

**TOWN OF FRANCONIA
PO BOX 900
FRANCONIA, NH 03580**

Allan R. Clark
Building Official

November 3, 2016

VIA EMAIL ONLY

Franconia Board of Selectmen
PO Box 900
Franconia, NH 03580

Re: C. Luke Lore, LLC d/b/a Plain Kate's Riverside Saloon, 729 Main Street

Dear Lady and Gentlemen:

This letter provides what I am recommending as conditions to the issuance of the Building Permit Application dated August 26, 2016 by C. Luke Lore, LLC for structural and floor plan changes to property at 729 Main Street on what is to be known as Plain Kate's Riverside Saloon.

As you are aware, there was a significant delay in providing this review due to the Applicant not providing the required information as was detailed in a letter dated September 13, 2016 by the Town of Franconia. Once the floor plans were provided it was apparent that the floor plan was substantially different than the rough sketch provided with the application and representations that were made at a meeting on site on September 30, 2016.

The proposed floor plans were received on October 17, 2016. It was disclosed at the September 30, 2016 meeting that due to discovered conditions that the structural plans had to be revised. The revised structural plans prepared by Jeffrey Tirey, PE were not received until October 22, 2016 and were intended to reflect the floor plan that was submitted and the discovered structural existing conditions. They were again revised on October 25, 2016 and sent to me by email.

I have consistently represented that due to the complexity of the review that I would require seven days to issue a report. The intent was to have a review completed for the October 31, 2016 Board of Selectmen meeting. In my review, it was discovered that there was the intended opening of a closet to become an open area part of the restaurant that required the removal of structural components that were not addressed by Jeffrey Tirey, PE which delayed the October 31, 2016 review until the conflict was resolved.

On Tuesday of last week, Jeff Tirey, PE again visited the property and assessed the structural ramifications of the proposed renovations to the existing closet. It was concluded that due to structural considerations, the floor plans would need to be modified. The modified architectural plans were received on Wednesday, November 2, 2016.

As you are aware, there have been numerous meetings and correspondence dealing with the pending building permit. The delay is clearly documented that it was the applicant's failure to provide a complete application with structural and floor plans that coincide with each other. A complete application was critical in order to properly review for compliance with both the State Fire Code and the State Building Code and then issue a report.

The nature of the structural and floor plan renovations were such that a thorough review is critical due to the old structure and the fact that the use is a restaurant and bar with live entertainment which makes it a Place of Assembly with a higher risk of placing the public in potential danger than most commercial uses.

The applicant has questioned my authority over accessibility issues. In any renovation or new construction that authority can be found in Chapter 11 of the International Building Code. Individuals can litigate if they believe that a property and its policies do not comply with the Federal ADA law. That is not applicable to the issue of proposed renovations and accessibility where the Building Official is clearly the authority having jurisdiction.

This letter has been discussed with Fire Chief Richard Gaudette, but he has not had the opportunity to review in detail. In Franconia, by agreement with the Fire Chief, I review new construction for both the State Building Code and the State Fire Code. In this case, it will be necessary for the Franconia Fire Department to accompany the Building Official on all inspections.

The Fire Chief must issue a Place of Assembly Permit once a Certificate of Occupancy is issued and there are no State Fire Code deficiencies which includes items such as placement of furniture, adequate fire extinguishers and other operational issues that are not necessarily related to the construction. An Assembly Permit must be issued annually after an inspection. That inspection is done by the Fire Department as my authority is limited to new construction.

Concerning the Building Permit Application, the authority to require what is defined as "Construction Documents" is in both the State Fire Code and the State Building Code. This authority can be found in the International Building Code – 2009, which is referenced in the State Building Code, at Section 107.1, 107.2, and 107.3. The authority under the State Fire Code can be found at NFPA 1 – 2009, which is referenced in the State Fire Code, at Section 1.14.1, 1.14.2, and 1.15.3. and the plans are to be prepared by a licensed professional which would either be a New Hampshire licensed architect or professional engineer.

I accept without a stamp or signature, the existing conditions floor plan and the proposed floor plan as prepared by Vladimer Petkovich, AIA, as I know Vladimir and his professional qualifications. I recommend the Board to waive the requirement that the floor plans be stamped either by a licensed architect or professional engineer licensed in the State of New Hampshire. The structural plans which are critical documents were prepared and stamped by Jeffrey Tirey who is a New Hampshire licensed Professional Engineer.

The applicant failed to provide the proposed finishes and I caution that there is a requirement in a Place of Assembly that limits the amount of smoke that the finishes produce and the flame spread. It is recommended that the proposed finishes be identified as soon as possible to prevent an issue later. As an example of flame spread issues is paper sheet music displayed on the ceiling as was done previously in a restaurant in the area.

Due to the extent of the plumbing and electrical I recommend that the Board of Selectmen waive the Code requirement of submission of electrical, fire alarm and mechanical drawings and specifications prepared by a licensed professional engineer.

