \$100.00
  - Equitable Waiver – \$100.00
  - Administrative Appeal – \$100.00
  - Rehearing – \$100.00
  - Notification of each Owner, Applicant, Agent, Abutter – \$5.00
  - Published Notice – \$75.00
  
2. **List of names and mailing addresses of all abutters to the property as defined by NH RSA 672:3. Supply information on separate sheet. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.**
  
3. **Attach location map showing exact location of property in relation to at least one prominent landmark (road junction, business, town building, etc.). Include north arrow and label road names. Indicate with an X the location of the property in question.**

4. **Attach site plan of property showing:** Boundaries and area of parcel; north point, scale and legend; location, size and type of all existing and proposed buildings, uses, parking, signs, roadways, screening, etc. Map submitted to included one full-size and ten 11" x 17" or less.
5. **List provisions to be made for septic disposal, fire protection, water supply, parking, noise, smoke, surface drainage, etc.** Supply information on separate sheet.
6. **Letter of Authorization to allow an Agent or Attorney to represent Applicant, if applicable.**
7. **Copy of property deed of the subject property.**
8. **Any other pertinent information that you feel the Board may need to assist in their decision making process.**

You must appear at the public hearing or be presented by an authorized agent or attorney for the Board to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, without first providing written notification to the Planning Department.

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the Board's decision on your application request. The Town of Hopkinton assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and local laws, codes, land development regulations and comprehensive plan. The Town of Hopkinton strongly encourages all applicants to consider consulting an attorney regarding their application.

You are encouraged to review the attached Rules of Procedures used by the Board of Adjustment at the public hearing.

I/we being duly sworn, depose and say that I am/We are the owner(s)/lessee(s) of land included in the application and that the foregoing statements herein contained and attached, and information or attached exhibits thoroughly to the best of my/our ability represent the arguments on behalf of the application herewith submitted and that the statements and attached exhibits referred to are in all respect true and correct to the best of my/or knowledge and belief.

In addition, I/We understand this application must be filed with all pertinent information as it pertains to the requirements of the Town of Hopkinton Zoning Ordinance and all other information requested or required by the Zoning Board of Adjustment in order to be considered complete. I/We understand that this application will not be filed until all required information has been received, and do further understand that the Town of Hopkinton reserves the right to postpone this request until such time as the requirements are met.

Furthermore, I/We understand that I/We, our representative as stated on the application, should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, said evidence will become property of the Town of Hopkinton and will remain on file for future reference.

Also, I/We recognize and understand that the public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. **State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is discussed at a public hearing.**

Applicant's Signature: Deborah Allen Date: 8/27/18  
 Applicant's Printed Name: DEBORAH ALLEN Date: 8/27/18  
 Owner's Signature: SHANE ALLEN Date: 8/27/18  
 Owner's Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

T224 L39  
R3



## GILDED FERN FARM

258 DUSTIN ROAD  
CONTOOCCOOK, NH 03229  
603.860.1956



To WHOM IT MAY CONCERN:

AUGUST 13, 2018

We have a small farm with sheep in Contoocook. We produce raw milk aged cheeses and raw yogurt. We attend farmers' markets and would like to offer a farmstand on our property with the intent to promote sales, enhance our own community and give people the opportunity/means to recycle their glass jars when purchasing yogurt.

We believe that the art of cheese making offers a value added product and engages consumers of dairy products.

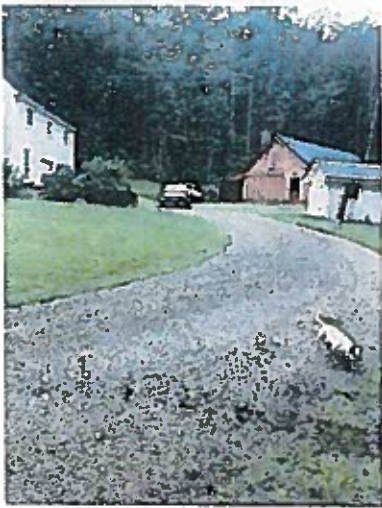
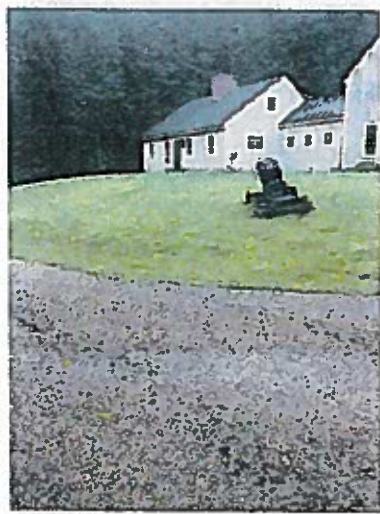
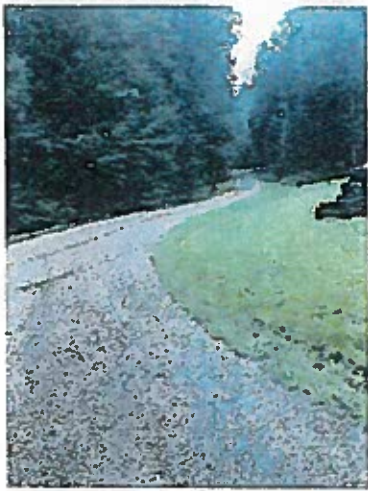
With Special Exception we would like to do the following:

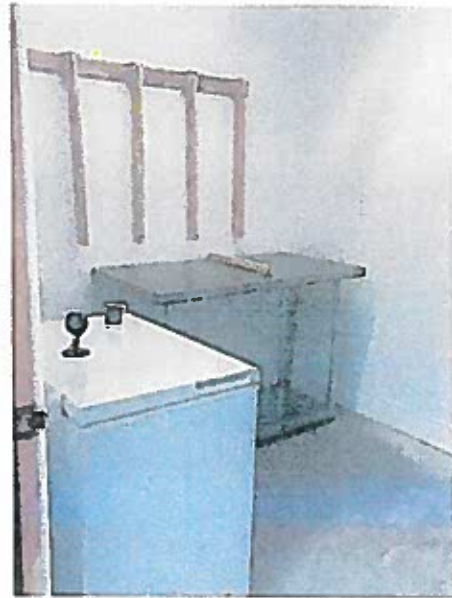
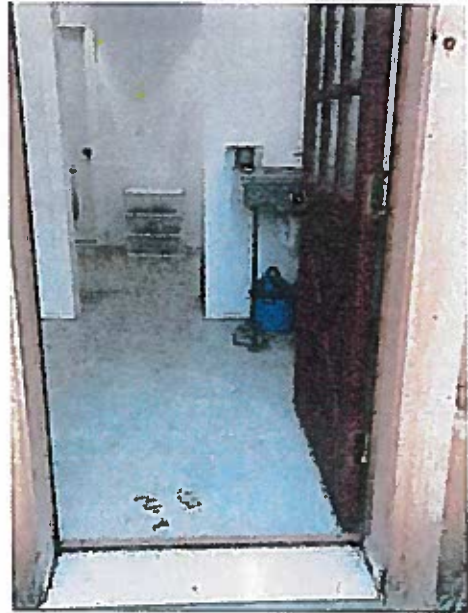
- Open a yearround farmstand: hours of operation 7A-7P
- Sell the following products at our farmstand
  - Yogurt
  - Cheese
  - Products related to cheese (utensils; educational materials; storage)
  - Handmade wool products
  - Rabbit meat (future)
- We would also like to engage in future opportunities related to agritourism, primarily offering cheese making classes

Thank you for considering our request.

Respectfully submitted,

Mark and Deborah Allen  
PO Box 276  
CONTOOCCOOK NH 03229





**SPECIAL EXCEPTION**  
(Section XV)

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your Special Exception request satisfies the following criteria of the Zoning Ordinance. Please provide a written response along with any other supporting documentation for each of the following criteria. Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a Special Exception to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. Standards provided by this Ordinance for the particular use permitted by special exception.

Table of uses 3.6.P.3 + 2.1.A.4

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2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

THERE ARE NO HAZARDOUS CHEMICALS/MATERIALS BEING USED.

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3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

THERE IS NO ODOR OR RUN-OFF TO CAUSE DETRIMENT TO ADJACENT PROPERTY.

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4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

THERE SHOULD BE NO INCREASE IN TRAFFIC AS A RESULT OF REQUEST IF GRANTED.

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5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

THERE WILL BE NO INCREASE IN DEMAND ON MUNICIPAL SERVICES.

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6. No significant increase of storm water runoff onto adjacent property or streets.

THERE WILL BE NO CHANGE IN STORM RUNOFF

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7. An appropriate location for the proposed use.

THE LOCATION IS WELL LIT AND SEEMS APPROPRIATE FOR PROPOSED USE.

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8. Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

PROPOSED EXCEPTION WOULD NOT ADVERSELY AFFECT THE  
HEALTH / SAFETY OF RESIDENTS IN THE AREA.

9. In the public interest and in the spirit of the ordinance.

IN THE SPIRIT OF NURTURING LOCAL FOOD PRODUCTION  
WE FEEL THAT THE REQUEST IF GRANTED WOULD CONTRIBUTE  
TO THE COMMUNITY IN A POSITIVE MANNER.





# Abutters List Report

Hopkinton, NH  
August 27, 2018

## Subject Property:

Parcel Number: 224-039-000  
CAMA Number: 224-039-000  
Property Address: 258 DUSTIN RD

Mailing Address: ALLEN MARK & DEBORAH  
PO BOX 276  
CONTOOCOOK, NH 03229

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## Abutters:

Parcel Number: 224-040-000  
CAMA Number: 224-040-000  
Property Address: 280 DUSTIN RD

Mailing Address: CARNEY TIMOTHY C & LYNNETTE  
280 DUSTIN RD  
CONTOOCOOK, NH 03229

Parcel Number: 224-041-000  
CAMA Number: 224-041-000  
Property Address: 208 DUSTIN RD

Mailing Address: DESOUSA NICHOLAS J & JULIA  
208 DUSTIN RD  
CONTOOCOOK, NH 03229

Parcel Number: 242-015-000  
CAMA Number: 242-015-000  
Property Address: 945 PENACOOK RD

Mailing Address: BOHANAN (TRUSTS) GLENN L & ADE  
ROBERTSON HEATHER B & JAMES C  
945 PENACOOK ROAD  
CONTOOCOOK, NH 03229

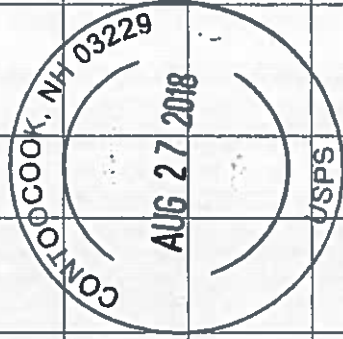
Name and Address of Sender  
**Town of Hopkinton**  
**330 Main Street**  
**Hopkinton, NH 03229**  
**Re: 09/05/2018 zba /PB**

Check type of mail or service:  
 Adult Signature Required  
 Certified Mail  
 COD  
 Delivery Confirmation  
 Express Mail  
 Insured

Adult Signature Restricted Delivery  
 Recorded Delivery (International)  
 Registered  
 Return Receipt for Merchandise  
 Signature Confirmation

Affix Stamp Here  
 (If issued as a  
 certificate of mailing  
 or for additional  
 copies of this bill)  
 Postmark and  
 Date of Receipt

Article Number	Address (Name, Street, City, State, & ZIP Code™)	Postage	Fee	Handling Charge	Actual Value Registered	Insured Value	Due Sender If GGD	ASR Fee	ASRD Fee	DC Fee	SC Fee	SH Fee	RD Fee	RR Fee
1. 70161370000240211986	Mark & Deborah Allen P.O. Box 276, 258 Dustin Rd Hopkinton, NH 03229	.47	3.45											
2. 70161370000240211993	Nicholas & Julie Desousa 208 Dustin Rd Hopkinton, NH 03229	.47	3.45											
3. 70161370000240212006	Timothy & Lynnette Carney 280 Dustin Rd Hopkinton, NH 03229	.47	3.45											
4. 70161370000240212013	Glenn & Adele Marie Bohanan Trust Heather & James Robertson 245 Penacook Rd Hopkinton, NH 03229	.47	3.45											
5.		.47	3.45											
6.		.47	3.45											
7.		.47	3.45											
8.		.47	3.45											



Total Number of Pieces Listed by Sender: 4  
 Total Number of Pieces Received at Post Office: 4

Postmaster, Per (Name of receiving employee)

PS Form 3877, June 2011 (Page 1 of 2) Complete by Typewriter, Ink, or Ball Point Pen See Privacy Act Statement on Reverse

Return to:  
MARK ALLEN and DEBORAH ALLEN  
663 MAPLE ROAD, HOPKINTON, New Hampshire 03229

Book 2371

Page 1631  
Page 1631  
File # B021517

85

810<sup>00</sup>

Doc# 461182  
Book: 2371  
Page: 1631  
Filed & Recorded  
06/05/2002 01:17:16 PM  
KATHI L. GRAY, CPO, REGISTER

Warranty Deed

MERRIMACK COUNTY REGISTRY OF DEEDS	
RECORDING	\$ 16.00
SEARCHFEE	\$ 2.00
TRANSFER TAX	\$ 818.00
POSTAGE	\$ 0.34

TIMOTHY C. CARNEY, MARRIED

of 244 DUSTIN ROAD, HOPKINTON, New Hampshire 03229

for consideration paid

grant to MARK ALLEN and DEBORAH ALLEN, HUSBAND AND WIFE

of 663 MAPLE ROAD, HOPKINTON, New Hampshire 03229 , as joint tenants with rights of survivorship,

with WARRANTY covenants

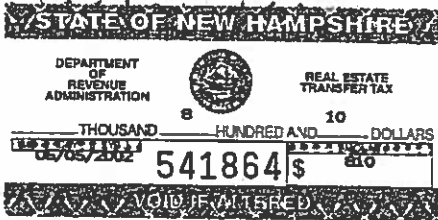
A CERTAIN TRACT OR PARCEL OF LAND WITH THE BUILDINGS THEREON, IF ANY, SHOWN AS LOT 1A ON A PLAN ENTITLED "PLAN FOR ANNEXATION IN HOPKINTON, N.H. SURVEYED FOR TIMOTHY C. AND LYNNETTE B. CARNEY" SCALE 1" = 50' DATED SEPTEMBER 26, 2001 AND RECORDED IN THE HILLSBOROUGH COUNTY REGISTRY OF DEEDS AS PLAN NO. 15728, TO WHICH PLAN REFERENCE MAY BE MADE FOR A MORE PARTICULAR DESCRIPTION.

