

**Zoning Board of Adjustment
Town of Harrisville, NH
705 Chesham Road
NOTICE OF DECISION GRANTING A
SPECIAL EXCEPTION FOR A HOME-BASED BUSINESS**

JANUARY 18, 2023

John Sandri, 233 Bonds Corner Road (Map 20 – Lot 33-1), applied for a Special Exception under Article 4.1.19. and 20.1.2. of the town zoning ordinances to operate a home-based business to store equipment and limited materials for stonework, tree work and light excavation. The property contains 3.64 acres in the residential/agricultural district.

Mr. Sandri is the sole employee who lives in the dwelling; three additional employees reside elsewhere. Their business takes them to customers' homes or job sites, so the only time they work on the property is to pick up or return vehicles or equipment, or to maintain equipment. Under Article 4.1.19, Home-based Businesses are permitted in all districts by special exception subject to the conditions outlined in the ordinance. The board applied each of the criteria to the facts here as follows:

4.1.19.1. *It shall be carried on by residents of the premises, and a maximum number of non-resident employees as approved by the Zoning Board.*

Mr. Sandri is a resident employee; 3 non-resident employees are engaged in stonework, light excavation and tree-work. Little work is done on the property. Employees come to get vehicles needed to go directly to job sites.

4.1.19.2. *It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.*

All equipment is stored in the interior garage bay, and consists of a chipper, loader, tractor and 4 trucks total. There is some storage outside of stone, wood compost and loam. This material will be screened from roads and surrounding properties by a combination of natural vegetation and fence. Mr. Sandri will add more screening in the coming year to the existing trees and shrubs, including planting a row of Norway spruce trees in front of the garage barn and fencing the area around the barn, which is set back 80' from the road.

4.1.19.3. *The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.*

No displays or signage exists and none are planned.

4.1.19.4. *It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or*

lights; soil, water or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements.

The owner stated there are no odor or smoke-producing activities, other than from the vehicles, and that not all vehicles necessarily are used every day. There will be no increases in traffic from or parking requirements for customers since work for customers is done off-premises. Very small quantities of fuel are stored on the property and always in secure places and containers..

4.1.19.5. *There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.*

The applicant explained he has already received approval to construct a lean-to, shed roof off the side of the barn for tool and equipment storage. The board considered this to be part of the property in connection with the application.

4.1.19.6. *Parking for employees and/or customers shall be provided on-site.*

Employees park in the adequate driveway area behind the barn.

The board also applied the Article XX criteria for granting a special exception:

20.1.2.1. *The specific site is an appropriate location for such use.* The board agreed.

20.1.2.2. *The use as developed will not adversely affect the adjacent area.*

Members agreed because of promised screening and maintenance of the existing vegetation buffer.

20.1.2.3. *There will be no nuisance or serious hazard to vehicles or pedestrians.*

The board agreed given the nature of the business.

20.1.2.4. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.*

Members agreed that the condition was satisfied because most equipment is stored inside.

20.1.2.5. *The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.*

The board did not waive any requirements but conditioned approval on applicant's providing screening by way of fencing and trees that would be 5-6 feet in height initially, and that applicant will maintain as much of existing screening as is possible.

The board approved Mr. Sandri's application for a special exception for the operation of a home-based business, employing 3 non-residents, and involving excavation, tree work, and stonework. The business use of the property is to consist of storage of equipment in property structures, and vehicles on the property, with screening to be completed substantially prior to year-end 2023.

Approval was based on the business plan as submitted. If this changes, applicant must apply to the ZBA for additional special exceptions. Such changes could involve an increase in the number of employees, the types of business activities, or business-related construction. The Board advised the applicant that under the zoning ordinance a home-based business must be incidental to the primary use of the property as a residence. If the property owner decides to live elsewhere, the business could not remain at the current location.

Charles Sorenson, Chair
February 3, 2023

Zoning Board of Adjustment
Notice of Decision--Jeff Cady and Linda Hyatt
February 15, 2023

Jeff Cady and Linda Hyatt, 24 Dublin Road (Map 30 – Lot 21), applied for a Special Exception under Article 4.1.19. and 20.1.2. of the town zoning ordinances to operate a home-based business. The applicants want to use of a portion of their lower level as a craft studio to create and display and sell oil and acrylic paintings, and fiber animal and other artistic creations. Most would be produced by Ms. Hyatt. The studio would be open to the public a few open hours per week. The entry to the studio would be through an existing entrance to the dwelling house. There would be no non-resident employees.

Article 4.1.19 governs applications for home-based businesses, which are allowed in all districts by special exception subject to the conditions outlined in the ordinance. Based on the facts presented by the applicants, the ZBA applied these criteria and found as follows:

4.1.19.1. *It shall be carried on by residents of the premises, and a maximum number of non-resident employees as approved by the Zoning Board.* The home-based business will have no employees other than the homeowners.

4.1.19.2. *It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.* All crafts artwork and other materials would be displayed and stored indoors.

4.1.19.3. *The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.* There will be no window displays and there are no plans for signage at this time.

4.1.19.4. *It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or lights; soil, water or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements.* The craft studio would not produce adverse environmental effects.

4.1.19.5. *There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.* The home's exterior will not be altered as a result of the art studio.

4.1.19.6. *Parking for employees and/or customers shall be provided on-site.* The existing driveway layout is sufficient to accommodate several vehicles at once if needed.

The board also applied the Article XX special exception provisions as follows:

20.1.2.1. The specific site is an appropriate location for such use. The board agreed.

20.1.2.2. The use as developed will not adversely affect the adjacent area. The board agreed. The Chair noted the board's receipt of a letter from Historic Harrisville, an abutting property owner, stating it had no objection to the application.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians. The board agreed.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The board reiterated its conclusion that available off-street parking and existing facilities were adequate for the proposed use.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board. The board did not waive any conditions.

For the foregoing reasons, the ZBA granted a special exception to Jeff Cady and Lind Hyatt for operation of a home-based business at 24 Dublin Road, Harrisville, New Hampshire.

Respectfully submitted,

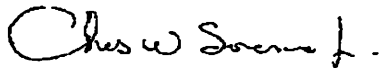
Charles Sorenson, Chair

February 24, 2023

**Harrisville Zoning Board of Adjustment
Wednesday, May 17, 2023
Notice of Decision**

Julie Ward, 49 South Road (Map 41 – Lot 3), applying for a special exception to expand an existing deck away from the non-conforming aspect and to add a 4x15' stairwell on the west side of the deck and an additional staircase, expanding the deck footprint 2' x 8', on the deck's east side.

The board reviewed existing and proposed designs and the shape of the shoreline, expressing concern about the location of one of the stairwells, whose corner would place the stair structure closer to the high-water mark of Russell Reservoir. This direction would render the proposal out of compliance with Article 9.1.6., which requires that an expansion or addition not be closer to the high-water mark than the existing structure. The board and applicant considered possible alternative options but none that could be considered without a new application. Following further discussion, the board unanimously agreed to deny the application.



