

**Town of Newport  
Zoning Board of Adjustment  
November 18, 2021 6:30 PM  
Board of Selectmen's Room/Municipal Building  
15 Sunapee Street/Newport, NH**

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**PRESENT BOS ROOM:** Ben Nelson, Chairman; Chris Whalen, Bert Spaulding, Sr.; Jeffrey Kessler, BOS Representative

**ABSENT MEMBERS:** Scott McCoy, alternate; Tim Beard, Vice Chairman

**VIDEOGRAPHER:** John Lunn, NCTV

**STAFF PRESENT:** Christina Donovan, Zoning Administrator

**COMMUNITY MEMBERS PRESENT:** Sarah Fisher, Shaun Carroll, Jr.; Diane Spear

**CALL TO ORDER:** Chairman Nelson called the meeting to order at 6:32 p.m. followed by a roll call of members present.

**ADMINISTRATION:** none

**MINUTES:** July 16, 23, 2020; August 20, 2020; October 21, 2021

On a motion by Mr. Spaulding, Sr., seconded by Mr. Whalen; *the Board voted to approve the minutes of the October 21, 2021 meeting as presented. The motion passed 4-0-0.*

After a discussion on the older minutes the Board agreed to table the 2020 minutes to the December 16, 2021 ZBA meeting. Mrs. Donovan will email all 2020 minutes not voted on to the Board members to review. She will also mail hard copies to the members who request them.

**CONTINUED BUSINESS:**

**Case #1119: Wisdom in New Dimensions, Dana Olmsted (Agent):** Request a Special Exception as provided for in Article III, Section 306.1 to permit a Recreational Facility. The property is identified as Map 253 Lot 001, 011 and 006, located on Pike Hill Road located in the Rural (R) Zoning District.

Ms. Donovan stated the applicant was in attendance at the October 21, 2021 ZBA meeting. The ZBA members had requested information of Ms. Olmsted which was documented on the Board members decision sheets (of October 21, 2021). Ms. Donovan asked that the ZBA vote to continue both cases (#1119 and #1120) to date and time certain because the applicants were not in attendance.

Mr. Spaulding, Sr. stated he would like to give input on the new information that has been presented to the Board as new material. In his opinion the applicants' information is inadequate. He was told the Board could open and continue the Case.

Mr. Spaulding, Sr. made a motion *to open Case #1119: Wisdom in New Dimensions: Dana Olmsted (Agent)*. It was seconded by Mr. Whalen. *All were in favor.* Chairman Nelson opened Case # 1119. Mr. Spaulding, Sr. spoke concerning the letter from Ms. Dana Rondel Olmsted dated October 25, 2021. He stated that the list in the lengthy letter did not show him (voting member) the information he needed to vote on her proposal. He said the ZBA had asked for documents.

Looking at the list of items in the Board packets he could not see the information to fit the ordinance (Special Exception) for the project.

He asked if the listed items in the proposal letter was enough to meet the criteria for recreational.

Mr. Whalen had not seen a proposal for the road. He asked if Mr. Spaulding, Sr. had seen the proposal.

Mr. Spaulding, Sr. agreed there was nothing (in writing) for the road.

Ms. Donovan told the Board she had had to darken the illustrated lines (of the road) to make them legible. She said the road had been handled in Planning (Board). She believed there will again be a discussion on the road and the amount of traffic in Planning and what specific standard it has to be brought up to. Mr. Whalen asked Ms. Donovan if they (Board) were asking the applicant to bring the road up to a Class V Road. Ms. Donovan said that was her error, she had misspoken. She stated what she believed the road needed to be brought up to.

For clarification, Mr. Spaulding, Sr. said that:

- ❖ The Town had no say over the standard of a private road.
- ❖ The Town has criteria for a subdivision road
- ❖ Subdivision standards are specific but do not meet the standards for Class VI or Class V roads.

The ZBA minutes of October 21, 2021 stated very clearly what the Board members were looking for from the applicant.

