

Board of Selectmen
Town of Barnstead

Date: February 3, 2026

Re: Formal Objection to Updated Notice of Land Use Violations; Cease and Desist (December 12, 2024)

Property: 948 Province Road, Barnstead, NH

Dear Members of the Board,

We write to formally object to the Updated Notice of Land Use Violations; Cease and Desist dated December 12, 2024 (the “Notice”) and to demand its withdrawal in full.

Although the Notice purports to be an enforcement action issued under Article 10 of the Zoning Ordinance, it fails to identify any actual, ongoing zoning or land-use violation. Instead, it relies on speculation, stated intent, and unresolved permitting questions. As issued, the Notice exceeds the Town’s enforcement authority and is procedurally defective.

The Notice does not cite a single zoning, building, or site-plan provision that is currently being violated. Rather, it is premised on a series of “representations” describing activities that are not occurring. Zoning enforcement regulates actual land use and existing conditions, not hypothetical or future conduct, and enforcement authority does not extend to activities that a property owner states they do not intend to undertake.

The Notice is fundamentally defective in that it attempts to regulate “intent” rather than actual land use. Zoning authority extends only to existing conditions and present use of land and structures; it does not authorize the Town to impose restrictions, prohibitions, or conditions based on what a property owner does not intend to do in the future. Property owners are entitled to engage in any lawful use permitted by the zoning ordinance and to seek permits only when such permits are required. Enforcement action predicated on stated intent, speculation, or hypothetical future use is ultra vires and unenforceable as a matter of law.

The Notice repeatedly conditions compliance on unresolved and undefined future determinations — including whether a structure might qualify as a dwelling unit depending on “intended use.” Zoning classifications are based on objective physical characteristics and actual use, not conjecture. Enforcement predicated on uncertainty rather than findings is improper.

The Notice acknowledges that building permits were filed for the Windfall Cabin and the rabbit barn, yet simultaneously uses enforcement language to restrict use and occupancy while stating that “more information” is required to determine classification. Once a permit application is submitted, the Town has a ministerial duty to act on that application. Enforcement cannot be used as a substitute for, or leverage within, the permitting process.

The Notice orders cessation of short-term rental use despite acknowledging that no such use is occurring. A cease-and-desist order cannot lawfully prohibit activity that is not taking place, nor can it impose conditions unrelated to any demonstrated violation supported by factual findings.

The scope of the Notice far exceeds any alleged issue, imposes restrictions untethered to cited violations, and selectively targets hypothetical activities without reference to comparable enforcement elsewhere in Town. This raises serious concerns regarding arbitrary and unequal enforcement.

For the reasons stated above, the December 12, 2024 Cease and Desist is unlawful as issued and must be withdrawn in its entirety. At a minimum, it must be vacated and reissued only upon identification of a specific, current violation supported by factual findings and citation to applicable ordinance provisions.

We request written confirmation of withdrawal within 10 business days of receipt of this letter. Absent such confirmation, we will proceed with an appeal to the Zoning Board of Adjustment and pursue all additional remedies available to us.

This letter is submitted to preserve our rights and objections. Nothing herein should be construed as a waiver of any legal or equitable claims.

Sincerely,

Erin Stone
Jared Hanselman
948 Province Road
Barnstead, NH 03218