

Town of Exeter
Zoning Board of Adjustment
December 15, 2020, 7 PM
Remote via Zoom
Final Minutes

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7 **I. Preliminaries**

8 **Members Present:** Chair Joanne Petito, Clerk Rick Thielbar, Laura Davies, Kevin
9 Baum, Martha Pennell - Alternate, Esther Olson-Murphy – Alternate, Anne Surman -
10 Alternate

11
12 **Members Absent:** Vice-Chair Robert Prior, Hank Ouimet - Alternate, Christopher Merrill
13 - Alternate

14
15 **Call to Order:** Chair Petito called the meeting to order at 7 PM.

16
17 Ms. Petito read a statement:

18 As Chair of the Zoning Board of Adjustment, I find that due to the State of Emergency
19 declared by the Governor as a result of the COVID-19 pandemic and in accordance with
20 the Governor's Emergency Order #12 this public body is authorized to meet
21 electronically.

22
23 Public notice of this meeting was posted on the town website and on the bulletin board
24 of the town offices at 10 Front Street. As provided in that public notice, the public may
25 access the meeting online and via phone.

26
27 Please note that all votes taken during this meeting shall be done by roll call vote. Let's
28 start the meeting by taking a roll call attendance. When each member states their
29 presence, please also state whether there is anyone in the room with you during this
30 meeting and who that person is (son, daughter, spouse, etc...), which is required under
31 the Right-to-Know law.

32
33 Ms. Olson-Murphy will be the voting alternate at this meeting.

34
35 **II. New Business**

- 36 A. The application of William and Mariah Curtis for a variance from Article 6.10
37 Home Occupations, Section 6.10.2 "Evidence of Use" to permit one additional
38 commercial vehicle (i.e. lettered truck) to be parked overnight on the property
39 located at 99 Beech Hill Road. The subject property is located in the RU-Rural
40 zoning district. Tax Map Parcel #13-7. Case #20-17.

41
42 Attorney Sharon Somers of Donohue, Tucker and Ciandella and William Curtis,
43 the property owner, were present to discuss the application.

44 Attorney Somers said they are seeking variance relief to allow Mr. Curtis's
45 company to have a lettered pick-up truck stay on site overnight. They need the
46 permission because he already has one commercial vehicle on the property, which is
47 allowed as a matter of right, and they are seeking a second vehicle. A home occupation
48 permit was issued in 2019 to allow a tree care company to operate on the premises. He
49 is also allowed to have signage on the property, but has opted not to have that. This
50 summer, he came to the ZBA seeking relief for four vehicles on the property, which was
51 denied, so he has submitted this new application seeking only one vehicle.

52 Attorney Somers addressed the variance criteria. 1) Not contrary to public
53 interest and 2) Spirit of the ordinance is observed; yes, the basic zoning objective is to
54 balance the home occupation with the residential character of the neighborhood, and in
55 particular, to regulate the evidence of the use. If you look at the neighborhood, the home
56 occupation with the two lettered vehicles will not alter the essential character. There are
57 other agricultural and home occupation uses in this area, and the RU Zone allows a
58 number of other non-residential uses. The vehicle is already on the property, so they will
59 not be impacting traffic. They're only seeking lettering to identify this as a company
60 vehicle. 3) Substantial justice is done; yes, Mr. Curtis needs this vehicle with the lettering
61 in order to conduct his business in compliance with State and Federal requirements. If
62 the identification is not there, he will be subject to fines from the DOT. The loss to Mr.
63 Curtis if the variance is denied outweighs any potential risk to the public, so substantial
64 justice would be done. 4) Value of the surrounding property is not diminished; yes, there
65 would not be any additional traffic. The request is only that the truck would have lettering
66 on it. 5) Literal enforcement of the ordinance would result in unnecessary hardship; yes,
67 this property has special conditions in that it's large and has an odd shape, which
68 provides an additional buffer for the abutters. Fair and substantial relationship; yes, the
69 intent is to allow for home occupations without substantially altering the appearance and
70 use of the property. This will not be particularly visible to abutters or passers-by. If
71 applied literally to this property, it will make it difficult for this tree business to operate.
72 Proposed use is a reasonable one; yes, they need the second vehicle to have
73 identification to comply with State and Federal regulations.

74 Ms. Davies said their main concern at the previous hearing wasn't with this
75 applicant's business plan or method of operating, but with potential future owners, and
76 that this application would mean one additional vehicle for commercial use for future
77 users as well. Ms. Surman asked if the two vehicles would be used at the same time,
78 and Mr. Curtis said no. Ms. Surman asked if the applicant could opt for signage in
79 addition to the other vehicle in the future. Attorney Somers said yes, he could have
80 signage as a matter of right, but he is trying to maintain as unobtrusive a presence as
81 possible. He needs one heavy-duty vehicle with a chipper and one for more
82 administrative purposes. He is capped at two additional non-residents as employees
83 under the terms of the Home Occupation Permit, so this is a fairly limited operation. Mr.
84 Curtis suggested making the no signage a condition of the approval, as well as not being
85 able to come back and ask for another vehicle. He hopes to expand his business, but
86 not at this property. Mr. Baum said the other condition they discussed during the
87 previous application was that the vehicles not be above 20,000 Gross Vehicle Weight

88 (GVW) and that the vehicles not be parked behind the property; are those still
89 acceptable? Attorney Somers asked if that was limited to the commercial vehicles, and
90 Mr. Baum said yes, just the additional vehicle. Attorney Somers asked for clarification on
91 the “back of the property” condition, and Mr. Thielbar said the concern was that they
92 didn’t want vehicles parked near to the neighbors in the “panhandle” area. Mr. Curtis
93 said this would stay as a wooded area with no commercial parking.