Chairman Nelson addressed the Board, requested they postpone Case #1119 and have staff relay the ZBA request to the applicant. Ms. Donovan believed she needed more guidance on what the Board would like to see from the applicant. Did the Board want 3D diagrams or photos of the geodomes? That was Planning Board purview. Ms. Donovan said the applicant's proposed size and scope might never transpire. Ms. Donovan again asked for additional guidance to acquire exactly what the Zoning Board wanted.

Mr. Whalen asked if campground and recreational facilities were under the same guidelines. Mr. Spaulding, Sr. stated that if 1% was recreation and 99% was another usage, the Board needed to know what they will be saying "yes" to. It is unknown; there is talk of as much as 300 people (at the site). The Board had asked for specific information at the October 21, 2021 meeting. Mr. Spaulding, Sr. read aloud from the October 21, 2021 minutes on page 4, paragraph three:

*"Mr. Spaulding, Sr. stated he was bothered by:*

- ❖ *The access through the Carroll Concrete site*
- ❖ *The road standard*
- ❖ *Access for emergency vehicles (Planning Board purview)*
- ❖ *306.1 of the Zoning Ordinance (each type of use/structure is subject to review-she has listed three). The information given needs much more detail than what is provided to the ZBA*
- ❖ *306.2 of the Zoning Ordinance stated the detail that was necessary to come before the ZBA to show whether the proposed Special Exception is in harmony with the intent of the Ordinance.*

*Mr. Spaulding, Sr. said he couldn't go forward with Case #1119 and vote without seeing some detailed planning." Mr. Spaulding, Sr. stated they had not received detailed planning. What they had received is unacceptable."*

Ms. Donovan again stated she would need much more guidance on the expectations of the information the Board needed from the applicant. She asked to show information from other cases in order to understand what the ZBA would like from the applicant in Case #1119.

Mr. Whalen asked if the role of the ZBA for Case #1119 is to vote if the applicant can have a recreational facility. He was told yes, and that the proposal has to meet the three criteria listed on the Board members worksheet.

Mr. Kessler read aloud the definitions of recreational facility in the Newport Zoning Ordinances (page 90) and campground (page 87). He stated that campgrounds are allowed in the Rural (R) Zone by Special Exception. Chairman Nelson stated they have specific guidelines (the purview of the Planning Board).

Because the applicant is planning to have people there for temporary accommodations, the applicant should apply for both campground and recreation facility. When questioned, Mr. Kessler stated Newport lists them separately on their Special Exception list. Going through the applicant's list of items to be on the property the members said:

Pavillon=Recreation

Geodesic Domes=Campground

Mr. Kessler stated if the ZBA approved a Special Exception for recreation, the applicant could not have camping. She would have to have two special exceptions. Mr. Whalen agreed. They concurred that the two applications could be on the same application. They reviewed the concerns brought up in previous meetings. Chairman Nelson stated that Mr. Spaulding, Sr. wanted clarification as to whether it is all recreation or also a restaurant. Mr. Spaulding, Sr. said if it was only recreation, the ZBA had no choice but to approve a Special Exception. He stated the Board had been given a list (by the applicant); the items weren't only recreational.

Ms. Donovan addressed the Board and gave her opinion of a recreational facility and the amenities that are there. It was explained to her that food for clients versus a stand-alone restaurant was two different things. The applicant was not available to answer the ZBA questions.

Mr. Whalen stated that the food aspect of the proposal is not clarified in her letter to the Board. It only talks about the geodesic domes for people to stay in and a separate restroom facility. Chairman Nelson stated that there was a specific section in the Newport Zoning Ordinance for campgrounds. Mr. Kessler stated that one special exception not listed in the Zoning District is for Commercial Recreation.

Mr. Spaulding, Sr. began to read aloud the letter of October 25, 2021. The Board members needed to see some plans and hear the scope of the proposal.

Ms. Donovan said the applicant had said there would be one, one day event that will have approximately 300 people. Limits could be put on the number (of attendees). The applicant had said at other times it would be lower. The Planning Board could put limits on activities and number of participants.

Mr. Whalen repeated his question, was the ZBA to approve Case #1119 as a Recreation Facility. Mr. Kessler stated it was the only request of the applicant (in her application). Chairman Nelson stated he felt that it should include campground.

