| 1 2 3 4 | | Town of Wilton, New Hampshire Zoning Board of Adjustment Draft Minutes |
|------------------|---|---|
| 5 6 7 | DATE: TIME: PLACE: | May 28 2019 7:30 PM Town Hall |
| 7 8 9 | PRESENT: Absent: | Joanna Eckstrom; J. Eckstrom Jeff Stone; Paul Levesque; Peter Howd (Alternate) |
| 10 | Staff: | Andy Hoar Land Use Administrator Michele Decoteau Decoteau |
| 11 12 | Attendees Felice Fullam | Peter Clemens and Pam Clemens (applicants), Jessie Salisbury, Todd Clough, , Courtney Johnson, Kim Riendeau, Mike MCGonegal, Karen Demers, Michael |
| 13 14 | Demers, Matt Bangert, Kathy Bangert, Dawn Brooks, Marc Lancaric, Stephanie Gorman, Ariel Crotty, BJ Whitt, Daniel Ross, Christine Keller, Bob Keller. | |
| 15 16 | PRELIMINAL | |
| 17 18 19 | N. Faiman ope | ened the meeting at 7:34 PM. This meeting is for a continuation of the case from Case #4/09/19-1. P. Howd will continue to sit in for Andy Hoar on this case. |
| 20 21 | MINUTES The Board rev | viewed the minutes from May 14, 2019 |
| 22 | | 9 change my to by |
| 23 | | 6 correct Eckstrom |
| 24 25 | | 3 As not At 04 hopeD to grow. |
| 26 | | 35 guestS |
| 27 | | 30 change don't to doesn't |
| 28 | | 35 Add a "?" to the second sentence |
| 29 | | 37 decideS |
| 30 31 | | 88 change to "hasn't penalized an applicant for doing something" 89 add "nor has the ZBA given them a bonus for starting early." |
| 32 | | 04 delete the "t" |
| 33 | Line 3 | 05 3. (space) |
| 34 | | 14 change done to don't |
| 35 | | 17 add "asked" after "and" |
| 36 | | 64 change issued to issues |
| 37 38 | Line 3 | 74 change to "motion that the Clemens can respond to." |
| 39 | J. Eckstrom M | IOVED to approve the May 14, 2019, minutes with noted corrections. J. Stone |
| 40 | SECONDED. | |
| 41 | | |
| 42 | | riewed the minutes from May 19, 2019 |
| 43 | | 3 Scott |
| 44 45 | | 3 Kathy Bangert 6 add "the pool is only for use by" |
| 45 46 | | 0 strike the sentence starting with "There are bathrooms" |

Line 41 ... add "billard room" after floor

J. Eckstrom MOVED to approve the May 19, 2019, minutes with noted corrections P. Levesque SECONED. All in Favor. N. Faiman abstained.

CASES

53 Case #4/09/19 -1

N. Faiman re-opened the hearing by reading the Public Notice. He reviewed the prior meeting. The Board produced a list of questions needing specific responses for the Special Events at the conclusion of the previous meeting.

Peter and Pam Clemens provided a written response to the questions that was shared with the Board and the public. Peter Clemens said they heard a lot of concerns and have effectively removed the barn from the proposal and request that only the tea room remain with a max of 35 guests. That addressed a lot of concern about the barn and the parking and number of people. This new proposal is for 17 cars and that is 3-4 more than were in the lot at the site walk. The site walk provided a good feel for the parking and the intimate feel of the tea events in the house. There are a few more responses.

J. Eckstrom said, just for clarification, you are eliminating the Barn? Peter Clemens said yes. P. Levesque asked if big events were in the barn or using the billiards room? Peter Clemens said that they only use the barn for personal events and the billiards room could be for B&B guests and mainly himself.

Peter Clemens said that they are going back to a more intimate events in the house. They are planning to serve wine or beer.

N. Faiman asked if they would serve beer and wine to the B&B guests. Peter Clemens said no but the question was if the guests brought in beer or wine. Peter Clemens said that they could use it in their rooms or on the balconies off their room.

Peter Clemens said that there was a question about intensity. The evens will be scheduled by reservation by only Thursday through Monday and 11 AM to 8 PM. There will be a max of 35 guests inclusive of the B7B guests.

