

**Newfields Planning Board Meeting Minutes
December 8, 2022**

Attorney Amy Manzelli addressed the Board on behalf of Vernon Family Farm, and she thanked the Board for granting a continuance to seek advice from Town Counsel. A presentation will be provided by Mike Somers; followed by the Vernon's. Attorney Manzelli hopes to conclude the meeting with a conditional approval.

Mr. Mike Somers, CEO of the NH Lodging and Restaurant Association addressed the Board. Jeremiah contacted Mr. Somers weeks ago regarding the definition of a restaurant and a caterer and what the difference is. The NH Liquor statutes require that restaurants have rooms and be able to seat up to 20 people in a dining room to qualify as a restaurant and be considered one. Catering also has food minimum requirements. Jeremiah is a member of the Farms to Restaurant Connection, where his is listed as a farm. This is an organization that promotes and supports local agricultural products. It is important to look at the intent of the business operations. In Mr. Somers' opinion, the VFF business is a showcase, to the people visiting the farm, of the products the farm produces. A broader agritourism effort which speaks volumes to the intent of the business.

Mr. Somers mentioned the liability concern brought up by the Planning Board at a previous meeting. The facility and building have to be structurally sound and has to withstand a snow load, but he doesn't feel the town should be too concerned about food and alcohol being served, provided the VFF is licensed appropriately with a food safety license and submits to regular checks. To most of us a restaurant is a place where we go and sit at a table and enjoy friends. We don't think of a restaurant as sitting in an open field at a picnic table enjoying music. It is a different experience than a restaurant. He added he is an on-site caterer, which is a specific category in the statutes and in his opinion, VFF could not qualify for a restaurant liquor license.

Next was the agricultural operations on the farm. Indigo Vernon spoke and said growing up on a farm was a cool experience. Magnolia Vernon said VFF was one of her favorite places in the world. The farm has taught her so many things that other kids have not experienced in their lives. VFF is a beautiful place to connect with people, meet new people and welcome them into their lives. The experience has helped her be a better person in the world.

Jeremiah read remarks and shared statistics on agriculture. See attached.

Attorney Manzelli distributed potential changes to the conditions of approval presented to her by Town Planner Glenn Greenwood. She highlighted the changes.

The applicant is requesting that an alternate building inspector be chosen for inspections. The basis for the request is because the building inspector has made an unfounded complaint of animal cruelty to the Department of Agriculture. They would like the inspections to be done at the State level but if the Town wishes to have a municipal inspection, they request that a backup inspector be used. The inspections should be limited to the Pavilion and not the areas where chickens and livestock are pastured, or cultivation of crops is done.

It is atypical for the farm to have to submit applications of any permits. They agree to provide the Town with any new permits.

The proposed conditions provide that the farm would submit a list of planned events each year, which they agree to. The nature of the proposed change would not require a site plan review every year where the Planning Board would review and either approve or deny the events. Amy said it is unreasonable, in the context of agriculture, because plans change. It is not appropriate or necessary for the objectives of this review of agricultural operations. The VFF will keep the Planning Board informed by providing the annual submission. An important objective is to ensure public safety and the protection of neighbors and traffic.

Town Counsel and the Town Planner proposed a condition of marketing to require advertising of events with VFF products and catered events to advertise VFF grown ingredients. In addition, the VFF will notify the Newfields Police Department each time they have to notify the liquor commission of events or any large events.

VFF acknowledges they may need police details for events, which the VFF will pay for.

VFF would like to change the condition to maintain the vegetative buffer in perpetuity, to as long as the farm exists.

VFF would like to change the documentation of the farm stand 35% compliance to every three years. Legally the burden is on the Town to prove the VFF is not complying. They have already provided a letter from their accountant.

If there are going to be changes to access and parking, VFF will provide advance notice of any material changes.

Michael Sununu asked about condition #6 which reads 6 events are allowed per week with no limitation on the number of weeks. Amy replied that the intent was to allow for 4 licensed catered events with only 2 of them with live amplified music. The wording shall be changed.