Mr. Spaulding, Sr. listed the buildings and construction that is proposed on the property:

- 1) Landscape, design and developments
- 2) Construction of the WIND Pavillon
- 3) WIND greenhouse(s)
- 4) WIND Gallery and Store
- 5) Natural Food Art Café w/Tea Room

Ms. Donovan said the applicant would have places for the clients to eat; she was doing her own farming. There was a discussion between the Board and Ms. Donovan on the list in the letter of October 25, 2021. Chairman Nelson addressed Ms. Donovan and stated he was concerned about the scale of the project. He wanted to know the scale.

Ms. Donovan asked the Board to continue Case #1119 and tell her exactly what the ZBA needed so she could get it from the applicant. Mr. Whalen asked for a better layout of the property.

Mr. Lunn addressed Chairman Nelson and stated the applicant for Case #1119 had arrived and would be in the BOS Room shortly. Mr. Whalen asked how many acres were in the three lots.

*Dana Rondel Olmsted arrived at the meeting at 7:00 p.m.*

Chairman Nelson explained to Ms. Olmsted that the ZBA had opened Case #1119. He stated the Board had some questions.

Mr. Spaulding, Sr. stated that he had read her narrative of what she proposed (Written October 25, 2021). He had a hard time understanding the depth and meanings as well as the diagram of the site. He believed it is very inadequate. Mr. Spaulding, Sr. stated the ZBA had asked for some specifics at the October 21, 2021 meeting. Mr. Spaulding, Sr. referred to the minutes: The access through the Carroll Concrete site, the road standard, access for emergency vehicles, etc. He did not see those items addressed in the cover letter to the ZBA at this meeting (November 18, 2021). Mr. Spaulding, Sr. read aloud from the applicants' letter and asked for explanations.

The name WIND Eco-Retreat Oasis and Conservancy. He asked her to define retreat. He was told a resort like location where people can come and relax and find peace in a calming environment.

He asked if it was for a price. He was told yes.

He asked the applicant to define Oasis. He was told Oasis is another name for camp.

Mr. Whalen said that the Board had discussed the case and it seemed to cross over two lines; Recreational Facility and Campground. With the geodesic domes, it is a temporary place to stay. Mr. Whalen said there were two things to approve; Recreational Facility and Campground Special Exceptions. Ms. Donovan gave an explanation of why she had advised the applicant fill out the application for (only) a recreation facility. Ms. Donovan had not advised the applicant to request both. In discussion with the Board Ms. Donovan stated she would take responsibility and could add both (recreational facility and campground) and re-notice the hearing.

Mr. Spaulding, Sr. asked for definitions, explanations and uses for the different buildings listed in the applicant's letter to see if the proposal fit the criteria for (solely) recreation.

Ms. Olmsted said: the WIND Pavillon is where (most) performances and events will be held.

The Natural Food Art Café w/Tea Room will be a café to sell food to guests. Classes and workshops will be held to teach people how to prepare vegan (plant based) food.

Mr. Spaulding, Sr. asked if there was an additional definition for recreation in the zoning ordinance to include overnight stay. Mr. Kessler read aloud the definition for recreation facility (page 90) in the Newport Zoning Ordinance. There was a discussion on the definition as stated in the zoning ordinance. Mr. Whalen read aloud the definition for (recreational) camping (page 87) in the zoning ordinance. In discussion, Mr. Kessler stated that camping and recreational facilities require two separate special exceptions. Chairman Nelson stated that camping requirements are separate and very specific. He listed some of them. Mr. Whalen asked if the listed items were in the Planning Board purview. He was told yes. It was explained that the ZBA approved (or denied) the use. The Planning Board reviewed all the requirements on the property.

When asked, Mr. Spaulding, Sr. stated that if there were to be paid overnight stays, it is more than a simple recreational facility special exception. From the definitions in the Newport Zoning Ordinance they were being asked for something more than recreation. He needed the following information:

- Detail
- Services provided
- Recreation provided
- If there is something in addition to recreation, it has to return to the ZBA.

