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6 **Stratham Zoning Board of Adjustment**
7 **Meeting Minutes**
8 **August 26, 2014**
9 **Municipal Center, Selectmen's Meeting Room**
10 **10 Bunker Hill Avenue**
11 **Time: 7:00 PM**
12

13
14 **Members Present:** **Arol Charbonneau, Chairman**
15 **Jim Elliott, Secretary**
16 **Chris Brett, Full Time Member**
17 **Garrett Dolan, Full Time Member**
18 **Timothy Copeland, Alternate/Board of Selectman Representative**
19 **Chris Cavarretta, Full Time Member**
20 **Phil Caparso, Alternate**
21

22 **Members Absent:** **Deidre Lawrence, Alternate**
23

24 **Staff Present:** **Lincoln Daley, Town Planner**
25 **Audrey Cline, Building Inspector/Code Enforcement Officer**
26

27
28 **1. Call to Order/Roll Call.**

29 The Chairman took roll call and explained the proceedings. At the request of the
30 applicants, the Board heard the cases out of the proposed order.
31

32 **2. Public Hearing(s).**

- 33 a. **Case #608: Timothy & Cheryl Phoenix, 15 Patriots Road, Tax Map 16, Lot 20**
34 **within the Residential/Agricultural Zoning District.** Special Exception requested
35 pursuant to Article V. Supplementary Regulations, Section 5.4. Accessory Apartments of
36 the Stratham Zoning Ordinance to construct an accessory apartment within an existing
37 single family residence.
38

39 Motion made by Mr. Copeland to accept the application as complete and as submitted.
40 Motion seconded by Mr. Elliott. Motion passed unanimously.
41

42 Kevin Baum with Hoefle, Phoenix, Gromley & Roberts, P.A. introduced himself as
43 representing Timothy & Cheryl Phoenix. Mr. Baum explained to the Board that the
44 applicants are seeking a special exception for an existing accessory apartment which they
45 believe was there when the residence was constructed in 1996 but certainly in existence
46 when the applicants purchased the residence in 2004. The apartment was previously

1 utilized by the applicant's mother whom has moved out and now the applicant's daughter
2 would like to now utilize the apartment with some modifications. When the applicants
3 applied for a building permit, it was discovered that the accessory apartment had never
4 been permitted by the Town.
5

6 Mr. Baum referred to exhibit 4, sheet A-1 as being the existing layout showing a closet
7 removed/bonus room which is no longer a bedroom, making that area an
8 exercise/entertainment room, moving the fourth bedroom into the basement area of the
9 home, thus not changing the number of bedrooms in the residence. Mr. Baum then
10 referred to exhibit 7 as showing the proposed layout. Mr. Baum stated that the bathroom
11 and kitchen were included when the apartment was constructed, they are proposing
12 expanding the bathroom and adding a closet to the bedroom. He further stated there will
13 be no changes to the number of bedrooms in the residence or changes to the exterior.
14

15 Mr. Charbonneau asked if the closet will be removed or has been removed. Mr. Baum
16 stated it had been removed approximately 2 years ago.
17

18 Mr. Phoenix addressed the Board and corrected the statement made by Mr. Baum that the
19 apartment was constructed as part of the original construction of the residence. Mr.
20 Phoenix believes the apartment was constructed when the previous owners installed a
21 pool. He also informed the Board that the closet in the bedroom over the garage was
22 removed to increase the size of the closet for the adjoining bedroom, thus giving his
23 daughter a mini-suite. Mr. Phoenix stated they have a four bedroom septic system and
24 they are not proposing any increase to the number of bedrooms.
25

26 Mr. Baum read through the criteria for Accessory Apartments per Section 5.4 and stated
27 that they have met all the required criteria. Mr. Baum then read through the requirements
28 for a Special Exception per Section 17.8.2 and stated they have met all of the standards.
29

30 Mr. Charbonneau requested a legible copy of the plan showing a four bedroom septic
31 design, Mr. Phoenix stated the plan in the town file is legible and includes the approval
32 from the State of NH. Mr. Charbonneau stated that per the Building Inspector, the
33 applicants will need a retroactive building permit to address any issues with regard to the
34 required egress/access. Mr. Phoenix stated that Ms. Cline had advised him of that
35 already.
36

37 Mr. Elliott asked Mr. Daley if kitchens are considered with regard to septic loading. Mr.
38 Daley stated it was his understanding that septic systems are designed on the number of
39 bedrooms alone however the Town of Stratham has design standards that are more
40 stringent than the State requirements.
41

42 Marilyn Bean, 15 Thornhill Road, addressed the Board and asked if the number of
43 occupants in the apartment changes the septic requirements. The Board replied that the
44 number of occupants does not as a septic is designed on the number of bedrooms in the
45 residence.
46

