Tilton Planning Board
Meeting Minutes – June 13, 2017

Agenda
6:30 PM Call to order.

PB17-04 Continuation of Site Plan Review – proposal to operate an adult care facility at 100 Autumn Drive in the Rural Agricultural district (R6/10-2)

Other Business:
- Correspondence
- Other business

Members Present:
Judy Tilton (Chair), Jane Alden, Deb Shepard, Juliette Harvey, Eric Pyra, Christine Dembitzky and Katherine Dawson (ex-officio Selectman)

Others Present:
see attached list of attendees
Dari Sassan (Planning Board Staff)

Call to Order
Chairman Tilton called the meeting to order at approximately 6:30 PM.

PB Case 17-04
Mr. Pyra recused himself for Case 17-04 because he was previously employed by the applicant.

Ms. Forbes, Ms. Bownes and Mr. Callahan presented new information about the case. Ms. Forbes said that all sports programs involving individuals under the age of 18 would be discontinued. She identified a correction that would be made to the plan, which is that a currently unpaved portion of the parking area will remain unpaved, and that no external changes would be made to the property. Ms. Forbes said that Mr. Callahan has updated his driveway permit, that drinking water test results have been submitted, and that a septic evaluation has also been submitted.
Ms. Bownes said that the facility would host a 12-step faith-based residential program and that no methadone would be present. She said that it would not specifically be an opioid facility and that patients would come through off-site referrals and undergo screenings and background checks. Ms. Bownes said that the determination as to whether to admit each referral would be made in consultation with a physician. She said that individuals leaving the facility would be escorted to either their own vehicle, to a bus, or to an airport.

Board Members asked about staff ratio and background checks. Ms. Bownes said that the staff to patient ratio would be 1:8, that interstate and local background checks would be conducted, and that individuals with a history of committing violent crimes would not be admitted. Board Members requested written confirmation that said admittance procedures would be followed.

Board Members asked about visitors. Ms. Bownes said that any visitors would screened in the same manner as anyone else coming into the facility. Ms. Shepard asked if someone would check visitors for contraband. Ms. Bownes responded affirmatively. Ms. Harvey asked how the adult care facility use would be separated from the sports facility use. Ms. Bownes said that the activities would be separated through scheduling, and that many events would occur away from the site. Ms. Shepard asked if children would be allowed to watch their parents participate in sporting events at the sports facility. Ms. Bownes said that they would not.

Ms. Dawson read from a list of occupants that had been provided in the executive summary of an environmental assessment submitted with the application, and asked which of the occupants remain. Mr. Callahan said that they are all gone. Then he said that the massage business, the LOFT gym and the embroidery business remain.

It was identified that the current septic system is not adequate. Mr. Callahan indicated that it will be replaced. Ms. Dawson asked how the Department of Environmental Services would classify the water system for the proposed use. Mr. Callahan said that he has not reached that point yet.

Board Members asked about kitchen facility licensing. Ms. Bownes said that the kitchen facilities would be communal and will therefore not require licensing. She said that a handwashing sink would need to be added.
Mr. Callahan said that existing exterior lighting would be utilized. Ms. Dawson suggested that a light be added to the front entrance. Mr. Callahan said that the dumpster would be located in the back of the building and that the engineer may have neglected to put it on the plan.

Ms. Dawson noted that 2 wells are depicted on the plan. She asked which was tested. Mr. Callahan said that the well behind the building was tested, adding that the other well serves as backup.

MOVED by Ms. Shepard to waive attorney-client privilege as it pertains only to the 6/9/17 letter from Attorney Ratigan to the Planning Board. SECONDED by Ms. Harvey.

All in favor, none opposed: MOTION APPROVED.

Mr. Ratigan presented his legal opinion that the proposed use invokes protections provided by federal and state legislation regarding housing and disabilities.

Chairman Tilton called upon members of the public to provide comment. She stated that commenters should try to limit comments to 2 minutes, and that they should stay on topic, keep from being heated or argumentative, not restate points already made, and that commenters should state their name and where they are from. Members of the public provided the following comments:

- Mr. Beddard said that he is representing Tom and Lenore Mead. He stated the the Planning Board's hands are not tied by federal law. He said that the rural agricultural district is for single-family and agricultural uses and that an adult care facility should not be confused with the residential aspect that has been presented. Mr. Beddard said that the only type of residential use allowed in the rural agricultural zone is a single-family dwelling. He said that one cannot have rooming houses, multi-family housing, hotels, hospitals, or nursing homes. Mr. Beddard said that the applicant is seeking to burden the neighborhood with a residential impact that is not permitted in that zone. He said that such a living arrangement could not be undertaken for non-addicts, and it therefore does not have to be allowed for addicts. Mr. Beddard asked what type of license is being sought from the Department of Health and Human Services. He said that, depending upon the type of license sought, the Board might discover that the site is in fact something other than an adult care facility. Mr. Beddard said that while the facility was able to make the choice to stop holding children's programs, the abutters cannot make the choice to
stop being parents to children. Mr. Beddard questioned whether the Town would have the ability to enforce all of the conditions that the applicant is claiming will be imposed. He said that the proposed security cameras would come at the cost of privacy. Mr. Beddard said that the maximum allowed lot coverage in the zone is 40% and that the proposal would violate that requirement. He proposed that the Planning Board retain an engineer to evaluate stormwater drainage and compliance with applicable regulations. Mr. Beddard expressed his belief that an existing abandoned well could provide a pathway for groundwater contamination and that the well should be appropriately decommissioned. He said that 3 variances should be required, one to allow for lot coverage above 40%, another to allow for 24-hour residential use of the proposed intensity and a third for a determination—in the context of type of license sought from the Department of Health and Human Services and NH RSA 151:2—that this type of facility is, in fact, an adult care facility.

- Mr. Rotonelli said that people on drugs have been discovered on his site and that one of them had been released from a care facility. He said that drug use is everywhere and that the proposed facility would bring in more drug use.

- Mr. Mead said that his residence is in Tilton, not Sanbornton.

- Mr. Mantie said that his property is within 300 yards of the facility. He said that a large number of variables impact individuals' choices about where they will live and that the proposed facility would alter the neighborhood. Mr. Mantie said that the proposed facility would generate profit and that residents of the neighborhood might have to alter their lives to accommodate its presence. He expressed concern that the facility might not serve the New Hampshire residents needing the care, but instead only those who can afford to stay at the facility.

- Mr. Mead said that his property has been associated with his family for 6 generations. He said that the owner of the facility has acknowledged that children should be kept from the facility through his decision to eliminate children's programs. He said that he picked blueberries in the woods when he was a boy, and that, if the facility is allowed to open, his grandchildren will not be able to wander through those same woods.

- Mr. Brackett asked whether the applicant could control the type of applicants coming to the facility. He said that logic would lead one to conclude that the facility will become an opioid treatment facility. He asked if the applicant has experience managing a facility of this type, adding that his research revealed that the applicant has experience in assisting facilities maximize revenue through reimbursement. He asked about a possible connection to Plymouth House and he said that his impression was that the applicants seem like a bunch of amateurs
opening a shop, which he said was worrisome from an abutter’s point of view, but also because he was concerned that those seeking treatment would not be adequately served. He said that state guidance seems minimal, which he felt calls upon local officials to step in and fill the void. Mr. Brackett said that the proposal would have a negative impact on property values, and he referenced some relevant research. He questioned why there is currently an advertisement circulating for a children’s fitness camp, if, in fact, all programs involving minors have been cancelled. He anticipated that between 160 and 570 people would cycle through the facility each year. Ms. Bownes responded that the facility would not be an opioid recovery facility and that it would be non-medical. She said that the facility is not associated with Plymouth House and that there exists no supporting evidence that property values would be diminished. Board Members asked questions about the applicant’s prior experience managing such facilities. It was explained that Ms. Bownes was hired to attain approval of the project, and the decision of what entity shall manage the facility has not yet been made. Mr. Callahan said that the facility would not open until fall and it is therefore acceptable to hold children’s programs over the summer.

- Ms. Jackson expressed concern that is is unknown who will operate the facility. She said that all of the factors discussed are dependent upon who is managing the facility. She noted that guns are not listed as prohibited items at the facility. She said that property rights do not go out the window whenever ADA is invoked, and said that the site has become more nonconforming over the years. She said that no hardship exists, and questioned why a property in the medium residential district was not selected instead, questioning whether the process is designed to serve one person, or to serve everyone.

- Ms. West asked about background checks. She noted that the facility is not lock-down and asked what would happen if someone simply walked away. She questioned how checks for contraband could be properly performed given the proposed staffing levels.

