

TOWN OF AMHERST  
Zoning Board of Adjustment

July 18, 2023

**APPROVED**

In attendance: Danielle Pray (Vice Chair), Jamie Ramsay (Secretary), Charlie Vars, Tracy  
McInnis, and Tony Ortiz (alternate)  
Staff present: Nic Strong, Community Development Director, and Kristan Patenaude, Recording  
Secretary (remote)

Danielle Pray called the meeting to order at 7:07pm.

Danielle Pray asked about the rehearing process. Nic Strong explained that the Board should  
hear the rehearing request, and then determine if the prior vote needs to be reconsidered.

*Tony Ortiz sat for Doug Kirkwood.*

**REHEARING:**

1. **CASE #: PZ17271-042623 – REHEARING FOR VARIANCE Louise Norwood  
(Owner & Applicant); 89 Chestnut Hill Road, PIN #: 011-007-001** – Request for relief  
from Article III, Section 3.15, Paragraph D to operate a private wedding venue as a Home  
Occupation. *Zoned Northern Rural.*

Mark Worwetz, 101 Chestnut Hill Road, described his history with the property and the  
Norwoods, noting that the Norwoods had been good neighbors since he moved in 12 years ago,  
and had granted him access to walk on their land. He stated that his request for rehearing was  
nothing personal against the Norwoods. Mark Worwetz stated that the Norwoods have had  
events on their property in the past, and that last summer there was a private wedding that took  
place that had forced him to stay inside due to the noise. He said that he had later realized that  
there was a business taking place and he saw Facebook chatter about the new wedding  
venue. Mark Worwetz explained that he came to Town Hall to find out what constraints had  
been placed on the business and found out from Town staff that events on the property in  
question were not previously permitted. He said that he did not know about the cease and desist  
until he found out about the hearing having taken place in May.

Mark Worwetz stated that there is an issue with noise from the events to his property. His  
property is located at the top of the hill and there is only one line of trees between his property  
and the wedding venue location. He stated that he could hear everything because the sound  
travels so well to his property. He stated that the testimony at the hearing in May was not from  
his point of view. Mark Worwetz said that he would never complain about noise from a family  
event because that was part of being a neighbor. However, the allowance of ten or so events  
throughout the year would take over most weekends and interrupt the enjoyment of his property  
due to noise. Regarding traffic, these events have increased some amount of traffic in the  
neighborhood, due to people searching for the location and places to park. There will also be the  
need for delivery and set up of the tent, delivery of the porta-potties, arrival of staff, so that there  
will be multiple cars and vans accessing the property all day long. Mark Worwetz stated that  
there is some concern regarding safety of the neighborhood if people will be drinking alcohol

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during events on this property. He said that Chestnut Hill Road is one of the worst roads in Amherst, especially at night.

Mark Worwetz asked what the purpose of this business was, noting that there is no community value to approving this venue. It will likely hurt his and other nearby property values to have this type of venue nearby. Prospective new owners would have to be told that there will be excessive noise during ten weeks of the summer. This would destroy a way of life in this area. Neighbors have paid a priority amount in order to live in this area. There is nothing special about the property in question in order to host a venue of this sort. Approving this allows for a slippery slope, in which anyone could request a variance to run a hobby interest on their property. He has never heard of this before in Town. If the variance cannot be removed, he would like constraints so that he can enjoy his property as much as the applicants can enjoy theirs and so it does not impact his quality of life. Mark Worwetz stated that the Norwoods were well liked and friends with some of the members of the Board. He stated that the approval should be about what the proposal is for, not who is proposing it.

Charlie Vars stated that the Board granted the variance based on testimony provided during the previous meeting. Many of the accusations made in the request for rehearing letter were that the Board did not receive adequate information during that meeting. However, the Board did receive a map from TF Moran showing where the events will be located on the property. This is a home occupation, not a commercial operation. Nearby, LaBelle Winery had an early property which held many events without complaint. Thus, there have been other similar events run in that area. As far as he knows, other applicants have followed through on any stipulations placed on their approvals, and he believes these applicants will do the same. He believes the law was followed as to who received notification in terms of abutters, with Mark Worwetz not being considered an abutter due to his address.

Mark Worwetz stated that he was not made aware of any parts of the decision made by the Board, other than that it was granted. He was not aware of any stipulations placed on this approval when he wrote his letter. He noted that the LaBelle Winery, when it was located at the nearby location, had events once a month on a Sunday afternoon for a few hours only. This did not disturb the neighborhood and all cars were kept on the property. Mark Worwetz stated that he was unaware of the abutter notification rules until informed by the Community Development Office. Even though he is not a direct abutter, he still has an interest in this item and was not notified or able to speak on it during the meeting. There was one neighbor that spoke to noise not being an issue from the property in question, but that neighbor lives downhill of the property. Mark Worwetz explained that his deck and bedroom face the Norwood's property and thus are impacted by the noise until late at night.

