**Town of Jefferson**

Office of the Zoning Board of Adjustment

**Minutes**

December 1, 2022

The meeting was called to order at 7:00pm.

**Members present**: Chairman Kim Perry, Jason Call, Tom Walker, Biff Wyman, Rodney Houghton **Absent**: Wayne Bilquin, alternate

**Others present**: Charlene Wheeler, Board secretary; Connor Ziegler, Dakota Gahan, Scott Gahan, Diane Allard, Richard Garabedian, Brian O’Leary, Chris Boldt, Forrest Hicks, Michael and Rebecca LeBeau, Dan Flores, Marcus and Dawn Ellen Manning, Josh and Tika Eaton, Stephen Silk, Robert and Brenda Roy, Terry Larcomb, Mark Gross, Lloyd Ingerson, Brenda Manuel, Zack Hawkins, Paul and Angela Selfridge

**Rehearing – Ziegler**

Chairman Perry opened the public hearing for a rehearing of an application from Connor Ziegler of Red Brook Retreat, LLC who is proposing to operate a short-term rental at 85 Red Brook Road, Map 14, Lot 42F. The property is not Mr. Ziegler’s primary residence. The Board secretary read the application. Mr. Ziegler was present at the hearing as well as his attorney, Chris Boldt who spoke on Mr. Ziegler’s behalf. There were abutters and additional property owners on Red Brook Road who were at the hearing to express their views. Attorney Bodlt began by introducing himself and his background working with the New Hampshire Municipal Association and the NH Office of Strategic Planning and his service on his own town’s boards for many years. He then spoke of Jefferson’s Land Use Ordinance which he said was sort of unique in his experience as everything was zoned residential, except for Article III where there is a long list of uses allowed by Special Exception, with broad areas of considerations with no specific parameters for each one. Mr. Ziegler, who is seeking a Special Exception for a short-term rental, would be termed a tourist accommodations or lodging. The rental in question would be located on a 5-acre lot in a subdivision containing 14 lots, 5 of which are developed. At the end of Red Brook Road is a parcel of about 1700 acres owned by the U.S. Forest Service which is used by the public. The road is posted at 20 miles/hour for snowmobiles as there is a designated trail along the road. Tourism is a major economic driver for the economy in both the town and the state and tourist homes and other attractions are recognized for supporting this. Attorney Boldt then went through the 4 criteria for a Special Exception as stated in the town’s Land Use Ordinance. The first has been agreed to, the use qualifies for a Special Exception. The specific site is suitable to the proposed use. It is an established single-family home on an oversized lot of 5 acres (the town requires a minimum of 2 acres per single residence) and meets all setbacks. Red Brook Road was built to town specifications approximately 15 years ago, is about a quarter of a mile in length and of good quality. All owners of property abutting the road are responsible for its maintenance. The road being used by short-term renters traveling the road would probably be less of an impact than a large, extended family living in the house all year round. The lot owner is certainly able to use the road as are other members of the public who may visit, etc. The impact on the town would be less than full time residents in terms of schools and other services. There is nothing stated in the Land Use Ordinance about the types of road requirements for any use including short-term rentals. Granting the Special Exception will not adversely affect the adjacent area. There will be less use than if someone were living there full time. The law looks to property rights, Mr. Ziegler has a right to rent his property, there are no restrictions in the Ordinance. There are at least 17 (possible more) short-term rental being advertised situated in the town without being granted a Special Exception. Why should Mr. Ziegler be penalized for trying to do the right thing? The Board is obligated to make “reasonable” judgements. Jason Call asked about the number of people likely to be at the home at one time, twelve people seemed excessive for the load of the septic system. An accepted rule of thumb is usually 2 adults per bedroom plus two which would make a total of 8. Mr. Boldt said this can be discussed, and a compromise stated as a condition. Mr. Boldt then noted that an abutter had raised an objection about the Mr. Ziegler’s house being too close to his property, but the house meets all the setback requirements in the Land Use Ordinance. The town has no noise ordinance. In any case Mr. Ziegler is not intending to rent to “frats”, clients must be at least 27 years of age. This road is frequented by snowmobilers to use the forest service land and they certainly create some noise as they go by. The greater area benefits from the people and businesses which are employed to monitor and maintain the property. It helps benefit the local economy. This proposed short-term rental is in keeping with the stated Ordinance. There is no specific criteria for short-term rentals versus other uses. It is meant to promote tourism, a major economic driver. It doesn’t overcrowd the area; Mr. Ziegler agrees to occupancy limits. It does support local businesses. Even members of the state legislature have introduced bills to keep towns from forbidding short-term rentals at all. Although not passed, the bills are likely to be introduced again.

