

Good Evening. I come before you as a member of the Planning Board, a Full Time Farmer and full time Resident of Barnstead New Hampshire. I would like to request your time and attention for a conceptual consultation for our farm but first I would like to offer a relevant backstory as to why I am here.

Jared and I purchased our farm in 2015 with the plan of rebuilding it and restoring it to the fully functional farm it was back in the 1950's and earlier. We opened our farm to the public in 2016 with our very first Open Farm Day event and promised to share our progress, land and farm offerings with our community. We have been doing just that since 2016 without any known issues, complaints or violations.

As some of you may know, our farm was issued a Cease and Desist by the Town of Barnstead's Board of Selectmen. The Cease and Desist letter contained some concerning issues regarding our farm and the restrictions to which we are able to conduct our farm without requiring permission from the town.

The Cease and Desist letter was dated 11/5/2024 and signed by Gary Madden, Diane Bejir, Robb Ellis, and Priscilla Tiede.

The first topic:

1) Agricultural Activities:

- a) it reads, and I quote: "we understand that the property has been used not only as your residence but also as a small farming operation with a farm store."
- b) And continues with "Any new establishment, re-establishment, or significant expansion of a farm stand, retail operation, or other use or activity involving on-site transactions with the public, including agritourism, may be subject to applicable... site plan review."

Our farm store was closed August 2024, months prior to this letter so the language about a farm store was irrelevant.

Yes, we do have a small farming operation but certainly we did not expect that homestead farming is subject to "site plan review".

The language from the state RSA uses the word "may". Not that it "does" or "will" be subject. The Planning Board will be the ultimate decider on this.

I would like the board to advise on this regarding my farm, other area farms and the future of farming in Barnstead. I will get into more details on this topic.

The cease and desist letter also states:

2) Site Plan Approval:

- a) And I will quote from the letter "...agricultural uses (including agritourism) are not exempt from generally applicable permitting requirements, including site plan review."
- b) "...significant expansion of an agritourism activity on the property that involves transactions with the public is not exempt from generally-applicable site plan review requirements."

I will go into much more detail about this language but let me just read on and follow me on this...

- c) "Prior to obtaining any building permits to construct a building suitable for the operation of a business on the property, you must obtain site plan approval from the Planning Board. **It does not matter whether the plan is to build the structure today but not use it to host functions until some unspecified point in the future.**"

So let me get this right, if the board determines that farming is a business then building a new farm structure on our farm requires Site Plan Review?

I think what threw the town for a loop was how our septic design was labeled on the septic design plan. I had already been before the ZBA to get our ADU approved and explained the septic plan to them. They seemed to understand it just fine. The septic design had been on file with the town since 2022. No issues, confusion or questions had come up until the cease and desist letter.

Now consider this...

What if our barn and its septic system is for a personal at-home business? We do not have plans to reopen a farm store or to be open to the public at the capacity we were. Is site plan review required then?

Back to the language about 'Agricultural uses not being exempt from site plan review'

I have several examples of farms and similar businesses in town where I have confirmed site plan review has not been submitted and seemingly not required. They are or were offering like services, transactions with the public and/or agritourism:

Half a Penny Farm, 60 White Oak Road, Barnstead NH

Events Hosted: Oktoberfest 2022 where they served food and drinks, Open Farm Day 2022-2024

They have a fully enclosed full service farm store similar to mine former store.

No Site Plan Review is documented. They even hosted agritourism activities inside their newly constructed barn with an attached ADU and private septic system. Their barn and ADU were approved and built around the same time as ours. Is a new agricultural structure with ADU and

septic system for their farm not subject to the same scrutiny? Not only are they operating a business with transactions with the public but they are participating in agritourism

Norland Farm, 164 North Barnstead Rd, Barnstead NH

Offering U-Pick Berries

Full service operating hours selling jellies/jams, frozen berries

They have a fully operational packing facility in their garage with walk in cooler. (Sinks, drainage, etc.)

No Site Plan Review is documented. Not only are they operating a business with transactions with the public but they are participating in agritourism.

Third Stone Farm, 106 Garland Road, Barnstead NH

Cut your own Christmas Trees

Full Service retail sales of Christmas trees offering hot drinks.

No Site Plan Review on file. Not only are they operating a business with transactions with the public but they are participating in agritourism

Black Dog Farm, 614 Province Road, Barnstead NH

A small, family owned farm with pick your own blueberries, baked goods, fresh eggs and more.

Host U-Pick and agricultural events

They have a Homestead Cooking Operation for wholesale production in their home as part of their in home business.

No Site Plan Review. Not only are they operating a business with transactions with the public but they are participating in agritourism

Tiede Farm Smokehouse

Currently open as a Farm Store and Meat Processing Facility. They previously hosted multi farm open houses with a food truck.

No Site Plan Review on file. Not only are they operating a business with transactions with the public but they are participating in agritourism

Lorren Joyce Farm

Farm Store, events, dinner, Open Farm Day. They were also participating in agritourism.

This list could go with all of the new and innovative farm stands that pop up here and there but you get the hint.

This is an appropriate time to mention that when Priscilla Tiede was our Selectboard Rep, Tiede Farm Smokehouse was brought up during one of our discussions about farms and site plan review. Tiede Farm Smokehouse does not have any Site Plan Review on file with the town yet they are conducting business similarly to how I was previously. Priscilla requested that the name of the farm and details of our conversation be removed from the

meeting minutes. She was one who signed my Cease and Desist letter and is still on the board.

I want to share some important information with you.

I shared a blog post to my website called:

Is your Town Limiting Farm Growth and Development?

The USDA Economic Research Service has identified that local zoning challenges and regulatory hurdles are among the top obstacles reported by small and diversified farm operators. For instance, a 2015 USDA report on agro-tourism noted that roughly 35% of small farms cited local zoning and regulatory issues as significant challenges. In a study published in the Journal of Rural Studies, researchers found that in parts of the Northeast, up to 40% of small farm operators reported experiencing local opposition when trying to expand operations or launch agro-tourism initiatives.”

(Taken from the Podcast from: One Bite Is Everything)

So let me bring this back full circle.

- What exactly am I allowed to do on my farm?
- At what point am I required to get permission for my farming practices, buildings and agritourism?
- What are we going to require from our existing farms and future farms for their agricultural structures, businesses and agritourism?
- Will a certain set of rules pertain to just me or will they justly be imposed equally to all farms?

Our farm is 100 acres where 60 acres are accessible through the “Operation Land Share” program with NH Fish and Game. We offer our pasture raised meats and eggs to the community through our website, direct to the consumer, without a storefront. We will not be returning to a full service “open to public” farm store. We are focusing more on wholesale production of our farm products and farm events

And what will I be applying for in terms of Site Plan Review? We aren’t a “service business”. We aren’t a “retail business”. I do not have set hours of operations. We are a farm. We conduct ourselves like a farm.

I felt targeted with the cease and desist letter and I want this to be publicly documented, to protect me down the road from future harassment, on where I stand and where the future of my farm stands in this town.

The other farmers in town and future farmers coming here ought to know as well.

Before I conclude I would like to share NH Stat 672:1: 3-b:

“Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. .. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;”

647:32 D- Agritourism Permitted

“Agritourism, as defined in RSA 21:34-a, shall not be prohibited on any property where the primary use is for agriculture.”

I want to thank you for your time. I will provide substantiated evidence of all items mentioned in my presentation if requested.

I would like to turn this over to you for guidance. Is Site Plan Review required for my farm, and if so, what exactly am I asking for permission for?