Jamie Ramsay stated that he agreed to having a rehearing but believes that the Board followed the correct process in approval of this variance. He asked at what point should the Board start considering the property line delineations of abutters and start to include anyone within earshot.

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Tracy McInnis stated that the applicant agreed to end events by 10pm so people will not be there until midnight or 1am. There will be cleanup after this, but she believes the applicant will be diligent about making people move out.

Tracy McInnis stated that the applicant agreed to end events by 10pm. There will be cleanup after this, but she believes the applicant will be diligent to this.

Mark Worwetz noted that this variance runs forever with the property. It does not run with the property owner. He trusts the Norwoods to end events by 10pm. If there is noise after this time, he asked if he should call the police. He asked if there will be an event manager for these events. He asked if the decision included the fact that these events will end by 10pm. He did not think that enforcement would want to get involved in this once the variance has been granted. Tracy McInnis stated that it was put in writing that the events will end by 10pm. The owner stated that she will be involved in the events and will help to police them.

Tony Ortiz had no questions or comments at this time.

Danielle Pray noted that the Board is constrained on some of the enforcement issues brought up this evening. She stated that she believes there is a defect in the law regarding notification to abutters, even though the Board followed the law correctly. She believes that nearby property owners should have been notified.

Danielle Pray asked for comments from the applicant.

Louise Norwood, 89 Chestnut Hill Road, stated that she had a wedding the prior Saturday and also noted that her son helps out with this business. She stated that she lives at the property and wants to go to bed too, so the events will not end late. She noted that she has already lost weddings due to the stop time at night. Louise Norwood stated that the recent wedding was told to stop at 9:30pm in order for people to be off the site by 10pm. She stated that they did a beautiful job of cleanup and hardly played any music, so it was a very quiet wedding. She went on to say that while she understands the concern regarding ten weekend events, they would not necessarily all be in the summer and there may be some in the spring and fall. Louise Norwood noted that she had lost business due to the cease and desist being in place and also now because the events cannot go too late. She stated that there had been trucks in the road due to the heavy rains and the concerns about getting stuck in the mud in the field.

Tom Burns, TF Moran, stated that a plan was submitted showing where on the property the events will be located. There is no activity proposed on the adjacent lot the Norwoods own. There is an approximately 9-acre parcel of land, approximately 200' in width, which separates the property in question from the Worwetz property. There is approximately 400' from the neighbors' property line to the area where the weddings will be taking place.

Tony Ortiz asked if, after the prior approval, the Norwoods registered as a home occupation with the Town. Two classes of home occupation require registration with the Town. He noted that the

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home occupation permit serves as a safeguard because, under Class C home occupation, if the applicant exceeds the requirements the Office of Community Development could reduce the impact of the operation or request it to be moved to a non-residential site within 60 days.

Tom Burns stated that, per the minutes from the last meeting, the Board noted that the proposal was a less impactful use than those generally allowed under a Class B or C home occupation, though it is not clear if one of those classes was assigned to this home occupation.

In response to a question from Danielle Pray, Louise Norwood stated that the last event was expected to have 100 guests. Approximately 75 people attended.

In response to a question from Danielle Pray, Louise Norwood stated that there are no scheduled events at this time. There has been interest, but the cut off time at night has curtailed this. She wants to be respectful of her neighbors. She noted that a nearby neighbor, at 600' away, wrote a letter supporting the events.

Danielle Pray stated that one of the suggestions made as part of the letter regarding a rehearsing was to have the events in a barn or tent. Louise Norwood stated that the events are usually held in a tent. Last year the events were louder.

Danielle Pray stated that the noise seems to be a major issue, along with the 10pm stop time, and alcohol use on the property. This last item is regulated by the State but not the Town.

Tony Ortiz asked how many events have been held at this site. Louise Norwood stated that she has had two paid events, but she has held private weddings, showers, engagement, and office parties at this property for 50 years. These used to be less controlled and much noisier. She is trying now to be much more respectful to her neighbors. Other neighbors have loud parties and fireworks, but she does not complain. Most neighbors do not complain about her events. Danielle Pray noted that those are residential affairs, and this moves into a home occupation. Louise Norwood stated that she has no problem with the restrictions placed on the home occupation by the Board previously, but the stop time is a deterrent for many people.

In response to a question from Danielle Pray, Louise Norwood stated that she and her son were on the property during the most recent event. Her son will always be on the property during events even though he does not live on-site. There was not a band during the most recent event, but there might have been a DJ. She stated they had a very tiny dance floor, and it was not a very loud event. No hard liquor was served.

