

**Board of Adjustment  
Canterbury, NH  
Minutes of Hearing  
23 February 2022**

**Case No. 2022-2 Special Exception**

Present were: Chairman Joe Halla, Calvin Todd, Christopher Evans, Web Stout, Lisa Carlson (Alternate). Also attending were: Greg Meeh, Hillary Nelson, Kent Ruesswick, Doneta Fischer, Sam Papps, John Schneider, Anne Emerson, Nancy Emerson Kress, Thomas Andrew and John Goegel.

Chairman Halla advised those present **Derek Januszewski** is seeking a special exception at 417 Shaker Road, a property belonging to Nancy Emerson Kress where he rents. The application involves Tax Map 212, Lot 14 and is located in the Rural zone. The proposed use states "Religious activities". The application references Article 8.2 A. Chairman Halla gave a detailed description as to the conduct of the hearing procedure.

Mr. Januszewski spoke saying he is applying for a special exception for religious use at 417 Shaker Road. He has been there for about a year. Our gatherings are small, we are mostly quiet and we generally keep to ourselves. He personally has been going around meeting some of the neighbors and that kind of thing. Our focus is really caring for the earth and honoring the earth as, you know, created everything we see around us. One of the reasons that we really like Canterbury and ended up here is because of, well, we saw to be the roots of Canterbury. Shaker Village is a really prominent part of the town and we assume the history. So when he started to learn about the Shakers the way that they....they were forward thinking in their choices in reference to connect with spirit and God. It was, it is an inspiration to us. We actually really appreciate their leadership in this way. Another thing that he really loves about Canterbury is the neighbors and he has gone and talked to quite a few of the neighbors....has some pretty good relationships with some of them. We choose to do a lot more business locally in Canterbury than we really need to because we like the place and because we believe in community and having relationships with your neighbors. The groups are small, we only add about one or two cars a day per month that come to and from 417 Shaker compared to the alternative to us just living there. We don't do anything that would create any environmental issues. We don't smoke, we have a campfire in the course of the weekend, but we don't dispose of anything or make any obnoxious noises, create any noise issues or anything like that. The property is very well suited for what we do. It's very private. It's got a lot of trees that are blocking view and sound. It's in the middle of the property. It is not right next to another home, it's private. Safety is our number one concern. So, when people are there we make sure in every aspect that they are completely safe which extends on to the community. If we keep them safe, it makes everybody safe. This exception is very important to us. It's very important because at this point, we don't have a plan B. He looked around for some kind of a safety net to carry us until we could take the next step. And because of the real estate market and rental market being in winter, we would probably have to close the doors temporarily, but more likely permanently. We help a lot of people. So far, we have 1500 members that come in small groups. These are everybody from neurosurgeons, some homeless veterans; mothers and fathers; brothers and sisters. And they

come stuck in life somehow. Some of them are suicidal, some of them are on drugs, some of them are mired in depression and devastated by anxiety. When they come and they gather with us, these blockages are removed and they are able to come in contact with the solution to what's been ailing them which is usually rooted in trauma for some time. He gets letters not just from the people that are helped, but the ones that really touch him are the ones that come from their families. He has gotten letters from teenagers thanking me for giving them their mom back or mothers saying thank you for saving my son's life. So, we have people come here that are suicidal, quite a few military veterans that are on 10, 20, 30 medications a day from the VA. And now they are living a better life. They don't feel like they have to jump under the car when they hear a car backfire; yell or scream and hurt their families.

