

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT MINUTES
OCTOBER 22, 2024

Note: This meeting was held in-person and virtually on Zoom.

ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT IN HOUSE:

In Person: Nick Martin, Chairman; Hubert Norton; Ian Carroll and Stephanie Bixby.

VIRTUAL ZBA & PUBLIC ATTENDANCE: None.

IN HOUSE ATTENDANCE:

Sharon Kelley, Zoning Administrator; Tom Atkins; Jena Katzman and Eileen Haput.

Kelley noted the start of the meeting at 6:05 p.m.

AGENDA ITEM 1: CALL TO ORDER: Chairman Martin called the meeting to order at 6:05 p.m.

AGENDA ITEM 2: AGENDA ADDITIONS/CHANGES:

Board Member Norton MOVED and Board Member Bixby SECONDED a MOTION to move the minutes after the application. The MOTION passed 4-0.

AGENDA ITEM 3: CONDITIONAL USE: JENA KATZMAN AND TOM ATKINS PROPOSED TO OPERATE A SEASONAL EVENT SPACE LOCATED AT 478 OWLS WOODS LOCATED IN THE CONSERVATION (C1) ZONING DISTRICT. TAX MAP 12, PARCEL 28.

Chairman Martin provided the oath to the public.

Board Member Carroll Moved and Board Member Norton Seconded to Open the Fact-Finding/Public Hearing. The MOTION passed 4-0.

Sharon Kelley provided the ZBA with a copy of an email from Hans Heussy, dated 10/22/24, which reads, *As you know, I reside on Owls Woods Road. My property abuts the subject property. I write in support of the application and have no concerns that the proposed activity will negatively impact me or my property.*

Sharon Kelley read a letter dated 9/12/2024 into the record:

To Whom It May Concern:

This letter is to confirm that Jena Katzman and Tom Atkins have informed the Town of Jericho, Vermont that they are re-opening the accommodation and event venue at 478 Owls Woods (formerly 1070 Old Pump Road), Essex, Vermont, previously known as Homeplace. Sincerely, Town of Jericho, Vermont Representative, Chris Flinn, Zoning Administrator.

Board Member Carroll asked why Public Works (PW) wants a traffic study as he thought most people would be coming to the venue through Jericho. Sharon Kelley replied that the applicants tried to secure a traffic study and had difficulty hiring someone to take on the project, which is why they asked the Town of Jericho for written comments. Kelley stated that PW needs to evaluate the town roads/intersections impacted by this project; and how much more traffic would be utilizing the

road, which could end with a requirement of a traffic fee. Board Member Norton advised that a traffic study also evaluates turning movements on the road and intersections.

Tom Atkins and Jena Katzman spoke on this application. Mr. Atkins made the following points:

- Their property address recently changed due to a recent subdivision and is now known as Owls Woods. As a result of the subdivision, the curbside needed to be widened per the Fire Chief's requirements.
- They were married on the parcel and built a wooden platform for their event, which continues to stand today.
- He informed the ZBA of where they were from, how they grew up; he is a dual citizen; when they met and re-met years later; and that they were recently married on the parcel.
- He reported that this is their dream property and they are trying to figure out how to hang onto it, preserve and share the land.

Board Member Carroll asked what kind of conversation was had with the Town of Jericho and what, if any, concerns they may have had with the proposal. Jena Katzman replied that she went into the office and explained their project and noted that they have been asked to do a traffic study. She stated it "was a pretty short conversation."

Atkins stated that the property is about two-tenths of a mile from the Town of Jericho and a mile from the corner of Route 15 to their lot. He reported that he reached out to three different engineers about a traffic study without success. He understands PW's concerns and they are not against a contribution to the Town. He stated that the average number of people in a car is 3, he guesstimates 50 cars for 150 guests 1x/week, while noting some of these vehicles are also guests in the B&B, which would bring the number of down to approximately 40-cars.

Chairman Martin asked if they had a traffic number conversation with the Town of Jericho. Ms. Katzman replied no, she did not provide those numbers, but that she explained what they were doing on the property.