The application has problems in the description for the project including the lots (3) and what they will have: greenhouses, store, Natural Food Art Café w/Tea Room.

Ms. Donovan said a greenhouse was a permitted use in the Rural Zone.

Chairman Nelson asked Ms. Olmsted if the store and Tea Room would be for guests only or could someone from the community go there for lunch. He was told that currently it is not proposed for public

use; it is mostly for their guests. When asked if it will be a club, she stated no. Ms. Olmsted was asked if individuals would go there who were not part of the WIND retreat. She stated that:

- ❖ The Natural Food Art Café would provide the food for their guests. The resort would also host workshops and classes there for their guests.
- ❖ The Tea Room would house gatherings at the resort. Some of what they are doing in the Café and Tea Room is recreational.

In discussion on the category the resort would fall under, Mr. Kessler read aloud the definition for Membership Clubhouse (page 89). Depending on how the applicant defined membership, clients that go to the retreat would be members for their visit. Categorizing the permitted use under clubhouse membership would give the applicant more leeway (for her proposal).

Chairman Nelson stated the ZBA had to answer the three questions under the Zoning Board's purview concerning the proposed usage. His concerns were: The scale, the number of people on site at a given time?

The applicant stated the current capacity in the pavillon (in plans) was not more than 300 people. Ms. Olmsted stated that for the annual International Celebration of Dance she did not believe there would be over 300 people on the site. It is the only time (once per year) right now, that she would have that many people on the site at one time.

Chairman Nelson asked how many guests (campers) would be staying overnight on a weekly basis. He was told if the ZBA went by the number of structures the applicant currently had, they would not have more than 50 people on site at one time, which included the staff.

Additional questions were:

How many geodesic domes were planned? They currently have 30.

The applicant was asked for the size of the domes. She stated the large are 30 foot, the small are 16 foot (Ms. Donovan had not distributed the information to the Board members). The sheet passed out to the Board members at the meeting showed the size of the domes.

Chairman Nelson stated for clarification: 50 people on site, and 30 domes. It would be ongoing with overnights (guests). Ms. Olmsted stated that would only be when there were events on site. She did not believe there would be events scheduled every week. Guests would not be staying on site every week. People coming for classes at the café might not stay overnight. Chairman Nelson apologized for not being at the first meeting when the abutters spoke. He opened the meeting to the abutters.

Mr. Shaun Carroll, Jr. addressed Chairman Nelson and read aloud Standard C for special exceptions: *The proposed use will not be contrary to the public health, safety and general welfare by reason of undue traffic congestion or hazards that pose a risk to life and property or be unsanitary or create unhealthful waste disposal or unhealthful conditions.*

He said the proposal was called a resort when first discussed (initial meeting). In the October 25, 2021 letter was a list: Cafeteria, Tea Room, Pavillon, store, gallery, greenhouse, camping domes, toilets, baths, residential domes, guest domes. The list does not meet the criteria of camping or residential.

(As an abutter) he did not understand; is it camping or is it recreational? He believes an owner should be able to do what they want on their property, but they also have to meet the (Town) criteria. Has the applicant gone down the ZBA list of what needs to be presented on the site? His opinion was that there is no preparation in the application and documents at all. It is not showing anything that gives a clear understanding of what is (proposed) on the property. There were no blueprints. There is a criteria list (of necessary items) for the Zoning Board. He did not see them. In the previous meetings they spoke of people living there year round. The applicant also talked about part-time people living there. Mr. Carroll, Jr. believed it might be a subdivision level (due to residents and traffic). The ZBA is getting additional information of what will happen on the site; but not the whole picture. There is so much being proposed. He asked for:

- ❖ The prints to clarify what will be at the site.

If the special exception states the applicant has to do something about (improve) the road:

❖ Where are the plans for the road?

Ms. Donovan stated that (road) was Planning Board purview.

Mr. Carroll, Jr. addressed her and said he had been to many ZBA meetings. An applicant brings the same plans to the Zoning Board as to the Planning Board. If the applicant doesn't want to be upfront with everything, then an applicant provides minimal information such as the ZBA has now. The cited criteria should be brought to the members that will make the decision.