Chris asked is this the property I see on Shaker Road that has a sign that says something sanctuary? Yes. He asked what is the word.....Pachamamma. It's a word from other origins. Mother Earth is Gaia, Pachamamma, there are a few different names for it. Chairman Halla asked him to tell the Board exactly what you do. He is listening to the philosophy, but what is the building, do you live there, do people stay there, do they just visit, do you have religious services? What goes on? Mr. Januszewski thanked him saying the basics would be helpful, wouldn't they? He advised it's a house, he lives there Monday through Friday. His daughter stays with him sometimes, but otherwise it's just him. On two or three weekends a month on Friday we have a group of up to twenty people that come and we have an all-weekend religious gathering. So, you asked me to tell you exactly what we do and he will do that. Chairman Halla asked, do the twenty people stay there? Yes. He asked where. On mats on the floor. Web asked is this a residential house. Yes. There are activities throughout the weekend, meditation, breath work and healing ceremonies that go on throughout the weekend. We have a fire and we eat together and pray together and that's the weekend. Chairman Halla asked is it only on weekends? It is only on weekends. He asked is there a fee for coming? Yes. He asked what is that based on? The fee is based on covering their costs. The fee is \$675.00 for the weekend. He asked what does that include? It includes food, sleeping arrangements, a couple of ceremonies, integration which is a form of group therapy ongoing for as long as they need it, individual therapy if they need it, counseling. Web asked and you do this? Yes. Chris asked the food; you prepare the food? Yes. Chris asked is it a licensed kitchen? Mr. Januszewski said I don't know; we cook vegetables in the oven. Chairman Halla asked if he had anything else to add. He did not.

He asked if there were any other questions from Board members. Web said you said up to twenty people on the weekend. Yes, but that varies. Chris said to follow that on, actually and maybe he misunderstood, correct him if you did you stated that you were having as many as twelve to twenty-four new people every month. Three weekends a month. In the summertime when we were able to be outside, we would have more. In the past when we had other locations, we had up to forty. Web asked do you own this house. He does not, Nancy Kress does. Chairman Halla said so you are saying this is just religious activities. Yes. He asked did you look at the Zoning Ordinance by any chance? He did, he looked through it. Chairman Halla said so you are applying for a special exception for religious activities, not a home occupation. Mr. Januszewski concurred.

Chairman Halla asked if there was anyone present who wished to speak in favor. Hillary Nelson asked if she could ask a question for clarification. She stated her understanding from looking at the website of this organization, the main purpose is for people to take Ayahuasca that go there and she thinks he left that out of his presentation. She is sure he can describe what it is, but it is a drug that is a psychedelic and is may be legal, may not be. There is a lot of discussion about that. But that seems to be the center of.....Chris interceded saying Dymethyltryptophan is not legal. Hillary continued, so this is the center of what you do and she thinks he left that out and she wishes he would talk.....Chairman Halla interceded saying if you are going to speak against.....Hillary responded she is not speaking against it, but thinks this is a major piece of that has been left out. Lisa asked for clarification of the spelling of the word Ayahuasca. Chairman Halla stated to get that question answered is this something that you provide for the \$675.00? Mr. Januszewski replied, yes we do. Chairman Halla asked what is it? Ayahuasca is a plant medicine from South America. Chairman Halla asked is it an illegal drug? Mr. Januszewski stated it's according to the First Amendment and with our practices it is legal. According to the Controlled Substances Act it is not legal. So, there is conflicting areas of law with this. So, the First Amendment, the Religious Freedom of Restoration Act and the... he was unable to recall...there are three pieces of law that protect it. There have also been two case laws (sited them but garbled in recording) they both went to the Supreme Court of the United States of America and both were voted unanimously in favor of it being a religious sacrament. It is recognized by the United States of America Supreme Court a religious sacrament, it is protected. Unfortunately, for groups like mine, the DEA schedules the Dymethyltryptomine, one of the ..... in the sacrament as a narcotic. So, it falls under both. Every single time it has gone to any Supreme Court state or federal, it has passed and been allowed as a religious sacrament. But the DEA has to do their job because there are other ways that that particular molecule is utilized improperly in his view, but it's utilized as a drug in other ways. It's not utilized as a drug in a sacrament like we use it.

Chairman Halla read aloud a letter from two abutters, Greg and Ruth Heath wrote in support (this letter is available in the file at the Sam Lake House). He asked if anyone wished to speak in favor. No one spoke. He asked if anyone wished to speak in opposition. Hillary Nelson advised she is an alternate on the Planning Board, but she is here tonight to speak for herself. She would like clarification about exactly what the special exception is for and especially if it is permitted. There definitely is case law that says you can use psychedelic drugs in a sacrament. And there was a case in the State of New Hampshire, it's called State of New Hampshire vs. Jeremy D. Mack; the case actually written by James Bassett who lives in town. The point of this argument is that personal use may be ok, but it has to be balanced against the needs of the community. She understands there is therapeutic value and she does not doubt his sincerity and does not doubt that he is doing work that he thinks is very important and might be very helpful for people. Her problem is because this therapy is so new there is no oversight of this. The Department of Health and Human Services doesn't oversee it and it's not necessarily evil. She thinks we may be getting out in front of our skis. She does not know that it's actually legal. She is also concerned that...we own a distillery. They have all kinds of laws that we have to abide by, we have inspections all the time, we have all this paperwork, we have to make sure that our product is safe to use. And that regiment doesn't exist for what this is right now. So, she is concerned about the safety.

