

**TOWN OF
AUSTERLITZ**

Columbia County
New York



Deborah Lans
Planning Board Chair

**Planning Board Meeting
May 2, 2024 7:00 p.m.**

*******AGENDA*******

1. Call Planning Board Meeting to Order
2. Roll Call
3. Acceptance of March 2024 Meeting Minutes
4. New Business: Stone Jensen, SBL#88.-2-5: Renewal of Special Use Permit dtd 5-4-23
5. Old Business: none
6. Public Comment
7. Adjournment

Reference Material

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***Please understand that this agenda is provided at an early date to provide the public with as much information as possible, but it is also subject to change as meeting material is often not available until the very day of the meeting.**

Town of Austerlitz
Planning Board Meeting
March 7, 2024

Present: Deborah Lans, Board Chair, Planning Board Members: Chris Ferrone, Steve Lobel, Dale Madsen and Eric Sieber. Also present: Joseph Catalano, Attorney for the Town and J Lotus, Planning Board Clerk.

Public Hearing: Michael O'Brien, MOB Builders: PL-2024-01, SBL# 87.-2-50.3, Re: Minor (3-lot) Sub-Division

The Public Hearing was called to order by Chair Lans at 7:02 p.m. on March 7, 2024. The Chair asked Mr. O'Brien for a summation of what he was looking to accomplish through the sub-division. Mr. O'Brien's replied that his goal was for 'single family residential use' with the driveway approximately be 180 feet from the road. The Board queried as to whether the potential house location was a building envelope? Very close, by 20-30 feet. The orientation of the house has been turned slightly clockwise on the new plat maps.

Chair Lans called for questions or comments from other members of the board. There were none. Chair Lans noted that the return receipts from letters to the neighbors were in the file, the application was deemed complete at the February 1st Planning Board meeting. Chair Lans asked whether the letter from the U.S. Army Corps. of Engineers had been received yet. Mr. O'Brien stated that all information has been submitted to them and that he expected a letter of "No Permit" once they've studied the site. He is nowhere near the wetlands with this minor sub-division project hence, Mr. O'Brien expects their response to be "No Permit" necessary.

A Motion to close the public hearing was made by Member Sieber. Member Lobel seconded.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

The Regular Meeting of the Austerlitz Planning Board was called to order by Chair Lans at 7:08 p.m. on March 7, 2024.

February Draft Minutes:

Chair Lans called the Board's attention to the Draft Meeting Minutes from February and asked for comments and amendments. No amendments were proffered. Member Sieber made a motion to accept the February 1, 2024 Planning Board Minutes as written. Member Ferrone seconded.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

Old Business: **Michael O'Brien PL-2024- 3 Parcel Minor Subdivision**

Property Owner: Michael O'Brien

Applicant: Michael O'Brien

Project Property: SBL #87.-2-50.3

Zoning: Rural Residential

Chair Lans stated that the application was deemed complete at the February Planning Board meeting as well as SEQR Part II. We have the letters and receipts from mailing the letters of intent to all parcel neighbors. Chair Lans called upon the Board to deliberate on the application to decide how they wanted to vote. The Planning Board passed out new "satellite" maps and discussed the maps with the applicant and each other. The overall consensus was that this subdivision and subsequent building plans posed no threat to the local wetlands.

Mr. O'Brien was asked whether his company would be doing the building and he replied affirmatively.

Member Sieber made the Motion to approve the subdivision with the conditions that: the houses be constructed where the general house locations appear on the approved map or, at the very least that they be constructed no further South towards the wetlands before a building permit is issued and that the file must contain the U.S. Army Corps. of Engineers letter of "No Permit". Member Madsen seconded the motion.

No further discussion was deemed necessary.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

New Business:

James Dohr, represented by Dustin James, PLS of Crawford and Associates: PL-2024-02, SBL#88.-1-33.12 and #88.-1-33.2: Boundary Line Adjustment.

Dustin James introduced himself as the representative for James Dohr and as a Surveyor with Crawford and Associates.