SUBJECT TO ALL MATTERS SHOWN ON PLAN NO. 15728.

MEANING AND INTENDING TO DESCRIBE AND CONVEY A PORTION OF THE PREMISES CONVEYED TO THE WITHIN GRANTORS BY DEED DATED OCTOBER 21, 1996 AND RECORDED IN THE MERRIMACK COUNTY REGISTRY IN BOOK 2038 PAGE 776.

THIS IS NOT HOMESTEAD PROPERTY.

Executed this June 4, 2002.



*Timothy C. Carney*  
TIMOTHY C. CARNEY

State of New Hampshire

MERRIMACK, ss:

Fourth day of June, 2002

The foregoing was acknowledged before me this June 4, 2002 by TIMOTHY C. CARNEY.

My Commission Expires:

(Seal)  
Notary Public

MERRIMACK COUNTY RECORDS

*Kathi L. Gray*, CPO, Register

Catherine J. Bickert  
Justice of the Peace

My Commission Expires July 25, 2005

MA  
DA



# Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • [www.hopkinton-nh.gov](http://www.hopkinton-nh.gov)  
Tel: 603-746-3170 Fax: 603-746-3049

June 6, 2018

Deborah Allen  
258 Dustin Road  
Hopkinton, NH 03229

Re: Farm Stand, 258 Dustin Road  
Tax Map 224, Lot 39, R-3 District

Dear Mrs. Allen:

Based on our conversation and my review of the Hopkinton Zoning Ordinance, your proposal to operate a farm stand will require a Special Exception in accordance with Table of Uses 3.6.D.3 of the Hopkinton Zoning Ordinance.

In addition to the Special Exception, you will need to apply to the Planning Board for Site Plan Review to ensure that adequate measures will be taken to protect public health, convenience, safety, and the welfare of the neighborhood. See attached pertinent sections of the Hopkinton Zoning Ordinance and Site Plan Review Regulations, along with the necessary applications to be completed.

Should you decide to go forward with your proposal, I have outlined a timetable for you to following:

- **Apply to the Selectmen for a Building/Use Permit.** Submit the application no later than 12 Noon on Monday, June 18th to have it reviewed by the Selectmen at their Monday, June 25th meeting.
- **Apply to the Zoning Board of Adjustment for a Special Exception or Administrative Appeal if you should believe that the Selectmen erred in their interpretation of the provisions of the Zoning Ordinance.** Submit the application no later than 12 Noon on Monday, June 18th to have it reviewed by the Zoning Board of Adjustment at their Tuesday, July 3rd meeting.
- **Apply to the Planning Board for Site Plan Review.** Submit the application no later than 12 Noon on Monday, June 18th to have it reviewed by the Planning Board at their Tuesday, July 10th meeting. Should you not be successful at receiving the Special Exception, your application and associated fees for the Planning Board will be returned.

Please let me know if you should need assistance.

Sincerely,  
  
Karen L. Robertson  
Planning Director

Enclosures

**SECTION II  
DEFINITIONS**

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- (7) The raising, breeding, or sale of poultry or game birds.
  - (8) The raising of bees.
  - (9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.
  - (10) The production of greenhouse crops.
  - (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
  - (2) The transportation to the farm of supplies and materials.
  - (3) The transportation of farm workers.
  - (4) Forestry or lumbering operations.
  - (5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
  - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
  - (7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II (a) (4).
  - (8) The production and storage of compost and the materials necessary to produce compost whether such materials originate, in whole or in part, from operations of the farm.
- \* (III) A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.
- (IV) Practices on the farm shall include technologies recommended from time to time by the University of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, and appropriate agencies of the United States Department of Agriculture.
- (V) The term “farmers’ market” means an event or series of events at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale much include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. “Farmers’ market” shall not include any event held upon any premises owned, leased, or otherwise controlled by an individual vendor selling therein.
- \* (VI) The term “agritourism” means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on the farm operations, or active involvement in the activity of the farm which is ancillary to the farm operations.

## SECTION II DEFINITIONS

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**2.1 DEFINITIONS** Except where specifically defined herein, the words used in this Ordinance shall carry their customary meaning. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words “used” or “occupied” include the words “designed,” “arranged,” “intended,” or “offered,” to be used or occupied; the words “building,” “structure,” “lot,” “land” or “premises” shall be construed as though followed by the words “or any portion thereof” and the word “shall” is always mandatory and not merely directory. Terms and words defined in the Hopkinton Building Code, if any, or Subdivision Regulations or Site Plan Review Regulations shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster’s Unabridged Dictionary, Third Edition. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be further defined by the Standard Industrial Classification Manual published by the U.S. Bureau of Census. The following words are specifically defined:

**2.1.A.1 Abutter:** Abutter means any person whose property adjoins or is directly across the street or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

**2.1.A.2 Accessory Building:** A detached building whose purpose is subordinate to that of the main building. For the purpose of this Ordinance a breezeway, a garage or a carport that is attached directly, or by means of another structure, to the main building shall be regarded as an integral part of the main building.

**2.1.A.3 Administrative Officer:** The Building Inspector, Town of Hopkinton, New Hampshire.

**2.1.A.4 Agriculture, Agritourism, Farm, Farmers’ Market, Farming:**

- (I) The word “farm” means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.
- (II) The words “agriculture” and “farming” mean all operations of a farm, including:
  - (a) (1) The cultivation, conservation, and tillage of the soil.
  - (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage and, where permitted by municipal and state rules and regulations, other lawful soil amendments.
  - (3) The use of and application of agricultural chemicals.
  - (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elphus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elphus*), and reindeer (*Rangifer tarandus*).
  - (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
  - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

**SECTION III  
ESTABLISHMENT OF DISTRICTS AND USES**

<b>3.6 TABLE OF USES</b>	R-4	R-3	R-2	R-1	B-1	M-1	VR-1	VB-1	VM-1	W-1
<b>A. Residential Uses</b>										
1. Single family detached dwelling.	P	P	P	P	X	S	P	S	S	
2. Two family dwelling.	S	S	P	P	S	S	P	S	S	
3. Multi-family dwelling with a maximum of eight (8) dwelling units per building.	X	X	S	P	S	X	S	S	X	
4. Manufactured Housing on individual lots.	X	X	X	X	X	X	X	X	X	
5. Manufactured Housing Park in accordance with Section IX.	X	S	S	S	X	X	S	X	X	
6. Manufactured Housing subdivision in accordance with Section XI.	P	P	P	P	X	X	S	X	X	
7. Congregate Care Housing	X	X	S	S	S	X	S	S	X	
8. Affordable Housing Option in accordance with Section XVI.	X	P	P	P	X	X	P	X	X	
<b>B. Temporary Residential Uses</b>										
1. Non-profit overnight and day camps and cottage colonies.	S	S	S	X	X	X	X	X	X	
2. Bed and Breakfast Home in accordance with Section III, paragraph 3.7.2 and 3.7.4.	S	S	S	S	P	X	S	P	X	
3. Bed and Breakfast Inn in accordance with Section III, paragraph 3.7.2 and 3.7.6.	S	S	S	S	P	X	S	P	X	
4. Hotels, Motels, Inns.	X	X	X	X	P	S	X	P	S	
<b>C. Outdoor/Recreational Uses</b>										
1. Forestry, wildlife, timber preserves, reservoirs, and nature study areas, conservation areas and preserved or protected open space.	P	P	P	P	P	P	P	P	P	
2. Public parks and playgrounds.	P	P	P	P	P	P	P	P	P	
3. Commercial riding stables and riding trails.	S	S	S	X	X	X	X	X	X	
4. Historic building or site open to public.	P	P	P	P	P	P	P	P	P	
5. Recreational camping/tenting parks and recreational camping vehicles.	S	S	S	X	X	X	X	X	X	
<b>D. Agricultural/Forestry Uses</b>										
1. Agriculture, horticulture and floriculture except a greenhouse or stand for retail sale, including customary accessory structures and uses.	P	P	P	S	S	P	S	S	P	
* 2. Farming including dairying, livestock, animal and poultry raising, and crop production including customary accessory structures and uses.	P	P	P	S	S	P	S	S	P	
* 3. Year-round greenhouse or farm stand.	S	S	S	S	S	P	S	P	P	

Section XII Wetlands Conservation District (Overlay)

**SECTION VI  
PARKING REQUIREMENTS**

**6.1 OFF-STREET PARKING** On and after the effective date of this Ordinance, all new structures and developments as well as additions to or changes in use or intensification of use in existing structures shall be provided with off-street parking spaces in accordance with the following specifications in Section 6.3. The Planning Board may alter the specifications of Section 6.3, Required Spaces, when, after testimony of the Applicant, it determines it is in the best interest of the Town and all other parties involved, and subject to any condition(s) the Planning Board may impose as it deems appropriate.

**6.2 LOCATION OF PARKING SPACES** Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve; or, when practical differences as determined by the Planning Board prevent their establishment upon the same lot, they shall be established no further than 500 feet from the premises to which they are appurtenant.

**6.3 REQUIRED SPACES** Parking spaces shall be provided in accordance with the following criteria:

Type of Use	Minimum Number of Required Spaces
* (a) One and two family dwelling	Two (2) for each dwelling unit.
(b) Multi-family dwelling	One and one-half (1-1/2) for each dwelling unit.
(c) Bed and Breakfast Home and Bed and Breakfast Inn	Two (2) spaces for the owner plus one space for each Lodging Unit.
(d) Theater, restaurant, auditorium, church or similar place of public assembly.	One (1) for each four (4) seats of total seating capacity. In VR-1, VB-1, and VM-1 one (1) space for each five (5) seats of total seating capacity.
* (e) Automotive retail and service establishment and other retail and service establishments utilizing extensive display areas, either indoor or outdoor which are usually extensive in relation to customer traffic.	One (1) per 1,000 sq. ft. of gross floor space. In the case of outdoor display areas, one (1) for each 1,000 sq. ft. of lot area in such use.
(f) Other retail, service, finance, insurance, real estate establishment, antique shop or business/professional offices.	One (1) per each 300 sq. ft. of gross floor space. In VR-1, VB-1 and VM-1, one (1) per each 400 sq. ft. of gross floor space.
(g) Hotel	Two (2) spaces for the owner (if owner occupied) plus one (1) space for each Lodging Unit plus one (1) space for each 200 sq. ft. of public meeting room and restaurant space.
(h) Wholesale establishment, warehouse or storage establishment.	One (1) per each 1,000 sq. ft. of gross floor space.
(i) Manufacturing or industrial establishment.	One (1) per each 600 sq. ft. of gross floor space OR 0.75 per each employee of the combined employment of the two largest successive shifts, whichever is larger.
(j) Hospital	Two (2) per bed at design capacity.
(k) Nursing Home	One (1) per bed at design capacity.
(l) Business, trade or industrial school or college.	One (1) for each 200 sq. ft. of gross floor area in classrooms.
(m) Nursery schools or daycare centers.	One (1) for each five (5) children at maximum capacity with a minimum of two (2) spaces required.



**SECTION VI  
PARKING REQUIREMENTS**

Type of Use	Minimum Number of Required Spaces
(n) Other school	Two (2) per classroom in an elementary and junior high school; four per classroom in a senior high school plus space for auditorium or gymnasium, whichever has the larger capacity.
(o) Community facility (town building, recreation, etc.)	One (1) per each 400 sq. ft. of gross floor space.
(p) Dormitory, fraternity, sorority, YMCA or similar use.	One (1) for each sleeping room.
(q) Public Utility	One (1) for each 400 sq. ft. of gross floor area devoted to office use. One for each 800 sq. ft. of gross floor area per other use.
(r) Transportation terminal	One (1) for each 600 sq. ft. of gross floor area.
(s) Mixed Use	Sum of various uses computed separately.
(t) Any use permitted by this Ordinance not interpreted to be covered by this schedule.	Closest similar use as shall be determined by the Building Inspector.

**6.4 PARKING SPECIFICATIONS**

\* **6.4.1 Size:** Each required parking space shall be not less than 10 feet wide and shall have a minimum area of one hundred eighty (180) square feet, exclusive of drives or aisles. In VR-1, VB-1, and VM-1, each required parking space shall not be less than 9 feet wide and shall have a minimum area of one hundred sixty-two (162) square feet, exclusive of drives or aisles.

**6.4.2 Travel Lanes:** Travel lanes shall not be less than: 22 feet wide for 90 degree angle parking; 18 feet wide for 60 degree angle parking; 15 feet wide for 45 degree angle parking; and 12 feet wide for 30 degree angle parking.

\* **6.4.3 Surface:** All uses that require Site Plan Review shall have all parking areas and access drives and aisles surfaced with bituminous concrete, or concrete in order to prevent erosion and raising of dust. Paved lots shall be striped to delineate parking spaces. In some circumstances to prevent excessive run-off or because of aesthetics, the Planning Board, as part of Site Review may permit a compacted crushed gravel or stone dust surface.

**6.4.4 Islands:** The use of landscaped islands to control traffic flow shall be encouraged.

**6.4.5 Arrangement:** All parking lots shall have parking spaces so arranged as not to necessitate backing of automobiles into any street.

