



TOWN OF TOPSFIELD

ZONING BOARD OF APPEALS

8 West Common Street, Topsfield, Massachusetts 01983

Certificate of Decision

Finding and Decision of an Application for Continuance of a Conference and Event Facility Special Permit pursuant to Article II s. 17 of the Topsfield Zoning By-Law

Property Address: 252 Rowley Bridge Road, Topsfield, Massachusetts

Applicant: Connemara Farms LLC

1. The Application

On September 28, 2023, the Zoning Board of Appeals granted a Special Permit pursuant to Article II, Section 17 of the Topsfield Zoning By-Law for a Conference and Event Facility to Connemara Farms LLC to operate an event facility. The Decision contained a condition that required the Applicant to apply for a continuance of the Special Permit for events in 2023 and beyond. The Applicant file an application for continuation of the permit on December 20, 2023.

2. The Hearing

Notice was published in the Salem News on January 8 and January 15, 2023, mailed postage prepaid to all interested parties, including all abutters on the List of Abutters certified by the Assessor's Office and posted in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of such hearing. Pursuant to the notices, a public hearing was held on January 23, 2024 via ZOOM, due to Chapter 2 of the Acts of 2023, as stated at the beginning of the meeting.

Present at the hearing from the Zoning Board of Appeals was Robert Moriarty, Chairman; David Merrill, Clerk; Jody Clineff, Member; David Moniz, Member; and Gregor Smith, Member. Senior Administrative Assistant Lynne Bermudez read the Legal Notice to open the Public Hearing for a Special Permit pursuant to Article II, Section 17 of the Zoning Bylaw for a Conference and Event Facility.

The Board notes that this is a request for continuation of a permit to operate a conference or event facility that was the subject of an extensive hearing in the summer of 2023 with hearings held in June, July and August of 2023. The members of the Board as well as the Applicant and the abutters are all well familiar with the primary issue with the continuation of the permit

– the sound that emanates from the facility and is found by the neighbors to be intrusive and bothersome. The core issue before the Board is whether the conditions imposed by the Decision of the Board in 2023 have been effective in alleviating the concerns of the abutters.

Testimony was received during the hearing from interested parties. Attorney DiLuna spoke on behalf of the Applicant and reported that the sound monitoring equipment had been installed and the speakers positioned in a southerly direction as required by the initial decision. He reported that there had been one wedding event, on October 21st, since the date of the initial decision, and two simulated events, one on October 22, 2023 and one on January 1, 2024. He introduced John Foulkes from Cavanaugh Tocci, a sound consulting firm hired by Connemara Farm that specializes in acoustics and sound control. Mr. Foulkes testified regarding the Event Sound Data Review by Cavanaugh Tocci dated January 18, 2024 that had been submitted to the Board. Mr. Foulkes indicated that in order to analyze decibel readings at the property line it is also necessary to also look at the readings inside the tent for reference and to correlate the two readings together. The Review indicates that there are sounds in the environment that contribute to sound level readings and reported that ambient sound at the property level approached or exceeded 55 decibels for very brief periods of time, even in the absence of an event at the Farm. He reviewed the readings from the October 21, 2023 event. He noted that it was raining and that rain can make it difficult to understand what's causing the spike in decibel levels as rain can be very loud. He then reviewed the October 22, 2023 readings, which were made on a clear weather day. Finally, Mr. Foulkes reviewed the January 1, 2024 simulated test held with no guests and without a tent.

The Board specifically notes the “Additional Thoughts” section of the Data Review and the suggestions for continuing monitoring as “there were only a few events remaining for the 2023 season”:

- Since there were only a few events remaining for the 2023 season when the sound monitoring program started, sound data for additional events should be reviewed when the 2024 season begins to confirm our findings from this initial evaluation.
- We recommend continuing to monitor sound levels at the same locations during all events, including at the Event Tent, to demonstrate compliance with the Special Permit requirements.
- The measurement equipment purchased by Connemara Farm is capable of recording sound level data in accordance with the requirements specified in the Special Permit. However, we recommend recording 1-minute samples during future events for improved data clarity.

Chairman Moriarty asked Mr. Foulkes, as an expert in sound, why there appears to be an experiential difference between the readings Mr. Foulkes reviewed and what residents are hearing/feeling. Mr. Foulkes said sound is highly subjective and affects everyone differently. Chairman Moriarty asked if this analysis took into account the different types of sounds (such as bass or high treble sounds that might carry further or be felt further). Mr. Foulkes said the report did not but the Applicant's equipment does limit overall sound and attenuates the lower frequencies more. Chairman Moriarty asked Mr. Folkes if, from his testimony, the Chairman could deduce that the flat 55 decibel-level requirement is not specific enough. Mr. Foulkes said other than specifying that it is an “A-weighted” or “dBA” reading, it does not need to be more specific.

Attorney McCann spoke on behalf of the residents of English Commons. Attorney McCann stated that for the Board to approve a special permit they must find, according to the Rules, Regulations and Town bylaw, that the use proposed (Conference and Event Facility) is not detrimental to the public convenience or welfare and will not impair the integrity or character of the District or be detrimental to the health, safety and welfare of the community. Attorney McCann argued that the ongoing problems with the operation of the event facility has demonstrated that it is not possible for the Applicant to operate in a manner that is not detrimental to the neighboring district and that it has had sufficient time to demonstrate that it can operate in harmony with its neighbors, and has not. Attorney Decoulos similarly expressed the opinion that it is not possible for a wedding event to operate in a tent in a residential neighborhood and not disturb the peace and harmony of the neighborhood. Attorney Decoulos suggested that there is sufficient operating history, both before and after this Board's decision to demonstrate that the imposition of a decibel level of 55dBA is not sufficient to protect the interests of the abutters. He pointed to portions of the sound study indicating that rain fall, generally considered to be a pleasant and relaxing sound, could raise the decibel level above the 55 dBA level as evidence that a more subjective standard is required, and that under that standard, the wedding facility cannot be permitted to continue to operate.

