

TOWN OF DEERFIELD  
ZONING BOARD OF APPEALS

February 17, 2005

MINUTES

- I. Meeting convened at 6:02 p.m., Room 130, Municipal Offices, South Deerfield.  
Present: S. Barrett, R. Bohonowicz, R. Calisewski, G. Friary, L. Grybko, Sr., F. Olszewski (Chair), R. Sadoski.  
Absent: None.  
Also in Attendance: M. Gilmore (at 6:13 p.m.), C. Ness, and J. Paciorek (members of the Board of Selectmen) and D. Nixon (Town Administrator).
- II. Executive Session: Motion made to enter into Executive Session to discuss strategy in connection with pending litigation (Rice Oil, Inc. vs. Town of Deerfield) at 6:03 p.m. The Board's meeting would reconvene. Motion approved (Barrett = yes, Bohonowicz = yes, Calisewski = yes, Friary = yes, Grybko = yes, Olszewski = yes, and Sadoski = yes).

A discussion with the Board of Selectmen was held concerning litigation between Rice Oil Company and the Town of Deerfield.

Motion made to adjourn the Executive Session at 7:00 p.m. Motion approved (Barrett = yes, Bohonowicz = yes, Calisewski = yes, Friary = yes, Grybko = yes, Olszewski = yes, and Sadoski = yes)

- III. Hearing convened at 7:00 p.m., Main Meeting Room, Municipal Offices, So. Deerfield.

Present: F. Olszewski (Chair), L. Grybko, Sr., Roger Sadoski, S. Barrett, G. Friary, R. Calisewski, R. Bohonowicz

Absent: None.

Chair Olszewski opened the hearing on the application of Patrick Smith, owner of Eastern Weatherization who is requesting permission to extend his special permit for another year to conduct business at 723 Greenfield Road, South Deerfield, MA as a terminal and satellite base of operations (Map 3, Lot 286).

Mr. Olszewski explains the hearing process. The petitioner will speak first and then anyone who wishes to speak on behalf of the petitioner will be heard but limited to 10 minutes. After which, anyone who wishes to speak against the petitioner will be heard.

Patrick Smith, owner of Eastern Weatherization, begins by stating that he feels that he should be allowed to continue conducting business at 723 Greenfield Road. Mr. Smith said that he has kept the lot neat and also polices the area daily. He said that he rarely sees any of his neighbors. Since he has been unable to find an alternative location to conduct his business from, he feels that relocating would be a hardship. He sees no reason why he should not be allowed to stay at the current location.

Mr. Olszewski asked if anyone would like to speak in favor of Mr. Smith. There was no response.

Next to speak was Lynn Breuer-Jason and Arthur N. Breuer, Jr., owners of the 5 & 10 Antique Gallery. The third owner of this small business was out of the country at the time of this hearing. Ms. Breuer-Jason agrees that Mr. Smith's lot is kept very neat but she was told that Mr. Smith would only be parking TWO tractor-trailers, ONE box truck and a dumpster on that lot. She and the other owners of the 5 & 10 Antique Gallery were receptive to that idea. They added a fence to define their lot and Mr. Smith's lot and to add more curb appeal. They also wanted to avoid having tractor-trailers drive through their property because their well is in front of their building. The fence has worked well however, since then they have written a letter and enclosed photos showing what they see coming around from Greenfield and there is more than TWO tractor-trailers, ONE box truck and a dumpster on that lot. As a property owner, Ms. Breuer-Jason feels that having a tractor-trailer satellite or freight yard is not what she wants to see next to a commercial property. The owners all feel that this business should be more off the road, more out of sight, and more in an industrial area. Ms. Breuer-Jason doesn't mind if Mr. Smith is given until September to vacate the premises but she doesn't want him to stay another winter. It is uneasy for their customers, when it gets dark at 4:30 and their customers are leaving the store at 4:30 or 5:00 on Saturday and Sundays. There is not enough light to light the area. There are people coming out from under the tractor-trailers and an occasional vagrant. Mr. Smith is using the lighting from the 5 & 10 Antique Gallery to light his area.

