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**TOWN OF
BROOKLINE, NEW HAMPSHIRE
PLANNING DEPARTMENT**

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**Planning Board
Minutes
October 21, 2021**

**Present: Eric Bernstein, Co-chair (voting)
Alan Rosenberg, Co-chair (voting)
Ron Pelletier, Member (voting)
Chris Duncan, Member (voting)
Brendan Denehy, Selectboard Representative (voting)
Scott Grenier, Alternate
Dennis Bechis, Alternate
Eric Pauer, Alternate (Via Zoom)
Valérie Rearick, Town Planner (via Zoom)**

Eric called the meeting to order and read the rules for a hybrid meeting:

- Any meeting attendees participating via Zoom are asked to activate the “mute” function until called upon by the chair
- Meeting attendees via Zoom must use the “raise hand” function under the “reactions” tab to participate in the meeting – and will be permitted to comment once and if called upon by the chair
- Anyone providing comments during the meeting must first identify their name and address
- The “chat” function for Zoom participants will be disabled by the meeting administrator or otherwise not addressed; “chat” items will not be part of the public meeting/record
- Meeting attendees via Zoom will not be listed as attendees in the minutes (except Board members)
- The meeting’s physical location is the official meeting room. Should technical difficulties arise with the remote portion, the meeting will continue at the physical location.

Minutes

Alan made a motion to approve the minutes of September 16, 2021 as amended. Ron seconded.
Vote yes 5-0.

Brendan made a motion to approve the minutes of October 7, 2021 as amended. Ron seconded.
Vote yes 5-0.

Social Media Policy

Brendan said the Social Media policy was in the minutes as a discussion item for the next meeting but is not on the agenda. Can this be added to the November agenda. The Board agreed.

Wright Road (Off Mountain Road), new Construction Bond

Eric B. said they have an estimate from Mike Vignale for the road bond estimate \$110,700.

Ron made a motion to recommend to the Selectboard a performance guarantee for Wright Road in the amount of \$110,700. Alan seconded. **Vote yes 5-0.**

Road Bond Eastman Drive, Marjorie Drive and Sawtelle Road Update

Valérie said Dennis LaBombard (LaBombard Engineering) had no updates for any of these roads and asked that they add these items to the November meeting. The Board agreed.

Compliance Hearing: Laureen McLean: Winterberry Farm Education Center Home Business

Violation of Section 1700.00 of Zoning Ordinances, Violation of Special Permit issued for home business on March 18, 2021.

Valérie asked the Board to read the email that was sent by the Code Enforcement officer.

Which was as follows:

“On Friday 10/1/21 Val stated that she had received several complaints from residents on Winterberry Road.

The complaints were noise and parking related.

The complaints stated that a wedding had taken place the prior weekend.

Val advised that a Cease-and-Desist order needed to be delivered to 14 Winterberry road.

The homeowner was granted a special permit for a home business by the Planning Board on March 18, 2021 for “Winterberry Farm Education Center”

On Monday 10/4/21

I called Laureen McLean and spoke to her about the complaints and discussed the special permit for the “Winterberry Farm Education Center”

Laureen stated that she believed that she is not in Violation of the Brookline Zoning Ordinance.

Laureen stated that this was just a misunderstanding. She wanted to come in and discuss the matter with Val and I on Weds 10/26/21.

On Wednesday 10/6/21

Wednesday morning Laureen met with Val, JP, and myself in the conference room. Laureen and Val disagreed on the terms of the Special Permit.

After a short discussion it was requested that Laureen provide more information as to the size of the wedding etc.

Laureen left and returned with the requested information. She informed us that the wedding included 40+ people.

At this point Laureen was told that a Cease and Desist was going to be issued and that the wedding could not happen due to the fact that it would violate the Brookline Zoning Ordinance. She left the building.

