

MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
September 19, 2012

MEMBERS PRESENT: Jim Banks, Chairman; John A. Hutton, III; Tobin Farwell; and Philip Sanborn; and Frank Reinhold, Alternate.

OTHERS PRESENT: Caren Rossi; Peter Hoyt; Judy McDonald; Peter Watson and John (Red) McDonald; and Gerry Collins.

(Z1112-16)

A continued application for Variance of the 2012 Lee Zoning Ordinance from First Strafford Realty Trust, Jennifer MacDonald Trustee (Lee USA Speedway) Property is located at 380 Calef Highway, and is known as Lee Tax Map #18-02-0000. The following variance requests are each a separate request.

A Variance to Article XXIII, Section (3), Non-Conforming Uses to allow for fairs, circus and or carnivals to be held on the property.

A Variance to Article XXIII, Section (3), Non-Conforming Uses to allow for outdoor sport shows and auctions to be held on the property.

A Variance to Article XXIII, Section (3), Non-Conforming Uses to allow for a driving school to be held on the property.

Jerry Collins abutter asked if he would be allowed to speak.

Jim Banks, Chairman replied that the floor was closed at the last meeting, if the Board had a question for him, they would ask, other than that, no.

Peter Watson provided the Board with a handout explaining in detail the driving school and its proposed use. (In file) He explained that all of the cars will be muffled, no public address system will be used, he is unsure of the DB levels of them but he stated they were no louder than a truck going down Rt. 125. A full field of race cars is 24 cars, there will not this many cars or as much noise as 24 cars. There will be 2 paraplegic cars as well for the vets.

Frank Reinhold made a motion to act on the requests individually.
Philip Sanborn second.
Vote: all

Jim Banks, Chairman wanted to clarify for all that this Board is not giving full permission to the applicant, they still need to go to the selectmen and seek approval there, this if granted, will just allow them to proceed to the next step.

The Board determined the following findings of fact:

PRELIMINARY FINDING

After reviewing the petition and having heard the presentation by the applicant, it is found that the Board **has all** sufficient information available upon which to render a decision. If there is sufficient information, the application will be deemed accepted and the public hearing will continue. If it is found that the Board does not have sufficient information, the public hearing will be postponed to a date certain on _____.

FINDINGS AND RULINGS

After reviewing the petition, hearing all of the evidence, and by taking into consideration the personal knowledge of the property in question, the Board of Adjustment for the Town of Lee has determined the following findings of fact:

- 1) The variance **will not be (all)** contrary to the public interest because: not increasing noise, no affects to the neighbors or area around it.
- 2) Special conditions **do (all)** exist such that the literal enforcement of the ordinance results in unnecessary hardship. In deciding this criteria, you must decide whether:
 - a) The zoning restriction as applied to the property **interferes (all)** with the reasonable use of the property, considering the unique setting of the property and its environment because: not allowing them to make upgrades which will improve the watershed.
 - b) There **is no (all) fair** and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property because: the history of the facility, with restrictions place on property and the history of restrictions on the property. The facility is set up for vehicles
- 3.) The variance **is (all)** consistent with the spirit of the ordinance because: noise, muffled race cars, fewer, much less noise off site, during the day, low traffic and no pa system. This will enable them to proceed to the selectmen
- 4) By granting the variance, substantial justice **will (all)** be done because: they deserve the right to go to the selectmen to hear their case.

5) The value of surrounding properties **will not (all)** be diminished because: it's an existing facility, hours are during the weekdays ending at 5 pm, traffic noise is mute; no building anything, using what is there.

Tobin Farwell made a motion to grant the request for a Variance to Article XXIII, Section (3), Non-Conforming Uses to allow for a driving school to be held on the property as submitted on September 19, 2012 and signed by the secretary. Subject to the following condition.

1.) Public Address System is not used.

Philip Sanborn second.

Vote: all, motion carried.

The Board discussed the application for the outdoor sport shows and auctions.

Bob Watson provided the Board with packets on these activities. (In file) Auctions would be midweek and the events would be spring/fall. It would be logistically difficult to have them when race season is occurring. They would not use a pa system here either; it would be a mega phone type system.

John Hutton felt it would be a logistical nightmare, he isn't comfortable with it.