1 Mr. Elliott made a motion to close the public meeting. Motion seconded by Mr. Brett.
2 Motion carried unanimously.
3

4 The Board read through the standards required for Accessory Apartments per section
5 5.4.3. The Board agreed that:
6

- 7 a) The dwelling housing the accessory apartment will be owner occupied.
- 8 b) The property conforms to the required dimensional requirements and there is no
9 proposed expansion to the existing building.
- 10 c) The dwelling is not a mobile home, condominium or located within a cluster
11 development.
- 12 d) The appearance of the exterior will not change.
- 13 e) The size of the accessory apartment is proposed as 882 sq. ft. which is
14 significantly less than 1/3 of the living area of the existing dwelling.
- 15 f) There is to be no more than 3 people residing within the accessory apartment.
- 16 g) There is adequate off street parking available as shown on exhibit A.
- 17 h) The dwelling will not be converted into a condominium.
- 18 i) Evidence has been supplied showing that the septic system is adequate. Proof of
19 potable water shall be provided. A floor plan has been provided. A sketch plan
20 of the lot showing structures and parking has been provided.
- 21 j) The accessory apartment has also met the standards and conditions for a special
22 exception as per Section 17.8.2:
 - 23 a) Standards have been met for the particular use permitted by special
24 exception.
 - 25 b) No hazard to the public or adjacent property.
 - 26 c) No detriment to property values or change to the essential characteristics
27 of a residential neighborhood.
 - 28 d) There shall be no creation of a traffic safety hazard or increase in the level
29 of traffic.
 - 30 e) No excessive demand on municipal services is proposed.
 - 31 f) There is no significant increase in storm water runoff.
32

33 Mr. Elliott made a motion to approve the Special Exception with the condition that the
34 applicant provide proof of adequate potable water. Mr. Brett seconded the motion.
35 Motion passed unanimously.
36

37 Mr. Charbonneau made the applicant aware that there is a 30 day appeal period and
38 anything the applicant does within that 30 day period is at their own risk.
39

40 Mr. Elliott made a motion to close case #608. Mr. Copeland seconded the motion. Motion
41 passed unanimously.
42

- 43 b. **Case #605, #606 & #607: Peter W. Grey, 20 Squamscott Road, Map 21, Lot 8 within**
44 **the Residential/Agricultural Zoning District.** Special Exception requested from
45 Sections 5.13 Home Occupations and 3.6 Table of Uses of the Stratham Zoning
46 Ordinance to operate a home occupation that includes the restoration, service, and sales

1 of musical instruments, furniture, and household items, and interior design/decorating
2 and consulting services. Variance requested from Section 5.13.2a Home Occupations to
3 allow more than 25% of the total floor area of finished floor space of the dwelling, to be
4 used for a Home Occupation. Variance requested from Section 5.13.2k Home
5 Occupations for increased signage above the currently permitted 4 square feet.

6 Mr. Elliott read the definition of a Home Occupation as outlined in the Stratham
7 Ordinance 2.1.33 and Exemptions from the Special Exception application requirements
8 as per 5.13.4. Mr. Elliott read the Notice of Decision for Case #568 which was a prior
9 special exception and home occupation permit which was granted by the ZBA with
10 conditions.

11 Peter Grey addressed the Board stating the property was previously a kennel and a beauty
12 shop. Mr. Grey referred to the brief history of the property which was supplied as part of
13 his application. Mr. Grey stated that the business takes place in the accessory building
14 and the barn, not in the residence. Mr. Grey stated that the 25% requirement is
15 unrealistic for his property. He stated that the property was designed and built for
16 business. Mr. Grey indicated that even if he was not using the barn, and just using the
17 accessory building, that would put them over the allowed 25%. Mr. Grey indicated that
18 the house is 3700 sq. ft. including the garage and the accessory building is 1112 sq. ft.
19 Mr. Grey stated that it is unrealistic to only use 600 sq. ft. of the accessory building. Mr.
20 Grey stated that the accessory building is out back and many people do not even know it
21 is on the property.

22 Mr. Grey stated that they are requesting full use of the accessory building and entire first
23 floor of the barn they built in 2012. Mr. Grey stated that his business consists of sales of
24 used and or refurbished household items such as furniture musical instruments and other
25 household accessories, repair and or restoration of household items such as furniture,
26 musical instruments and other household accessories and pick-up and delivery of such
27 items. Mr. Grey stated that they have been operating the business since they bought the
28 property in 2003 and he feels there has been no adverse impact on the surrounding area.
29 Mr. Grey referred to the site plan and stated they can easily accommodate ten to twelve
30 cars. Mr. Grey stated that in speaking with Lauren Ferguson, the daughter of the
31 previous owners of the property, it was not uncommon to have twenty to thirty cars lined
32 up on the road on a Sunday afternoon when people would collect their dogs. Mr. Grey
33 indicated that at one time there were three buildings on the property which has since been
34 reduced to the one they currently have. Mr. Grey indicated that he feels his impact on the
35 property is far less than what was previously there.

