

**Meeting Minutes**  
**FOR**  
**ZONING BOARD OF ADJUSTMENT**

**IN PERSON LOCATION-**  
Early Childhood Learning Center  
77 Ramsdell Lane  
Barrington, NH 03825

**OR**

**You are invited to appear by audio phone or computer see below:**

The public has access to contemporaneously listen and, if necessary, participate in the meeting through dialing the following phone #1-603-664-0240 and Conference ID: 721587710# OR link [bit.ly/BarrZB20211020](https://bit.ly/BarrZB20211020)

(Approved November 17, 2021)

**October 20, 2021**

**7:00 p.m.**

**Please note that all votes that are taken during this meeting shall be done by Roll Call vote.**

**Members Present**

Cheryl Huckins  
Raymond Desmarais, Vice Chair  
George Bailey  
Dave Whitten  
Paul Thibodeau

**ACTION ITEM CONTINUED FROM SEPTEMBER 15, 2021**

1. [121-16-GR/SPO-21-ZBAVar \(Owners: Michael R. & Brenda M. Zahner\)](#) Request by applicant for a variance from Article 4-Dimensional Standards Table 2, Section 4.1.1 Minimum Standards to allow 13.6', 9.7' and 8.0' from the back where 30' is required and 31.9', 32', and 33.1' from the front where 40' is required at 14 Loon Cove (Map 121, Lot 16) in the General Residential Zoning District. By: Raymond A. Bisson, Stonewall Surveying; PO Box 458; Barrington, NH 03825.

R. Desmarais gave a brief description of the application.

Ray Bisson from Stonewall Surveying represented applicants Michael and Brenda Zahner. Ray explained that they were before the month last month and they are back before with a revised plan. Ray explained that the last time before the Board the back corner was at 5' and they have changed the back setback to 8' and adjusted the other setbacks as above.

P. Thibodeau asked what the width of the right of way was.

Ray Bisson explained that the right of way was 15'.

R. Desmarais opened public comment.

R. Desmarias closed public comment.

*A motion was made by C. Huckins and seconded by P. Thibodeau to grant the variance with the changes made on plan dated October 12, 2021.*

Roll Call:

P. Thibodeau-Aye

C. Huckins-Aye

D. Whitten-Aye

G. Bailey-Aye

R. Desmarias-Aye

## **ACTION ITEM**

2. **263-28-RC-21-ZBAVar (Owner: Jon Chinburg)** Request by applicant for a variance from Article 4, Table 2 Table of Dimensional Standard to allow a reduction to 30' along Pierce Road where 75' is required for the front setback in the Regional Commercial Zoning District. By: Beals Associates, PPLC; 70 Portsmouth Avenue, 3<sup>rd</sup> Floor; Stratham, NH 03885.

R. Desmarias gave a brief description of the application.

Christian Smith from Beals Associates represented Jon Chinburg. Christian explained that this lot has frontage on Calef Highway (aka Route 125) and Pierce Road. Christian explained that this would have setbacks from Calef Highway (aka Route 125) and Pierce Road of 75'. Christian explained that would leave a 3' wide area.

John Huckins explained that there's no exemption for town roads over state roads even though the intent of 75' was meant for Calef Highway (aka Route 125) and Old Concord Turnpike (aka Route 4). John explained that this was discussed at the Planning Board last night and added to the Zoning Ordinance amendments for voting in March to change to 40' for town road and 75' for Calef Highway (Route 125) and Old Concord Turnpike (aka Route 4).

R. Desmarias asked why Pierce Road was at 75'.

John explained it was in the Regional Commercial District.

Christian explained that was a front setback and makes this lot unbuildable within a reasonable building setback. Christian explained that they are asking for the setback on Pierce Road because this was the back of the lot. Christian explained that they received the curb cut from NHDOT for Calef Highway (aka Route 125).

### **Christian read the five criteria:**

- ☐ 1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

**The special conditions of the subject parcel that result in unnecessary hardship is that is only 153'+/- wide with roads bordering both the front and back side of the parcel. The zoning requires 75' setback from frontage in this zone which is interpreted to apply to both the frontage on Pierce Road and on Rt. 125. Literal enforcement of the frontage setback on both the front and back and the front of the parcel leave only a 3' strip of buildable area which would not be sufficient to permit construction of a commercial or mixed-use building in accordance with the zoning ordinance. The unnecessary hardship exists because a frontage requirement is being applied to two sides of the parcel as opposed to one given the double frontage on two roads of the subject lot.**

- ☐ 2. Granting the variance would be consistent with the spirit of the Ordinance.