Michael calculated that there could be 208 events per year. Amy indicated he was correct, but the VFF has no intention of having 4 events per week every week.

Michael asked for clarification on condition #14 regarding advanced written notice of any material changes. He suggested rewording the condition to "Vernon Family Farm shall provide advance written notice to the Planning Board of any material changes to the access, traffic flow or parking serving the Property.....". Attorney Manzelli agreed.

Bill Meserve asked if condition #6 regarding music starting at 8:30am until 7:30pm, means that music could be playing all day. Attorney Manzelli said yes but VFF has no intention of playing music all day. The duration of the events is 4 hours.

Mike Price said it appears that there could be a four-day event with music the way condition #6 is written. Attorney Manzelli said they could limit the number of consecutive days allowed with music to resolve the issue.

Bill Meserve suggested the other farm-related events be listed in the conditions. Such as school field trips, sheep dog programs and tour groups.

Michael Sununu mentioned that the VFF is becoming less of a farm and more of a venue and it would balance interests if other farm related events, which are directly related to the farm were outlined.

Glenn asked if all events must include amplified music. The RSA is clear that people come to the farm to enjoy meals and the farm experience, but it says nothing about music. In his opinion, amplified music is not farming and is at the tipping point for agritourism on the site. There are so many events that fit in perfectly with the farm. His concern is the direct connection of music with agritourism.

Attorney Manzelli indicated that the music events only occur one day per week and two days once a month from June through October. It is part of the environment. Additionally, there is nothing in the Agritourism definition that excludes all things unrelated to agriculture.

Michael Sununu commented that acoustic music is more in tune with agritourism. Why do we allow amplified music? It seems music is becoming the attraction and music should be ancillary to the events.

Bill Meserve mentioned that we do have a noise ordinance that has to be abided by. In his opinion, providing the noise ordinance is met there is no harm in it. Attorney Durbin agreed and said there was no need to mention anything in the conditions of approval.

Attorney Manzelli stated that a statement of concern by an abutter does not mean a decrease in property value, an appraisal would need to be done. Limiting amplified music would be unreasonable in her opinion. Music is part of the attraction to the farm.

Direct abutter Ruth Patterson spoke. She said it is wonderful what they are doing at the farm but as time went on the noise level became greater. It has been a challenge for her family and friends every Friday night because they must remain in their home. This is their retirement home and not what they expected. It would be great to have the music contained on the VFF property. She is in the process of having an appraisal done taking into consideration the VFF events.

Stratham resident Kyle Saltonstall spoke. He is the Chairman of the Stratham Conservation Commission and a US army veteran. As a farmer, he has been dealing with policy and regulations in farming and it is difficult. He sits on the conservation commission and understands there are different ways to interpret a law. This farm has done an amazing job at inspiring a new generation in farming. This is important for the stability of our State and entities like this to be viable economic enterprises.

Jeff Couture commented that at no point has the Planning Board had an issue with the farming aspect of the VFF.

Diana Reichler from Stratham spoke in support of VFF. She said we need to support our farmers. The draw to VFF is the music and watching the children dancing around the farm is magical.

Kate Pike from Newmarket spoke in support of VFF. VFF has added value to the community with agritourism and it brings the community together. She has heard that VFF is willing to work with the Town and because of that they should be granted approval.

Michael Cato from Newmarket is a musician who plays bass and indicated that the amplification of the music can be turned down and redirected to make it work. \

Lifelong resident Mark Goodrich spoke in support of VFF. He has frequented the farm on many occasions and has met new people and people he hadn't seen in 50 years. Going to the VFF has helped him a lot as a widower. The farm was voted NH Family Farm of the Year. The VFF enriches the community as a place to meet, eat, get together and enjoy music. He understands that ordinances need to be met and he encouraged the Board members to help them out.

Lifelong resident Jared Parisi spoke in support of VFF. He is employed by them, and stated the farm is amazing. Jeremiah is a farmer who provides food and Nicole is a teacher educating. It would be a mistake to stifle their efforts in their attempts to make the community better.