36 Mr. Grey stated that there was some misunderstanding or misinterpretation at the
37 previous ZBA meeting (case #568) as to what exactly his business is. It was thought that
38 his business was limited to pianos. That is not the case and he felt he had made that
39 reasonably clear that the business included other household items. Mr. Grey referred to a
40 letter he received from Terry Barnes, the previous Code Enforcement Officer, stating that
41 the Grey's were running two businesses on the property when they were approved for
42 one. In the letter, Mr. Barnes indicated there was an increase in traffic on Squamscott
43 Road, to which Mr. Grey feels is not the case. Mr. Grey stated that when they do have a
44 weekend sale, once a month, they place a sign at the end of the driveway directing people
45 into the parking area to eliminate parking on the road.

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Dominique Grey spoke to the Board. Mrs. Grey stated that they have a reputation to uphold and they are very conscientious of the land and the community. Mrs. Grey stated that since she homeschooled her children, it was necessary for her to limit her work outside her home. She further stated that having the business allowed her to still be available for her children while making a living. Mrs. Grey indicated that they chose to have just one weekend a month for sales to limit the traffic.

Mr. Grey stated that they respect the residential character of the town and have tried to make the property very attractive while keeping a residential appearance.

Mr. Grey stated they simply want full use of the accessory building, and the barn. He further stated that he doesn't want people telling him what he can and cannot put in his garage either.

Mr. Charbonneau spoke to Mr. Grey to clarify that the Special Exception request is to include Mrs. Grey's business in the home occupation which was not included in the original decision (#568). Should that be approved, it would be subject to the 25% and the one sign.

Mr. Daley spoke and stated that the original application which was approved by the ZBA only spoke to the 'Piano Doctor' and the reconditioning of instruments. It made no mention to any reconditioning of furniture or other services. Mrs. Grey's business was referred to as a hobby and nothing more.

Mr. Brett asked if the barn in existence when the initial home occupation was approved. Mrs. Grey replied the barn is two years old. Mr. Grey then stated that when he spoke with Mr. Barnes in 2012 to get a permit for the barn, Mr. Barnes told him he needed to obtain a special exception for the business which he had been operating since 2003, because ordinances had changed in 2010. Mr. Grey stated that they applied for the special exception and the barn together. Mr. Daley stated that square footage allowed in the previous approval (#568) was based on the existing home. The applicants decided to put the home occupation within the accessory structure, the barn, which is allowed. The Board also allowed additional storage space in the garage as part of their original approval.

Mr. Charbonneau asked about the accessory building out back and Mr. Daley stated that building was not included in the original approval. Mr. Grey stated that he recalls being asked to agree to 700 sq. ft. of usage of the back building, which has proven to be unrealistic.

Mr. Charbonneau asked what operation is taking place in the back accessory building to which Mr. and Mrs. Grey both replied that all the reconditioning takes place in that building. Mr. Charbonneau asked for the square footage of the back accessory building. Mr. Grey stated 1112 sq. ft. for the accessory building and 864 sq. ft. for the barn.

Mr. Charbonneau asked if the barn is 2 floors, Mr. Grey replied it is 1 ½ so if the ½ floor was included it would total 1368 sq ft.

Audrey Cline, Code Enforcement Officer/Building Inspector addressed the Board and referred to the original notice of decision, pointing out that the applicant was permitted to

1 use 704 sq. ft. of the accessory building and may use up to 600 sq. ft. for storage in either
2 the garage or the barn.

3
4 Mr. Charbonneau asked Mr. Grey if his business was restoring pianos and instruments
5 and Mrs. Grey's business is restoring furniture. Mr. Grey replied no, *they* restore pianos,
6 instruments, furniture and household items. Mr. Grey stated that a proposed ban on ivory
7 sales in the U.S. could have a large impact on his business, thus necessitating the need for
8 their business to diversify. Mr. Copeland indicated that he was aware of the proposal and
9 he believed that any item pre-dating 100 years would be grandfathered. Mr. Grey
10 acknowledged that fact.

11
12 Mr. Cavaretta asked Mr. Grey what type of chemicals are used in the restoration of
13 furniture. Mr. Grey replied they use acetone and occasionally lacquer thinner,
14 approximately 4 or 5 gallons per year. Mr. Cavaretta asked if the chemical use would
15 increase if the application was granted, Mr. Grey replied no.

