

## **Via Email and Hand Delivery**

Date: February 3, 2026

To: Town of Barnstead, Selectboard, Building Inspector, Town Counsel

Re: 948 Province Road — Windfall Cabin Building Permit

### **Preservation of Record and Demand for Immediate Issuance**

To Whom It May Concern,

This letter serves as a formal preservation of the administrative record and a demand for immediate issuance of the building permit application submitted for the Windfall Cabin on October 22, 2024.

The Town's recent assertion that it could not act on the permit due to "not knowing the intended use" of the cabin is factually incorrect and contradicted by the Town's own records.

By way of example:

Attorney Timothy J. Sullivan, November 11, 2024, expressly advised the Selectboard:

*"My clients do not currently rent those cabins, and they are not used as short-term rentals... They have no intention to do so."*

Erin Stone's written submission to the Selectboard, November 11, 2024, states:

*"We are no longer offering the cabin for overnight stays to the public,"*

(Exhibit A)

The Town's Updated Notice of Land Use Violations / Cease and Desist dated December 12, 2024 explicitly acknowledges:

*"You do not intend to rent out the cabins on the property to the public for overnight stays," and "You have filed building permits for the 'Windfall Cabin'..."*

The Town rescinded the prior Cease and Desist based on these representations.

(Exhibit B)

These documents establish actual notice, acknowledgment, and reliance. Any claim that the intended use was unknown is therefore unsupported and false.

Despite acknowledging receipt of the permit application, the Town: did not approve the permit, did not deny the permit, and did not issue any written request for additional information within the statutory decision period.

Under RSA 676:5, this failure to act constitutes a constructive denial by operation of law. Once that occurred, the Town forfeited discretion to impose new conditions or seek post-hoc clarifications. Subsequent attempts to revive discretion are unlawful and do not cure the original failure to act.

At the February 2, 2026 ZBA hearing, Town counsel stated:

"If you will indicate the intended use of the cabin and confirm that it is to be used neither as a dwelling nor a short-term rental unit, the town will issue a permit, conduct an inspection, and, assuming everything is in order, [and] issue a certificate of occupancy. It is the correct statutes that have been referenced by the applicants."

As shown above, the Town had already received and acknowledged this information. Even under the Town's own articulated standard, no lawful basis exists to continue withholding the permit.

Any further refusal, delay, or conditioning of issuance based on claims already contradicted by the Town's own record will be treated as willful noncompliance and evidence of bad-faith administrative delay.

Because the processing and issuance of the building permit is a ministerial act, and all relevant information had already been submitted, acknowledged, and relied upon by the Town, immediate issuance is required. The Town is hereby afforded forty-eight (48) hours from receipt of this letter to issue the Windfall Cabin building permit. Failure to do so will result in pursuit of relief in Superior Court without further notice.

Nothing in this letter shall be construed as a waiver of any rights, claims, or causes of action, all of which are expressly reserved.

Respectfully,

Erin Stone

Jared Hanselman

Owners — 948 Province Road, Barnstead, NH 03218

# EXHIBIT A

Russell F. Hilliard  
James F. Raymond  
Heather M. Burns  
Lauren Simon Irwin  
Michael S. McGrath\*  
Jeanne S. Saffan\*\*  
Susan Aileen Lowry  
Michael P. Courtney\*  
Nathan C. Midolo\*\*\*  
Brooke Lovett Shilo  
Todd C. Fahey  
Stephanie J. Thomson\*\*\*\*  
Laura M. Dudziak  
Kathryn Cox Pelletier\*  
Timothy J. Sullivan  
Timothy K. O'Brien  
Madeline K. Osbon  
Christina H. Kranias

  
Upton  
& Hatfield<sup>LLP</sup>  
ATTORNEYS AT LAW

Serving New Hampshire since 1908

*Of Counsel*  
Thomas W. Morse - Retired  
Jeffrey R. Crocker - Retired

\* Also admitted in MA  
\*\* Also admitted in MA & NY  
\*\*\* Also admitted in MN  
\*\*\*\* Also admitted in VT

November 11, 2024

Office of the Selectmen  
Town of Barnstead  
P.O. Box 11  
Ctr. Barnstead, New Hampshire 03225

Re: 948 Province Road

Dear Selectboard Members,

This Office represents Erin Stone and Jared Hanselman. Thank you for the letter dated November 5, 2024, outlining the Board's position regarding their property at 948 Province Road. While we appreciate the Board's letter and position, it is our belief that the issues identified in the letter are in part based on a misunderstanding of the current activities on the property, and outdated information. As far as we are aware, the Town has never received any complaints about this property, and all of the violations cited in the Town's letter are the result of a single visit, made by Mr. Rowell, and contained in his report. Most of the information relied on in that report appears based on assumptions regarding activity on the farm, or a lack of the most updated information. We hope that with this additional information, the Board will reconsider its position regarding the need for site plan review. Attached please find the following information which we believe supports our position:

- Letter from Erin Stone.
- Letter from Septic Designer 11.11.2024.
- November 9, 2024, social media post regarding closure of the Farm.
- Insurance cancellation letter dated October 28, 2024.
- Current Building Permit #2024000479 dated September 6, 2024, signed by Gary Madden.