Board Member Norton noted that the report stated "re-starting weddings" and asked how many weddings were held previously. Atkins reported that he was told it was 3-4 per year. Norton stated that the proposal was for 52 events per week. Atkins stated events would only be in the summer months and is proposed to be approximately 17 events per year.

Board Member Norton asked about expected noise controls. Atkins stated that most weddings will be in the afternoon around 4:00 p.m., but he would not say no to a brunch wedding. He reported that it was not common for people to arrive more than an hour before the event.

In reply to Norton's question, Atkins stated that events would be catered and the restricted to the site itself. Atkins noted that for their wedding, they brought in a pick-up truck towing a pizza oven. He stated that he has 150 chairs on premise and will be building tables himself.

Katzman stated that they are looking to attract a certain type of clientele and not the bride-zilla type.

Regarding noise, Atkins stated that they did have one blue-grass event with 130 people this summer and they took this opportunity to drive around the area, including Little Fenway, to listen for noise and did not hear anything coming from their lot.

Chairman Martin asked if they would have other events, such as graduation, political, etc. Katzman said they haven't decided but events would primarily be weddings.

Board Member Bixby noted the B&B would be opened year-round, with the events only from May thru October. The applicants confirmed.

In response to Chairman Martin, Atkins described how cars would enter the lot and turn left facing the house to park on a former equestrian lot, approximately 300' in size. He noted there is a graveled path to the B&B, which he may pave. He noted there is also parking in front of the B&B

Chairman Martin asked about the pond reservoir and the fire issue. Atkins stated that when the B&B was established, a fire system was wired to the house and the pond was also part of fire protection. Board Member Norton stated that the Fire Chief made a statement that has nothing to do with the application and he doesn't see how adding wedding events changes things for the parcel.

Chairman Martin asked if alcohol would be served. Atkins stated that matters will be dealt with by the wedding organizer and/or caterers. Board Member Carroll asked if proof of insurance and licenses will be provided. Atkins confirmed.

Board Member Norton referred to Condition 3 and asked for the operating hours. Atkins replied 8:00 a.m. to 10:00 p.m.

Chairman Martin re-administered the public oath.

Eilen Haput, 59 Old Pump Road, Jericho, VT, stated that Old Pump Road is a dirt road that is heavily walked, biked and had runners. She noted that she has to deal with traffic from Palmer's ice cream and felt that 50-75 cars going down the road is a concern to her and she is not sure that she can live with that. She requested a traffic study. She does not "want to be a wet blanket" but she has to deal with traffic in front of her house.

Board Member Bixby is cognizant to traffic implications but at the same time doesn't see that many cars at the same time. Board Member Norton stated that occurs usually at departure.

Atkins appreciates the value of Old Pump Road as Jena has lived near the area for 20 years. He understands the impacts with parking for creamies but felt that 40 cars an hour before a wedding looks small compared to parking for creamies.

Board Member Carroll questioned why PW requested a traffic study. Kelley stated that part of the reason may be for consistency with all applications and needing to identify any potential impacts which may end up with the requirement of a gravel fee to help maintain the road.

Atkins noted that the driveway will be widened due to the simple parcel subdivision.

Board Member Carroll Moved and Board Member Bixby Seconded a Motion to close the Fact-Finding/Public Hearing. The Motion passed 4-0

Board Member Norton MOVED and Board Member Bixby SECONDED a Motion to approve the application subject to the following Findings and Conditions:

FINDINGS:

1. The current landowners are Tom Atkins and Jena Katzman. The parcel under review is located at 478 Owls Woods (formerly 1070 Old Pump Road) in the Town of Essex, Chittenden County, State of Vermont. The lot is serviced by a private well and septic and is situated in the Conservation (C1) Zoning District.
2. **PROPOSAL:** The applicants are proposing to re-establish holding weddings/events to the exiting Bed & Breakfast. The Assessor's records show that the structure was built in 1969, with 8 bedrooms, 4 full baths, and ½ bath. The applicants have withdrawn 6 acres from current use to grow and accommodate the event venue; proposed operations are from May through October; events will be capped at one per week with a maximum of 150 guests; weddings will be held outdoors, under a tent and on an existing platform; parking is available for 65+/- cars in a designated field area, with 10 additional spaces in front of the house to accommodate for those with mobility issues; parking attendants will be present for the events; portable toilets will be provided during the events, a generator will be used for outdoor electricity; and the paths and parking lots will be lit with solar ground lights; and a fire alarm system is on the premises.
3. The applicant's submitted a narrative dated August 2, 2024 and copy of a *USE VALUE APPRAISAL MAP*, as drawn by Mike Greed, dated Oct. 2023 (See attached).
4. Pursuant to state statute a 'Notice of Hearing' was posted on the property.
5. The abutting property owners were notified of this meeting by first-class mail.
6. The applicants emailed a copy of this Staff Report prior to the meeting.
7. Landowners Tom Atkins and Jena Katzman were in attendance for the hearing and provided the following comments:
 - Tom Atkins and Jena Katzman spoke on this application and made the following points:
 - Their property address recently changed due to a recent subdivision and is now known as Owls Woods. As a result of the subdivision, the curbside needed to be widened per the Fire Chief's requirements.
 - They were married on the parcel and built a wooden platform for their event, which continues to stand today.
 - Atkins informed the ZBA of where they were from, how they grew up; he is a dual citizen; when they met and re-met years later; and that they were recently married on the parcel.
 - Atkins reported that this is their dream property and they are trying to figure out how to hang onto it, preserve and share the land
 - Katzman stated that she went into the Jericho office, explained their project and noted that they have been asked to do a traffic study.
 - Atkins stated that the property is about two-tenths of a mile from the Town of Jericho and a mile from the corner of Route 15 to their lot. He reported that he reached out to three different engineers about a traffic study without success. He understands PW's concerns and they are not against a contribution to the Town. He stated that the

average number of people in a car is 3, he guesstimates 50 cars for 150 guests 1x/week, while noting some of these vehicles are also guests in the B&B, which would bring the number of down to approximately 40-cars.

- Atkins stated that most weddings will be in the afternoon around 4:00 p.m., but he would not say no to a brunch wedding. He reported that it was not common for people to arrive more than an hour before the event.
- Atkins stated that events would be catered and the restricted to the site itself. Atkins noted that for their wedding, they brought in a pick-up truck towing a pizza oven. He stated that he has 150 chairs on premise and will be building tables himself.
- Katzman stated that they are looking to attract a certain type of clientele and not the bride-zilla type.
- Atkins stated that they did have one blue-grass event with 130 people this summer and they took this opportunity to drive around the area, including Little Fenway, to listen for noise and did not hear anything coming from their lot.
- Atkins described how cars would enter the lot and turn left facing the house to park on a former equestrian lot, approximately 300' in size. He noted there is a graveled path to the B&B, which he may pave. He noted there is also parking in front of the B&B.
- Atkins stated that when the B&B was established, a fire system was wired to the house and the pond was also part of fire protection.
- Atkins stated that wedding organizer and/or caterers will secure alcohol permits and that they will require proof of insurance and licenses for each event.
- Atkins reported that operating hours are between 8:00 a.m. to 10:00 p.m.

8. Eilen Haput, 59 Old Pump Road, Jericho, VT, stated that Old Pump Road is a dirt road that is heavily walked, biked and had runners. She noted that she has to deal with traffic from Palmer's ice cream and felt that 50-75 cars going down the road is a concern to her and she is not sure that she can live with that. She requested a traffic study. She does not "want to be a wet blanket" but she has to deal with traffic in front of her house.

9. In an email dated 8/28/2024, Public Works provided the following comments:

- *What is the applicant's plan to provide water for the events?*
- *Public Works recommends that the applicant complete a traffic study. Hosting an event for up to 150 guests is significant enough to potentially cause traffic impacts on Old Pump Road, specifically heading out the Jericho way where there is a one-lane bridge near Palmer Lane Maple.*

The applicant submitted the following email response to the water concern noted by Public Works:

In regards to the water supply for the event we have the following measures. The porta potties come cleaned and have a fresh water tank that is pumped by foot to a basin faucet for hand washing. These units are self contained - all water and waste is stored in their tank and pumped out into the truck tank and taken away. We will supply hand sanitizer on a table outside the porta potties too. We will run a hose from the house to the caterer's site with a faucet, that will drain into a receptacle to be removed by the porta potty

servicer. There is a large pond close to the house and venue site that serves as a reservoir in case of fire.