16
17 Mr. Cavaretta referred to a letter written by Mr. Grey dated July 1, 2014, to which Mr.
18 Grey states he is slowing traffic down on Squamscott Road as opposed to speeding it up.
19 Mr. Grey stated that during their weekend events, there is a sign out, people see it and
20 slow down. Mr. Cavaretta asked if it was a fair statement that traffic slows down because
21 there is more traffic, Mr. Grey replied no he does not agree with that. Mr. Grey stated
22 their events are Friday, Saturday and Sunday. Mr. Cavaretta asked what time Friday do
23 the events start, Mr. Grey replied 10am through 5pm, occasionally 6pm. Mr. Cavaretta
24 asked if it was fair to say the event impacts traffic during rush hour on Friday. Mr. Grey
25 replied that they are closing up at rush hour and by the time they start in the morning the
26 morning rush has passed. Mrs. Grey stated she starts at 11am on Friday, 9am on
27 Saturday.

28
29 Mr. Cavaretta noted the letters of support supplied by the applicants and asked if they
30 had letters from any abutting neighbors. Mr. Grey indicated they did not have letters
31 from abutting neighbors.

32
33 Mr. Copeland referred to the minutes from the March 12, 2012 ZBA meeting for case
34 #568 where the Board members discussed whether the barn be included as part of the
35 application. In the minutes, the Chairman expressed to the Board they should deal with
36 the home occupation element and not the barn. In the minutes, Mr. Scamman requested
37 that a condition be added that when the barn is built, the business related items being
38 stored in the 23' x 26' garage be moved into the barn but not exceed the storage space
39 that they were using in the garage. Mr. Barnes stated he would be satisfied with that
40 condition and reminded everyone that the barn could not be rented out.

41
42 Mr. Grey questioned the minutes as being misprinted as he did not recall any discussion
43 of the barn rented out. Mr. Copeland stated that he was reading directly from the minutes
44 of the previous meeting and they were not misprinted.

1 Mr. Copeland asked if there were any changes that would now use the garage space as
2 well as the barn space since the original approval did not include the garage space. Mrs.
3 Grey replied that she would just like the freedom to put something in her garage until she
4 figures out what to do with it. Mr. Copeland stated that he is trying to ascertain whether
5 there is a violation now based on the previous approval, which he feels there is.
6

7 Marilyn Bean, 15 Thornhill Road, introduced herself as a customer and stated she feels
8 they Grey's have a wonderful business and no adverse impact on the neighborhood.
9

10 Mr. Grey read aloud an email from a supporter of their business. Mr. Grey stated that he
11 feels there are two properties in Stratham that are currently available, in which he could
12 do what he does. Mr. Grey indicated those properties are literally rotting away because
13 he feels no one wants to buy them because the home occupation allowances are not
14 realistic and very prohibitive.
15

16 Mr. Cavaretta asked Mr. Grey if the scope of his services was misinterpreted since his
17 home occupation was approved or has it expanded since then and how the square footage
18 defined in the conditions of the previously granted home occupation is no longer
19 adequate. Mr. Grey replied that they cannot realistically operate within the boundaries
20 outlined in Stratham and equated it to someone being allowed to only use a portion of
21 their bathroom.
22

23 Mr. Charbonneau asked Mr. Grey if they are currently using the entire back building
24 (1112 sq.ft.). Mr. Grey replied yes, over the years the building has been used for crafts,
25 schoolwork, art and things like that nature which no longer take place. Mr. Charbonneau
26 asked what is in the barn. Mr. Grey replied furniture, pianos and finished products. Mr.
27 Charbonneau asked the square footage of the barn, Mr. Grey stated it is 1368 sq. ft.,
28 including the upper level but that they are not asking to use that area, just the 864 sq. ft.
29 of the lower level. Mr. Charbonneau stated that the applicants are asking to use
30 approximately 2000 sq. ft. to which Mr. Grey replied yes.
31

32 Mr. Copeland stated that when the last special exception was granted, Mr. Grey was
33 asked if he had any plans to expand his business. Mr. Grey stated at that time, no. Mr.
34 Grey said he does not consider it an expansion, he prefers the term diversification. Mr.
35 Copeland stated that the applicants were approved to use 704 sq. ft. plus 600 sq. ft. in
36 either the barn or garage.
37

38 Mr. Copeland made a motion to close the public meeting. Motion seconded by Mr.
39 Elliott. Motion carried unanimously.
40

41 The Board read through the standards required Home Occupations per section 5.13.2
42

43 Mr. Copeland questioned if by allowing the special exception, is the Board therefore
44 agreeing to the fact that the applicants are using 2000 sq. ft. instead of the 1400 sq. ft.
45 they were approved for. Ms. Cline stated the special exception should be conditional on

1 the applicants using less than the allowed 25% and if they chose to accept that they would
2 need to cut back their business to be in compliance. The Board agreed that:

- 3 a) The home occupation shall utilize an area less than 25% of the total floor area.
- 4 b) The home occupation shall not impair the residential character of the premises
5 and/or reasonable use, enjoyment and value of other residential property in the
6 neighborhood. Such business shall not be injurious, noxious or offensive by
7 reason of emission of odor, fumes, dust, smoke vibration and noise.