94 Mr. Thielbar asked if you could have a commercial vehicle without lettering on it.
95 Mr. Curtis said technically a commercial vehicle is over 10,000 pounds, so this is actually
96 a passenger truck, but if it is used for business, the truck must be identifiable as a
97 business vehicle with lettering on the doors visible from 50 feet away. Mr. Baum said
98 the ordinance is intended to prohibit someone parking a truck with lettering on it on their
99 property in lieu of signage. Mr. Thielbar said he could still do that. Attorney Somers said
100 the applicant doesn’t want to park a vehicle with a sign on it and not use it. Mr. Thielbar
101 said they should restrict the second vehicle to a class 2/under 10,000 GVW passenger
102 vehicle; a vehicle that light with a sign on it doesn’t do any damage. He should commit to
103 not having the signage that he’s allowed to have by the permit. Ms. Petito asked if
104 abutters would be able to see the truck in the driveway, and Mr. Curtis said the property
105 to the left and back cannot, and the property on the right would have to really try.

106 Ms. Petito asked if any members of the public would like to comment. Mr. Curtis
107 said there was a friendly neighbor who wished to comment but was having technical
108 difficulties. Ms. Davies noted that at the time of the last application, they had
109 neighborhood support.

110 John Heisey of 105 Beech Hill Road said the weight restriction is a good idea to
111 limit future businesses.

112 Ms. Pennell said she drove by the property today and saw multiple vehicles plus
113 a chipper. Mr. Curtis said the chipper attaches to one of the vehicles, and the other two
114 trucks are just antique trucks he’s collected, which are permitted. For the hearing, he’s
115 just asking for two commercial vehicles. He’s allowed to have as many personal vehicles
116 as he wants.

117 Ms. Petito reiterated the proposed conditions, which were no other signage on
118 the property, a limit on the commercial vehicle weight to no larger than a class 2 vehicle,
119 and no parking the commercial vehicles on the “panhandle” in the back of the property
120 overnight. Mr. Thielbar said with these conditions, it’s a fairly harmless request and won’t
121 encumber the property with a lack of restrictions that would be an issue in the future. Ms.
122 Petito agreed, saying it’s quite limited. She saw other home businesses in the area that
123 had several vehicles. Ms. Davies said she didn’t see that it was necessary to give up the
124 right to signage. Ms. Petito and Mr. Baum agreed. Mr. Baum said he also didn’t think the
125 condition of not parking in the panhandle was required. There are physical and
126 geographic restrictions back there anyway. Mr. Thielbar said if they are only looking to
127 restrict the vehicle size, they can simply approve the application as submitted.

128 Mr. Thielbar went through the variance criteria. 1) Not contrary to public interest
129 and 2) Spirit of the ordinance is observed; yes, the public is likely not going to be aware
130 that anything happened. The intent of the ordinance is to limit the number of monster
131 vehicles parked on the property. 3) Substantial justice is done; yes, this family has been

132 chasing a fairly small request for some time, just because the application doesn't fit
133 nicely into the ordinance. The purpose of a variance is to clear that kind of conflict. 4)
134 Value of the surrounding property is not diminished; yes, there's no way it will diminish
135 property values for anybody. 5) Literal enforcement of the ordinance would result in
136 unnecessary hardship; yes, any hardship at all is more than they should have to
137 withstand, because there's no harm at all to the neighborhood. Ms. Petito added that
138 proposed use is reasonable; yes, home occupation is allowed in the neighborhood.
139 Given the location and wooded character of the area there doesn't seem to be a
140 substantial relationship between enforcing the purposes of the ordinance and this
141 particular property. Mr. Thielbar said he believes the neighbor with objections at the
142 previous meeting likely doesn't understand how limited the request is.
143

144 Mr. Thielbar moved to accept the application of William and Mariah Curtis for a variance
145 from Article 6.10 Home Occupations, Section 6.10.2 "Evidence of Use" to permit one
146 additional commercial vehicle, limited in size to be class 2, to be parked overnight on the
147 property located at 99 Beech Hill Road. Ms. Davies seconded. By a roll call vote, the
148 motion passed unanimously and the application was approved.

149
150 **III. Other Business**

151 A. Minutes of November 17, 2020

152 Corrections: Mr. Thielbar said Doug Eastman and Barbara McEvoy were not present at
153 the last meeting, so that information should be removed. Line 233 should read "No
154 alcohol would be consumed at the Word Barn *brewery* other than the beer that was
155 brewed there." In the motion of line 359, "Mr. Pennell" should be changed to "Mr. Merrill."
156 Ms. Petito said in line 290, it should read "Mr. Thielbar *and Mr. Anderson* clarified there
157 was no selling of alcohol". Regarding the letters discussed in lines 226-227, it should
158 read "Ms. Petito said they were not in the packet. *The letters were submitted by email.*"
159 Ms. Pennell said regarding line 364, she was present at the October meeting and did
160 vote on the minutes. Mr. Thielbar said it should have read "Mr. Merrill did not vote."
161

162 Mr. Thielbar moved to accept the minutes of November 17, 2020 as amended. Ms.
163 Davies seconded. Mr. Baum and Ms. Olson-Murphy abstained as they were not present.
164 In a roll call vote, Mr. Thielbar, Ms. Davies, Ms. Petito, and Ms. Surman voted yes, and
165 the motion passed 4-0-2.

166
167 **IV. Adjournment**

168
169 Mr. Thielbar moved to adjourn. Ms. Davies seconded. In a roll call vote, all were in favor
170 and the meeting was adjourned at 8:20 PM.
171

172 Respectfully Submitted,
173 Joanna Bartell
174 Recording Secretary