A farmer from Epping spoke in support of VFF. In his opinion, the Vernons are abiding by the town ordinances and what they are asking for is nothing that is not allowed.

Resident Kevin Davis spoke in favor of VFF. We have laws that govern agritourism and VFF is following the state regulations. They should be commended for keeping the farm going. In his opinion, no laws are being broken.

A local Greenland business owner spoke in support of VFF. He is in support of the events because VFF highlights his local business at them. They work very hard, and it is because of what they do and who they are that other local seacoast businesses are promoted. It's the best thing that has happened in Newfields.

A soft spoken Newfields resident spoke in support of VFF. She said the farm is not the house of blues, a Grateful Dead concert, or music festival. It is a place for people to come to enjoy the farm, talk to friends and listen to music. As a guitar player, she noted that guitar music that is not amplified would be incredibly hard to hear on a farm.

A Madbury resident who owns a farm spoke in favor of VFF. Farming is hard work and marketing and reaching customers is not simple. Farms are competing with convenience stores. As a small farm owner, she relies on other farms like VFF. Having music until 8:00pm is reasonable.

A neighbor who lives next door to VFF indicated that the noise from the farm gets so loud that he must turn up his tv to listen to the news. At the last meeting, the sound engineer was going to redirect the sound and keep the noise down and the following week they did. Then the next

week he could hear the vibration inside his house again. The sound needs to be kept below the 60 decibels allowed.

David Partikian from Bald Hill Rd spoke in support of VFF. When he attends events at the VFF he can talk to others while the music is playing. He would not work in a location where his ears would be ringing from loud music.

A resident spoke in support of everything VFF has done and continues to try to do for this community. There has been a lot of discussion as to what we don't want this community to become, and he would like us to consider what we do want this community to become. A community that supports their farmers, artists and anyone trying to bring the community together.

Jeremiah spoke about a planned change for next year. He did move the speaker but without a long enough cable they were not able to redirect the music towards the farm. Jeremiah will do his best to address the neighbors' concerns next year.

The public comment portion of the meeting was closed.

Attorney Durbin suggested the Board deliberate and determine if the conditions of approval are adequate.

Michael Sununu commented that events may need to be discussed further. In his opinion there should be a limitation on the number of events when taking into consideration that there could be 208 events in a year. The possibility of 208 events a year is more of a venue and no longer a farm. The other issue he has is the farm may be open beginning at 8:30am on a Sunday.

Bill Meserve agreed that perhaps more limits should be added to the conditions.

Jeff Feenstra confirmed that most events would be from June until October.

Jeremiah said there are activities, which are not considered events, that occur year-round. Events with over 100 people have never occurred during the winter months. He is not looking to be an event space or to have festivals. They had 28 catered music events over the past year. Next year's schedule is the same. He is not looking to add more music events.

Michael is concerned with setting a precedent for others in the future, by allowing 208 catered licensed events. Everyone loves Newfields because of the way it is, and it is because of the Planning Board. They can't let everyone do what they want. Let's not leave the number of events open ended.

Attorney Manzelli proposed limiting the licensed catered events, with up to 300 people, to a total of 50 per year. The purpose of allowing twice the number of events as last year is to prevent the applicant from having to complete a site plan review yearly. If they lock in at 20 events per year, there is no flexibility. A small licensed catered event would be less than 150 people and a large licensed catered event would be up to 300.

Michael Sununu stated that 50 large events are pushing the venue issue. He feels 50 catered licensed events is reasonable. If VFF is taking it to the next level, they should be coming to the Planning Board. The existing conditions allow for more than double the number of events that occurred last year.

Jeremiah clarified that he is not looking to expand how often they hold live music events. They are trying to sell the food they grow as often as they can and trying to keep it 4 days per week. Right now, they cannot handle more than two music events per week. The Thursday catering event attracts approximately 35 people. His schedule for next year is the same as last year.

John Hayden noted that everything is an event, and the music events draw a larger crowd. He suggested classifying the events by amplified music events.

Mike Price said that the Board must assume that someone will go to that limit. Michael Sununu added that the Board's goal is to protect the neighbors because they live in Newfields for the same reason everyone wants to live here.