**SECTION VII  
SIGN ORDINANCE**

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grade, except as may otherwise be allowed where a special exception has been granted by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of this Ordinance;

- 7.7.10 Projecting signs that are lower than ten (10) feet or greater than twenty-five (25) feet above grade, protrude above the sills of the windows above the first story, project more than six (6) feet from the building, or contain more than twenty-four (24) square feet of area;
- 7.7.11 Signs attached to a utility pole;
- 7.7.12 Signs, other than traffic control signs, that use the words “stop”, “yield”, “caution”, and “danger”, or that contain red, amber, and green lights that may resemble traffic control signs or lights;
- 7.7.13 Billboards and signs unrelated to the principal use or uses of the premises on which the sign is located, except as provided in Subsection 7.10.3, Off-Premises Business Signs;
- 7.7.14 Illuminated signs that direct the illumination onto adjacent streets or onto property other than the premises on which the sign is located;
- 7.7.15 Signs that resemble Town of Hopkinton street identification signs;
- 7.7.16 Signs attached to, or painted on, vehicles or trailers which are parked and visible from a street or limited access highway, except where such vehicles or trailers are regularly and customarily used to transport persons, goods, or materials as part of the principal use of the premises;
- 7.7.17 Signs which by reason of position, wording, illumination, size, shape or color that obstruct, impair, obscure, interfere with the view of, or may be confused with, any traffic control sign, signal or device; and
- 7.7.18 Electronic message type signs.

**7.8 SIGNS ALLOWED IN RESIDENTIAL DISTRICTS**

**7.8.1 Signs Allowed.** The following signs are allowed in residential districts:

- (a) **Exempt Signs.** Signs exempted from permit requirements in accordance with Subsection 7.3, Signs Exempted from Permit Requirements.
- (b) **Residential Signs.** Signs allowed in accordance with Subsection 7.2, Permit Required for Signs, upon receipt of a permit from the Building Inspector.
- \* (c) **Non-Residential Signs.** Upon receipt of a permit from the Building Inspector one (1) sign of up to fifteen (15) square feet in area for each conforming, principal, non-residential use may be allowed under the terms of this Ordinance, except as may otherwise be allowed where a Special Exception has been granted by the Zoning Board of Adjustment pursuant to Subsection 15.8.2, Special Exceptions, of the Ordinance. The sign may be a free-standing sign or a building sign provided that there is no more than one (1) free-standing sign per lot;
- (d) **Other Signs.** Signs allowed in accordance with Subsection 7.10, Other Allowed Signs, upon

**SECTION VII  
SIGN ORDINANCE**

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- (a) The sign shall relate to a Hopkinton business or event or promotion taking place in the Town of Hopkinton;
- (b) The sign shall be placed on private property only and not in the public right-of-way, unless the Applicant files with the Building Inspector a certificate of insurance indemnifying the Town of Hopkinton against any form of liability in a minimum amount as specified by the Board of Selectmen. No permit shall be issued prior to the receipt of said certificate and the permit shall be valid only so long as the certificate remains in effect.
- (c) The sign shall not impede sight distances at any driveway entrance, exit or street intersection.
- (d) No electrical devices shall be used in conjunction with these types of signs.
- (e) A maximum of two (2) signs for such business, organization, group or individual, whether for profit or not, shall be allowed on a property.
- (f) Signs shall be exempt from the requirements of subsection 7.5, Non-Residential Lot Signage Plan.

**7.10.5 Residential Subdivision/Development Signs.** For the purpose of identifying the name of a residential subdivision, multi-family development, or manufactured housing park of eight (8) units or more, one (1) permanent free-standing sign of up to twenty (20) square feet in area may be placed at an entrance to such residential development.

**7.10.6 Home Business Signs.** One (1) sign of up to four (4) square feet in area for a Home Business use allowed pursuant to paragraphs 2.1.H.1 and 3.7.3, Home Business, of this Ordinance.

✱ **7.10.7 Agriculture, Farm Signs.**

- (a) In residential districts one (1) permanent sign, whether free-standing or a wall sign, advertising the name of a farm and/or farm products for sale, as well as directional information, shall be allowed on the property of the farm provided that the sign does not exceed twenty (20) square feet in area. Nothing contained herein shall be deemed to limit agricultural, farm signs in non-residential districts. Such signs shall be subject to the provisions of subsection 7.9, Signs Allowed in Non-Residential Districts.
- (b) Temporary off-premises free-standing signs advertising the name of a farm and/or farm products for sale, as well as directional information, shall be allowed provided that there are not more than four (4) signs, each sign not exceeding eight (8) square feet in area. Signs shall be placed on private property only and not in the public right-of-way unless the Applicant files with the Building Inspector a certificate of insurance indemnifying the Town of Hopkinton against any form of liability in a minimum amount as specified by the Board of Selectmen. An easement or agreement between the lot owners relative to its placement is required. A copy of said easement or agreement is to be provided to the Building Inspector at the time of securing a permit. It is understood that these signs are not in addition to the signs referenced in subsections 7.10.3 and 7.10.4.
- (c) Signs shall in no way impede sightline at any driveway entrance, exit or street intersection.

**7.11 SIGN ILLUMINATION** No sign in any district may be illuminated from within, but may be illuminated by a shielded external light source pursuant to the terms of Section XVII, Outdoor Lighting Ordinance, of this Ordinance. No sign in a residential district may be illuminated between the hours of 9:00 p.m. and 7:00 a.m., except to the extent that a sign which is accessory to a permitted non-residential use may be illuminated during those hours that such permitted non-residential use is open



August 27, 2018

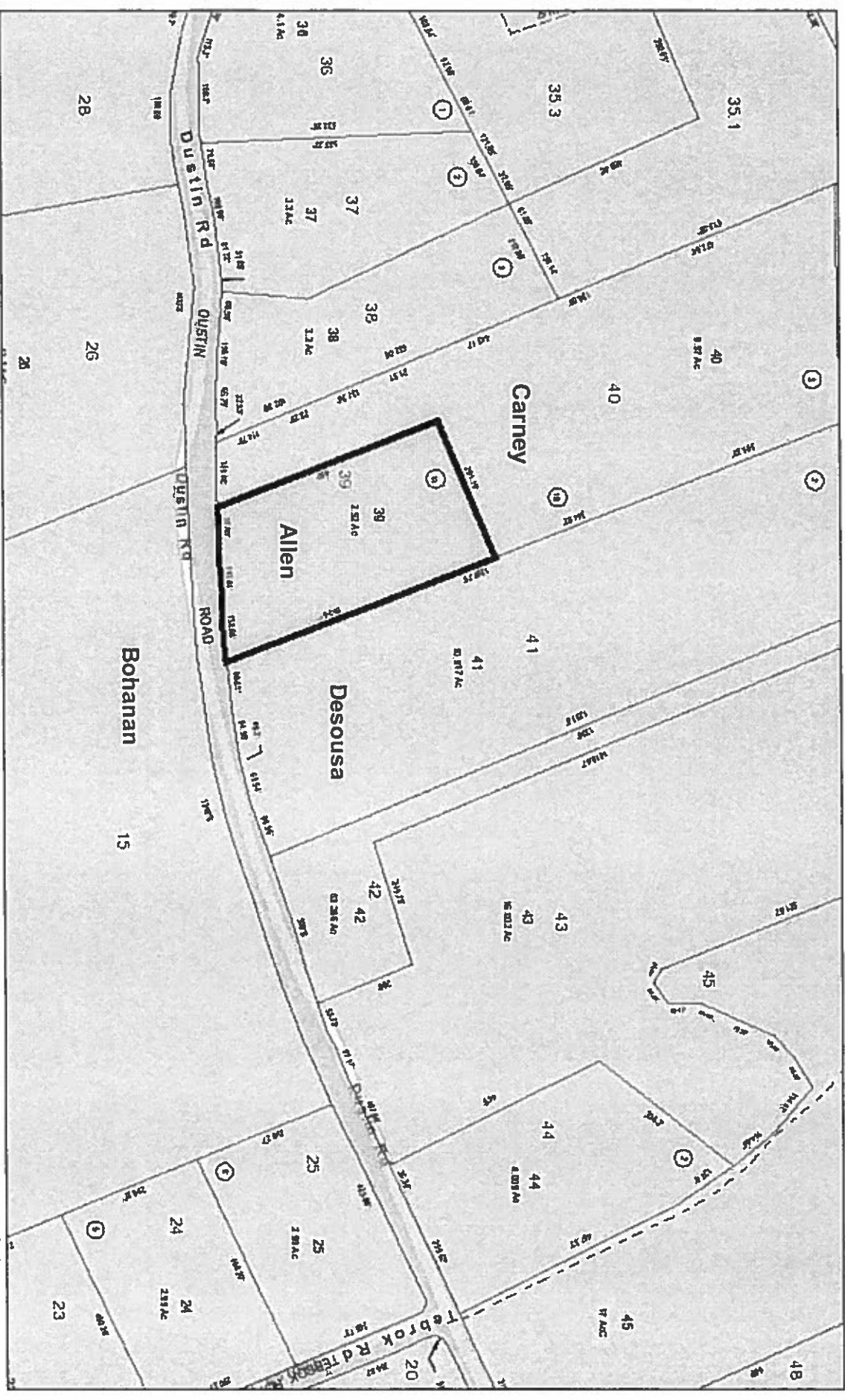
Hopkinton, NH

1 inch = 268 Feet

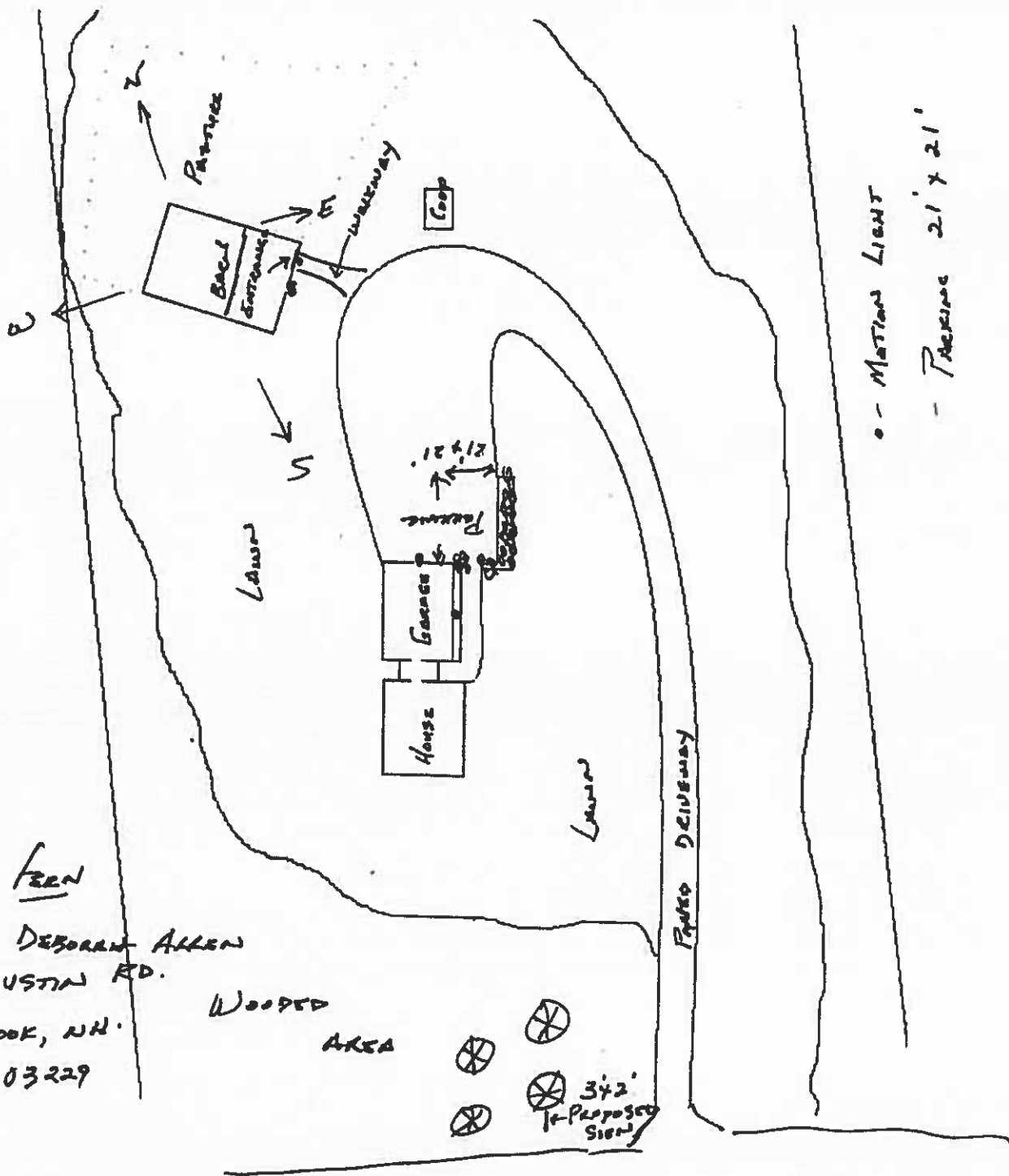


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GILDED FERN  
 MARK & DEBORAH ALLEN  
 258 DUSTIN RD.  
 LONGTODD, NH.  
 03229

