



# TOWN OF BARRINGTON

## NEW HAMPSHIRE

Office of the Select Board

### Select Board File Summary: 2A Tactical at 99 Tolend Road

April 28, 2022

The Town of Barrington and its Select Board are committed to openness about all Town business. To that effect, the Select Board has prepared the following File Summary regarding 2A Tactical at 99 Tolend Road. In addition to the summary below, the Select Board encourages interested individuals to review all public material, video recordings, and meeting minutes related to this matter (links have been provided where available). Please contact the Select Board or Town staff with any questions.

At the [April 11, 2022](#) Select Board meeting Robert Russell, owner of 2A Tactical, alleged harassment, malfeasance, and unethical behavior by multiple Town officials. His accusations were based on the Town's zoning enforcement actions related to the 2A Tactical home occupation license issued for 99 Tolend Road.

Barrington residents have adopted a [zoning ordinance](#) which, in part, separates residential and commercial development. 2A Tactical was approved for a home occupation license ([2015 Application](#) • [2015 License](#) • [2018 Application](#) • [2018 License](#)) which can be issued in a residential setting if it is “*conducted entirely within a dwelling that is clearly incidental and secondary to the use as a dwelling, which does not change the character of said dwelling or its neighboring environment.*” ([Home Occupation Definition](#) / [Home Occupation Section](#)).

In October of 2020, the Zoning Administrator received a complaint that questioned whether or not 2A Tactical at 99 Tolend Road was conforming to the home occupation license or the zoning ordinance. The Zoning Administrator, acting on behalf of the Select Board, is charged with enforcing the zoning ordinance. In Barrington, enforcement is by complaint; when a complaint is received, the Zoning Administrator investigates and arrives at an independent opinion of potential violations. In November of 2020, the Zoning Administrator and business owner discussed the concerns and agreed that 2A Tactical had been so successful that it had grown beyond what residents intended for commercial activity in residential neighborhoods and the 2018 Home Occupation license issued for the business. The Zoning Administrator and business owner agreed to a six-month window (until May of 2021) to reduce operations to comply with the home occupation license, pursue an application to the Zoning Board of Adjustment (ZBA), or relocate to temporary or permanent space properly zoned for commercial activity.

In February of 2021 (and again in April of 2021), the business owner asked to meet with the Select Board to discuss the Zoning Administrator's enforcement of the zoning ordinance. [He was advised](#) by the Select Board Chair on both occasions that any appeal of the zoning ordinance should be addressed at the Zoning Board of Adjustment (ZBA). The ZBA is a group of appointed citizen-volunteers with the authority to independently interpret and authorize exceptions to the zoning ordinance. The Select Board delayed taking further enforcement action in May 2021, at the expiration of the six months, because the Town anticipated the business owner would make an application to the ZBA.

At the end of July 2021, the business owner had not brought the property into compliance as previously agreed or applied to the ZBA. The business owner shared plans to build a new facility on vacant land on Route 125 and the Select Board expected that process to take 18 months or more with local approvals, State



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permits, and construction materials and scheduling. The Select Board felt that continued operations at 99 Tolend Road without ZBA approval was not consistent with the zoning ordinance established by voters. On August 3, 2021 the Select Board authorized filing a petition asking the court to compel the business owner to comply with zoning ordinance ([August Court Petition](#)).

On August 9, 2021 2A Tactical filed an application with the ZBA, requesting a determination that would allow their commercial operations to continue at 99 Tolend Road ([ZBA Application Materials](#)); an available option under the zoning ordinance. In response, the Select Board suspended the legal proceedings filed in August of 2021. The lawsuit remained suspended until it was dismissed in March of 2022.

The ZBA discussed the 2A Tactical application on [September 15, 2021](#) and requested additional information, continuing the application until October. On [October 20, 2021](#), after a public hearing, the ZBA concluded that 2A Tactical was not in clear violation of the zoning ordinance as written. Although the Select Board waived its right to appeal the decision under [RSA 677:2](#) an abutter filed a motion for rehearing, objecting to the ZBA decision. At their [December 15, 2021](#) meeting, the ZBA voted to grant the rehearing. The rehearing was held on [February 16, 2022](#) and, after a public hearing, the ZBA upheld their October decision by a vote of 3-2. After the conclusion of the appeal period, the Select Board dismissed the lawsuit.

The Select Board reviewed the materials provided by Robert Russell alleging harassment, malfeasance, and unethical behavior by multiple Town officials. Additionally, the Select Board listened to Mr. Russell's presentation at the [April 11, 2022](#) Select Board meeting. The Select Board met in non-public session pursuant to RSA 91-A:3 to discuss the allegations. The Select Board considered all available information and consulted the Town's attorney. The Select Board concluded that there was no evidence of harassment, malfeasance, or unethical behavior by Town employees.

The Select Board was well informed by staff throughout the process and made decisions with the Town's best interests in mind. The Select Board supports the actions of staff and respects the authority and role of the ZBA. The Select Board champions open and transparent government which is responsive to the concerns of residents. On March 14, 2022, the Select Board voted to unseal the non-public minutes relative to 2A Tactical and the zoning enforcement ([April 12, 2021](#); [October 4, 2021](#); [October 18, 2021](#); [January 3, 2022](#); and [April 11, 2022](#)). We look forward to 2A Tactical constructing the conditionally approved project on Route 125 and relocating their thriving business from their neighborhood to a commercial zone.

*Barrington Select Board*

Dannen Mannschreck

Dannen Mannschreck, Select Board Chair