- Ms. Sprague thanked Mr. Callahan and noted that lack of support being expressed. She offered her complete support for the project and expressed support of the 12-step process. Ms. Sprague noted that public comments have focussed on the burden that the facility would place on the community and said that community has already been saddled with the burden of drug addiction, which has grown to epidemic proportions at this time. Ms. Sprague said that the affliction of alcohol addiction is just as bad, or worse, than any other drug-related addiction, and she said that she is appearing on behalf of her husband, Donald, who wanted to attend, but could not because he was attending the funeral of someone who had died from a drug overdose.
Tilton Planning Board
Meeting Minutes – June 13, 2017

She said that folks are talking about profits, taxes, property values and cost to police, but that no one is discussing the devastating impacts that our community is presently enduring. She said that in attending this hearing, she felt as though she had gone backwards to a time when addiction was talked about as though it were simply a poor choice made at the sole fault of the addict. Ms. Sprague said that if she lived next to a treatment facility, she would volunteer to help, because she sees such facilities as part of the solution, not as part of the problem.

- Ms. Kelly said that the purpose of the facility is to generate profit.
- Mr. Kelly said that, previously, he has never had to worry about drug addicts, rogue people and people in showing up in garages. He said that children are always playing around the facility and asked what measures would be taken to make the facility safe. Ms. Bowns discussed security measures and noted that the fire and police departments in both Tilton and Sanbornton have expressed that they do not feel the facility would present a security concern or be a detriment to the neighborhood. Ms. Dawson asked if clients would be locked in the facility and whether it is possible that someone could escape. Ms. Bowns said that clients would not be locked in the facility and that it is possible that someone could escape. Mr. Callahan said that he has every intention to hire Ms. Bownes’s company to manage the facility, and added that profit is not his main priority.
- Ms. Mantie said that she supports such facilities, but not in her neighborhood. She noted the immediate proximity of school bus stops.
- Ms. Rock said that she lives 1.2 miles from the site. She said that a couple had looked at a house for sale in the neighborhood and had decided not to buy it. She suggested that this anecdote serves as evidence of a correlation between recovery facilities and decreased surrounding property values. She questioned whether the facility would be for profit, and whether insurance would be accepted. She said that if insurance is to be accepted, questions would exist as to why no licensed clinician is to be present. She said that if insurance will not be accepted it is unclear how it would serve the need for help that exists among folks who cannot afford that program. Ms. Bownes said that at the time licensure is sought insurance will be accepted, but that insurance cannot be accepted until licensure is secured.
- Mr. Rock asked about security, noting that drugs can be hidden. He said that he is not opposed to such a facility, but that he is opposed to the proposed location. He expressed concerns about the facility first opening and then seeking licensure after already being in operation. He also expressed concern about the fact that the manager of the the facility has yet to be selected.
- Mr. Sargeant likened that potential impact of the facility to that of opening a 24-unit hotel in the
same location. He expressed that the proposal does not represent a satisfactory level of investment in the community. He said that he works with young people in Concord. He said that the proposal lacks specifics and accountability. He noted that children will be at the intersection near the facility. Regarding the applicant’s statement that no minors would be allowed at the facility, he asked how children of patients who wish to visit would be handled.

- Ms. Sargeant expressed concern that profit, not recovery, is the primary goal of the proposal. She envisioned that those discharged from the facility would be turned out into the streets, vulnerable and unconnected. She noted that the facility could become a 25-acre site and that it could change the neighborhood. Ms. Bownes said that the State was consulted at the very beginning of the planning phase of the facility. She said that addicts are everywhere, attending our schools, visiting our businesses and living in our communities, and that it is better that we provide treatment rather than leaving them to struggle alone out in the community.

- Ms. Goodwin said that a school bus stops near the facility 4 times per day. She said that someone once broke into her house. She said that her children are fearful of the possibility of the facility opening. She said that opening the facility would be like pulling a rug out from under children because of the associated closure of children’s programs. She noted that some of the restricted items, such as weights, exercise equipment, protein powders and other supplements are present at the fitness center. She said that the applicants are not ready for such a venture, and questioned whether they ever will be ready.

- Mr. Kelly said that he and his wife love their house, and that they will move if the facility is opened.

- Ms. Parsons cited an article entitled “‘Not in My Backyard’: The Effect of Substance Abuse Treatment Centers on Property Values” and suggested that opening such a facility has a detrimental impact on surrounding property values. She recalled past uses of the site and suggested that the owner is mainly focussed on trying to make profitable use of the building.

- Mr. Parsons commented that 9 gallons of water per minute would not be sufficient to sustain the sprinklers. He said that the matter of criminal background checks remains unresolved. Mr. Parsons asked how many other facilities that the applicant is associated with are in areas zoned for single family dwellings and residential agricultural.