There are twenty people who are using a very powerful psychedelic and it seems like so far things have gone ok. She does not know if the police have had to be there or emergency services have had to be there. But she is concerned that the town may have liability if it allows this; if something happens. If someone decides to leave there driving while under the influence of Ayahuasca or walks away and it's winter and they freeze. So, these are my concerns, maybe they can be addressed at Site Plan Review, but I do believe that the town has the ability through its zoning ordinance to deny this if they want to and it would not abrogate your civil rights to do it. On balance the town would be deciding it's not consistent with our town zoning ordinance to do something that might be potentially dangerous for the people who are there or for the community. She wants to say she appreciates his integrity; she understands what he is doing, she is just concerned that this potentially be a dangerous situation.

Web asked this is the major part of what he does? Yes. Chris stated if you are doing Ayahuasca, it is what you do. That is why the people are coming. Web added I think you are ok with what he does other than what he is supplying let's say. Chairman Halla stated let's let everyone in opposition speak and not be going back and forth with each other. He asked if anyone else wished to speak in opposition. Greg Meeh spoke saying this is not a listed use in our Table of Uses, his question is how does this fit into our Table of Uses? Chairman Halla said from what he has seen presented so far that would be.....the first question in his mind, it says in our ordinance 8.2 Special Exceptions: "The Board of Adjustment may authorize the use as set forth as special exceptions in the specified districts in Section 5.4 of this ordinance". The book that is a Guideline to Zoning Boards states: "Unless a particular use for which an application is submitted (and they are talking about special exceptions) is stated in the ordinance as being explicitly allowed by special exception. The Board of Adjustment is powerless to grant the special exception for that use". So, basically what that's saying and what our ordinance is saying is for a special exception, this is not a variance hearing, we have to be able to apply this to something that is listed in the Table of Uses. So, that's a big question in my mind that I'll get to at the end of this. There isn't anything specifically that says religious uses. Chris stated, well, churches and educational facilities are allowed. Chairman Halla agreed, but this isn't a church. Chris said he doesn't know that that's true. Chairman Halla said let's get through with anyone else who wishes to speak in opposition. Greg spoke saying as a follow up if it were a church, it would change the use. It would no longer be a residence; it would be a church. Chairman Halla asked if anyone else wished to speak in opposition. Chairman Halla advised we would be going back to board members and the applicant for the last time. His concern is from what you have told us, this is not a church. This is a residence where people come on the weekends, pay a fee which is unusual for religious activities. And if you don't consider that this is a church, there isn't anything listed in our Table of Uses for which we can grant a special exception. It's not a home occupation, it's not a church, it's not an educational facility. It's what you've described. It just doesn't fit in there. Mr. Januszewski stated we are a church, that's exactly what we are, that's precisely what we are. Chris spoke saying let me ask you this: have you applied for through the Internal Revenue Service church status, non-profit status. Yes, he has. He has an attorney that is doing all of that. Chris asked, have you been granted that? Mr. Januszewski responded it takes seventeen months, so we don't have the one from the federal government, we have the one from the State of New Hampshire. We have our Statement of Beliefs; we have our Church Doctrine all prepared by attorneys.