A meeting was called that included myself, JP, Val, Tad, and Bill Quigley to discuss the Cease and Desist order. At that meeting we all agreed that the bride and groom should not be punished because of the situation. We agreed to allow the wedding to take place. Val reached out to one neighbor to let them know that the wedding would be over and done with at 7:00 PM Sat Oct 9th.

On Friday 10/8/21

JP and myself hand delivered the Cease and Desist letter to Laureen. I also emailed and sent a copy of the Cease and Desist by USPS. I informed Laureen that a hearing would take place on the 21st of October to address the violations, and she was required to attend. We made sure that Laureen understood that the Wedding was to end at 7:00PM on October 9th.”

Valérie said she was the first to start receiving complaints, both emails and phone calls, from neighbors about loud noise from weddings. She spoke with the Code Enforcement Officer and they reviewed what was approved for a home business at the meeting in March 2021. They have also received photos that show lots of people in the barn. They met with Laureen to discuss what was approved in the original meeting for the home business in March of 2021. Laureen said there was a third wedding coming up that Saturday. After a discussion with the Town Administrator, the Code Enforcement Officer, and the Police Chief they agreed to issue a cease-and-desist order but allow the wedding to proceed on Saturday with a cut off of 7:00 PM. 7:00 PM is the latest for a home business

to be run, although weddings were not allowed for this home business. Laureen was granted a Special Permit to run a Farm Educational Center, nothing to do with weddings, noises, traffic, or music. The following Monday, Valerie said that she had more complaints via email and phone calls about the music being even louder than the first two weddings. This is what brought on the compliance hearing to discuss what was approved. **Valérie** said in your packets there is a copy of the cease-and-desist order, the notification of approval for home business from March 18, 2021, the minutes from the Planning Board meeting of that night, a copy of the email she sent to the abutters explaining that the town would allow the wedding to go on Saturday until 7:00 PM with no street parking for vehicles; there should be onsite parking only. There was also another issue with the amount of space they could use in the barn per the home business regulations (25% of the combined gross floor area of the existing home and/or any accessory structure, or 1,500 sf whichever is less.). When the application was approved there was a small amount of the barn that was approved for the Educational Center and not the entire building. She had received photos that clearly show the entire barn was being used for a wedding. It appears the entire barn was being used for the weddings in the photos. **Valérie** said therefore they are holding a compliance hearing tonight because there were some violations which are noted on the notice of the meeting tonight on the agenda.

Laureen said she is shocked; she was under the impression that she could have gatherings and believes there was a misunderstanding. She was under the impression she would be able to hold gatherings, she thinks this may have been blown out of proportion. This is the first time she's heard of any complaints from the neighbors. They didn't have anybody parking on the road and the whole barn was not filled. She said the Fire Department reviewed with her, the space that could be used in the barn. She said she had talked about having gatherings and weddings there when they met. **Attorney Michael Scott**, representing Laureen McLean, said he reviewed with Laureen what she was approved for and explained she could use up to 25% of the combined living area of the home but not more than 1,500 sf. She would like to address the neighbors' concerns, but she was unaware of the complaints. This business is important especially in these times, they need the income. She doesn't want to offend people, especially her neighbors. She also doesn't want to lose her business enterprise. It's funding her family's lifestyle. Not all her gatherings are weddings. She has just found an offsite parking area so she can have people can be shuttled to her location. She hasn't done anything since the cease-and-desist order was issued. Due to the Covid restrictions people have been having a hard time finding places to get married. **Laureen** said she had discussed shuttling the children to the camp and thought they could also shuttle the people who would be there for gatherings. **Michael Scott** said she has invested resources to get off-site parking. She doesn't intent to go over the limit of people that she is allowed to have or the space that she is allowed to use for her home business. He thinks part of the misunderstanding is that in her executive summary it mentions that in addition to the educational center there would be gatherings permitted and a farm stand along with a couple other things. One thing we did discuss is that even if there is noise, they can't have people there after 7:00 pm. She is committed to shutting down an event and having people shuttled back to the parking area before 7:00pm. Not all of these gatherings are going to be weddings, they have also had birthday parties. If neighbors are concerned with weddings, people have weddings in their back yard all the time. She is concerned now that she will have a hard time trying to figure out what kind of gathering she can have as part of her business plan. He said the neighbors seem to feel weddings can't happen. If the fact that weddings are not the issue, and it is the noise she would like to address the neighbor's concerns. What is the next type of gathering that isn't allowed? She is the concern now that she is being foreclosed from having gatherings and at some point, she won't know what type of gathering that she can have. She wants to address this, so her neighbors are not having any issues.