Charles Sorenson, Chair
May 23, 2023

**Harrisville Zoning Board of Adjustment
Wednesday, May 17, 2023
Notice of Decision**

Nancy and Jeremy Lory, 65 South Road (Map 41 – Lot 7), applied for a special exception under Article 5.3.3. and 20.1.2. to construct a 12-foot by 12-foot addition to the house in a direction away from the non-conforming aspect, which is the existence of the dwelling within the required 75'-setback from Russell Reservoir. The lot is also non-conforming in its size of .49 acres in the lakeside district, where the minimum lot size is 1 acre.

The expansion will be away from the direction of the lake. The proposed roof height would match the existing roofline of the dwelling. The structure, with the four-season addition, would remain well in compliance with the side and road setbacks.

The proposal complies with Article 9.1.6., which states, "...In the case of existing non-conforming structures, no additions shall be made which will be closer to the high-water mark than the nearest part of the existing structures..." Under 5.3.3., "by special exception a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect...". The proposal met this requirement.

The Board applied the special exception criteria under Article XX as follows:

20.1.2.1. The specific site is an appropriate location for such use.

The board confirmed the site was appropriate as the dwelling will remain a dwelling in a district of residences.

20.1.2.2. The use as developed will not adversely affect the adjacent area.

The board found no adverse effect. The height of the home is not being increased and the house lies lower than the road grade. It will remain one story. The nearest abutter on the side of the proposed addition is hundreds of feet away. The addition would not obstruct views.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians.

The board agreed no nuisance or hazard would be caused by the addition.

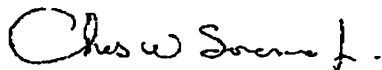
20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

The existing facilities for the house will not be changed and remain adequate for the proposed use.

20.1.2.5. *The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.*

The only aspect being waived relates to the expansion away from the non-conforming aspect; otherwise, all aspects of the proposed use comply.

Therefore, the board approved the application for the 12' x 12' four-season addition, consistent with the application as presented.

A handwritten signature in black ink, appearing to read "Charles Sorenson". The signature is written in a cursive, flowing style.

Charles Sorenson, Chair
May 23, 2023

Zoning Board of Adjustment
Wednesday, June 21, 2023
Notice of Decision

John Croteau, 185 Eastside Road (Map 71 – Lot 13), applied for a special exception under Article 9.1.6. to install a 7' x 8' Rubbermaid storage shed at a distance of 10' from the high-water mark of Silver Lake.

The purpose of the storage container is to house water recreational equipment such as a trampoline raft and water skis. The container is surrounded by a high vegetation buffer and the shed can't be seen from the lake. It is located adjacent to the water given the sloped nature of the lot and does not require a foundation or other disturbance of the soil.

The governing ordinance here is Article 9.1.6:

No structure shall be located closer than fifteen (15) feet to the edge of any right-of-way, or to the side or rear boundaries of the lot. Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:

9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the requirements of 15.8.1.

The board finds that this requirement is met since no impact on the vegetated buffer would occur.

9.1.6.2. The structure is required as a shelter either for humans, equipment, or firewood.

The board concludes that the shed is required to store lake recreation-related equipment.

9.1.6.3. The structure is customary or incidental to residential and recreational use.

The board concludes that the storage shed next to the lake is customary and incidental to recreational use of the property.

9.1.6.4 Building placement – Buildings shall be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed.

The board finds that the purpose of the shed is solely to store the water recreation equipment, it will contain nothing hazardous, does not have a dug foundation, and will not

Zoning Board of Adjustment
Wednesday, June 21, 2023
Notice of Decision

Andrew Scanlan, 839 Hancock Road (Map 10 – Lot 36-1), has applied for a special exception for a home-based business under Article 4.1.19. Mr. Scanlan is a metal fabricator, building truck bodies and parts, and does welding and services heavy equipment, such as tractors and backhoes. Most of his work takes place at customers' properties; he otherwise works out of his garage, the construction of which initially was not intended for business use. Mr. Scanlan is the sole employee and currently has no plans to hire.

The noise generated by his business includes machines running, and use of tools such as welders, torches, hammers, or angle grinders. Most of the noise is confined to the inside of the 40' by 60' garage; however, occasionally trucks and equipment are tested in the driveway. The business was started in November 2022, and currently has one vehicle dedicated to business use.

Allowance of a home-based business is governed by Article 4.1.19, which states that home-based businesses are permitted by special exception in all districts subject to the following:

4.1.19.1. It shall be carried on by residents of the premises, and a maximum number of non-resident employees as approved by the Zoning Board.

The applicant is the sole employee and has no intention of hiring additional employees. Should that change in the future, Mr. Scanlon acknowledged he would need to apply again to the board for a special exception.

4.1.19.2. It shall have no outdoor display of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.

The applicant stated no materials, other than his service truck, are stored outside. Moreover, the garage and service vehicle are screened on all sides of the property by woods and other vegetation. Mr. Scanlon acknowledged that there are several personal vehicles that are also stored on the property. These vehicles are unrelated to the home-based business.

4.1.19.3. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign.

The applicant has no plans for signage and no sign or window displays exist now.

4.1.19.4. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or lights; soil, water or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements.

The board has devoted substantial consideration to this factor in light of abutters' expressed concerns. Mr. Scanlan stated that visits from customers to his home are rare, except when a piece of equipment is being dropped off. He estimated that 90% of the work for customers is performed at locations other than his Hancock Road property. The board has considered the 5.2 acre size of the property and the fact that at least a 100 foot setback exists as to abutting properties and the public right of way.

The board has addressed the subject of noise generated from the applicant's business. Although the garage walls are insulated, when a garage door is open, machinery being operated in the garage can be heard by neighbors. Mr. Scanlan equated the level of noise to that of an auto repair shop. Abutters raised concerns about noises they've heard, including in evenings and on weekends, and asked that the ZBA confine business operations to weekdays and to restricted hours. Mr. Scanlan noted he tries not to work after hours but sometimes has family or personal projects. When asked about his typical schedule of operations, Mr. Scanlan stated that it tends to be sporadic, with no activity on some days but, occasionally, activity occurs a few days in a row. He typically works from 7 AM – 5 PM, although most of the work is off-site. He confirmed that substantial noise producing work at his Hancock Road property could be conducted inside the garage with the doors closed. The board asked the applicant if it would be possible to limit work involving significant noise to hours between 9 AM and 5 PM inside the garage, and Mr. Scanlan stated it was.

In response to questions about any hazardous materials or solvents stored at the property, the applicant indicated that his service truck contains sealed containers of gasoline, oxygen, and acetylene. When asked specifically about solvents, wastewater, used filters and comparable waste in the garage, the applicant stated that waste and solvents are stored in two 55- gallon drums on the concrete garage floor, no bulk solvents are stored, and oil is stored in 5-gallon sealed containers. The garage does not have a drain. Mr. Scanlan confirmed he would be willing to put a retaining system on the floor around storage drums to help prevent materials from entering groundwater.

The Board has concluded that the operation of Mr. Scanlon's home-based business consistent with the circumstances and conditions outlined above should not have a significant adverse impact on the environment and water resources or the surrounding properties.

4.1.19.5. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the Board of Adjustment.

The board has found there would be no such change.

4.1.19.6. Parking for employees and/or customers shall be provided on-site.

The board has concluded that there is sufficient parking at the property and that customer parking was rarely needed.

The board then applied to Article XX's ZBA criteria for granting a special exception.

