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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  
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*Of Counsel*  
Thomas W. Morse - Retired  
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December 4, 2024

(HAND DELIVERED)

Zoning Board of Adjustment  
Town of Barnstead  
108 South Barnstead Road PO BOX 11  
Ctr. Barnstead, New Hampshire 03225

Re: Appeal of November 5, 2024, Administrative Decision of the Selectboard

Dear Zoning Board Members,

This Office represents Erin Stone and Jared Hanselman. Please accept this letter, with attached exhibits, as a supplement to our application for formal appeal of an administrative decision issued by the Selectboard on November 7, 2024 regarding the Board's erroneous conclusion that Erin and Jared need to complete formal site plan review for their property. *See Attached Letter.*

By way of background, my clients own the property at 948 Province Road, more commonly known as "The Fox and Crow Farm." ("The property"). Dating back to spring of 2024, the Building Inspector, and now the Selectboard have unreasonably delayed the construction of their ADU and remodeled Barn for what appears to be based on personal biases.

In March 2024, Fab Cusson (building inspector) engaged in a presentation at a planning board hearing, where he personally attacked Erin, and ultimately threatened to sue Erin for "Defamation." This is when the Town's unfair treatment of Erin and Jared began. As this Board knows, Erin and Jared appeared before the ZBA in **July 2023** seeking a special exception to build an accessory dwelling unit, which was unanimously approved. Yet here we are over 15 months later, and the project is still incomplete.

Since that time, Jared and Erin have submitted permits, including septic and plumbing. This has been done on more than one occasion since the Town "lost" their documents at various points. Which leads us to the present day. On October 21, 2024, Mr. Peter Rowell (substitute building inspector due to personal bias of Fab Cusson) came to the property for what Erin and

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

Jared believed to be a final inspection of the plumbing which had been installed. This was the last step before the foundation was set to be poured before winter. Jared and Erin quickly learned that despite appearing at the property for an inspection of the plumbing, Mr. Rowell would not inspect the plumbing because as he noted in his report, “This plumbing work did not have an approved permit in place with the town.” See Attachment to November 7, 2024, Selectboard letter – Report of Rowell.” Mr. Rowell obviously was made aware of this prior to coming to the property yet came to the Property anyway.

This was a surprise to Erin and Jared as they had never been told by the town that their plumbing permit had been “partially denied” because a plan design was not attached to the permit. Which raises the question, if there was no approved permit, and Mr. Rowell could not perform an inspection, why was he at the property, and why would he not tell Erin and Jared that before making the trip so they could resolve the issue? That became quickly apparent as he was there to engage in a full property inspection. Mr. Rowell commented on other issues such as an unpermitted storage shed, cabins, and a greenhouse.<sup>1</sup>

Immediately, upon being advised of these issues, Jared went to town hall and submitted a plumbing plan design to resolve that issue, and attempted to file the necessary permits as requested by Mr. Rowell (despite these issues having nothing to do with the ADU or Barn project). Yet, for some reason, the Town Administrator refused to accept payment for the permits. Instead, on November 5, 2024 (received on November 7, 2024) the Selectboard (“Board”) sent Jared and Erin a “cease and desist” letter, for the first time claiming that the Property must go through formal site plan review pursuant to Section 8-1 of the Zoning Ordinance. This is despite the fact that Erin had previously inquired whether she needed site plan review and was told no, she did not, due to the agricultural nature of the activity on the property.

The basis for this decision by the Board is the result of outdated, and erroneous conclusions, not based on the facts. On November 11, 2024, Erin and Jared provided a letter to the Board with supporting evidence attached, dispelling any concern that the property is engaged in commercial activity which would require site plan review. *See Attached*.