Eric B. said so you mentioned 7:00 pm, none of these events went past that time. **Laureen** said the last wedding they turned on the lights and said it needed to be over by 7:00 pm.

Attorney Michael Scott said he believes that having the off-site parking was proactive so the neighbors wouldn't have any traffic on the road.

Ron said he doesn't see where it stated gathering on the business plan. **Alan** said he remembers discussion about the camp but not for gatherings. **Laureen** said she thought that Valerie had mentioned to the Board that they would be having gatherings. She said the discussion was brief. **Eric B.** said yes it was brief, but he remembered the camp discussion and if they had mentioned gatherings, he would have thought it would have been geared toward the camp educational gathering. **Michael Scott** said the executive summary mentions gatherings. **Laureen** said she also wants to have educational programs for adults. **Brendan** said they had approved a summer educational camp for kids. He doesn't see the connection between gatherings geared toward the educational center and a wedding. What we approved in March was not an event venue or a wedding venue we approved an Educational center. **Alan** said in the context of the executive summary, gatherings give the interpretation that the gatherings are related to the educational component of the application. A camp for kids, some cooking classes and the gatherings would be specifically for the educational aspects of the farm.

Michael Scott said when he went to school there were school parties that were part of the school process dances and stuff like that. It could be a graduation party including students. **Brendan** if you said you were going to have ten to twenty kids at the camp and at the end of the year have those ten to twenty kids come for a graduation party that would be one thing, but to have ten to twenty unrelated people attend a gathering it is not camp related. **Brendan** said they permitted a specific type of event and they are trying to add onto what was approved. **Michael Scott** said in the executive summary it states the center will provide classes for adults and children, a summer camp, gatherings, and a farm stand. **Eric B.** said at no point in the original discussion was the idea of gatherings outside of the concept of the Summer camp.

Andrea (Laureen's Daughter) said they wanted to do the Education Center and gatherings. The farming is where gathering takes place. If you have a child's birthday party, they always end up in the barn hang out with the animals. That also goes to weddings. Rustic Barn weddings are a popular thing. People seek out barns to get married in. We weren't trying to have a big wedding or a big party. They would like small micro weddings. People can get married in the field next to the horses and animals. People who want their wedding in a hotel are the ones that want the huge loud party. At Winterberry Farm the experience is the farm and the animals. During a wedding we find a lot of the guest going into the barn to see the animals. We don't want to have a lot of weddings, that is our goal. We would like to have different activities. We would like a nice, wonderful atmosphere for retirement. With Covid they have had people reach out to them to have weddings in the barn, they are not advertising for weddings that were on the website, but they had taken it down. We are not advertising as a wedding venue.

Ron said he saw the pictures and it is a gorgeous property, but it is not what was approved. **Chris** said if there was a thought that you wanted to add services to your business plan you should have come to the Planning Board. **Laureen** said she thought it was very clear with Valerie and the Fire Department and she apologizes that the Board wasn't aware of this. **Chris** said at the time of approval there were six bullet points listed on the approval, three septicallly listed in regard to the camp. Three are just general:

- list of all counselors (age and names)
- Copy of First Responder / EMT's proof of certification
- Copy of liability insurance for the education center (program description and location)
- Copy of all State Licenses prior to the start of the camp
- Copy of water testing
- Satisfactory Inspection Report from the Fire Department prior to the start of any activities