Diane Allard, who lives on Red Brook Road, said there are 7 houses on the road not 5 as Mr. Bolt stated. She said any occupant of a rental should be considered as an adult if they are over the age of 3. Scott Gahan, another resident, said the rental will change the character of the road. He did not expect to have a Motel 6 with lights left on. At least a Motel 6 has someone onsite. Brenda Roy, another resident, said they have a close community on the road and read the last paragraph of a letter she had written to the Board. “We are a community of friends and if the Board allows one short-term rental onto our road then the door will be open for more. Short-term rentals will adversely affect the community of friends and family we have developed on our road. Please don’t change our community and force some of us to make the hard decision of whether to move or not.” Brian O’Leary said Mr. Ziegler’s lot was not a large sufficiently spaced lot to run a virtual motel. His lot was one of the smaller properties on the road. Mr. Ziegler’s representation that his house is set far off property lines to not disturb the neighbors is incorrect. The house is actually positioned 10 feet from his property line and not in the center of the property. Letters were received from Richard and Lynn Draus, Bob and Brenda Roy, Sharon O’Leary, all against approval and from Rebecca LeBeau who was in favor. Chris Milligan also sent a report on his safety inspection of the property and there were no problems found with the property’s use as a single-family residence. All will be attached to the minutes.

There was a question about why some people didn’t receive notices about the hearings. The definition of abutters was explained, and the Board is required to follow them. Any lot owner or owner of a right-of-way within 200 feet of the property in question must receive a notice by certified mail. The list of the required abutters to be noticed were read. Notices to the general public are posted at the town office and the post office, a weekly newspaper, and posted on the town’s website. This was the case for the original hearing and the rehearing.

 Mr. Ziegler was willing to address liability concerns for other property owners on the road by protecting them and himself with waivers in his rental contracts, doing background checks, and requiring a loss in deposit to clients who violate any of the rules. His property is one of the smaller lots in the subdivision but is more than double the size a lot required by the Ordinance.

Chairman Perry asked what happens if there is an accident on the road. There is liability to the owners on the road. Mr. Bolt responded saying a visitor to any of the properties would encounter the same situation. Jason Call said there probably wouldn’t be any liability to the town other than the fact they may have approved the Special Exception. Brenda Roy said in winter conditions people do get stuck and need to be pulled out. Mr. Boldt said any renter can call the contact person Mr. Ziegler has designated for help to arrange towing. The town only has a constable on call and backup from the state police. Some residents of the road said they would feel the need to help, they couldn’t leave people out in the cold, even strangers.

Jason Call said there was a former bed and breakfast near his home now operating a short-term rental. It attracts larger groups such as fraternity and bachelor parties, and there has been noise, bonfires, firework, etc. Mr. Boldt inquired if the property was granted a Special Exception. If it was grandfathered, in his experience most towns would have required reapproval to change from owner-occupied to nonowner-occupied as he opined that it is a change in use. In any case, there is no language in the Land Use Ordinance to specifically guide the operation of a short-term rental. However, concerns of these abutters can be addressed in conditions set by the Board. Mr. Roy said he would like to see the language in Mr. Ziegler’s statements which waives liability.

There being no other questions or comments, Chairman Perry closed the public portion of the hearing and deliberations began.

Jason Call again led the Board in going through the four criteria needing to be met in order to grant the Special Exception. The first and fourth conditions were easiest to deal with and with which to agree.

