

1 **Town of Wilton, New Hampshire**
2 **Zoning Board of Adjustment**
3 **Draft Minutes**
4

5 DATE: September 10, 2019

6 TIME: 7:30 PM

7 PLACE: Wilton Town Hall

8 PRESENT: Neil Faiman, Chair; Joanna Eckstrom; Jeff Stone; Paul Levesque; Peter Howd
9 (Alternate); Bob Spear (Alternate)

10 Absent: Andy Hoar

11 Staff: Land Use Administrator Michele Decoteau

12
13 Attendees: DJ Garcia, Asst. Fire Chief Ron Caswell, Justin Harrington, Judith Klinghoffer,
14 Lincoln Geiger, Mike McGonagall, Robert Silva, Jess Carson, R. Kahn, Karon Walker, K.
15 Schwab, D. Dion, Robin Maloney, Marilyn Jonas, Cori Ryan, William Ryan, Doreece Miller,
16 Chris Balch, Paula Iasella, D. TwoEagles, Tim Dresser, W. Bart Hunter, Sherry Jennings, Karen
17 Bailey, Stephen Jones, Heather Gray Wright, David Wright, Bridget Mooney, John Zavgren,
18 Dodie Finlayson, Andrew Finlayson, Jennifer Bernet, Susan Brown, Patricia Quaglia, Sandy
19 Gallo, Jessie Salisbury, Denise Duncan, Maggie Zavgren, Will Melcher, Anthony Graham,
20 Glynn Graham, Hugh Renwick, Carol Renwick, Linda LaDoucer, Mickey Pieterse, Jillian
21 Montmarquet, Kevin Forkl, Lynne Pentler, John Slater, Deb Slater, Ralph Buschmann, Helen
22 Sargent, Jonathan Sargent, Lorey Zahn, Casey Cadrain, Kathryn Rockwood, Marjorie Lemay,
23 Paul Lemay, Nancy Wallace, Bill Abrahams-Dematte, Deb Abrahams-Dematte, Gene Jonas,
24 Asra Zahn, Matt Bangert, Nancy Elcock, Mercedes Olster, Zack Olster, Brandon McCarthy, Ben
25 Hofstetter, Marissa Hamilton, Danelle Mellio, Brian Drayton, Lynn Rocca, Annette Hollenbach,
26 Shannon Linn, Elizabeth Collins, Carrie Carson, Anthony Carson, Dawn Beam, Shannon Silva,
27 R. Smith, Megan Gordon, Cory Schutzman, Nathan Walker, Tina Day, Richard Cheek, Joan
28 Ross, Dan Ross, Jennifer Hanks, Sharon Akers, Lisa Wowianko, Roger Laducer, Robin Schoen,
29 Police Chief Eric Oleson
30

31 **1) Call to Order: N. Faiman opened the meeting at 7:38 PM.**

32 N. Faiman reviewed RSA 36:54, Regional Impact Determination, and what that means for the
33 cases before the Board. Moving forward, an RSA 36:54 review will be made on all cases and
34 based on the applications.
35

36 #07/9/19-1 Quinn

37 P. Howd recused himself from this case.

38 J. Stone, P. Levesque, N. Faiman, J. Eckstrom, B. Spear (sitting in for Andy Hoar) will continue
39 on this case.

40 W. Keefe for J. Quinn wrote a letter and N. Faiman read the letter (attached). IF the Board finds
41 that there is regional impact, the Board will send out notices to municipal boards and NRPC.

42 RSA 36:55

43 I. Relative size - this did not seem relevant

44 II. Proximity to border - this abuts the border

45 III. Transportation networks - this would use transportation on the roads

46 IV. Anticipated emissions - N. Faiman said we don't know if this an issue - but intuition is that
47 this would be a consideration - not a finding that there IS an impact, but a concern that
48 there could possibly be emissions.

49 V. Proximity to aquifers - this was possible but not confirmed

50 VI. Shared facilities - we do share a school and streets, but the Board was unsure how this
51 would impact the schools

52

53 J. Eckstrom asked for confirmation that the abutter notices were sent and particularly the notices
54 to Lyndeborough abutters. M. Decoteau confirmed that all the abutters, including those in
55 Lyndeborough, were noticed. Letters were sent July 2, 2019.

56

57 B. Spear clarified that the impact is outside the borders. What about the stream in Goss Park? N.
58 Faiman said it comes from Lyndeborough and into Wilton.