20.1.2.1. The specific site is an appropriate location for such use.

The board finds that the location of the property, the five plus acre lot size and the considerable forest screening surrounding the garage makes the site appropriate for the proposed home-based business use.

20.1.2.2. The use as developed will not adversely affect the adjacent area.

As set out under section 4.1.19.4 above, the board believes that occasional noise should be controlled so as to not pose an adverse effect on the adjacent area.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians.

Given the nature and location of the applicant's business, the board finds that there should be no increased traffic to the area because of the business, and no hazard or nuisance to pedestrians or vehicles.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

The board believes that adequate facilities will be provided in light of the board's conditions for the special exception that significant noise producing work be done between 9 AM and 5 PM with the garage doors closed, and that a retention system around storage drums be installed. Given the confined space of the garage and the nature of the mechanical work and tools involved, the board recommends that a ventilation fan be installed.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except

where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.

The board finds no waivers were required.

Therefore, The Board grants a special exception for a home-based business involving work described in Mr. Scanlan's application and above, with the following conditions: (1) loud noise work (such as fabrication, hammering and welding) will be done in the garage building with the doors closed; (2) such work will be done between the hours of 9 AM to 5 PM; and (3) the applicant will create a hazardous material retention system within the garage.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles Sorenson". The signature is written in a cursive, flowing style.

Charles Sorenson, Chair
7/4/2023

**Zoning Board of Adjustment
Wednesday, July 19, 2023**

Notice of Decision--Dragon Special Exceptions

Jessica and Jason Dragon, 41 Silver Road (Map 51 – Lot 17) – have applied for special exceptions to rebuild an existing camp near its original footprint, moving the structure four feet further away from Harrisville Pond and four feet further from the side property line, which would place the structure in a more conforming location. The applicant further proposes adding a deck along the north side of the house leading to the driveway and toward the road and replacing an existing 8' x 10' shed with a 12' x 20' storage shed. The property is located in the Lakeside Residential District.

Dwelling

Don Scott, representing the applicants, presented the existing and proposed conditions which are shown in the submitted site plans. A recent survey obtained by applicants established the acreage as .28 and not .17, as originally recorded in town records. According to the plans, the square footage of the proposed dwelling, deck and shed, and other impervious cover on the site would total 29%, which is within the 30% limit allowed under Article 4 4.1.14 of the zoning ordinances. As part of the project, the applicants will add infiltration trenches to improve drainage, install a culvert along the road, plant a rain garden along the shore to improve the vegetative buffer and add plantings along the northern boundary line. A pervious surface patio will replace the existing patio and the existing deck will be moved to the second story of the house. A portion of the deck would be covered.

Mr. Scott also noted the proposed shed and house would meet the required 15' side setbacks. Owing to the storage shed's proposed location within the required 75' setback from the lake, the applicant seeks a special exception under Article 9.1.6. An application to DES would be filed pending ZBA review.

The ZBA reviewed photographs and graphics of existing and proposed conditions. Because of the restrictions presented by the existing non-conforming structure, the property owner proposes to raise the height to increase the living space, going from a single story to 2 ½ stories. Mr. Scott stated the new height complies with Article 4.1.12 of the town's ordinances. The applicants explained that the ½ story would have a 5' knee wall, rather than a full height ceiling, to keep the structure under the 35' limit.

Because the application involves a nonconforming structure on a nonconforming lot, the relevant ordinance provisions are: (1) "5.4.1. A structure on a non-conforming lot may be expanded in volume or area as set forth in 5.3.3, and replaced or relocated on the property by special exception of the Board of Adjustment." (2) "5.3.3. By special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions; however, roofed porches are." Assuming that the expansion

meets the terms of these provisions, the applicants must demonstrate that the Article 20.1.2 required criteria are met.

In this case, the terms of article 5.4.1 and 5.3.3. are met since the expansion and relocation of the house structure is away from the non-conforming aspects relating to the location of the current structure within the side setback and the setback from Harrisville Pond and is more conforming. Therefore, the focus is on the special exception provisions of Article 20.1.2.

20.1.2.1. The specific site is an appropriate location for such use.

The board agrees. The approved use for the Lakeside district is residential. The applicants seek to continue the existing use for purposes of a residential dwelling.

20.1.2.2. The use as developed will not adversely affect the adjacent area.

Mr. Scott stated the property owners removed the eaves on the design to minimize impact on adjacent areas and noted no trees would be removed in building the residential structure. As will be discussed in more detail below, the board concludes it needs additional information regarding the impact of the proposal on abutting property.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians.

The board agrees.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

The board agrees. Mr. Scott explained that a new well would be drilled on the northwest corner of the property, the septic is adequate as no additional bedrooms are proposed, and stormwater runoff would be better managed through enhanced drainage measures.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.

Mr. Scott reiterated that the property owners seek a special exception for expansion of a non-conforming structure in a more conforming direction, as well as for the location of a new shed within the 75' setback from the lake. The board reserves decision on the question of what waivers may be granted.

From the foregoing, it is apparent that the key issue is whether the proposed dwelling structure will adversely affect adjacent properties.

Abutters have raised concerns that the location and height of the proposed 2 and 1/2 story structure would negatively impact the existing views from the dwelling across the road. The applicants have offered photographs taken from the road between abutter Leon Nikiforakis and applicants' property. These photographs contain graphic overlays depicting the impact of the structure on Mr. Nikiforakis' view from his dwelling. Abutters have asserted that the photos of existing and proposed views are not accurate representations of current views and views following construction. Mr. Nikiforakis, the owner of the cottage across the street from the subject site, stated he can sit on the porch now and have a good view of the whole lake but won't be able to with the new structure, walkway and deck. He believes the alterations will devalue his property. The applicants have asserted that existing vegetation blocks the abutters' complete view of the lake.

The board has examined the proffered photographs and has considered at length the existing view of the lake, in both summer and winter, from the abutting dwelling across the road and how this view would be affected. As discussed below, additional photos of Mr. Nikiforakis' view of Harrisville Pond are being requested and will be considered by the board.

In addition to the aesthetic impact, the board has also questioned whether an adverse impact on property values would result from the alterations to the site. The applicants have cited numerous improvements to the camp and property that they had already undertaken. They have argued that these prior improvements, and the additional proposed work, would only enhance property values in the immediate neighborhood, which they say is what a realtor told them.

The applicants also have pointed to a letter of support from an abutter submitted as part of the application. The board has read this letter, which enthusiastically commented on the positive aspects and impacts of the applicants' proposal. We have noted that the view of this abutter will not be affected in the same way as the abutter Nikiforakis across the road.

The board has concluded that it does not have enough information to make a determination on whether there will be an adverse financial impact from the proposal or an adverse impact on abutter Nikiforakis' view. The board has asked the applicants and abutters to provide opinions from appraisers or realtors as to any financial impact on the surrounding properties and further evidence as to the actual visual impact of the proposed house on the views from the Nikiforakis property dwelling.

In accordance with the foregoing, the hearing on this matter has been continued to Wednesday, August 16, at 7:00 pm at town offices. Applicants should forward the requested materials about the impact of the proposed 2 1/2 story structure on the opposing abutter to the Select Board Office for distribution to the ZBA. The abutter Leon Nikiforakis should submit visual evidence of current views from his house. Materials should be submitted by Friday, August 11.

