

**MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
Wednesday, December 7, 2016
7:00 PM**

MEMBERS PRESENT: John Hutton, Acting Chairman; Frank Reinhold, Alternate; Craig Williams, Alternate; Don Quigley, Alternate & Peter Hoyt, Alternate.

OTHERS PRESENT: Kevin Crawford, Jane Crawford, Mary Westfall, Dale Rasmussen and Caren Rossi, Planning/Zoning Administrator.

(ZBA1617-08)

An application from Peter MacDonald, representing the Veteran Resort-Chapel, 101 Stepping Stones Road. The property is known as Lee Tax Map# 12-03-0300. The application is for an Appeal to an Administrative Decision from Planning and Zoning Administrator Caren Rossi. The applicant states the purposed use is a church and Ms. Rossi disagrees. The request is to the 2015 Lee Zoning Ordinance under Article V, Section-A, Permitted Uses, Churches on a site approved by the Planning Board.

Frank Reinhold clerked.

John Hutton explained that we are here for an administrative appeal, we have members who have never done this before. We had a brief meeting with the attorney on how this is done, there was no discussion about the applicant one way or the other. He turned the floor over to Caren Rossi.

Caren Rossi explained that she wrote everything out, she read it into the record. She explained she provided a packet of information that is referenced in the exhibits.

BACKGROUND

We are here tonight to decide on an Administrative Appeal. Mr. MacDonald, representing the Veteran Resort-Chapel ("VRC") at 101 Stepping Stones Road recently applied to the Lee Planning Board for site review for a single person church. The Planning Board asked me for my opinion on the proposed use as to whether or not it complied with the zoning. See minutes from 9/15/16 & 10/19/16. (Exhibits A&B) I provided a letter to the Board with my conclusions as well as my suggestion and the Board agreed. (Exhibit C) In the letter, I stated "Based on the plans presented to the Planning Board, the comments made at the 2015 Planning

Board proceedings for the religious reading rooms and multiple other various comments which Mr. MacDonald has made to the media, both in TV and Newspaper interview, Social Media and fundraising campaigns over the last several years, it is clear that Mr. MacDonald's proposal includes some aspects of lodging for homeless veterans".

I. **PROPOSED USE IS NOT A CHURCH**

My decision was based on two parts. The first part was the conclusion that a proposal with a "single person church" is not a church. Under the Lee Zoning Ordinance, there is not definition of church. However, the common definition of church in Webster's Dictionary and Black's Law Dictionary is public divine worship of a congregation (religious community of order). It can also refer to a congregation united under one form of government by the profession of the same faith and observing the same rituals. No evidence was presented to show that the VRC has any of these characteristics and the articles of agreement of the organization stress the non-religious activities such as providing free housing. (Exhibit D) The most that these articles do is to say that they want to make a house of worship available, but they do not address anything else in the common definition of church.

II. **LODGING**

The second part of my decision was that the proposal calls for lodging, and therefore requires zoning relief. The best evidence showing how "lodging" is part of the proposal is to look at the history of this proposal, earlier proposals, and social media and other statements. The history of VRC application is as follows:

- On September 13, 2013 a building permit was issued for a single family home. (Exhibit E)
- In December 2014, Mr. MacDonald, representing the Veteran Resort-Chapel applied for site review for a Church. (Exhibit F) During the process, both Mr. MacDonald and his council, Attorney, Laura Spector-Morgan stated numerous times that the proposed buildings are religious reading rooms, people would not actually live there but if they fell asleep, they would be allowed to stay. (Exhibit G) At the March 5, 2015 Planning Board meeting while discussing the parking needs for the site, Ms. Spector-Morgan states "most homeless people do not have a vehicle and the Chapel is not generally used by the public." (Exhibit H)

While the original application was still in progress on May 25, 2015, NH1 aired an interview (Exhibit I) Caren Rossi stated she has this available tonight on a disk if anyone cares to view it. She continued.

with Mr. MacDonald the news reporter explains "as long as they are non-violent and drug and alcohol free, they will be able to stay in their mini house as long as they need" Mr. MacDonald states "so it will be for the veteran to live there as long as they want, nobody will ask them to leave, no matter what. When they are ready to leave, they can leave and go back into a functioning society, but if they are not ready to leave they can stay there until they die if that's what it takes". The reporter continues, "Macdonald says 1 in 4 veterans will become homeless within 10 years of returning home from service. He hopes to use his 11 acres in Lee to build mini houses for those suffering veterans."

- *Also, as part of the planning board review process in 2015, applicants must get input from both the police chief and the fire chief. In response to the fire chief's request for information, Mr. MacDonald provided a letter as well as a packet of information. (Exhibit J) In the packet, there are multiple times where Mr. MacDonald states, "We plan to build 12 more cabins"; "The remaining 12 cabins will be 8' x 16' single person" as well as he explains the fee structure that will be used for the cabins. He also provided floor plans and a plot plan showing the cabins.*
- *Shortly after the letter was received by the Fire Chief, Attorney Spector-Morgan withdrew the application. No administrative decision was made regarding whether the religious reading rooms were a "church".*
- *Also, during the original application process, on February 4, 2015 a Facebook page was created for the Veteran Resort- Chapel and is known as the Veterans Resort-Chapel. This page has numerous "postings" that refer to the "tiny homes". (Exhibit K)*
 - a. *April 10, 2015 "Today when I was shopping at Market Basket on Woodbury Ave in Portsmouth, I met a man named Peter MacDonald who is a Veteran himself. He is building 12 tiny homes for Veterans on his acreage".*
 - b. *May 27, 2015 a video interview from NH1 followed by an article. "The vision was to keep on building, offering mini-houses to homeless combat veterans". He continues to speak of the need to*