“The proposed use shall be one permitted by the Land Use Ordinance.” Yes. Short-term rentals are tourist accommodations and lodging which are permitted, under Article III, Section 2 of the Land Use Ordinance.

“The proposed use will be in keeping with the state purpose of the Ordinance.” Mr. Ziegler states in his application renters can enjoy the beauty of Jefferson and add to its economy while employing local people. It isn’t intended to be a party house but geared towards families. The purpose of the Ordinance has been considered, along with the recently approved Master Plan. The survey conducted before the Master Plan revisions began indicated citizens wanted to preserve the small-town atmosphere of a rural community but also encourage small businesses as well. The rental proposal in question can promote the economic welfare of the inhabitants of Jefferson; doesn’t affect the value of property, doesn’t contribute to overcrowding of lands; will conserve our natural resources; avoid undue concentration of population, and facilitate the adequate provisions of other public requirements”.

It is numbers 2 and 3 that are more complicated and harder to address.

“The specific site is an appropriate location and of adequate size for such use.” The number of renters allowed at one time should be lower, 8 adults as previously discussed, to be more conforming with septic regulations and short-term rental occupancy limits employed in other towns. This could be stated as a condition as well as requiring safety inspections, etc. However, Red Brook Road renters would have to travel a quarter mile from Rt. 115 on the private road to reach the property. It is a private road approved by the Planning Board but not owned or maintained by the town. The public is allowed to use the road. The proximity of the property to abutting residences was also considered and it is a larger than required lot in size. Tom Walker agreed the issue of adequate size was addressed.

“The use will not adversely affect the adjacent areas.” It is a question of balancing the property rights of the applicant with the property rights of the others on the road. What is the impact of added traffic and the questions of liability to other property owners? The property being rented is not on a town road, but the road was built to town specification and is open to public use. Traffic unfamiliar with the road and the neighborhood, even vehicles traveling to other properties on the road, have the potential to be involved in an accident. However, there are safeguards put in place to address liability issues for any who would be using Mr. Ziegler’s property.

 Biff Wyman said when the subdivision was created there were no restrictions placed on the use of the lots at that time. It is hard to argue this proposal is not appropriate. The Board should be reasonable, Mr. Ziegler has the same property rights as others do and he pays taxes to support the town and district schools just as other property owners on the road do. Jason Call said this is a property for Mr. Ziegler’s family’s use as well. Rodney Houghton said conditions based on discussions could be placed on the approval. Jason Call said the number of adults at any one time should not be more than 8. Mr. Ziegler has agreed to that.

Rodney Houghton made the motion to grant the Special Exception with the following conditions: the occupancy be no more than 8 adults at one time, Mr. Ziegler has liability disclaimers in place for clients to sign, clients will be screened and rules for renters to follow are enforced. The motion was seconded by Biff Wyman. Voting to accept the motion was Kim Perry, Biff Wyman, Tom Walker and Rodney Houghton. Voting no was Jason Call. There being a majority of the Board in favor, the motion passed. Mr. Ziegler will receive a notice of the Board’s decision along with a copy of the meeting minutes. Persons with standing have 30 days to appeal the decision.

**Hearing – Eaton**

The Board has received an application for a Special Exception from Joshua Eaton of Kialasa Niwasa LLC for property located at 8 Meadows Road at the corner where Meadows Road meets the Israel’s River Road, Map 14, Lot 12. The Board secretary read the application. Mr. Easton proposes to operate a short-term rental in a home containing 2 bedrooms on about 2 acres of land. The maximum number of people per rental is 5. Becky LeBeau, who lives just down the road from his property, is the property manager. Chairman Perry asked about parking vehicles. Mr. Eaton said there is room for 4 cars. The Board secretary reported she received to no comments or questions from the public about the application. No one at the hearing spoke in opposition to the Special Exception being granted.

There being no other questions or comments, Chairman Perry closed the public portion of the hearing and deliberations began.