Shed Replacement

Applicants have sought a special exception to replace an existing 8' x 10' shed with a new 12' x 20' shed. The foundation for the shed would be stone and it would be 8' high. It would have electricity for light. The shed would be no less than 50 feet from Harrisville Pond.

The board has considered Article 9.1.6., which reads in part: *Accessory buildings such as storage sheds and gazebos but excluding automobile garages may be located within the seventy-five (75) feet setback as a special exception provided:*

9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the requirements of 15.8.1.

The board agrees because the shed will not reduce the vegetated buffer, but will only possibly result in the removal of a tree that is not part of the buffer. Mr. Scott also pointed out that the site would benefit from additional native plantings and a rain garden.

9.1.6.2. The structure is required as a shelter either for humans, equipment, or firewood.

The board agrees since the shed is to be used to store boating and water equipment.

9.1.6.3. The structure is customary or incidental to residential and recreational use.

The board agrees. The structure is a common lakeside accessory to the dwelling and for the purpose of recreational use.

9.1.6.4. Building placement: Buildings shall be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed.

The board agrees. Mr. Scott described that the roof pitch was favorable for managing runoff and that the shed would be located between the 50' and 75' setback from the lake, and otherwise meets right of way and side setbacks. Abutters expressed no objections to the location of the shed.

Next the board must apply the Article 20 special exception criteria:

20.1.2.1. The specific site is an appropriate location for such use.

The board agrees. This is a waterfront property and the storage shed is for water equipment, located as far as possible on the lot from the lake.

20.1.2.2. The use as developed will not adversely affect the adjacent area.

The board does not find an adverse effect on the adjacent area given nature and location of the shed at least 50 feet from Harrisville Pond and inside the 15 feet side setback. The applicant has noted a shed is a typical use for waterfront.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians.

The board agrees.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

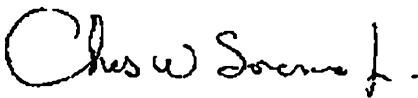
The board agrees.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.

The board's special exception is waiving only the proscription on the location of the shed less than 75 feet from Harrisville Pond. The proposed shed must otherwise comply with all other provisions.

Therefore the board grants a special exception for the storage shed as presented to the board and described herein.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Charles Sorenson". The signature is written in a cursive, flowing style.

Charles Sorenson, Chair

July 29, 2023

**Zoning Board of Adjustment
Wednesday, August 16, 2023
Notice of Decision**

The Harrisville Zoning Board met Wednesday, August 16, 2023, at 7:00 pm at town hall to continue the public hearing on the following matter:

Jason and Jessica Dragon, 41 Silver Road, Map 51- Lot 17– Application for a special exception to construct a 2-1/2 story dwelling in a more conforming location to replace the existing camp near its original footprint.

At the July 19, 2023 meeting, the ZBA approved construction of a shed on the Dragon property and also addressed the criteria for a special exception under Article 20, other than adverse impact. (See July 19, 2023 Dragon Notice of Decision). For the Article 20 adverse effect criterion, the ZBA requested additional information from both the applicant and the abutter across Silver Road, Leon Nikiforakis.

In considering the plan and photographs that were submitted for the present hearing, the board focused on Article 20.1.2. *The use as developed would not adversely affect the adjacent area.* The board reiterated from the last meeting that the adverse impact provision includes more than just property values, or financial impact: aesthetic effects could also be weighed. The board was most concerned with the Nikiforakis view directly affected by the proposed project.

Don Scott, representing the Dragons, exhibited a site plan showing the proposed structure moved 4' from the side property line and 4' further back from the lake. Mr. Scott also showed photographs depicting the existing and future views from the north and south sides of the Nikiforakis porch, using photographs taken from the Nikiforakis property with drawings of the proposed structure superimposed. Mr. Scott stated that the new dwelling would result in an average loss of view of roughly 25% from the abutter's property. He also noted the growth of an existing maple tree in the coming years would have a further effect on the abutter's lake views.

Land use attorney, Tom Hanna, also representing the applicant, referred to the letters submitted by two realtors, both of which claimed that area property values would be enhanced as a result of the new dwelling and improved conditions. HKS Realty claimed the view from the Nikiforakis property would be minimally impacted by the addition of a second story and that there would be no diminution of the Nikorakis property value. Richmond Real Estate agreed that the value of the Nikiforakis value would not be negatively impacted. Both realtors, noted Mr. Hanna, believe the abutters' property values would increase as a result of the project. The board also considered comments and photographs submitted by abutters.

Several abutters, including Matt Whalen, Ranae O'Neil and Scott Stone, disagreed with the perspectives exhibited in Mr. Scott's photos, arguing that the scale and location of the

superimposed structure were not accurate. They asserted that more of the view of Harrisville Pond would be obscured by the structure than represented by Mr. Scott's photos. The board asked Mr. Scott to explain his method for placing the proposed dwelling in the location it appears in the photographs.

The board also considered several photographs, submitted for the record on behalf of Mr. Nikiforakis, from various locations on the Nikiforakis property. Scott Stone, on behalf of Mr. Nikiforakis, showed how the views from the south side of the porch and from other locations would be obstructed by the height of the new home. Mr. Nikiforakis stated he doesn't believe the new home will increase the value of his property.

After reviewing the information submitted by the applicants and abutters, the board discussed whether there was a way that the amount of obstruction of the Nikiforakis view could be reduced. Specifically, the board considered whether it was necessary or desirable to relocate the proposed dwelling 4' from the side property line, in order to move it out of the required setback. The board discussed the fact that the move would make the impact on the Nikiforakis view more extensive than if the structure's footprint on the south side remained inside the side setback. The house's footprint would still move 4' further back from the lake to a more conforming location. The applicants were amenable to this proposal and they explained that the reason that they chose the new location was to make the structure more conforming with existing ordinances.

Noting the challenge of balancing the rights of the applicants and abutting property owners, and the work done by the Dragons to improve their parcel, the board voted 4 to 1 to approve the application for a special exception for construction of the proposed structure as depicted generally on the site plan, without moving the dwelling out of the side setback, but with moving it 4' further back from the water. The board concluded that the approved modified application would meet the terms of article 20.1.2 regarding the absence of a significant adverse effect on the adjacent area. Andrea Hodson disagreed, stating that she believed the proposal did not satisfy the adverse impact criteria under Article 20.1.2.

A revised site plan reflecting the application as approved is attached as an addendum to this decision.

Respectfully Submitted,



Charles Sorenson
August 25, 2023

**Zoning Board of Adjustment
Pamela Worden and Charles Faucher Special Exception
Notice of Decision for
Wednesday, September 20, 2023 Meeting**

Pamela Worden and Charles Faucher, 153 Skatutakee Road, Map 30 - Lot 51-1, have applied for a special exception under Article 5.3 to expand and enlarge a non-conforming structure on the south shore of Lake Skatutakee. They propose to expand the existing 748 square-foot structure with 158-SF deck by adding a 614-SF addition on the western end. The existing dwelling would be replaced on the same footprint, and a connector and building addition would be constructed to the immediate west of the existing dwelling. The addition would be no closer to road than the existing cottage and would be 4 feet less close to the lake than the existing house. The existing deck and stairs would remain in place with improvements. The new building would be raised from the ground and would sit on an open-air frost foundation with a deep stone base and infiltration bed to allow the water to infiltrate prior to entering the lake. This would be an improvement to existing conditions.