WOODED AREA

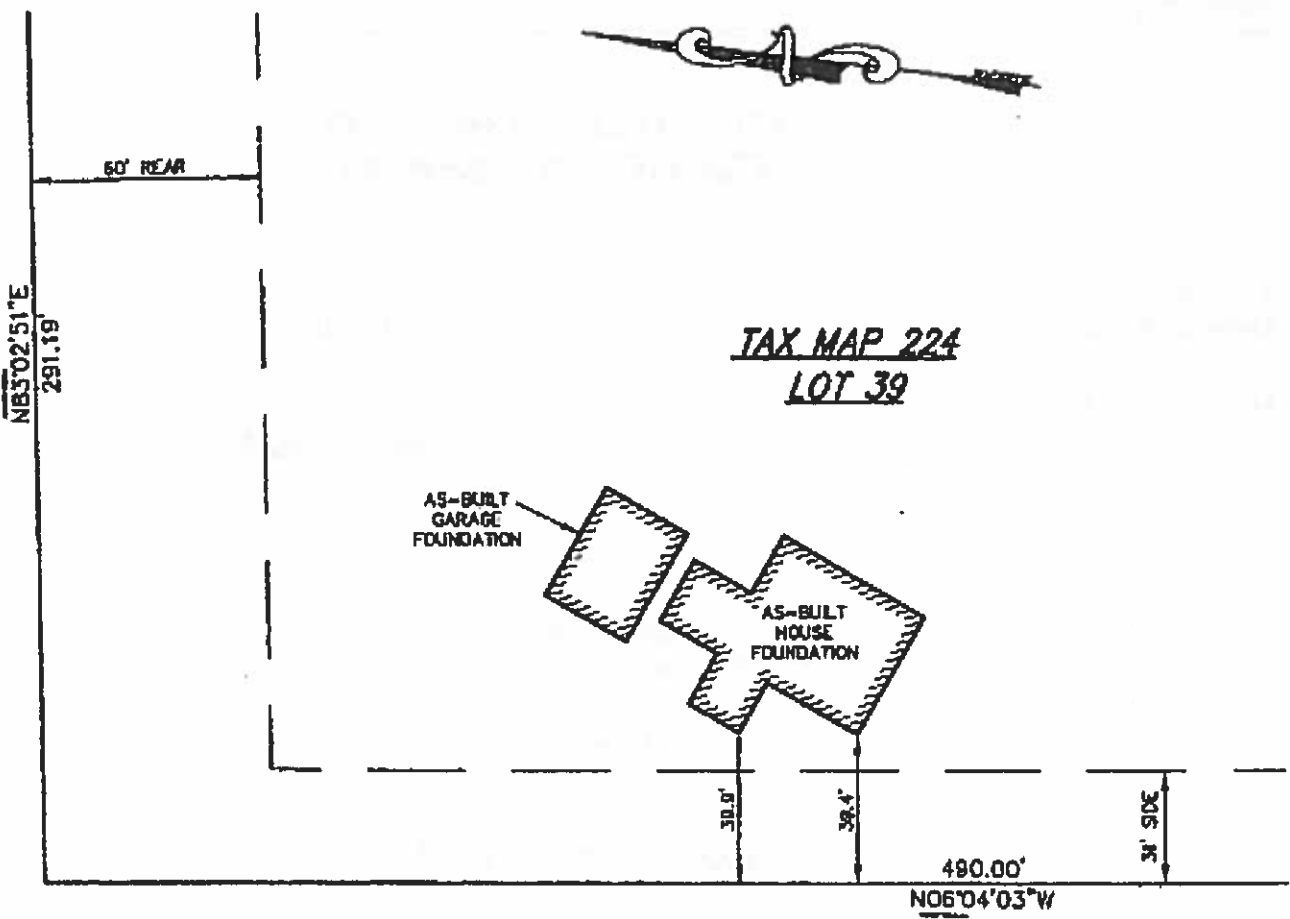
3x2  
 Proposed Sign

o - Motion Light  
 - Passage 21x21'

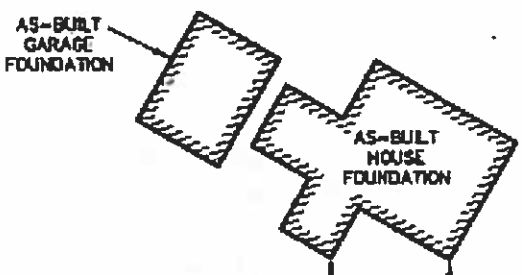
DUSTIN RD.

Proposed Farmstand / Agritourism

2/1/10



TAX MAP 224  
LOT 39



SKETCH PLAN

FOR  
FOUNDATION LOCATION  
PREPARED FOR

DEBORAH & MARK

ALLEN

LOCATED AT  
DUSTIN ROAD  
HOPKINTON, N.H.

K/A TAX MAP 224 LOT 39

SCALE: 1"=50'      OCTOBER 6, 2003

- NEAREST POINT ON STRUCTURE IS CORNER OF NEW CONCRETE FOUNDATION AT 39.4 FT. FROM SIDE PROPERTY LINE.

STATEMENT OF PURPOSE:  
THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF THE NEW FOUNDATION FOR HOUSE ON LOT 39 AS WITNESSED ON OCTOBER 6, 2003.

**LAMARINE** TECHNICAL LAND SERVICES, INC.  
P.O. BOX 456 CONTOOCCOOK, N.H. 03229  
TEL: (603) 746-4567

# LAMARINE TECHNICAL LAND SERVICES, INC.

P.O. Box 456  
Contoocook, N.H. 03229  
(603) 746-4567  
(603) 746-4055 fax

Survey  
Site Planning / Subdivision  
Sewage Disposal System Design  
Wetland Delineation  
Geological Services

## FOUNDATION LOCATION VERIFICATION REPORT

**Prepared For:**

Deborah & Mark Allen  
663 Maple Street  
Hopkinton, N.H. 03229

**Lot Location:**

Dustin Road  
Hopkinton, N.H.

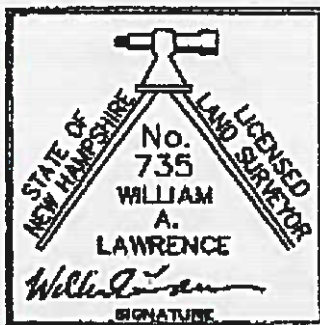
**Tax Map-Parcel No.:** Tax Map 224 Lot 39

**Deed/Plan Reference:**

Merrimack Co. Registry of Deeds  
Deed: Bk. 2371, Pg. 1631  
Plan No. 15728

## PROJECT DESCRIPTION

This report has been prepared to verify the precise location of a building foundation. All findings are based on a visual examination of the property and the location of all physical evidence with a Topcon DT-30 DM-A2 (EDM) and Steel Tape. No determination as to the validity of any physical monuments or property lines was made by this office. No deed research was conducted on this or adjacent properties. The intent of this report is to show the relationship between certain physical evidence and improvements found on the site and the plan referenced above. Monumentation shown should be regarded as evidence as to where corners may exist and not as an absolute indication of the location. The attached sketch is a part of this report.



**Prepared By:**

Lamarine Technical Land Services, Inc.  
P.O. Box 456  
Contoocook, N.H. 03229

**Date:** Oct. 9 2003

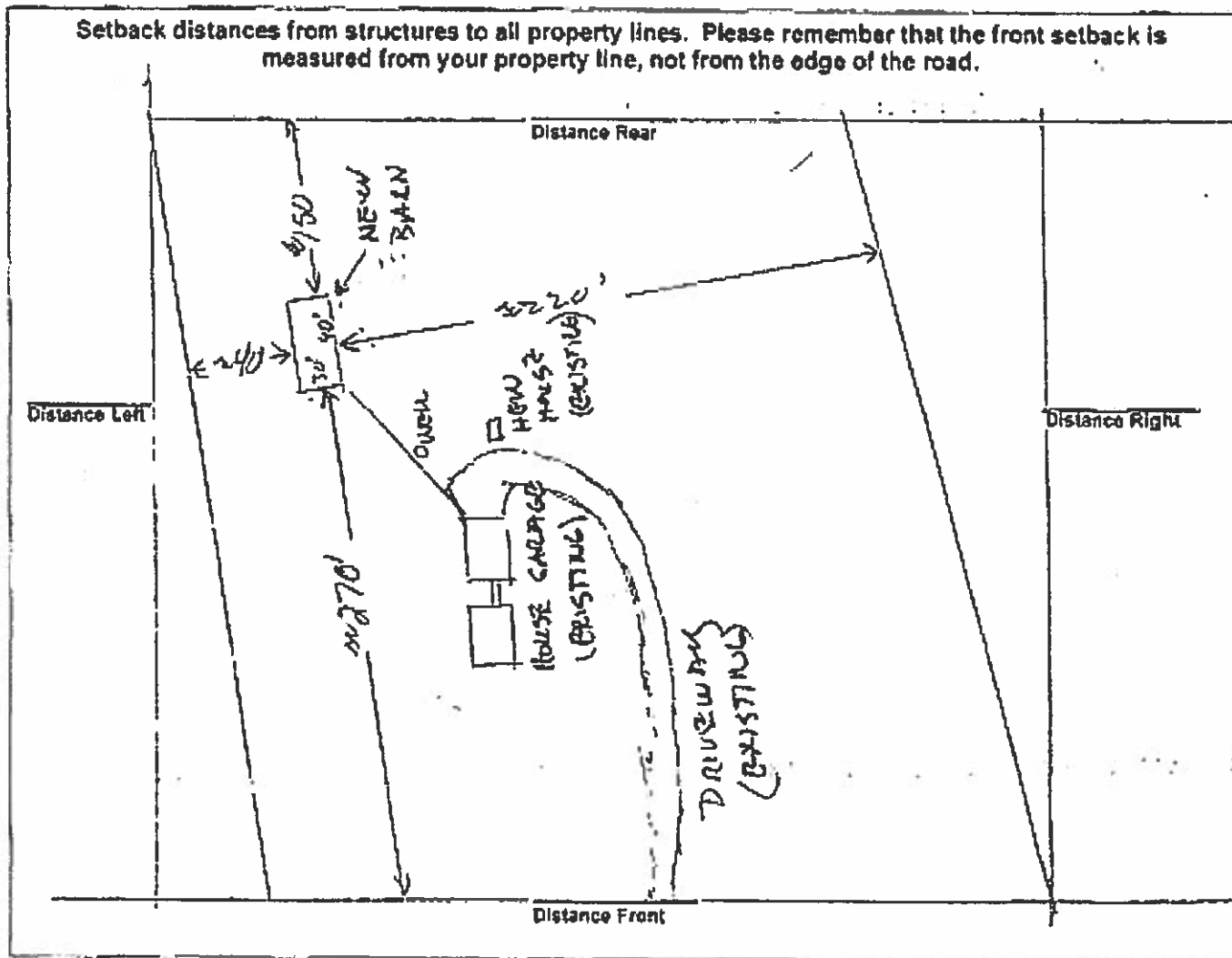
This is to certify that the information included with this application will be followed during construction and any changes shall be only after notifying the Selectmen's Office. That any permit issued based on inaccurate information is subject to immediate withdrawal. That the above referenced project meets the standards as printed and amended in the NH Code of Energy Conservation. That the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent and we agree to conform to all applicable laws of this jurisdiction. I further certify that I am aware of and will comply with, any deed restrictions or covenants, and any regulations or conditions imposed by the Selectmen, Zoning Board of Adjustment and/or Planning Board as it relates to this property and the proposed use.

[Signature]  
Signature of Applicant

MARK ALLEN  
Print Name of Applicant

1/22/17  
Date

No permit will be issued for projects involving new construction, additions to existing buildings, or other work without this information. Site plan showing (if not scaled, drawing must be accurate) location and dimensions of the property, existing and proposed structures or construction, driveways, signage or other special features. Construction drawing showing the size and type of construction materials to be used.



Name of Street: 258 DUSTIN RD  
Applicant: MARK & DEBORAH ALLEN Tax Map/Lot: 39 1A



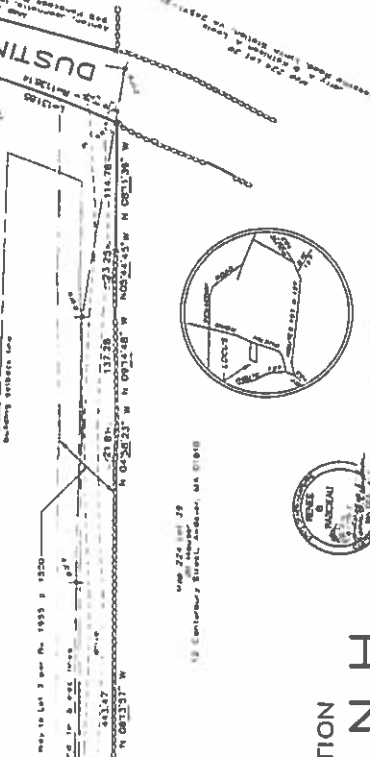
#15188 Recorded Jan. 14, 12:26 PM 2003 **City of Durham, Durham Region**

Area of Welland  
Lot 1A 0.5± ACRES

LOT 1B  
229,690 Sq. Ft.  
5.27 ACRES

LOT 3  
191,572 Sq. Ft.  
4.40 ACRES

LOT 1A  
153,331 Sq. Ft.  
3.52 ACRES



**PLAN FOR ANNEXATION  
HOPKINTON, N.H.**

Surveys for  
Timothy C. & Lynette B. Carney  
244 Dustin Road, Contoocook, N.H., 03229  
Scale 1" = 50' SEPT. 26, 2001  
Done R. Moller, Sept 26, 2001  
22 Center Road, PO Box 412, Hillsborough, N.H., 03244  
Tel: (603) 464-3286

**LEGEND**

- Area of Welland
- Proposed Lot Lines
- Proposed Lot Area
- Proposed Lot Dimensions
- Proposed Lot Bearings
- Proposed Lot Distances

- 1. The plan shows the proposed annexation of Lot 1A, Lot 1B, and Lot 3 to the City of Durham, Durham Region, New Hampshire. The plan also shows the proposed lot lines, lot areas, lot dimensions, lot bearings, and lot distances for Lot 1A, Lot 1B, and Lot 3.
- 2. Lot 1A, Lot 1B, and Lot 3 are located within the R-3 Low Density Residential Zoning District of the City of Durham, Durham Region, New Hampshire. The minimum lot area for this zoning district is 3,000 square feet.
- 3. On July 15, 2003, the Town of Hopkinton, New Hampshire, accepted the proposed annexation of Lot 1A, Lot 1B, and Lot 3 to the City of Durham, Durham Region, New Hampshire. The annexation was accepted by the Hopkinton Planning Board on July 15, 2003.
- 4. The annexation was accepted by the Hopkinton Planning Board on July 15, 2003. The annexation was accepted by the Hopkinton Planning Board on July 15, 2003.
- 5. The annexation was accepted by the Hopkinton Planning Board on July 15, 2003.

**LOCATION MAP**

Approved for annexation purposes  
**TOWN OF HOPKINTON PLANNING BOARD**  
Done \_\_\_\_\_  
Chairman



# Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • www.hopkinton-nh.gov

Tel: 603-746-3170

Fax: 603-746-3049

## HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES AUGUST 7, 2018

Members present: Chairman Daniel Rinden, Jessica Scheinman, Toni Gray, and Charles Koontz.  
Absent: Seth Greenblott. Staff present: Planning Director Karen Robertson.