Chris asked, have you prepared through an attorney the requisite process to obtain Internal Revenue Service, is that 501.C.3? Yes, they have. Chris, okay so that's what you've applied for? Yes. Chris asked and when did you apply for that? Mr. Januszewski replied about eight months ago, it's in process. Greg Lake is their attorney. He's actually established no less than twenty-five churches and "theo (?) churches" across the country. We are the biggest that he has done this for. He is the number one attorney for this type of church in the country. Chairman Halla asked but at this point you don't have a legal document that says you are a church? Mr. Januszewski responded there is no Department of Religion in the United States government, there is the separation of church and state. Actually, you don't even have to have a 501.C.3 to be a church. That's not actually something that's a requirement. When you have a Statement of Beliefs and you have a Church Doctrine that's established and you believe it, the sincerity of belief is enough to be recognized as a church. There is no government official or governmental officiating body that say you are a church or you are allowed to be....Chris interceded, It's the Internal Revenue Service. Mr. Januszewski replied that's a tax corporation. Chris replied, ya, they are the big one. They are the ones that really define whether or not, I'm thinking back to the Church of Scientology, you may remember that case probably in the 80's where they fought and fought the Internal Revenue Service and then were in fact deemed a church. But it wasn't just because they had a doctrine. There are hoops that must be jumped through. I'm not saying I am prescribing this. I'm just saying if I'm going to consider someone as being a church, there's going to have to be something bigger than a doctrine. Mr. Januszewski stated you are correct as far as the IRS and the Church of Scientology, but their argument was they are lying about being a church and they wanted their taxes. So, they were arguing for their taxes, for the money, they weren't arguing whether or not they were a church. Chris said he would accept that point.

Chairman Halla asked if there were any other questions from Board members. Web asked you have these two to three weekends a month. Yes, approximately twenty people. Web said to him he thinks it's putting a little bit of a strain on the leach field having that amount of people. How many bedrooms normally are in this house, three, four bedrooms? There are four bedrooms. Web sees this as a concern. Mr. Januszewski responded he has addressed that. We bring in outhouses, we get them from Best Septic. Web, there are outhouses on site? Yes, three or four every weekend. Chairman Halla, let me ask you this, having brought up the IRS thing and everything else is this your living? Yes. So, this is what you do for a living? Yes. Chairman Halla asked if there were any other questions from Board members. Chris asked is there any attempt or effort thus far to have the State of New Hampshire from a licensure standpoint addressing Hillary's issue about sanitary measures? I too have a business that requires not only the United States Department of Agriculture, but also the State of New Hampshire to come and inspect me, inspect my accounting, inspect every inch of my being. Mr. Januszewski responded actually there are a couple of safety concerns he would like to address, that's one of them. So, being that there is a separation of church and state there is no Department of Religion. There is nobody to come in and actually inspect. There is no regulating body for churches, there just isn't. Chris interceded saying no, but you have a kitchen and you're preparing food and you are, in fact, selling that food to people who come to consume it. That would suggest to some part you are a restaurant. You are preparing food that has not been ordered. Chairman Halla asked what is this drug? How is it

ingested? Where does it come from? Mr. Januszewski advised it is a tea that comes from some plants. So, it's basically just like you would think of a tea. You get a couple of plants, you put it into a pot and you boil it down to a tea and you drink it. Chairman Halla asked, do they drink this all weekend. At once? Mr. Januszewski advised it's twice, once on Friday night and once on Saturday night. Chairman Halla asked and what does that do? The effects last a couple of hours. It brings you into a state of....the programming that you have in your mind is sort of constructing a story in your past. It sort of removes that so that you can see the experience from a different way. What that allows you to do is to stop carrying it around with you. I know this is a lot of kind of fluffy words but it's really hard to communicate what it actually does. What it did for me, when I sat with it for the first time I had had a ten year addiction to cocaine. My life was destroyed. I had a bad father, I was a bad son, I was a bad member of the community, I was just a bad person. When I asked for relief from my addiction, to be released from the resentment that I had towards my father, I had a deep resentment towards my father. I went in and I had the experience and at the end of the experience I had no more resentment against my father. I wanted to get in contact with him. I hadn't talk to him in four years. Within a week we were back, tight, just like we were before. And I had no more desire to use. And this was just something that I couldn't get away from. What happens inside the experience is really hard to describe because every single individual that sits with it, it's different for every single person because every person has a different life and a different mind. It's the results that are documented and even though it's supposedly new, it's new to us, ok. It's been used for 3,000 years. And they use it now in the Amazon from newborn, the mothers put it on their breasts for breastfeeding all the way up to they use it up to 100+ years old. It's not new to the world. Chris interceded stating Dimethyltryptamine is actually made inside, within the human brain. It is found throughout nature in virtually every corner of nature, that's a fact. As a drug it is used, you tend to see it mostly in your higher end professionals because, not what he's talking about, Ayahuasca they're actually adding another drug that actually stabilizes it and elongates the effect, whereas if you are doing pure Dimethyltryptamine, it lasts maybe fifteen minutes, twenty minutes, it's very fast and it is very, very intense. Whatever your reality..... What he's talking about in terms of the mental benefits, I agree with you. I 100% agree with you. And the work that is currently being done at many of the major medical centers, psychotropic medicines especially with veterans with PTSD and those things is phenomenal. And we've seen a huge benefit in changes of law especially on the west coast, Oregon and Washington as I'm sure you know. This issue here I don't think as far as I am concerned isn't the value of that, even though the value may or may not exist. I believe it does exist, it's the issue about, for me, people coming, consuming food and this business of what you are doing without any semblance, whatsoever, of regulation. That's what gets me is that we don't know, I don't know what you are feeding people that are coming over. Mr. Januszewski spoke saying the question of food seems to be a recurring theme with the kitchen. Chris, it is for me. Mr. Januszewski, so what if I hired a local restaurant to prepare the food for us then we could just have that delivered and use that instead. Because I would be more than willing to do that. Calvin noted that's similar to the Craft Brew that was brought up. You couldn't serve food inside, but you could bring from a third party inside if I remember right. Mr. Januszewski said he would be happy to pass the business on to somebody locally and take the responsibility off my shoulders, because I'm the one who cooks. I get an excuse to do church functions and not have to do so much work.