The replacement building would be the same size as the existing dwelling, with the same roof slope and height. The replaced dwelling would be designed to fit in with the architecture of the lakeside. The highest point of the proposed structure, with one and a half stories, would be 21' from the bottom of the floor joist to the peak (6' higher than the existing peak). Accounting for the new foundation, the total height will not exceed 23'. The maximum building height under town ordinances is 35' or 2 ½ stories.

Impervious cover on the 1.8-acre lot, which presently is at 1.1%, will increase to 2.7%, far below the town's limit of 30% in Article 4. The addition of the washed stone bed underneath the new building will treat water coming off all impervious surfaces, including the structure, road and parking areas.

Under Article 5.3.3 "by special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure." Here the addition expands the footprint, but that expansion is less non-conforming than the existing building in that the added structure will sit 4' further from the lake.

The project will include the installation of a new septic system and leach field proposed on an area across the road, which will be an environmental improvement on existing conditions. The applicants confirmed they had not yet submitted the required applications to the State Department of Environmental Services for approval of the septic system and required permits under the Shoreland Protection Act.

The applicants have stated that there will be minimal disturbance of vegetation in the area of the proposed addition. Only a 12" maple will be removed. The area where the expansion will occur is currently used for wood storage, a compost bin, and an old cistern. Photos of vegetation on the property submitted by the applicants show continual vegetation coverage surrounding the proposed building area and along the lakeshore.

Article 20.1.2 governs granting a special exception. The board has considered the applicants' arguments and materials submitted and determined as follows:

20.1.2.1. The specific site is an appropriate location for such use. The new structure will be on its original footprint with an expansion of 610 SF to the west. It will continue as a single-family lakefront residence, similar to other properties in the area. It was noted that the proposal will improve a single-family home with a questionable septic system and questionable water source. The plan isn't changing the use but is changing how it is used in a more beneficial way to the water quality of the lake.

20.1.2.2. The use as developed will not adversely affect the adjacent area. As discussed above, the area of expansion is now mostly a utility area with very little ground cover or vegetation. The high canopy overhead will remain, and there will be little loss of vegetation. A drip edge and infiltration trench will capture stormwater runoff from the roof and direct it into the infiltration bed under the building. In the section with the addition, there will be 10' between the drip line and the lake allowing for a reduction in water directly entering the lake due to the new infiltration bed. Water coming off all the rooflines will be treated through a new and far more substantial drainage system than currently exists. There will be no direct impact on abutting properties. The height of the proposed addition is not seen as problematic, given the topography and surrounding vegetation. The board believes that the new water infiltration methods and the new septic system would mitigate any perceived negative impact and ameliorate current conditions.

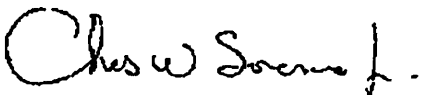
20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians. The board agreed. The applicants will be applying to the town to create two parking spaces across the road from their dwelling. The board believes that parking conditions should be improved, but noted the driveway permit process was outside the special exception considerations and within the Road Agent's and Select Board's jurisdiction.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The submitted application provides that the new structure will tie into a new septic tank and leach field, and a new well will be dug and the existing waterline to the old well removed. With the state's jurisdiction over the septic and well aspects of the project, and no apparent additional concerns about facilities, the board agrees the state's determination would sufficiently address adequacy.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board. The one aspect being considered for waiver here is the addition, enlarging the volume and footprint of the building, in conjunction with the lake setback and road setback as delineated in the plans.

Therefore, for the foregoing reasons the board has approved the application for a special exception to rebuild the existing 748 square feet camp, with a 610 square foot addition for a total of 1358 square feet, with an impervious cover of 2.7% as a result of the addition.

Respectfully submitted,



Charles Sorenson, Chair
September 27, 2023

**Zoning Board of Adjustment
Notice of Decision
Brian and Laura Bradford Application for Special Exception
Wednesday, September 20, 2023**

Brian and Laura Bradford, 128 Chesham Road, Map 40 – Lot 13 – have applied for a special exception under Article 4.1.19 to operate a home-based business for animal interactions. They currently raise cows, goats and chickens on their residential farm and want to offer cow cuddling in their existing barn that contains two stalls. Customers will be able to spend either a half hour or hour with the cows on an appointment or scheduled basis. The couple will offer spots to three people at a time in each stall, or six total per session. Two cows are available currently, with the possibility of expanding to four in the next two years. The Bradfords are the only employees.

For parking, the owners will be using a large open area that formerly served as a riding ring. They anticipate a maximum of 12 cars at one time but believe that number would be unusual as most customers carpool. Asked if they foresee the need for a second driveway into the parking area, the applicants noted they will pursue a driveway permit application with the state. For signage, they propose a business sign within the dimensions, locations, and requirements of the sign ordinance.

Allowance of a home-based business is governed by Article 4.1.19.

Article 4.1.19.1. It shall be carried out by residents of the premises, and a maximum number of non-resident employees as approved by the Zoning Board. The proposed business will be conducted by the resident applicants here.

4.1.19.2. There will be no outdoor display of goods or outdoor storage of materials or equipment, unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the ZBA. The applicants have confirmed this would be the case.

4.1.19.3. The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial use, except for a permitted sign. The applicants have confirmed there would be none.

4.1.19.4. It shall not have an adverse effect on the environment and water resource supplies or the surrounding properties from impacts including but not limited to noise, odor, smoke, dust or lights; soil or air pollution; electrical or electronic interference; excessive increases in traffic or in parking requirements. The board does not find adverse effects from the operation of the home-based business. The by-appointment only scheduling of a limited number of visitors will minimize traffic.

4.1.19.5. There shall be no change in the exterior appearance of the residence or other structures on the property as a result of the use, unless specifically approved or required by the ZBA. The applicants have confirmed no exterior changes would be made to the residence or barn.

4.1.19.6. Parking for employees and/or customers shall be provided on-site. Adequate parking will be available to visitors.

The board has considered the relevant special exception requirements in Articles 20.1.2.

20.1.2.1. The specific site is an appropriate location for such use. The board has found that the farm is an appropriate location for the animal interaction business proposed.

20.1.2.2. The use as developed will not adversely affect the adjacent area. The board has considered several points raised by abutters and has concluded there will not be an adverse effect. One abutter asked that a porta-potty currently located in the parking area be hidden or moved to a more discreet location. The applicants have agreed to move the porta-potty closer to the barn, where it will be much less visible. Another abutter expressed concerns about signage. The applicants have confirmed that, in addition to their permanent business sign installed on a post at their driveway, only an 'open' sign would be put out during open hours. A "parking" sign located on the applicants' property will be temporarily used when the business is open.

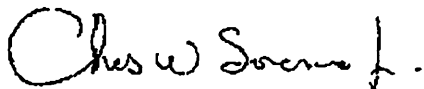
20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians. The board has found that given the size and location of the parking area, and restrictions on the number of clients and vehicles allowed at one time (see below), there will be no nuisance or serious hazard to vehicles or pedestrians.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The board has concluded that the facilities will be adequate. This includes the availability of parking, a hand-washing station, and a port-a-potty. The applicants will pursue the required parking driveway approval with the state, which sets the requirements.