Additionally, on November 12, 2024, Jared, Erin and I met with the Board, and had what we thought was a productive meeting. In fact, during that meeting, members seemed to understand the current activity on the property, and what Jared and Erin are trying to accomplish (a replacement barn for personal use, and an attached ADU for Jared’s mother). Nonetheless, we were told “a decision will be forthcoming” and that the Board appreciated the urgency, because the plumbing in the barn is exposed and the concrete slab needed to be poured before winter. Despite these assurances, two weeks later, the Board, through the (Town Administrator) sent an email to Jared and Erin which simply stated:

“Good morning, at the Selectboard meeting last night, they voted to keep the cease and desist in place pending their meeting with their attorney on Dec. 3, 2024.”

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<sup>1</sup> This was the first time Mr. Rowell had ever been to the property. Yet, he had all of this “background” because despite his role as an independent building inspector, he had met with Fab Cusson before arriving at the property.

On December 4, 2024, we followed up with the Town Administrator, and were told Town counsel was not available, and there would be another weeklong delay, despite the Board's acknowledgment of the issues caused by the plumbing permit delays.

As a result of the delay, the exposed plumbing has now been damaged, and Jared and Erin cannot have a plumber come to the property to complete the repair work as a result of the cease-and-desist letter. Additionally, the concrete slab can no longer be poured before winter, and thus, another winter will go by, where Jared's mother cannot utilize the ADU.

We were provided with no additional information of explanation as to why the action was taken to continue the Board's decision "pending a meeting with counsel." This action by the Board to continue to delay this project, maintain the cease-and-desist order, and completely ignore the well-established evidence presented by Erin and Jared is unlawful and must be reversed. The Board's interpretation of Sect 8.1 of the ordinance, and application of the facts are inconsistent with its decision. Erin and Jared are not engaged in any commercial activity on the property which would require site plan review.

The Board's order relies entirely on the report generated by Mr. Rowell from his visit on October 21, 2024. Most of the information relied on in that report is based on assumptions regarding activity on the property, or a lack of the most updated information. In its letter, the Board based its decision on a misunderstanding that the Barn is intended for operation as a "function hall" or a commercial kitchen." This highlights the Board's misunderstanding of the activity. Keep in mind they never asked Jared or Erin about their plans before issuing the cease-and-desist letter. A simple conversation might have avoided all of this.

The Board does not have an accurate understanding of the present 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.

For the sake of clarity, there is also no "functional hall," or "commercial kitchen" being installed. Jared and Erin 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. 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. 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 property is being used for paying customers to "hold events" is simply not accurate.

Jared and Erin respectfully request that the ZBA reverse the administrative decision of the Selectboard interpreting Sect. 8.1, rescind the cease-and-desist order, finding that Jared and Erin do not need site plan review, and allow Jared and Erin to complete their project, and avoid further damage and expense. Erin and Jared cannot understand why they have been treated this way by the Town, and simply ask this Board to reverse an obvious injustice. We look forward to

December 4, 2024

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being heard at a public meeting as soon as possible. Erin and Jared are dedicated members of the community who take seriously the Town's goals to preserve the rural character of the Town and appreciate the farming industry. They are not the enemy, but two folks, simply trying to remodel a barn for personal use and an ADU for Jared's mother.

Sincerely,

*Timothy J. Sullivan*

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

Encls.

Cc: Erin Stone

**OFFICE OF THE SELECTMEN  
TOWN OF BARNSTEAD**

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

November 5, 2024

Jared and Erin Hanselman  
948 Province Road  
Barnstead, NH 03218

**Re: 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. Based on his report (a copy of which is enclosed with this letter), and on the internet advertisements for rental of cabins on the Property and a review of the Town's land use records for your Property, it appears that the Property may be in violation of several provisions of the Town's zoning ordinance and building code regarding building permits, certificates of occupancy, and the possible need for approvals from the Planning Board. We understand that the specific permitting issue of immediate concern to you has been the plumbing permit for the second barn, and we wish to work with you to resolve that situation. However, we also need to let you know about several other issues that require attention.