8 A member of the audience asked the Board if the use of chemicals on the site would
9 provide a hazard. Ms. Cline replied that any chemical use on the property would be
10 addressed in the building codes. A small home business would not have an impact. As
11 the business grows into a larger square footage or commercial business, it would be
12 addressed under commercial codes. Ms. Cline stated that if a business is larger than the
13 allowed square footage of a home occupation then it would fall under commercial codes.
14 Mr. Cavaretta asked if the Greys would be subject to commercial codes if they are using
15 1400 sq. ft. Ms. Cline stated yes.

- 16 c) The home occupation is operated by the owner of the principle building who
17 does reside in the principle single family residence.
- 18 d) The granting of a special exception shall authorize the identified use and shall
19 expire if the authorized use ceases for more than 12 months and a new
20 application shall be required for reinstatement.
- 21 e) There shall be no more than 2 persons outside the immediate family employed.
- 22 f) Storage in an accessory building or exterior storage may be permitted as a
23 condition of the special exception and may require additional screening as
24 deemed appropriate by the code enforcement officer.
- 25 g) Accessory finished goods may be provided for sale if they are sold and stored
26 in the allowed home occupation space only.

27
28 Mr. Daley spoke and clarified that any outside storage of materials and/or products are
29 included in the overall square footage allowance. If the applicants choose to display their
30 wares for a weekend event, that outside display area is included in the overall square
31 footage allowance. The Board agreed that if a certain amount of square footage is
32 allocated for outside display than is should be subtracted from storage area. Mr. Daley
33 suggested the Board allow some flexibility to the applicant to allocate the square footage
34 as they see fit. Mr. Daley suggested to have the applicant submit a plan, outlining the
35 outdoor area to be used for display. The Board agreed that they would defer to the
36 applicant to allocate the allowed 1300 sq.ft. within the building and external display. The
37 Board asked the applicant's how much square footage outside they wish to allocate. Mr.
38 Grey stated 20'x40' is an accurate figure (800 sq. ft.).

39
40 Mr. Copeland asked Mr. Grey how much of the 1304 sq. ft. does he want to allocate for
41 outside display area. Mr. Grey stated he would like flexibility to move it around. There
42 was then a discussion between the Board and Mrs. Grey to clarify that the 1304 sq. ft. is
43 all the space they can utilize at one time. Mr. Elliott asked Mrs. Grey if the barn is for
44 finished product and the back building is used for materials/chemicals and tools. Mrs.
45 Grey answered yes. Ms. Cline stated that the allocation needs to be on a permanent basis.
46 Mr. Grey stated that without addressing the variance he cannot answer. Mr. Daley

1 referred to the blackboard and explained to Mr. Grey that the square footage that Mr.
2 Grey marked for outside display would be part of the 1304 sq. ft. which would take away
3 from the approved 700 sq. ft. and the 600 sq.ft. The applicants indicated they understood
4 but did not agree that should be the case since they are utilizing that space only once per
5 month. Mr. Daley explained that the display of finished goods is part of the home
6 occupation whether it is temporary, once per month or 3 days per week, it doesn't matter.
7 The Board and the applicants agreed the only way to move forward was to agree to no
8 outside storage and address it in the variance. Mr. Daley further clarified for the
9 applicants that if the variances are denied they will not have any opportunity to store their
10 wares outside. Mr. Grey stated he understood.

- 11 h) The home occupation shall not require regular or frequent service of heavy
12 commercial vehicles greater than 26,000 pound gross vehicle weight.
- 13 i) Sufficient off street parking is provided for employees and clients.
- 14 j) The business is not subject to any covenants of conditions contained in the
15 deed to the property.
- 16 k) Not more than one sign or other advertising device is to be displayed on the
17 property and shall be no larger than 4 square feet.

18 Mr. Cavaretta asked if parking signs would be considered a sign. Mr. Daley stated that
19 directional/parking signs are ok, however off site signs such as the A-frame signs placed
20 on Route 33 are not allowed in the zoning ordinance.