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I. **Call to Order.** Chairman Rinden called the meeting to order at 5:45 PM in the Hopkinton Town Hall.

II. **Applications.**

**#2018-7 Elizabeth J. Nolin, Esq.** Attorney Paul Alfano of Alfano Law Office, Concord, New Hampshire, addressed the Board on behalf of Loren and Holly Clement for a Variance to permit the construction of an addition to the residence at 86 Maple Street, owned by Loren and Holly Clement, in the VR-1 district, Tax Map 102 Lot 42. The application was submitted in accordance with Zoning Ordinance Table 4.2 and Section 5.1.2 (a).

The site plans presented had shown the Clement property and the abutting property to the north and south. To increase the lot size a lot line adjustment with the property to the north had been completed. Mr. and Mrs. Clement are scheduled to go before the Planning Board to complete a similar lot line adjustment with the property to the south.

The existing 1,344 SF residence is non-conforming as it encroaches on the rear (Cedar Street) setback by five inches. In Comparing the Clement residence with other residences along the street, the setback of their residence is more conforming.

Mr. Clement explained his proposal to construct an addition of a first-floor mudroom/landing, a garage and living room, and second-floor bedrooms, full bath and a master bedroom.

Attorney Alfano noted that when considering the average size of the houses in the neighborhood, the changes proposed will bring the Clement house more in conformity. Additionally, many of the homes in the area have garages or barns, so the proposed garage will also be consistent with others in the neighborhood.

Attorney Alfano suggested that approval be contingent upon Planning Board approval of the lot line adjustment to the south, so to ensure that the side line setback is met.

Mr. Koontz questioned what would happen if the lot line adjustment is not approved by the Planning Board. Mr. Clement had no reason to believe that the Planning Board would not approve the adjustment. He explained that he was recently before the Board for a lot line adjustment on the other side of his property.

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*Subject to review and approval.*

Mrs. Robertson suggested reasons the Planning Board would not approve the lot line adjustment. For example, if the proposal created a violation of the Zoning Ordinance or increased an existing non-conformity.

Ms. Scheinman questioned the percentage of the property that would be covered by the residence after the addition is completed. In response, Mrs. Robertson reviewed the plan of the lot line adjustment which showed that the existing residence is currently using 20.2 percent of the lot. The residence after the addition will utilize 26.9 percent.

The Applicant's written response to the criteria for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

- 1) The proposed use would not diminish surrounding property values because:** "A Variance from Section 4.2 would not diminish surrounding property values. The existing square footage of the lot is 14,960 square feet, and the requirement under the table is 15,000 square feet. A residence already exists on the lot; and many lots in this area are non-conforming because of their age and less than the required dimensions. For this reason, the Variance to this section would not diminish surrounding property values.

A Variance from Section 5.1.2(a) for the proposed addition would not diminish property values because the use would remain residential, as required by the district; the property owner has hired experts and taken great measures to ensure that the addition will be in keeping with the aesthetic of the existing residence and the surrounding neighborhood, a task similarly undertaken when the applicant upgraded the existing residence; and the addition will bring the residence into closer conformity with surrounding properties in terms of square footage. Additionally, the proposed addition will increase the value and desirability of the subject property."

- 2) Granting the Variance would not be contrary to the public interest because:** "Granting a Variance from Section 4.2 would not be contrary to the public interest because it would be consistent with the essential character of the district (since the deficit is only 40 square feet and barely discernable from complying lots) and would in no way threaten the public health, safety, or welfare.

Granting a Variance from Section 5.1.2(a) for the proposed addition would not be contrary to the public interest because it would be consistent with the essential character of the district and would not in any way threaten the public health, safety, or welfare. The proposed use shall be entirely residential, and therefore will be in keeping with the residential nature of the district. Visually, the addition will be in keeping with the character of the district; the property owner has experience renovating the existing residence in keeping with the character and aesthetic of the district, and the same attention – as shown on the proposed plans – has and will be given to the addition to ensure consistency with the visual character of the district. Additionally, there is no risk that the proposed variance would have any risk to the public health, safety, and welfare as it shall be a residential addition with no increase in the number of residents, and minimal increase to public resources to accommodate the single bath in the addition. The fact that the proposed variance will not be contrary to the public interest is highlighted by the fact that both immediate abutters and many of the surrounding abutters are in favor of the application and have lent their support to the property owner in this application."

*Subject to review and approval.*

- 3) **By granting the Variance substantial justice would be done because:** “Granting a variance to Section 4.2 would serve substantial justice because the property owner would realize significant gain from being able to develop on the subject lot; the difference between the actual square footage and requisite square footage is only 40 square feet; and the general public would realize no appreciable gain from denying the variance as a structure is already on the lot and the deficiency in terms of square footage on the lot is barely discernable.

Substantial justice would be done by granting the Variance to Section 5.1.2 because the property owner would achieve tremendous gain by being able to expand his residence and thereby use and enjoy his property more fully, while the public would realize no loss. The proposed addition poses no threat or burden to the surrounding property or community, is appropriate for the area in terms of use, size, and appearance, and does not harm the abutters; therefore, the general public would realize no appreciable gain from denying the variance.”

- 4) **The spirit and intent of the Ordinance will not be broken by granting the Variance because:** “The spirit of the Ordinance is to, among other objectives, promote the health, safety, convenience, and general welfare of inhabitants.

The Variance request to Section 4.2 would not break the spirit and intent of the Ordinance because the deficiency of the subject lot is only 40 square feet, and there is already a residence on the subject lot.

The Variance request to Section 5.1.2 shall not be contrary to the spirit and intent of the Ordinance because the request does not threaten the health, safety, convenience, or general welfare of the inhabitants; nor does it propose an incompatible use on the subject location; nor does it threaten the values of surrounding properties. Because the proposal in no way is contrary to the public interest or proposes an inconsistent use for the district, the spirit and intent of the Ordinance will not be broken.”

- 5) **Literal enforcement of the Ordinance results in unnecessary hardship.**

(a) **For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area.**

- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.** “With regards to the Variance from Section 4.2, no fair and substantial relationship exists between the general purposes of Section 4.2 and the specific application to the property. The public purpose of Section 4.2 is to regulate development and ensure that property is not overdeveloped and affecting abutting properties. In this case, the deficiency of the subject lot is 40 square feet; and a residence is already on the site. The proposed addition would be within the requisite building envelope, and therefore there is no risk of overdevelopment on the subject lot or interference with abutters by granting the Variance to Section 4.2.

We request a variance from Section 5.1.2, providing that non-conforming residences may be expanded by up to 50% in square footage from the square footage existing at the date of nonconformity provided the addition does not further encroach upon non-conforming setbacks.

The purpose of Section 5.1.2 is to prevent over-development on lots with non-conforming residences, to provide that building on such lots does not interfere with the aesthetic of the district, and to keep districts and neighborhoods substantially uniform.

In this case, no fair and substantial relationship exists between these general public purposes and the specific application to this property. The proposed expansion would be more than 50% of the square footage of the existing building but would be entirely within building envelopes and in conformity with setback requirements of VR-1 properties as articulated under Section 4.2. The applicant has hired professionals to design and plan the addition to ensure the addition would be consistent with the aesthetic of the existing property and surrounding properties in the district, particularly taking into account the historic element of the neighborhood. Additionally, the applicant's addition will be partly screened by surrounding vegetation, and immediate abutters have given their support to the project.

The proposed addition shall consist partly of additional living space and partly of a garage. The proposed addition is consistent with other properties in the neighborhood because most properties have an additional or supplemental building that is a garage or barn. In fact, the subject property as it currently exists is one of the only properties in the vicinity that does not have a garage or barn. The proposed addition is in keeping with the style and structures in the neighborhood. For these reasons, there is no fair and substantial relationship between the general public purposes of Section 5.1.2 and the specific application of that provision of this property."

- (ii) **The proposed use is a reasonable use.** "With regards to the Variance from Section 4.2, the proposed use of permitting the construction of an addition on a 14,960 square foot lot as opposed to 15,000 is reasonable because the deficiency is barely measurable and does not impact abutters with regards to overdevelopment of the lot or placement of a structure too close to lot lines.

With regards to the Variance from Section 5.1.2, the proposed use is a reasonable one because it seeks to expand a residence to reasonably accommodate the family that currently lives there and families who would look to purchase in the area. The existing structure is a non-conforming structure built in 1850, before there were zoning or planning ordinances in effect in Hopkinton. The existing residence consists of 1288 square feet. As shown on the preliminary plans, the proposed addition would seek to add extra living space, a garage, two bedrooms, and one full bath, all within the required building envelope for the VR-1 district. The addition would be entirely for residential use, in keeping with the district.

The applicant is married with four children, and understandably in need of additional space to raise his family. The existing residence is one of the smallest

*Subject to review and approval.*

residences in terms of square footage in the immediate vicinity, with surrounding properties ranging from about 1650 to 3000 square feet; therefore, the total square footage of the proposed and the existing residence would be within the range of other properties in the neighborhood. As Hopkinton is an extremely family-oriented community, the addition to the existing property would also likely be appealing to potential purchasers looking for a family home in the area. As the proposed addition would keep the existing residence and addition within the required building envelope while achieving these objectives, the proposed use is a reasonable use.

In addition to the above-described reasons as to why literal enforcement results in unnecessary hardship, an additional reason remains. The applicant would likely be able to demolish the existing residence and construct an entirely new residence within the building envelope that could result in a building larger than the existing residence and proposed addition. Literal enforcement of the Ordinance would result in unnecessary hardship on the applicant to level and erect a larger, new structure.”

Attorney Alfano was asked to further address the hardship element of the Variance criteria. In response, he stated that the Ordinance requires a minimum lot size of 15,000 square feet. The Clement lot consists of 14,960 square feet. There is a substantial hardship imposed when you balance the benefits with respect to the enlargement of the house because the house is so small. Attorney Alfano suggested that the maximum increase of fifty percent for additions to non-conforming residences is intended to address a possible lack of admiration in the area and not for the expansion of a small residence. Furthermore, the proposed addition is reasonable because it will make the house size more consistent with others in the neighborhood.

Ms. Scheinman asked Mr. Clement if he had considered designing the addition so that it would comply with the fifty percent requirement or were the plans developed before knowing about the maximum size allowed. Mr. Clement responded that he had the plans prepared with the understanding that he would need lot line adjustments. Later, he learned of the encroachment of the existing residence by five inches into the setback.

Ms. Scheinman asked Attorney Alfano to elaborate on the special conditions that distinguish the property from other properties in the area, such as no fair and substantial relationship exists and that the proposed use is reasonable. Attorney Alfano reiterated the size of the existing residence, noting that it is unusually small as compared to other homes in the neighborhood. He suggested that the purpose of the Ordinance is to create cohesiveness. Everything that the Applicant has done, such as the lot line adjustments and the design of the addition, is to make the home more consistent with the neighborhood. When the lot line adjustments are completed, the home will have the least non-conforming setback as compared to others within the neighborhood.

At this time, Chairman Rinden opened and closed the public hearing portion of the meeting as there were no members of audience, besides Mr. Clement and Attorney Alfano.

Ms. Gray believed that the Applicant had done everything possible to increase the size of his lot and to decrease the non-conformity of the setbacks of the home. She suggested that if the application were to be approved that it should be contingent upon Planning Board approval of the lot line adjustment. Members concurred.

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*Subject to review and approval.*

Mr. Koontz noted that the Applicant could demolish the existing residence and construct a new three-story residence that would comply with the setbacks. While the new residence would comply, it's size would not be consistent with the other homes in the neighborhood.

At this time, Board members reviewed the Applicant's response to the criteria for Variance to determine whether all were satisfied.

- 1) The proposal would increase surrounding property values.
- 2) Granting the Variance would not be contrary to the public's interest.
- 3) The public and private rights of others would not be adversely affected as the existing non-conforming lot size and setback is minimal, and the addition will make the residence consistent in size with other residences in the neighborhood.
- 4) The spirit and intent of the Ordinance would not be adversely affected because of the deficiency in the lot size and the setback. Furthermore, the proposal will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.
- 5) The Applicant has made every effort to work with his neighbors in adjusting the lot lines so to reduce the non-conformity of the lot size and to provide adequate setback for the existing residence.

Ms. Scheinman noted that the Applicant was aware of the size of the property at the time of purchase. Chairman Rinden agreed and stated that if the Variance is not granted, the Applicant can tear down the existing residence and construct a new residence in conformity with the required setbacks. However, he suggested that removal and reconstruction would be costly.

Ms. Scheinman was not convinced that the Applicant had successfully addressed the "unnecessary hardship".

Mr. Koontz reiterated the fact that it would be costly to remove the existing residence and construct a new residence in compliance with the setback requirements.

Chairman Rinden stated that the residence is 150 years old and is non-conforming in setback by five inches.