**I. Agriculture Activities**

As an initial matter, we understand that the Property has been used not only as your residence, but also as a small farming operation with a farm store. It is useful, therefore, to understand the interaction between state law regarding agricultural activities and local zoning/building code provisions.

- **Agriculture:** Agriculture is defined in RSA 21:34-a to include (among other things) the land, buildings and structures used for agriculture, including all which are used for the specific activities listed in this definition. Aside from the various traditional farming activities (crops, animals, etc.), 21:34-a, II(b) says that it also includes "any practice or activity on the farm incident to, ancillary to, or in conjunction with, farming activities specifically defined to include farm stands that sell products from the farm, and agritourism." This section goes on to say that this includes "marketing" of the farm's products, and specifically that "marketing" includes "agritourism."

- **Agritourism:** RSA 21:34-b, II(b)(5) defines this as “attracting visitors to a farm to attend activities or events that are accessory uses to the primary farm operation, including but not limited to being provided a meal, overnight stays, enjoyment of the farm environment, education about the farm’s operations, or active involvement in the activities of the farm.”
- **Farm stands:** A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner. RSA 21:34-a, III.

While the law does bar towns from certain kinds of regulations of agricultural activities, there are several important ways in which agricultural activities are subject to local regulation, including:

- 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 made subject to applicable building permit, site plan review, or other local approval, and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets, sidewalks, and public safety. RSA 674:32-b, II.
- New or expanded agricultural operations and activities are not exempt from generally-applicable building and site requirements, such as dimensional standards, setbacks, driveway and traffic regulations, parking requirements, noise, odor or vibration restrictions and sign regulations. The only limit is that, if those regulations would effectively prohibit the use, or if applying that restriction in the context of an agricultural use would be unreasonable, then the ZBA may be required to grant a waiver from that particular restriction/regulation to the extent necessary to allow the use to proceed (unless it would have a demonstrated adverse effect on public health or safety or the value of adjacent property). RSA 674:32-c, II.

## **II. Specific Property Issues**

### **1. Short-Term Rental of Cabins:**

It appears that both of the cabins on the Property are being advertised as available for rent to be used as overnight accommodations.

Under Section 4-6.01 of the Zoning Ordinance, property owners must obtain a conditional use permit from the Planning Board prior to using any of their property as a short-term rental. As noted above, to the extent such rentals are being categorized as agritourism, the law does not provide that they are exempt from generally-applicable local permitting requirements. However, the Town’s records do not show that a conditional use permit was obtained for either cabin on the Property (or for the use of any other space on the Property as a short-term rental).

Therefore, until such time as you have obtained a conditional use permit from the Planning Board for each of the cabins to be used as short-term rentals, neither of them can be used in that manner. In addition, if you plan to use the ADU which will be part of the new second barn as a short-term rental, you must obtain a conditional use permit for that use prior to renting it out or allowing anyone to stay there.

## **2. Certificate of Occupancy/Inspection Issues:**

Section 7-1 of the Barnstead Building Code requires property owners to obtain a certificate of occupancy from the building inspector prior to occupying any structure. The building inspector will only issue a C/O after performing an inspection of the structure that was the subject of the building permit to determine whether the structure complies with the permit and with all applicable provisions of the State and Barnstead building codes. To the extent these structures are used for agricultural purposes, as noted above, the law does not exempt agricultural structures from generally-applicable permitting requirements.

The Town has no record of Certificates of Occupancy being issued for either of the cabins on the property, or for the rabbit shed or greenhouse.

Therefore, neither of the cabins or the shed or greenhouse can be used or occupied until such time as you have inspections performed and C/Os issued for each.

## **3. Building Permits:**

Section 3-2.01 of the Barnstead Building Code provides, “A building permit is required to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, unless specifically exempt in the International Building Code.” The definition of “structure” in Section 2-1 of the Zoning Ordinance is “anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this ordinance, buildings are structures.” As noted above, structures that are used for agricultural purposes are not exempt from generally-applicable permitting requirements.