Addressing the Board, Mr. Carroll, Jr. asked how they will make a decision on the traffic. The traffic number is unknown; it might be seasonal, it might be year-round. It is an unknown. The Board could not make a decision on hypotheticals. Mr. Whalen stated that those were the concerns that Mr. Herbert Fisher brought up at the last Board meeting. Mr. Carroll, Jr. stated it was up to the applicant to bring the information to the Board so the members have a clear understanding; it shouldn't be done over five or six meetings.

Mr. Whalen asked Ms. Olmsted if she had a video proposal. He described the proposal from her letter as a Natural Foods Disneyland (and doing a presentation for Woodstock). He told the applicant she needed to give the ZBA members a very clear understanding of her vision. He stated he loved to see new things come to Town, he loved her ideas, but like some other Zoning Board members he needs a really clear picture. What she has submitted is very general with no specifics. He asked if she agreed. Ms. Olmsted said she was hearing Mr. Whalen, but was not in full alignment with what he said. She believed she had provided quite a bit of information in regards to what her plans and vision is for the site. She stated she did not believe a video presentation was necessary; what was written (letter October 25, 2021) explains what she is planning. One event, a dance performance, will be large (approximately 300 people). Cars will not be needed to go (up Pike Hill Road) park on the site. The retreat will use their parking lot as well as the golf course parking lot and any other area available to park the cars. Mr. Whalen stated the sketch of the parking lot says 300 (car) capacity. Ms. Olmsted told him that at the October 21, 2021 meeting she had said she had decided not to create a parking lot for 300 cars. She would have smaller events throughout the summer in the café or greenhouse and visitors at the gallery.

Mrs. Sarah Fisher, abutter, had some questions.

- 1) The Tea Room and Art Exhibits. What is the capacity of the class(es)? How many people will be in the greenhouse or the Tea Room at one time? What is the square footage of the (proposed) Tea Room or buildings that will be proposed so that we can get a sense of capacity?
- 2) Will it be a Tea Room and a function room? Could there be two events happening at the same time?
- 3) What is the capacity of the Gallery? What is its square footage? How many people would be attending just for the gallery? Or just to a class? Do the classes require an overnight stay?
- 4) Capacity. Approximately 50 in the geodesic domes; whether they were guests, residents or staff.
- 5) Who would live there either seasonally or year round?
- 6) How many additional people would be coming to the retreat for the day to partake in something that is offered?
- 7) Events. Are people coming just for specific events or can people go to spend a night or a weekend at the retreat. Or only a day and not overnight.

Mrs. Fisher stated she did not understand the rules for and scope of participation.

Chairman Nelson stated the ZBA has been informal with other proposals such as a garage (straightforward proposals).

Chairman Nelson asked for the following:

- 1) A drawing to scale showing size location and number of the structures and domes
- 2) Occupancy. number of people on site and on the road

Mr. Spaulding, Sr. stated the ZBA has the option to ask for an expert come and tell the Board how the expert determines what and how the proposal will happen. Mr. Spaulding, Sr. stated he was bothered by how he would vote on the proposal. There was not enough information on scale, traffic and number of people.

The ZBA members held a lengthy discussion on the case. It was stated that a special exception is a permitted use. In theory the ZBA had to give permission to an approved use; the Planning Board had to decide the specifics of the site. To answer the ZBA questions (Standards) they needed to know the scale of the proposal. There were two proposals being requested, recreational and camping (as stated in the Newport Zoning Ordinance).

Mr. Carroll, Jr. explained the use of project plans to see if it fit the Zoning Ordinance, especially Standard C. If the Board had the plans of the site it could decide if it fell under the criteria of camping or recreational; the Board will not know if the applicant is meeting the criteria of Special Exception without them. Right now they had nothing.

Chairman Nelson and Board members listed items required of the applicant before she returns to the ZBA:

- 1) A drawing to scale showing size, location and number of structures and geodesic domes.
- 2) Sanitary facilities
- 3) Size and location
- 4) Occupancy; number of people on site weekly
- 5) Capacity of structures (domes) 3/4/5 people?