The spirit of the ordinance is to provide a 75' setback from parcels along Rt. 125 to allow a greenbelt buffer. Greenbelt buffer is defined in the ordinance as the following: Greenbelt Buffer required A greenbelt buffer of fifty (50) feet from the edge of the right-of-way shall be maintained along the frontage of parcels on Rt. 125 and Rt. 9, in which no development, storage, parking, or paving shall be permitted (except as necessary to provide access or signage). The greenbelt may be left in its natural state if sufficiently vegetated or planted to provide a visually appealing green buffer along the higher trafficked areas or Rt. 125 and Rt. 9 in Barrington, not to require a 75' setback on other roads. Since this parcel is unique with both fronting Rt. 125, but also having frontage on Pierce Rd the standard is applied doubly. Allowing the frontage on Pierce Rd to have a 30' setback while still maintaining the 75' setback along Rt. 125 accomplishes the goal of the ordinance.

☐ 3. Granting the variance will not result in diminution of surrounding property values.

Granting the variance will not result in the diminution of surrounding property values as it would allow the parcel to be developed in accordance with the allowed uses in the Zoning Ordinance for the Regional Commercial Zone. Development in this area will help to attract new people to the existing and future businesses in this area.

☐ 4. Granting of the variance would do substantial justice.

Granting the variance would do substantial justice because it would allow development of the parcel with the allowed uses in the Regional Commercial area. Literal enforcement of the ordinance would require a 75' setback on two roads rendering the parcel unbuildable which no do substantial justice to the intent of the ordinance, the surrounding properties, or other properties, or other parcels in the Regional Commercial zone with double frontage. Substantial justice will be served is the parcel maintains the greenbelt buffer along Rt. 125 but is granted relief to allow development on the parcel with a 30' setback on Pierce Rd.

☐ 5. Granting of the variance would not be contrary to the public interest.

Granting the variance would not be contrary to the public's best interest as the allowed uses in the Regional Commercial zone are primarily commercial or mixed-use developments which create tax revenue with low impact to the Town of Barrington. Allowing a landowner to utilize their land in accordance with the spirit of the ordinance is in the public's best interest. One of the 2021 goals of the Barrington Select Board is to "Support the Planning Department to encourage and attract economic development and commercial growth in the commercial zoning districts." Granting the variance would further be in line with the goal of the Select Board to encourage and attract economic development in commercial zoning districts.

R. Desmarais asked if this was for the 30' setback.

Christian explained that the variance was to apply for the rear setback.

R. Desmarais opened public comment.

R. Desmarais closed public comment.

*A motion was made by D. Whitten seconded by C. Huckins to grant the variance to Jon Chinburg on Map 263, Lot 28.*  
Roll Call:

P. Thibodeau-Aye

D. Whitten-Aye

C. Huckins-Aye

G. Bailey-Aye  
R. Desmarias-Aye

**ACTION ITEM CONTINUED FROM SEPTEMBER 15, 2021**

3. [220-54-16-GR-21-AmendZBAVar \(Owners: Robert & Allison Russell-2A Tactical\)](#) Request by applicant for a AMENDED variance from Article 2 Section 2.2.1 General Residential and Section 7.3 Home Occupation to allow for a residential development in addition to small-scale business uses at 99 Tolend Road on a 2.119 acre lot in the General Residential Zoning District.

R. Desmarias gave a brief description of the application. R. Desmarias explained that to the applicant that they are there for the Home Occupation and a variance. R. Desmarias explained that they are going to start with the Home Occupation.

