

**EXPANSION OF BUSINESS HEARING AND DECISION**  
**John Atkinson and Jacqueline Hogg, dba 1774 INN**  
**44 Parker Head Road, Tax Map 08, Lot 26**

**October 21, 2010**

**PRESENT: Selectmen:**

Everett Perkins, Chair, Lawrence Pye, Gary Reed

**Planning Board Members:**

Mark Hawkes, Clifford Newell, Bob Smith, Steve Thayer, and Marie Varian, Chair

Hearing was held at the Town Hall and opened by Marie Varian at 5:45 pm, following a site walk, which was also open to the public. The purpose of the hearing was to consider the application of the 1774 Inn to expand their business by holding weddings, receptions, and the like on their property.

Varian explained that the criteria for consideration of this application are described in the various sections of the Town's Land Use Ordinance. Section 2.3 requires that the hearing be held by the joint Boards of Planning and Selectmen. A quorum is any 5 members from the combined Boards. Varian declared that a quorum was present, but then recused herself because of a conflict of interest in accordance with the law. Varian is within a 4<sup>th</sup> degree of relationship with Ronnie Kamphausen, one of the abutters. Everett Perkins also recused himself, also because of a conflict of interest since he works for all parties. After the departure of Varian and Perkins, there remained six members of the two Boards. The meeting was then turned over to Clifford Newell, Vice Chair of the Planning Board.

Newell reported that public notice of the site walk and this hearing was done in a timely fashion as mandated, also by Section 2.3, by printing of a legal notice in *The Times Record* on October 14, 2010, and by posting on the Town's website and the bulletin board at Town Hall.

Newell reported that he has received proof of receipt of notices from all of the abutters sent to inform them that this business expansion was proposed

Newell explained that all persons present who wished to speak would have the opportunity to do so.

The hearing was turned over to John Atkinson, who described the expansion plan. He stated that he and Jacqueline Hogg purchased the 8-room inn in February of 2009 and reopened it in July of 2009. The 2010 season was therefore their first full season. Their priority this first year was to build up the business. They were very pleased with the results and the guest comments so far. He stated that they were extremely proud to be the custodians of such a magnificent and historic property and they are committed to maintain it in the best possible manner. However, they need to achieve several things in the next few years because their business plan shows steady growth of the business over the next five years. They intend to expand the business in a very planned and controlled way. They need to maximize room occupancy in order to keep up with the considerable – and rising – costs of maintaining such

a property. Already the property tax on the property has increased by a considerable margin. They envisage that costs will rise considerably over the next few years. Their intention is to make the most of the very limited tourist season (May 1 through October 31). The next logical step for them is to be able to respond to existing inquiries and future demand. They have had several inquiries about weddings for 2011 which they have not been able to accommodate. They do not intend to have a fixed format for events; they will tailor what they do to respond to the clients' needs, but whatever they do will take into consideration the needs of the abutters, as well as any restrictions placed on them by the town. They expect that events will range from 10-16 people, who could be accommodated in the Inn, up to a maximum of 75 people. The larger events would require a tent.

They will require – in writing – that anyone using their grounds respect the privacy of their neighbors. They have written permission and insurance to use the Center Church's parking lot, as well as Gordon and Betty Herron's property for additional parking if necessary. Nothing will be erected in a location that could interfere with the Kamphausens' view easement, which is a legal requirement as well as a concern of the Kamphausens. They have received no objections to the plan from any other abutters.

Guests at parties will not use the Inn's bathroom facilities. Portable toilets will be used for any large event. Party hosts will take care of catering. The Applicants' role will be to police the event, insure that all issues are handled properly and that safety measures are followed.