Our records show that a building permit was issued for one of the cabins on the Property (Permit #2022000482, 11/15/2022). However, Mr. Rowell’s inspection report states that Mr. Hanselman told him that the second cabin, the wood-frame greenhouse and rabbit shed were all built without building permits. In addition, while you did obtain a building permit for the second barn and a renewed/amended building permit, the portions of the structure which have been built thus far do not appear to conform to the plans that were approved.

Therefore, to bring these structures into compliance, you will need to apply for and obtain building permits for all structures which were not permitted when built, and an amended building permit for any work that has been performed or is planned on the second barn which does not conform to the permits already issued. Please note that if building plans change after any

permits are issued, it is the property owner's responsibility to come back to the Town to obtain updated permit before doing any of that work.

#### 4. **Site Plan Approval:**

Under Section 8-1 of the Zoning Ordinance, site plan review is required for all business uses in all zoning districts. Section 8-1.03 also requires that "any significant change in size and/or the nature" of an existing business undergo additional site plan review. Section 1 of the Planning Board's Site Plan Review Regulations require site plan approval for all uses other than development as a single-family residential use, which approval is to be obtained before any building permit is issued. And as noted above, agricultural uses (including agritourism) are not exempt from generally-applicable permitting requirements, including site plan review.

The pending plumbing permit that was applied for in connection with the second barn has raised a variety of questions about the structure that will be built and the use to which it will be put. The new plumbing application that was filed indicated that a commercial kitchen was being installed in the barn. In addition, we received from the State DES a copy of the septic permit application that you filed with them for the second barn. (DES routinely sends copies of all such permit applications to the municipality.) That application reflects not only a commercial kitchen, but also that the barn is intended to be used as a function hall and food processing location.

The addition or 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. RSA 674:32-b, II. The construction of a commercial kitchen and function hall suitable for event hosting on a property that has previously been used only as a residence, a farm, and a farm store (and unpermitted short-term rentals) falls within this provision. Site plan review is required in Barnstead for any business use (Section 8-1 of Zoning Ordinance). Nothing in the state laws regarding agriculture say that agritourism is not "business" (other than farm stands that meet the 35% minimum of farm products sales), and the use of a farm for paying customers to hold events seems quite reasonably to be both agritourism and business.

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 under Section 8-1 of the Zoning Ordinance. 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; Section 8-1 requires site plan approval to be obtained before the building permit is issued to construct the facilities. The building permits that were issued to you for this barn do not authorize the construction of commercial/business structures.

In addition, it has been brought to our attention that the farm stand on the Property may have expanded, and it is unclear how much of what is sold comes from the farming operations on the Property. So long as at least 35% by dollar volume of the merchandise sold at your shop is produced on the property, it would not be considered commercial under RSA 21:34-a, III. However, if your sales do not meet that threshold, it would also be considered a "business" under the Zoning Ordinance and would require site plan review. *See* RSA 674:32-b and 674:32-c.



### III. 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.
- Until you have obtained a conditional use permit for each cabin to be used as a short-term rental, such use should cease.
- You should obtain building permits, final inspections and C/Os for both sheds (and any other outbuildings that were not constructed with the benefit of a permit)
- Until you have obtained an updated building permit for the second barn which accurately reflects the structure that will be built, no further construction on that barn should occur.
- You should also apply for and obtain site plan approval for the commercial agritourism activities that are or will be occurring on the Property. Please note that building permits for the commercial activities may not be issued until site plan approval has been obtained.

We encourage you to address these 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.