Jason Call again led the Board in going through the four criteria needing to be met in order to grant the Special Exception.

“The proposed use shall be one permitted by the Land Use Ordinance.” This use is permitted by Special Exception as a Tourist Accommodation and Lodging Units.

“The specific site is appropriate for the location and of adequate size for such use.” It is a smaller with home with 2 bedrooms with a maximum occupancy of 5 adults. The lot is about 2 acres in size and there is adequate parking. It is located at the intersection of a town and a state road.

“The use will not adversely affect the adjacent area.” A rental property with apartments is the closest abutter. No abutter spoke against the proposal. The rental will not dimmish property values.

“The proposed use will be in keeping with the stated purpose of the Ordinance.” The rental is geared toward small parties of people. It will keep the small town, rural nature of the community. It brings tax revenue to the town and will employ people to add to the town’s economy. It doesn’t overcrowd the neighborhood or cause overcrowding of lands or undue concentration of population. It is located at the intersection of 2 well-maintained public roads. Biff Wyman made the motion to grant the Special Exception without additional conditions, seconded by Jason Call. The vote to accept the motion was unanimous.

Mr. Eaton will receive a notice of the Board’s decision along with a copy of the meeting minutes. Persons with standing have 30 days to appeal the decision.

**Hearing – Garabedian**

Chairman Perry opened the public hearing for an application for a Special Exception from Richard Garabedian of MBS Holding LLC. He proposes to build and operate a 30-site campground on about 8 acres of land with access to Israel’s River Road, Map 14, Lot 24. The Board secretary read the main points of the lengthy application which included large scale site plans for the campground. It was also noted that the plan would also have to go to the Planning Board for approval as the proposal is a type of subdivision. Mr. Garabedian said he had 10 years’ experience managing a campground, with on-site management with 24-hour coverage. He introduced Daniel Flores who is the engineer who designed the plan the Board was looking at. He explained the site plan for the campground which is reached by a right-of-way running from Israel’s River Road over Stephen Silk’s land to Mr. Garabedian’s property. The right-of-way would be upgraded to a road 20’ in width and which meets town specifications. The campground would have a gated entrance and an onsite manager 24/7.

Mark Gross, an abutter, said the Israel’s River Campground is already in this vicinity and causes problems to properties on the road, trespassing, sitting or playing in the road, leaving trash, etc. There is too much already going on in the neighborhood to add another campground of this size. Dawn Ellen Manning, another abutter, said she had purchased her property about a year ago with the intention of living there full time. It was purchased because of the quiet location with woodland views and now a business will be the view with its hustle and bustle. She understood that these lots were zoned residential. She agreed with Mr. Gross that trash was already been left during the summer, kids sit and play in the road. She is concerned about safety issues on her property. Dogs are let loose to wander. She is concerned if her grandchildren should be out playing in the yard. She is also concerned what it will do to the value of her property. Trying to sell a home next to a campground may not be an easy prospect. She read the last paragraph of a letter she gave to the Board which will be attached to the minutes. Marcus Manning, another abutter, said he was a Marine who served his country including tours in the middle east and bought his property for the quiet surroundings it offered to enjoy in his retirement. Mark Gross could have sold this property for more money, but he wanted someone like us living there. I don’t want to see a large community in my backyard. This campground will take the feeling of safety from me. Jason Call reiterated this proposal would be considered a subdivision not a small business with sometimes only one person working. Stephen Silk, who owns the land under what he termed the easement, said the easement goes across some wetlands. He has spoken to Richard and would not fight the development of the road, but his wife is crushed. There will be zero privacy. They are restoring a vintage farmhouse and now their view from the farmhouse will be a campground. The culvert now under the easement allows water to drain on to his land. Flood plain maps should be consulted. A letter received from Carol and Albert Ponte, who were not at this hearing, expressed their support of the campground and the letter will be attached to the minutes. Marcus Manning spoke again saying police coverage is lacking in the town and that adds to the problems already in the neighborhood. Can our safety be guaranteed? It is only 90 feet to our backyard from this campground. Already a buffer of trees has been cut down on Mr. Garabedian’s property leaving wetlands. Diane Allard, an abutter in the Ziegler hearing, said the criteria rules need to be consistently applied. Paul Selfridge said he would rather see the campground than a bunch of houses on Mr. Garabedian’s lot. The Board secretary explained a subdivision would be have to be approved by the Planning Board with a requirement of a minimum of 2 acres per a lot and 200 feet of road frontage for each lot. In a lot of 8 acres, it would probably be difficult to site even 4 lots there at best. Jason Call asked if this would be a seasonal campground, operating perhaps between Memorial Day and Columbus Day. Mr. Garabedian said he would like to have down times in the late fall and early spring but be open also for winter recreational opportunities with the property’s access to the state trail at the rear of the property. Jason Call said it was his understanding that Mr. Garabedian may be placing12’ x 35’ park model style trailers on some sites to rent. Is the septic designed to handle this and was told it would plus it would have a chance to rest in the fall and spring when the campground would be closed. Terry Larcomb said they were constantly having to cope with trespassers on their property, some even wanting to build campfires. Mr. Garabedian said he could put up some type of screening to help block the campground from view. Chairman Perry read a highlighted paragraph from Mr. Garabedian’s attorney who gave reason’s as to why this proposal was reasonable and should be approved. The letter will be attached to these minutes.