Attorney Brendan A. O'Donnell from DTC Lawyers represented applicant Robert Russell owner of 2A Tactical, LLC. Attorney O'Donnell explained that at the September 15, 2021, he asked if the applicants satisfied the home occupation criteria. Attorney O'Donnell explained that the case was continued asking the applicants for a letter from the Fire Chief under each of the criteria listed in section 7.3.6. Attorney O'Donnell explained that on October 13, 2021, he submitted the letter from the Fire Chief along with someone with someone from the State Fires Marshall's inspected the business. Attorney O'Donnell explained that the letter from the Fire Chief states that there was no on-site storage of hazardous materials that rendered the premises section able or detrimental to the resident neighborhood. Attorney O'Donnell that he could not rule on all the ultra-listed criteria the applicant needed to talk to the Building Inspector John Huckins. Attorney O'Donnell explained that the owner Rob Russell contacted Building Inspector and arranged an exterior inspection regarding the remaining issues which were exterior appearance traffic, odor, smoke, dust, or noise that renders the premises. Attorney O'Donnell explained that they also supplied the Building Inspector's letter with his October 13, 2021, letter to the Board and the letter did not have any objectionable or detrimental to the residential character. Attorney O'Donnell went over some fire code or some potential fire code violations that were identified in the letters. Attorney O'Donnell explained that this was the first time for the violations or potential violations some of the fire chief identified. Attorney O'Donnell explained that Mr. Russell began correcting violations and was still working with the fire department and building inspector. Attorney O'Donnell explained that Mr. Russell pulled the building permit personally to replace the electrical wiring that his hired electrical contractor failed to pull a permit for and was not to code so that he can correct. Attorney O'Donnell also stated the fire chief mentioned that the tent on the exterior there might be an issue with egress related to the fire code. Mr. Russell removed the tent to clear up that potential issue and the issue before the Board was whether the applicant use satisfies the home occupation criteria and that no variance was required and the fire code violations or potential fire code violations. Attorney O'Donnell explained that they are in the process of being remedied and they're not relevant to whether a variance was required. Attorney O'Donnell stated that the Board should restrict its determination to the use itself and its compliance with the enumerated criteria in Section 7.3.

Attorney O'Donnell listed the Section as follows:

**7.3(1).....A home occupation may only be conducted within a detached single-family dwelling.**

**Attorney O'Donnell explained that at the prior meeting there were some questions and there was discussion as to whether use of an accessory structure solely for accessory storage was considered conducting within the meaning of home occupation.**

**Attorney O'Donnell explained that in his letter of October 13, 2021, that accessory storage was not conducting the business and the Zoning Ordinance does not define what it means to conduct a business in the home. This was only time it shows up in the entire ordinance**

**and the Supreme Court has said that when interpreting ordinances just like statutes that the first starting place was the plain meaning of the words that are used.**

**Meaning:**

**Conduct in the webster dictionary to direct take part in operation or management of as in conduct a business and there where it said direct or take part in the operation or management percentage in turn was defined as to exercise executive administrative and supervisory direction of or to direct or carry-on business or affairs taken together conduct as used in the ordinance means the home occupation was managed or directed from within the dwelling.**

Attorney O'Donnell explained that 2A Tactical home occupation was conducted entirely within dwelling because that's where Mr. Russell oversees his business that's where his employees work that's where customers come to patronize the business. Attorney O'Donnell explained the storage of merchandise and office supplies or cleaning solvents in accessory structures outside the business was not conducting the business. Attorney O'Donnell explained that no employees work in the Conex container, no gunsmithing or manufacturing was conducted and no customers set foot in the container.

Attorney O'Donnell explained that the second principle that the supreme court requires when you're interpreting the language of an ordinance was that you don't consider what someone might have said or add language that the rule maker did not see fit to include. Attorney O'Donnell explained that in the Zoning Ordinance used the word conducted and if the Zoning Ordinance intended that there could be no incidental storage outside the dwelling it could have said by using words such as early locate and use only the dwelling. Attorney O'Donnell explained that ordinance provisions must be interpreted as a whole and that means that when the Board was looking at Section 7.3.1 regarding conducted entirely within a dwelling they must also consider 7.3.2, 3, and 4 and 5 look at them as a group to interpret them.