- fundraise etc. and then says "he hopes to gather enough cash to build a dozen tiny structures on the land..."*
- c. August 4, 2015 a letter to the Editor from Peter MacDonald was posted. In this letter, Mr. MacDonald writes "...where a Lee NH family is building tiny homes for homeless veterans..."*
 - d. November 13, 2015 an article was posted regarding a community in Texas and it says "If they can do it in TX, we can do it in NH to support of homeless veterans!!!! #tinymovement"*
 - e. May 24, 2016 a post from InDepth.NH Roger Wood INDEPTH did an article titled -Lee Couple Building Tiny Homes for Homeless Veterans in the article. Below the picture featured in the article, it states "In Portsmouth, Peter McDonald shows an example of the tiny homes he is building in Lee". In the article "A Lee couple has formed a nonprofit with the goal of building Tiny Homes for American Heroes. The idea, says retired Marine Corps Sgt. Pete McDonald, is to get the 635 homeless New Hampshire veterans out of shelters and into the small, but comfortable units".*
 - f. June 5, 2016 is a post for a fundraiser at 900 Degrees Neapolitan Pizzeria. In the description of the event it is stated "The vision is to keep on building, offering mini-houses to homeless combat veterans. The mini-house features a pull-out bed, kitchen sink, shower, heat and a composting toilet. Any homeless Veteran who needs the shelter can stay as long as they wish, if they refrain from alcohol and drugs, and they are not violent".*
 - g. June 23, 2016 is a post for a cut-a-thon fundraiser with Stiletto's Hair & Spa Holbrook. In the description of the event it is stated "Veterans Resort Chapel is 11 acres of land bought with their life savings to build tiny home for homeless veterans a place to sleep".*
 - h. July 13, 2016 a video interview as well as a written interview. The written interview states "The goal is to build 12 tiny homes on 11-acres of land for homeless combat veterans".*

The Facebook posts still continue even after the planning board reviewed my letter and voted to table the application.

i. October 19, 2016 a Facebook post advertising a GOFUNDME account was setup. A video interview as well as a written article. In the article, it is stated that "The VRC provides homeless veterans with tiny homes to live on a property purchased in Lee NH". (Exhibit L)

- Not only do the Facebook posts continue, a letter to the Concord Monitor Editor on November 16, 2016. In this letter from Peter MacDonald, states "I want to express my appreciation for Lucas Cohens building of a block wall in front of our new tiny home for homeless combat veterans". (Exhibit M)
- The Veteran Resort-Chapel also has a website <http://www.veteranresortchapel.com/>. I believe this site was first developed in 2013. This website has a video of Mr. MacDonald and is very detailed to include "Our Mission, History & Purpose" (Exhibit N). In the description of this, it states, "The remaining 12 cabins will be 8' x 16' single person, scattered throughout the woods". Further down in the description it details how the rent for the units will be decided. (Exhibit O)
- On a separate section titled History it states "We built the first cabin to house a single US Military Veteran with our own money. The first homeless Veteran is now living a better life. We plan to build 12 more cabins only smaller than the first one. The first cabin is also a non-denominational church in the basement". "The next 12 cabins can be pictured on the web at "tiny homes". These cabins will be 12' x 12' with a full...." (Exhibit P)

On the separate section titled Veteran Resort-Chapel Mission, the website states that the property will contain single person cabins (which will be referred to as religious reading rooms) for a single veteran to live in (emphasis added). (Exhibit Q)

As you can see from all of the above information, not one time are the "tiny homes" referred to as a single person church and all of the information suggests that "lodging" will be occur. As my administrative decision states, there is no definition of lodging in the Lee Zoning Ordinance, but the proposal falls within the common dictionary definition. Because the Lee Zoning Ordinance only allows

permitted uses as of right, and because "lodging", other than a single family dwelling, is not allowed, then the proposal requires a variance.

Caren Rossi asked the Chairman Hutton if he wished for her to address the letter in Mr. MacDonald's application now.

Chairman Hutton replied yes.

Caren Rossi explained that in Mr. MacDonald's application he also provided a letter. I have taken the letter and added my rebuttal to it is in red. She then read the letter with her responses into the record.

*Veteran Resort-Chapel
101 Stepping Stone Rd
Lee NH 03861
603-781-3839*

Attached Statement for 11/1/16 application for Administrative decision and ZBA appeal and decision.

*Under the law Religious land use individuated Persons Act the Town of Lee in writing has decided we are not a church in complete contradiction to said law. In the NH Superior Court case approved by the NH Supreme Court St Benedicts V. Town of Richmond to have a church be singled out to go in front of the Site Review is illegal and the court awarded the Church 1.5 million dollars for the discriminatory act Article 5 of the Lee zoning ordinance line 4 clearly makes only a church go in front of site review. **Mr. MacDonald's statement is inaccurate. This is more clearly explained in Article III, General Provisions, C. **SITE REVIEW*****

***REGULATIONS** All permitted uses and uses allowed by Special Exception and or Variance may be subject to Site Plan Review in accordance with the Site Review Regulations as adopted by the Town of Lee, January 7, 1977 and all subsequent amendments to the Site Review Regulations. Examples of this are all commercial sites, recreation fields, commercial excavation of earth and churches.*

Site Review with objection from the VRC went into executive session to decide the case, which is illegal.

*Site Review came out of executive session with a letter from Karen Rocci stating we were not a church so we cannot use the property for religious uses. **We were in a non-meeting with council, not executive session. The Planning Board minutes of October 19, 2016 clearly explain this.***

Agnes and Peter Macdonald bought the property at 101 Stepping Stone Rd for the church and gave it to the church free and clear with the contingency in the deed the property cannot be used for any other reason but the VRC church and their mission from God to help homeless combat veterans. The VRC has owned the

property since 2012 and used it solely for the church and religious charity work only.

The first paragraph in Ms Rocci's letter states "it is more likely to be used for meditation and place of quiet reflection. That is a definition of a church and what church member does at a church.

The second paragraph Robert Smith, Chairman If the chairman does not know what the definition of a church is? He should not be on the board. The application was for the board to recognize the VRC as a church and to grant permission to build a single person church for homeless veterans to talk to God of their choice. For the board to talk in executive session about the Sept 15, 2016 meeting 2015 Planning Board proceedings and talk about multiple media, both in TV and newspaper interviews, social media and fundraising campaigns clearly demonstrates violating the public right to know and any reason for a public hearing. **As explained above, it was a non-meeting with council and as stated in the minutes "it is more of a procedural thing"**. Not only that but it demonstrates the biased attitude of the committee. The application is for a single person church 8'x16' a tool used in our religious belief and practice. For this town to decide how the VRC can practice it's religion (Sorry the Town of Lee decided we are not a church) contradicts in an illegal manner our Constitution (Separation of church and State) the Law RLUIPA and many more.