21
22 The Board read through the standards required for Special Exceptions per section 17.8.2
23 and agreed that:

- 24 i. Standards provided by this ordinance for the particular use permitted by
25 special exception with the stipulation regarding outside storage.
- 26 ii. There is no hazard to the public or adjacent property on account of potential
27 fire, explosion or release of toxic materials.
- 28 iii. No detriment to property values in the vicinity or change in the essential
29 characteristics of a residential neighborhood.
- 30 iv. No creation of a traffic safety hazard or substantial increase in the level of
31 traffic congestion.

32 A member of the audience addressed the board and asked if a traffic study would be
33 feasible to determine if there is a significant increase in traffic. Mr. Daley spoke and
34 asked the applicants to clarify for the board that parking is not on the street. Mr. Grey
35 stated that on the rare occasion someone does park on the street, they are asked to move
36 onto the property. Mr. Grey stated that on Fridays they do not open until after rush hour
37 and close at 6pm. Mr. Grey stated he does not feel they have increased the traffic at all.
38 He did agree that speeding tends to be an issue on Squamscott Road and in the winter
39 there is less of a line of sight due to snowbanks. Ms. Cline stated that the Board may
40 wish to place planning board review as a condition of approval. Mr. Daley suggested the
41 highway agent may be a good place to start.

- 42 v. No excessive demand on municipal services.
- 43 vi. No significant increase in storm water runoff

44
45 Mr. Elliott made a motion to approve the Special Exception with the following
46 conditions:

- 1 • There be an allocation of 1304 sq. ft. based on previously approved case #568,
2 dated March 7, 2012, and the conditions set forth in that approval be incorporated
3 into case #607.
- 4 • There be no on street parking.
- 5 • There be no outside display area.
- 6 • The site be reviewed by the Highway Agent for acceptable sight distances.

7
8 Mr. Cavaretta seconded the motion. Motion passed unanimously.

9
10 Mr. Charbonneau asked if the applicant for case #609 & #610 would prefer to continue to
11 the next meeting on September 9, 2014 due to the late hour and the fact that they still
12 need to discuss 2 variance applications. Mr. Baum, attorney representing Kevin Roy,
13 agreed to the continuance.

14
15 Mr. Copeland made a motion to close case #607. Motion seconded by Mr. Elliott.
16 Motion passed unanimously.

17
18 Mr. Elliott made a motion to continue case #609 & #610 to September 9, 2014. Motion
19 seconded by Mr. Brett. Motion passed unanimously.

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21 Mr. Charbonneau made the applicant aware that there is a 30 day appeal period and
22 anything the applicant does within that 30 day period is at their own risk.

23
24 Mr. Charbonneau stated case #606 is a variance request for signage above the allowed 4
25 square feet.

26
27 Mr. Grey addressed the board and stated he is requesting up to 8 square feet of signage.
28 Mr. Grey explained his sign consists of one sign with 1, 2 or 3 hanging signs below it. If
29 all signs are hung, it is 8 square feet. Mr. Grey stated that they put out an 'open' flag as
30 well. Mr. Grey referred to the addendum to his application and stated he is looking to
31 retain the size of the existing sign. Mr. Grey stated that when he purchased the property
32 there was a much larger sign on a tree which he used until it was destroyed, at which time
33 he replaced it with a smaller one and moved it to a different tree. Mr. Grey stated that the
34 overall design and character would remain the same.

35
36 Mr. Daley read from the Zoning Ordinance section 7.5.i: Directional signs that do not
37 exceed 4 square feet and bear no advertising are exempt. Mr. Daley stated that 'open'
38 signs/flags are also exempt, so long as the size is within reason. Mr. Grey stated that he
39 would like to be allowed to put a sign at either end of Squamscott Road, similar to
40 agricultural businesses, which are exempt. Mr. Cavaretta asked Mr. Grey where he
41 intended on putting the signs. Mr. Grey replied he has a client on the College Road end
42 of Squamscott who will allow him to put a sign on his property and he has yet to explore
43 the Portsmouth Avenue end options. Ms. Cline asked if these additional signs are part of
44 the variance. Mr. Cavaretta stated these additional signs would need to be part of the 8
45 square feet. Mr. Grey stated the signs would be temporary, removed each day and would
46 never remain overnight. Mr. Daley stated it is likened to a 'yard sale' sign and would be

1 allowed as such only 3 times a year. Mr. Daley further stated that historically, off site
2 signs are prohibited. Mrs. Grey asked Mr. Daley how the 'Pizza Night' sign handled for
3 the Barker Farm. Mr. Daley stated he was unaware of that. Mr. Brett stated the sign is
4 on the Barker property.
5