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** Application #2018-7 contingent upon Planning Board approval of the lot line adjustment (Lots 42 & 43). Motion carried in the affirmative (Gray, Scheinman, Koontz, and Rinden). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.<sup>1</sup>

Reasons for approval as follows:

- 1) Property Values:
  - There was no evidence that surrounding property values would diminish because of the existing non-conforming lot size (14,960 SF), existing non-conforming setback

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- (29'-7"), and size of the proposed addition (approx. 1,300 SF).
- The residence was constructed in 1850 before zoning in Hopkinton.
  - The residences in the neighborhood are larger than the Applicant's residence and are more non-conforming in setback.
- 2) Public Interest:
- There was no evidence that the public's interest would be negatively affected because of the existing lot size being 40 SF less than required, the existing building setback being 5-inches less than required, and because of the proposed addition exceeding 50 percent of the size of the existing residence.
  - Residences in the neighborhood are more non-conforming in setback and are larger in size than the Applicant's existing residence.
  - Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was no member of the public present at the meeting.
- 3) Substantial Justice:
- The public would realize no appreciable gain from denial of the Variance.
  - The Applicant's residence is very small and less non-conforming when compared to other residences in the neighborhood.
  - The difference in actual square footage and required square footage of the lot is 40 square feet.
  - The residence is already existing and the deficiency in lot size (40 SF) and setback (5") is unnoticeable.
- 4) Spirit and Intent:
- The spirit and intent of the Ordinance will not be broken by granting the Variance as the residence is existing, constructed in 1850, and will continue to be utilized in the same manner.
  - The nature and character of the surrounding properties will not change as the abutting properties are used for residential purposes and the abutting property owners have agreed to the lot line adjustments.
  - While the proposed addition exceeds fifty percent of the size of the existing residence, it will not further encroach upon the non-conforming setback.
  - Requiring the Applicant to limit the size of the addition to no more than fifty percent of the existing residence is not necessary in order to give full effect to the purpose of the Zoning Ordinance as the residence will be of a similar size and characteristics of other residences in the neighborhood.
  - The proposed addition will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.
- 5) Unnecessary Hardship:
- Literal enforcement of the Ordinance will result in an unnecessary hardship as the Applicant would need to demolish and reconstruct the residence in order to construct the proposed addition.
  - Given the age of the residence, the existing minimal deficiency in setback and lot size, as compared to others within the neighborhood, the proposed addition is reasonable.
  - Once the addition is completed, the total size of the residence will be similar to other residences in the neighborhood.



**III. Any other business that may legally come before the Board.**

- The Minutes of the May 1, 2018 meeting were unanimously **APPROVE** as presented.
- The Notice of Decision of the May 1, 2018 meeting was unanimously **APPROVED** as presented.
- The Minutes of the May 10, 2018 meeting were unanimously **APPROVED** as presented.
- The Notice of Decision of the May 10, 2018 meeting was unanimously **APPROVED** as presented.

**IV. Adjournment.** Chairman Dan Rinden, seconded by Toni Gray, moved to **ADJOURN** the meeting at 6:23 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Wednesday, September 5, 2018, at the Hopkinton Town Hall.

Karen Robertson  
Planning Director

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<sup>1</sup> Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."



# Town of Hopkinton

330 Main Street • Hopkinton, New Hampshire 03229 • [www.hopkinton-nh.gov](http://www.hopkinton-nh.gov)

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## HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION AUGUST 7, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment met on **Tuesday, August 7, 2018, at 5:45 PM** in the Hopkinton Town Hall, 330 Main Street, Hopkinton, and made the following decision(s):

### I. Application(s).

**#2018-7 Elizabeth J. Nolin, Esq.** Variance to permit the construction of an addition to the residence at 86 Maple Street, owned by Loren and Holly Clement, in the VR-1 district, Tax Map 102 Lot 42. The application was submitted in accordance with Zoning Ordinance Table 4.2 and Section 5.1.2 (a).

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** Application #2018-7 contingent upon Planning Board approval of the lot line adjustment (Lots 42 & 43). Motion carried in the affirmative (Gray, Scheinman, Koontz, and Rinden). The Applicant successfully addressed all criteria to be granted a Variance as outlined in Section XV of the Zoning Ordinance.<sup>1</sup>

Reasons for approval as follows:

#### 1) Property Values:

- There was no evidence that surrounding property values would diminish because of the existing non-conforming lot size (14,960 SF), existing non-conforming setback (29'-7"), and size of the proposed addition (approx. 1,300 SF).
- The residence was constructed in 1850 before zoning in Hopkinton.
- The residences in the neighborhood are larger than the Applicant's residence and are more non-conforming in setback.

#### 2) Public Interest:

- There was no evidence that the public's interest would be negatively affected because of the existing lot size being 40 SF less than required, the existing building setback being 5-inches less than required, and because of the proposed addition exceeding 50 percent of the size of the existing residence.
- Residences in the neighborhood are more non-conforming in setback and are larger in size than the Applicant's existing residence.
- Certified notice was provided to the abutters and public notice of the proceedings was published in the Concord Monitor. Subsequently, there was no member of the public present at the meeting.

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**3) Substantial Justice:**

- The public would realize no appreciable gain from denial of the Variance.
- The Applicant's residence is very small and less non-conforming when compared to other residences in the neighborhood.
- The difference in actual square footage and required square footage of the lot is 40 square feet.
- The residence is already existing and the deficiency in lot size (40 SF) and setback (5") is unnoticeable.

**4) Spirit and Intent:**

- The spirit and intent of the Ordinance will not be broken by granting the Variance as the residence is existing, constructed in 1850, and will continue to be utilized in the same manner.
- The nature and character of the surrounding properties will not change as the abutting properties are used for residential purposes and the abutting property owners have agreed to the lot line adjustments.
- While the proposed addition exceeds fifty percent of the size of the existing residence, it will not further encroach upon the non-conforming setback.
- Requiring the Applicant to limit the size of the addition to no more than fifty percent of the existing residence is not necessary in order to give full effect to the purpose of the Zoning Ordinance as the residence will be of a similar size and characteristics of other residences in the neighborhood.
- The proposed addition will not adversely affect the health, safety, convenience, or general welfare of the residents in the neighborhood.

**5) Unnecessary Hardship:**

- Literal enforcement of the Ordinance will result in an unnecessary hardship as the Applicant would need to demolish and reconstruct the residence in order to construct the proposed addition.
- Given the age of the residence, the existing minimal deficiency in setback and lot size, as compared to others within the neighborhood, the proposed addition is reasonable.
- Once the addition is completed, the total size of the residence will be similar to other residences in the neighborhood.

**II. Any other business that may legally come before the Board.**

- The Minutes of the May 1, 2018 meeting were unanimously **APPROVE** as presented.
- The Notice of Decision of the May 1, 2018 meeting was unanimously **APPROVED** as presented.
- The Minutes of the May 10, 2018 meeting were unanimously **APPROVED** as presented.
- The Notice of Decision of the May 10, 2018 meeting was unanimously **APPROVED** as presented.

**III. Adjournment.** Chairman Dan Rinden, seconded by Toni Gray, moved to **ADJOURN** the meeting at 6:23 PM. Motion carried in the affirmative. The next regular scheduled meeting of

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the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Wednesday, September 5, 2018, at the Hopkinton Town Hall.

Karen Robertson  
Planning Director

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<sup>1</sup> Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."



# Town of Hopkinton

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## HOPKINTON ZONING BOARD OF ADJUSTMENT

### MINUTES

AUGUST 20, 2018

Members present: Chairman Daniel Rinden, Seth Greenblott, Charles Koontz, Toni Gray, and Jonathan Eck. Staff present: Planning Director Karen Robertson.

*A site visit of 1301 Bound Tree Road took place at approximately 5:10 PM, prior to the hearing. During the visit, the Board asked identifying questions, heard the sound system from various locations, including a neighboring property, viewed the condition and measured the width of Bound Tree Road, and measured the width of a horse trailer. During this time, public testimony was not permitted.*

*A conference call (attorney/client) occurred at approximately 6:15 PM, prior to the hearing, between the Board and their Attorney Christine Fillmore of Gardner, Fulton & Waugh, PLLC.*

I. **Call to Order.** Chairman Rinden called the meeting to order at \_\_\_\_ PM in the Slusser Center.

### II. **Application.**

**#2017-03 Rhapsody Farm, LLC** Remand hearing for the sole purpose of determining whether the Special Exception criteria would be satisfied if the number of horse shows were limited or if other appropriate conditions were imposed, pursuant to the Merrimack County Superior Court Order, dated June 11, 2018<sup>1</sup>. The property is owned by 1301 Bound Tree Road, LLC and is located at 1301 Bound Tree Road, Hopkinton, in the R-3 district, Tax Map 204 Lot 2.

Attorney Jeremy Eggleton of Orr & Reno, 45 South Main Street, Concord, addressed the Board introducing Annie Kennedy, principal of 1301 Bound Tree Road, LLC and Rhapsody Farm, LLC.

Attorney Eggleton noted that he intentionally had not created an added submission of the application as he understood that the Court's order was primarily directed to the Board. He then provided the Board with copies of his response to what he noted as inaccuracies in Kenneth and Valerie Aubry's submission.

In the Aubry's submission they commented on the location in which the monitors had been placed to gather the information for the sound study. In response, Attorney Eggleton noted that the Zoning Ordinance does not require that the equipment to measure the sound be placed at the property line of a particular abutting property. He stated that Mr. Rueter will concede that he did not measure from the Aubry's property line as he did not view it as an obligation to do so. Instead, Mr. Rueter measured from the property line of the closest residence.

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Attorney Eggleton's client is now seeking an allowance of 5-7 horse shows from May and October. He noted that the Noise Ordinance provides for an extra allowance (5 dB) for uses that are less than once per week and only confined to daylight hours. The horse shows will happen during day light hours. To the extent that is not the case, such as people (personal friends) spending the night afterwards, the Board can impose conditions, such as no music or amplification. Furthermore, a time limit of 5:00 AM to 7:00 PM, during the horse shows, can be imposed so to address most of the issues raised by the neighbors.

Attorney Eggleton stated that the analysis for a Special Exception is whether there has been a substantial change in the characteristics of the neighborhood by allowing 5-7 horse shows. In response, he believed that the 5-7 shows would not cause a substantial change in the character of the neighborhood.

In the Aubry's submission they argued that the data for the sound study was not completed during a horse show. Attorney Eggleton went on to explain that the data was gathered from August 4 – 7, 2017, and that on Sunday August 6 there was a horse show. The graphic in the original submission of the sound study showed an increase in sound on the Friday before the show. The increased sound was due to Ms. Kennedy using her tractor in preparation for the show on Sunday. The Hopkinton Zoning Ordinance exempts farm equipment for consideration under the Noise Ordinance. On Saturday, the horse show had not started. Then, on Sunday there was a slight elevation in decibels in the afternoon that increased the ambient sound level to between 41 – 42, which was an increase of about 5 decibels.

With respect Mrs. Hampe's opinion about the home sales that were in the vicinity of the Stumpfield Road horse stable, Attorney Eggleton explained that there was a private sale through a third-party buyer before the transaction that the Board had believed was the owners buying back the property.

With respect to the video clips that were provided to the Board of the Sunny Creek facility, Attorney Eggleton noted that the clips appear to have been taken next to the announcer's booth, so the Videos may not accurately represent what you would hear on the ground.

In addition, the letter from Aubrys mentions that approximately 229 separate rides had taken place during a given show. Attorney Eggleton explained that often those are duplicative. There may have been as many as 50 riders that engage in separate rides during an event; however, some riders carry a time (best time), so that an initial time or ride will carry over to the next event. The rider will be listed even though that rider does not actually ride during the next event.

During the Board's site visit, the Board viewed how the ring is situated and the four (4) speakers on the booth where announcements are made. Attorney Eggleton explained how the speakers can be modulated in different directions, so that they can be directed away from the Aubry house and diminish in volume. Furthermore, the volume can be altered, or a cap placed on it. Additionally, a condition can be imposed that the volume be set at a certain level.

Acoustical Engineer Eric Rueter prepared and passed out an updated version of the graph that is in his original report. He explained how the sound study was limited to the amplification system for both music and speech. As that is the only component of the activities that is

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regulated by the Ordinance. In gathering the information to complete the sound study, Mr. Rueter had viewed an aerial photo to determine the location of those residences that are closest to the speaker system as a point to monitor the ambient sound levels. The outcome was the property line, which is at the driveway entrance, as a point of monitoring the ambient levels.

Mr. Rueter explained that the Ordinance requires the use of the metric called "L90" which is a 90-percentile sound level. He reviewed that portion of the graph that represented the ambient L90 in the sound study. In this case, these were 1-hour values over the course of 4 ½ days, ranging from Thursday to Monday in August 2017. The blue L90 was during the time of day when there would be activities. Mr. Rueter used the most conservative approach that is to take the lowest L90 reached during the measurement period. He then went on to explain that the orange line in the graph represented the Leq (equivalent sound level) energy averaged over the course of one hour.

Lastly, Mr. Reuter noted that the instrument that the Board had used to measure the sound during the site visit is not of sufficient quality to make any legal determination. It would have needed to be calibrated within one hour of the measurement.

Realtor Judy Hampe addressed the Board to explain that she had submitted a letter that had referenced two (2) separate sales. One sale was for 351 Stumpfield Road. She believed that this was the property that the Board mistakenly believed was not an arms-length transaction. Mrs. Hampe was referencing a 2006 sale in which she had listed the property and ultimately sold it for \$750,000 to a buyer that was interested in Pheonix stables, since their daughter rode horses. This was an arms-length transaction. Subsequently, the earlier owners wanted to come back to New Hampshire and that sale was not an arms-length transaction. The seller's sold the property for a premium price and moved to Briar Hill Road where they built a large horse barn.

Then, across the street from 351 Stumpfield Road, Mrs. Hampe was asked to complete a sales analysis of the home as the owners were interested in placing the home on the market. At the time, the people at Pheonix stables knew of someone that used their stables that they believed would be interested in the home. Ultimately the home was sold, privately, to the individual because of their use of Pheonix stables. The sale price was more than Mrs. Hampe had expected.

Mr. Eggleton inquired about Pheonix stables having events or shows at the time of the sales. Mrs. Hampe believed they had horse shows but was unsure of the number of shows.

The last item noted in the submission by the Aubrys concerned the quality and impact that the horse shows will have on the roads. In response, Public Works Director Dan Blanchette stated that four (4) shows per month with 50-60 attendees is too much for the roads. He suggested that one (1) or two (2) shows or 5-7 per year is tolerable. Chairman Rinden suggested that the widest point of the road is 25-feet.

Chairman Rinden measured the horse trailer at 8-feet wide. A fire truck is 8 ½ feet wide, which does not leave a lot of room when traveling a 25 feet road. In response, Mr. Blanchette stated that there are paved roads that are just as narrow.

Chairman Rinden stated that he thought that it would difficult to pass by a trailer. Mr. Blanchette stated that there are points along the road that are narrow, so that it would be difficult for a fire truck to pass by another vehicle.