Most bothersome to the 5 & 10 Antique Gallery owners is that Deerfield has allowed this to go on. They were told that Mr. Smith was aggressively searching for an alternative location but he obviously became more comfortable as more and more trucks showed up at the location. Ms. Breuer-Jason wants to be fair and allow Mr. Smith ample time to find another location so she suggested that we give him until September to find another location.

Mr. Breuer then states that the original agreement of TWO trucks was fine but then there were 5, 6 and 7 pieces that showed up and it became an annoyance, wasn't nice to look at and wasn't nice for their customers. He also stated that the out of town customers were complaining. There was obviously a violation of the permit.

Mr. Calisewski asked Mr. Smith if the truck with no number plates on it was an unregistered vehicle. Mr. Smith said yes it is an unregistered vehicle. Mr. Calisewski told Mr. Smith that there was no provision made in the permit for an unregistered motor vehicle. He also asked Mr. Smith if he was actively looking for an alternative location to run his business from. Mr. Smith did not respond.

Mr. Olszewski asked if anyone else wanted to add anything to this discussion.

No response was heard.

The hearing closed for further ZBA Committee discussion and to render a decision.

Mr. Calisewski stated that Fred Skalski has plenty of space that he's willing to rent to Mr. Smith. He also mentioned that N&B Express also offered to rent space to Mr. Smith. Grace Friary's concern is neighborhood ambiance.

As part of further discussion, it was stated that the terms of the permit were violated and that there are other alternatives available to Mr. Smith. It was also brought up that the advertising on the trucks was supposed to be turned around so that it was not facing Route 5 but that term of the special permit was violated.

Mr. Bohonowicz feels that Mr. Smith did not put his best foot forward in honoring the conditions of the special permit.

It was also mentioned that the trucks were registered in Turners Falls and therefore could not be legally parked in Deerfield.

A motion was made to deny the extension of Mr. Smith's special permit for another year in order for him to continue doing business at 723 Greenfield Road.

The vote was unanimous in favor of denying the extension of the special permit (5-0).

Grace Friary made another motion to instruct the Building Commissioner to work with Mr. Smith to affect his departure from the site by June 1, 2005.

The vote was unanimous (5-0).

Hearing adjourned.

IV. Hearing convened at 7:30 p.m., Main Meeting Room, Municipal Offices, So. Deerfield.

Present: F. Olszewski (Chair), L. Grybko, Sr., Roger Sadoski, S. Barrett, G. Friary, R. Calisewski

Absent: R. Bohonowicz

Chair Olszewski opens the hearing on the application of Frank Campiti who is requesting permission to obtain a special permit of a place of assembly in order to operate on educational museum/retail business at 222 Greenfield Road, South Deerfield, MA (Map 132, Lot 35).

Mr. Olszewski reminds everyone that the process of this hearing will be the same as the earlier hearing.

The petitioner, Frank Campiti, presents his case first. He states that he is interested in opening an educational family museum at 220 Greenfield Road and be allowed to assemble 50 or more people in the building at one time. Mr. Calisewski explains that if Mr. Campiti is going to have 50 people or more in the building at one time, then a special permit is needed. If he doesn't have 50 people, then he doesn't need a special permit. It's a capacity issue about assembly into the building – just to clarify the code portion of it.

The term "museum" was clarified/discussed. Mr. Campiti explains that his business is going to be a family attraction. The whole basis of it is revolved around animals. It's not a zoo. It's not a museum. It falls somewhere in between. We want to represent every life form that falls within the vertebrate and invertebrate group. It's going to be an easily understood attraction. It's not very scientific. It's very easy-going. Internally, it's

going to be a theme. It's going to be a fictitious character that we've invented called "Dr. Spooky".

People will pay admission to go in. With regards to the museum retail part, we wanted everything to be up front so we put that in. If there will be a gift shop, it will be a very small one.