6 Mr. Charbonneau asked the applicants if they are also requesting a placard to name the
7 barn. Mrs. Grey stated yes. Mr. Copeland informed the applicants that a placard on the
8 barn would be included in the total square footage of the signage. If the business is going
9 to be called 'the yellow barn' and a sign is placed on the barn that says 'the yellow barn'
10 they are inclusive and are one in the same. Ms. Cline suggested that an exempt
11 residential sign on the barn would be allowed if it is identifying the property. Mr. Daley
12 stated it is typically an address. Mr. Charbonneau asked Mr. Grey what the square
13 footage is for the sign on the barn. Mr. Grey replied possibly 40 square feet but that he
14 had not plotted out what size.
15

16 Mr. Copeland asked if they applicants are registered with the state of NH as 'The Piano
17 Doctor, LLC'. Mrs. Grey replied yes. Mrs. Grey further stated that when their website
18 was created, they used 'the yellow barn' name because all other domain names had been
19 taken and the only reason they have not changed it is there was a lot of paperwork
20 involved. Mr. Daley stated that any reference to the name of the company on the barn
21 placard needs to be included in the square footage. Mr. Daley stated that the sign
22 ordinance is very clear that one free standing sign 4 square feet is allowed for a home
23 occupation. Mrs. Grey asked about the Oxland Builders window sign on Route 33, and a
24 discussion followed as to whether that was allowed or not and that would need to be
25 addressed by the Code Enforcement Officer. It was agreed that the application is
26 requesting up to 8 square feet of signage and any wall sign would need to be addressed
27 separately at a later date.
28

29 Mr. Daley asked the applicants what each interchangeable sign said on it. Mr. Grey
30 replied the sign reads 'the piano doctor', 'upscale furniture and pianos',
31 'www.yellowbarninteriors', 'open' and they get progressively smaller. Mr. Copeland
32 asked for the actual dimensions of the signs. Mr. Grey stated if all the signs are out, it
33 totals 8 square feet. Mr. Cavaretta asked Mr. Grey if he was going to change the wording
34 on the sign. Mr. Grey replied that whether or not he changes the signs depends on the
35 outcome of tonight's discussion. Mr. Cavaretta asked if the sign could be redesigned to
36 encompass all of the information on one sign. Mrs. Grey indicated the cost of a new sign
37 is a concern, they are 1 business, not 2.
38

39 Mr. Elliott asked what impact, if any, would have on the business if they were required to
40 have a 4 square foot sign. Both Mr. & Mrs. Grey agreed that it would be less visible.
41 Mr. Copeland asked if the majority of their business is by word of mouth, Mrs. Grey
42 replied yes however signage is important for their phone number and credibility.
43

44 Mr. Daley addressed the Board and applicants and stated the 4 square footage limit is set
45 for home occupations to minimize the impact on a residential area. A home occupation is
46 not a commercial operation or retail operation. Mrs. Grey stated she would like the

1 freedom to make the sign a little bigger for more visibility. Mr. Copeland stated that if
2 the intent is to build a business on the property then it should be in a commercial zone.
3 Mrs. Grey stated the previous signs on the property have always been larger. Mr.
4 Copeland stated the previous signs would have been under previous regulations which
5 have changed.
6

7 Mr. Elliott stated he feels the intent is to build a commercial enterprise on a residential
8 property rather than a home occupied business. Mrs. Grey replied she does not have the
9 energy to do that. Mr. Grey replied that being open 2 ½ days per month could not be
10 considered a commercial enterprise. Mr. Elliott stated clearly the intent of a larger sign is
11 to build business. Mr. Copeland stated the applicants currently exceed the sign limits.
12 Mr. Grey stated he just wants to be allowed to keep doing what he's been doing.
13

14 Mr. Copeland asked if all business is conducted as 'The Piano Doctor'. Mr. Grey replied
15 yes. Mr. Copeland asked why not keep 'the piano doctor' sign up and be done, no
16 variance needed. Mr. Grey replied that he wants more to include all aspects of the
17 business.
18

19 Mr. Elliott made a motion to close the public meeting. Motion seconded by Mr.
20 Cavaretta. Motion carried unanimously.
21

22 The Board read through the criteria for Variances per section 17.8.3 and agreed that:

- 23 i. The variance would be contrary to public interest due to the fact that the applicant
24 could be in compliance if he were to utilize just 'The Piano Doctor' sign. 4:1
- 25 ii. The spirit of the ordinance is not observed. 5:0
- 26 iii. Substantial justice is done. The sign does not have to be replaced, just not hang
27 additional signs. 5:0
- 28 iv. The values of surrounding properties are not diminished. 5:0
- 29 v. There is no unnecessary hardship. 5:0
30

31 Mr. Charbonneau stated 'no' on the sign, 4 square feet.
32

33 Mr. Copeland made a motion to deny the variance and to close case #606. Motion
34 seconded by Mr. Cavaretta. Motion passed unanimously.
35