The Board also heard testimony from two of the resident of English Commons expressing concerns that the music that emanates from wedding events is intrusive and detrimental to their welfare and right to enjoy the quiet that they sought in moving to a rural, residential area like Topsfield.

Chairman Moriarty polled the Board to assess whether members were inclined to grant an extension of the special permit with conditions. All members expressed concern that the facility is a continuing to be a bothersome interference to the neighbors, but concerns were expressed as to whether the conditions that had been imposed by the Board had not been implemented for a long enough period of time to determine if they would have the positive impact hoped for. There were also concerns expressed that there seems to be a growing concern that it is not possible for the facility to operate in a manner that is not detrimental; that even the short experience with controls has indicated that a level of 55 dBA may not be enough of a limitation the nature of sound and its impact on people and the impact of ambient noise as indicted in the Event Sound Data Review. Members also discussed the potential adverse effect of a limited extension of the Special Permit on the Applicant and members of the public who may have booked the facility for a wedding. However, members also expressed that the Applicant has known that the sound from the facility was troubling to the neighbors for literally years, yet it had not taken any discernable steps to lessen the impact until after the 2023 decision of the Board had been formalized, filed and the appeal period had expired. Despite the clearly expressed intent of the members during the 2023 hearings, the Applicant did not attempt to impose mitigation measures in advance of the formal decision of the Board.

3. The Findings

After considering the testimony and reports and additional information that has been provided to the Board, and after considering the requirements of Section 5.04, the Board has determined that factors such as the venue being a tent with minimal noise deadening, the rural nature of the surroundings and existing low ambient noise levels, and the nature of sound of music dictate that the standard to be applied is not one of nuisance, which would be guided by the 10 decibel above ambient levels standard set by DEP. A determination of detriment to

convenience or welfare is a lesser standard than nuisance. The Board determined that abutters should not be required to hear music that is in excess of normal ambient sound levels and approaches nuisance levels on a regular basis. The Board believes that the conditions imposed in its original decision could be sufficient, but those conditions, including specifically sound suppression and monitoring have not been implemented for a sufficient time to make that final determination. The Board finds that it is not reasonable to require the residents to endure a full operational year in 2024 if the conditions that are being imposed are not successful. The Board recognizes that the shortness of this period of time may result in hardship for the Applicant and those who wish to use the event facility for weddings, but believes that the Applicant had sufficient advance understanding of the intention of the Board during the 2023 hearing, that it could have implemented controls earlier so that the information could have been available to the Board. The objections of the abutters have been well known and openly expressed for a considerable period of time. They only object to the sound of the music interfering with their quiet enjoyment of their homes. The Applicant chose not to promptly and early take steps to mitigate the sound and so bears responsibility for the necessity of a short extension period of the Special Permit to be in effect before it must be considered again. Considering all of these factors, granting of an extension of the special permit to Connemara House Farm LLC for a conference and event facility for a limited period of time is appropriate, provided the following conditions are imposed, and are complied with:

- The facility shall be permitted to operate seven days a week. Events at the facility with music are limited to Friday, Saturday and Sunday. All music must end by 10:00 P.M. and the event itself shall end by 10:30 PM.
- For events that are held Monday through Thursday, no music shall be permitted and the events must end by 9:00 PM.
- For events at which there will be music, the tent facility must be set up in a way such that the direction the speakers are pointed in shall be a southerly direction towards the orchards and not directed towards residential abutters.
- Use of an amplified speaker during a wedding ceremony outside of the tented area is limited to days on which music is permitted and may be allowed no later than 7:00 PM. A single amplified speaker may be used, which shall be set up in a way such that the speaker is pointed in a southerly direction towards the orchards and not directed towards residents.
- All music that is played at the facility must be directed through a sound board or other device that will limit the sound level such that it cannot exceed 55 dBA at the property lines.
- Connemara Farm shall maintain and utilize sound monitoring equipment that will automatically read decibel levels at the property lines. The results will be recorded, logged and forwarded to the Town Building Department for review by the Wednesday following any weekend at which events with music are held.
- No live music shall be permitted without the implementation of the equipment required in the preceding conditions.
- Any lighting must be shielded, dark-sky compliant and faced away from any abutting residential properties.
- The special Permit is personal to Connemara House Farm LLC and members of the Guinee family. The Permit shall cease upon sale of the membership in the limited liability company, or control thereof, and/or sale of the real estate or upon a substantial change in use of the facility without prior notification to and approval by the Board.

- This finding and special permit shall only be valid through the June 25, 2024 meeting of the Zoning Board of Appeals at which time the Board shall further evaluate the operations of the event facility while the mandated controls are in place.

Chairman Moriarty made a motion to grant a special permit for a Conference and Event Facility to the applicant subject to the conditions enumerated in the draft decision as modified by the Board's discussion this evening. The motion was seconded by David Merrill and it passed with a roll call vote as follows:

Moriarty, Chairman	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Merrill, Clerk	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Clineff, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Moniz, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Smith, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent
Palace, Alternate	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Absent/Abstain

4. Appeals

Appeals of the above decision shall be filed pursuant to M.G.L. 40A, § 17 within 20 days of the date of filing of this certificate with the Topsfield Town Clerk.

5. Validation

This Decision shall be recorded at the Essex Southern District Registry of Deeds and shall not be effective until such time as evidence thereof shall be submitted to the Topsfield Town Clerk, the Building Inspector and the Planning Board.

Dated: March 25, 2024

Respectfully submitted:



Robert J. Moriarty, Jr.
Chairman