

## Town Clerk

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**From:** Deborah Hall <halldm8@gmail.com>  
**Sent:** Tuesday, April 01, 2014 6:03 PM  
**To:** Clerk@chebeague.net  
**Subject:** Permission to post on town web site

Begin forwarded message:

**From:** S Hall <[skh3230@gmail.com](mailto:skh3230@gmail.com)>  
**Date:** March 24, 2014, 7:28:16 PM EDT  
**To:** [dstevens@uk2.net](mailto:dstevens@uk2.net), [milo@chebeague.net](mailto:milo@chebeague.net), [occams81@yahoo.com](mailto:occams81@yahoo.com), [PMRice@chebeague.net](mailto:PMRice@chebeague.net),  
[info@rungerugs.com](mailto:info@rungerugs.com)  
**Subject:** 3/25/14 Public Hearing re Special Exception

As the owner of 444 North Road I am writing to express my opposition to the pending request for a Special Exception to allow for multiple business uses at 412 North Road. I am unable to attend the hearing on March 25, 2014 due to a scheduling conflict but do give authority for my mother, Deborah Hall, to speak on my behalf, as she is a year round resident of the property.

I would respectfully request that this Board deny the Application for Special Exception currently pending on the grounds that the Applicant must demonstrate that his Application meets the criteria for granting a Special Exception as required by state law and local ordinance and he has failed to do so. See, e.g., Tompkins v. City of Presque Isle, 571 A.2d 235, 236 (Me. 1990), citing Sibley v. Town of Wells, 462 A.2d 27, 30 (Me.1983). A careful review of the pending application demonstrates that the Application does not meet the required criteria and therefore must be denied as 30-A MRSA § 4353 (2)(B) calls for *strict compliance* with the relevant ordinance in the issuance of a Special Exception. 30-A MRSA sec 4353(2)(B). In this instance, although the potential availability of the Special Exceptions under Island Residential Zoning is broad, Section 603.2 of the Town's Zoning Ordinance sets forth specific criteria that must be met for the issuance of a Special Exception. This application does not meet the most applicable and relevant criteria and therefore based on the clear language of the ordinance the site at issue is inappropriate for the use sought.

For clarity, I have addressed each of the relevant sections individually, quoting the relevant portion of section 603.2 followed by an explanation as to why this application does not meet the requirements.

1. The proposed use will not create hazards to vehicular or pedestrian traffic on the roads and sidewalks serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles and the visibility afforded to pedestrians and the operators of motor vehicles;

The proposed use creates a potential traffic hazard. The current proposal contemplates creating a high traffic commercial site including animal husbandry, retail, catering and a multipurpose event facility. The volume of uses that the Applicant currently envisions, the extended hours of operation, and Applicant's clear intent to maximize all potential uses, will create significantly more traffic on the road generally and at the intersection of North Road and Schoolhouse Road where the Rec Center is located. This is an area frequented by both pedestrians and bicyclists, many of whom are children going to and from activities. If the businesses are as busy as Applicant proposes, this also creates the risk of traffic back-ups of cars trying to access the proposed driveway.

In addition, the proposal does not include adequate parking. Although it is contemplated that guests will be bussed into events from a remote parking facility, this does not accommodate the other proposed uses of the property, nor is it realistic to assume that everyone will participate in the bussing program. Bussing may be a viable option in the case of a wedding or private event with guests from the mainland or with a scheduled start and end. But the stated intentions of the Applicant are that he hopes to a myriad of public events, including live music, and the like which would be unlikely to be realistically addressed by bussing as they are more akin to drop in events. It is also unlikely that the locals would use the bus. Although Applicant states that to provide additional parking would be a hardship, he provides no explanation as to why. As a result, it is very likely that there will be numerous cars at the site with insufficient parking available, resulting in on street parking, and creating further hazards for pedestrians, bicyclists and motorists.

4. The proposed use will be compatible with the uses that are adjacent to and neighboring the proposed location, as measured in terms of its physical size, intensity of use, visual impact, and proximity to other structures and the scale and bulk of any new structures for the proposed use shall be compatible with structures existing or permitted to be constructed on neighboring properties;

The proposed use has absolutely nothing in common with the existing properties in the neighborhood, which are all modest residential structures. The visual impact of the property will substantially change as the property would have to be substantially cleared of the existing woods to accommodate the facility, animal husbandry, extensive farm and multiple ponds currently contemplated. The proposed steel commercial building described as the commercial kitchen has nothing in common with existing structures and would not be consistent with the existing neighborhood. It would be larger than most of the houses in the area. Similarly a 40 x 80 foot tent does not fit into the neighborhood and would have a significant visual impact. Finally, the potential addition of a banquet hall in the future would be wholly incompatible with the uses of the neighborhood and the existing structures. Applicant contemplates a high density business on this property - shoehorning in every possible stream of revenue he can possibly accommodate on the available land, in a residential neighborhood of modest single family homes.

5. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or restrict access of light and air to neighboring properties;

This is really the crux of the issue as the proposed use will create a substantial nuisance to the neighboring properties as a result of noise, increased traffic, hours of operation and, potentially, odors. Specifically, the applicants seek to operate a variety of businesses, most notably an outdoor event facility and a large

commercial kitchen. Hosting outdoor events with live or recorded music, PA systems, and the like will significantly impact other residents of the neighborhood and their enjoyment of their own property. Residents have no recourse against loud noise at all hours of the night as there is no restriction on noise nor a nuisance ordinance. A review of the proposed plan suggests that Applicant's description of a 500 foot wooded buffer between the facility and the neighbors is misleading at best. The bulk of the so called buffer is the abutters' land and therefore Applicant has no control over whether it remains wooded or not and cannot realistically include it in his plan as a noise offset. In so doing he essentially limits the rights of the neighbors to use their own land as they choose, or risk even louder noise levels.

Moreover, the proposed hours of operation give the neighbors no respite. Specifically, the Applicant contemplates hours of operation from 6:00 am until 12:00 pm - eighteen hours of potential activity on this site of which as many as fifteen could potentially include amplified sound. This is contemplated seven days a week with the stated hope of this becoming a year round venue. There is no question that the facility contemplated by the Applicant will clearly create a nuisance to the neighboring properties and that the proposed hours of operation contemplate virtually unrestricted activity. So even if a neighbor is kept up late by loud music, they can't even sleep late the next morning as the catering staff starts arriving at 6:00 am and the roosters start crowing. This is too much for a residential neighborhood. Both the Special Exception ordinance, as quoted above, and the Site Plan Review Criteria are very clear that any approved use *must not create a nuisance to the neighboring properties*. Section 206.8 (S). No other facility on the island has such a broad parameters, even in Business Zone, despite Applicant's claim that he is happy to comply with the same rules as similar businesses on the island. What he is requesting far outpaces other businesses and, notably, the only other similar businesses are in an area zoned for business. To permit this to occur in an area zoned as residential is a violation of both the letter and the spirit of the Zoning Ordinances.

The applicants have stated that they are planning to raise livestock, including hogs and commercial poultry. In addition to the obvious potential for odor, depending on the density of animals and their housing, there are also issues of noise and the potential for trespass. Applicant has given no indication of the volume of animals he intends to keep, nor provided any indication of their housing on his plan. In this instance it is not anticipated that the applicants are going to reside on the property in the near future, which means that an escaped animal could go unnoticed long enough to damage neighboring property. Finally, I do not know if anyone on this board has ever lived in close proximity to a rooster, but it is not anything I recommend. Being awakened at the first light of dawn after being subjected to loud music of someone else's choosing until midnight or so the night before does not make good neighbors. In light of the foregoing, it is clear that the proposed use could have a negative impact on the existing residential neighborhood.

7. The proposed use has no unusual characteristics atypical of the generic use in the neighborhood, which proposed use will depreciate the economic value of surrounding properties;

As set forth in detail above, the proposed use is wholly atypical of the generic use of the neighborhood. There are no other commercial properties in the area and it would be completely inconsistent with the neighborhood as a whole. We have spoken with a Realtor who specializes in island property who has confirmed that the proposed facility would reduce the value of our property. We have just built a new house on our property under the assumption that this was and would continue to be a residential neighborhood and the resulting decline in value would work a significant, unfair and unreasonable economic harm.

Finally, the fact that the Applicant has already begun work on this project is not sufficient basis to grant the Special Exception sought. He knew this was a residential neighborhood when he bought the property and any improvements that have been made were made at his own risk.

While I understand the desire to develop new business on the island, I respectfully contend that balance is integral to the success of this laudable goal. Balance between the interest of development and quality of life that is the essence of the Island, balance between the character of a neighborhood and the interest of an individual, and balance of island services. I urge the Board to think carefully about this decision as it will set a precedent for future development and the ability to maintain the existing character of the island. Opening a business alone does not ensure the success of the island, diversity of businesses is also a critical factor and if there is one business that the island has in abundance it is catering. This is not a business that fills a critical need to island residents, nor is it something that is likely to provide steady employment to very many islanders. To deny this application in this location would not be denying the island of any new services or business opportunities and it would maintain the character of the island.

In light of the foregoing, I respectfully request that the pending request for a Special Exception be denied.

Thank you for your consideration.

Sincerely,

/s/ Sarah K. Hall

156 Cedar Pond Road

Durham, ME 04222