



**Stratham Zoning Board of Adjustment**  
**Meeting Minutes**  
**July 27, 2021**  
**Municipal Center/Virtual Meeting/Conference Call**  
**Time: 7:05 PM**

**Members Present:** Drew Pierce, Chairman  
Bruno Federico, Full Time Member  
Erik Herring, Full Time Member  
Richard Goulet, Full Time Member

**Members Absent:** Amber Dagata, Vice Chair  
Brent Eastwood, Alternate  
Phil Caparso, Alternate

**Staff Present:** Mark Connors, Town Planner (standing in for S. Wolph, CEO)

**1. Call to Order/Roll Call**

Mr. Pierce called meeting to order and took roll call.

**2. Approval of Minutes**

**a. June 8, 2021**

Mr. Goulet made a motion to accept the meeting minutes of June 8, 2021 as submitted. Mr. Federico seconded the motion. Motion passed unanimously.

**3. Public Hearing(s)**

- a.** Case #661, Stephen Carter, 2 Emery Lane, Map 13 Lot 58, Residential Agricultural Zoning District. The applicant requests a Special Exception as specified in Section 5, Article 13 of the Stratham Zoning Ordinance to allow a Home Occupation, the proposed use is a business that develops software and control systems for factory automation.

Stephen Carter, 2 Emery Lane, introduced himself and stated the business is a software based business that develops software and control systems for industrial automation. The primary role is software development. A customer request may include the development of control panels that control motors, open and close valves, run conveyors, etc. which would be found in a factory. Mr. Carter stated this would be developed in the facility and they would be taken to the customer's location where they would be installed and started up. There would be no equipment that the customer normally has at their facility (tanks, pumps, etc.). Mr. Carter explained this would be simulated in house, using software, to prove that it works and then

45 take it to install at the facility. Mr. Carter stated there would be no foot traffic, the business is  
46 not open to the public and there are no public sales, so there will be no increase on the public  
47 roads or traffic. The business will have no external modifications required to the facility  
48 because all work is done inside. Mr. Carter stated the business is very low profile and there is  
49 no heavy equipment required. Mr. Carter stated there are two employees that will be with  
50 him through the middle of August who are college interns. Once the interns return to school  
51 Mr. Carter will be the only employee and any additional people would be on a temporary  
52 basis. Mr. Carter stated there will be no storage of hazardous materials as they are not used in  
53 the software development or construction of the control systems. Mr. Carter stated no one  
54 will even know they are there unless they knock on the door and come inside.  
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56 Mr. Pierce as for confirmation if the barn would be used to store the product. Mr. Carter  
57 stated the barn would be used for storage of the equipment moved out of a 5,000 square foot  
58 home in Durham and several storage places along with personal effects of gardening  
59 equipment, tools, etc. Mr. Carter stated there is some storage of modules, components, tools,  
60 drills, etc. used in the business. Mr. Pierce questioned the size of the control systems and  
61 whether they are large enough to move via equipment or just by hand. Mr. Carter stated some  
62 are large enough to pick up by hand and moved via a dolly and into a trailer. Mr. Carter  
63 confirmed there will be no construction equipment moving the items around. Mr. Pierce  
64 asked for confirmation that the two interns do not reside at the residence. Mr. Carter stated no  
65 they do not. Mr. Pierce asked if upgrades to the barn will be needed for security. Mr. Carter  
66 stated there is three-phase electric pulled into the barn because it is needed to run the drives  
67 and robotics, etc. that is used in the development. Mr. Carter stated the electric in the barn  
68 will be upgraded to code. Mr. Carter stated the floor is being rehabbed since parts of the floor  
69 are unsafe. Mr. Carter explained the construction of the structural part of the floor being  
70 replaced.  
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72 Mr. Goulet asked for confirmation of where the business will be operating. Mr. Carter stated  
73 the business will operate out of the second floor of the barn. Mr. Goulet asked if there were  
74 other activities currently taking place in the barn and Mr. Carter stated nothing other than  
75 personal effects storage. Mr. Goulet asked Mr. Carter to explain the typical inventory. Mr.  
76 Carter stated he tries not to keep a lot of inventory in stock because it is expensive. The  
77 inventory that would be present would be industrial automation components, not computers,  
78 but components that would be used start motors, run conveyors, and open and close valves.  
79 Mr. Carter stated the majority is relatively specific to the particular project they would be  
80 working on and they would be bought as needed. Mr. Goulet questioned the typical  
81 frequency and volume of deliveries to the site. Mr. Carter stated potentially one delivery a  
82 day or several per week, and there may be long periods of time with no deliveries.  
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84 Mr. Herring questioned if there will be sign for the business installed. Mr. Carter stated no.  
85 Mr. Carter stated all of the advertisement is by word of mouth for their customers. Mr.  
86 Herring questioned if there is a possibility of the business growing. Mr. Carter stated he has  
87 been in business, at this level, for 26 years. Mr. Herring questioned how many vehicles are  
88 associated with the business, including the interns. Mr. Carter stated there would be three  
89 vehicles at the back of the barn and if that is an issue the vehicles can be parked on the street-  
90 side of the barn.  
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92 Mr. Federico stated the life safety inspection will require fire alarms, etc. Mr. Federico  
93 questioned if there will be heat installed in the area. Mr. Carter stated two mini-splits will be  
94 installed in the area, as well as insulation to heat the area.