36 Mr. Charbonneau opened case #605. Mr. Grey stated he would like 1112 square feet for
37 the building in back, 864 square feet for the barn, and 300-400 square feet for display out
38 front on a temporary basis.
39

40 Mr. Brett asked for clarification on where the square footage is located, Mr. Charbonneau
41 asked the applicants to clarify 1976 square feet for the buildings and 300-400 square feet
42 for display. Mr. Charbonneau stated that without the garage, the request is for 2376
43 square feet and an additional 400 square feet of outside display area. The applicants
44 indicated that is correct.
45

1 Mr. Charbonneau asked how far the back building is from the road, Mr. Grey replied
2 approximately 200 feet. Mr. Grey indicated that 28 days per month the barn is used as
3 storage for finished product. Mr. Elliott asked if it was possible to have the product
4 stored in another location. The applicants stated yes, if they wanted to increase their
5 overhead dramatically. Mr. Grey stated the risk of damage during transport is an issue as
6 well and the barn is used as display area as well.
7

8 Ms. Cline addressed the Board and clarified the definition of a home occupation.
9

10 Mr. Daley asked the applicants if the property listed on their website as 200 Lafayette
11 Road in North Hampton is their facility and do they store items there. Mr. Grey stated it
12 is for storage and sales. The Board asked why are the applicants asking for a variance on
13 a rule to allow the operation of a storage and showroom facility on a residential property
14 when they already have a storage facility in a neighboring town. Mr. Grey indicated it
15 was a pain and a hardship to register their business in North Hampton.
16

17 Mr. Copeland stated that by the applicants own admission, they are in violation of the
18 special exception which was granted 2 years ago. Mr. Copeland stated he feels they are
19 running a commercial enterprise in a residential zone. Mr. Grey asked if Mr. Copeland
20 would say the same thing to Kevin Roy. Mr. Copeland replied he is not going to get into
21 Kevin Roy at this time. Ms. Cline stated that a home occupation is defined by the size,
22 not the hours of operation. Mr. Daley stated that the Kevin Roy property was a
23 previously existing non-conforming lot and a different situation all together.
24

25 Mr. Elliott made a motion to close the public meeting. Motion seconded by Mr.
26 Cavaretta. Motion carried unanimously.
27

28 The Board read through the criteria for Variances per section 17.8.3 and agreed that:

- 29 i. The variance would be contrary to public interest due to the fact that the square
30 footage is almost 4 times more than allowed. 5:0
- 31 ii. The spirit of the ordinance is not observed. 5:0
- 32 iii. Substantial justice would be done by not granting the variance. 5:0
- 33 iv. The values of surrounding properties would be diminished by granting the
34 variance due to having a commercial venture in a residential zone. 5:0
- 35 v. There is no unnecessary hardship. 5:0
36

37 Mr. Elliott made a motion to deny the variance request and to close case #605. Motion
38 seconded by Mr. Cavaretta. Motion passed unanimously.
39

40 Mr. Grey asked the Board what the appeal process is. Mr. Daley explained the process to
41 Mr. Grey. Ms. Cline stated that Mr. Grey still has the option to apply for a variance for a
42 commercial use. Mr. Copeland advised the applicant that although that is an option, he
43 should be aware that becoming a commercial business will change many things such as a
44 mortgage and rates associated with it and insurance. Mr. Grey argued that would
45 constitute 'spot zoning' to which Mr. Daley explained that spot zoning is for an entire
46 area, a use variance is for a specific property and runs with the property.

1 Mr. Charbonneau made the applicant aware that there is a 30 day appeal period and
2 anything the applicant does within that 30 day period is at their own risk.
3

4 **c. Case #609 & #610: Kevin Roy, 257 Portsmouth Avenue, Tax Map 22, Lot 8 within**
5 **the Residential/Agricultural Zoning District.** This is a public hearing whereby the
6 applicant is requesting a Variance pursuant to Article VII Section 7.9a. Signs of the Stratham
7 Zoning Ordinance to allow replacement of the previously existing freestanding sign with a 12
8 square foot freestanding sign and a Variance to allow installation of three (3) building signs
9 totaling 60.25 square feet. *Continued to the September 9, 2014 Public Meeting.*

10
11 **3. Approval of Minutes.**

12 August 12, 2014

13 Mr. Cavaretta made a motion to approve the minutes. The motion was seconded by Mr.
14 Copeland and passed unanimously.
15

16 **4. Miscellaneous.**

17
18 **5. Adjournment.**

19 Mr. Copeland made a motion to adjourn the meeting. Motion seconded by Mr. Brett.
20 Motion carried unanimously.