

TOWN OF TIVERTON
ZONING BOARD OF REVIEW MINUTES

July 3, 2013

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, July 3, 2013 at 7:00 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz, Mr. Richard Taylor and Mr. Jay Jackson.

Also present were: Mr. David Petrarca, Jr., Esq., Town Solicitor, Mr. Gareth Eames, Building Official and Ms. Sally Ferreira, Court Reporter.

1. A petition has been filed by Patricia A Gomes of Tiverton RI requesting a special use permit to Article IV Section 6.g. of the Tiverton Zoning Ordinance in order to operate a riding stable or academy at 831 Bulgarmarsh Road, Tiverton, RI being Plat 218 Lot 128 on Tiverton Tax Assessor's maps whereby a special use permit is required in a R60/R80 zoning district.

DECISION: Attorney Cort Chappell on behalf of the petitioner, Patricia Gomes, came before the Board and stated his client owns seven and-a-half acres as well as a contiguous lot which was not included in the special use permit request. Mr. Chappell went on to give a brief history and stated the land was purchased in 2006. After the purchase, Ms. Gomes along with her husband went to the building inspector and got a permit to build a 21 stall barn with an indoor riding arena. The building inspector at the time made sure the building had handicap bathrooms and they were under the current codes to run and operate a boarding facility.

Mr. Chappell went on to say under the ordinance, barns and stables are allowed as a matter of right for the residential purpose, however, a riding stable or riding academy requires a special use permit. Mr. Chappell also explained the contiguous lot had manure stored on it and there was a complaint by a neighbor. So that the neighbor would not be affected, Ms. Gomes consented to relocate the manure from the horses on that lot and that is one of the reasons why that spare lot is not included in the special use permit.

Patricia Gomes was sworn in and Mr. Chappell questioned her. Ms. Gomes stated she would like to be able to advertise her facility so she may be able to give riding lessons and people can rent out her indoor riding arena. Ms. Gomes went to say she has plenty of parking. It was Ms. Gomes's opinion that the operation of this special use permit will not be detrimental to the area and there would be no changes in waste water and she further stated air quality would not be affected. Most of the riding and teaching is done indoors and there will be no additional lighting. Ms. Gomes concluded by saying the granting of this special use permit will not go against the Tiverton Comprehensive Community Plan.

Mr. Taylor asked what the business hours are and Ms. Gomes answered that someone feeds the horses at 7 a.m. but nobody rides until 9:00 a.m. and the barn usually empties out by 8 p.m.

Alice Lepage, an abutter, stated she was not opposed to the granting of the special use permit but she had one concern and that is the noise aspect. Ms. Lepage went on to explain when the bullhorn is in use, it is loud. Ms. Lepage was requesting that if there were any horse shows that they don't start until 9 a.m.

In summary, Mr. Chappell stated the applicant is seeking to call it a riding stable and specifically that would allow the petitioner to lease out the indoor riding facility for a fee whether those horses are boarders or non-boarders and it would allow the petitioner to school people there that aren't boarders as well. Any horse show or riding that is done that would be limited to 27 horses on the property and there would be no amplification of noise outside during any event.

The Board went into executive session. Mr. Collins stated the applicant did not have a problem in the past and it seems like they have addressed the issues they had with their neighbors. Mr. Taylor made a motion to grant a special use permit in order for the applicant to operate a riding stable or academy with the number of animals restricted to 27 at the maximum, and the public convenience and the welfare will be served, that in granting the special use permit it will not be detrimental to public health and safety and welfare, that it will be compatible with neighboring uses and will not affect the general character of the area, also it will not create a nuisance in the neighborhood because the Board has imposed restrictions of the use of electronic sound amplification outside the building, and it will not endanger vehicular and pedestrian movement, and the petitioner has testified that they have made accurate provisions for water service and sewage disposal and fire prevention, and the manure will remain on the property where indicated on the plan. And finally, in granting this special use permit it will be compatible to the Comprehensive Community Plan and the business hours will be 8:30 a.m. to 7:30 p.m. which should address the concerns of the neighbor.

Mr. Collins added that the Board is granting this permit to allow the facility to continue to operate as it has in the past with boarding utilizing the existing pastures in the indoor and outdoor range and will allow a trainer to utilize the facility to teach lessons either privately, semi-privately, or in a small group not exceeding 6 students during normal business hours and that it's the Board's intent to allow them to bring horses in without trainers. And finally, the manure pile will be located where it is. Mr. Jackson seconded. The vote was unanimous. Voting in favor were: Chairwoman Lise Gescheidt, Ms. Susan Krumholz, Mr. David Collins, Mr. Jay Jackson, and Mr. Richard Taylor.

2. A petition has been filed by Randy Santerre of Tiverton, RI requesting a variance to Article XIV Section 5 of the Tiverton Zoning Ordinance in order to construct two additions to the existing dwelling located at 104 Shove Street, Tiverton, RI being Plat 102

Lot 123 on Tiverton Tax Assessor's maps whereby expanding a legal non-conforming structure which is not currently allowed in an Industrial zoning district.