For the foregoing reasons, the board approves the application for a special exception for the home-based business involving animal interactions as described here contingent upon the following conditions: The business will operate no later than 6 pm, but is permitted to operate 7 days a week; signage will comply with town ordinances, including in terms of location and size; the port-a-potty will be moved to adjacent to the barn and be properly serviced; the limitation on number of clients for animal interactions is 12; and driveway access must be permitted through the state and constructed to the state specifications.

Applicants have been advised that any changes to the business plan would require the applicants to return to the ZBA for a special exception.

Respectfully submitted,



Charles Sorenson, Chair
July 28, 2023

**Zoning Board of Adjustment
Notice of Decision
SRH Variance Application
November 8, 2023**

SRH Farm Food LLC, 31 Clymers Drive (Map 60 – Lot 55-2), sought two variances in order to apply for a Conditional Use Permit Application from the Planning Board to construct a detached accessory dwelling unit (ADU).

The property owners (Sarah Heffron and Craig Thompson) were seeking two variances: the first from Article 6.1.3. for the proposed detached ADU's encroachment in the public right of way along Clymers Drive, which turns into a Class VI road near the driveway entrance to their parcel; and the second from Article 6.1.4. for proposing an accessory dwelling unit on a lot already containing two dwellings, when the ordinance states only one dwelling and one ADU are permitted.

The applicants explained their wish to move Mr. Thompson's elderly mother from out of state to an affordable and safe location, to help her age in place in the proposed ADU just a few feet from them. They have limited site options on their property, proposing that the 16 x 24 detached structure go on the back or southeast corner of their dwelling, to allow for proximity to family and ease of ingress and egress, particularly in winter, via the adjacent driveway and deck. Sarah Heffron explained that the second house on the property, a 3-bedroom structure, is part of the wedding package they offer, is key source of income, and is critical for attracting wedding business, as it offers guest on-site accommodations to stay and get ready. It also is far more living space than Mr. Thompson's mother needs for her age and health.

Asked about alternative locations given the proposed encroachment in the right of way, the applicants explained that the septic is behind the house, preventing construction there. The north façade is too close to the wetland, and the well and the driveway are along the west-facing façade. Currently, a mudroom addition approved by the ZBA in 2022 is under construction along the south-facing, Class VI road side.

The applicants explained that the dwellings were built in 1932 and 1935, pre-existing the ordinances and the current layout of the road, and that the site conditions of their dwelling are such that no other location is possible without incurring substantial expenses, either to relocate the driveway which serves the farm, or constructing a new well.

Variance criteria –

The board has considered the variance criteria as follows:

20.1.3.1. There will be no diminution in the value of surrounding properties as a result of the variance requested. The board found this was true relative to both variances, given the applicants' ownership of the land on both sides of Clymers Drive.

20.1.3.2. – The grant of the variance requested would not be contrary to the public interests. Applicants asserted that the purpose behind allowing ADUs serves the public interest. Members all concluded this was met.

20.1.3.3. – By granting the variance requested, substantial justice would be done. Applicants argued that the state's encouragement of ADUs supports that substantial justice would be served by approving the proposal and allowing the applicants to provide for their elderly mother. It would provide affordable housing for a retiree with limited means.

As to the location of the proposed location of an ADU within the right of way set back, the board concluded substantial justice would be served. However, regarding the multiple dwelling issue, it was noted that substantial justice could be served through the use of the second dwelling as the ADU. After substantial discussion, the board voted 2 to 2 with one undecided as to the multiple dwelling and substantial justice. Thus, the criteria was not met.

20.1.3.4. – The requested variance would not be contrary to the spirit of the ordinance. Members found that a variance as to allowing a third dwelling was contrary to the spirit of the ordinance by a vote of 3-2.

20.1.3.5. - Unnecessary hardship. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship as defined by NH Revised Statutes Annotated Chapter 674, Section 33, as amended, which provides:

"Unnecessary hardship means that, owing to the special conditions of the property that distinguish it from other properties in the area, 1) no fair and substantial relationship exists between the general public purposes of the ordinance provision and the special application of that provision to the property; and 2) the proposed use is a reasonable one."

The purpose of the statute and zoning ordinances is to treat people equally. The applicants must show why the ZBA should treat the applicants' property differently from other properties similarly situated, allowing relief for the right of way setback and allowing more than two dwellings in their situation. The special conditions of the property have to relate to conditions of the property itself, not to changes or conditions created by the property owners.

Applicants argued that the uniqueness of the property was its location at the end of a class VI road. The board considered this assertion with regard to the setback from the public way and concluded that it was unique and that the unnecessary hardship criteria was met. However, regarding the proposed third dwelling, members were divided, with 3 voting the hardship criteria was not met and 2 voting it was met.

Accordingly, having not met all of the variance criteria discussed above for the proposed third dwelling the variance for a third dwelling was denied.

Respectfully submitted,

Charles W. Sorenson Jr.

Charles Sorenson, Chair
November 16, 2023

**Zoning Board of Adjustment
Wednesday, November 15, 2023
Notice of Decision
John A. Cucchi Motion to Rehear**

John A. Cucchi filed a Motion for a Rehearing of the ZBA Decision of September 20 granting a special exception to the owners of 153 Skatutakee Road. The voting members on the matter were: Rex Baker, Patrick Gagne, Andrea Hodson, Ed Tibbetts and Charles Sorenson. In its consideration, the board relied on the materials submitted by the Cucchis and the board's basis of its decision to grant the special exception relief, which is reflected in the September 20 minutes and Notice of Decision. ZBA members raised no additional questions or concerns about the original decision or the Cucchi Motion. By a 5-0 vote the motion for rehearing was denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles Sorenson". The signature is written in a cursive, flowing style.

Charles Sorenson, Chair
November 27, 2023

Zoning Board of Adjustment
Wednesday, November 15, 2023
Notice of Decision
Adam Schepker Special Exceptions

Adam Schepker, 46 Prospect Street (Map 51 – Lot 5) – applied for two special exceptions under Articles 6.1.3. and 12.9.1. to construct a 24' x 28' garage twenty-five feet from the public right-of-way and within the 50'-100' wetland buffer. The garage will store a vehicle, lawn equipment and equipment and materials used for hobbies.

Under Article 6.1.3 governing the Agricultural and Residential District "[t]here shall be a minimum distance of (50) feet between any structure and the nearest boundary of any public right-of-way. However, Article 6.1.3. provides that by special exception certain structures such as garages may be located 25' from the public right of way property line.

Article 12.6.1 provides that "[t]here shall be a 100-foot buffer around all wetlands greater than 3,000 square feet ..., but under 12.9.1 "accessory structures associated with legally preexisting primary structures can be located [within the 50 to 100 feet buffer] if it can be demonstrated that no practical alternative exists elsewhere on the lot." The applicant described the topography of the property and the slope between the proposed location and the abutting field and explained that, because of the adjacent wetland and slope, this was the only practical location. The board agreed.

The applicant stated that drainage improvements are being undertaken to improve stormwater runoff onto Prospect Street and water infiltration on the parcel. A portion of the existing lawn will be left unmowed to allow for regrowth of natural cover and vegetation. A treatment swale on the uphill side will capture water coming off the field above and water that flows down Prospect Street. The water will be slowly released back into the wetland via an existing town culvert.