Mr. James was asked to give the Board a brief statement as to the purpose of the Boundary Line Adjustment. Mr. James stated that Mr. Dohr desired to move two acres from the larger parcel into the smaller vacant parcel which he would then retain for himself. Once the boundary line adjustment is completed, the parcel with the house on it will be sold. Mr. James stated Mr. Dohr's proposition to define two "no-cut" zones as a part of this boundary line adjustment in order to maintain privacy between the house that Mr. Dohr will build for himself and the house on the property that he will sell. Chair Lans stated that the set-backs look fine. The location of the utilities is precise. Most of the no cut boundaries are on Parcel A1 of the map. Parcel A2, as delineated on the map, is being merged with Parcel B. There is an old road on the property that is unimproved access. There is already a culvert at the end of the access road. The Town of Austerlitz Driveway law states: "The driveway return radius has to be at least 15 feet". Mr. James stated that 'return radius' refers to the edge of the driveway and the edge of the town road's driving surface. Therefore, this has nothing to do with the property line. It is a 'turning radius issue' so that a larger truck can turn into the driveway. The Board has agreed that it does not appear to be a problem as depicted on the map. The Planning Board also determined that the return radius would not affect any neighbors.

The Board discussed SEQR and determined this to be a Type II action under SEQR. Member Seiber made a motion to acknowledge that this is a SEQR Type II action, Member Madsen seconded.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

It is within the Planning Board's discretion to decide whether there is a need for a Public Hearing. The Board members returned that they did not find a need.

Member Seiber made a motion to determine the Dohr Boundary Line Adjustment application as complete. Member Madsen seconded that motion.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

Member Seiber made a motion to approve the proposed Boundary Line Adjustment Map, dated 1-24-24 and last revised 3-6-24. Member Madsen seconded the motion.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

Other Business: The Board entertained a small discussion of whether they had further thoughts on the Draft Comprehensive Plan and requesting greater specificity with regards to such.

Attorney for the Town, Joseph Catalano, brought the Board's attention to the Town Board's desire to finalize and adopt the comprehensive plan during the next few months and at that point, the Town Zoning Laws will need to be adapted. For these reasons, the Moratorium put in place last year will be continued for another nine months.

Thus far, the thinking is to utilize broad categories e.g. a retail category, personal service, animal care. Each category has to be named and defined. If something does not fit, by the law's terms it would be prohibited and then applicants would require a Use Variance. Mr. Catalano stated that the Zoning Law will set specific standards to each Use, rather than general standards applying to all. Attorney Catalano queried the Planning Board as to their feelings regarding design standards. Most standards will apply to Commercial projects rather than Residential. Perhaps the Zoning Board would use a generic description for Residential projects. Another idea would be to have different standards in the Hamlet than outside of it. There will be regulations on lighting, parking, environmental issues, screening, etc. The Zoning Board is looking to give the Planning Board better guidance. The Planning Board will be given a draft of changes in order gain Planning Board input and insight. Member Seiber stated that the Planning Board would benefit from more clarification re: the public gatherings. Also, Member Seiber raised a question about how much short-term rentals have made residents think again about the zoning law. The Comprehensive Plan may have an amendment re: Short Term Rentals. All of these questions will require a schedule and definitions, standards and applicable issues.

Public Comment: None

Adjournment:

Member Seiber made a motion to adjourn the March 7th, 2024 Planning Board. The motion was seconded by Member Madsen.

Roll Call Vote:

Deborah Lans: Yes

Chris Ferrone: Yes

Steve Lobel: Yes

Dale Madsen: Yes

Eric Sieber: Yes

The Motion Carried 5:0:0.

The Planning Board meeting ended at 8:00 p.m.

Minutes Respectfully Submitted by

J Lotus

Town of Austerlitz Planning Board Clerk

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April 18, 2024

USPS Mail

Town of Austerlitz Planning Board
Town of Austerlitz
P.O. Box 238
816 Route 203
Spencertown, NY 12165

RE: Special Use Permit
104 East Hill Road
SBL: 88.-2-5

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Dear Planning Board Members:

Please be advised that I represent Graham Stone and Alexandra Jensen the owners of the property at 104 East Hill Road being SBL: 88.-2-5.

