

Call to order: 7:00 pm

Present: Charlyn Brown, Chairwoman; Todd Santora, Vice President; Abigail Tonry, Lisa Brown-Kucharski, Greg Parish, Members; MaryAnn Kasprzak, Selectmen's Representative; Shawn Hanson, Alternate; Glenn Coppelman, Circuit Rider Planner; Mark Sikorski, Building Inspector; Susan Ayer, Secretary

Absent: Beverly Mutrie, Member

The Chairwoman named S. Hanson as a voting member for the evening, in the absence of B. Mutrie.

Case #15-09-01 – Application from Barbara Kelley, Trustee, for a Conditional Use Permit for an accessory dwelling unit to be located in a detached building (storage barn), to be compliant with Article III, Section 7.2.1.1 through Section 7.2.1.10, at 31 Exeter Road, Map 8, Lot 36.

PRESENTATION:

C. Brown introduced the Board members to the applicant and invited the applicant to present her case.

Barbara Kelley introduced herself as the applicant, and owner of the property at 31 Exeter Road. She said that the Conditional Use Permit is sought for a portion of a barn that is to be built on the property, which is just under 3 acres. Referring to her map, she pointed out the existing house and proposed location of the barn at the back of the property. The barn is to be 60' x 104', with a 24' x 24' section projecting from one side that is proposed for a future dwelling unit.

B. Kelley went on to say the building has sufficient setbacks, is a good distance from the neighbor's house, and as it is set down in the woods, will not be very visible from the road. The total square footage of the area requiring the conditional use permit is 576, under the limit of 650 square feet, and also complies with the regulation that it must be no more than 1/3 of the existing living unit.

B. Kelley acknowledged the need to do a test pit and address the need for well and septic to the new building.

The Conditional Use application form used had just been created, but B. Kelley noted that she had added the listing of 10 items that must be complied with, that appear on the final version of the form.

QUESTIONS OF THE BOARD:

C. Brown asked if the barn would be used to house animals. B. Kelley said that the barn would be used only for the storage of antique vehicles, mainly trucks. B. Kelley added that the extra room would be used initially as a sitting room and a place to display memorabilia, but that she sees the need in the future to have housing for family, so with permission, will rough in the space with that use in mind.

T. Santora asked if there is an initial plan for a kitchen, and B. Kelley answered that there is no need for cooking facilities for now, and just a bar area with a sink will be installed.

T. Santora asked the size of the existing house. The main house is 1,768 square feet, of which 1/3 is 589, so the 576 square foot living area is within regulation size.

G. Parish asked if a bathroom will be completed at this point, and B. Kelley answered that it would.

C. Brown asked if the new well and leach field would only serve the new building. B. Kelley answered that she has not engaged an engineer for that yet, but that it has been suggested that she have a system designed to serve both the existing house and the new barn, in case the older system serving the house should fail. She said she plans to take the recommendation of the person hired to design the system. She noted that the original system is from the 1970's, and that it is a 3- bedroom system serving a 2-bedroom house. C. Brown said she thinks it would be sensible to design the new system to cover all bedrooms on the property. A. Tonry noted that the kitchen counts as 1-1/2 bedrooms for this purpose, and given that, the existing system is already too small.

G. Parish asked if there would be a heating system in the barn, and B. Kelley said that a back section of the 24' x 24' space would be a utility room serving both the living space and the barn area.

G. Coppelman asked if the fire department had been contacted, and if fire suppression would be required. C. Brown said that she wondered that also, because of the dual use, residence next to vehicles.

M. Sikorski said that this will be addressed in the permitting phase, but as the wing is adjacent to, not above the barn space, the same building codes apply as for an attached garage. He added that he would certainly run the plan by the fire inspector for review, in any case.

G. Parish asked if there will be an area for fuel storage. B. Kelley said that no fuel will be stored on the premises aside from what is in the gas tanks of the trucks; she said the vehicles will only rarely be driven.

ACTION ON APPLICATION:

MOTION: To accept the application as complete.

MOTION: G. Parish

SECOND: T. Santora

UNANIMOUS

MOTION: To accept the application as submitted and grant the Conditional Use Permit.

MOTION: S. Hanson

SECOND: L. Brown-Kucharski

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MINUTES OF PRIOR MEETING: August 25, 2015

G. Coppelman brought attention to the end of the first paragraph after the "Agritourism" heading, on page two, and questioned the following sentence:

"The court suggested to the Legislature that it modify the Statute to include agritourism as an agricultural use; the ensuing bill did not pass."

After discussion, it was agreed that the final portion, "the ensuing bill did not pass" should be omitted.

Where the town of Henniker is mentioned in two places, the spelling needs to be amended.

MOTION: To accept the minutes of August 25, 2015 as amended, above.

MOTION: S. Hanson
SECOND: L. Brown-Kucharski
VOTE:
6 in favor, 1 abstention

OTHER BUSINESS
AVESTA- TRAFFIC STUDY

T. Santora asked if there has been any follow up with the traffic study engineer, Stephen Pernaw, regarding the timing of the traffic studies. G. Coppelman said that there was follow up on ensuring the studies would include a busy weekend, and also that they should not be done on a bad weather weekend.