Peter Clemens addressed lighting. There are motions sensor lights on the barn and the main house. There are other lights on the porch. All the lights are motion sensors and on timers.

P. Levesque said the idea is to keep this as residential as possible. Peter Clemens said there will be no amplified music and no DJs. We have a grand piano and that would be available.

Peter Clemens addressed visibility. He said people might see some cars as they turn. But clearly coming down Wilton Center Road few cars would be seen. The outside activities will be limited to Tea and B& B guest using the porches on the second floor. He said have had requests for photo shoots before wedding and this would be a special request. He said they want to create an elopement package for small weddings that maybe outside.

Peter Clemens said they have no problem with the limit of two non-family members.

Trash removal is handled with weekly pick up service. He said they serve on china and when a baby shower is hosted, and there are a lot of gifts opened, the guests take the paper and tissue when they leave.

Peter Clemens said that for over flow, Andy's Playhouse has provided a letter that we can use their parking lot for overflow but unlikely to need it. It is a rare exception that someone shows up by themselves. Peter Clemens provided the letter from the Board of Andy's Playhouse.

J. Eckstrom said she would like to not have to rely on the generosity of an abutter to meet the parking requirements. Peter Clemens agreed

J. Stone asked if there was some discussion of walk in hours. Peter Clemens said that is not an option anymore. It will be only with reservations and special events. J. Eckstrom said she'd like the letter from Andy's Playhouse to be part of the record but not part of the decision. J. Ston said this was an agreement between two current owners, not an easement.

M. Demers, Wilton Center Road, said this is a much more acceptable proposal. But he thinks about the Trojan Horse and that it will be easy to expand. If they expand the septic and put in bathrooms in the barn, it would be easy to do bigger special events. N. Faiman said that would not be an approved use. There would be a hearing with the Select Board and they are the enforcement authority. The neighbors can complain to the Select Board. There is some teeth with fines, and court. M. Demers said the current proposal is more something that we can live with but hopes it is not a stepping stone to running events in the barn.

M. Bangert pointed out that if Alcohol is served it invokes assembly laws and codes. State fire laws were changed after the Station Night Club Fire in Rhode Island. He asked for a point of clarification: at 25 or more guest, two separate sex bathrooms are required. He asked about the parking and if it was just on lawn or crushed stone. He agrees with M. Demers that he his fearful that we will be back in a year with a bigger proposal.

N. Faiman said that there is a division of responsibly. Nothing the ZBA does can override or change state or federal code or building code. When it is necessary, we require applicants meet state and federal guidelines.

M. Bangert asked if once the ZBA grants the Variance, can they serve alcohol. There was a further discussion and the question came up if the ZBA can regulate alcohol. N. Faiman said that the ZBA has broad discretion for setting limits on commercial use on a residential location. If they feel that serving alcohol is a part of the application, they can restrict alcohol but cannot permit. Peter Clemens said that we have to meet certain requirements for serving alcohol with the state anyway. M. Bangert said what they are concerned with is if alcohol is not prohibited, then it will be open to alcohol.

138 R. Keller, appreciates M. Banger's comments, but he doesn't speak for the neighborhood

M. Demers asked if the alcohol served will stay within the building or be on the deck. He is very concerned about things getting out of hand. This could easily graduate beyond little old ladies coming in for tea. It is not beyond the possibility that people would be loud and disruptive.

N. Sheldon Salisbury said he looked at every inch of the town and wanted to try to bring in something to Walton. He said that we don't have anything here. The Clemens are wonderful and the community could use somewhere to take your guests and have a lovely time. This is not going to become a multimillion dollar party place. You do need places to get married, you do need a place to relax. If someone bought it and turned it into Animal House it won't last long. You need a place to visit and Wilton has a lot of empty locations in downtown. This is for the whole town and you need to embrace this proposal. He understands that this could be a first step to something more, and could lead to B&Bs all over town. But you have to embrace something.