Hillary Nelson asked if she could just ask a question. Chairman Halla advised we are now back to addressing people who are in favor. Hillary said she has a totally neutral question. This is just a matter of we have in our zoning ordinance short term accommodations. Should that not be a part of the special exception? That is part of what is happening here. That would allow some measure of oversight by the town if that was included in the special exception in terms of making sure that the space is appropriate. The Fire Marshall would come in and make sure that there's smoke detectors, etc. Chairman Halla asked for the final time if anyone wished to speak in favor. Nancy Kress spoke as the homeowner saying she and her husband own the house and Derek has a lease to be there. It's not something that we knew when we signed the lease. It was as a residence. But over the process of what I've heard tonight and many, many interactions with Derek about various things over the course of a little over a year that he has been living there, he's been extremely conscientious and willing to work out anything that has come up. So as far as him trying to work with local restaurants to provide food or just in general the mentality of being willing to problem solve when things come up is there.

Chairman Halla asked if the Board had any more questions. Chris asked, have you had any interactions with the police? Mr. Januszewski responded there have been two. One person was at the retreat center and she decided to shut her phone off and be alone. Her daughter was worried because she didn't hear from her mom and she knew that she had gone to some place in the woods where they did Ayahuasca. So, they called the police, they came up and she was fine and they left. That was that. The other interaction with the police was we had somebody that came to our center that was very rude. He was having troubles relating to society or something. He was very rude, so I had to ask him to leave, that he wasn't welcome. He got angry and filed a false report with the police that we were abusing our guests. So, I was in touch with, I cannot remember the officer's name that I dealt with, but I talked with him, he talked to a couple of people on my team and I gave him the numbers of the people who he said we were abusive to, it wasn't true, they actually stayed for the second night and the case was closed. Chris asked charges were not filed. No charges were filed, there was no issue. It was a guy being spiteful because I asked him to leave. Chris asked has there been any medical interventions. People I know who have gone through Ayahuasca, there have been a couple of incidents where negative outcomes occurred, mostly panic and those kinds of things. Have you experienced that to the point where medical attention had to be contacted? Mr. Januszewski advised so we have a nurse on staff. But I've witnessed at least 4,000 people go through this experience. I worked at a church in Florida called Soul Quest. I don't know if in any of the research you saw that place, but it's a huge church..... it's been on Netflix a couple of times, it's a major church. Between there and the 1,500 people that I've seen personally go through it and if you multiply that out times two because everybody goes through it twice that's about 8,000 times I've seen people.....I've seen zero medical intervention necessary. Chris spoke, correct me, you stated earlier that the process you go through, you go through two processes, two cycles and the duration of a cycle is 4 to 6 hours so you doing actually pretty mild doses, in fact that is actually a very mild dose. Mr. Januszewski concurred.