- Ms. Ober identified herself as a Selectman from Sanbornton and a Commissioner for Lakes Region Planning Commission. She asked how Lakes Region Planning Commission might be assisting with the process. Chairman Tilton said that it had not been discussed among the Board.
Ms. Sprague commented that other similar facilities do exist in rural and agricultural areas. She said that she was hearing many comments echoing the basic sentiment that such facilities are a great idea, as long as they are not in one's own neighborhood.

Ms. Brow said that she has nothing against treatment facilities, but that she moved to the area for the agricultural nature and that she enjoys running in the area, and she might no longer enjoy doing that, or enjoy any of the other aspects of the area. She said that the proposal has a big impact on all of us and that our property values are a big deal. She said that to understate, or make it look like we are criminal for considering our property values is not being considerate to the people that invested in their homes. She said that she feels like she is listening to a political speech when the applicant speaks because none of their questions are directly answered, and it is all very vague, and lacking in concrete details.

Ms. Forbes said that an adult care facility is permitted in this zone, just as much as a residential use. She said that this has already been established the zoning ordinance, which was enacted by the town, and by which Tilton residents abide. She said that the conversion of the property to the proposed use would result in it becoming more conforming because such a use is permitted in the zone, and that the Board voted on May 9th to accept the proposal as an adult care facility. Noting that we live in a society where a license is required for nearly everything, she expressed understanding as to why it might be hard to imagine that a license would not be required for this facility. However, she continued, a license is indeed not required. She said there is currently a rulemaking process is underway, involving proposed rules from the Department of Health and Human Services, public hearings, review through the Joint Legislative Committee on Administrative Rules. Ms. Forbes said that once the rules are enacted and imposed, the facility will have to comply by those rules, or it will be shut down. Administrative rules, she said, have the same effect as statutes and regulations. She said that the rules will be detailed. Ms. Forbes said that, regarding security concerns, the Board has received an email from a representative of the Tilton Police Department stating that the facility would not have any impact on the residents or the Town. She said that clients coming to the facility will essentially be invisible for the duration of their stay. She said that regarding the matter of criminal background checks, the applicant will be happy to provide additional detail in response to the concerns that were voiced. Ms. Forbes noted that many attendees seemed to be focussed on the distinction of whether the proposed facility would operate for profit, and said that there is nothing in applicable regulations that treats for-profit facilities and differently from non-profit facilities. She said that the reason Ms. Bownes has not been contracted to operate the facility is that the
Tilton Planning Board  
Meeting Minutes – June 13, 2017

facility has not yet been permitted to operate yet. Once the facility can legally open, said Ms. Forbes, Ms. Bownes’s company will, in all likelihood, be hired. Ms. Forbes reminded everyone that the current matter before the Board is to conduct site plan review of this permitted use, not to make a determination as to whether to enact an ordinance allowing adult care facilities in the zone. The latter, she stated, has already been done. Ms. Forbes expressed her sympathy for the fears expressed by commenters, but reminded the Board that its job is to determine whether the proposal is compliant with applicable technical standards such as drainage or lighting, not to decide whether adult care facilities shall be allowed in this location.

- Mr. Joubert identified himself as the Deputy Chief of the Tilton-Northfield Fire Department and said that the building meets all life-safety requirements for the proposed use. He added that the building is fully sprinkled and that ponds behind the property provide adequate water to the suppression system, which is tested and inspected annually.
- Mr. Goslin asked why children’s programs were being discontinued if, indeed, no security concerns exist. He asked why the applicants’ concern for children ends at the property boundary of the site.
- Ms. Jackson asked about the determination of regional impact and said that she felt the Board’s determination that the proposed use will be categorized as an adult care facility was made in a manner that had the effect of pulling the rug out from under the public. Mr. Ratigan explained that the determination of regional impact simply serves to expand the entities receiving abutter status for the purposes of standing and notification to include the regional planning commission and the potentially impacted community. Ms. Jackson sought clarification that no regional impact study would be conducted as a result of the regional impact determination. Mr. Ratigan confirmed that the determination does not trigger the execution of a regional impact study. Ms. Jackson asked about impact fees, and Mr. Ratigan explained that the regional impact determination has nothing to do with impact fees.
- An individual asked why the Board proceeded determine that the use shall be categorized as an adult care facility after it determined that the proposal has potential regional impact. Mr. Ratigan said that a notice requirement is triggered through the regional impact determination and that no entity has been denied due process.
- Mr. Kelly asked if the Board could rescind its determination to categorize the use as an adult care facility. Referring to a previously applied metaphor, Mr. Kelly said that the matter at hand is impacting children, not apples and oranges. Mr. Kelly asked if there would be a lawsuit against the Board if the use goes forth. Another attendee interjected that there would be one.
Chairman Tilton expressed that there will probably be a lawsuit either way.