Bob Smith asked about trailers that might be brought, e.g., by caterers, and might interfere with the view easement. Applicant stated that they would be very careful to ensure that nothing would be placed where the Kamphausen's view easement would be affected. Smith asked about music. Applicant said that he was unaware of any town ordinance about music but they would do nothing to encourage live music and they would work closely with the neighbors when any event was anticipated to make sure that the neighbors' needs were addressed. They do not wish this business expansion to cause any problems for their neighbors. Newell reminded the Applicant that creating an unreasonable nuisance in the neighborhood is a violation of the town's rules, and that the Planning Board can always rescind a permit if it turns out that the business does create problems in the neighborhood. The Applicant stated that he was well aware of that and that they wish to do whatever is necessary to comply with the needs of the neighbors as well as the town.

Newell reminded the Applicant that parking was a serious concern in that location and that there could be no on-road parking. It would be the Applicants' responsibility to police the parking of the guests. Applicant stated that he well understood that issue. He believes that they are adequately covered in that area and they would also be very attentive to the pedestrian traffic from the parking lot to the party.

Newell asked Applicant how often they anticipated having events on the grounds during each season. Applicant responded that it depended upon the demand. At the moment, based on current inquiries, it appears that they would have no more than one event per month for the six months of the season. Of course, if they were to obtain the permit and could begin

promoting this aspect of their business, the demand could increase significantly, although the limitations of the site would also limit the number of events that are appropriate to the site.

Ms. Hogg pointed out that they would not be able to hold an event at times when there was a wedding at the church, since the church would be using its parking lot at such times.

Newell asked what days of the week would events be held. Applicant responded that it appeared that most of the time it would be a Saturday, but it could be any day, based on the requirements of the clients. It doesn't matter to the Applicant, and, in fact, it might be less disruptive to the neighborhood if it occurred in the middle of the week because there's less traffic in the area during the week than on the weekends. Sundays would be limited because of the parking requirements of the church on Sundays. Applicant said that obviously they would have to work very closely with the church.

Thayer asked where busses would park if guests were transported by bus. Applicant responded that they would drop off the guests, disappear, and return at a prearranged time, so they would not be parking in the area.

Newell asked if May through October was the entire season. Applicant responded that it was not only the season for visitors in Maine, but it also appeared to encompass most of the wedding season. Certainly, those six months would be the prime time.

Newell asked about time of day. Applicant responded that he assumed typically it would be Saturday afternoon. Hogg added that it was difficult to give absolutes since these would all be individual events and they would be working to meet their guests' needs. There were practical issues if a tent was used, but if the event was very small, they didn't need a tent, and they wanted to get married on a Wednesday morning, there would be no reason not to do that.

Newell asked when the tent would be erected and when taken down. Applicants responded that it appeared that the normal procedure was for a tent to be erected the afternoon or evening before the event, or perhaps the morning of the event, and taken down the next afternoon, although it was possible that if the next day was a Sunday, it might not be taken down until Monday.

Applicants confirmed that they intended to notify the abutters each time there was an event, giving them the date and time.

Newell brought up the issue of music again. Applicant stated that they were realistic about what was acceptable in a community like Phippsburg. People do not expect or accept loud music late at night. He asked if there were any Town regulations about it. None of the Board members was aware of anything specific, just that the Standards for Business Permits include a prohibition against creating an "unreasonable nuisance." Hogg stated that, as innkeepers, they, too, have an interest in preventing loud music late into the evening. Newell reminded members that certain conditions could be placed on the permit with regard to hours of operation or hours of music. Applicant responded that they expected that.

John Morse identified himself as representing the church. He said that the only concern they had with regard to noise was that they hold a service at 5:00 pm on Saturdays in the Linden Tree Meeting House. He clarified that he wasn't suggesting that there couldn't be any music at that time, but it would be a problem if the music was loud. He also stated that, because events would be subject to the availability of the church parking lot and because the church's needs for parking had precedence over the inn's, he wasn't concerned about noise on Sunday mornings.

Another issue that Morse brought up was the fact that there wasn't much notice when the church was needed for a funeral, so it was conceivable that there would be a funeral at the same time as the church had previously given permission to the inn to use the parking lot. At those times, the church and the inn would have to work together to address the problem.