Nancy Kress spoke saying you have a nurse on site at the retreat. Mr. Januszewski advised we have a nurse on staff two out of three weekends she is on site. Chris asked are there any other personnel on site. Mr. Januszewski replied yes, we have a few team members. We have some people that support.

Chris asked are they employees, are they paid. They are all volunteers except for the Shaman, the Shaman gets paid. Chris, the Shaman's gotta get paid. Lisa stated she had a question. To start with you said you were doing this on your own. And now there is staff, volunteer or paid. So, the volunteers are people that come in a professional capacity or as attendees to the weekend or who are they to what? Mr. Januszewski responded so they have sat with Ayahuasca before and some people feel just called to be of service. So they come and they do what needs to be done. They help cook, they help clean, they make beds. Mostly they're there for support of the people who are going through the process. Lisa asked and how many of them are there on any given weekend. He replied three to five.

Nancy Kress spoke saying she thinks it might be helpful to imagine because many of us may have familiarity with what we think of as a church retreat where food is provided as part of the church retreat. People show up as volunteers as part of the church retreat, so as a potential comparison that is an activity that it could be compared to. It's not identical to what we think of as a church retreat typically, but it's a valid comparison on some level. Mr. Januszewski stated as far as people driving away we take everybody's keys for the whole weekend. We take everybody's phone during the ceremony. I'm extremely hyper focused on safety because if anything falls through the cracks and something happens I'm the one liable and it's bigger stakes of, make no mistake about it what I'm doing, it takes a lot of courage because I have had conversation with the DEA. I have had conversations with the Department of Homeland Security. I have open communication with both of them and that's nerve wracking. That's scary to be putting my freedom, literally putting my freedom at risk and so if something were to happen, somebody were to drive away, not only would the church come down, but I would probably catch extremely large charges for all of it because they are allowing me to do indeed what I do is predicated on nothing bad happening. And so everything is at risk. Everything is at risk.

Chairman Halla advised he is ready to go for the final time to people in opposition. Hillary Nelson said she just wanted to ask a question. If the use changes to a church and short-term accommodations and something like that, does that mean that it's no longer a residence? Chairman Halla said he thinks a lot of it has to do with the definition of a church. There is a definition of a church that says it's a building where people come and gather for religious activities. There are people, I'm sure that go to other people's houses and sit around and read the Bible, but that's not a church. A church is generally construed to be a place of worship of some kind. So, if this is a church, it can't be a residence in my mind. Hillary asked does that mean the house comes out of the residential use in Canterbury, does that mean it's no longer taxable? Chairman Halla advised the Selectboard and Town Assessor would have to determine and the Selectboard would have to say that this is a building that is used solely for religious activities or it's a building that's lived in by a minister like the one over here (CUCC parsonage). Chris interceded, it's a rental property. No, I'm sorry, no, it's a rental property, so therefore there's that.... Hillary spoke saying then it's a rental property, but if you are changing to the primary use as a residence.....Chris interceded saying, Hillary, I think I understand what you are saying and if that is correct then really what should be going on here is a variance for a change of use. Hillary wondered if a home occupation would be easier to match. Chairman Halla asked if there was anyone else who wished to speak in opposition. No one spoke.