The title is called Winterberry Farm Educational Center and not a gathering center. He doesn't see anywhere that you wanted to include weddings. He appreciates that you have taken down the advertising for weddings, but it was never allowed. Again, if there was a change to the business plan it should have come back to the Board. **Laureen** said she believes there was just a misunderstanding about the gatherings. It wasn't clear to her that she would have to come back for a meeting. **Michael**

Scott said his concern, after this discussion, is that with the Educational Center if they plan a graduation gathering, will they need Planning Board approval for that. **Chris** said at the end of the summer get together or graduation for the kids wouldn't be outside the realm of what was approved for the education center. **Michael Scott** said its difficult because gatherings isn't defined specifically. Gatherings may be open to a lot of interpretation or opinions. Is there a stipulation as to what kind of gatherings that they can have, or should they come to the Planning Board for every function they would like to hold? **Alan** said it does need to be clearly defined going forward. The neighbors were taken by surprise by the gatherings that they held. **Michael Scott** said it seems that the special permit they received was only good for the Education Center. **Alan** said the farm stand was also approved but the primary reason for the Special Permit was an educational event and not social gatherings. If you want to hold functions of that nature, they will need to come back with an updated application.

Alan made a motion to end discussion. Brendan seconded. Vote yes 5-0.

Valérie said there are still abutters and the Fire Department who have comments.

Alan made a motion to reopen discussion to people who provide town services and abutters.

Brendan seconded. Vote yes 5-0.

JP Royea (Brookline Fire Department) said with the size of that barn were are looking at a place of assembly it would make sense to have them come in with a new application. That barn is big enough to hold a couple hundred people and they would need to look at the life safety side of this application. They would need be have the right fire protection for the barn.

Laureen said she had discussions with JP about the number of people that they could have in the barn and he said it was 99. She thought they were on the same page about weddings. **Ron** asked JP if he issued an occupancy permit. **JP** said no occupancy permit was given because it was based on the educational center and there was no reason to give one. 99 is the magic number for not needed fire suppression. **Ken Madsen** (10 Winterberry Road) said he attended the meeting and when he asked Laureen about noise she said the only thing they would hear is laughter. He said he couldn't hear his tv over the music. He and his wife was in the kitchen and unable to hear the radio over the music. The Dj was set up outside in the yard and not in the barn. If it was held in the barn, he may not have heard anything. They had a bus blocking his driveway for about 15 minutes then it was parked down the street for about an hour. This is not what they presented at all at the original meeting. **Caitlyn Baumler** (16 Winterberry Road) said that Ken brought up a lot of the concerns that she was having. Our kids go to bed at 7:00 pm as they are still in napping age. They were in bed and the music was so loud the walls were shaking during all three of those weddings. Many cars also missed the entrance to the barn, and they were turning around in everyone's driveways. Our kids play outside along with most of our neighbors kids; that's why they bought a house at the end of a dead-end road. She feels mislead; this is not what was presented at the first meeting. **Ken Madsen** said he said they had signage up, but the traffic was going so fast they may not have been able to read the signs. There was a tremendous amount of traffic flying up and down this road.

Alan made a motion that the Planning Board finds that in case SP # 2021 -B; G-45-9 the applicant is not in compliance with the approved home business special permit issued for the home business on March 18th of 2021and therefore the Board revokes the Special Permit.

Brendan seconded. Vote yes 5-0.