DECISION: Mr. Santerre, the applicant, introduced himself and stated he is a trained professional chef and his kitchen is simply too small to cook in it so he would like to add a small addition in the back of his house to extend his kitchen. Mr. Santerre also stated when he purchased his house, he had no idea that he was in an industrial zone so, when he applied for the building permit, he was denied the permit because he cannot change the footprint of the property.

Mr. Santerre further stated he wants to remove one wall on one side of the kitchen to extend it out 10 feet and another wall on the other side to extend it out 4 feet. The Chairwoman asked Mr. Santerre what the size of his kitchen is now and he answered 10 x 10 and the addition size will be 12 x 14 on one side and 4 x 10 on the other. The Chairwoman asked Mr. Santerre if he is violating any of the setback requirements and Mr. Eames answered no.

Mr. Jackson added if this was a residential zone, there would be no problem and the applicant wouldn't have to come before the Board. Mr. Taylor stated the only problem he has is that so much of the lot is paved and there isn't a lot of open ground for drainage. You have to go four blocks for drainage to find a patch of ground. Mr. Jackson pointed out a few house lots down is the old Ponta Delgada and there is parking lot that covers the whole area. Ms Krumholz added if it was used for industrial use, it wouldn't be better in terms of the impact.

In closing, Mr. Santerre stated his house is located at the corner from a stop sign and the Tiverton Police are constantly pulling over vehicles at all hours of the day and cooking will help him de-stress.

The Board went into executive session. The Chairwoman stated in her opinion this is a functional use of the property and, even though it's not being used as an industrial site, it's being used as a residential site, there's certainly no adverse environmental consequences. Ms. Krumholz stated it's a lesser use than what is zoned and it makes less of an impact on the land.

Mr. Collins made a motion to grant the applicant to construct two additions to the existing dwelling on the condition that a hardship has been demonstrated due to the special condition and circumstances of the area that are peculiar to the land and some of the surrounding land, and that there are residential uses and it's in an industrial zone and this is not due to a physical or economic disability of the applicant who is not seeking this for financial gain that this is for recreational cooking, that the granting of this petition will not be contrary to the public interest such that literal enforcement of the provisions of this ordinance will result in an unnecessary hardship to the applicant, and because that the surrounding area is residential use while in an industrial zone, that the applicant requesting this variance will not alter the general character of the surrounding area or impair the intent and purpose of the zoning ordinance or the Comprehensive Community

Plan on which the ordinance was based, and that overall it is the least relief necessary in order to safeguard the public interest and that by granting this variance, the structure could not yield any better beneficial use than it was required to conform to the industrial ordinance to which the industrial zone is governing. Mr. Jackson seconded the motion. The vote was four to one. Voting against was: Mr. Richard Taylor. Voting in favor were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz and Mr. Jay Jackson. The motion carried.

ADMINISTRATIVE ISSUES:

Following the petitions and during the Administrative Issues portion of the agenda, there was discussion amongst the Board members regarding the proposed changes and modifications to the present Rules of Procedure governing the Zoning Board, Ms. Krumholz made a motion to accept the proposed changes and modification that are dated April 1st, 2013 to the Board's Rules of Procedure. Mr. Jackson seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz, Mr. Richard Taylor, and Mr. Jay Jackson.

Mr. Taylor agreed to update the Rules of Procedure document and distribute.

Mr. Collins made a motion to appoint Ms. Gescheidt as Chairwoman. Mr. Taylor seconded. The vote was unanimous. Voting were: Mr. David Collins, Ms. Susan Krumholz, Mr. Richard Taylor and Mr. Jay Jackson.

Mr. Jackson made a motion to appoint Ms. Susan Krumholz as vice-chair. Mr. Collins seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Mr. Richard Taylor and Mr. Jay Jackson.

Mr. Jackson made a motion to appoint Mr. Taylor as secretary. Mr. Collins seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz and Mr. Jay Jackson.

Mr. Taylor discussed the minutes from the April meeting before voting on them. There was discussion about a particular sentence regarding the signage of the Viti Mercedes petition. Mr. Taylor made a motion that the Board adopt the minutes as a minimum. Ms. Krumholz seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz, Mr. Richard Taylor and Mr. Jay Jackson.

There was no further business or discussion. Ms. Krumholz made a motion to adjourn. Mr. Jackson seconded. The vote was unanimous. Voting were: Chairwoman Ms. Lise Gescheidt, Mr. David Collins, Ms. Susan Krumholz, Mr. Richard Taylor and Mr. Jay Jackson.

(Whereupon the Zoning Board of Review meeting ended at 8:33 p.m.)

Zoning Board of Review – 07/03/2013

C E R T I F I C A T E

I, Salvina S. Ferreira, Registered Professional Reporter, hereby certify that the foregoing 5 pages of the Tiverton Zoning Board of Review minutes are transcribed to the best of my knowledge, skill and ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my seal of office this 26th day of July, 2013.

Salvina S. Ferreira, RPR

My commission expires: September 26, 2013
ID # 28792

LEDGEWOOD COURT REPORTING
Registered Professional Reporters
23 Last Street
Tiverton, RI 02878
(401) 625-5455