In the next paragraph Mr. Smith states Lee has no definition of motel, inn o hotel, if it is not in the ordinance he cannot consider it To go even further to read into our religious practice definition to justify condemning our religion and not allowing us to use our property exactly as it is zoned and all others are allowed to use their property constitutes discrimination in the worst form.

In the next paragraph Mr. Smith states "The Lee zoning ordinance only allows permitted uses to occur as a matter of right. **Chairman Smith read this from my letter to the Planning Board in its entirety it reads "The Lee zoning ordinance only allows permitted uses to occur as a matter of right. All other uses need to either get a variance or a special exception. Lodging of any type, other than a single family residence, is not allowed on this property. As a result, the lodging aspect of the proposal will require a variance"**. The VRC is a church that has the right to use 101 Stepping Stone Rd property the VRC out right own as it is zoned for and to have the Town of Lee discriminate against us as stated in the September 15 minutes cannot be tolerated. The Site review states they are making their decision not to conflict with the selectmen decision not to grant the VRC church tax status. Just because the selectmen made a decision not to so this board will not contradict or piss off the selectmen you not accepting the VRC as a religious assembly. **The Planning Board Meeting Minutes from September 15, 2016 clearly outlines a discussion whereas David Cedarholm comments "he remembers a lot of discussion about it threw the select board for tax"**. Chairman Smith then asks if each governing body has to make their own decision independently. Attorney

Sommers explains that each independent body has to make that decision if a question is in front of them. The minutes clearly reflect this discussion.

The VRC is a registered 501-c3 church, non-profit and the property at 101 stepping Stone Rd has been used for nothing else but to do charity work and religious missions. On September 13, 2013 a building permit was issued for a single family home on the property. Mr. MacDonald signed a statement confirming that he understood that is what the permit was for. The town has not issued a permit for the chapel use, just a single family home. We have 5 Ministers associated and practicing on the property. We have an active chapel on the property. The VRC is registered with the NH Attorney General and as such has a chapel and non-profit corporation; registry number and we are registered with the NH better business bureau as a church non-profit.

We have advised the Lee selectmen and the site review committee that each time you require the VRC to go in front of one of these committees or boards the cost to the town of Lee is 1.15 Million dollars. We the VRC is asking this board tonight to pay the 3.45 million dollars you owe the VRC for making us attend these as our NH Supreme court has ruled acts of discrimination. The minutes of the September 15, 2016 and the October 19, 2016 site review minutes clearly demonstrates to any reasonable person that the Town of Lee NH is singling out the VRC to keep us from practicing in Lee NH. The Lee selectmen are quoted in court papers as stating that we are a community of Professors and UNH support Staff so we do not deserve homeless in our neighborhoods. When confronted by Peter Macdonald for making such a foolish statement the selectmen replied Peter you know as well as we that the reason combat veterans are homeless is because they are all drug addicts or alcoholics. The minutes of the site review and selectmen meetings demonstrate the truthfulness of this statement. These are acquisitions that only appear in Mr. MacDonald's writings. When confronted at the BOS meeting of October 24, 2016 as to who said that, Mr. MacDonald did not answer the question. Caren Rossi explains she has this video as well if the Board wants to watch it.

We are asking this board to grant the VRC permission to build a single person church

The VRC is asking this board to have the Town of Lee recognize the VRC as a church The VRC is asking this board to grant the 3.45 million dollars the Town of Lee NH has agreed to pay for the VRC to attend three so far committee meetings ruled by the NH courts as act of discrimination. The proposal as presented contains no evidence that it is a church. Also, the town denies that it has agreed to pay the Veteran Resort-Chapel any money or that it has discriminated against the Veteran Resort-Chapel.

Chairman Hutton explained the floor is now Mr. MacDonald's.

Peter MacDonald stated that all the information she just gave you is irrelevant when we are talking about the appeal of the administrative decision because what we are here for is for you to decide if we are a church or not and if the town of Lee is going to recognize us as a church. The second reason is the application was for a single person, or a solo church for a homeless combat veteran to go and as Ms. Rossi says in her letter to meditate and peaceful time or something like that. That is what a church is for, a place for people to go in and find themselves with Gods help and man's help. That is what we are here for tonight.

A day of infamy is ironic that is the day that the Lee ZBA is meeting to decide if combat veterans have a right to pray or talk to the God of their own choice. The VRC is hear tonight for three things as so stated in the application. One we are asking this board for permission to build a single person church, two we are asking this board to have the TOL recognize the VRC as a church and three we are asking this board to pay 3.45 million dollars as the TOL selectmen have agreed to pay to have the VRC attend meeting that the courts have ruled as an act of discrimination. St. Benedicts V Town of Richmond. Let me explain the case for you I am a combat veteran. I did 31 months over seas in and out of Vietnam. I did 8 truck convoys of 27 to 35 trucks of local Tia drivers and I was the only one that spoke American. Our Route from Uborn Thailand across Laos, Cambodia into Vietnam to Highway 9 in Vietnam. Every time a Karmayarough or VC patrol was spotted on the road ahead of us I would be pushed or jump off the truck and hoof it through the bush a click or so and meet the convoy ahead. One night we stopped in a friendly village for the night. The village was near the Vietnam boarder. I decided to take a bath in the local spring when all others were sleeping. When I was done three VC had taken my M-16 and me a click up the road toward Vietnam and maybe several clicks into the bush. I had my hands tied behind my back and forced to sit by a camp fire while two VC drank rice wine, while poking me, laughing and burning me. The young one looked about 10 or so took my M-16 and was ordered to walk the perimeter in the dark. A few hours later the two watching me got drunk and passed out I freed myself took my bayonet and snuck up behind the child walking guard put my hand over his mouth and shoved the bayonet up under his ribs at a 45degree angle and twisted it to the right then the left. Took my M-16 got my location and started running back to the friendly village. I got to the road and heard a patrol coming so I jumped into the benjo ditch. I counted 17 as some stepped about a foot from my head. I stared up at the stars (because of a TBI a few years earlier in the MC I had no memory of life any part of it before the MC)(I to this day still remember nothing from my past) and listening to other Marines talk I decided to ask God for help. What harm I was dead any ways. No one saw me so I lived but I to this day still question why God helped me that night. I became a Minister and my certificate is recorded in the Strafford

County Deed of Records Book 1141 Page 631. I took classes in California until I had enough credits to receive it. I have practiced as a Minister walking around the streets of NH finding homeless and when I identified one as a veteran I would buy them a McDonalds happy meal and a cup of coffee talking to them about how God and man can help them. In 2012 my third daughter graduated from UNH so my wife and I decided to purchase 101 Stepping Stone Rd, Start a 501-c-3 non-profit and give the land free and clear to the non-profit with the stipulation in the deed that the property has to be used from now to eternity helping homeless combat veterans find their way home mentally as well as physically through the doors of the church Veteran Resort-Chapel with God and man's help.