By Resolution dated May 4, 2023, The Planning Board granted a Special Use Permit and approved the site plan. However, the special use permit expires on the 366th day after the date of the Resolution but is able to be renewed for additional periods. Being the Resolution was dated May 4, 2023, the expiration date would be May 4, 2024, and accordingly, I am seeking a renewal on behalf of the owners.

Since May 4, 2023, the owners did seek a permit to hold a 40 person event on August 19, 2023. The permit was granted but thereafter revoked. As stated in the letter to Mr. Stone and Ms. Jensen from Joseph M. Catalano, Attorney for the Town of Austerlitz, dated September 21, 2023 "there may have been confusion created by the issuance of the operating permit and its late revocation." Mr. Stone and Ms. Jensen thought they were doing the right thing by applying for and obtaining the operating permit for the August event and have not sought any event permits nor have they held any events since August 19, 2023.

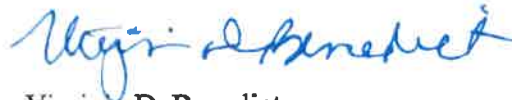
Further, the letter from Attorney Catalano directed them to obtain approval from the Town Highway Superintendent. Road/Driveway Approval Form dated March 27, 2024 and signed by Peter Fitzpatrick, Highway Superintendent is attached.

As my clients are hereby seeking a renewal, please advise if you need anything further at

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this point or if a public hearing will be set for renewal of the special use permit.

Very truly yours,



Virginia D. Benedict

VDB/jk
w/enc.

cc: Joseph M. Catalano via Catalano_jm@yahoo.com
Alexandra Jensen and Graham Stone via Experience@moonbeams.co

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Town of Austerlitz Highway Department

PO Box 238, 714 Route 203

Spencertown, NY 12165

Phone: 518 392-3260 x 301 Highway Clerk

Phone: 518 392-5533 Highway Superintendent

Road/Driveway Approval Form

Name of Subdivision/Homeowner: Graham Stone / Alexandra Jensen

Tax Map SBL #: 88. - 2 - 5

Name of Road: 104 East Hill Road

Location of Road: proposed Entrance for driveway/parking area

I have inspected the above road/driveway/location and have determined that:

☒ 1) I approve the proposed location only.

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☐ 2) The requirements below must be met before any approvals may be given. MAY 03 2024

☐ 3) It meets All specifications as required by the Town of Austerlitz Road Planning Board Meeting

Additional comments/requirements: _____

3/27/2024

Date



Peter Fitzpatrick

Highway Superintendent

Final Resolution

Decision/Resolution of Town of Austerlitz Planning Board Re: Site Plan/Special Use Permit Application - 104 East Hill Road

PB Resolution: May 4, 2023

At a regular monthly meeting of the Planning Board of the Town of Austerlitz, the following resolution was presented:

Whereas, Alexandra Jensen and Graham Stone (hereinafter referred to as "Applicants"), submitted an application for a special use permit and site plan review for purposes of establishing and operating home businesses on their residential property located at 104 East Hill Road (Tax Map No. 88.-2-5) in the Town of Austerlitz (hereinafter the "Property"); and

Whereas, the Property comprises 37.9 acres improved by a single-family dwelling and a detached garage with an accessory apartment on the second floor advertised for short-term rentals; the first floor of the garage was converted by the Applicants into a music recording and production studio (hereinafter referred to as "music studio"); there is an additional guest suite in the basement of the dwelling that is used for short-term rental; and the Applicants also use a portion of the dwelling as a design studio; and

Whereas, the Applicants are artists/musicians who work from their residential property and, in addition to the use of their home for their occupations, they wish to open their property to clients and collaborators in furtherance of their design and music businesses; and

Whereas, the application describes proposed regular monthly business-related events involving up to 40 people, and applicants have proposed a parking area for up to 14 vehicles for that purpose; and

Whereas, applicants also propose an annual business-related event in which the number of attendees would be expected to be substantially more numerous than the monthly events and the number of vehicles for attendees would exceed the number of parking spots proposed; and