Chairman Halla closed the testimony portion of the hearing and advised the Board would attempt to reach a decision. He stated I can't construe this to be a church. There is nothing in the Table of Uses that fits this. It specifically has to be something where we can grant a special exception, a home occupation or something that is listed. From what I've heard tonight it is not anything remotely close to a church or what is generally considered to be a church. Chris said I disagree. He thinks it is 100% what he would think of as a church because I don't know what a church is. Chairman Halla responded, Chris, let me ask you this....I'm not addressing anything....so then anything could be a church. I go to Saratoga and bet on the horses, it's a religion for me. Can I write that off? Chris replied it happens where people are applying and I'm using the Internal Revenue Service as the measure where there are churches all over the place in order to get tax free....Chairman Halla interceded but he's not in that. He's not getting the ..... Chris interceded, yes, but he's applied for it. Chairman Halla responded, yes, but he doesn't have it. And basically, what he's doing is selling a product. That might be part of what he considers to be religion, but he is selling a product. That's not generally what happens in a church. Chris replied it wouldn't be excluded if you can sell bingo in a church and it's a religious....Chairman Halla replied but the bingo benefits the church, this benefits him. Bingo generally benefits the church, 10%, 20%, they get a take. That's the only reason you can play it in New Hampshire. Calvin asked how does Church of the Woods play out? Chairman Halla responded it's a church, nobody lives there and he's an ordained minister in a religion that's commonly known as a religion. So, the fact that he had this piece of property where people come on a weekly basis and either meditate or pray or listen to him and that's it. There's no product, nobody lives there, it's a church, that's all it is. It's called Church of the Woods, it's a church in the woods. Chris responded there's always a product. There's always a product and there's always an exchange for that product. Chairman Halla replied, Chris, I'm talking about a product product; I'm not talking about thoughts. Chris replied, um, no. Chairman Halla, responded ok, we can disagree on that. My whole point and I'm going to shut up, there isn't anything in here that we can look at the Table of Uses and say we granted a special exception because this is allowed by special exception. I can't get there. It's not a church. It's not approved as a church. There isn't anything else there that we can approve it as. It's not a home occupation and certainly isn't any of the other things. Chris said he thought probably as a home occupation, that would be the easiest argument to make is that it's a home occupation and what he sells is..... Chairman Halla interceded, but it wasn't presented as a home occupation. Chris said he agreed. Chris stated the issue I have remains. It has to do with safety, all of the people that are there, they're sleeping there, they're eating there, that's the problem I have. It isn't the fact that it's a church that has a product as long as the applicant can square the product that he's selling with the authorities, I could care less. I couldn't care less. Chairman Halla responded ya, but you're talking about your personal feelings. I'm talking about the Zoning Ordinance and what we can allow for a special exception period. It doesn't matter how I feel about it. It's a matter of if it's not listed we can't approve it. Let me put it this way....I can't be convinced that there's something in there that this applies to. It's not a church, it's not a home occupation, so what are we approving? Something that's not in there, ....that specifically says you can't do that. Web said he understands that, but I don't think we can list everything in the Zoning Ordinance either, what's allowed and what isn't allowed, ya know. That would be a very long list. Chris interceded we have to ask ourselves is this a church. Chairman Halla said it's not. Chris replied, you say no. I'm asking everybody else here do they believe

it's a church. Lisa said this isn't how we conduct this. This isn't how we do business. Chris, we can't talk amongst ourselves on.....Lisa interceded, well we can, and I think it has components of all of the above, but I haven't made my decision yet. Chairman Halla said let me get some input from you. You know where I am so I'm going to shut up. Calvin asked would it change if he was approved by the IRS. If he came back and he was a 501.C.3 how does that change, it doesn't. There's still the legal issue of the Ayahuasca and transportation and coming in and what's legal and what's the town liable for. If you throw in the stuff that Chris brought up, the twenty people coming, the questionable septic thing, serving food, serving this product, et., etc. in my mind that's not a church. It may be a religious activity to these people. I'm trying to say what was.....the same article that says church and educational facilities. Now if somebody came in and said that this was an educational facility would you buy, I wouldn't. No. You might be educating people, he might be...it's an educational facility because the guy teaches you how to play disc golf. Well, that's an educational facility, he teaches us. No, it's not. That's not what was meant when this was put in here. I think knowing when this was done, I think that's what they were talking about was a church that was construed to be a church, not a house that is not used five days a week, it's only used on weekends and you have twenty people that come and camp out, sleep on mats, etc. etc. I just can't construe that to be a church. Now all I'm looking at is there another way to look at this under permitted uses, that are permitted by special exception. There isn't anything in there, unless you want to say this is a church. But then if you do and you say you want to list it as a church, then you've got to go through all of these things that would be in the public interest, not adversely affect property values, appropriate site, etc. etc., health and safety of the residents and others in the area, not constitute, would be in the spirit of the ordinance, etc. etc. Chris responded we've got to go through that anyway. Web said we shouldn't have to go through it. Chairman Halla stated he thinks if we determine that this can't be allowed by special exception, there is no point in going through all of that. Why? Everything that I've read including the Guide for the Zoning Board, the state guide, the town thing, it says it has to be something that's allowed in the Table of Uses. So, you are either going to say we are allowing this because it's a church or we're not allowing it because it's not a church and it doesn't fit into anything else. We can go through these eight things; we can do that too. But I think we need to know whether we're on the verge of saying yes or saying no. That's all. Calvin stated the definition is so vague. Chairman Halla added sometimes the easiest way to do it is one of you make a motion and we'll vote on it. Chris spoke saying he is not an arbiter of someone's faith. If someone wishes to create a church I have absolutely no problem with that regardless of the dogma, regardless of the doctrine. I don't care, it's none of my business. However, to Joe's point, does it fit or does it not fit. And the question, I think is, is it a church or is it not a church. Calvin, that's the problem, define a church. Web added, there really isn't a definition. Chris responded the reason why I lean toward it being a church it that he has procured an attorney that specializes in creating 501.C.3 non-profs specifically for a church and the fact that it takes months for that to go through, it is in process so it may not be technically a church from the federal government's point of view. The process has been completed or is in process to go that route. So therefore, I go to intention. What is the intention? The intention is to have a church of worship. That is the intent. It is clear that that intent exists. Because the intent exists, I have to lean on the side that we have if not a church, at least a church in progress, or something of that. I can't say that it's not a church, that I can't say. That would lack any reason and