59

60 J. Eckstrom clarified that the only change is notices are sent to other communities. N. Faiman
61 said we would have to determine what Towns would be notified and we would have to notify
62 Nashua Regional Planning Commission (NRPC).

63

64 J. Stone said it is clear that we can't find no impact. Most of the points made in RSA 36:55 apply
65 or are relevant. They might be concerns.

66

67 The Board discussed the logistics of finding a meeting place large enough and noticing the
68 public. N. Faiman said that the notices will be in the Milford Cabinet, the Post Office, Town
69 Hall, The ZBA website, the ZBA page on town website, and the website calendar.

70

71 J. Eckstrom MOVED that the ZBA finds that there may be a regional impact for case #07/9/19-1
72 Quinn, and in addition to NRPC, the Board will notify the Select Boards of Lyndeborough,
73 Temple, Greenville, Mason, and Milford and Continue the case to the next regular meeting.
74 October 8, 19 at 7:30PM tentatively at the High School cafeteria. B. Spear SECONDED.

75

76 Roll call vote

80 P. Levesque - yes

77 N. Faiman - yes

81 B. Spear - yes. Motion carried.

78 J. Eckstrom - yes

82 P. Howd recused himself.

79 J. Stone - yes

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Chief Eric Olesen offered to help finding the location.

J. Klinghoffer said that it is an issue the ZBA is having a meeting on Yom Kippur, the most important fasting day of the year in the Jewish faith. She said it was an issue as this will exclude everyone in the Jewish faith.

B. Hunter asked if this is going to be a new public hearing. N. Faiman said no, this will be a continuation but we will restart the testimony.

J. Slater said he lived on the odd side of the street and less than 500 feet from the street at the end of the property in question. He wanted to know why he was not included in the abutters list. N. Faiman said the list of who has to be notified is state statute. J. Slater said he should have been notified out of courtesy.

B. Spear MOVED that given the 8th falls on Yom Kippur, change the meeting date and time to Oct 15.

Discussion

The Board discussed scheduling and not everyone could make this date. B. Spear withdrew his motion.

B. Spear MOVED to change the October meeting to Oct 23, 2019, 7:30 PM for all ZBA cases at the High School cafeteria. J. Eckstrom SECONDED. All in Favor. Chief Oleson again volunteered to assist with finalizing the location for this meeting.

Case # 09/10/10-1 – ROCKWOOD

N. Faiman asked the Board if there would be any regional impact for a B&B in downtown Wilton? The Board discussed the application.

- I. Relative size - this did not seem relevant
- II. Proximity to border – it is not close to the border
- III. Transportation networks - this would use transportation on the roads, but not impact them
- IV. Anticipated emissions – none were anticipated
- V. Proximity to aquifers - - this did not seem relevant

B. Spear MOVED to find no regional impact for the B&B application. J. Eckstrom SECONDED. All in Favor.

Case # 09/10/10 -2 -HARRINGTON

123 N. Faiman asked the Board if there would be any regional impact for the antique store and a
124 potential residence at 9 Greenville Road. The Board discussed the application.

- 125 I. Relative size - this did not seem relevant
- 126 II. Proximity to border – it is not close to the border
- 127 III. Transportation networks – the store and residence would use transportation on the roads,
128 but not impact them. There was adequate parking on the property in the pasta and since
129 this appears to be quite similar, expected the same.
- 130 IV. Anticipated emissions – none were anticipated
- 131 V. Proximity to aquifers - this did not seem relevant

132

133 B. Spear MOVED to find that this application could not be construed to have regional impact. J.
134 Eckstrom SECONDED. All in Favor.

135

136 2) Minutes from previous meetings

137 B. Spear MOVED to put the minutes at the end of the meeting and review if there is time. J.
138 Eckstrom Seconded. All in favor.

139 a) 07.11.19

140 b) 08.13.19 site walk

141 c) 08.13.19

142

143 3) Public Hearings continued from previous meetings

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145 Case #07/9/19-1 Quinn

146 This case was address and continued.

147

148 4) Public hearings on new appeals

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150 Case #9/10/19-1 - Rockwood

151 N. Faiman read the public notice.

152 B. Spear will sit on the case for A. Hoar.

153 N. Faiman reviewed the process.

154

155 K. Rockwood said she would like to offer lodging and possibly in the future continental
156 breakfast. This home is new to her and she wants to positively impact Wilton. The space is
157 perfect for guests. She wants to be open year-round. She is asking for a Special Exception for a
158 B&B at her house.