Chairman Tilton closed the public hearing portion of deliberation.

Ms. Dawson identified the following items to be addressed:

- The wetland delineation depicted on the plan was not conducted within the required 5-year window.
- Lighting needs to be depicted clearly.
- Dumpster location needs to be depicted clearly.
- Boundaries of paved areas need to be depicted clearly.
- Snow storage areas need to be depicted clearly.
- It needs to be determined whether the parking area lies within 20-foot wetlands setback.
- 3-foot concrete tiles need to be identified in terms of systems with which they are associated.
- Updated septic information including leach field location should be submitted.
- A formal lighting plan should be submitted.
- Lot coverage percentage information, including wetlands areas, should be submitted.
- All water wells should be tested.
- More clearly defined information on security procedures should be submitted.

MOVED by Ms. Alden to *require third party review, at the applicant's expense, for engineering and overall compliance, including stormwater management, well and wetlands evaluations.* SECONDED by Ms. Harvey.

All in favor, none opposed: MOTION APPROVED.

*   *   *

MOVED by Ms. Dawson to *continue deliberation of Case 17-04 to the July 11, 2017 Planning Board meeting.* SECONDED by Ms. Harvey.

All in favor, none opposed: MOTION APPROVED.
Tilton Planning Board
Meeting Minutes – June 13, 2017

* * *

RECESS to consult with attorney (9:10 PM)

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Come out of recess (9:35 PM)

MOVED by Ms. Dawson to adjourn this meeting. SECONDED by Ms. Harvey.

All in favor, none opposed: MOTION APPROVED.

The meeting adjourned at 9:35 PM.

JT/ds
Please print your name and affiliation as you would like them to appear in the meeting minutes.

1. Michelle Leclerc
2. Joanne Rotonnelli, David Will
3. Joseph Rotonnelli
4. Bob Caffel
5. Aluren Downes
6. Karen Forbes
7. Scott Gray
8. Wendell Gray
9. Scott Mantys
10. Chewin Leoni
11. Thomas Mead, Lewore Mead
12. Barry Anderson
13. Reg Eldridge
14. Dave Rotonnelli
15. Christina Flanders
16. Omero Coale
17. Kerri Federico
18. Theo Brackett
19. Michelle Jackson

Do you wish to speak? Y/N
Guest Log
of the
Tilton Planning Board

June 13, 2017

Please print your name and affiliation as you would like them to appear in the meeting minutes.

1. Kaitlin Brown
   Do you wish to speak? Y

2. Hailey West
   Do you wish to speak? Y

3. Zachary West
   Do you wish to speak? Y

4. Beverly Sprague
   Do you wish to speak? Y

5. Todd Kelly
   Do you wish to speak? Y

6. John Bell
   Do you wish to speak? Y

7. Johnnie Mantle
   Do you wish to speak? Y

8. Tammy Mantle
   Do you wish to speak? Y

9. Adele Chertiff
   Do you wish to speak? Y

10. Bob Chertiff
    Do you wish to speak? Y

11. Jae-Ann Rock
    Do you wish to speak? Y

12. Stephen Rock
    Do you wish to speak? Y

13. Melissa Cormier
    Do you wish to speak? Y

14. Kyllee Rock
    Do you wish to speak? Y

15. Isaac Sargent
    Do you wish to speak? Y

16. Rachel Sargent
    Do you wish to speak? Y

17. Heather Goodwin
    Do you wish to speak? Y

18. Fred Kelly
    Do you wish to speak? Y

19. Alan Ricket
    Do you wish to speak? Y

20.
Please print your name and affiliation as you would like them to appear in the meeting minutes.

1. Biron Bedard
   Do you wish to speak? Y/N
   
2. Lisa Parsons
   Do you wish to speak? Y/N
   
3. Scott Parsons Autumn dr
   Do you wish to speak? Y/N
   
4. Karen Ober
   Do you wish to speak? Y/N
   
5. Katrina (Lancaster hill)
   Do you wish to speak? Y/N
   
6. 
   Do you wish to speak? Y/N
   
7. 
   Do you wish to speak? Y/N
   
8. 
   Do you wish to speak? Y/N
   
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