Ninety percent of the square footage is dedicated to the "museum". Some of the animals will be alive. Fisheries and Wildlife approves the list of animals. The Department of Agriculture checks and approves enclosures and where food is kept.

The smallest mice in the world are an example of the live animals to be displayed. All of the animals will be small. Some will be sea life.

Grace Friary asked several questions about animal details. She also asked how this would differ from a zoo.

The whole point of the attraction is to learn all about animals.

It will not be a tax-free business.

The name of the business will be **Doctor Spooky's Animal Museum**.

It is operated as an LLC – filed tax status – not museum status.

Grace Friary asked about the Board of Health involvement.

Mr. Campiti has to furnish the Department of Fisheries and Wildlife a list of animals that he would like to have and they approve or disapprove the items on the list. Then the Department of Agriculture comes in with Animal Rights Act to make sure that the approved list is properly housed and properly fed and the enclosures are the right size, etc.

The building will not have any windows at all. It'll have a stone front and will look like a church/castle.

Grace is concerned that the building will be a violation of neighborhood ambiance. The building is 44' wide and 150' long. Three sides have clapboard. There will be an artificial stone veneer on the front. Grace Friary wants to see details of the inside layout and the parking space documentation from the town's Building Commissioner. Grace Friary also asked for documentation stating that if anything gets loose, that there will not be any problems locally. Mr. Campiti stated that such documentation couldn't be given until the building is complete.

Detailed plans of where parking will be and the inside layout plan of where each animal will be was discussed.

The building is done and 80% of the external clapboard is complete.

Summer is going to be Mr. Campiti's main season – when kids are out of school.

Campiti states that his impression was that the purpose of this hearing was because he would like to assemble 50 or more people.

Kip Komosa states that all issues have been addressed already, through the building department from the Building Commissioner.

All other permits are in place.

Grace Friary brought up Board of Health issues. Mr. Calisewski said that there is no Board of Health jurisdiction in this case. The Board of Health is for humans and cleanliness of the building. This case is under the DOA.

Mr. Calisewski reminds the ZBA board that Mr. Campiti could operate without a special permit if he posted a sign stating no more than 49 people will be in the building at one time. He has only come before the Zoning Board because he would like to assemble 50 or more people at one time.

Grace Friary is concerned with what the completed building will look like.

Mr. Campiti states that time is of the essence. He is already 3 months behind schedule. He would like to be granted the special permit for assembling 50 or more people and contingencies can be added. He simply wants to be able to move forward.

Mr. Olszewski asked if anyone would like to speak in favor of Mr. Campiti's business.

Kip Komosa came forward to speak. He stated that the exterior of the building will fit in with the town's ambiance, the business will generate \$6,000-\$7,000 in taxes, the business may employ half a dozen local people and everyone will enjoy it.

George Marchacos spoke next. He began by stating that he feels that this business is a great idea for the town. He asked, how many people over 50 would be assembling? Mr. Marchacos stated that he was over there trying to figure out what is going to take place but it was not clear to him.

Grace Friary asked if his concern was parking overflow. He said that parking in general was a concern, as is refuse. He wants to know where the animal refuse will go after cages are cleaned. He was reminded that the Department of Agriculture addresses all refuse issues.

Mr. Olszewski asked if anyone else would like to speak.

The hearing closed to the public so that the Board could render a decision.

Grace Friary made a motion to grant the special permit to operate a business that will accommodate 50 or more occupants at 220 Greenfield Road, South Deerfield contingent upon the plans for the exterior of the building presented to this board with approval.

Additional conditions to be met:

1. All appropriate certificates must be in place from all of the boards who have a hand in this issue;
2. Is the parking adequate to maintain the overflow that we are approving?  
Parking issue needs to be clarified by the Building Commissioner;
3. No outdoor displays and signage as agreed.

Mr. Calisewski seconded the motion. Vote was unanimous (5-0)

Hearing adjourned.

Respectfully submitted,

Patricia Kroll  
Clerk to the Zoning Board of Appeals