**Section:**

**7.3(5).....Not more than one (1) commercial vehicle related to said home occupation shall be stored on the premises.**

**Attorney O'Donnell explained that on 7.3.5 prohibits more than one vehicle on the premises which was broader than the dwelling and they use the word storage, so it indicates that they didn't expect that there could be no incidental storage outside of the dwelling.**

**Section:**

**7.3(6).....The building or premises containing said home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.**

**Attorney O'Donnell explained that on Section 7.3.6 ensures that experience was not detrimental so there was a provision in place to take care of what happens if other uses outside the dwelling that are not conducting the business.**

**Attorney O'Donnell explained that Section 7.3 does not prohibit mere storage and accessory structures outside the dwelling particularly where there was no impact on exterior appearance. Attorney O'Donnell explained that in photos that he supplied the Conex containers could not be seen from the road. Attorney O'Donnell stated that Mr.**

**Russell made the choice to remove two of the Conex containers that had previously been used for incidental storage for 2A Tactical. Attorney O'Donnell explained that there was one Conex container in the rear of the lot where Mr. Russell stores hazardous materials meaning solvents paints the type of chemicals and solvents used in gunsmithing and manufacturing. These are in a Conex container, and they are within an OSHA and NFPA approved flammable hazmat metal cabinets. Attorney O'Donnell explained that when the Fire Chief inspected the property he said that it was both proper to use those cabinets and stated no safer place to have those materials.**

**Section:**

**7.3(2).....Not more than one (1) home occupation may be carried on in a dwelling.**

**Attorney O'Donnell explained that this was the only home occupation there with no other home occupations in the dwelling.**

**Section:**

**7.3(3).....No more than thirty percent (30%) of the dwelling's net living area shall be devoted to such use.**

**Attorney O'Donnell explained that Mr. Russell's business was conducted in portions of the basement and garage. Attorney O'Donnell explained that basement and garage are not living area. The tax card showed all square footage area in the residence with a floor plan shown and states that the basement was listed as unfinished. Attorney O'Donnell explained that the tax card shows that none of the net living area was used for the business. Attorney O'Donnell explained that even if the basement and garage were living space it would only total 26.3% of the square footage of the dwelling.**

**Section:**

**7.3(4).....There shall be no display of goods or wares visible from the street.**

**Attorney O'Donnell explained that there are no displays of goods or wares from the street.**

**Attorney O'Donnell expressed that some of the members were able to inspect the property.**

**Section:**

**7.3(5).....Not more than one (1) commercial vehicle related to said home occupation shall be stored on the premises.**

**Attorney O'Donnell explained that they have no commercial vehicles the only vehicles stored on the property are the personal vehicles of Mr. Russell and his wife.**

**Section:**

**7.3(6).....The building or premises containing said home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.**

**Attorney O'Donnell explained that the building premises containing home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood. Attorney O'Donnell explained because of exterior appearance traffic submission of odor, smoke, dust, noise, onsite storage of hazardous materials as determined by Barrington Fire Department. Attorney O'Donnell explained that the language in that provision was shall not render the premises objectionable or detrimental to the residential neighborhood. Attorney O'Donnell explained that the standard was not whether there was any traffic or any odor, smoke, dust, or noise it's whether those things transform the property and make it objectionable or detrimental to the residential**



character of the neighborhood. The Fire Chief confirmed that there were no hazardous materials of concern on the premises. Attorney O'Donnell explained those that are there are stored properly in the rear Conex container in NFPA and OSHA approved cabinets. Attorney O'Donnell explained that in Mr. Huckins letters did not identify any loud sounds dust, smoke, or odor of any kind but there were 2 vehicles parked on the side of the road and vehicles on the property. Mr. Huckins did not identify any parking violations he or identify any traffic that rendered the property objectionable or detrimental to the residential character of the neighborhood.

Attorney O'Donnell stated that at the September 15, 2021, meeting the Town's Zoning District scheme allows commercial and industrial uses as a matter of right to be situated off Tolend Road. Attorney O'Donnell explained that it allows those uses by home occupation, home business or other permit to be used in the General Residential area. Attorney O'Donnell explained that it cannot be said that traffic that would be expected of uses which are allowed as a matter of right on Tolend Road would render. The Fire Chief nor the Building Inspector identified any facts with respect to exterior appearance.

**Traffic:**

\*\*\*There was no evidence it has rendered the premises objectionable or detrimental to the residential character neighborhood.

\*\*\*There are no inspection reports detailing traffic issues there are no photographs showing traffic issues.

\*\*\*Letter from Chief Joy never been parking violations associated with Tolend Road or at 99 Tolend Road specific.