The Church owns the property free and clear. In 2012 the VRC became a 501-c-3 non-profit with the primarily mission of helping homeless combat veterans with God and man's help.

Since 2012 the property has been used for nothing else except charity work. 100% The VRC is registered as a non-profit church with the State of NH and the NH better business bureau.

The TOL selectmen have said and it is in the minutes of many selectmen meeting that they refuse to recognize the VRC as a church.

The Lee selectmen and the history of the VRC with the town of lee prove the statement to be true. "We are a community of professors and UNH support staff so we do not deserve homeless veterans in our community". When I confronted the selectmen for making such a stupid statement the replied "Peter you know as well as everyone else combat veterans are homeless because they are drug addicts or alcoholic and we do not want them in our neighborhoods".

These are the men and women that fought and gave up everything that you enjoy to fight for the right to pray or talk to the God of ones choice.

Based on the letterform the SRC "there is no evidence that the proposed structure will be used as a church but it is more likely to be used for meditation and place of quiet reflection". First of all the application is for a church and no other person is discriminated against as in this case. If after the church is built it is used for something else then the TOL can follow the law and take action. You will note in Karen Rossi letter she reads many items in to the application for a church that just are not there. It is not her place to decide what religion she or the selectmen will allow in Lee NH. Peter Macdonald does not own the VRC. It is owned by a board of directors with by-laws to govern it by.

Lee zoning ordinance article V Residential zone (zone a) A. Permitted uses in zone A. the following uses are permitted: line 4 churches on a site approved by the planning board. According to the ordinance only a church has to go in front of the Planning board for site review approval. This has been ruled illegal by the Superior court, and NH Supreme Court. The case is St Benedicts V town of Richmond NH. The court found this to be discrimination and awarded the church 1.5 million dollars for that. The Lee selectmen were presented with a letter in the

form of a contract that told them of this court ruling and that the VRC would charge the town 1.15 million dollars every time we are required to go in front of a board to be allowed to do what any other property owner in Lee NH will be allowed to do without going to a site review hearing. The TOL is delaying the VRC and running up our bills in the hopes that we go bankrupt to prevent us from existing in Lee NH. This has proved factual if you read the letters sent to the selectmen from April 2016 to Dec 2016.

The law Religious Land Use Institutionalized Persons Act of 2000 42 U.S.C. clearly was written to stop actions such as this in the TOL. Statement from the Department of justice on Land-use provisions of the RLUIPA Congress found that zoning authorities were frequently placing excessive or unreasonable burdens on the ability of congregations and individuals to exercise their faith with little to no justification and in violation of the Constitution. Congress further found that religious institutions often faced both subtle and overt discrimination in zoning, particularly minority, newer, smaller, or unfamiliar religious groups and denominations.

Protection against substantial burdens on religious exercise: Section 2a of RLUIPA prohibits the implementation of any land use regulation that imposes a "substantial burden" on the religious exercise of a person or institution except where justified by a "Compelling government interest" that the government pursues in the least restrictive way possible. The TOL has given no reason other than they do not recognize the VRC as a religion.

Protection against unequal treatment for religious assemblies and institutions Section 2b1 of RLUIPA provides that religious assemblies and institutions must be treated at least as well as nonreligious assemblies and institutions. The TOL has used the courts to have followers removed from the VRC property, have an out house removed, stop homeless followers from sleeping on the property, had a legally registered education trailer barred from the property, had signs removed from the VRC property, when everyone else in town can do and do these

Protection against religious or denominational discrimination: 2b3a of RLUIPA prohibits discrimination "against any assembly or institution on the basis of religion or religious denomination. The Lee selectmen in the minutes of many selectmen meetings since 2013 have stated the TOL does not recognize the VRC as a religion, the ZBA in your minutes have state you do not recognize the VRC as a religion, the building depart of Lee has in letters stated we are not a religion and in doing so have violated our Constitutional rights guaranteed.

Protection against total exclusion of religious assemblies. Section 2b3a of prohibits discrimination "against any assembly or institution on the basis of religion". or religious denomination", The TOL has decided the VRC is not a religion and that - the VRC owns the property at 101 Stepping Stone Rd but cannot build a church or practice our religion freely on the property. It is not the TOL's place to

tell anyone that they are not a religious institution or pray to the God of their choice as you are doing here.

Protection against total exclusion of religious assemblies. Section 2b3a of RLUIPS provides that governments must not totally exclude religious assemblies from a jurisdiction. The property at 101 Stepping Stone Rd is zoned for a church only the TOL is using zoning to say the VRC is not welcome in Lee NH.

Protection against unreasonable limitation of religious assemblies. Section 2b3b of RLUIPA provides that government must not unreasonable limit "Religious assemblies, institutions, or structures within a jurisdiction" The TOL is refusing to allow the VRC to build a single person church. The VRC is a charity in our church to help our followers Homeless U.S. Military combat Veterans. The property is used 100% for that purpose. The VRC is a religious organization of men and women that found God through our experience in combat The VRC is many different Gods and beliefs but we are one. We need solo churches to pray or talk to the God or whatever of our own choice where the survival memories of past deep in our heads are not revived by the innocent acts of public in public churches. The TOL has decided the VRC is not a religion and that the VRC not practice our religion in Lee NH.

Religious exercise RLUIPA section 8 includes any exercise of religion "whether or not compelled by, or central to, a system of religious belief". Building or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise. Religious exercise covers a wide range of activities, including operation of homeless shelters.