Whereas, the Applicants submitted a Short Form Environmental Assessment Form, with Part 1 completed, together with the application materials and, at its March 2, 2023 meeting, the Planning Board determined the Application was complete for purposes of scheduling a public hearing; determined that the proposed project constituted an Unlisted Action under the State Environmental Quality Review Act (SEQRA;) and scheduled a public hearing on the Application for April 6, 2023 at 7:00 p.m.; and

Whereas, the public hearing regarding the application was held on April 6, 2023, at which time the Applicants were present and made a presentation to the Planning Board and there were numerous members of the public in attendance some of whom spoke with respect to the application; and

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Whereas, written comments were also received both prior to the hearing and after the hearing was closed; and

Whereas, after the Applicants made a presentation of their proposal, the floor was open to the public and all that were present were given a full and fair opportunity to be heard with the Applicants having the opportunity to respond to each public comment; and

Whereas, the Planning Board closed the hearing by motion; and

Whereas, before the hearing one member of the Board, and after the meeting two members of the Board, visited the site and the road on which it is located; and

Whereas, after full review and due consideration of the application materials, the Applicants' presentation and statements, and the comments made by the public at the hearing, and the relevant provisions of the Town Code:

Now, Therefore, Be It Resolved by the Town of Austerlitz Planning Board as follows:

- I. The Planning Board makes the following Findings:
 - a. Proposed Improvements: This special use permit and site plan application proposes to utilize existing buildings and grounds on the Property located at 104 East Hill Road in the Town of Austerlitz. The only additional improvement proposed is the establishment of an unpaved 70 by 75-foot parking area with a new 20-foot wide driveway access to East Hill Road. This parking area is proposed to be set back 25 feet from the Road and is purported to accommodate 14 vehicles. Only an outline of the parking area was depicted on the site plan. The Applicants also propose a walking path from the parking area to the buildings on the Property so that visitors need not walk along the Road to traverse from the parking area to the residence.
 - b. Existing Buildings: The Buildings on the Property include: a 1600 sf raised ranch dwelling where the upper level is the primary residence and the lower level includes a 535 sf guest suite with bath. There is a detached accessory building on the Property which has an upper floor 364 sf guest suite with bath and the lower floor of 672 sf converted to a music production studio.
 - c. Proposed Use: The Applicants propose the following: the dwelling will remain their residence; Mr. Stone will utilize and operate the music studio for his business; Ms. Graham will utilize a portion of the dwelling for her art design business; the two guest suites may continue to be utilized for guests and short-term rentals; the Property would be utilized on an approximately once per month basis during the warmer months for a gathering/event for up to 40 people that would consist of family, friends and collaborators related to their businesses; and an approximately once per year annual event that would substantially exceed the number of monthly event attendees and the capacity of proposed parking area and would require additional parking along East Hill Road. The proposed parking area is for 14 vehicles and would entail clearing and preparing a 70-foot by 75-foot area approximately 25 feet from East Hill Road with a 20-foot driveway for access and a foot path from that area to the buildings on the Property. According to the Applicants, the day-to-day studio uses do not

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entail regular on-site visits from clients and collaborators nor do they involve a large number of such visitors at any one time, and there is ample parking currently on the Property to accommodate those visitors for the day-to-day studio operations without further improvements.