Based on my review, it appears that the occupancy load of the restaurant and bar operation will be approximately 125 occupants which assumes that there are tables and chairs plus stools at the bar for all occupants. This will need to be reviewed when the Fire Department performs their inspection for the issuance of an Assembly Permit. Although the actual occupancy load is not yet known, it is known that it will be in excess of 100.

An occupancy load of over 100 is relevant under the State Building Code for a Place of Assembly. The relevant code for Life Safety issues under the State Fire Code is NFPA 101 which version until July 1, 2016 was 2009 and is currently 2015 which is significant.

Section 13.3.5 of NFPA 101 v. 2015 is title "Extinguishment Requirements"

Section 13.3.5.1 states:

Where the occupant load exceeds 100, the following assembly occupancies shall be protected throughout by an approved, supervised sprinkler system in accordance with 9.7.1.1 (1):

- (1) Dance Halls
- (2) Discotheques
- (3) Nightclubs
- (4) Assembly occupancy with festival seating

Interestingly, the prior version had an additional category which required a supervised sprinkler system which was "Bar with live entertainment". It is the opinion of the Fire Chief and the Building Official that the prior use was as a "Bar with live entertainment" and that the proposed use is not a Dance Hall, Discotheque or a Nightclub as commonly defined as those terms are not defined in the Code.

Chief Gaudette, is the Authority having Jurisdiction as defined by the Code does not find that the proposed continued use meets the requirements for a sprinkler system. Should the Applicant or a future owner choose to change the use to one identified in the Code as requiring a fire sprinkler system it will be required and there is no grandfathering as that use did not previously exist.

As Building Official, I recommend that the Board of Selectmen issue a Building Permit for the proposed renovations as detailed in the Application dated August 26, 2016, the correspondence between the Building Official detailed by Jeffrey Tirey PE, floor plans prepare by Vladimir Petkovich, AIA which was last revised on November 1, 2016 and 2 pages of structural drawings prepared by Jeffrey Tirey, PE last revised October 25, 2016 with the following conditions:

- 1) All work to comply with all Federal and State laws, codes and regulations which would include any required asbestos or lead paint abatement.
- 2) All work must comply with the State Building Code of which the relevant document is primarily IBC – 2009.
- 3) All work must comply with the State Fire Code of which the relevant document is primarily NFPA 101 – 2015 and NFPA 1.
- 4) The applicant sign a statement that the use of the property will not be as commonly defined as a Dance Hall, Discotheque or Night Club and if the use changes to one of the above uses it is acknowledged that a Fire Suppression Sprinkler System will be required which system would be required to comply with the version of NFPA 13 at the time of the change.
- 5) That the work be inspected by the Building Official as follows:
 - a) Prior to any work commencing
 - b) Once demolition is complete
 - c) Once framing and structural work is complete with Jeff Tirey, PE present who must certify that work complies with his drawings
 - d) Once rough electrical, plumbing and HVAC is complete and prior to it being covered.
 - e) Once 100% complete and ready for occupancy

- 6) The electrician be identified with name, address, email address and phone number on the application.
- 7) The electrical work be inspected by the State Electrical Inspector which inspection would be coordinated by the Franconia Building Official.
- 8) The plumber be identified with name, address, email address and phone number on the application.
- 9) The HVAC contractor be identified with name, address, email address and phone number.
- 10) The mechanical and plumbing work be inspected by the State Mechanical Inspector which inspection would be coordinated by the Franconia Building Official.
- 11) The Fire Alarm System be in full compliance with NFPA 72 and monitored by an offsite central alarm monitoring service prior to occupancy. The installer to certify in writing that installed system in compliance with NFPA 72 – 2016.
- 12) The bathroom doors, kitchen door and door to basement to be labeled as “Not an Exit”.
- 13) The Franconia Building Official must issue an Occupancy Certificate prior to occupancy of what is subject of the Building Permit.
- 14) The Franconia Fire Chief must issue an Assembly Permit prior to the public being able to occupy.
- 15) The Applicant pay an application fee of \$100 and a building permit fee of \$500 (the minimum fee) pursuant to the fee schedule previously approved by the Board of Selectmen. The applicant to be credited for any fee paid prior to this letter being issued for this application.

These conditions and the process is no different than other commercial property owners have been required to provide when a Place of Assembly is located at the property.

It is critical that the Town and the Building Official fairly interpret the State Building Code and State Fire Code and enforce the codes consistently. That is the case with this application and the delay in the issuance of the Building Permit is solely the Applicant’s delay in providing the required documentation as required by both the State Fire code and the State Building Code.

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Thank you for understanding the process and supporting me through this extremely long process.

Should there be questions, I will be available to address them.

Respectfully,

Allan R. Clark

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Building Official

C: Fire Chief Richard Gaudette
Cornelia Lorentzen
Phil Albanese
Jeffrey Tirey, PE