159

160 The Business would be carried out by her primarily and no more than one other resident.

161 There will be no changes to the home. She said it is beautiful the way it is.

162 There will be no storage of any equipment or trash visible from the street.

163 Parking will accommodate 6 cars during the winter and in the summer there would be more.
164

165 The house was built for a large family. Her intention is to live here forever and sharing it with
166 family and friends. When they are not here and it is pretty big house for just her so that is when
167 she will rent rooms out.
168

169 N. Faiman asked about bedrooms. K. Rockwood said that she would rent three bedrooms.
170

171 P. Howd said she showed the common spaces in the application. Are there owners' bedrooms,
172 and a kitchen? K. Rockwood said there are two other bedrooms and one other bathroom in the
173 back as well as and a half bath on the lower level along with a dining room.
174

175 J. Eckstrom asked if you can you access the B&B rooms from your private space? K. Rockwood
176 said yes, they are open.
177

178 B. Spear asked about fire egress and if she'd had a fire inspection. K. Rockwood said yes she
179 had the inspection. There are extremely large halls and windows. She is a ¼ mile from fire
180 station, she has fire extinguishers. She has a system that monitors fire and carbon monoxide. She
181 wants it to be safe for her and her guest.

182 J. Eckstrom said that the Fire Chief's letter said that she needed sprinklers if she had 6 guests.
183 Assistant Chief R. Caswell clarified that this is a state law.
184

185 J. Eckstrom asked about the bedrooms on the upper level and the lower level and noted that there
186 is a common room and TV room. Does this mean all the guests have access to these? K.
187 Rockwood said yes, there are and they do have access. J. Eckstrom asked if guests have access
188 to the kitchen. K. Rockwood said no. There is a fridge in their room with a table. J. Eckstrom
189 asked if there are bathrooms in each room. K. Rockwood said that there was a common
190 bathroom for the three bedrooms.
191

192 J. Klinghoffer said that we had a B&B for decades in Wilton, Stepping Stones, and there seems
193 to be a need for that. T. Day said K. Rockwood is her neighbor and has one of the nicest
194 properties and her guest have no effect on the neighborhood. She hopes this is granted. L.
195 Laducer said they share a yard and they are all exceptionally close. She thought the way K.
196 Rockwood runs the B&B is extremely gracious and it is very clean. P. Lemay said her yard and
197 house are immaculate. Her guests are great people and a great addition to the town and
198 neighborhood. M. Lemay said they share a driveway and her guests benefit from the quiet
199 neighborhood. There is a large stairway in the house that is good in case of fire. K. Rockwood
200 has promoted the neighborhood and the town. The business is a plus to the Town. Assistant
201 Chief Caswell asked if K. Rockwood was planning to reduce the application for fewer than four
202 people.

203
204 J. Eckstrom asked if she wanted to do this year-round and if there is a time limit that you expect
205 guest to come and visit. What is your intention for the length of stay? K. Rockwood said she has
206 a policy that limits stays to 14 days. Generally people stay for 6 days. She is a real estate agent
207 and can see that that a couple of weeks is a good max. B. Spear said what about 30 days? J.
208 Eckstrom suggested 60 days.

209
210 S. Jones asked if she was planning to do this a B&B or just as Airbnb. K. Rockwood said that
211 she is planning on just using Airbnb. J. Eckstrom asked if people call her directly or does she
212 only book through Airbnb? K. Rockwood said she is planning to do an Airbnb. N. Faiman said
213 that for the Town of Wilton, there is no distinguishing Airbnb from any other B&B.

214
215 B. Spear MOVED to close the public hearing. J. Eckstrom SECONDED. All in favor.

216
217 J. Eckstrom said that we grant with the provision that no single reservation be longer than 60
218 days.

219 P. Levesque said he didn't have a problem with this.

220 N. Faiman said that according to the zoning, this could be a duplex and this is infinitely better for
221 the neighborhood and the town.

222
223 J. Eckstrom MOVED to grant the Special Exception as requested with the stipulation that no
224 individual rental is more than 60 days. J. Stone SECONDED.

225
226 J. Eckstrom MOVED to reopen the public hearing. B. Spear SECONDED. All in favor.

227 Discussion

228 Hearing none, the Board voted on the motion to approve.

229 J. Stone - yes 232 N. Faiman - yes

230 P. Levesque - yes 233 B. Spear – yes. The Motion carries.

231 J. Eckstrom - yes

234
235 N. Faiman reviewed the appeal process.