- d. Zoning: The Property is in the Rural Residential district of the Town. The Planning Board has identified the proposed uses as Level 2 Home Occupations pursuant to Article VII of the Town's Zoning Code. A Level 2 Home Occupation requires a special use permit and site plan approval pursuant to Articles VII and IV of the Zoning Code. The Board's determination was made based on the fact that the area of music studio alone exceeds (at 34%: 672 sf music studio/ 1964 sf habitable space) -- the area threshold that may be devoted to a business to qualify for a Level 1 Home Occupation (25% of habitable area) and the Board's determination was made without regard to the proposed use of the Property for the planned events or gatherings.
 - e. Public Comment: The public hearing on the Application was held for in excess of two hours on, and closed on, April 6, 2023. At the public hearing, the Applicants made a presentation detailing the various components of the proposal, the Planning Board asked the Applicant questions and received responses to those questions, and comments were made by neighbors of the Property and residents along East Hill Road. The comments from the public were virtually all directed at the proposal relating to the scheduled business-related events and raised the following concerns: disruption of the quiet, residential nature of East Hill Road neighborhood; impacts on the traffic and safety along East Hill Road, which is an unpaved road that is narrow and winding; whether there will be supervision of, and control over, the conduct of attendees at events; the difficulty in enforcing any intended limit on the number of attendees at events; the adequacy of parking for at least the one annual event. Concern was also raised as to future events in light of an event held by Applicants in the summer of 2022, described as a "housewarming," for which tickets were made available on EventBrite and a food truck served food at a price to attendees, as well as disparities between a website of the Applicants and representations made by Applicants to the Board. All the information provided by the Applicants and all of the public comments have been taken into consideration by the Planning Board in its deliberation on this matter. The Board has also considered that the Town Code does not regulate purely personal gatherings of fewer than 200 attendees.
2. The Planning Board makes the following determinations pursuant to SEQRA: Along with the application form and materials, the Applicants submitted a short environmental assessment form (EAF) pursuant to SEQRA. The Planning Board reviewed the EAF at its meeting held on May 4, 2023 after receiving a complete application, having previously made the initial determinations that the Application is an Unlisted Action under SEQRA; there are no other involved agencies as that term is defined under SEQRA; and it would be prudent to await further information that might be gathered at the public hearing before making a SEQRA determination. The Planning Board has reviewed the EAF with Part 1 prepared by the Applicants together with all of the application submissions. Prior to the presentation of this Resolution, the Planning Board discussed and determined that the Short EAF was acceptable under the SEQRA regulations, and the Board hereby waives the requirement set forth in Zoning Code section 195-30(C)(1) for a long form EAF for a site plan application pursuant to its authority to do so as set forth in Zoning Code section 195-31(B). Such waiver is based on the fact that the project is essentially using

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existing buildings with the only proposed improvement a relatively small, unpaved parking area, driveway and footpath. Also prior to the presentation of this Resolution, the Planning Board discussed and answered the questions on Part 2 of the EAF. In so doing, the Planning Board ~~did not~~ find any moderate or large or potential adverse environmental impacts that would result from the proposed improvements and use as proposed by the Applicants. The Planning Board based such determination mainly on the facts that the proposed improvements and use will result in minimal impact to the environment even though the proposed events might have a significant impact to the residential nature of the Property and surrounding neighborhood. The Planning Board hereby accepts the EAF as complete and determines that the issuance of a special use permit and site plan approval for the proposed use to the extent set forth herein will not result in any significant environmental impact and, as such, a negative declaration applies. The reasoning for this determination is as follows:

- a. that the application does not propose any significant new construction or installation that is not in keeping with the environmental conditions of the Property;
 - b. that the Property is of sufficient size and character that will adequately support the proposed uses without any significant adverse impact to existing environmental or natural conditions of the Property or surrounding properties;
 - c. that the Property driveway and parking that is proposed will be unpaved and thus limit stormwater runoff;
 - d. that the existing driveway and available parking areas around the existing buildings on the Property are adequate to accommodate the relatively small amount of traffic that the design studio and music studio uses will generate; and
 - e. the limitations, conditions and restrictions placed on the special use permit as set forth below will further mitigate and/or eliminate any potential environmental concerns.
3. The Planning Board hereby approves and grants the special use permit and approves the site plan of the Applicants to the extent set forth herein solely for the design studio to be conducted out of the dwelling and the music studio to be conducted out of the first floor accessory building as Level 2 Home Occupations. The site plan prepared by Applicants is approved. No further external improvements are authorized on the Property in furtherance of the design studio and music studio Home Occupations. Any events, gatherings or other activities that are related to the design studio and music studio Home Occupations that are not conducted within (i.e., inside) the dwelling or music studio are not authorized and are prohibited. Additionally, any activities related to the business of the design studio and music studio Home Occupations in which parking for clients, collaborators, or other visitors cannot be adequately accommodated on the Property's existing driveway and parking areas are not authorized and are prohibited. For the avoidance of doubt, Applicants are not prohibited from hosting private non-commercial, non-business-related gatherings that are permitted by the Town Code. This approval as defined and limited herein is subject to the following additional conditions and restrictions:
- a. The use allowed by this special use permit and site plan approval is for only a design studio and music studio that are to be conducted in a manner in which the principal use of the Property, as a single-family residence, remains predominant and the Home Occupations remain incidental and secondary to the use of the dwelling for residential purposes.
 - b. The Applicants may continue to utilize the guest suites in the lower level of the dwelling and upper level of the detached accessory building for short-term rentals to the extent permitted by the Town Code as it may be in effect from time to time.