RLUIPA clearly stops a town government from discrimination based on religion or religious denomination as the TOL has decided not to recognize the VRC and that the jurisdiction not totally or unreasonably restrict religious uses. 101 Stepping Stone Rd is zoned for a church and the TOL other than they do not recognize the VRC as a church will not allow the VRC to build a church on church property. The TOL is placing a "substantial burden on the VRC religious exercise.

The TOL is placing a substantial burden on the VRC religious exercise by barring the use of 101 Stepping Stone Rd property owned free and clear by the VRC for our religious activities and by restricting our use of 101 Stepping Stone rd with significant delays such as the site review meetings continuing then required a ZBA meeting first, the uncertainty of what delay the TOL will come up with next, the expense of constructing or expanding our religious place of worship. All because the selectmen and building department do not want homeless combat veterans in their neighborhoods.

RLUIPA has an equal terms provision that clearly makes it criminal to not treat a religion on equal terms as all others in the town.

RLUIPA defines what constitutes discrimination based on religion. The TOL is stopping the VRC because as stated many times in letters written by the TOL officials and the minutes of ZBA, selectmen, and planning board meetings that

the VRC is not a religion and their for not allowed to assemble or exercise in Lee NH.

Our Constitution First Amendment provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". Then there is the Establishment clause and the Free exercise clause of our constitution. The TOL is violating every law knowingly to stop the VRC The TOL selectmen and town officials have been made aware of the St. Benedicts Center V Town of Richmond NH Superior Court 10/23/09 making only a church get site review approval is ruled by the court as excessive discursion or discrimination. Lee zoning ordinance article V requires only a church get site review approval Sherbert V Verner, 374 U.S. 398 (1963) Prohibition substantially burdened a religious practice and, if it did, whether the burden was justified by a compelling government interest. The TOL has been asked many time but has given no compelling government reason other then they do not recognize the VRC as a religion.

Midrash Sephardi V Town of Surfside the court ruled that the exclusion of houses of worship is discrimination and RULIPA is accepted by the courts

Mintz V Roman Catholic Bishop 424 F Supp 2d 309,321 D Mass 2006 Government cannot stop religious needs as in the case of a single person church.

U.S. Supreme Court's decision in Town of Greece case confirms that government cannot define permissible categories of religious speech as in a single person church

Decatur V Jehovah's witnesses (1954) 233 Ind. 83,91,117 NE 2d 115,119 A church may not be prohibited in a residential district. As in this case churches are zoned for this zone.

U.S. V Maui County, Hawaii, supports the VRC in that Minister Macdonald has been a practicing minister since 1980 and there are 4 other ordained ministers practicing on the VRC property this day. 101 Stepping Stone Rd is used for nothing else but church business.

Albania Associated Fund V Township of Wayne, New jersey states that a town cannot use Frivolous, harassing actions to justify discrimination against a church. The TOL making the VRC go to site review, the constant degrading actions of the building department toward the VRC, refusing to recognize the VRC as a religion and using that to drive us out of Lee NH and many more examples.

Brighton Township, Pennsylvania zoning ordinances cannot be used to discriminate against churches. In this case the TOL does not recognize the VRC as a church so they use zoning to stop us.

Lemon V Kurtzman 91 S. Ct. 2105 (1971) Established the three part test for determining if an action of government violates First Amendment's separation of church and state: The VRC passes this test with flying colors but it became irrelevant when RLUIPA was passed in 2000. The RLUIPA law guarantees that a religion must be recognized by the government. Circuit Court of Ottawa Michigan

The tape recorder broke so a brief intermission while recorders were changed.

Mr. MacDonald continues ruled *"RLUIPA was created precisely to deal with the national epidemic of zoning boards putting arbitrary decision making ahead of the rights of the citizens to worship freely on their own land"*. The TOL is using zoning to prohibit the VRC from existence.

Americans with disabilities Act "Congress intended that the Act Provide a clear and comprehensive nation mandate for the elimination of discrimination against individuals with disabilities and provide a broad coverage". Proven to be true by the history of this case the Lee Selectmen stating Homeless combat veterans because they are drug addicts or alcoholic. To bar homeless disabled U.S. Military Veterans from the TOL goes against everything we believe in as a nation.

Donahue, Tucker & Ciandella law firm put out a RLUIPA paper and that is who the town attorney works for so how can you as a town knowingly violate the law.

San Diego V Academy of our lady of peace. The jury found "The city's denial was not in the furtherance of a compelling government interest, nor was the denial the least restrictive means of satisfying the city's interest" We are zoned for a church the town of Lee has no reason to not allow a church, that is the law. They have no other reason other than to discriminate against us.

Fifth Avenue Presbyterian Church V city of NY Docket No. 02-7073L/12, 2002

Homeless people cannot be evicted from church property as the TOL is doing in this case.

Liberty Temple Full Gospel Church, Inc V Village of Bolingbrook 2012 W, 1230728

N.D. III 4/12/2012 court references World Outreach Conference Center V City of Chicago: If the church believe it is properly zoned or in this property (101 Stepping Stone Rd) zoned for a church denial is discrimination.

Lighthouse Community Church of God "city unable to demonstrate a compelling government interest" The TOL has been asked but has not demonstrated a compelling government interest nor can they

Opulent Life Church V city of Holly Springs, Mississippi (5, Cir, Sept 27, 2012 Church-specific provisions in the ordinance were violation of RLUIPA) Article V singles out churches for site review is discrimination not only by a Mississippi case but by NH Supreme Court case St Benedicts Center V Town of Richmond NH.

Reaching Hearts International, Inc. V Prince Georg's County (4th Cir March 3, 2010)

Intentionally discriminated when the county imposed or implemented a land use regulation in a manner that imposed a substantial burden as in this case the selectmen and other town officials saying they do not recognize our church and using Lee zoning to single out our church to keep us from building or existing in Lee NH.

Peterson V Wilmur Communication Inc 205 F Supp 2d 1014 (ED Wis 2002) The

plaintiff had been a minister for more than three years, worked to put the church's teachings into practice qualifies this religious exercise. Peter has been a

Minister since 1980 and has had an active church since that date ministering to homeless veterans on the streets. In 2012 the ministry was given 11 acres of land for a church with the stipulation in the deed that the property had to be used for helping homeless combat veterans.

