



**TOWN OF
BROOKLINE, NEW HAMPSHIRE**

PLANNING DEPARTMENT

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MEETING DATE: February 17, 2022 Compliance Hearing	APPLICANT: Robert Waite	APPLICATION TYPE: Site Plan – <i>Home Business</i> “Averill House Vineyard.”
APPLICATION NO: NRSP # 2016-D:J-50	APPLICANT’S REP: Robert Waite	REVIEWED BY: Valérie Rearick, Town Planner
EXECUTIVE SUMMARY: In 2016, the applicant was granted a site plan to operate a farming / vinery home business at the property located at 21 Averill Road, which is located in the Residential / Agricultural District. Update: February 17, 2022: Compliance Hearing.		

BACKGROUND

Location: 21 Averill Road
Lot Size: 2.7 acres
Zoning: Residential / Agricultural
Land Use: Residential / Agricultural
Wetlands: No (part of the property in the wetland buffer)
Aquifer: n/a

SUMMARY

The purpose of this compliance hearing is to discuss and address a few inquiries/complaints recently received.

PREVIOUS ITEMS

2006: The applicant was granted a special permit to operate a Home Business “Averill House Vineyard” and grow vines, fruit trees and small gardens. An existing cellar will be for production, with an aging room and bonded storage area. The farm retail area is in the existing barn with an area for storage, retail sales and sampling.

2008: The Board approved outdoor wine tasting, in addition to the indoor wine tasting. The applicant also demonstrated that there was plenty of parking (able to fit 30 vehicles, cars and delivery trucks).

2020: The applicant applied for a Variance with the Zoning Board of Adjustment to build 24x28 production barn to house fermentation tanks and bottled wine. The ZBA found that “a Variance was not necessary because the space intended to be used by the home business, namely the wine tasting and other public-facing portions of the business, in contrast to the cultivation and production of wine, which are permitted agricultural activities, will not exceed 1500 sf nor 25% of the gross floor area of the structures, especially when the proposed building is completed.”

2020: The Planning Board was provided with an updated diagram of the property showing improvements to the property since approved in 2006. All permits were properly obtained, including State, Building Inspector, and

assembly permit from the fire department. The applicant has also used Agritourism to attract visitors to the winery. Agritourism is widely used and falls under many categories including education, recreation, hospitality and entertainment associated with the agricultural activity on a property.

COMPLIANCE HEARING

The office received a first email inquiring about potential expansion of the home business because of a tree cutting activity and excavation on the site.

A couple of complaints followed and were also submitted by 2 abutters about: [quote]: *“drunken party with cars whizzing up and down the road, noise, drinking, traffic, trash, potentially hurting conservation land and wells”*.

Also quoted: *“numbers of trees cut down along with the extensive excavation of the land”*.

Other items cited: traffic, increased incidents of drunk driving, noise and light disturbances until late night hours every weekend, decreased property value, well water concerns, crime and safety concerns of the neighborhood”.

Additional concerns: impact on the wetlands (tree cutting, excavation), removal of vegetated buffer between the vineyard and abutters.

Staff has immediately responded to and/or discussed with residents stating that the town was going to look into the allegations.

- Town offices contacted Mr. Waite to discuss the various items cited above.
- The Building Inspector got immediately involved and contacted the applicant via phone.
- The Town Planner emailed the applicant asking him to address the first inquiries/complaints received, mainly about tree cutting, excavation, vehicles entering and exiting the property from several points.
- A member of the Conservation Commission went on the site to look at the potential impact on the wetlands. No issues were noticed.
- The Town Planner and the Building Inspector met with Mr. Waite to look at the work done on the property (tree cutting, excavation, impact on wetland, etc.)
- A member of the Planning Board also noticed and forwarded the information to Staff regarding comments posted on Facebook by the logger stating, *“they are cutting 30 large trees to expand the parking lot... so they can do weddings”*.

SITE VISIT AND MEETING WITH MR. WAITE

Friday January 28, 2022. (Building Inspector and Town Planner)

- Tree cutting and excavation: It appears that the owner has cut a few large pine trees, not 30 as previously stated. Mr. Waite shows some pictures of the trees that were cut. The goal is to provide more sun to the vines already planted, and yes, to provide additional and practical parking space in addition to the one in front of the house and barn. Excavation is not what was expected and is mainly to remove the tree stump and smooth the area. There was no excavator on the site, only a small backhaul. The wetland area is on the opposite side of the property from where the trees were cut, and stumps removed. Some dead and rotten smaller pine trees were cut close to the wetland. They were also located very close to the house and were a hazard. These cut dead trees were still on the property during the site visit.
- Noise / Traffic / Lights: Mr. Waite explained that he had hosted a few comedy-shows during the summer months with, in mind, the promotion the vineyard using agritourism. Lights are around the barn and in some vines and there is a long distance between the area and abutting properties. We discussed noise and timing. Mr. Waite indicated that in the future he would move any outdoor event to the other side of the house (no direct abutters there). Some events lasted until 8:30 pm or so but he would make sure that all activities would end no later than 8:00 pm.

- Parking: the reason is to provide additional parking space on the property for visitors, further away from the house.
- Buffer: There are plenty of trees between the vineyard and abutting properties. During the summer months, it seems that the buffer should look denser with renewed vegetations (leaves, etc.). Note: no buffer is required on Mr. Waite property as it is an original single lot.
- Future weddings (as posted on Facebook by the logger): Mr. Waite was clearly told that the home business could not include weddings or advertise the property as a wedding venue.
- Meeting with the Planning Board on February 17, 2022. Staff informed Mr. Waite that he would need to attend the meeting to address any additional concerns the Board may have. Abutters will be notified of the meeting by regular mail (as this is not a site plan update, but a compliance hearing).

STAFF RECOMMENDATIONS

Provide a letter to Mr. Waite with the following:

- Remind the content of Section 1700.00, Home Business Ordinance
- Request that any modification on the property related to the home business be submitted to the Planning Board for review and approval
- Clarify that any activity on the property not related to agriculture and/or agritourism is prohibited unless discussed with the Board (other activities may be allowed after a complete site plan review).