The board applied the Article 20 special exception criteria:

20.1.2.1. *The specific site is an appropriate location for such use.* The board agreed. The garage will be in an area already disturbed by a previously existing shed and work yard. The garage and 24'L x 6'H fence will enclose and screen the work area. The use will continue as an accessory structure for a single family dwelling.

20.1.2.2. *The use as developed will not adversely affect the adjacent area.* The board found that the drainage improvements weighed significantly against any adverse effect on the adjacent area, and felt the neither the presence or absence of a fence adjacent to the garage would have an impact. Abutters and attendees spoke in favor of the proposed location and project.

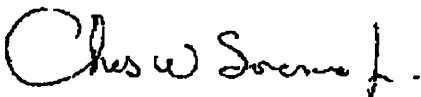
20.1.2.3. *There will be no nuisance or serious hazard to vehicles or pedestrians.* The board agreed. There will be a new and improved driveway, 15' W x 24'L, for Prospect Street access/egress.

20.1.2.4. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.* The new driveway will be regraded to direct roof and pavement runoff into the new treatment swale, improving the existing low-lying area adjacent to the road which often collects water. The board agreed, given the drainage improvements and grading of the driveway area.

20.1.2.5. *The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself and its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.* As explained above, the only waivers are from a 50' public way setback to allow a 25' setback of the garage and from the 100' setback from the wetland, with the latter only being waived to a distance of 50'.

Accordingly, the board approved (5-0) the application for a special exception to allow the garage to be located 25' from the public way and 50' from the wetland, in accordance with the plan submitted that includes a treatment swale to capture surface water into a holding area. Voting members were Rex Baker, Patrick Gagne, Andrea Hodson, Jeff Trudelle and Charles Sorenson.

Respectfully submitted,

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Charles Sorenson, Chair
November 27, 2023

**Zoning Board of Adjustment
Wednesday, November 15, 2023
Notice of Decision
Ahkil Garland Special Exceptions**

Akhil Garland, 9 Island Street (Map 32 – Lot 24), applied for special exceptions to construct a 7' x 18' woodshed on an existing concrete slab and to construct a 16' x 18' pergola over an existing open deck.

The Historic District Commission and Historic Harrisville had previously granted approval for both structures, and no abutters opposed the application. Applicant proposed locating a 16' x 18' timber frame pergola over their deck, which faces Harrisville Pond. A portion of the pergola supports would fall closer than 15 feet from the high-water mark of Harrisville Pond. Article 9.1. states that no structure can be located within 15' of the side or rear boundary, and in this case the rear boundary is the pond. The board advised the applicant that pursuant to the ordinance, any approval would require that pergola supports be at least 15' from this boundary.

Article 5.3.3 states: "By special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions; however, roofed porches are." The ordinance definition of an open deck does not specifically address pergolas, but states that "open decks may *not be enclosed* in any way other than with a 42" safety railing around the perimeter." (emphasis supplied). The board considered if it was the intent of the definition of open deck to preclude any structure other than the deck itself with a railing. The question had not come before the board previously and the board believed the intent of the definition will need to be clarified by the Planning Board.

The applicant argued that he doesn't consider a pergola a roof but something that provides shade like an umbrella. Board members, following a lengthy discussion, concluded they did not consider a pergola an *enclosure*, although it is a structure and, therefore, that Article 5.3. would authorize it if the special exception criteria are satisfied.

The board then moved to 9.1.6. which states that accessory buildings such as storage sheds and gazebos, but excluding automobile garages may be located within the 75' setback provided certain conditions are met. The board considered the criteria under 9.1.6.1. through 9.1.6.4. and determined that the proposed pergola satisfied these:

9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the requirements of 15.8.1. The board found that the pergola did not impact the vegetated buffer.

9.1.6.2. The structure is required as a shelter either for humans, equipment, or firewood.

While a pergola may not be “required” shelter, the board didn’t see this as a barrier to addressing the special exception criteria.

9.1.6.3. The structure is customary or incidental to residential and recreational use. The board agreed that it is.

9.1.6.4. Building placement: Buildings shall be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed. The board agreed that the pergola placement satisfied these criteria.

Finally, the board applied the Article XX criteria:

20.1.2.1. The specific site is an appropriate location for such use. Members considered it an appropriate location given its recreational element facilitating the use of the deck.

20.1.2.2. The use as developed will not adversely affect the adjacent area. The board agreed because the pergola will not have a dripline on the ground and would not be visually intrusive.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians. The board agreed, given the location of the pergola at the rear of the property.

20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The board did not view this as relevant in this instance.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself and its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board. The board was waiving only the 75’ setback from the pond.

Accordingly, the board (5-0) approved the special exception for the proposed pergola, as submitted on the plans, **except that conditions of the approval are that the pergola must be at least 15’ from the high-water mark of Harrisville Pond and must be maintained as an open pergola.** Voting members were Rex Baker, Patrick Gagne, Andrea Hodson, Jeff Trudelle and Charles Sorenson.

Subsequently, the board considered the 7’W x 18’L x 11.5’H shed, reviewing the proposed location in relation to the boundary lines, existing barn and existing concrete patio, which is roughly 20’ x 25’. The existing slab encroaches on the 15’ side property setback, but the shed would not. The applicant stated that the shed, while providing shelter for firewood, would also serve as an additional buffer for privacy between their property and the abutters’ property.

Again, Article 9.16. was applied.

9.1.6.1. The location and construction of the structure is consistent with the intent of the ordinance to maintain a vegetated buffer, which would meet the requirements of 15.8.1. The board concluded that the shed would not impact the vegetated buffer.

9.1.6.2. The structure is required as a shelter either for humans, equipment, or firewood. The board agreed. The applicants confirmed it would be used to primarily store wood and other items.

9.1.6.3. The structure is customary or incidental to residential and recreational use. The board concluded this was true.

9.1.6.4. Building placement: Buildings shall be placed in such a manner as to minimize impact on habitat and at such a location as to have the least impact on the watershed. The board agreed because the shed would be placed on a small area of an existing concrete slab, posing no change to the watershed and the shed dripline was over this slab.

The Board applied the special exception criteria:

20.1.2.1. The specific site is an appropriate location for such use. Members agreed, finding the proposed location suitable given previously existing conditions.

20.1.2.2. The use as developed will not adversely affect the adjacent area. Considering the comments of the abutter that the shed is not an issue, the board found this criterion was satisfied.

20.1.2.3. There will be no nuisance or serious hazard to vehicles or pedestrians. The board concluded this was met given the location of the shed at the rear of the house.

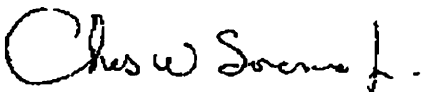
20.1.2.4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The board found no issues as to this criterion.

20.1.2.5. The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself and its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board. As to the shed, the board only waived the 75' setback from the pond.

Accordingly, the board (5-0) approved the application for a special exception for a storage shed that will be 18'W and 7' deep located on an existing patio as noted on the submitted plan.

Voting members were Rex Baker, Patrick Gagne, Andrea Hodson, Jeff Trudelle and Charles Sorenson.