Smith asked for more information about the Saturday evening service at the church. Morse said that it was from September to May, and it did not involve many people, so parking would not be an issue—only noise, potentially. Also, the service typically lasted only until 6:00.

Morse stated that the church had no position with regard to the expansion of business application. His purpose in being there was simply to state the church's particular concerns. They want to be good neighbors and they want the inn to be good neighbors.

Ronnie Kamphausen then asked for permission to make a statement. Permission was granted. Her statements are summarized as follows:

- She wished that a statement could be made that there would be no night-time activities and her feeling that the hours of operation should be limited.
- Regarding shuttle busses: she is very concerned every time she turns into her property that she will "get creamed." She feels that it is a very blind curve and very dangerous. She recognizes that it's a little better entering the Inn, but the dangerous curve really has to be fixed one of these days.
- She has been opposed to the expansion of the Inn's business from the start. When they bought their property, they knew they were next door to a business, and they were satisfied with the protection afforded them by their view easement and knowing there were parking restrictions. However, the parking restrictions are not being adhered to currently.
- She believes that changing the business devalues her property and diminishes the quality of life in the neighborhood. It would create a disruption in a quiet neighborhood.
- Parking is a very serious issue. One must walk along Parker Head Road to get from the parking lot to the Inn. It's very dangerous; there's no place to get off the road in case a car is coming. It's especially dangerous at night.
- There is a blind spot along the road that pedestrians would walk. That's extremely dangerous.
- Parking requirements of workers must be included in calculations of parking needs.

- Expansion of the Inn's business as proposed would affect all traffic on Parker Head Road, affecting cars, cyclists, and hikers using the road.
- She asked how many of persons at the meeting would welcome 6 large weddings next to your home every year.
- She believes that the Inn should remain a B&B in order to preserve peace in the community.

Hawkes moved to close the public portion of the meeting and begin the Boards' deliberation. Smith seconded the motion, which was passed unanimously.

Newell stated that the next step was to go through items for findings. He referred to Section 2.4 of the Land Use Ordinance and read the seven items (a through g) in that section. The first item is concerned with preserving the natural landscape. Newell commented that there was no discussion of making any changes to the natural landscape. The second item is concerned with safe access to and egress from road used by the public. He reported that there are four parking places on the property in the front and four in the back that are used by the B&B business. He is not aware of a higher incidence of traffic accidents in this area than in other areas in the town. In addition, if the business expands as proposed, there are 8 parking places available on the Herron property and 30 places available on the church property. With regard to item d, the only structures being considered are tents and portable toilets, which are temporary in nature and would be installed each time only for a couple of days. With regard to item e (sufficient water), the Applicant reported that they have plenty of water and also caterers would bring in any water that they needed. With regard to item f (sanitary facilities), portable toilets would be used.

Board members then discussed restrictions that should be placed on the business, including consideration of: hours of operation, hours during which music may be played, maximum number of guests, safety measures that must be taken for each event. Newell then read Section 3.8 of the Land Use Ordinance, Water Quality Protection, and Section 4.4, Permits Issued by the Planning Board. Newell stated that these sections are the charge to the two Boards as to what they must consider in issuing the permit.

Smith moved to accept the application with the following restrictions:

1. Hours of operation are from 9:00 am until 10:00 pm, with music allowed until 9:00 pm.
2. No parking along Parker Head Road (to be policed by the owners/operators)
3. Closing time assistance/policing for persons leaving the facility and adequate signage and/or traffic cones to warn vehicles operating in the area.
4. Functions to be limited to 75 guests.

Thayer seconded the motion, which was passed unanimously.

Fee of \$95 is due from Applicants, who said they would bring the payment to the Town Hall on the next day.

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Thayer moved to adjourn. Motion was seconded by Smith, and passed unanimously.

Deliberation and decision process closed, and the Expansion of Business hearing adjourned at 7:30 pm.

Respectfully submitted,

Channa A. Eberhart

Secretary