Eric B. said just to clarify any business use will need a new Special Permit. **Alan** said yes, that is correct. **Michael Scott** said point of order you cannot just revoke the prior permit because she isn't allowed to have weddings. A continuing violation would allow you to revoke the permit there is no continuing violation at this point. She said she would have no more weddings. **Valérie** said the Board found that they were in violation of the special permit and they revoked it yes, she would need to come back into the Planning Board with a new application. **Michael Scott** said so, she just lost all her income. So, she is no longer allowed to run her business. He doesn't believe even the neighbors would want that. **Valérie** said the Board has the right to revoke a special permit. The Board could also allow Laureen to conduct business only what was approved in March the farm educational center based on the notice of approval which is the Winterberry Farm Educational Center. There is nothing listed in

this conditional of approval about weddings, anniversaries, music, loud noise. The Zoning Ordinance is very strict about no more noise than what would be generated by a regular residential home. It is up to the Board. **Valérie** suggested that they revoke the special permit and have her re-apply for what she would like to do so there is no further confusion.

Alan said while we are on the subject when it comes to the list of conditions of approval what has the Board received:

- . List of all counselors (name and age)
- . Copy of the First Responder / EMT's proof of certification
- . Copy of the liability insurance for the education center (program description and location)
- . Copy of all State licenses prior to the start of the camp
- . Copy of the water testing
- . Satisfactory Inspection Report from the Fire Department prior to the start of any activities.
- . A hard-wired phone separate from the owner's residential phone to be installed in the barn.
- . A proof of liability insurance, stating the name of the business, needs to be provided.

Valérie said they received the water testing and the copy of the licensing only. She hasn't received any other paperwork. **Andrea** handed the Board the insurance paperwork. **Laureen** said she thought they brought everything down to the Town Hall.

Steve Sacherski (Building Inspector) said he issued the Cease-and-Desist order; it was stated that this event needed to be done by 7:00 pm. There is an email from an abutter that clearly states there was still activity at this location 45 minutes later. The bus and the five cars didn't leave until 7:45pm. They violated the Cease-and-Desist order. **Andrea** said they asked Steve if they could be there cleaning up after the 7:00 pm deadline and he said yes. **Steve** agreed that that would be fine but the bus which holds a number of people was still parked there for 45 minutes he doesn't believe that was just cleaning up. **Eric B.** said that he looked at the notification of approval that was issued, the minutes for the meeting in March, and the zoning ordinance. He read Zoning Ordinance Section 1702.04

"Objectionable circumstances such as noise, vibration, dust, smoke, excessive traffic, electrical disturbances, odors, heat, glare, visual disharmony or other offensive emissions shall not be produced in excess of that normally associated with residential use." There was a violation of the Zoning Ordinance on top of the special permit. He doesn't feel comfortable keeping a special permit active knowing that there has been a lack of an ability to interpret what is allowed and not allowed. He would like to see a new application explaining what the actual business will be, and they will hold a new hearing and notify all the abutters again and start fresh. **Ron** and also to clarify the word gathering.

Alan read Section 1702.07 *"Home business activities apparent to the general public shall be limited to the hours between 8:00 a.m. and 7:00 p.m."* **Chris** said he wanted to add from the minutes from the previous meeting there was no mention of gatherings at all. There are 24 trips allowed a day and they brought up. The applicant spoke of bussing in the Kids to limit the number of trips and that the farm stand would be by appointment only for the same reason. The minutes clearly show the need to minimize the traffic by the applicants. The opening statement was they wanted to bring back the farm educational program. Weddings is something completely different. **Laureen** said they were very sorry and didn't mean for all of this to happen. They missed the opportunity to get the summer program up and running this year. She doesn't want the neighbors upset. There was another party going on at the same time as the wedding, the music never went past 11:00 pm. Please don't take away the farm camp. She hasn't violated anything, and the bus had nothing to do with them. The bus was there but she never asked anyone to bring that bus. They were strict about the 7:00 pm shut down of the wedding. The bride and groom cleaned up and were out of there in a half an hour. They would like to have another chance. **Andrea** said the first two weddings were smaller. They have decided to not have a gathering of that size. They are sorry for what had happened. **Laureen** said she is clear on what is allowed now. **Brendan** said it was clear to him that what was being asked for was a summer camp and that is what he voted for. He isn't comfortable with allowing this to continue. **Valérie** suggested that they revoke the special permit and have her reapply for what she would like to do so there is no further

confusion, and they have a clear file as to what is allowed. **Valérie** said everything should be clear, in black and white and on paper in the future.