Ms. Donovan reminded the Board that if they approved anything the applicant was then liable to follow any Town state and federal regulation concerning their site. She asked if the Board believed the applicant has met the two special exception requirements (in general). Ms. Donovan will re-post for both special exceptions. The Board discussed the case as it pertained to the two special exceptions. The members reiterated that the scale is important to know (Standard A.). Sanitary facilities and removal were needed (Standard C). A big impact is the condition of the road (Standard B).

Chairman Nelson asked the applicant if there would be people living there. She stated that there would be staff overseeing the retreat March through October. If her family decides to stay over the winter it would mostly be them.

Mr. Spaulding, Sr. addressed Ms. Donovan. She was asked why the case couldn't go to Planning Board first. They discussed the information the ZBA needed to make a decision; it was requested the Case be continued.

Mr. Kessler stated a project of this size and scope needs financial backing. There is no business plan or financial conceptual presentation showing Phase I, Phase II or if it will all be done at once. If and when the ZBA approves Case #1119 it starts the clock ticking to begin construction on the site. Mr. Kessler wanted to see a formalized business plan. There was a discussion on the information that the applicant should give to the Board.

Mr. Carroll, Jr. said the ZBA was asking for the number of people at the site in the domes; the geodesic domes should arrive on site (from the company) stating their occupancy number. The Board didn't want to open the door to something that is not in their regulations. They needed to know the specifics.

Mr. Spaulding, Sr. stated that the lack of plans provided to the Board members made it difficult to make a decision. Mr. Whalen stated the applicant had not answered information for Standard C. He believed the Board had to table the Case; he could not vote on it.

Chairman Nelson again listed the items required of the applicant before she returns to the ZBA:

- 1) A drawing (layout) to scale showing size, location and number of structures and geodesic domes.
- 2) Capacity of structures: X number of people
- 3) Capacity of domes: 3/4/5; X number of people
- 4) How many people on site (guests, staff and residents)
- 5) Occupancy: The number of people on the site at one time weekly; monthly (averages over year)
- 6) Sanitary facilities
- 7) Size and location of structures (on the three lots)
- 8) Traffic on Class VI Road: foot and vehicular
- 9) Safety-road upgrade and signage

Chairman Nelson called for a motion to table and continue Case #1119.

Mr. Whalen made a motion *to table and continue Case #1119 Wisdom in New Dimensions and to bring in the criteria the Board has outlined:*

1. *A drawing (layout) to scale showing size, location and number of structures and geodesic domes;*
2. *Capacity of structures: X number of people;*
3. *Capacity of domes: 3/4/5 X number of people;*
4. *How many people on site (guests, staff and residents);*
5. *Occupancy: The number of people on the site at one time weekly; monthly (averages over year);*
6. *Sanitary facilities;*
7. *Size and location of structures on lots;*
8. *Traffic: foot and vehicular on road and retreat;*
9. *Safety-road upgrade and signage*

*to the December 16, 2021 meeting at 6:30 p.m.* It was seconded by Mr. Kessler. *The motion passed 3-0-1 (Spaulding abstained).*

**Case #1120: Rocco Ruggeri (Owner):** Request a Variance as provided in Article III, Section 307.1 to permit the addition of a dwelling in a structure that has three existing dwellings. The property is identified as Map 109 Lot 003 and is located at 156 North Main Street in the Professional Business District (PBD) Zoning District.

Chairman Nelson opened Case #1120. The applicant was not in attendance. He called for a motion to continue Case #1120 to December 16, 2021 at 6:30 p.m.

On a motion by Mr. Kessler, seconded by Chairman Nelson; *the Board voted to continue Case #1120 Rocco Ruggeri to December 16, 2021 at 6:30 p.m. The motion passed 4-0-0.*

On a motion by Mr. Whalen, seconded by Mr. Spaulding, Sr.; *the Board voted to adjourn at 8:02 p.m. The motion passed 4-0-0.*

Respectfully submitted,

Maura Stetson, Scribe

Approved on: December XX, 2021