\*\*\*Parking on the shoulder off the paved portion of a road was legal within the Town of Barrington.

Attorney O'Donnell gave the Board a copy of the Town of Barrington parking ordinance.

Attorney O'Donnell explained that there are 2 emails from the Town Planner to the Chief of Police and the Chief Police back to the Town Planner.

Page 1-no person section one in the first paragraph no person except for someone driving emergency vehicle shall stop standard parked vehicle on the roadway side of any vehicle stopped or parked at the edge or curbs the street. In other words, recognizes that you can be parked at the edge or off the pavement but that no one can park to the side of you on that pavement creating a hazard.

Page 2-Parking vehicles are always prohibited on Class Five and Class Six roads. The ordinance needs to be unless there's a special permit authorizing the same by the Chief of Police. Parked on Class Five and Class Six road and if you turn to the final email.

\*\*\*Town Planner writes to the Police Chief of July 2020 state's that the Town's Ordinance did not allow parking on any Town Roads without permission of the Police Chief.

\*\*\*Chief Joy's to town Planner says we have always interpreted on "as parking with on pavement with some exceptions.

\*\*\*Snow removal and impact to emergency vehicles getting through and those aren't applicable here.

\*\*\*It was legal and proper for someone to park off the paved portion of a road such as Tolend Road.

**TOWN ATTORNEY SPECTRUM MORGAN LETTER AND THE TOWN:**

Have relied on this several times and saying there have been parking issues. The Town has had only one complaint from Town Treasurer Peter Royce prior to starting the notice. This was for a special event on October 17, 2020, which Rob had obtained a parking waiver from the police.

**SECTION 2 PARKING WAS PROHIBITED ON THE CLASS FIVE OR CLASS SIX ROADS**

Unless there's a special permit from the Chief of Police. Rob had obtained that permit he also paid

for a police detail to conduct traffic to ensure the traffic was safe.

**EMAIL:**

Email from Peter Royce using his government email to various Town Officials in their government emails and talks about being frustrated at 2A Tactical it's a complaint about 2A Tactical and talks about Saturday October 17, 2020.

**EMAIL FROM CHIEF JOY TO PETER ROYCE AND OTHERS:**

Chief Joy stated he would only offer additional information regarding October 17, 2020, specifically to 2A Tactical has for the last several years held an open house. They hired a detailed officer full disclosure he had personally worked those details though he did not this year to assist with traffic control as well as general safety on-site which has never been an issue. 2A Tactical has always asked for a variance from the parking ordinance my predecessor Chief Williams historically provided said variance and he did so as well this year for the event.

Attorney O'Donnell stated nothing on the property has been violative of the parking ordinance and they are off the pavement the one time they were there. Attorney O'Donnell explained that Home Occupation meets all the criteria and the use of currently does not require a variance.

C. Huckins asked how many Conex boxes.

Attorney O'Donnell explained that two Conex boxes were removed three are left and two only have personal items and nothing related to the business. Attorney O'Donnell gave the Board Conex box pictures that were dated September 19, 2021, and October 19, 2021. The Conex box with the special cabinets were still there with the hazardous materials.

R. Desmarias asked about when they were on the sidewalk there was gravel on the side of the road was that your property and did you do that.

Rob Russell explained that the Town did that several years ago.

G. Bailey questioned during the walk through what of the items brought up was that Mr. Russell stated that he had his personal property, and they did not go into the garage but during your presentation you noted that was being used by 2A Tactical.

R. Desmarias explained to G. Bailey that there were two garages using the garage.

Attorney O'Donnell explained that the attached garage was used for some use of the Home occupation. Attorney O'Donnell explained that the tent was removed because the Fire Chief explained that they maybe an issue with egress.

C. Huckins asked about a letter that was received from an abutter mentions daily shooting practice of single and automatic firearms was. C. Huckins asked if they were testing on the site there.

Attorney O'Donnell explained that there was no shooting practice on the outside of the dwelling there was a single room with a OSHA certified set to be able to do tests within a contained space.

Rob Russell explained that the bought a professional system a commercial system that they do shoot inside. Rob explained that you cannot even large caliber rifles you cannot even hear outside the residence. Rob explained that he has read that letter and that they could come to his home, and he would shoot large caliber weapons you could not hear it even in his backyard he felt this was incorrect.