There being no other questions or comments, Chairman Perry closed the public portion of the hearing and deliberations began.

Jason Call again led the Board in going through the four criteria needing to be met in order to grant the Special Exception.

“The proposed use shall be one permitted by the Land Use Ordinance.” This use is permitted by Special Exception as a Tourist Accommodation and Lodging Units.

“The specific site is appropriate for the location and of adequate size for such use.” The site may be of adequate size and appears well laid out on the engineer’s plan, but the abutters to the road campers will be impacted by the traffic traveling back and forth from the campground to Israel’s River Road. Many of the sites are situated with only a 50’ setback to the property line. Other abutter will be able to view the campground operating from their residences, the closest residence being less than 100’ from potential campsites and a proposed recreation/snowmobile trail even closer..

“The use will not adversely affect the adjacent area.” Biff Wyman said this proposal will definitely have an impact on surrounding property values with a large business being operated so close to them. Jason Call agreed. Previous campground proposals were discussed with much larger buffers from property lines and abutting residences. Rodney Houghton said this proposal adds to problems already being experienced on Israel’s River Road.

“The proposed use will be in keeping with the state purpose of the Ordinance.” It will interfere with the small-town atmosphere even more to other properties in the area and further erode the rural nature of the community. Rodney Houghton said this is overcrowding the nighborhood, Mr. Garabedian had other larger parcels with less surrounding abutters that may make a better site for such a proposal. It may bring increased tax revenue to the town, but it will impact such services as the town transfer station, etc. It can cause undue concentration of population in this area which already contains an older campground situated on that road in operation for years.

Biff made the motion to deny the Special Exception as presented to the Board, seconded by Tom Walker. The vote to accept the motion was unanimous. Persons with standing have 30 days to appeal the decision.

**Minutes**

Scott Gahan had emailed some edits he wanted to see made to the draft of the minutes of the November 10, 2022 meeting. Only Board members may edit minutes. Board members with the Board secretary read through the edits and all will be used to edit the draft minutes in question. Jason Call made the motion to approve the November 10 minutes as amended, seconded by Biff Wyman. The vote to approve the motion was unanimous.

**2023 Budget Request**

The Zoning Board of Adjustment’s request including an increase in salary for the secretary of $4500 for 2023 has been increased at the suggestion of the Select Board as they expect more coming from the owners of the Waumbeck properties. The Board secretary said she would be attending a budget workshop again with the Select Board on November 5 to discuss proposed increases.

Jason Call made the motion to adjourn the meeting, seconded by Tom Walker. The meeting was adjourned at 11:00 pm.

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Charlene Wheeler

Secretary to the Board