Alan asked what she has scheduled between now and the next PB meeting. **Laureen** said they have nothing planned between now and the end of the calendar year. **Eric** said "what is the financial harm to revoke this now and hope you can reapply for the next meeting?" **Andrea** said she would like to hold some holiday classes, arts and crafts, at some point. **Alan** said things that you have harvested from the farm to hold a craft class would be covered under the special permit. **Alan** said some middle ground could be to not revoke the Special Permit as long as there are no gatherings until you come back with an updated application with the other features that you would like to add to the home business. **Eric P.** said there is a website for Winterberry Farm that looks as though it is advertising for weddings, and it should be removed as that was not approved.

Alan made a motion that the Special Permit for case 2021-B ; G-45-9 Winterberry Farm Education Center home business be allowed to continue provided that the rustic barn rental on the website is removed and the only business allowed there is educational in nature and the farm stand, what was unambiguously called out in the application and allowed by the special permit only then allow the applicant to come into the Planning Board with an updated application. Chris seconded. Vote yes 5-0.

Growth Management Ordinance

Peter D'Agostino read through the suggested changes after the last meeting.

Well & Water Ordinance

Peter said that after the last meeting they had received a lot of public comments and the Committee is still working on the updates. This will be discussed with the Selectboard. No proposed Zoning Ordinance at this time.

Workforce Housing Ordinance

Peter said there were no updates for this.

CIP

Alan said the initial draft of the Capital Improvement Plan was emailed out to the Board and the Committee will be scheduling a meeting to review.

Public Comment

Bob Parodi (11 Conneck Road) He has sent in comments to the Board concerning the Growth Management Ordinance. He sent a list of building permits for residential homes that Kristen had provided to him. He would ask the Board to consider the change the date in the Growth Management Ordinance to protect any lot of record in the town to April 1st. April 1st is the day all the lots are assessed in Brookline, so it is easy to determine what is a lot of record. There were 7 permits issued for lots that were outside the 5-year window. To shut out those people who are outside that five-year protection is unfair to them. That will affect the value of these lots. He represents Razzaboni Home Builders they had a 35-lot subdivision they have consistently pulled 6 permits a year. If you do not grandfather lots outside that 5-year window that subdivision expires in two or three years. Those 29 lots that he is building off at 6 per year are going to get built at 10 to 15 lots per year. Which will defeat the purpose of the Growth Management Ordinance. **Bennet Chandler** (6 Wildwood Drive) would like to be kept in the loop as to the updates on the Growth Management Ordinance and asked if all the changes mentioned in this meeting and the study will be added to the website for public reviewing. **Eric B.** said yes everything will be added to the website. **Buddy Dougherty** (11 Ruonala Road) thanked the Planning Board for working with the Winterberry Farm application that was just heard tonight. He is also part of the Well Water Committee and they have been working on this for a couple of years now and he is hoping something will come from that soon. He is here in support of the

Planning Board. We are not doing this for today, we are doing this for tomorrow. **Lindsay Machado** (72 Russell Hill Road and a member of the Well and Water Committee) thanked the Board for the time and effort also. She would like to express her support for the new ordinances. She thanked Pete and the committees for all the time an effort that they have put into coming up with the ordinances.

Adjourn

Brendan made a motion to adjourn the meeting at 9:45pm. Ron seconded. Vote yes 5-0.

Eric Bernstein, Co-chair _____

Alan Rosenberg, Co-chair _____

Ron Pelletier, Member _____

Chris Duncan, Member _____

Brendan Denehy, Selectboard Representative _____

Minutes submitted by Kristen Austin.

Next meeting will be November 4, 2021 for a work session only.

Next regular scheduled Planning Board will be November 18, 2021.