S. Gorman, Marden Road. Wanted to address alcohol. Has been to P and Ps for neighborhood events. If anyone got belligerent, she believes the police would be called and n

F. Fullam, we already have two places where people can get married including one right across the road. There are events happening. I am also concerned with serving alcohol. On page 7 of the minutes from the last meeting. This says that the Clemens operated their business for two years with events and B7B. The neighbors are going to have to be watchdogs and go to the Select Board. Concerned about buses and fireworks. There are lots of different scenarios that we are not thinking about tonight.

C. Keller said The red house and the church do have receptions and wedding. As far alcohol and this not prohibition. They are going to have 35 people. This will not get out of hand. They only started having guests after they got state approval. They did have private events but not paid events.

C. Hussainy, who works with Andy's Playhouse, said she doesn't have a problem with the B&B or having alcohol. We don't think there will be any problems and if there were problems, we would be the first to say something to them because we work with young people under 18.

Pam Clemens said the Red House has BYOB and there have been no problems.

174 C. Keller, just want to point out that the hours they are proposing are 11 am to 8 pm.

K. Demers, 38 Wilton Center Road, thought the B&B was approved but the chef is talking about weddings, showers, events, etc. What about tea parties? But if you look at their website they advertise for rehearsal dinners, and weddings, so she was confused. What are we approving tonight? She wanted to provide an objective opinion about how this would affect property values and she provided a letter from a realtor.

Peter Clemens said they do advertise on a wedding website because they host bridal showers.

He said they don't plan to host weddings.

Mark Lencaric said he was in the business in insurance and commented on the letter from the realtor. He said this is called "steering" and could get him in trouble.

BJ White said she is in total support of the Clemens and has seen many of the businesses leaving and now residents are leaving. Wilton was more prosperous when she moved here 13 years ago, and we should promote businesses like this. She is in support of this and if in 5 years if they want to expand, then we can come back. They want to have small things and events, this is where I would want to take my parents and their friends.

M. Demers, has been here 26 years. It hasn't been that thriving because larger organizations in closer proximity have taken over. I like this sleepy bedroom community. I don't feel my life will be shortened if I don't have a business next store to me. This has an old town flavor. The booze thing will happen. There needs to be some curbs to keep us from going bonkers on this. You will not always get the greatest people as customers.

C. Keller said there are 28 people here and to put that number in perspective. The Birchwood Inn and Handcock Inn is a B& B in Temple and they serve food and alcohol. These restaurants serve walk in guest and are a great assets to their rese

M. Bangert said he took offense to the calling Wilton a "crap town" and has no problem with the Clemens but is still concerned with some parts of the proposal.

D. Ross, 20 Wilson Road said there were a lot of good comments. Birchwood Inn is an established commercial area of Temple. He agrees with some of the sentiment of Mr. Salisbury. We need to refocus on getting commercial development in town and it kills him to see former commercial sites being used as residences. The Clemens are talking about Wilton Center a beautiful tranquil area. He is concerned about the long term effect of opening the residential area to commercial interests.

C. Johnson, has lived there for 22 years. It is beautiful. We like our quiet. This is a close historical area and supports the B& B but not the event center in a residential area

S. Gorman said she didn't think the Clemens were too far out of character with the
neighborhood. There is the Red House and Andy's Playhouse. Still within the Character of
Wilton Center.

A. Crotty said she just wanted to add her support for Pam and Peter Clemens.

N. Faiman summarized the discussion. There were concerns about alcohol, future owners, and this Commercial Use in a residential area. Also heard many people in support of the business.

J. Eckstrom asked about a liquor license. Does it go with the person or the property? N. Faiman said that unless the Board prohibits alcohol, the Clemens or future owners can seek a liquor license.

Peter Clemens said what they would do would be to include the price of alcohol with the price of the event. Pam Clemens said that they have also specified a time to end as 8PM so people won't be drinking to all hours.

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Peter Clemens was asked about school buses and drop off locations. He said drop off is 3:15pm right now, within the open time frame.

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Felice Fullam mentioned that Andy's Summer House will be working with kids during the open time frame.

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P. Levesque mad a MOTION and J. Eckstrom SECONED, to Close the Public Hearing and enter
 Board deliberations. N. Faiman reminded the public of the process. All in Favor

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J. Eckstrom said she would like to commend the applicants for changing and reducing the scope to something that is more palatable for the general public and giving her a better reassurance about the plans. Concerned about events in the Barn for 60 plus people. Changes the aspect of the application.