The TOL is jerking the VRC around by requiring these useless meeting to waste time and money to prevent the VRC from practicing our religion. The selectmen were advised that the Site Review was discrimination but required the VRC to go so we did. The committee heard the case in Sept then delayed it until Oct when they went into executive session just after opening the meeting. Came out of session to read a letter from Karen Rossi that Lee does not recognize the VRC as a church so we must go in front of the ZBA. To make the case ripe for court we must attend these meeting but so advised the TOL that each meeting would be at a cost to the TOL of 1.15 Million dollars. The Town accepted that agreement when they even though were shown the Meeting were by NH Supreme Court an act of discrimination required the VRC to go to these meetings wasting time and money and having a disastrous effect on the lives of many homeless U.S. Military homeless combat veterans.

There are many more court cases and every one supports the VRC side of the case. WE the VRC is asking this board to overturn Karen Rossi and the Selectmen decision that the VRC is not a church and so state that the TOL recognizes the VRC as a church. The VRC is asking this board to overturn Karen Rossi's decision not to allow the VRC to build single person churches and we are asking this board to tell the selectmen to pay the 3.45 million dollars to the VRC for the acts of discrimination and will acts to harm the VRC. The agreement also states that if this case goes to court there is a 12 Million dollars damage on top of the 3.45 you have agreed to pay already and 1/3 lawyer fee plus expenses so now the total will be in excess of 19 million dollars to the TOL.

Peter MacDonald continues to state that he presented a case to show you that are church has been in existence since 1980. The VRC owns 101 Stepping Stones Rd free and clear the activity on the property has been 100% church activity and the main focus has been to help homeless combat veterans. You can ask Caren Rossi to verify that. She says and everyone else says we agree with what you are doing but you just can't do it there. This is going to happen. Homeless combat veterans deserve a chance and I don't care what town does not want us in it, we are going to be here. We are part of this county. The people may not like us because of what their fear of what we have done and our actions that are built up in our heads that never leave us but we deserve a chance. We fought for this country and wed I like to come back. We may be having a hard time coming back but, the citizens of the United States should not be able to tag us as losers or as harmful people and make us out to be criminals. And exclude us from their towns because they don't want us there. Thank you very much.

Chairman Hutton thanked Mr. MacDonald opened the floor for public comment.

In favor of application.

None.

Opposed

Reverend, Dr. Mary Westfall, 9 Caldwell Lane spoke. She is the pastor of the community church in Durham where she has been for 17 years, before that she was Chaplin at UNH for 10 years, and prior that a pastor in NYC. She went to seminary in California a 4 year program and got her master of Divinity degree there later getting a PHD and been serving in the church since 1988. She continued she can only image that on December 7 or any day, we all care deeply with the plight of veterans. She was a pastor in NY she has worked with many different veterans over the years and it grieves her that our county has been so slow to respond. She has sister in law that works for the VA, she hears terrible stories. Our nation needs to be doing more. This is a national problem. Not something that can be solved without several resources. Having worked in mental health settings in the past, she is very aware that a person with mental health issues is not a lessor of a person. They don't deserve to be treated less than a human being but the do need certain structure, certain treatment and certain treatment to be able to stabilize their lives. She is speaking tonight as a person who is a religious leader in a preconized faith tradition. She appreciates the fact that many people have a personal faith and this may vary from person to person and that should be respected. My understanding of the definition of church both from the IRS and various court cases that have happened prior really involve some definitions that include. She read some definitions from the IRS (in file). She explained that the IRS is now looking into the online degrees. She explained that in some parts of the country there has been a rise in cults. Some of it became very big news. And it has caused a lot in the religious community, it has made them start doing a lot of self-monitoring. And to talk about what it means to be a religious institution what does it mean to be responsibly acting when we have often vulnerable populations that we are tending. In my tradition, I have to go to regular training, typically multiple times a year to work on boundary awareness training, mental health issues a variety of things that help equipped her and therefor her faith community in being able to deal with a variant of people and personal ability in who we are entrusted with as members of our congregation. I am concerned when one individual with a particular faith, not that she has any issues with that faith, then establish a church that is going to be trying to help to help or rehabilitate others. My experience is both with mental

health and the faith community, faith can be a big component with helping people find meaning and homeless in life. But it does not cure a number of mental health issues and brain trauma issues that really need significant treatment. When I was a pastor in NYC, our church very much wanted to be on the front line of dealing with mental ill people. It was post Regan years and decision were made to open up mental health institutes and send the people out on the street and close them down. Our church was at the epi center of dealing with these people. No doubt in my mind, wonderful people, children of God, who deserved to be part of a church and cared for. Our church tried to do that. The reality was, we were in over our head and couldn't do that. We didn't have the proper resources. I was attacked in my office in the church by a mental ill man and almost killed on a summer day in 1989 and the church began to recognize that caring for those with mental illness was something that perhaps was outside of a churches capacity unless they brought in additional resources. There are some churches who hire social workers, therapists, councilors to do that. But I think it is folly for just any religious institution or a group claiming to be a church to endeavor to treat people with a significant mental illness or brain trauma because it's not in the best interest of that vulnerable person. And potentially not in the best interest for those around them. I would beg to differ with some of the definitions of church and I think there are also a number of court cases that also make some very different decisions. She continues to reference the Church of the Sword V Town of Westmorland. Perhaps that has already been looked into. As an abutter and ever more importantly as a religious leader who has worked extensively with people with mental illness I don't think this actually meets the criteria of a church and would speak against the request of having this consider being a church.

Kevin Crawford 100 Stepping Stones Rd. He too presented the IRS requirements and the Church of the Sword v Town of Westmorland. (In file) He stated that one of the things he found interesting was the church has to be regularly recognized. They got denied for many reasons though. He isn't a prejudiced persons but what bothers him the most, is all he constantly hates is what he keeps hearing. "What the town of Lee hates, what the people in this town hate, how we don't want veterans". It's sickening to him. His daughter and son in law serve. He and his wife Jane started "Seats for Soldiers". The issue of bringing veterans in and not doing what they truly need is really bothersome to him. The list of what they need is endless. He is right across the street and he has to deal with so much. He has a recent video of one of the people who lives there, screaming obscenities at him. His wife recently while cleaning the donkeys stall saw a man standing in the driveway in his underwear only peeing. He went over and talked to the guy to try to help and the guy is now completely naked. He feels there is so much involved to be a church and dealing with people that have major issue.