AGRICULTURE AND AGRITOURISM-DEFINITIONS/PROPOSED MODIFICATIONS TO ZONING ORDINANCE

C. Brown brought the Board’s attention to the proposed additions/modifications to the Zoning Ordinance. G. Coppelman has drafted a proposal for the wording, which incorporates two changes to the definitions section, and also an addition to the Table of Uses:

- 1) **Add** the following definition on Page 2 of the Zoning Ordinance, following “Agricultural Animals”: ***“Agriculture” as defined by State RSA 21:34-a.***

- 2) **Add** the following definition on Page 2 of the Zoning Ordinance, following “Agriculture”: ***“Agritourism” means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operations, or active involvement in the activity of the farm which is ancillary to the farm operation.***

- 3) **Add** the following to the Table of Uses on Page 14 of the Zoning Ordinance following (1) Agriculture (and re-number remaining items in Agricultural/Forestry category):

| | | | | | |
|-----------------------|----------|----------|----------|----------|---|
| 2. Agritourism | P | P | P | P | See Definitions section for uses allowed under this category |
|-----------------------|----------|----------|----------|----------|---|

G. Coppelman said he took the definitions straight from State statute, using the exact wording for consistency.

A second memorandum before the Board from the CRP is another Ordinance change proposed, in order to rectify a problem identified in Article XI, Section 3.3.6.5. C. Brown explained that when work was done on re-zoning of districts, much of the Ordinance was renumbered. In so doing, there is now a reference to Article III, Section 3.1.5, which no longer exists. The Board considered this proposal:

- 4) **Amend Article XI, 3.3.6.5 as follows:**

Replace “identified in Article III, 3.1.5” with **as defined by NH State RSA 21:34-a**. The amended section would read:

3.3.6.5 None of the foregoing shall apply with respect to any operation usual and normal to an Agricultural Use as **defined by NH State RSA 21:34-a**.

There was a lengthy discussion of current definitions of agricultural uses and the ramifications of changes proposed. G. Coppelman had added a note to his memoranda, that the NH Legislature may be introducing a bill in the upcoming session to deal with Agritourism uses as they pertain to Agricultural operations. The result, if it passes, may not align completely with the above suggestions. However, the CRP said he only meant to inform the Board about what is going on at the State, and that he feels what he is proposing will not do any harm, and can be adjusted as needed next year. In the meantime, he said, this wording will protect agritourism activities already taking place in the Town. He said that attorneys are using the Henniker court case as a precedent to deny agritourism activities. The court ruled that Agriculture does not include uses in his proposal #2.

G. Coppelman also informed the Board that he has been sitting in on a working group that has been working on the bill to submit at the next Legislative session. If it passes, it will require that Agritourism activity is reviewed by the Town’s Planning Board. This would involve a limited Site Plan Review; it would not be meant to burden an applicant with anything that is not needed, but to give the Town and the public the chance to review. The size of the land, and impacts on traffic and neighbors would be considered.

There was a discussion of how Bed and Breakfast establishments are defined and how they fall into the heading of Agritourism; it was noted that Bed and Breakfast facilities are defined under Article III, Section 7.3.

Also discussed was the process for Agritourism permits, and that they would be for repetitive activities, and not required for each individual event.

In a lengthy discussion on how to better define farms and agriculture with regard to Agritourism uses, G. Coppelman pointed out that RSA 674:32-b speaks to Existing Agricultural Uses. He emphasized the portion which reads, “...may be made subject to applicable special exception, building permit, or other local land use board approval and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets and sidewalks, or public safety.”

C. Brown noted that this section is referenced in the Town’s Table of Uses next to Agriculture, in the notes section. However, it only references 674:32-c.

G. Coppelman said that the Town may have wanted to refer also to “a” and “b” in that section, as he believes they are all pertinent and applicable.

C. Brown said they may have chosen only “c” because it was in the old Ordinance.

After some discussion and reading of the sections, it was agreed to add the following proposed amendment to the four above:

- 5) **Amend** the Table of Uses on Page 14 of the Zoning Ordinance, (1) Agriculture , under Supplemental Regulations, to read,

“RSA 674:32-a, b, and c”

C. Brown asked the Board if they were comfortable bringing all 5 amendments as stated to a public hearing at the October meeting. Once brought to a public hearing, they will be voted on to be put on the Warrant in March.

MOTION: To bring the 5 amendments to the Zoning Ordinance, as stated above, to a Public Hearing on October 27, 2015

MOTION: A. Tonry

SECOND: L. Brown-Kucharski

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CONDITIONAL USE PERMIT APPLICATION FEE

C. Brown pointed out that tonight's Conditional Use Permit application came in without a fee, as it was a new application form and no fees had been assessed for it.

Fees are in Appendix II under Subdivision Regulations as well as Site Plan Review Regulations, and a fee for a Conditional Use Permit Application will need to be added.

After some discussion, it was agreed to set the fee on the lower end, as it is a minor type of permit though it still will generate administrative costs at the Town Hall.

MOTION: To set the Conditional Use Permit Application fee to be \$50.

MOTION: S. Hanson

SECOND: T. Santora

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C. Brown noted that this will also require a public hearing, so there will be 6 items on October's agenda under Public Hearing.

COMMUNICATIONS TO BOARD MEMBERS

The NHMA 2015 Municipal Law Lecture Series will be held on 3 Wednesdays in a row in October. Any members planning to attend should let the Secretary know so she can register them.

MOTION: To adjourn, at 8:31 PM.

MOTION: A. Tonry

SECOND: S. Hanson

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