236 Case #9/10/19-2 Harrington and Diffley

237 P. Howd sitting on this case for A. Hoar.

238 N. Faiman read the Public Notice.

239 W. Keefe, representing D. Diffley, presented the case. This the White Home Building was built
240 in 1882. He reviewed the history of the property. In 2003, Deb Diffley got a variance to use the
241 property both as a residence and for the sale of collectables and antiques. She lived there until
242 she got married in 2006 and moved to Temple. Since then it has only been used for the sale of
243 antiques. Justin Harrington will be continuing the same use.

244

245 W. Keefe provided the Notice of Decision for case #1/13/04-2.

246

247 W. Keefe provided the site plan from the planning board approved in 2004 with updates. The lot
248 is small and it is almost entirely setbacks so there isn't much room to do anything new.

249 N. Faiman asked if the previous Special Exception expired? W. Keefe said there was a variance
250 for living there. N. Faiman asked about the Special Exception and if was still in place. W. Keefe
251 said the question is do you need to re-establish the Special Exception with the variance for
252 residential use. What we are proposing is consistent with the neighborhood. It is mixed
253 residential and commercial.

254 J. Eckstrom asked if there been any changes to the residential area of the structure? W. Keefe
255 said the kitchen and bathroom are on the first floor and the bedrooms are on the second floor,
256 some of the bedrooms were used for display space, but nothing had been altered. P. Howd asked
257 if there was any separation. W. Keefe said no there wasn't.

258

259 W. Keefe went through the questions for a variance. Granting this variance, is:

- 260 • Not contrary to public interest - this would provide economic value to the town
- 261 • Spirit of the ordinance - it is a mixed use neighborhood
- 262 • Substantial justice - this lot isn't useful for much else since it is so small and would
263 continue this current use

264

265 J. Klinghoffer asked about signage? N. Faiman said the sign was addressed in the variance. W.
266 Keefe said they plan to re-use the current sign.

267

268 S. Jones asked if the owner would be the occupant. W. Keefe said no, this is a lease and Mr.
269 Harrington has the option to purchase. The Board discussed the residential use and the ownership
270 relationship. J. Stone asked if the residential portion could be only used by the business owner.
271 Could they be rented separately? J. Harrington said he was planning to live there. W. Keefe said
272 that would be impractical to rent the residence to someone other than the business owner without
273 rehabbing the building since it is open. P. Howd asked if someone could address if the old
274 variance has any influence. N. Faiman said only in that the reasons that were used previously
275 might inform our decision now.

276

277 J. Klinghoffer said she understood having the objection to a commercial use in a residential area
278 but why object to a residential use in a commercial area? P. Howd said this is zoned industrial.

279 N. Faiman said that the town voted to put the industrial uses along the main roads and then
280 limited the residential use in that zone.

281

282 N. Faiman said this is historically a house and the applicants are asking to be allowed to use it for
283 a residence. Furthermore the character of the lot limits what you can do with it. If anything, a
284 residential use might reduce slightly the intensity of the use. The access works. The lot is what is

285 it and Deb Diffley did a pretty nice job getting value from it. If the purpose of the restriction of
286 the residential use in an industrial location. P. Howd said he had a concern about a comingling of
287 a commercial and residential use. It is the direction this is going. N. Faiman said site plan review
288 wouldn't address how the uses comingle inside the building, He thought they would be more
289 concerned with Parking,

290

291 K. Walker what if the variance were to the expiration of a variance? How would that change the
292 hardship questions? N. Faiman said this discussion is hypothetical.

293

294 The Board discussed the substantial justice. P. Howd asked for clarification on the business plan
295 that residential use be a requirement for this business. J. Harrington said that for his business, he
296 does clean outs and works long hours and this is a way to solve that issue. N. Faiman said that
297 security might be a reason. P. Howd said if we are starting as an industrial property and we've
298 said there is no longer a non-conforming use, we are starting new looking at the request for
299 residential use. Why are we going to allow him to violate that term in the ordinance? If the Board
300 looks through the hardship statement - this isn't unique.

301

302 J. Stone said he would argue that is unique that is a small lot unsuitable for much else. There is
303 space there that doesn't lend itself to the commercial side. Using it residentially works, we've
304 seen that.

305 B. Spear asked if it is the grandfathered non-conforming use, does that still stand. J. Eckstrom
306 that lapsed. If the use is abandoned for more than a year.

307

308 J. Klinghoffer asked if the property is unique because it is located in a spot that has heavy traffic
309 in both directions. It makes sense to have a caretaker on site for security.