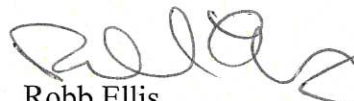
Sincerely,



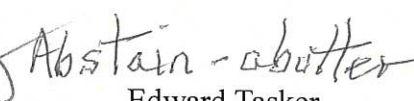
Diane Beijer, Chairman



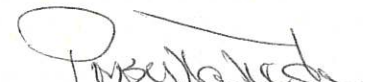
Gary Madden, Vice Chairman



Robb Ellis



Abstain - abutter  
Edward Tasker  
Barnstead Board of Selectmen



Priscilla Tiede

Date, October 21, 2024

Inspection Report, 948 Province Road, Banstead NH

11:45 Entered the property introduced myself to the owner, Jared Hanselman.

I pointed to the main house and asked if it was a two family home. The owner stated that it was when he purchased it, but they had remodeled it into a single family a few years ago. I recommend that he get this straightened out because the tax card appears to have it listed as a two-family.

We then looked at the existing barn. It appeared to have a few horse stalls with a small office in one corner. It also had a covered area attached to the front and right side. This area had a table with chairs in it. I did not enter the office or the covered area.

I then observed a large storage shed, at the far side of the property, which appeared to be used for wood storage and such. There was a large pile of cord wood in front of it. I only viewed from a distance.

Also observed a couple of buildings, behind the main house, the owner stated that one was used to raise rabbits and the other was a wood-frame greenhouse. The owner did not believe that he had received building permits for either of the buildings.

We talked about the hunting cabin that had been permitted but with no inspections performed by the town. I stated that it was the owners responsibility to schedule the inspections and this needs to be done.

We then talked about the other cabin, for rent that is shown on their Webb page. The town does not have any record of this building. The owner stated that they did not have a permit for this construction. I stated that it was the owners responsibility to apply for and receive a permit before any construction begins.

Both cabins were located in the back area not visible from where we were. Both cabins should be inspected by the town to insure that they are safe and to verify their use.

I stated that the owner should apply for a permit for any and all buildings that are being built or altered before any work begins.

We then moved on to the building permitted by Building Permit #2022000276, Issued 08/03/2022 it said "To construct a 2 story 36' x 48' barn with a 12' x 48' enclosed lean-to and a 28' x 28' office/in-law".

What I observed was quite a bit different than what the permit was issued for. There was no detailed plan presented at time of permitting. I observed a main barn with two lean-to additions on both sides. One of the lean-to's extended beyond the front of the barn. The "in-law" was attached to the rear of the barn. The main barn had a second

floor with dormers and a third floor loft. The stairs to the second floor were not constructed.

The owner stated that the plans for the use for this building had changed since permitting. These changes should have been brought to the town before they were done. Permit #2022000276 has expired.

The owners now appear to be building some type of function center with a large commercial kitchen and an attached accessory dwelling unit. The owner needs to apply for a new permit, at which time a detailed plan needs to be submitted showing what has been constructed. The plan needs to be labeled showing the use of every space. When the Town gets a detailed plan showing what is being built. The town can then make a decision on how to proceed. In my opinion what has been constructed is not a simple "Barn", but appears to be better suited for use as a "Function Center" with a large commercial kitchen, as described on the approved septic plan.

I was at the site to inspect some under-ground DWV plumbing. This plumbing work did not have an approved permit in place with the Town. While what was installed appears to be correct, without a plan its hard to tell. There also was not a leakage test applied to the piping. Without a permit in place no approval can be issued.

The owner was told that to move forward new permits need to be applied for and issued by the Town. The owner was told that he will need to submit detailed plans of the building showing all proposed uses, fixture layout, and construction details. A site plan should also be submitted. He was also told not to cover the piping until it has been inspected at which time a leakage test will need to be viewed.

The owner also needs to insure that all existing buildings have received permits and have been inspected for compliance with all codes.

At 3:05 PM I spoke with the owner by phone and again went over what he needs to do to move forward. Submit a new application with plans. Once they are approved there will need to be another plumbing inspection done with the leakage test applied. I told him that I see no reason why this can not be done by the Town Building Inspector.

