



**Stratham Zoning Board of Adjustment
Meeting Minutes
May 22, 2012
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Arol Charbonneau, Chairman
Jeffrey Karam, Secretary
Bruce Barker, Full Time Member
Kirk Scamman, Full Time Member
Chris Brett, Alternate
Mike Smith, Alternate

Members Absent: Dave Short, Vice Chairman

Staff Present: Terry Barnes, Building Inspector
Lincoln Daley, Town Planner

1. Call to Order/Roll Call:

The Chairman took roll call and explained the procedure for the meeting.

2. Approval of Minutes:

May 08, 2012

Mr. Brett made a motion to approve the minutes. The motion was seconded by Mr. Scamman and passed unanimously.

3. Public Hearings:

- a. **Case # 570 René LaVallee, 132 Union Road, Map # 15 Lot # 61, within Residential/Agricultural Zoning District.** This is a public hearing whereby the Applicant requests a Special Exception from Section 3.6 Table of Uses of the Stratham Zoning Ordinance to allow the applicant to operate a commercial riding stable at said property.

The applicant's attorney, Joseph Prieto gave a brief overview of Ms. LaVallee's application. He described her riding business and said the property had been improved since the last plan and that the applicant, Ms. LaVallee had been disposing of manure.

1 He explained that she doesn't own the property and can't really afford to provide any
2 extra plans, but would be happy to meet any conditions if the Board allows her
3 application. Mr. Prieto said there other businesses nearby and a stable is allowed in the
4 Residential/Agricultural zone.
5

6 The Chairman asked how many horses were on site. The applicant replied 9; 4 of which
7 are minis and one horse will be leaving in about a week. She added that her goal is to
8 hold riding lessons for small children with the smaller ponies and that she hopes to
9 downsize her business. Ms. LaVallee said she didn't realize how much wetland there was
10 on her property and did not know that she needed a special exception to run her business
11 as she assumed it was acceptable due to being situated in a residential/agricultural zone.
12

13 The applicant said the property is wetter than she would like it to be and she views this as
14 a temporary situation as she would like to relocate somewhere else eventually.
15

16 The Chairman explained that the Board is in a catch-22 situation as the promised site
17 walk didn't take place which makes it difficult for the Board to grant the application
18 without knowing what conditions should be imposed on the property to allow the special
19 exception.
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21 Ms. LaVallee then talked about ideas for managing the manure on the property and
22 addressed the issue of having a horse kicking and making a lot of noise.
23

24 Mr. Scamman wanted to hear from abutters. Mr. Bob Healey, abutter said the biggest
25 issue is the noise, a shed was illegally erected which is close to their house which houses
26 a horse that kicks. Other issues mentioned were the dust that is created when the riding
27 lessons take place, the smell of urine and an increase in flies. He commented also that
28 there seem to be a lot of horses in relation to the size of the land.
29

30 Mr. Brett asked again about the current number of horses. Mr. Smith asked if the
31 applicant owned them all. The applicant said yes. Mr. Scamman asked if it was only one
32 horse that is making the noise. Ms. LaVallee said primarily yes, that the horse is injured
33 and on stall rest. Once the horse is better, Ms. LaVallee will move him out of the current
34 stall so the noise won't disturb the abutters.
35

36 Mr. Daley explained the property to those present concentrating mainly on the location of
37 wetlands. He asked the abutter if there was any problem with noise when the previous
38 owner had one horse on the property. The abutter said there was never a problem. Mrs.
39 Healey added that there is another horse that sounds like it is screaming. Mr. Daley
40 referred to the manure problem saying that the applicant needs to address that problem
41 immediately. He also observed the intensity of the current use on the property.
42

43 Mr. Prieto commented that he felt there were two distinct issues, one being the noise
44 which is not related to why his client is there tonight namely for a permit. He said there
45 didn't seem to be any concerns relating to his client holding riding lessons.
46

1 Mr. Daley said that his understanding is that the issue of use falls under the jurisdiction of
2 the ZBA, in the sense that in order to facilitate the riding lessons on the property,
3 alterations were made to the property in the wetland areas. He added that the issues of
4 noise and odor also fall under the Board's jurisdiction as those kinds of issues can
5 devalue surrounding properties.
6

7 Mr. Smith asked if there was a definition for how many horses are allowed. Mr. Daley
8 replied that unfortunately there isn't which is why he was hoping to hear from an expert.
9

10 Mr. Barnes commented that he had heard from several people that they were surprised to
11 see so many horses on this property.
12

13 Mr. Scamman said that the NRCS have the expertise to judge whether or not there are too
14 many horses. He said he would be very interested to hear what Mr. Wright has to say so
15 he and the Board can make an informed decision. Mr. Prieto said they would agree to
16 arrange for Mr. Wright to go out to the property.
17

18 Mr. Daley added that he had provided other experts information. Ms LaVallee said she
19 didn't realize she was supposed to contact them all by tonight's meeting.
20

21 Mr. Smith asked if there was an adjacent property Ms. LaVallee had access to. She
22 responded yes and showed where it was and explained the horses use it for grazing.
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24 Mr. Smith asked about kick chains and why Ms. LaVallee is against the idea of using
25 them. Ms. LaVallee said that she finds them inhumane. Ms. LaVallee said she would be
26 happy to hear any ideas from NRCS about managing the urine problem.
27