310

311 S. Jones said his concern was that if the two things are separate, a decision that is too vaguely
312 worded, would allow for two separate uses in the future. K. Daily said it was stated that this
313 could be an owner occupied variance? But in this case, it is not the owner who is occupying.

314

315 The Board discussed if this could be a rental property and if there were conditions they should
316 impose to keep the uses in tandem. B. Spear said he wanted to think of this as a caretaker
317 position. P. Levesque said that he saw this as a home and it has been a home for long time. B.
318 Spear said that is how he was thinking but then this was turned in to a business and the
319 residential use lapsed.

320

321 N. Faiman said that having a caretaker on site is a value.

322

323 S. Jones said his point is that the two uses shouldn't be separate. J. Harrington said he had no
324 problem in keeping the two uses together. W. Keefe said we hope that Mr. Harrington
325 eventually buys the business and has no problem. The property is suited to a mixed use.
326

327 B. Spear said if the business goes away, the owner and/or operator would be living in the
328 residence. J. Stone asked if it had to be the owner if the building was leased. N. Faiman said the
329 way the variances are worded, you could use the property as a commercial venture or as a mixed
330 use, but not as residential use. P. Levesque said the uses are not tied together. N. Faiman said it
331 is reasonable to add the residential use with the commercial use, but if you take away the
332 commercial use, could you continue the residential use? The Board discussed various options of
333 keeping the two uses tied together and if a future variance would be required if the use was to be
334 solely residential.
335

336 N. Faiman said that the language in the public notice would be a guide. He asked the owner's
337 representative and the applicant if they were comfortable with a mixed use.
338

339 J. Eckstrom MOVED to grant the variance to 8.5 and 8.1 for the use of the house as a retail shop
340 selling collectables and antiques and as a single family residence to be occupied by the owner of
341 the property or the owner of the business. P. Levesque SECONDED.
342

343 Discussion

344 J. Stone said the Variance would restrict the kind of use. Is there a value to the town restricting
345 the commercial use. N. Faiman this does seem awfully specific but 15 years ago we were
346 specific and they had to come back.
347

348 Noting the time was getting late, the ZBA will not take testimony past 10:30PM without a vote
349 to do so.
350

351 At 10:28 PM, J. Eckstrom MOVED to continue for 15 minutes. B. Spear SECONDED. All in
352 favor.
353

354 Roll call vote on the motion to grant the variance:

355 J. Eckstrom- yes

356 P. Howd - no

357 J. Stone - yes

358 P. Levesque - yes

359 N. Faiman – yes. Motion carries.

Application for the Special Exception.

J. Stone MOVED to deny the Special Exception for 8.6.1. for the following reason: The Special Exception granted in 2004 is still in effect and is not necessary. P. Howd SECONDED.

Roll call vote on the motion deny the Special Exception:

P. Howd - yes

P. Levesque- yes

N. Faiman - yes

J. Eckstrom - yes

J. Stone – yes. Motion to deny is carried.

P. Howd MOVED to table minutes to next meeting. J. Stone SECONDED. All in favor.

5) Other business

- a) Fall planning conference. Sat Oct 5, 2019. Please see M. Decoteau if you want to register on paper or register on line and have the invoice sent to Town Hall.
- b) Budget - Noted

6) Adjourn

J. Stone MOVED to Adjourn at 10:35 pm, B. Spear SECONDED. All in favor.

Respectfully Submitted by Michele Decoteau, Land Use Administrator

Approved on XXXXXXXXXXXXXXXX

Exhibits on file in the Land Use office

B-010.Letter from W. Keefe Quinn Properties, LLC Variance Application on B-10 Advance Statement Regarding Regional Impact

KEEFE & KEEFE P.A.

Attorneys At Law
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William Keefe

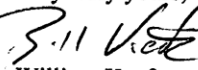
September 10, 2019

Neil Faiman, Chair
Zoning Board of Adjustment
Town of Wilton

Re: Quinn Properties, LLC Variance Application on B-10
Advance Statement Regarding Regional Impact

Dear Neil:

A question has arisen regarding whether it is necessary to provide Lyndeborough and the Nashua Regional Planning Commission with notice of our variance application pursuant to the Regional Impact statute (RSA 36:54). One of the tests for a finding of regional impact is proximity to the borders of a neighboring community. The proposed plant would be on a small portion of 65 acre Lot B-10 but since part of the northerly boundary of B-10 is the Lyndeborough town line the safer course of action is to give the notices and to otherwise continue the application process to the next meeting.

Very truly yours,

William Keefe

WK/