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N. Faiman said that this new proposal changes the tone significantly. When you bring the activity into the applicants' home, this sets a different level of expectation.

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P. Levesque said this is much less controversial.

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N. Faiman said we have heard about the benefits to the town but the question is still is it appropriate to waive the restriction of a commercial use in a residential district. Without delving into the revitalization of Wilton, Does this meet the criterial for granting a variance?

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P. Levesque said that The Red House, the auction house, Andy's Summer Playhouse all have big events so it is consistent.

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N. Faiman Setting aside passions, we have a set of standards for granting a variance and whether those criteria are satisfied.

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P. Levesque said that this current proposal is probably the least impact. J. Eckstrom said that this is operating on reservations and people won't just be showing up.

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J. Stone said that we have commented about our decisions not setting president. Sounds like we should take the existing non-conforming uses and look at this one on its own merit. P. Levesque said we need to look at the impact on the neighborhood.

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J. Stone said what effect does this have? Not sure I can look at these and then say why not one more? We'd be saying there is already three businesses in the area, why not one more?

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J. Eckstrom said that she sees that there are activities that are already going on in the neighborhood. And she is not saying that this is just one more. She wants them all to stand on their own.

P. Levesque said he was looking at how much this application is having an impact on the neighborhood. N. Faiman said if you take the impact of existing non-conforming uses, then you are in fact doing incremental calculus. What is the effect of one more....

P. Levesque said if there were no other businesses, it would be harder to say yes. J. Stone said he keeps coming back to the question that this is a residential district, is this appropriate? P. Howd read the Ordinance about moving to the commercial district if you exceed the limits. N. Faiman said that if you exceed the limits, then you should move, but the applicants are already asking to change those limits. P. Howd said so are we saying that these are limits of the home occupation and if you want to exceed them, you have to come back. We also haven't discussed the five points of the variance. I don't feel like it has been demonstrated.

J. Stone said he has owned a house exactly like this but he supported his with rent sharing folks housemates. I understand that these nice historic buildings are not affordable if they don't carry their own weight. He was mightily impressed with the inside and the renovations couldn't have been easy or inexpensive to do. They are going to need help to keep going. He wants to see the Clemens keep this alive but sensitive to what the neighborhood. They want to support this but are concerned with alcohol. It isn't a BYOB and I don't have as strong a concern as the neighborhood.

N. Faiman said that he wants to return the Variance. These large houses are expensive and hard to maintain. If you go back 30 years, in downtown, there were many large house that no longer made sense as single family homes and many variances were granted to change them to 2 and 3 family houses. There is clearly a hardship.

P. Howd said that if you go by the strict rules, hardship cannot be financial.

N. Faiman is it reasonable to ask someone to pay for the upkeep or is it reasonable for people to make some financial recompense with some sort of commercial use or these houses may disappear.

N. Faiman said do we see this application, or see this applications with modifications, fit the five variance criteria.

Granting the Variance would not be contrary to the public interest

If we are accepting the contention that the impact is going to be minimal, not objection, causing traffic problems....

P. Howd asked a question about process and how the variance would be worded. N. Faiman explained a couple of different methods. It all has to be in writing, either by what the ZBA says or by reference.

- 319 Public Interest
- Doesn't have to be a positive but can't be negative. This is low impact and not inconsistent with a residential use. People hold events, parties, even high teas.

- N. Faiman said yes, but then there are church services in the church, plays at Andy's Playhouse,
- Reiki workshops, but then if this could have events most days of the week from 11 am to 8 pm.

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P. Howd said this is 45 hours per week. He suggested limiting the number of hours within the 11 am to 8 PM time frame. This comes back to exceeding the Home Occupation.

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N. Faiman if you don't believe it is actually going to be that intensively, then we should limit it.

Perhaps we could limit to a further restriction. The hours and days would be the envelope to fill them and the limits would be within the envelope.

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Peter Clemens said that they would be happy with two events per day. The Board discussed limits of time and event number.