Nic Strong explained that there was an issue regarding the Board's restriction which required that the serving of alcohol be done by licensed bartenders overseen by the New Hampshire Liquor Commission, as there are no licenses for bartenders from the Liquor Commission. Additionally, if a caterer is licensed by the Liquor Commission and hired for a wedding, the event has to be held at a public venue and cannot be at a residence, as the Liquor Commission does not regulate private residences. She passed this information to the applicant's engineer

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because the owners of the venue have to make sure that anyone who comes onto the property to serve alcohol has insurance. Nic Strong noted that she also suggested in the Staff Report at the May hearing that the Board review the conditions of the home occupation to verify which standards apply, because the approval granted does not match the home occupation standards. This approval is a hybrid variation and does not clearly meet any of home occupation standards.

**Charlie Vars moved to close the public portion of the hearing. Jamie Ramsay seconded.**

**Voting: 5-0-0; motion carried unanimously.**

**CASE #: PZ17271-042623 – REHEARING FOR VARIANCE**

**Louise Norwood (Owner & Applicant); 89 Chestnut Hill Road, PIN #: 011-007-001 – Request for relief from Article III, Section 3.15, Paragraph D to operate a private wedding venue as a Home Occupation. Zoned Northern Rural.**

Danielle Pray read the Class C home occupation information.

Class C Home Occupation. A Class C Home Occupation has minor impact on the surrounding neighborhood.

- a. No structural change or addition to the existing buildings indicates the business use of the property.
- b. The business has no more than two employees other than the residents of the dwelling.
- c. One non-illuminated sign not to exceed six (6) square feet per side, may be displayed.
- d. One vehicle displaying text or decoration promoting the business may be allowed.
- e. Up to ten clients or customers per day (on average) may be received.
- f. Hours of outside operation are 8:00 a.m. to 6:00 p.m., Monday thru Friday, 9:00 am to 8:00 pm Saturday.
- g. Deliveries other than those by standard delivery truck must be received between 10:00 am and 2:00 pm.
- h. The site must accommodate parcel pick-up and delivery with facilities for drop-off storage.
- i. Operators of Class C Home Occupations must register with the Town, using the Home Occupation Registration form.
- j. In addition, the operator must provide documentation of the adequacy of the septic system for the proposed use, and a sketch of the property demonstrating adequate areas designated for parking of employees and clients/customers, access and turning of delivery vehicles, and safe pedestrian access for clients/customers to the business where applicable. A copy of the registration form, signed by the Planning Director, will be kept on the premises in a readily accessible location.

Danielle Pray read the Special Provisions, noting that item 1, regarding Bed and Breakfast operations did not apply:

**SPECIAL PROVISIONS.**

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2. Scale of operation of any Class B or C Home Occupation may be limited by the capacity of the existing septic system.
3. Adequate off-street parking must be provided for any Class B or C Home Occupation.

Nic Strong pointed out that Section C regarding the requirements for all home occupations also had to be reviewed. Danielle Pray read the requirements for all home occupations:

1. The home occupation shall occupy no more than twenty percent (20%) of the existing, gross heated floor area of the primary residence or, if the home occupation is conducted in an outbuilding, shall not occupy an area greater than fifty percent (50%) of the existing, gross heated floor area of the primary residence. Up to a maximum of one thousand (1,000) square feet of covered area may be dedicated to the home occupation.
2. No emissions of dust, fumes, smoke, noise (greater than sixty-five [65] decibels), vibration, light, or water attributable to the home occupation shall be allowed across the property line.
3. No outdoor display advertising or storage of any products or materials associated with the home occupation shall be allowed except as provided below.
4. No more than two (2) trips per day by commercial delivery vehicles (on average) shall be allowed.

Nic Strong stated that the Board can either compare the decision that was granted with the requirements of the home occupation permit or review the home occupation ordinance and redo the approval using the requirements. Danielle Pray stated that she believes it would be easier to review the criteria of the permit and then consider additional conditions or criteria.

Tony Ortiz noted that this applicant has proposed temporary bathrooms, thus the septic system requirements may not be applicable.

Charlie Vars asked why this was considered under a variance request, if the actual intention is for a home occupation, which is allowed under certain requirements. A variance will run with the property, whereas a home occupation must be reapplied for every five years. Nic Strong explained that she initially reviewed this as a variance for a commercial entity in the Northern Rural District, but the applicant's engineer then told her the intention was to be a home occupation which would not require a subsequent Non-Residential Site Plan Review with the Planning Board. Thus, the request was for a variance for a home occupation to be allowed to occur outside. To be a home occupation there are conditions which need to be met, which the applicant cannot meet as something alternative is being proposed.

The Board agreed to review each home occupation requirement criteria and determine if it needs to be considered for this application. It was determined that items 3.15, D. 3. b., c., and d. were applicable, but not of concern for this application. Items 3.15, D. 3. a. and h. are not applicable. Items 3.15, D. 3. E, f, and g, need to be discussed. Item 3.15, D. 3. i. needs to be followed.