95 Mr. Pierce opened the floor to the public in opposition to the applicant's request.

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97 Matthew Tonelli, 1 Winding Brook Drive, questioned if the applicant currently owns or rents  
98 the space in Portsmouth for this business. Mr. Carter stated yes he did and it has been sold.  
99 Mr. Tonelli asked for confirmation that the intended use of the barn will be for any  
100 manufacturing panel building business. Mr. Carter stated yes. Mr. Tonelli asked what other  
101 functions, if any, the barn will be used for. Mr. Carter stated storage. Mr. Carter stated the  
102 barn has a third floor which is called "the music room" that has a pool table and library. Mr.  
103 Tonelli asked for clarification regarding the barns on the property. The 1700's, 300 year old  
104 barn, and the new barn to be developed for the business. Mr. Carter stated he is developing  
105 the section that is in the back section of the larger barn which faces Emery Lane. Mr. Carter  
106 confirmed the barn floor is unsafe in areas. Mr. Carter stated the red barn, what is referred to  
107 as "the party barn", for storage of garden equipment, household items, and items moved out  
108 of their previous home. Mr. Tonelli asked the record to reflect that the barn to be used is not  
109 the 300 year old barn as Mr. Carter referred to early and asked that the town confirm this. Mr.  
110 Tonelli is concerned with future expansion if the area is not defined. Mr. Connors asked Mr.  
111 Carter to point out the location on the aerial provided in the application. Mr. Federico stated  
112 the barn that is closest to Emery Lane is the newer barn and the barn located in the back of the  
113 property is the 300 year old barn. Mr. Herring questioned if there currently is a wall or  
114 demarcation that separates the two areas of the barn. Mr. Carter stated no but he would be  
115 willing to install one. Mr. Connors stated Mr. Wolph will perform an internal inspection of  
116 the structure to make sure the square footage requirement is met and the board could add a  
117 condition if the application is approved. Mr. Tonelli voiced concern with increased traffic  
118 with deliveries and there is no way to validate what the applicant is stating it will be. Mr.  
119 Tonelli stated the development is one way in and out, frequented by residents walking and  
120 kids playing, walking dogs, and riding bikes is a concern with adding box truck deliveries to  
121 the neighborhood. Mr. Tonelli voiced concern with employee cars in his view and all over  
122 the property as it is an eyesore. Mr. Tonelli stated there is a large amount of debris currently  
123 on the property and stated concern that this will increase. Mr. Tonelli stated that was a large  
124 dumpster on the property for some time and a new dumpster was added and it appears there  
125 has been a lot of work that took place prior to this application. Mr. Tonelli asked the board to  
126 confirm the allowance for this application and what would prevent further growth and scope if  
127 granted. Mr. Connors stated the home occupation permit must be renewed every three (3)  
128 years which includes an inspection for compliance. Mr. Federico stated a home occupation  
129 can only have two (2) employees outside of the family. Mr. Tonelli asked what the process  
130 would be if more than two (2) employees were working for the business. Mr. Connors  
131 explained he could contact the Building Inspector/Code Enforcement Officer who would  
132 perform an enforcement inspection. Mr. Tonelli voiced concern that this will turn into a  
133 manufacturing facility. Mr. Federico stated this is a home occupation which is limited to 25%  
134 of the livable square footage with a maximum of two (2) employees outside of the family.  
135 Mr. Tonelli asked the board what would happen if five (5) years down the road this business  
136 grows. Mr. Federico explained it would no longer be considered a home occupation and the  
137 applicant would be required to file for a variance. Mr. Goulet stated the current zoning allows  
138 for home occupations which are limited and any deviation from that would be a violation.  
139 Mr. Federico explained that a commercial business is not allowed in a residential zone and is  
140 protected by the zoning. Mr. Tonelli asked if there are any historical preservation articles that  
141 would prohibit the usage of these facilities for this business. Mr. Federico stated there are  
142 limitation in place for the barn because it is a historical structure and has preservation.  
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Fred Emanuel, 6 Patriots Road, stated he was at the residence last evening to introduce himself to Mr. Carter and the person who answered the door, Roy, stated "he doesn't live here". Mr. Carter confirmed he doesn't currently live there and will be moving in on August 17, 2021. Mr. Emanuel explained the red barn, is the pole barn which is the 1700, 300 year old barn that Mr. Decker attempted to restore which is why it may appear newer on the inside. Mr. Emanuel stated any structure that is older than 50 years old which is to be demolished requires demolition permit and review. Mr. Emanuel voiced concern with the barn being used as a business in residential/agricultural zone. Mr. Emanuel voiced concern with the limitation on what the barn can be used for with respect to square footage. Life safety is very important when people will be in the barn.