Respectfully submitted,



Charles Sorenson, Chair

November 27, 2023

**Zoning Board of Adjustment
Jesse and Regina Dixon Special Exception Application**

**Notice of Decision
Wednesday, December 20, 2023**

Jesse and Regina Dixon, 241 Skatutakee Road (Map 20 – Lot 57), have applied for a special exception under Article 5.3.2. and 5.3.3. to replace and enlarge an existing non-conforming, one-story camp on the south shore of Lake Skatutakee. They propose to move the structure 7 feet further from the shoreline of Skatutakee Lake. This would be an improvement to existing conditions. Additionally, they wish to expand the current one-story camp of 1286 square feet to two-story dwelling, totaling 1738 square feet. The replacement building would include an expansion of 452 square feet.

Existing conditions include a lakeside property of 4.21 acres with the one-story structure located approximately 25 feet from the shoreline. The lot is entirely wooded other than impervious surfaces, and contains more than 700 feet of waterline frontage.

The current camp's location renders the structure non-conforming due to the required 75' setback from the lake; however, the proposed location of the replacement dwelling, 7 feet further, or 32', from the waterline, would make it less non-conforming.

The existing impervious cover calculations are 9.3% or 17,106 square feet, comprised of the existing one-story camp, driveway, access road, railway bed, deck, day house, patio, fire pit and shed. Proposed impervious cover would increase to 9.7% of the lot, well under the 30% maximum allowed under town ordinances.

The Board considered that the proposed location of the replacement dwelling, 7 feet further, or 32' from the waterline, would make it less non-conforming, allowing the avenue for relief under **Article 5.3.2**. The Board also looked at the proposed increase in the size and volume of the house, adding a 2nd story and an additional 452 square feet of living space, thereby requiring analysis under **Article 5.3.3**

Article 5.3.2. states *A non-conforming structure may be replaced or relocated on the property to a more conforming location by special exception of the Board of Adjustment. Nothing herein shall prevent the replacement or relocation of a non-conforming structure to a completely conforming location on the property.*

The ZBA confirmed that the proposed location reduces the non-conformity and that the proposed expansion is in a direction further from the non-conforming aspect. The height of the new structure would be 31 feet.

Article 5.3.3. states: *By special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions; however, roofed porches are.*

The board confirmed that the basement of the structure is crawlspace only, most of which is in-ground, and no more than 5 feet in height. A new septic system will be installed, increasing capacity from the existing 2-bedroom dwelling system for the now proposed 3-bedroom structure. Additionally, drainage improvements will treat water coming off all impervious surfaces, including the structure, road and parking areas. This will include two 24-inch wide infiltration beds along the house's driplines and a 315 square foot stone infiltration bed along the lakeside facade.

Article 20.1.2 governs granting a special exception. The board has considered the applicants' arguments and materials submitted and determined as follows:

20.1.2.1. *The specific site is an appropriate location for such use.* Members agreed that the existing and proposed uses remain residential with the new structure moving 7 feet south, and thus was appropriate.

20.1.2.2. *The use as developed will not adversely affect the adjacent area.* Given the similar use, addition of dripline beds and improved water filtration, board members felt that, even with expanded volume and footprint by 452 square feet to 1738 square feet, the project would not adversely affect the adjacent area. They further confirmed the parking area would not change.

20.1.2.3. *There will be no nuisance or serious hazard to vehicles or pedestrians.* With the location at the dead-end road, the section of which is not a public way, the ZBA agreed the proposal would pose no nuisance or hazard.

20.1.2.4. *Adequate and appropriate facilities will be provided for the proper operation of the proposed use.* The board agreed, given that a new septic system will provide for the increased living space and additional bedroom.

20.1.2.5. *The proposed use shall comply with all the frontage, setbacks, minimum land area, sanitary protection, signs, and parking requirements for itself or its most similar use, except where specifically waived by the board, the reasons for such waiver to be set forth in writing by the board.* The applicants confirmed there would be no disturbances during construction within 20 feet from the lake and are applying to the state for the needed permission to locate the new structure within the 50' buffer. The board confirmed the only waiver being applied relates to a special exception from the town's 75-foot lakeside setback requirement, thereby allowing the structure to be located 32 feet from the lake.

Therefore, for the foregoing reasons the board has approved the application for a special exception to rebuild the existing 1286 square feet one-story camp, with a 452 square foot addition for a total of 1738 square feet two-story dwelling, with an impervious cover of 9.7% as a result of the addition.

Respectfully submitted,

Rex Baker, Vice Chair
January 17, 2024

**Zoning Board of Adjustment
Jesse and Regina Dixon Special Exception Application**

**Notice of Decision
Wednesday, December 20, 2023**

Jesse and Regina Dixon, 241 Skatutakee Road (Map 20 – Lot 57), have applied for a special exception under Article 5.3.2. and 5.3.3. to replace and enlarge an existing non-conforming, one-story camp on the south shore of Lake Skatutakee. They propose to move the structure 7 feet further from the shoreline of Skatutakee Lake. This would be an improvement to existing conditions. Additionally, they wish to expand the current one-story camp of 1286 square feet to two-story dwelling, totaling 1738 square feet. The replacement building would include an expansion of 452 square feet.

Existing conditions include a lakeside property of 4.21 acres with the one-story structure located approximately 25 feet from the shoreline. The lot is entirely wooded other than impervious surfaces, and contains more than 700 feet of waterline frontage.

The current camp's location renders the structure non-conforming due to the required 75' setback from the lake; however, the proposed location of the replacement dwelling, 7 feet further, or 32', from the waterline, would make it less non-conforming.

The existing impervious cover calculations are 9.3% or 17,106 square feet, comprised of the existing one-story camp, driveway, access road, railway bed, deck, day house, patio, fire pit and shed. Proposed impervious cover would increase to 9.7% of the lot, well under the 30% maximum allowed under town ordinances.

The Board considered that the proposed location of the replacement dwelling, 7 feet further, or 32' from the waterline, would make it less non-conforming, allowing the avenue for relief under **Article 5.3.2**. The Board also looked at the proposed increase in the size and volume of the house, adding a 2nd story and an additional 452 square feet of living space, thereby requiring analysis under **Article 5.3.3**

Article 5.3.2. states *A non-conforming structure may be replaced or relocated on the property to a more conforming location by special exception of the Board of Adjustment. Nothing herein shall prevent the replacement or relocation of a non-conforming structure to a completely conforming location on the property.*

The ZBA confirmed that the proposed location reduces the non-conformity and that the proposed expansion is in a direction further from the non-conforming aspect. The height of the new structure would be 31 feet.

Article 5.3.3. states: *By special exception, a non-conforming structure may be expanded in either volume or area. This expansion must be in a direction away from the non-conforming aspect of the structure. For the purposes of this ordinance, open decks are not considered expansions; however, roofed porches are.*

The board confirmed that the basement of the structure is crawlspace only, most of which is in-ground, and no more than 5 feet in height. A new septic system will be installed, increasing capacity from the existing 2-bedroom dwelling system for the now proposed 3-bedroom structure. Additionally, drainage improvements will treat water coming off all impervious surfaces, including the structure, road and parking areas. This will include two 24-inch wide infiltration beds along the house's driplines and a 315 square foot stone infiltration bed along the lakeside facade.

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Rex Baker, Vice Chair
January 17, 2024