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Jamie Ramsay asked if an assembly permit is needed for this use. Nic Strong stated that the applicant would need to check with the Fire Department on this item.

Danielle Pray stated that the Board should discuss the requirements in Sections 3.15. C. 1. and 2, but 3. and 4. did not seem applicable.

Jamie Ramsay asked about granting this as a home occupation instead of a variance. Danielle Pray stated that the Board can give variances from certain criteria. Nic Strong explained that the definition of a home occupation is “an occupation or business activity which is conducted by a resident within his/her own dwelling, or in a garage or barn-type outbuilding, and which is clearly subordinate to the principal residential use”. As this proposed use is not going to be in a building, it does not fit the definition of a home occupation and the applicant needs a variance to even be called a home occupation. Conducting the use in a tent does not meet the definition.

Danielle Pray suggested the Board discuss granting a variance from the definition of a home occupation to start. This use does seem to be subordinate to the principal residential use but will not be conducted in the dwelling or an outbuilding. She suggested going test-by-test through the variance criteria, starting with Section 3.15. B. She suggested bringing the applicants back into the meeting to add information during the criteria tests.

Danielle Pray suggested that the Board consider the following variance test criteria regarding the home occupation definition:

1. That it is not contrary to the public interest.
2. That the spirit of the ordinance is observed.
3. That substantial justice is done.
4. That the values of surrounding properties are not diminished.
5. That the little literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For purposes of this subparagraph, unnecessary hardship means that owing to special conditions of the property that distinguish it from other properties in the area, no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property, and the proposed use is a reasonable one.

Jamie Ramsay asked if the Board was going to consider these same five criteria for each of the home occupation requirements. Danielle Pray stated that she does not see any other way to do this, as the applicant cannot get a home occupation permit without complying with the requirements. The applicant has not specifically been asked about the definition requirement.

Jamie Ramsay stated that it appears the Board is designing this process for this applicant, and he does not believe that is within the purview of this Board. Danielle Pray explained that the applicant is seeking a variance for a home occupation use. The applicant could alternatively request a home occupation and have the request denied, which would then likely come to the Board as an appeal.

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Tom Burns stated that a number of these items were discussed at the last Board meeting, such as hours of operation and the outdoor venue. These items were handled as conditions of approval but were not individually addressed through the variance criteria. It was originally presented that the proposed use is less impactful than a Class B or C home occupation and the Board agreed that the applicant's use could go to 10:00 PM as part of the deliberations. He asked if the applicant is now seeking multiple variances within the requirements of the home occupation requirements.

Danielle Pray asked Nic Strong for her thoughts. Nic Strong explained that if the application was proposed to seek a variance from Section 3.15 to be a home occupation, the Board would then review the criteria and decide to waive or vary any of them. This is similar to what the Board did the first time, but the Board did not get into any of these details at that time.

Jamie Ramsay stated that this appears to be a hybrid situation and process.

Charlie Vars suggested simply adding items to the existing variance as previously approved. Danielle Pray noted that this might be more confusing if certain items are added. She asked if the first variance is vacated, due to the rehearing.

Tom Burns explained that his concern is that there is already an approved variance for the applicants. If the variance is reconsidered in full, the variance could then be denied, or additional conditions could be added which would be too onerous to the use. Danielle Pray stated that she believes the Board would rehear this as a new variance request. Nic Strong agreed.

Mark Worwetz asked if this variance will go forward in one way or another. Danielle Pray stated that she does not believe this to be the case. This is an unusual case, and the Board did not do its job adequately the first time, in terms of the request for a home occupation.

Charlie Vars stated that he believes the applicant has a right to continue to use the previously approved variance at this time. Danielle Pray stated that this would need to be considered by Town Counsel because it could be that the rehearing has put a stay on the variance that was granted. Nic Strong stated that she would get in touch with Counsel the following day.

**Charlie Vars moved to continue this hearing to August 15, 2023, at 7pm at Town Hall. Jamie Ramsay seconded.**

**Voting: 5-0-0; motion carried unanimously.**

**OTHER BUSINESS:**

**1. Minutes: May 16, 2023; June 20, 2023**

**Charlie Vars moved to approve the May 16, 2023, meeting minutes as amended [Line 259: change "driveway" to "grass".] Jamie Ramsay seconded.**



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349           **Voting: 5-0-0; motion carried unanimously.**

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351   The Board tabled discussion of the June 20, 2023, minutes to the next meeting.

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353           **2. Any other business that may come before the Board**

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355           **Charlie Vars moved to adjourn the meeting at 8:45+/-pm. Jamie Ramsay seconded.**

356           **Voting: 5-0-0; motion carried unanimously.**

357

358   Respectfully submitted,

359   Kristan Patenaude

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361   *Minutes approved: October 17, 2023*