At the outset, I think it is important to recognize and acknowledge that Erin is a Planning Board member, and Jared is a Zoning Board Member. These two individuals are dedicated members of the community, who are not trying to avoid compliance with any Town regulations

10 Centre Street, Concord, NH 03301  
Concord – Peterborough – Portsmouth

or ordinances. Rather, with clear communication from both sides, they are motivated to resolve these issues to the property can quickly come into compliance. My clients look forward to appearing before the Board on September 12, 2024, to discuss these issues further, but in the short term we felt it may be helpful to provide additional background before that meeting.

First, to address the issue of the Cabins, my clients do not currently rent those cabins, and they are not used as short-term rentals. The “Windfall” cabin was previously offered as a “farm stay” during COVID, but that has since been discontinued. (This occurred prior to the adoption of the short-term rental ordinance). As you may know, when Erin was on the Planning Board, she assisted in drafting that ordinance and is well aware of its requirements. If they ever decide to rent those cabins again, they will obtain the necessary conditional use permits, but as of now, they have no intention to do so.

Regarding the building permits, the “Windfall” cabin building permit was submitted by Jared on October 23<sup>rd</sup>, 2024. Despite Jared’s offer, the Town Administrator would not allow him to pay the fee for the permit. Second, regarding the “log cabin” they have previously received a building permit. They believed an inspection had occurred, given the presence of the Building Inspector on the property, and there were no outstanding issues. They now understand they will need an inspection for a certificate of occupancy and are happy to promptly work to remedy that issue.

Next, regarding the “rabbit shed,” Jared has already submitted a permit application on October 23, 2024. With regard to the Greenhouse, Jared attempted to submit a building permit but rescinded it when he learned that for structures under 200 square feet, no permit is necessary. This structure meets that limitation. If the Town disagrees with this, please advise, and we will seek the necessary permit.

Regarding the current barn under construction, it appears that Mr. Rowell was not provided with the most updated information prior to his visit.<sup>1</sup> His report appears to take issue with the difference between the permit ending in #276 and the current project. That is not surprising. That is because on September 6, 2024, Gary Madden signed a new permit ending in #479, which would have shown Mr. Rowell the amended plan, which was approved. Additionally, after Mr. Rowell was on site and raised the issue of a lack of a plumbing plan, Jared immediately filed one with the Town. They have not received any further communication from the Town as to the status of that permit.

Overall, it appears there is a general misunderstanding regarding the activity on the property. There are currently no agricultural activities occurring on the property. The farm stand was completely dissolved and will not re-open. *See Attached*. There are no “on-site” transactions with the public. To be clear, there is no “business” as would necessitate a site plan review.

---

<sup>1</sup> It is important to point out, that upon arrival Mr. Rowell refused to conduct an inspection, despite that being the reason Jared and Erin invited him to the property. When he arrived, he informed them that the permit was “partially denied.” This was the first time this information had been relayed to Jared and Erin. Had they been informed, they would have taken steps to remedy the issue immediately.

For the sake of clarity, there is no “functional hall,” or “commercial kitchen” being installed. We do not dispute Mr. Rowell’s comment regarding the information on septic system permit, however, that is misleading. *See* attached letter from Septic Designer. My clients decided to install a large septic system, which is their right to do. I am unaware of any rule of regulation which prohibits a property owner from installing a septic system that is larger than what they may currently need to plan for the future. However, there is no function hall or commercial kitchen, and certainly no “business” which involves on-site transactions with customers, that would necessitate site-plan review. Rather, Erin runs an online “home business” selling clothing items, which is permitted as a matter of right, pursuant to the Town Ordinance. In the future, if they decide to operate a “business” as that term is used and defined, they will certainly obtain site plan review approval. To be clear, the assertion that the farm is being used for paying customers to “hold events” is simply not accurate.

It is our hope that with this new information, Erin and Jared can move forward with the prompt approval of their building permits. Time is of the essence, as they need to pour the foundation, and that cannot be done after Thanksgiving. Should this occur, they will incur thousands of dollars in expenses for an exposed plumbing system that will be damaged through the winter. Additionally, the structure needs to be closed before winter, to avoid damage to the interior already constructed. Given all that these two individuals have done for the community, it would be hard to imagine that this would be a positive outcome for anyone. We look forward to discussing these issues in more detail at the meeting on November 12<sup>th</sup>.