Phil Sanborn felt the opposite, very low impact, short lived, no one would even know it was going on unless you attended it. Low impact usage, no noise issues. For a facility on Rt. 125 with this much parking, they can handle it easily, can put on restrictions.

Tobin Farwell felt it was a low impact use as well.

Jim Banks commented that if this is approved, it will enable them to go to the selectmen.

Frank Reinhold commented that he feels it is not a high impact use at all. Egress is good, police will be there. He feels having attended these types of events; they are low impact and a reasonable use of the property.

Jim Banks commented that Sonny's restaurant has started a car show to enhance business and that hasn't affected the neighborhood at all.

The Board determined the following findings of fact:

PRELIMINARY FINDING

After reviewing the petition and having heard the presentation by the applicant, it is found that the Board **has all** sufficient information available upon which to render a decision. If there is sufficient information, the application will be deemed accepted and the public hearing will continue. If it is found that the Board does not have sufficient information, the public hearing will be postponed to a date certain on _____.

FINDINGS AND RULINGS

After reviewing the petition, hearing all of the evidence, and by taking into consideration the personal knowledge of the property in question, the Board of Adjustment for the Town of Lee has determined the following findings of fact:

- 3) The variance **will not be (all)** contrary to the public interest because: not increasing noise, or other areas of concern to the neighbors.
- 4) Special conditions **do (all)** exist such that the literal enforcement of the ordinance results in unnecessary hardship. In deciding this criteria, you must decide whether:
 - b) The zoning restriction as applied to the property **interferes (all)** with the reasonable use of the property, considering the unique setting of the property and its environment because: not allowing them to make upgrades which will improve the watershed.
 - c) There **is no (majority) fair** and substantial relationship between the general purposes of the zoning ordinance and the specific restriction on the property because: open area, access to Rt. 125, low noise events.
 - 3.) The variance **is (majority)** consistent with the spirit of the ordinance because: low impact, not increasing noise, will not affect the neighbors.
 - 4) By granting the variance, substantial justice **will (majority)** be done because: owners can use their property and advance to the selectmen to hear their case.
- 5) The value of surrounding properties **will not (majority)** be diminished because: its low noise, during the day and the facility is already there.

Tobin Farwell made a motion to Grant the request for a Variance to Article XXIII, Section (3), Non-Conforming Uses to allow for outdoor sport shows and auctions to be held on the property as submitted, signed by the secretary and dated September 19, 2012.

Frank Reinhold second.

Vote: majority, motion carried (John Hutton, no)

Jim Banks, Chairman explained the 30-day appeal process to the applicant.

Bob Watson provided information to the Board on the application for Fairs, Circus and Carnivals. (In file) He explained that they will have a one ring circus, youth is targeted, 2 shows daily that are 90 minutes each. 2 days per time. Low noise, not much traffic, good for the town, mid week possibly.

Jim Banks asked what powered the circus.

Bob Watson replied that they have their own generators.

Frank Reinhold spoke with concerns of light pollutions, noisy, kids screaming, and significant impact to the neighborhood.

Jim Banks if a limitation where said "no generators" brought on site. Can have craft fairs etc. Inherit eliminating the "Big Stuff".

Frank Reinhold not comfortable with this application.

Red McDonald stated were looking for is the small carnival they went to. Held in a big top tent generator, didn't make much noise. Circus one tent, big top, would need a generator. The fair part, would be a Lee Country Fair type, and also a simple craft fair. Possibly a carnival in conjunction with the fire department like an old fashion fire mans muster. One weekend a year, an activity for the town. Small type to see how it works. Possibly in conjunction with a race. Won't upset the neighborhood. No noise outside the tent.

Tobin Farwell agrees with Frank Reinhold, late hours, bright lights, noise, split our fairs and then he would be better.

Phil Sanborn big difference between craft fair and the Rochester Fair. Limiting hours, deter carnival or a possibly a one shot deal to try it. To see how it works, limit the number of shows and the times.

Red & Judy McDonald stated that they wished to withdraw their request.

MINUTES TRANSCRIBED BY:

Caren Rossi, Secretary

MINUTES APPROVED BY:

Jim Banks, Chairman

Frank W. Reinhold Jr.

John A. Hutton, III

Peter Hoyt, Alternate

Philip Sanborn