Mr. Greenblott stated the L90 for August 6 is fairly consistent over the baseline. In reviewing the graph, the orange line represents the sound level during the August horse show that is 10-15 units above the baseline. Mr. Rueter replied yes, indicating that level is before the calibration of the sound system. Mr Greenblott reiterated that the volume heard today is not the show volume that was experienced by the abutters as the shows were taken place. Mr. Rueter agreed.

At this time, there were discussions concerning the specific setting that had been used when calibrating the sound system.

Mr. Eck asked Attorney Eggleton if he had information concerning the effects of horse shows on property values. Attorney Eggleton referred to the testimony from Mrs. Hampe.

Mr. Greenblott inquired about the various lengths of horse trailers. In response, Ms. Kennedy stated that the maximum length, without requiring a CDL, is 34 feet which is the size of her large trailer. She also has one trailer that is approximately 21 – 22 feet long. She noted that the 34 foot trailer is excessive and that most people don't use that size.

Mr. Greenblott questioned the number of participants that the events could be limited to. Ms. Kennedy suggested using the average number of participants that she has had in the past, noting that it depends upon the type of show. She stated that the shows are not based on the number of participants because there can be more than one rider using a horse.

Mr. Greenblott asked Ms. Kennedy to explain what a small horse show would look like. In response, Ms. Kennedy stated that she could have a maximum of 50 horses, which could involve 38 trailers. It is difficult to know how many will show up for a show. She noted that there is a window of time of approximately 2 ½ hours for trailers coming into the site. Then, after the show, it takes approximately 1-hour to empty 35 trailers from the parking lot.

While Ms. Kennedy agreed that pre-registry is possible, she noted that there are many riders that may decide on the day of the show to attend and therefore, they would not be pre-registered.

Mr. Greenblott questioned whether a limit of no more than 10 trailers would make it impossible to operate a show. Ms. Kennedy replied no. Attorney Eggleton estimated between 30-40 trailers would be feasible.

Attorney Eggleton explained that the issue of traffic safety had been addressed as the Board was originally in receipt of a letter from the Fire Chief indicating that he did not have concerns with access. Furthermore, there was a letter submitted by the Police Chief indicating that there was no risk to public safety for these events.

Mr. Koontz asked Ms. Kennedy for the minimum number of trailers, horses, or riders that she believed to be necessary to make operation of the horse shows sustainable. Ms. Kennedy estimated 40 trailers, 40 horses, and between 5-7 shows. She believed that placing a cap on

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the number of horses is unreasonable because people can carpool with their horses. The way her business is built she cannot exceed the numbers she has already had onsite, estimating 40 trailers and 50 riders as a maximum number.

Attorney Eggleton pointed out that on Sunday, August 8 there was a horse show. There has been some confusion of whether the sound during the horse show was measured. He stated that the ambient data measured the horse show. The Leq and L90 levels are higher for that day. Based on the data, the sound system was calibrated, and the sound limits were set based on the 30-dba limit at the property line. Since the limits were established there has never been a horse show at the property.

Attorney Eggleton then informed the Board of a way to broadcast through an FM transmission, so that people in their vehicles can hear the broadcast from their radios.

Attorney Eggleton stated that with a limiter there is verification of the levels, but it is not tamper proof. Mr. Rueter agreed.

Attorney Matthew Snyder of Sulloway and Hollis, 9 Capitol Street, Concord, introduced his clients, Kenneth and Valerie Aubry, who are abutters to Rhaposdy Farm.

Attorney Snyder provided a brief history of the events that led to the remand hearing. He noted that the Board received his filings, in advance of the hearing, including a letter from Mr. and Mrs. Aubry, along with letters from other abutters and residents who have concerns. Attorney Snyder suggested that the Board had already completed an analysis as to whether horse shows meet the criteria for a Special Exception.

The Applicant originally requested 50 shows per year, then requested 27 shows, then in the Motion for Rehearing requested 7-15 shows, and now is requesting 5-7 shows. At the original hearing, the Board heard testimony from Mr. Blanchette with regards to the limitation in the number of trailers and the condition of Bound Tree Road. The Board took that testimony under consideration when denying the Motion for Rehearing. It is Attorney Snyder's client's requested that horse shows continue to be excluded from the Special Exception approval.

Knowing that the Board would not have had an opportunity to view an actual horse show, Attorney Snyder provided a video of a horse show at the Sunny Creek Equestrian Center. He and his clients attended shows in July to give the Board a sense of the kind of horse shows that take place. These shows were on the same circuit as the shows that the Applicant had hosted on her property in 2017.

Attorney Snyder stated that during a video taping of the horse show he had attended he was seated approximately 30 feet away from the announcer's booth. At the time, Sunny Creek was having technical difficulty with their sound system, so as a result they had reduced the sound level.

Videos one and three represented riders that were taking part in the barrel horse races. This represented the same announcements that the Aubrys heard from their home in 2017, when the races were taking place at the Applicant's property.

Attorney Snyder advised that at the championship show that the Applicant had hosted in 2017, there were 229 separate rides that day in which the Aubrys heard announcements.

Video four represented the trailers that attended the Sunny Creek shows. They had observed approximately 45 trailers on both days. Some of the trailers were the size of tractor trailers. People attended the shows from all over New England, including New York. Some of the trailers had RV features, so that they can accommodate extended stays and overnight sleeping, which the Aubrys objected to.

Videos five and six were recorded by the Aubrys in May of this year. They represent the Applicant's music being played over the loud speakers.

Lastly, Attorney Snyder had included in his filing a chart comparing several of Hopkinton's horse stables. Since the Applicant, throughout the process, had drawn comparisons to what was going on at other stables in Hopkinton, Attorney Snyder had collected information about those various shows, using their websites, social media postings and by calling the other facilities. He suggested that there isn't a comparison as to what the Applicant is proposing to do from what takes place at other stables in Hopkinton. For example, Shared Gifts and Back in the Saddle stables are non-profits. MRF Dressage hosts three (3) shows per year that are really schooling and instruction clinics that do not include barrel racing. They do not use a loud speaker. Pheonix stable has not hosted horse shows in recent past. They do have one (1) loud speaker. Dawn Mar stable has a PA system with two portable loud speakers that are used rarely. When used they are used for children that are hearing impaired. While Dawn Mar and Pheonix stables have indoor arenas, they have hosted shows at the fairgrounds. All four stables are in the R-4 district, which is the most rural residential zone. Additionally, all four stables are located off paved roads.

Attorney Snyder stated that the Applicant cannot satisfy the criteria requiring the location to be appropriate for the proposed use. During the Board's review of the Motion for Rehearing, the Board still concluded that the Applicant's request for 7-15 shows is inappropriate. Attorney Snyder quoted the following from the November 16, 2017 meeting minutes:

"Ms. Scheinman stated that the location is inappropriate because of several factors, which included the location of the property along the road and the area of the neighborhood in which the shows were being operated. The location wasn't considered inappropriate because of the definition of a riding stable. The decision was that the location (property and neighborhood) was inappropriate for horse shows."

Attorney Snyder suggested that limiting the number of horse shows is not going to improve the location of the Applicant's property. He believed that limitations on hours, overnight stay and types of events will have an impact on the Applicant's ability to host barrel events or similar event.

Attorney Snyder quoted the following exert from the Applicant's appeal to the Court:

"The petitioner testified that she relied upon the horse shows as a key commercial component to her commercial riding stable, and that they were standard at commercial riding stables around the

country. She testified she that while she could earn some revenue from stabling horses, the horse shows were financially essential.”

Attorney Snyder referenced the Special Exception criteria that requires there to be no detriment to property values. In his filing, he had submitted letters from local realtors, Barbara Ruedig and Francis Brown. Ms. Ruedig had opined that allowing horse shows would make the Aubry's home “virtually unsaleable”.

In rebuttal to Mrs. Hampe's letter, Attorney Snyder stated her letter only mentions boarding and riding lessons and doesn't reference shows. However, tonight Mrs. Hampe offered testimony that she believed shows were on-going at Pheonix stables at the time of the sale of the two (2) properties referenced. Attorney Snyder noted that it is in the record that Mrs. Hampe did not attend the horse shows at Rhapsody Farm. Furthermore, the comparison of what goes on at Pheonix stables and the other stables in Hopkinton is no comparison to the activities and amenities at Rhapsody Farm.

Attorney Snyder discussed the essential characteristics of the neighborhood on account of noise. He stated that the Board, at prior hearings, had heard testimony from abutters and neighborhoods about noise. He suggested that even if the sound study is found to be in compliant, the noise ordinance, the zoning ordinance and NH Statutes require the more restrictive provision to the control the situation. If the Board finds that due to noise there is a reduction in property values or change in the characteristics of the residential neighborhood, the Special Exception criteria is controlling.

Other issues raised by Attorney Synder involved the measurement locations for the instruments used in measuring the noise level. He stated that it would have made sense to take the measurements at the property line of the abutting property, rather at the property line of the closest residence. The Aubry's property line is the closest to the noise source, which is the announcer's booth.

The third of the Special Exception criteria referenced was that there can be no creation of a traffic safety hazard or increase in traffic congestion in the vicinity. Attorney Snyder's clients and others in the neighborhood had testified that the vehicles/trailers from the shows have caused congestion and may potentially cause problems for emergency vehicles. He noted that Mr. Blanchette had previously testified to the increased maintenance and dust that would be created.

Attorney Snyder asked Mr. Blanchette whether the large trailers would pose a problem for a fire truck to be able to pass by. Mr. Blanchette believed so, if the vehicles had met along certain sections of the road.

Attorney Snyder believed that limiting the number of horse shows or trailers is not going to improve the dangerous conditions. He reiterated his client's request that the Board not include horse shows in their prior approval. He noted that the Fair Overlay District is the only area where horse shows are allowed; therefore, he recommended that the Applicant be required to host horse shows at the fairgrounds.

Mrs. Aubry played recordings that she had taken of the sound of the horse shows from within her home. In response, Mr. Koontz asked Mrs. Aubry about her video recording of the sound. He asked if the window was open. Mrs. Aubry replied yes, stating that there was a screen that she wanted to be shown in the video so that the Board would realize that she was inside her house. On other days, the announcer can be heard from inside the house with the windows closed. She reiterated the Zoning Ordinance only references horse shows as taking place at the fairgrounds.

Mr. Eck asked about the encounters of horse trailers along the road. Mrs. Aubry responded that the vehicles pull to the side, so that the trailers can get by as they tend to ride in the middle of the road. There was a day that they could not pass the trailers because they were at the top of the hill, at the entrance to the farm. The location is a blind corner along the road.

Mr. Koontz asked if there is a substantial increase in traffic during a horse show. Mrs. Aubry said that it depends upon when the vehicles/trailers come and go from the property because some stay overnight.

Mr. Eck inquired whether traveling the road during the month in May is a problem. Mr. Blanchette replied no; however, the all dirt roads are annually posted for heavy trucks. Mr. Eck then asked about the narrowest point of the road. Mr. Blanchette was unsure. Mr. Aubry stated that the road gets narrower after heavy rain.

Chairman Rinden gave members of the audience an opportunity to state new information in favor or opposed to the application.

MJ DeBrusk of 1186 Bound Tree Road addressed the Board pointing out that the spectators in the videos appeared to act different than those that were at the Applicant's shows. She stated that while the speakers are loud there is a lot of cheering from the crowd that can be very loud. Mrs. DeBrusk then noted that she had originally called the gentleman that completed the sound study, who had told her that he had not completed the sound test during the shows. In response, Mr. Rueter stated that background measurements spanned the shows. The measurements for calculating the speaking system was on a different day.

Lastly, Mrs. DeBrusk suggested that it would be difficult to enforce a limitation on the number of trailers if there wasn't a pre-registration.

Chairman Rinden declared public testimony closed; at which time, the Board began deliberations.

Mr. Greenblott clarified the instruction received from the Superior Court. The Board must determine if there are conditions that can be placed on the application that would allow the Applicant to meet the Special Exception requirements. The conditions may include a limitation on the number of shows or some other conditions or limitations.

Chairman Rinden reiterated the Applicant's request to hold 0 to 7 horse shows. He inquired with the Board members concerning their opinion as to whether the Applicant had met the criteria to be granted a Special Exception. Mrs. Gray responded no, stating that the shows would negatively impact property values in the vicinity. Mr. Greenblott concurred, stating that the Board has received substantial evidence that the shows do impact property values. The

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evidence is based on the number of abutters present and letters received from those that object to the application.

At this time, members of the audience indicated that they are abutters that are in favor of the proposal.

Chairman Rinden suggested that another issue is the impact that the vehicles/trailers will have on the road and the noise that the shows will produce. Mrs. Gray concurred, noting that the issue of noise and property values go together.

Chairman Rinden believed that the sound level that was heard during the site walk, which was very quiet, is different than the level of sound that was heard by the neighbors during the 2017 shows. Mrs. Gray agreed, stating that when on the site walk she could not hear the sound system. Chairman Rinden stated at the original hearing, the Applicant had noted that the level of the loud speakers was necessary so that people in the trailer section of the parking lot could hear when their number was called. Chairman Rinden stated that it was difficult for him to hear anything from the sound system, when he had walked where the trailers are to be parked. Mr. Greenblott agreed, noting that he, too, walked back to that section of the property. He could hear the music; however, the announcements on the PA system were inaudible.

Mr. Eck questioned whether the sound level would need to be higher than what was heard by the Board. Mr. Greenblott agreed, questioning whether maintaining the level required is practical for the Applicant's business.

Mr. Eck referred members to sections 5.5 and 5.5.1 (b) of the Noise Ordinance, which indicates that the noise level produced should not exceed 10 dB or more of the a-weighted residual ambient sound level of the noise source operating. Mr. Eck suggested that there are ways to control the noise that are within the spirit of the Ordinance. However, he expressed concern with the practicality of enforcement. Mr. Greenblott concurred, but believed that there are ways to limit the sound, so to address some of the concerns and so that the Applicant can meet the requirements to be granted a Special Exception.

When discussing the traffic congestion, the impact of the vehicles/trailers on the road and the size of the shows, Board members suggested that a police officer be present during the times when the vehicles/trailers are entering and exiting the property.