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- 336 Spirit of the Ordinance
- 337 The Ordinance allows home occupations.
- 338 J. Stone said that if this met all the criteria we wouldn't still be here.
- N. Faiman the ordinance is not inherently hostile to businesses in a residential district.

340

- 341 Substantial Justice
- This one is true if all the others are true. Hard to parse out as distinct from the other ones.

343

- 344 Surrounding Property Values
- P. Levesque said he thinks it will improve property values.
- N. Faiman in the absence of some economic concern, they wouldn't be able keep it in the current condition. P. Howd said this is establishing a block in Wilton Center that is commercial use. P.
- 348 Levesque said it was quasi commercial, not a grocery store or gas station

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- J. Eckstrom was just going to say the Red House dinners, you could say that this is commercialactivity but it is regulated and limited to a particular time of day.
- N. Faiman they are very intensive and more intense than what we are talking about here.

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J. Eckstrom said if we are careful with our definition of events, this won't detract.

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N. Faiman said he could come up with the wording of a variance in his mind. He could see how this met the criterial and the hardship is the property that is impractical for someone to maintain without some commercial use. J. Stone said that it could be made into apartments which would have greater impact.

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N. Faiman said it was hard to imagine a less intrusive use.

363 364

J. Stone asked about the responses from the applicant and if it is part of the application. The Board agreed that this is part of the application. The original application had some questions that were answered by this additional information.

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J. Stone said that without imposing specific hours or specific days, might we suggest a maximum number of days per week? Applicants offered to be restricted to two events per day. Board also discussed choosing a maximum number of hours per week and the applicant can choose how to use them.

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N. Faiman asked if the Board were ready to vote on a straw poll to see if it is worth continuing.

The Board discussed their inclinations and agreed that if they figured out the details, they would be inclined to grant.

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Alcohol. Alcohol in the house is more comfortable which might include the porch. This would be part of the event, not alone. The Board discussed BYOB. If they do serve alcohol this may change how other boards in town or invite other restrictions from the state but that would be on the applicant. The Board looked at the process of responding to a guest who brings in alcohol without approval seemed to be a reasonable process.

381 382 383

- Sanitary facilities
- This made sense but it is on the applicant to meet the guidelines. There is no reason to weigh in on the numbers as this is imposed by other agencies

386

- 387 Parking
- Parking looks fine. The Board discussed crushed stone. The Board discussed the traffic numbers and if they max out there would be 8,000 car trips per year.

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- 391 Timing
- The Board and the applicant discussed events and hours. Events are generally three hours each and if they held two a day that would be about 30 hours per week. Some members were happy with a max of 30, others thought 25 hours max would be good.

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- 396 Parking
- The Board discussed on-site parking with no parking in the front yard. Buffers were discussed but they might interfere with people seeing the cars.

399

- 400 Lighting
- The events will be over by 8pm. The Board discussed the location of the lights seen at the sight walk. The soft cast period lights are on the porch.

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- 404 Sounds
- Speakers are inside the house. They agreed on a harpist, pianist or similar or similar recorded music.

- 408 Visibility
- What will be visible will be the cars and the house. But to what extent are events will happen
- outside. The Tea Events will be constrained to being inside and on the porches. The outside
- events will be six people in the elopement package and people taking pictures. B & B guests may
- be in the garden. Activities outside the house will be limited to no more than six guests except

for photo events. No alcohol off the porches. This is not intended to limit the right of B&B guest enjoying the property.

416 Employees

No More than 2 non family employees. What you can do with that number limits the scope of events.

The Board discussed the next steps. N. Faiman read through his notes for the decision and the
Board discussed the details. The only issue that was not discussed was a sign. There was
discussion of the style of the sign. The Board discussed the request of the variance for a Home
Occupation to be visible from the road. Does this encompass the size the sign? The Board
discussed that the request wasn't for the size of the sign. They ended up agreeing on the Variance
for having a sign that meets the requirements of the Wilton Sign Ordinance for Res Ag District.

J. Eckstrom clarified the language for the Variance. The first line will be clarifying that this is for the Use at the house.