He then continued to state that Peter MacDonald has collected \$130,000 from people over the last few years with donations. He stated that his books will be made public in 2017 and it will show where the money has gone. He's not against the veterans at all but he would like a better program. If it had been a better program he would be over there with his crews helping. It's not about that, He is always trying to figure out a way to fight the system and break rules. We all have rules to go by. We all do. We come before the boards and present our cases. As a builder, I get disappointed every day. But to carry on for years on end. It's not about a church or about the veterans it's about Peter MacDonald. It's sad where it has gone because we all could have helped him, it's sad where it has gone.

Dale Rasmussen 9 Caldwell Lane. Here Mr. MacDonald talk about his proposal is concerning to him. They live next door to the VRC and listening to him talk about these constitutional laws and allowing him to declare himself as a church when clearly he built the house intentionally as a single family home. That was his intention was and it is what we all understood that was going in there. If he is allowed to become a church now based on these cases that he is citing then every one of those little 12 houses he plans to build there, some he has already started, seems like things are going on regardless and if he's allowed to do this and become a church then there is nothing stopping him and saying each one of those 12 little building is going to be an individual church for a person. That is a concern, partly as you move thru the property, if one of those houses that has pull out bed a fire place or whatever the heating plan is, there is no way to get to them. As a medical provider, I would be deeply concerned with the people trapped back there. They need to be able to get medical services. To reiterate this process has been a pretty hostile kind of environment. I realize Mr. MacDonald has faced lots of challenges in his own personal life and with the town whether it's on this property or the other property he owns but the concern that this is just going to escalate and progress is his primary concern. Good luck.

No further public comments, floor closed.

Chairman Hutton commended everyone for behaving themselves tonight, it's good to discuss but still be passionate.

Frank Reinhold asked Caren Rossi on several different occasions Mr. MacDonald made the statement that the property is zoned for a church. Is this a correct or incorrect statement.

Caren Rossi explained that are zoning allows churches in the residential zone on a site approved by the planning board.

Frank Reinhold stated he knows Peter well. He is a 28 years military veteran. He prefers not to distinguish between combat or not. Being that, over the last couple of years he has had the opportunity to listen to some of his presentation in front of the tiny home. On 3 separate occasions where you presented what you were doing and during those presentations it was unequivocal that your plan was to provide housing to the tune of 12 buildings. That you wanted to put them on the property on stepping stones rd. During these presentations that I personally witnessed, never did I get the feeling that there was a religious connotation to that. In fact it was very specific that it was to provide houses and a very specific type of house. You talked about the septic system and several other approaches that you were using. Did I miss understand what you were saying or are you now presenting something different that I am reading in this particular information.

Peter MacDonald stated I have applied to build a single person church on the property and that is what the board needs to decide. The Board has to decide 3 questions. Is the VRC going to be recognized from the town as a church? Is the VRC going to be allowed to build a single person chapel/ church on the property and is the town going to pay the 3.45 million dollars or is the board going to recommend to the BOS to pay or is this going to go to court? Those are the 3 questions...

Frank Reinhold stated thanks but I want you to answer my question.

Peter MacDonald I will answer your question. What I do with the tiny home wherever I am has nothing to do with this meeting. Right now I want to build a single person church where the veteran can go and pray and talk to the God of their choice and try to come back mentally and physically.

Frank Reinhold continued I understand that. I am asking you, when you were in front of the public and I was listening to you, you specifically said you were going to build 12 homes to put on there. Was that your intention?

Peter MacDonald replied yes, I would like to build 12 homes. I do not intend to, that is my goal.

Peter Hoyt stated he was a little confused. He thought were here tonight on Caren's decision and if we are appealing it or not. A church is part of it.

Caren Rossi stated you are here tonight to see if you agree with my decision or you don't.

Don Quigley stated as a new member this is a lot to digest and he's trying to get thru it the best he can. He asked Caren Rossi the original building permit after the purchase of the property. What, what did he get a permit for, how did it read?

Caren Rossi read the permit, (in packet, exhibit E) a single family home on the existing foundation. He first received a foundation certification. Mr. MacDonald also signed a statement acknowledging that the permit was for a single family home. (In file with building permit)

Mr. MacDonald asked to speak to this.

Chairman Hutton stated not at this time.

Craig Williams also stated he is fairly new to this process. He agrees with Peter Hoyt and would like to stick with talking about the appeal. It appears to him that the preponderance of evidence supports Caren's decision. He doesn't see where the veterans support home has been singled out especially in a discriminatory way, we are simply asking him to confirm with the normal zoning regulations for the town of Lee. He thinks Caren was justified in order to get what he wants to do there, he needs a variance. It seems clear. As far as the decision if this is a church or not, based on what I have heard here and the IRS definitions I think there is some question about that. I'd like to stick with the narrow decision and to support Caren's decision.

Chairman Hutton stated judging on what he has heard this evening and looking at the definition of churches, and the IRS and listening to testimony and I am a very good reader, I would agree with Craig's assessment. We do need to keep this clean, it's about whether we support Caren's decision or not. Everything else is going to hinge upon that anyhow. That is our single issue at this time.

Chairman Hutton asked if anyone had any questions for legal counsel.

Chairman Hutton asked Mr. MacDonald if he wished to rebut Mr. Quigley question.