The Attorneys discussed proposed verbiage for condition of approval #6. It was determined that the limit will be 50 catered licensed events per year with amplified music.

Michael Sununu asked about limiting music events on Sunday morning. Mike Price commented that if the decibel level of 60 is taken into consideration, it is a non-issue.

Attorney Manzelli indicated that the only event that may take place on a Sunday morning is brunch.

Attorney Durbin noted that some permits that are required include notification in advance to the Town and Planning Board. There are statutory obligations to notify the Town and Planning Board of every application. For example, the VFF will be applying for an equitable waiver for the location of the Pavilion and the Town will be notified.

Michael Sununu asked if the Board was comfortable with the number of attendees with respect to safety and dealing with traffic.

Bill Meserve noted that VFF will need to get a DOT permit and they will be made aware of the number of events.

Attorney Manzelli added that events in which the state liquor commissioner is notified the Town will also be notified.

Mike Price clarified that it will be up to the Police Department to determine if details are required on site.

A motion was made by Jeff Couture and seconded by Bill Meserve to approve the site plan review application with the conditions as amended. All were in favor and the motion carried.

Derek Rugg-Preliminary Discussion

Bruce Scamman of Emmanuel Engineering presented a conservation subdivision plan of the Olive Rugg property on behalf of Derek Rugg and Cheri Ludwig. The proposed conservation subdivision plan has 61 lots on the 169-acre parcel. Most of the parcel is in Newfields and a very small portion is in Exeter, where the application is on file with the Exeter Planning Board. Bruce asked for feedback from the Board.

Bill Meserve commented that the group septic system is a good idea. In the past, the Board has required more engineering. Usually, a conventional (traditional) subdivision is presented, and bonuses are given for the conservation (cluster) subdivision.

Keith Ludwig stated that the family was hoping to save some money by not having to provide a conventional subdivision.

Bruce said he could provide the Board with a conventional plan.

John Hayden mentioned that the cluster subdivision is based on the yield of the conventional plan.

Glenn said a conventional subdivision plan will include all 169 acres, including wetlands. The wetlands are not subtracted out like they are with a conservation subdivision plan.

Derek Rugg stated that a conventional subdivision would yield 75 lots. Are they supposed to present a plan using every inch of the property that would be privately owned?

Glenn replied that a conventional subdivision is used to calculate how many lots can be in a conservation subdivision.

John Hayden explained that it's not a guarantee that 75 lots would be the number. When someone wants to subdivide their land a cluster subdivision is preferred. To achieve the numbers for the cluster subdivision we need to know what the property can yield conventionally.

Bill suggested having Glenn review the plan and provide feedback.

Derek Rugg said that the family is trying to come up with a value for the property and they are under the assumption that the town wants to buy this property for conservation.

Keith Ludwig commented that at the first meeting he attended the board implied that a lower engineered plan would be acceptable.

Derek Rugg added that he has a meeting tomorrow regarding a national grant from the federal government, with the assistance of Southeast Land Trust. SLT seems confident that they will be able to obtain funds for conservation. Derek doesn't want this process to drag on for another year. He would like to get the estate settled and agree on a value of some sort. In his opinion, people in the town would be interested in keeping the property the way it is now.

Michael Sununu advised that a warrant article will need to be presented for the purchase of the conservation easement and next week is the last day for a warrant article. A special town meeting could be held if it was necessary.

Derek Rugg said that they are looking for 50% of the value of the land.

John Hayden said that according to Section 11.7.3.5 a yield plan shall show one test pit for up to 20% of the lots randomly distributed throughout the yield plan. There is no need to show two test pits.

Jeff Couture thanked the family for continuing with wanting to place the land in conservation.

A motion was made by Jeff Couture and seconded by Mike Price to approve the October 2022 minutes. All were in favor and the motion carried.

A motion was made by Bill Meserve and seconded by Jeff Couture to approve the November 2022 minutes. All were in favor and the motion carried.

The meeting adjourned at 10:03pm.

Respectfully submitted,

Sue McKinnon