As a result of the traffic study request, the applicant reached out to Chris Flinn, Town of Jericho Zoning Administrator, and he provided the following written response dated September 12, 2024:

To Whom It May Concern: This letter is to confirm that Jena Katzman and Tom Atkins have informed the town of Jericho, Vermont that they are re-opening the accommodation and event venue at 478 Owls Woods (formerly 1070 Old Pump Road, Essex, Vermont, previously known as Homeplace.

10. In an email dated 9/4/2244, the Fire Chief said,

The large pond is not suitable for water supply for firefighting and should not be counted as such. In order for the pond to be usable, we would need to determine depth of the pond, the condition of the water (silt, debris, etc), and most importantly we would need access up to the edge of the pond with a truck weighing in excess of 52,000 lbs.

11. The Recreation Director replied that they had no comments on this application.

12. In an email dated 8/8/2024, the Police Chief said,

*-As long as they do what they are saying, parking should not be an issue
-What is their plan for alcohol service?*

13. This application is being reviewed for Conditional Use under Section 5.7 of the *Town of Essex Zoning Regulations* for Outdoor Recreation/Home Business.

14. Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:

- a. There will not be an adverse effect on the capacity of the existing or planned community facilities.
- b. There will not be an adverse effect on the character of the area/neighborhood affected.
- c. There will not be adverse effect on traffic on roads and highways in the vicinity.
- d. The proposed use will be in compliance with the bylaws now in effect.
- e. The proposed use will not adversely affect utilization of renewable energy resources.
- f. The proposed use is in conformance with the Town Plan.
- g. The proposed use does not require site plan review.
- h. The proposed use is in conformance with community character.

CONDITIONS:

- 1) The applicant shall submit a Use Permit and pay associated Fees.
- 2) A Town Certificate of Occupancy is required prior to the start of the use.

- 3) Events shall occur no more than 1x/week from May through October. The hours of operation shall be from 8:00 a.m. to 10:00 p.m., with a maximum of 150 people for the events. Any increase to the number of events shall require a review and approval.
- 4) The applicants or its supplier, shall secure the appropriate liquor license for all events that serve alcohol.
- 5) The applicants shall adhere to the Town Noise Ordinance Policy (10:00 p.m. to 6:00 a.m.)
- 6) Signage for parking spaces shall be adequately posted. Two handicap parking spots shall be designated with signage in front of the B&B. A parking attendant shall be secured for all events.
- 7) If ZBA finds that should there be documented traffic problems resulting from the event activities, the Zoning Administrator shall require a traffic study for review and approval by Public Works.
- 8) For all events, the applicants shall provide port-o-lets that are serviced with water and a holding tank. No gray water shall be directed onto the ground.
- 9) The applicant shall confirm with the State Department of Fire & Safety regarding a State inspection of the premises and if required, shall provide a copy of the State Certificate of Occupancy to the Zoning Administrator.
- 10) The property address and emergency telephone numbers shall be posted in a visible location inside the B&B, to include Police, Fire/Rescue, and landowners; and E-911 signage that is clearly visible from the road.
- 11) The landowner shall provide their contact names and emergency phone numbers to the Essex Police Dispatch office for the B&B/Special Events.
- 12) Any/all previous approvals shall remain in effect.
- 13) By acceptance of the conditions of this approval without appeal, the applicant confirms and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted and, will be binding upon and enforceable against the applicant an all assigns and successors in interest.

AGENDA ITEM 4: MINUTES: July 2, 2024

Board Member Bixby Moved and Board Member Carroll Seconded a Motion to approve the 3/7/2024 minutes with the following change: Line 116: Change “303” to “3-3”. The Motion passed 4-0.

AGENDA ITEM 5. OTHER BUSINESS:

Kelley reported that this may be the last meeting of the ZBA before the DRB takes over as no applications have yet been received for the November/December meetings.

340 **AGENDA ITEM 6: ADJOURNMENT:** The meeting adjourned at 7:31 p.m.

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ZONING BOARD OF ADJUSTMENT

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By: _____

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Nick Martin, Chair