Mr. Connors read the abutter letter in opposition to the application from Dimitrios and Darcy Asprogiannis at 4 Winding Brook Drive into the record.

Mr. Goulet made a motion to close the hearing to public comment. Mr. Federico seconded the motion. Motion carried unanimously.

Mr. Goulet stated the conditions in 5.13.2 have been met. Mr. Pierce disagreed as one of the conditions is that the home occupation is allowed only for a single family residence and shall be carried on strictly by the owner of the principal building. The residential use is established prior to the business use and the residency needs to be established prior to the home occupation which has not been met. Mr. Federico stated the applicant stated he will be moving in on August 17, 2021 and if the application is approved the property owner has to wait 30 days for the appeal period to end before moving forward. Mr. Goulet suggested a condition of approval for this item. Mr. Federico questioned if an Airbnb would be run out of the accessory dwelling unit on the property. Mr. Carter stated no. Mr. Herring asked if the 25% of floor space was determined by the staff. Mr. Connors stated the tax card for the property has the total finished floor area of the property. Mr. Connors stated a condition could be added that walls/physical barriers are to be added to mark the area to be used. Mr. Pierce asked if the board had more conditions to discuss other than the 25% of the total finished floor area of the residence with walls to be erected to contain 954 square feet, life safety inspections, parking, and residency must be established. Mr. Tonelli questioned if the total of the finished floor area stated as 3,000+/- square feet includes the primary residence and the apartment or just the primary residence. Mr. Carter stated his measurements are different than the tax card which he measured as 4,800 square feet that includes the apartment. Mr. Connors recommended the board add a condition that there shall be no exterior storage of materials or wasted associated with the home occupation on the property and it must be stored inside and no dumpster shall be used as part of the business use. Mr. Federico explained the business trash would need to be hauled away by a private hauler or Mr. Carter and the trash would not be allowed to be stored outside of the building.

Mr. Goulet motioned to approve Case #661, Special Exception to allow a Home Occupation at 2 Emery Lane subject to the following conditions.

Conditions:

1. All business parking shall be located within the existing parking area.
2. Approval is subject to a life safety inspection by the Code Enforcement Officer.
3. Applicant shall construct internal walls to demarcate the home occupation space which shall not exceed 25% of the gross finished floor area of the dwelling

- 195 4. Residency shall be established prior to business use in accordance with Section 5.13.2.c.  
196 5. There shall be no exterior storage containers, materials, or waste associated with the  
197 business.  
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199 Mr. Carter stated he is currently running the business out of the barn and questioned if he was  
200 required to stop work at this time since he did not realize he needed any approvals. Mr.  
201 Connors explained that Mr. Carter cannot use the barn as an office until he moves into the  
202 property and the special exception approvals and conditions are met.  
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204 Mr. Herring seconded the motion. The motion passed by a 4:0 vote in the affirmative.  
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206 Mr. Pierce reminded the applicant that there is a 30-day appeal process to the board's decision  
207 and moving forward prior to that time is at the applicant's own risk.  
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209 **4. New Business:**  
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- 211 a. There will be a ZBA training presented by a NH Municipal Attorney with the date to be  
212 determined.  
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214 Mr. Goulet made a motion to adjourn at 8:10 pm. Mr. Federico seconded. Motion passed  
215 unanimously.  
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242 *Note(s):*

- 243 1. Materials related to the above meeting are available for review at the Municipal Center during normal business hours. For more information,  
244 contact the Stratham Building/Code Enforcement Office at 603-772-7391 ext.180.  
245 2. The Zoning Board of Adjustment reserves the right to take items out of order and to discuss and/or vote on items that are not listed on the  
agenda.