Submitted by,

  
Peter E. Rowell

October 22, 2024

Russell F. Hilliard  
James F. Raymond  
Heather M. Burns  
Lauren Simon Irwin  
Michael S. McGrath\*  
Jeanne S. Saffan\*\*  
Susan Aileen Lowry  
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*Of Counsel*  
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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

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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.

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<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





# TOWN OF BARNSTEAD BUILDING PERMIT

PLACE IN CONSPICUOUS LOCATION

Permit Number: 2024000479 Date: 09/06/2024  
Map: 000003 Lot: 000014 Sub Lot: 000000

Permit issued to: HANSELMAN, JARED F  
at: 948 PROVINCE ROAD

Permission to: CONSTRUCT 62X60 BARN WITH ATTACHED ADU (28X28) AS PER PLANS AND 6/23 ZBA DECISION

Contractor: SELF | Phone: | License #:

Permit Fee: \$1,000.00 | Estimated Cost: \$0

NOTE: 100 FOUNDATION - 100 BARN- \$800 ADU.

THIS PERMIT IS ISSUED IN ACCORDANCE WITH THE ZONING REGULATIONS OF THE TOWN OF BARNSTEAD. CONSTRUCTION MUST BE STARTED WITHIN SIX (6) MONTHS OF THE DATE OF ISSUE. IF WORK IS NOT COMPLETED WITHIN ONE (1) YEAR OF THE EFFECTIVE DATE, THIS PERMIT WILL EXPIRE AND MUST BE RENEWED BY THE BUILDING INSPECTOR FOR A RENEWAL FEE. ALL WORK MUST CONFORM TO THE INFORMATION IN YOUR APPLICATION.

Signed: *Jay Madh...* Telephone: 269-4071 ext. 11

FAR CISSON - BUILDING IN

NOTE: THIS PERMIT EXPIRES 1 YEAR AFTER DATE ISSUED.

THE CONSTRUCTION ON THIS PERMIT SHALL BE IN ACCORDANCE WITH THE ADOPTED CODES AND REGULATIONS BY THE STATE OF NEW HAMPSHIRE AND TOWN OF BARNSTEAD.



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 them 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



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**Stone/Hanselman Policy #BOP3033941-02**

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**The Fox and Crow Farm** <thefoxandcrowfarm@gmail.com>

Mon, Oct 28 at 9:09 AM

To: &lt;sherry.norman@nfp.com&gt;

Sherry,

Jared and I would like to cancel the Business Insurance Policy.

Our farm store, located in the barn, has been completely disassembled and we are no longer open to the public. We are no longer offering our farm foods for sale. We are no longer hosting events, dinners or offering overnight stays at the farm in the cabin.

We will plan to revisit a new future Business Policy when the new barn is finished.

Please let us know what more you will need from us. We would like to request a confirmation that this request has been received and when our policy is officially cancelled. We will be keeping our Farm-PAC Policy.

Thank you,

Erin



Erin Stone, Owner

[Quoted text hidden]







141 Londonderry Tpke – Hooksett, NH 03106  
Phone: (603)628-8500, Fax: (603)-546-7791

**November 11, 2024**  
**RE: 948 Province Road**  
**Barnstead, NH**

To whom it may concern,

The Hanselman's hired me to design a septic system for their proposed barn and accessory dwelling unit (ADU). Jared and Erin presented several potential future agritourism uses for the barn. I designed a system that would not only support the current existing farm functions they were offering but could handle the potential food prep kitchen and option for future farm dinners. The septic design for the barn is to incorporate those potential future needs with the understanding that future uses will require proper permitting. NHDES does not currently have design flow figures for an "agritourism use" so, in consultation with the state, "function room" and "food processing facility" were closest category available for appropriately sizing the septic system. As long as a property has adequate space and setbacks, NH DES Subsurface bureau does not have any restrictions on how large or oversized a septic system can be designed for, even if it never gets used to its full potential.

Sincerely,

Peter Stoddard  
Owner S&H Land Services, LLC  
Septic Designer #1404