Sincerely,

*Timothy J. Sullivan*

Timothy J. Sullivan  
Attorney  
tsullivan@uptonhatfield.com  
603-410-2808

Encls.

Cc: Erin Stone

Dear Selectboard,

When Jared and I bought our historic 100-acre property in 2015 we had a vision to connect the community to the land and agriculture. Embracing the Town of Barnstead's Master Plan, we understood and related to the community members here that agriculture, open land, and access to the outdoors was important. The benefit of seeing, feeling, smelling, and exploring is immersive and stimulating for everyone, including our children and pets.

We connected with New Hampshire Fish & Game and joined their "Operation Land Share" and opened our land up to those who looked to access it. By offering FREE snowshoeing, hiking and even private daytime spaces for picnics and families to spend time outdoors with their dogs and kids, we have been able to continue our path to creating that connection.

During COVID, I was instrumental in connecting other area farmers to create a network where farm foods could be purchased remotely through a website that I hosted and designed. I warehoused, sold, and distributed these farm foods directly to the community with free door delivery. That activity alone demanded an even greater production of farm meats and eggs and soon developed into the farm stand that was relocated to our farm. I participated in the Barnstead Farmers Market and several other area farmers markets in NH. COVID created a very reactionary response as a farmer and grower to help supply the communities need for local products by increasing our food production here. That need has dramatically changed now post-COVID and has prompted us to move in a different direction and away from farming.

January 2022 I began working at Barnstead Town Hall as the Planning and Zoning Clerk. I personally brought up the potential need for Site Plan review for my current farm business at the time and it was discussed that it was not needed since Farm Stands were considered an essential element to the farm productivity and I was selling well above the required 35% threshold. Our Farm Stand had not changed shape or size at all from then until August 2024 when it closed. As of now, we do not anticipate reopening a farm stand on our property.

Aside from us offering FREE 4 season access to our land, our farm had some other unique farm offerings to our community. I invited private guests (no more than 16) to attend a Full Moon Snowshoe Hike during the winter in 2023. We offered hot drinks and soup (allowable through DHHS). In the Spring of 2023, we hosted a single private event to watch a full moon rise and have a farm meal with a guided trail hike through our woods. Again, all approved through DHHS and planned at random and as a single event. We also offered a completely FREE to the community Easter Egg Hunt here on the farm for the kids. We open our trails to anyone wanting

to take their dogs for walks or just explore. These events, to me, are no different than a Christmas tree farm offering a day of sledding or sleigh rides or a sugarhouse offering a sap boiling day with cider donuts, tours and hot drinks. It's not a "business" but rather a random unique opportunity for the farm to connect with the community.

In the midst of all of these exciting developments going on the farm, our original antique barn, that was here when we bought the property, collapsed and had to be removed. My husband, being a professional barn builder, vowed to rebuild a barn in its place. We call this new barn the "Born Again Barn" as it is to honor the time, materials, and dedication to the preexisting one for this farm. This new barn will have an approved ADU (special exception has already been granted by ZBA) for my mother-in law and that would require plumbing and a septic system. When I met with the septic designer, I told him about the occasional events we had previously hosted here and how I would like to include the capacity for a potential future kitchen for me to make my own jams and jellies from our fruit trees and garden. I explained how infrequent these would be and how few people we would patronize. He recommended and designed a flow system that could sustain that IF we were planning to pursue these plans in the future. The plumbing and *upgraded septic in the barn was simply an expensive and smart option for the potential real estate value and to prevent the needless digging up and breaking apart of the concrete floor in the event we did ever decide to do more with the space.*

We have been cash-flowing this project and do not anticipate its completion in the next year or even longer. Our priority is to complete the ADU for my mother-in-law so she can move closer to us so we can take care of her. Our undecided and unlikely plans for the "unspecified point in the future" seems like an unreasonable way to hold up the present housing needs for our mom. The fact is, the intended use for barn currently is a private wood shop on one side and a large sewing room for our moms quilting machine, storage of supplies and a workshop space for me and my hobbies. None of that requires site plan review and will not be accessible to the public as *it is not a "business."*

To better explain the other unpermitted structures, which applications for permits were hand delivered to the Town Hall on October 23. (To note, when Peter Rowell appeared at our farm, he was unaware that we did in fact have a current building permit and that the current application and permit does in fact reflect exactly what we are building. That permit was not referenced at all in the cease and desist letter. (Permit # 2024000479, Dated 9/6/2024)

1. The greenhouse is not more than 200 sq. ft therefore does not require a permit.

2. The rabbit barn was originally built in 2015 and has evolved in size, with 2 new lean-tos, over time. This structure does exist on the tax card and it currently houses rabbits, chickens and my livestock guardian dogs. Jared has submitted his application for the permit to the town and we wish to become compliant.
3. The “Windfall Cabin” in the woods was a fun weekend project my husband started in 2018 as a gift for me since I traveled for work all of the time. It was built from downed trees from our property after a major storm. When he built it, it was not more than 200 sq ft and did not require a permit. We began offering the space to people during COVID as a place for them to get away from the chaos. The cabin now has an addition that makes its more than 200 sq ft in which a permit was required and Jared did not get one. We are no longer offering the cabin for overnight stays to the public and again wish to bring that back into compliance.
4. The log cabin did have a building permit and the town’s building inspector observed it in person. We assumed that we were all set after his last visit to the cabin in January 2024. If more is required we are willing to rectify that with the town. This cabin has never been offered for rent to the public and we do not plan to rent this cabin out for overnight stays to the public.