D. Whitten asked if there was any shooting outside the facility.



Rob stated that there was no shooting outside and if they need to shoot outside, they go to Major Waldron's or they have a membership for Renaissance Firearms.

P. Thibodeau asked how much of the building was being used by the business square foot wise.

Attorney O' Donnell explained that total amount the attached garage and basement was 120 square feet that entire amount was not used would be less than 2000 square feet.

P. Thibodeau asked if it was for the business and the total of 8000 square feet on the tax card and he didn't agree with the 8,000 square feet it's not structure area its total living area.

Attorney O' Donnell explained that the business was 26% of the space.

P. Thibodeau asked John Huckins he went out and, in his opinion, does it now comply with the Home Occupation permit.

John Huckins explained that the one he issued was for one third of the basement space and the use outdoors in the attorney's opinion even though the attorney says that it's part of the use in his opinion was not part of the use.

P. Thibodeau asked when a shooting range was installed indoors OSHA approved was that in the gate the 300 feet from an occupied dwelling state rule.

Rob explained that was either verbal or written permission.

P. Thibodeau stated from abutters.

Rob stated that was correct from abutters and he has always advised all his abutters and they've never had any issues has never come up.

Attorney O'Donnell explained that the area was not like a range where you would expect that there's some amount.

P. Thibodeau explained that he understood it's indoors.

Rob explained that its also a test fire patrol and stated that he didn't feel it would fall under the legal definition of a range.

G. Bailey explained that when he went there for the walkthrough that it was a 5 x 10 room. There's an alarm on if they're going to shoot and its insulation there was a lockable door it goes into 42 inches square front and 4 feet deep. G. Bailey explained that it has all the devices that catch the rounds.

P. Thibodeau asked if it was like a shooting box.

Rob stated that was correct with a 11 and a half or 12 feet tall concrete behind it and its well below the ground.

R. Desmarais opened public comment just for the Home Occupation definition.

Attorney O'Donnell asked if this was denied the variance piece has an issue regarding hardship. That's Where a lot of comment regarding the logic that's not here so those comment should come right after the

extent.

R. Desmarias explained any hardship discussion was the next part of this phase the Home Occupation was all that would be discussed in favor right now.

Dennis James Pereira from 54 Dominic Drive, Barrington explained that Mr. Russell has his home occupation because he is hundred percent disabled veteran. Dennis explained that he was also a police officer in Dover so he couldn't do his job no longer because of his injuries so he found a passion he could do in his home office. Dennis stated that he has been a customer since 2017 never seen any unsafe acts they didn't think the business would take off as well as it did. Dennis explained that they would be moving but with the lawsuit Mr. Russell may not be able to get the loan. Dennis explained that Mr. Russell pays taxes, he employees people and people would lose their livelihood. Dennis expressed that the Board take the entire home occupation business and what they are doing to comply with all the regulations, ordinance and all safety with everything.

Randal Heller from 113 Tolend Road explained that his property adjoins 2A Tactical immediately to the port side. Randal explained that their views a very large tent which was an extension of 2A Tactical with no issues with the tent being there. Randal explained that the Town did not solicit them about the tent being there other than the invitation for the meeting tonight to express their opinion. Randal expressed that they have told 2A Tactical that their customers are welcome to park in front of their house off the road.

Randy Natale from 115 Tolend Road explained that he has lived there over 2 years and has never heard a gunshot coming from Mr. Russell's property. Randy explained that traffic has never been an issue and they were never parked on the road.

Linda Cole from 98 Tolend Road they have never heard noise that bothered them, and they have had no parking problems. Linda explained they have had no problem with customers, employees and Rob has been a wonderful neighbor. Linda has no problem with Mr. Russell moving forward and getting what he needs to continue his business.

Chris Sawyer from 18 Overlook Circle he explained that he was an enrolled agent and was a CPA they own a business and work out of there home with a home occupancy permit by the Town of Barrington. Chris explained that he was a disabled veteran he has known Rob for a year and half. Chris explained that he was the Finance Officer for the American Legion in Barrington and active with the snowmobile club. Chris expressed that he didn't like the way Rob was being treated.