Peter MacDonald stated first of all, we are a registered 501:c 3 with the federal government as a church and as a non-profit. Caren Rossi's decision was that we are not a church so that we are not entitled to build a tiny home or a single person church on the property. That is what we are here to question and it seems like you are all hear to support Caren anyhow and I didn't expect anything different. As far as the preachers decision on what a church is and what a church is not. The law is quite specific under RLUIPA. It's not his board's decision that we

are not a church if we meet the criteria. We meet the criteria for the law to be a church under RLUIPA. I have been a minister since 1980 and we have 5 ministers on the property. The chapel is used every day. I got the building permit for a single person how, unless I wrote that letter, she would not give me the building permit. That is blackmail. To require to do something in order to get a building permit that anyone else would be given free and clear is wrong. She did the same thing on the tiny home that we just put up on the property to bring to another veteran someplace else. She made me sign something saying it would not be used on the property as a tiny home. Governments blackmailing citizens to do something if they want to get government help or permits is wrong. That cannot be allowed to be tolerated. There is a wide range of factors here. As far as the veterans coming on the property and being dangerous. We have services that are available on the property. We have Easter Seals in Portsmouth and we have BASH in Manchester. We have Community Health Services out of Rochester that has volunteered to treat and talk to the PTSD veterans. We have VA job search out of Merrimack NH. We have a lot of different services made available to the veterans on the property. They are not just isolated there. My wife's and my goal was in the beginning to put the church on the property, to put a church on the property for someplace to go for the veterans to go and pray to whoever they believed in or whatever they believed in. That is why I put that story and I the beginning of my history in the Marine Corp. so the Board can understand that God does not conform to your traditional beliefs. God is wherever we found him. I found God along a convoy. I may not believe in the same God as you do. The veterans needed a place of worship on the property. That is why we brought the property so we could use our church to help combat veterans. Any veteran is welcome but our preference is combat. To try to help them both mentally and physically to come back and to give them a start. As Kevin Crawford said, he believes they need services and across from his house is the place for them to get services. Everybody says that they want to help the homeless veteran. But as we have seen tonight from the audience and the Board here that veterans don't count if it's in my neighborhood. You don't want them around you but you all say you want to help veterans. That is was quite clear by Kevin's comments, the preachers' comments and the other guys. That is not what these veterans said when they off to combat for all these people back here in the US. They didn't say we are just fighting for our family, the hell with everyone else. They went out and put their lives on the line and they gave up a chance for a normal life back here when they came back because of the effects of combat on their brain. Not every veteran is effected the same. It depends on what we did over there and what are actions were and how guilty the US population made us feel when we came back. So we should have no obstacles in our mind to prevent us from helping homeless veterans. But everyone wants to come up with an excuse when it's in their town or their neighborhood. Veterans should get priority care. We

deserve no more than anyone else but we deserve no less. We should not be ridiculed or made fun off by people like Kevin Crawford who says he is a veteran lover just not across the street from his house. That is wrong. He said my books show I made a \$133,000 from doing fund raisers. I did a lot of them but I didn't even come close to that. My wife and I have put our life savings and our retirement money into this. A lot of the money that the IRS shows up as donations, comes out of our own pocket. I am not getting rich, I am not doing this for fame or anything. I am a combat veteran that has had a hard time. I was homeless for three years when I came back. I have a history. I know what it's like to be homeless. I have lived the life. I know what it's like to come back to a country that does want us. They think we are all dangerous and they don't want their kids around us. Somehow somebody has to step forward and say maybe we should help the homeless veterans. Set our personal dislikes aside and open our hands up and help them instead of pushing them away. We are not getting rich over this, if anything I am going broke. I don't know if I answer your questions or not. I know what the outcome of the votes going to be because you already expressed your opinions, let's take the vote and go home. Thank you.

Chairman Hutton thanked Mr. MacDonald.

Attorney Somers suggested she make a few comments on the NH Law.

Chairman Hutton agreed.

Attorney Somers continued. I think you have all expressed a pretty good understanding of what you are doing here tonight. Which is simply to determine whether Caren Rossi was correct in her determination that the proposal before you was not a church and when you are making this determination I would recommend that you look at the following factors.

1. The town of Lee doesn't have a definition of church in the zoning ordinance.
2. The NH land use cases really don't shed any light in terms of the land use context what constitutes a church.
3. There are some NH cases and they have been referenced tonight, one is the Church of the Sword v. The town of Westmorland. This case was presented to the Supreme Court having to do with tax exempt status. It is helpful to this Board because it talks about what NH Supreme Court has found to be a church in at least other contexts. One of the things important for this Board to remember is the supreme court specifically found for example, a 501:c;3 status is not a definitive indicator of a church. That is not binding on the Supreme Court.

4. Mr. MacDonald's testimony of RLUIPA is correct, there is a federal law out there providing protection. But for this Board, you need to remember the threshold before this statute can even be talked about is determination that in fact a church is what is being discussed. We have gone full circle in that you need to first and foremost determine if a church is under discussion before the RLUIPA statute has any applicability or relevance. Just bare these factors in mind.

Chairman Hutton commented and reference where are not there yet.

Attorney Somers explained further yes my reference is that RLUIPA only becomes relevant if in fact he's determined to be a church, which is why we are here tonight.

Frank Reinhold stated for his own edification, does the state of NH or the legal system for the state have an accepted or agreed upon definition of a church?

Attorney Somers replied that there is no case law that she is aware of in a land use context. However, there are a couple of cases, Church of the Sword case that we talked about, does talk about and gives indicators as to what the supreme court thinks is a church. It is more that they say what they don't think a church is and there is another case that is interesting. They talk about the fact that most of the times when any sort of a church issues arises, there is really no question, and there isn't a grey area if it's a church or not. What they said was that there are not necessarily orthodox churches. What they said was just because you call something a church, doesn't make it so. Or doesn't necessarily make it so and simply doing things of a charitable nature or might have beneficial impact to the community doesn't make you a church. As well as the status of a 501: C-3 under NH Law doesn't make you a church. They have given us some hints, clues as to what they determine is a church but they do it in negative fashion.

Frank Reinhold stated that is good, I run 3 501: C 3 and I'm not a church.

Chairman Hutton asked if everyone is comfortable with what we have heard and if so, he would entertain a motion.

Frank Reinhold motioned to support the Planning and Zoning Administrators decision and we uphold the decision.

Craig Williams second.

Vote: majority, motion carried.

Chairman Hutton explained the 30-day appeal process.

MINUTES TRANSCRIBED BY:

Caren Rossi, Planning & Zoning Administrator

MINUTES APPROVED BY:

John Hutton, Acting Chairman

Don Quigley, Alternate

Peter Hoyt, Alternate

Frank Reinhold, Alternate

Craig Williams, Alternate