If the cabins would be used in the future for overnight stays, we will certainly do what the town requires for them. I was the one who created the “Conditional Use Permit” during my time as the Planning Board Clerk and was instrumental in getting the form before the board and on the ballot for March 2024. That form, however, has not been officially approved by the board or town attorney and is not currently available to complete or submit. I also currently sit on the board as a Planning Board Member and the Master Plan committee while my husband is a member with ZBA.

Despite the unique complexities with the over-sized septic system, it seems easy enough to address any concerns the BOS may have about the intended use of the structure. Site Plan Review for Agriculture and Agritourism use can be complex since farms require consistent change and flexibility for its current business needs, nevermind the “unspecified point in the future” with completely unanticipated changes. Our farm has evolved in ways I could have never imagined or prepared or planned for. Despite having raised dozen and dozens of hogs on our farm, we are reduced to 3 pet pigs today. What once was a hustling and bustling farm store is now a tack and grain room for my horses. All of our freezers have been unplugged and put into storage. Any farm stand here has been systematically disassembled and stored away.

Our only request from the town is to allow us to complete our barn project so our Mom can move into her ADU and to allow us to rectify the unpermitted structures on our property. We have attempted to pay for those permits and get that process moving but have not been able to move forward with Town Hall. We understand the Site Plan Review process will be required for if or when we decide to propose a business for our farm but our farm is currently a private residence and no business is being conducted here now or planned in our future.

Sincerely,

Erin Stone

# EXHIBIT B

## OFFICE OF THE SELECTMEN TOWN OF BARNSTEAD

P. O. Box 11  
Ctr. Barnstead, New Hampshire 03225  
603-269-4071

December 12, 2024

Jared and Erin Hanselman  
948 Province Road  
Barnstead, NH 03218

**Re: Updated Notice of Land Use Violations; Cease and Desist  
948 Province Road**

Mr. and Ms. Hanselman:

We write to you in our capacity as the administration and enforcement authority under Article 10 of the Barnstead Zoning Ordinance to make you aware of several issues with your property at 948 Province Road (the "Property"). As you know, substitute Building Inspector Peter Rowell visited your Property on October 21, 2024. Since the inspection you have provided updated information as to the use of the property, which includes the following representations:

- You do not intend to operate the property for commercial purposes that would require site plan approval.
- You have closed the farm stand and associated business and do not intend to operate a business that involves onsite transactions with customers.
- You do not intend to use the barn as function hall and you are not installing a commercial kitchen.
- You do not intend to rent out the cabins on the property to the public for overnight stays.
- You have filed building permits for the "Windfall Cabin" and the "rabbit barn."<sup>1</sup>

Based upon these representations, we hereby modify, vacate and rescind the prior Cease and Desist dated November 5, 2024, such that the list of Required Actions is updated as follows:

### **Required Actions**

- Until you have obtained all required approvals for the two cabins (building permit for one, final inspections as built and Certificates of Occupancy for both), neither cabin should be used or occupied.

---

<sup>1</sup> The building permit filed for the greenhouse is not required because the structure is less than 200 square feet. More information is required regarding the intended use of the Windfall Cabin so as to determine if it is a dwelling unit as defined by the Ordinance.

- Until you have obtained a conditional use permit for either cabin to be used as a short-term rental, such use should cease.

We encourage you to address these updated issues at your earliest convenience. Although we would prefer to work through this with you to a resolution, we are required to note that the law authorizes the Town to seek injunctive relief, fines and penalties for violations of the Zoning Ordinance, Building Code, and Site Plan Review regulations, including civil penalties of \$275 for the first offense and \$550 for each subsequent offense for each day that each such violation continues after your receipt of this Notice, as well as the recovery of the Town's attorney's fees and costs. See RSA 676:15 and RSA 676:17.

Sincerely,



Diane Beijer, Chairman

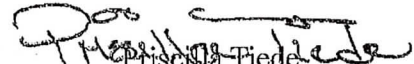


Gary Madden, Vice Chairman



Robb Ellis

Edward Tasker  
Barnstead Board of Selectmen



Priscilla Fiedler