N. Faiman reviewed the language with the Board to clarify what everyone was voting on.

J. Eckstrom MOVED to reopen the Public Hearing. P. Levesque SECONDED. All in Favor.

N. Faiman asked for any public input.

F. Fullam asked about the use of "etc" and if it leaves things too open. J. Eckstrom said it is under the description of the events. N. Faiman said that in the public notice it was listed at Tea Events. J. Eckstrom said that in the application there were more events list. N. Faiman said that there is a fancy legal language for category that is listed in part. The word etc here conveys the same idea, the continuation of the category. J. Eckstrom says we could use similar or such as. N. Faiman said we are already using "such as" and this doesn't limit it to just the listed events. Etc will be dropped.

C. Keller had a question about "no changes to the appearance" and will this be specific to the events so they couldn't repaint their house? She suggested putting a qualifying statement at the beginning rather than contained in each restriction.

N. Faiman adjusted the wording of the Variance to reflect that there will be nothing visible from the Special Events other than parking. They discussed the limits to visibility. Is it necessary to restrict this? There are lovely views and trails on the property.

R. Keller said it sounds like you want to restrict the events so they aren't in the yard under tents and you can't see people wandering around.

The Board continued to discuss the outside use of the property by guests. While they may not be visible, there will be many more people on the property and in the neighborhood. Limitations of food and beverage services and any speakers will be inside the house. People may choose to wander.

436 wanuer.

P. Levesque MOVED to grant the requested Variance to allow the use of the house on C -79 for events as described in the detailed description below and which incorporated the motion by reference. J. Eckstrom SECONDED.

Details: CONDITIONS OF APPROVAL:

- Description of the Proposed Use: Events such as High Tea, Vintage Fashion Show Tea, and bridal and baby showers.
- Hours and frequency: Events will take place between 11:00 a.m. and 8:00 p.m., Thursday through Monday. No more than ten events, with a combined duration of no more than 30 hours, will occur in any Thursday-to-Monday period.
- Attendance: No more than 35 guests may attend any event. Attendance is by reservation only. Any guests in the Bed-and-Breakfast in the house will count against the attendance limit, even if they do not participate in the event.
- Location: The events will take place within and on the porches of the main house. Photo opportunities, and elopement ceremonies of no more than six participants, may take place on the grounds. Guests are free to enjoy the grounds.
- Parking: No more than 17 parking spaces, located behind the house, as shown on the plan in the case file. The parking area will be finished with crushed stone. Guest parking only in the designated parking spaces. No parking on the street or in the front yard.
- Alcohol: Wine and beer may be served to event guests, subject to applicable state regulations. Alcohol may not be taken outside the house and porches. No alcohol may be brought onto the premises by event guests. The owners will be responsible for enforcing these rules, up to expelling violators or involving the police if necessary.
- Music: A pianist, harpist, or similar acoustic musician, or electronic equivalent (small portable music player) is allowed. No amplified music allowed.
- Trash: Trash is handled by a weekly pick-up service. No dumpster.
- Signage: One sign is allowed, subject to the requirements of the Wilton Sign Ordinance pertaining to the General Residence and Agricultural District.
- Sanitary facilities: Bathrooms meeting applicable codes are to be provided in the house. Portable toilets are not allowed.
- Employees: No more than two non-family employees, including contractors, are allowed on the property.

Note: strike lot C-83 and keep the variance to Lot C-79. A vote yes is to approve the variance. If the Variance fails, then we have to vote to deny. We must vote to do one or the other.

- 496 J. Stone ... yes
- 497 J. Eckstrom ... yes
- 498 N. Faiman ... yes
- 499 P. Levesque ... yes
- 500 P. Howd ... yes. Motion carries.

N. Faiman reviewed the rehearing and appeal process.

OTHER BUSINESS

| 505 | The Board discussed their plans to complete the language of the decision. | | |
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| 506 | | | |
| 507 | A question about Zoning Maps and how other towns use them. | | |
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| 509 | <u>ADJOURN</u> | | |
| 510 | J. Eckstrom MOVED to Adjourn at 11:40 PM. P. Levesque SECONDED. All in Favor. | | |
| 511 | | | |
| 512 | Respectfully Submitted by Michele Decoteau, Land Use Administrator | | |
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| 514 | Approved on XXXXX | | |
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