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- c. The Home Occupations allowed herein shall be conducted in a manner that respects the residential character of the East Hill Road neighborhood and neighboring properties and shall avoid the creation of loud music, noise or other disturbances that may affect the neighboring residents of the peaceful enjoyment of their properties
 - d. Since the Applicants were vague concerning the details of the proposed gatherings and were not forthright in their characterizations of a large gathering that took place in the summer of 2022, the Board finds it appropriate to provide for revisiting the permit in the future to ensure that the Applicants' representations and the terms of this approval have been honored and to ensure that the residential Property remains principally residential in character and its use does not materially impact neighbors or residents on East Hill Road. The special use permit granted herein shall expire on the 366th day after the date of this Resolution but may be renewed for additional periods provided the Applicants abide by the terms hereof. The Applicants may apply for such renewal by submitting a letter to the Planning Board requesting the renewal and by providing a presentation on the previous year's operation at a public hearing on notice to neighbors.
 - e. Any changes in the site plan or in the above terms, restrictions and conditions of the special use permit will require approval of the Planning Board before such changes can be implemented.
 - f. This site plan approval and issuance of the special use permit for the design studio and music studio as described herein may be revoked if the Applicants are determined not to have adhered to the terms and conditions set forth herein.
4. This special use permit has been issued pursuant to the criteria set forth in section 195-33 and section 195-28 of the Austerlitz Zoning Law after the Planning Board has duly considered the public health, safety and welfare, potential environmental impacts and impacts to surrounding properties. The Planning Board concludes that the Applicants' application as limited, restricted and conditioned by the provisions set forth above comply with said criteria as follows:
- a. **Objectionable Impacts.** That the character, nature, type, scale and intensity of the design studio and music studio, as operated as Home Occupations, and their location and distance from adjacent roads, properties and residences, is consistent with the rural character of the Town and will not be objectionable to nearby properties by reason of noise, odors, vibration, dust, illumination or other potential nuisance if the operation of the two studios adheres to the terms set forth herein. The monthly and/or annual business gatherings would be of a character, nature, type, scale and intensity that is not consistent with a Level 2 Home Occupation.
 - b. **Compatibility.** That the design studio and music studio Home Occupation uses permitted herein are of a character, nature, type, scale and intensity compatible with the area in which these special uses are located.
 - c. **Vehicular Access and Traffic.** That the existing roads, particularly East Hill Road, are adequate for access for residential use of the Property combined with the new design and music studio uses and will not cause any significant changes in current traffic patterns based on the Applicants' presentation that such uses generate little additional traffic to the Property. The driveway and parking areas near the existing buildings on the Property are adequate for parking for the limited use approved herein. The proposed parking area would

not create a significant change in current traffic patterns or unsafe conditions on East Hill Road.

- d. Historic character. That the design studio and music studio Home Occupation uses on the Property will not alter the traditional and historic character of the Town, the Property, and the surrounding area.
- e. Site Plan. That the proposed use and development is consistent with the requirements for site plan approval.

Upon motion made by Planning Board Member Steve Lobel, seconded by Planning Board Member Dale Madsen, the foregoing Resolution was duly adopted by the Planning Board on May 4, 2023 by vote of a majority of its members as follows:

Planning Board Member	yes	no	absent/abstain
Deborah Lans, Chair	✓	—	—
Eric Sieber, Member	—	—	✓ (absent)
Chris Ferrone, Member	—	—	✓ (absent)
Steve Lobel, Member	✓	—	—
Dale Madsen, Member	✓	—	—

Reference Material

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