

**TOWN OF DEERFIELD  
ZONING BOARD OF APPEALS  
May 24, 2012  
MINUTES**

Meeting convened at 7:00 p.m. in Room 121, Municipal Offices, 8 Conway Street, South Deerfield, MA

Present: Ron Bohonowicz, Chair, Bob Decker, Jamie Hartwright, Ed Wise, Chris Pichette  
Also present: Richard Calisewski, George Miller, Gary Kolakoski, Brian Kolakoski, Scott Kolakoski, Marion O'Meara. David Driver.  
Peter LaBarbera showed up late.  
Atty. Alan Seewald represented the Kolakoski family.  
Steven Pistrich and J. M. Pasiecznik were present on another issue.

**7:00 Hearing: Magic Wings, Inc. for a variance from sections 2310 / 2320 of the Zoning By-Law's frontage setback.** The affected property is located at **Clark Cross Road, Deerfield, MA.** (Assessors Map 113, Lot 5)

Mr. Bohonowicz began the hearing at 7:00 pm by stating that there had been numerous meetings on this matter and hopefully some kind of decision could be made tonight. Mr. Miller had been asked to bring survey documents. He asked Mr. Calisewski to bring everyone up-to-date.

Mr. Calisewski said this meeting was about the setback on the hoop building that houses wood chips at Magic Wings. The document provided verifies that the building in question doesn't meet the setback requirements. The map doesn't show a town road. He went on to say there is a debate about whether or not Clark Cross Road is a town road. Until he has legal documents from the courts stating that it's not a road, Mr. Calisewski will consider it a road. He said the building meets all requirements except for the rear corner.

He stated that if this permit is granted, he will ask the ZBA to put a restriction on any expansion of any buildings until there is a full map acceptable to the ZBA and there has been a full site plan review. He wants to see this issue settled in the best interests of both parties. He stated that he will grant the Kolakoski's permit.

To the question of the 25 foot setback, he said the only frontage that applies is that on Rts 5 & 10. He said there are multiple access points. If it is thought that a curb cut is needed, that has to be done through MASSDOT. Mr. Bohonowicz stated for clarification that Mr. Calisewski is saying that the back corner of the building is within 20 feet of the back property line; zoning requires it to be at least 25 feet.

Gary Kolakoski asked, "When a lot is on a corner of two roads, what determines frontage?" Atty. Seewald, representing the Kolakoskis, spoke stating that Clark Cross is a way; it is listed as such in a 1945 street listing, and has been used as such for more than 20 years. Although a portion of it was discontinued in 2001, the rest of the road is required to provide access to a building site. The way is not shown on the map presented by Mr. Miller. Therefore, the ZBA cannot issue a variance because it doesn't know where the road is.

Mr. Bohonowicz said if the Kolakoskis are willing to say, "give the permit, but require Mr. Calisewski's conditions," this can be settled. Mr. Miller said there has never been any intent to deny access. He is reminded that this hearing is only about granting a variance from the numbers for whatever relief is required.

A loud discussion ensued. Ms. Hartwright reminded that this is a very small room.

Atty Seewald said, "You want a plan with Clark Cross Road on it; here's a plan with Clark Cross Road on it," and presented a plan.

The following explanation was given. When the Melniks submitted a request for discontinuance, the intent was to discontinue the road from the railroad bed to Mill River Road and leave the road from the rail road bed to Rt 5 & 10 in its existing state. It also did a relocation plan to give widths and lengths for the remaining road. The Town dropped the ball by not voting on the relocation plan. The Town needs to follow through with the proposed relocation so the Kolakoskis can accurately do what they need to do, Mr. Miller can accurately do what he needs to do and everybody will be happy.

Mr. LaBarbera commented that if the Building Inspector, or other official, issues a decision based on erroneous information, or makes an error, the applicant who relies on it does so at his peril. He had other things he wanted to say, but Mr. Bohonowicz let him know that he could only speak with his permission.

Mr. Decker commented whether the decision is up or down, Mr. Miller won't be able to apply again for a substantial time.

Mr. Bohonowicz summarized the key points of the discussion, cautioning that any decision needs be made based upon law. After further discussion by board members, a motion was made by Jamie Hartwright, seconded by Chris Pichette, and voted, to deny the request for a variance.

**Request for opinion: Farm Stand Sign:**

Present: Mr. Calisewski, Mr. Pistrich, and Mr. Pasiecznik (arrived late)

Mr. Calisewski asked the ZBA for an opinion re: issuing a temporary sign permit for a farm stand. He explained that a permit had been issued last year to Mr. Pasiecznik. Within two weeks he had violated the terms. Mr. Calisewski confiscated the items added to the sign. He has not yet issued a permit this year. He wanted to know if a permit is issued and violations happen, should the permit be revoked permanently?

Mr. Pasiecznik arrived during this discussion. When advised of the discussion, he said other people put things on his sign in violation of the permit. The sign is on property owned by Michael Killeen, so the permit is actually granted to him. According to Mr. Pasiecznik, it was Mr. Killeen who added things to the sign.

There was discussion about what was appropriate for a farm sign. It could advertise agricultural items such as strawberries in strawberry season, etc. He was not entitled to advertise anything else. In the opinion of Ms. Hartwright, the opportunity given had been abused. She thought the sign should be taken down, and no permit issued. If a request for a new sign were submitted, it would be re-evaluated.

Following further discussion, a motion was made, seconded, and voted to advise Mr. Calisewski not to issue the permit. Mr. Decker abstained. Mr. Pasiecznik's response was that he would simply move the sign onto state property where the Town would have no jurisdiction.

Motion made, seconded and passed to adjourn.

Respectfully submitted,

Priscilla Phelps  
Administrative Assistant