Following discussion, Mr. Greenblott questioned whether there is a procedure for the motion to be written and the language to be reviewed and approved by the Board. Mrs. Robertson responded yes, stating that the Notice of Decision and Minutes of the meeting will be reviewed and approved at the Board's next meeting. Mrs. Gray stated that the Applicant cannot move forward until the Notice of Decision is formally approved.

At this time, Board members reviewed the criteria for Special Exception to determine whether the Applicant's proposal satisfied all requirements.

- 1) Standards provided by this Ordinance for the particular use permitted by Special Exception.** The application is before the Board based on a remand by Judge McNamara.

- 2) **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** The Board agreed that there were no hazards.
- 3) **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** Mrs. Gray believed that the horse shows will affect the property values in the area. Mr. Eck suggested that there are ways of addressing the concern of property values. Mr. Greenblott believed that having 40 trailers, small to tractor trailers, parking in the area does affect the essential characteristics of the residential neighborhood. The larger trailers are analogs to commercial size vehicles that are similar to the size of vehicles used for a small commercial operation. Mr. Eck was conflicted with the issue of trailers as he believed that the vehicles will arrive in the morning and stay for the day. There conceivable could be a problem if there are fifty (50) trailers trying to access within the same limited time. Furthermore, trucks pulling trailers will most likely travel closer to the center line or middle of the road making it difficult for vehicles to pass by. Mr. Greenblott estimated, based on testimony of the Applicant, that for four (4) hours in a day, which is a substantial portion of the day, these types of vehicles/trailers will be occupying a washed-out narrow dirt road. While the Board identified this as an issue of concern, Mr. Eck suggested that the Board discuss operation limitations or modifications that could address those concerns.

Mr. Greenblott agreed, suggesting that if there were a limitation on the number of trailers, such as a maximum of 10-trailers permitted with the maximum size of 12-feet, then many of the concerns may be addressed in an effort to meet the criteria for Special Exception. Mr. Eck agreed with the limitations in principal but expressed concerns with enforcement. Chairman Rinden wondered if requiring pre-registration and proof of size of the trailer would be an appropriate way to enforce the suggested limitation. Mr. Greenblott stated that if there are restrictions imposed that allow the Applicant to meet the criteria for Special Exception, then the Applicant has to grant access to the property for enforcement. If there is a pre-registration, then it must be closed by a certain date so that the Applicant can provide the information to the Town for verification. At this point all members agreed that enforcement would be a large burden on a municipality.

Mr. Eck stated that when comparing the points of access to the fairgrounds to that of the subject property, the fairgrounds has multiple entrances and exits; while, there is only one access, which is on a hair-pin turn, to the subject property.

Mr. Greenblott believed that a police officer would need to be at the entrance of the facility to turn people away should the number and size of trailers exceed that approved. Chairman Rinden noted that the police officer may be an officer from another Town if one isn't available in Hopkinton. The officer would be at the site during the morning when trailers are entering the property and then in the afternoon when they are leaving the property. Mr. Eck suggested that a limit on the number of trailers would be self-policing because it could be a problem for the Applicant if people show up and the police turn them away. Mr. Greenblott agreed, and clarified that having the police officer on site would be at the Applicant's expense.

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Mr. Eck stated that the Applicant's request for 5-7 shows from May to October is much smaller than what was originally proposed (50) and for a shorter time period. Mr. Greenblott agreed, stating that he was concerned when the Applicant had wanted 50 shows; however, now the number of shows doesn't concern him. However, he is concerned with the scope of the shows when they occur. Mrs. Gray suggested that the Board place a specific limit on the number of shows, such as no more than six (6) shows. One show per month. All members agreed. Mr. Eck then questioned whether there is a recommendation that there be a limitation on the number of trailers that can attend the shows. In response, Mr. Greenblott stated that based on the Applicant's testimony the trailers were the only way to measure the participants in a show. If there are ten (10), 34-foot trailers with six horses in each, then there is a possibility of sixty (60) horses at a show.

At this time, there was discussion as to the various sizes of trailers and the possible limitation on the number of trailers. Chairman Rinden suggested that there anything under 20-feet be permitted. Mr. Koontz preferred a maximum size of 12-feet. This seems to be the standard size trailer. The smaller trailer would be easier for vehicles to get by especially where there are hair-pin turns in the road. Mr. Eck heard the Applicant speaking about 40 trailers and then heard discussion about 30 trailers. The issue is the concern of safety, traffic, wear on the road, access by emergency vehicles, and retaining the essential characteristics of the neighborhood. Requiring a smaller event seems to address the concerns while retaining the characteristics of the neighborhood.

It was noted that the abutter had also expressed concern with the sound system and the noise from the large crowd. Board members agreed that restricting the scope of the event limits the concerns. Furthermore, maintaining a small event by placing restrictions on horse shows also accomplishes what the Judge had tasked the Board with – whether Special Exception criteria would be satisfied if the number of horse shows were limited or other appropriate conditions were imposed.

The Board agreed that the number of shows would be limited to six (6) from the months of May – October.

- 4) **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** The Board agreed that imposing conditions with respect to the size of the events will address these concerns.
- 5) **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** Conditions limiting the number and size of trailers will address the concerns with the wear on the road and further address concerns with traffic and safety.
- 6) **No significant increase of storm water runoff onto adjacent property or streets.** There were no concerns.
- 7) **An appropriate location for the proposed use.** Limiting the scope and number of events makes this an appropriate location for horse shows.

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Mr. Koontz questioned whether it is necessary to have a sound system. In response, Mr. Eck noted that the organizers will need to communicate information to people. Chairman Rinden questioned whether it would be possible to eliminate the music as it is not necessary to the operation of the horse shows. In response, Mr. Greenblott stated that it is not the Board's responsibility to decide what the Applicant needs. However, the Board does have an opportunity to place restrictions on the sound system that can achieve the Applicant's goal and address concerns with noise.

Mr. Eck questioned whether the issue of noise would need to be addressed, if the Applicant is not violating the Noise Ordinance. In response, Chairman Rinden stated that if the noise were to be as regulated and as it was heard today, then it will not be an issue. However, many members have doubts that the noise during the horse shows will be at the same level as was represented and heard during the site visit. Furthermore, in order to address potential enforcement issues, Board members suggested that specific noise limitations should be considered.

With the restrictions contemplated, the Applicant addressed the criteria.

**8) Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.**

By limiting the scope and frequency of the event, the Board is addressing concerns with traffic safety, access by emergency vehicles, and those issues that would negatively affect the health and safety of residents in the area. Furthermore, it was agreed that with the restrictions contemplated, the Board does not believe that the events will be detrimental to the use or development of adjacent or neighboring properties.

The Board further discussed the maneuverability of the sizes of trailers. The contemplated limitation on the number and size of trailers would most likely address the Board's concerns of access by emergency vehicles.

**9) In the public interest and in the spirit of the ordinance.**

Allowing people to use their property in a reasonably way that doesn't negatively impact their neighbors is in the public interest and spirit of the Ordinance. If the use wasn't allowed, a Variance would be required rather than a Special Exception.

Brief discussion ensued concerning the contemplated conditions. Chairman Rinden asked that the Board restrict the shows to Saturdays as he believed that it would be a day that would be the least nuisance to others. Since the Board is discussing only one day per month over a six-month period, members didn't have a strong feeling one way or another.

Chairman Rinden polled the members to determine the maximum size allowed for the trailers. Three (3) members (Greenblott, Koontz, and Gray) agreed on a maximum size of no more than 12-feet.

Seth Greenblott moved to **APPROVE** the application (horse shows) subject to the following restrictions:

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- 1) That the Applicant install a limiter on her sound system limiting the volume to the levels and settings that were represented at the hearing, and at no event will the sound system be any louder than the statutory limitations;
- 2) That the shows be limited to one (1) commercial horse show per month from May to October, inclusive of both those months;
- 3) That the participants in those shows be limited to ten (10), 12-foot trailers;
- 4) That the Applicant, at their own expense, have a police officer present from 6:30 AM to 8:30 AM directing traffic during the shows and, again, one-half (1/2) hour before the end of the show and for one-half (1/2) hour at the end of the show, and
- 5) That the shows be limited to take place only on Saturdays.

Mr. Eck questioned whether the Board should be more explicit on the statutory representations. Mr. Greenblott agreed to amend his motion to include reference to section 5.5.1 (b) of the Zoning Ordinance.

Mr. Koontz asked that the words "restrictions and conditions" be referenced in the motion. Mr. Greenblott agreed.

Mr. Eck questioned the time frame for the presence of the police officer given the fact that the opponent had represented that people tend to arrive early for registration. Mr. Greenblott agreed to amend his motion to require a police officer two and one-half (2 ½) hours prior to registration and thirty (30) minutes after the beginning of registration.

Seth Greenblott's **AMENDED** motion to **APPROVE** the application (horse shows) subject to the following restrictions and conditions:

- 1) That the Applicant install a limiter on the sound system limiting the volume to the levels and settings that were represented at the hearing, and at no time will the sound system be any louder than the statutory limitations referenced in subsection 5.5.1(b) of the Hopkinton Zoning Ordinance;
- 2) That the horse shows be limited to one (1) commercial horse show per month from May to October, inclusive of both those months;
- 3) That the participants in those shows be limited to ten (10), 12-foot trailers;
- 4) That the Applicant, at their own expense, have a police officer present, directing traffic, two and one-half (2 ½) hours prior to registration and one-half (1/2) hour after the beginning of registration and, again, one-half (1/2) hour before the end of the show and for one-half (1/2) hour at the end of the show, and
- 5) That the shows be limited to take place only on Saturdays.

With five members voting, four voted in favor (Greenblott, Koontz, Gray and Rinden) and one voted in opposition (Eck). Motion carried in the affirmative. With the restrictions and conditions imposed, the Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

The restrictions and conditions limiting the scope and frequency of the events were necessary to satisfy items 3-5 and 7-9 of the criteria for Special Exception. Specifically, to address the following concerns:

- The property values in the vicinity;

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- The location and whether it is appropriate;
- The health and safety of the residents in the vicinity;
- The changes in the characteristics of the residential neighborhood on account of noise, traffic safety, and traffic congestion;
- The increase in demand on the road when considering its present condition;
- The use and/or development of adjacent and neighboring properties;
- The public's interest, and the spirit of the Zoning Ordinance.

**III. Adjournment.** Chairman Dan Rinden, seconded by Charles Koontz, moved to **ADJOURN** the meeting at 9:47 PM. Motion carried in the affirmative.

Karen Robertson  
Planning Director

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<sup>i</sup> History:

- a) September 6, 2017, ZBA Public hearing held and continued to allow time to review additional information received and to seek a legal opinion concerning "horse shows".
- b) October 3, 2017, ZBA approved Special Exception to operate a Commercial Riding Stable with the condition that "horse shows" be excluded from the approval.
- c) November 16, 2017, ZBA denied Motion for Reconsideration (Rhapsody Farm, LLC).
- d) June 11, 2018, Merrimack County Superior Court Order.

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# Town of Hopkinton

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## HOPKINTON ZONING BOARD OF ADJUSTMENT NOTICE OF DECISION AUGUST 20, 2018

Notice is hereby given that the Hopkinton Zoning Board of Adjustment held a meeting/hearing on **Monday, August 20, 2018, at 6:35 PM** in the Slusser Center, 41 Houston Drive, Hopkinton, and made the following decision:

### I. Application.

**#2017-03 Rhapsody Farm, LLC** Remand hearing for the sole purpose of determining whether the Special Exception criteria would be satisfied if the number of horse shows were limited or if other appropriate conditions were imposed, pursuant to the Merrimack County Superior Court Order, dated June 11, 2018.<sup>1</sup> The property is owned by 1301 Bound Tree Road, LLC and is located at 1301 Bound Tree Road, Hopkinton, in the R-3 district, Tax Map 204 Lot 2.

Seth Greenblott, seconded by Toni Gray, moved to **APPROVE** Application #2017-03, subject to the following restrictions and conditions:

- 1) That the Applicant install a limiter on the sound system limiting the volume to the levels and settings that were represented at the hearing, and at no time will the sound system be any louder than the statutory limitations referenced in subsection 5.5.1(b) of the Hopkinton Zoning Ordinance;
- 2) That the horse shows be limited to one (1) commercial horse show per month from May to October, inclusive of both those months;
- 3) That the participants in those shows be limited to ten (10), 12-foot trailers;
- 4) That the Applicant, at their own expense, have a police officer present, directing traffic, two and one-half (2 ½) hours prior to registration and one-half (1/2) hour after the beginning of registration and, again, one-half (1/2) hour before the end of the show and for one-half (1/2) hour at the end of the show, and
- 5) That the shows be limited to take place only on Saturdays.

With five members voting, four voted in favor (Greenblott, Koontz, Gray and Rinden) and one voted in opposition (Eck). Motion carried in the affirmative. With the restrictions and conditions imposed, the Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

The restrictions and conditions limiting the scope and frequency of the events were necessary to satisfy items 3-5 and 7-9 of the criteria for Special Exception. Specifically, to address the following concerns:

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- The property values in the vicinity;
- The location and whether it is appropriate;
- The health and safety of the residents in the vicinity;
- The changes in the characteristics of the residential neighborhood on account of noise, traffic safety, and traffic congestion;
- The increase in demand on the road when considering its present condition;
- The use and/or development of adjacent and neighboring properties;
- The public's interest, and the spirit of the Zoning Ordinance.

II. **Adjournment.** Charles Koontz, seconded by Jonathan Eck, moved to **ADJOURN** the meeting at 9:32 PM. Motion carried in the affirmative.

Karen Robertson  
Planning Director

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<sup>1</sup> History:

- a) September 6, 2017, ZBA Public hearing held and continued to allow time to review additional information received and to seek a legal opinion concerning "horse shows".
- b) October 3, 2017, ZBA approved Special Exception to operate a Commercial Riding Stable with the condition that "horse shows" be excluded from the approval.
- c) November 16, 2017, ZBA denied Motion for Reconsideration (Rhapsody Farm, LLC).
- d) June 11, 2018, Merrimack County Superior Court Order.
- e) August 20, 2018, Site Visit and Remand Hearing.

Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."

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