logic to say that it isn't a church. I could say it isn't yet a church, that's logically correct, it's rational. It's also rational to say it will be a church or it can be a church. Chairman Halla spoke saying Chris, the issue is is it a church now? That's what we're voting on. Web, Calvin? Calvin stated I can't rescue myself. This is the most..... Chairman Halla stated I think you've got these other issues – twenty people in a house with four bedrooms sleeping on the floor, serving food with no approved license.... Chris interjected that's an issue.... Back to Chairman Halla - that's a health and safety thing, is there a fire issue? Chris asked but would those be addressed through Planning Board review? Chairman Halla replied I would think they would be. Calvin asked what position is it with the drugs? How does that work? Is there any liability with the town approving it knowing there is illegal drugs being.... Chairman Halla said you've got a bunch of issues here; you've got a number of issues. Chris, but we're stuck on church. That's the only one we're really stuck on. Lisa said no.... Chairman Halla interceded well I'm stuck on the church and the twenty people, etc. etc. and selling something that might be an illegal drug. Chris stated dimethyltryptamine is an illegal substance. The way the Ayahuasca crowd gets away from that is that mixing. Whatever you're mixing it with and creating a diluted compound.... Chairman Halla stated but it's still there. Web added there's no doubt about it, it's a schedule one narcotic. Lisa spoke saying on Shaker Road we have the Shaker community that had their beliefs and practices, the Beulah Group up the Road with their practices, the New Freedom Academy group trying its level best to help people with sobriety and staying free of drugs use and now this group touting the use of Ayahuasca every weekend which may or may not be considered a legal or illegal drug depending upon who you are talking with. Just what is this town supposed to absorb?

Chairman Halla called for a motion. Chris made a motion to **GRANT** the special exception for a church based upon the following:

1. That granting the permit would be in the public interest. By the applicant's own words, it is because of the people he is helping.
2. That the proposed use would not adversely affect the property values in the district. It is off the road and property values would not be devalued.
3. That the specific site is an appropriate location for the proposed use. Nothing to suggest otherwise.
4. That the proposed use would not adversely affect the health and safety of the residents and others in the area and would not be detrimental to the use or development of adjacent or neighboring properties. Besides the occasional campfire there is nothing to suggest otherwise.
5. That the proposed use would not constitute a nuisance because of offensive noise, vibration, smoke, dust, odors, heat, glare, or unsightliness. Nothing to suggest otherwise.
6. That granting of the permit would be in the spirit of this ordinance. Churches and educational facilities are allowed by special exception and it is in the spirit of the ordinance.
7. That the proposed use would not constitute a hazard because of traffic, hazardous materials or other conditions. Nothing was spoken of about traffic.

Chairman Halla seconded the motion. The Board vote was three in favor, two against to **GRANT** the special exception. Chairman Halla reviewed the thirty-day appeal process. He advised Mr. Januszewski He had to go before the Planning Board for Site Plan Review.

The minutes of the previous hearing (2022-1) were unanimously approved as written.

Respectfully submitted,

Lisa Carlson, Clerk  
Board of Adjustment