28 Mr. Karam asked when Ms. LaVallee was intending to get rid of the two horses that are
29 causing the problems. Ms. LaVallee was hoping it would be at the end of the summer.
30 She also commented that she was hoping to move to another property eventually, but she
31 needed her current business to continue in the meantime. Mr. Smith asked if it would be
32 at all practical to move the troublesome horse off site until such time that Ms. LaVallee
33 moved. Ms. LaVallee said it would be more practical to move them further away from
34 the neighbor's house and keep them in a paddock, unless there was a storm. Mr. Smith
35 asked when she thought she could do that, Mr. Smith was told in two to three weeks.
36

37 Mr. Daley commented that he would like to see this property being used, but felt that he
38 hadn't seen much effort so far from the applicant to assist with improving the situation.
39

40 Mr. Prieto said that Ms. LaVallee had paid quite a lot so far trying to do things that had
41 been requested.
42

43 Mr. Smith asked Mr. Daley how he would classify the disruption on this site based on
44 what he saw and the current usage. Mr. Daley said you do see a change in the property
45 but he believes the property can be managed. The soil is chewed up and when he visited
46 it was not easy to walk around. He commented that the number of horses on the property

1 could have impact. Mr. Daley also said he didn't notice any surface run off, but did
2 notice some ponding however he didn't inspect the back of the property.
3

4 Mrs. Healey spoke about her concern for her well due to the ponding and the amount of
5 dust as her husband is asthmatic. Mrs. Healey wondered what the time line was for this
6 case and if the applicant had a permit to build the paddock that was referred to. She also
7 explained that she is a realtor and said that if something has been constructed without a
8 permit that disavows any financing opportunities.
9

10 The Chairman made the observation that if the experts do a site walk which results in the
11 applicant having to provide a plan that will cost her even more money and asked if she
12 wanted to do that if she is not planning to stay there anyway. Mr. Prieto responded that
13 the applicant didn't realize the problems associated with this property so her intention
14 was to stay there until all the issues mentioned tonight were raised. He suggested
15 allowing her to continue with the riding lessons, move the horses to the back of the
16 property within a designated time frame and issue a "Cease and Desist" order on October
17 1, 2012. Mr. Smith suggested a longer term outlook just in case she hasn't found an
18 alternative property at that point in time.
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20 Mr. Brett asked how long the applicants had been giving riding lessons. The applicant
21 responded it had been a year and several months.
22

23 There was then some general discussion about the "Cease and Desist" order that was sent
24 to the applicant this year.
25

26 Mr. Brett made a motion to close the public session. This was seconded by Mr. Scamman
27 and passed unanimously.
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29 Mr. Karam read the definition of the intent and spirit of the residential/agricultural zone
30 from the Ordinance. The Board then discussed the fact that owning the horses didn't
31 seem to meet the intent or spirit, but at the same time, the Ordinance doesn't specify how
32 many horses a person may own in the R/A zone.
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34 Mr. Karam felt that the property is being overused but the best way forward for the Town
35 would be to put conditions on the agreement.
36

37 The Board went through the criteria for a Special Exception in accordance with Section
38 17.8.2 of the Ordinance.
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40 The Board agreed that the applicant met the standards as long as the conditions are met.
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42 Mr. Brett made a motion to grant a temporary permit with the following conditions being
43 read into the record:
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45 The conditional approval will be bound until October 1, 2012, conditioned on the
46 applicant doing the following:

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1. Move horses to new paddock area by June1, 2012.
 2. Schedule a meeting with Dan Wright or his designee for a site review on and before June 1, 2012.
 3. Applicant agrees to move 3 horses off the property on Union Road by August 1, 2012 Schedule a meeting with Mike Cuomo or another representative of Rockingham County Conservation District by June 1, 2012
 4. Applicant agrees to mitigate dust; applicant will hose down riding lessons area and other areas as necessary.
 5. Horses to be used for riding lessons will be limited to six.
 6. Applicant agrees not to bring any more new horses to the property in excess of six.
 7. Approval of this Special Exception is contingent upon the conditions set forth and will be reviewed again on September 11, 2012.
 8. Manure will be continued to be covered and removed on a weekly basis or as a management plan suggests Management plan should be submitted to the ZBA or designee two weeks prior to the September meeting. Failure to submit the required management plan, will nullify the conditional approval, at which time a “Cease and Desist” order will be issued by the Town.
 9. A meeting will be held on September 11, 2012 to further review this conditional approval.
 10. The applicant agrees to notify abutters of the September 11, 2012 meeting.
 11. Any issues or problems with scheduling the meetings will be communicated to Mr. Daley.

The motion was seconded by Mr. Karam and the motion was passed unanimously.

The Chairman said to the abutters that they can keep the Town informed by contacting the Town Planner, the ZBA Chairman or Mr. Barnes.

- b. **Case # 572: Catherine and Kevin Henry, 6 Chisholm Farm Drive, Map # 21, Lot # 121, within Residential/Agricultural Zoning District.** This is a public hearing whereby the Applicant requests a Variance from Article 11: Wetlands Conservation District (Overlay), to allow the Applicant to install an in-ground swimming pool within the twenty five feet no disturbance buffer zone of a delineated wetland.

The Chairman explained that Case # 572 would have to be continued as the applicant needed to go before the Conservation Commission with their revised plan so the Board could hear their comments. As the next Conservation Commission meeting wasn't until the following night, the applicant would have to wait until the next ZBA meeting on June 12, 2012. Mr. Daley the explained the changes made to the latest plan.

Mr. Scamman made a motion to continue Case # 572 until June 12, 2012. This was seconded by Mr. Barker and the motion passed unanimously.

4. Miscellaneous

1 There was nothing to report.

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3 **5. Adjournment**

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5 The Chairman made a motion to close the meeting at 10:00 p.m. This was seconded by Mr.
6 Karam and the motion passed unanimously.

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