Edward Brideau from 116 Pond Hill Road and was a disabled veteran explained that Rob has done everything that he possibly in his ability to do to comply with the ordinances. Edward explained that the customers a drive out of there in a kind neighborhood manner.

R. Desmarias explained any hardship discussion was the next part of this phase the Home Occupation was all that would be discussed in opposition right now.

Gary Imbrie from 20 Mills Falls Road explained that he was speaking in opposition, and he supports Rob's business. Gary explained that in 2017 Rob came to everyone in the Mills Falls Homeowners Association and asked about having a business in his basement that it would be him and maybe one other part-time employee. Gary explained that they said yes, they all loved Rob and felt he was a great guy. Gary explained that the business has succeeded, and the association wished him the best hoping that he could move to his new site as soon as possible. Gary explained that the ccnr's of there Homeowners

Association clearly state that this business could only exist with one professional office and one person that's there ccnr it's very clear. Gary explained that Rob came to them and asked if he could do a little more than that he they said yes. Gary explained that they love Rob, but the fact of the matter was that his business violates there ccnr's. Gary expressed that he listened to Rob's attorney stating that his business concurs or in acceptance of the rules and regulations for a single occupancy permit. Gary explained that everything that reads the business absolutely does not he has multiple employees, has large base occupied and not conforming in the neighborhood. Gary explained that the Board has letters from most of the people on Mills Falls Road abutters or near abutters and all object to this business. Gary explained that no one wants to destroy his business but to grant a permanent variance was the complete objection to there ccnr's.

R. Desmarias explained that they were not hearing the variance request this was just for the definition Home Occupation.

R. Desmarias closed the Home Occupation part of the case, and the Board would discuss. R. Desmarias read the following from 7.3 Home Occupation:

### **7.3 .....Home Occupation**

In zoning districts that permit the establishment of home occupations, all such uses must comply with the following provisions. If the Zoning Administrator determines that the proposed use is in compliance with all of the following provisions, authorization for the home occupation may be granted by the Building Inspector without review by the Planning Board. The proposed use must also comply with all other applicable local, state and federal regulations.

**7.3(1).....**A home occupation may only be conducted within a detached single-family dwelling.

**Vote 4/1**

**7.3(2).....**Not more than one (1) home occupation may be carried on in a dwelling.

**Vote 5/0**

**7.3(3).....**No more than thirty percent (30%) of the dwelling's net living area shall be devoted to such use.

**Vote 4/1**

**7.3(4).....**There shall be no display of goods or wares visible from the street.

**Vote 5/0**

**7.3(5).....**Not more than one (1) commercial vehicle related to said home occupation shall be stored on the premises.

**Vote 5/0**

**7.3(6).....**The building or premises containing said home occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.

**Vote 5/0**

**7.3(7).....**A certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed.

## **Vote 5/0**

*A motion was made by G. Bailey and seconded by D. Whitten that Mr. Russell and 2A Tactical meet the definitions under 7.3 Home Occupation to 7.3 (7).*

Roll Call:

P. Thibodeau-Aye  
D. Whitten-Aye  
C. Huckins-Nay  
G. Bailey-Aye  
R. Desmarias-Aye

A woman came on video asking if the variance was not happening for public opinion. The woman explained that she was an abutter of 2A Tactical.

R. Desmarias explained that there was no variance being heard tonight.

The woman stated that was pretty schisty how you did that there was no public comment about the home occupation and said that there was going to be public comment about the variance, and she has 2 little kids and there are people coming out and out of that business every day. You didn't let her speak because you said they were going to talk about the variance.

R. Desmarias asked to shut the woman off. R. Desmarias stated to write her a letter telling her she could have spoken but didn't raise her hand.

## **MINUTES REVIEW AND APPROVAL**

4. Approval of September 15, 2021, meeting minutes.

*A motion was made by G. Bailey and seconded by C. Huckins to approve the minutes as written.*

Roll Call:

P. Thibodeau-Aye  
D. Whitten-Aye  
C. Huckins-Aye  
G. Bailey-Aye  
R. Desmarias-Aye

## **ADJOURNMENT**

The next meeting will be held on November 17, 2021, at 7:00 p.m. at the ECLE 77 Ramsdell Lane. Without objection the meeting adjourned at 8:21 p.m.