



**Stratham Zoning Board of Adjustment
Meeting Minutes
August 12, 2014
Municipal Center, Selectmen's Meeting Room
10 Bunker Hill Avenue
Time: 7:00 PM**

Members Present: Arol Charbonneau, Chairman
Chris Brett, Full Time Member
Timothy Copeland, Alternate/Board of Selectman Representative
Garrett Dolan, Full Time Member
Jim Elliott, Secretary
Phil Caparso, Alternate
Deidre Lawrence, Alternate

Members Absent: Chris Cavarretta, Full Time Member

Staff Present: Lincoln Daley, Town Planner
Audrey Cline, Building Inspector/Code Enforcement Officer

1. Call to Order/Roll Call.

The Chairman took roll call and explained the proceedings.

2. Public Hearing(s).

- a. **Case #605 and #606: Peter W. Grey, 20 Squamscott Road, Map 21, Lot 8 within the Residential/Agricultural Zoning District.** This is a public hearing whereby the applicant is requesting a Variance from Section 5.13.2a Home Occupations to allow more than 25% of the total floor area of finished floor space of the dwelling, to be used for a Home Occupation, and a Variance from Section 5.13.2k Home Occupations for increased signage above the currently permitted 4 square feet.

Request for a continuance to the August 26, 2014 Public Meeting.

The Chairman explained that an email request had been received from Mr. Grey for a continuance to August 26, 2014.

Mr. Copeland made a motion to continue the hearing for the 20 Squamscott Road cases until August 26, 2014. Motion seconded by Mr. Dolan. Motion carried unanimously.

1 b. **Case #602: Michael Overton, 13 Trisha's Way, Stratham, Tax Map 13, Lot 96**
2 **within the Residential/Agricultural Zoning District.** Special Exception request from
3 Sections 5.13 Home Occupations and 3.6 Table of Uses of the Stratham Zoning
4 Ordinance to operate a landscaping business within the existing single-family residence.
5

6 Motion made by Mr. Dolan to accept the application as complete and as submitted.
7 Motion seconded by Mr. Brett. Motion passed unanimously.
8

9 Michael Overton, applicant, introduced himself and his wife, Andrea. Mrs. Overton
10 explained to the board that she and her husband had been running their business 'Overton
11 Landscaping, LLC' out of the property since January 2011 and were not aware that they
12 needed a permit to do so. She explained that her father, Graham Wark is the owner of the
13 property and when she and Mr. Overton started their business he allowed them to store
14 their equipment at the residence. Mr. Wark has since moved and the Overton's now
15 reside there and continue to run their business from the home. Mrs. Overton stated that
16 she believes they have met all the exceptions required to operate a home occupation. She
17 stated that they do not utilize the allowed 25% gross living area (GLA). Only billing and
18 phone calls are done within the residence and the property is used to park vehicles and
19 store equipment only. Customers do not frequent the property, they do not receive
20 shipments or materials and they do not sell goods or services from the property. Their
21 equipment is also not maintained on the property. She indicated that they store their
22 equipment neatly and they have one employee that is not a family member and he parks
23 within their driveway. Mrs. Overton also stated the third garage (a detached structure) is
24 used for equipment storage and that it was previously approved for her father, Mr. Wark
25 to do so. Mrs. Overton also explained that they do not have a sign for their business, nor
26 do they wish to have one. Their hours of operation are Monday through Friday 8am to
27 5pm. Mrs. Overton stated that the business supports local businesses and that they
28 provide services for many of their neighbors and to their knowledge they have a good
29 relationship with all of their neighbors.
30

31 Mr. Caparso asked if the customers are residential or commercial. Mr. Overton answered
32 primarily residential although they do have 5 or 6 commercial accounts. Mr. Caparso
33 also asked if the business is seasonal. Mr. Overton indicated they do have busier seasons
34 but their hours are consistently 8am to 5pm. Mr. Caparso asked about how the plowing
35 impacts their neighbors and Mr. Overton explained that they strategically park the
36 vehicles to do so without impacting them at all.
37

38 Mr. Dolan asked if large amounts of fertilizer were stored on the property. Mr. Overton
39 answered they are not licensed to offer fertilizer and that they contract it out. Mr.
40 Charbonneau asked how much fuel they store on the property. Mr. Overton stated two
41 five-gallon cans of gas and a five-gallon can of mixed, at most, 30 gallons including the
42 cans and whatever may be in the mowers. Mr. Caparso asked about waste, Mr. Overton
43 stated all grass clippings and brush are dumped at Hayden's in Newmarket NH, not on
44 the property.
45

1 Mr. Caparso asked the board why an application was being accepted by a tenant. The
2 Board members explained that it was allowed as long as the property owner gave
3 permission, which he has done in a letter.
4

5 Mr. Charbonneau asked what percentage of the finished area of the house is used for the
6 business. Mrs. Overton stated they essentially use 1 room. There was then a discussion
7 regarding the number of garages on the property. Mr. Daley stated that according to
8 5.13.2a, a home occupation shall utilize less than 25% of the total floor area of the
9 finished floor space of the dwelling, including the basement. The board agreed that the
10 applicants are well below the 25% allowed if the 1 room is used for calculations. Mr.
11 Daley suggested the Board may want to include the area of the garage space used for
12 storage in the calculation. Mr. Charbonneau and Mr. Daley both stated that the space
13 currently being used within the residence equates to approximately 144 square feet,
14 leaving approximately 450 square feet. Ms. Cline stated the garage in question appears to
15 be 18' x 24'.
16

17 Mr. Charbonneau asked if the equipment was visible from the street. Mrs. Overton
18 replied yes but only if you traveled pretty far down the street.
19

20 Mr. Daley asked the applicants if they anticipated growth in the near future. Mrs.
21 Overton replied they're hoping to grow the business however at that time they hope to
22 have a separate shop off site.
23

24 Dave Curry, 15 Trisha's Way, then addressed the Board and spoke in favor of the
25 Overton's landscaping business.
26

27 Mr. Daley asked if the enclosed trailer had any company logos on it. Mr. Overton said
28 the trailer was recently purchased and does not have any logo on it, in fact he was waiting
29 for approval from the town before doing so. Mr. Daley asked Mr. Overton to speak to the
30 town prior to doing so. Mr. Overton agreed to do so.
31

32 Mr. Copeland made a motion to close the public session. Mr. Brett seconded the motion.
33 Motion carried unanimously.
34

35 The Board read through the standards required for a Home Occupation per section 5.13.2
36 & 17.8.2. The Board agreed that:
37

- 38 a) The applicants are utilizing less than 25% of the total floor area of the finished
39 floor space.
- 40 b) There have been no complaints from neighbors, the business does not impair the
41 residential character of the premises, and is not injurious, noxious or offensive to
42 the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration or
43 noise.
- 44 c) The applicants are tenants of the premises with owner's written permission to
45 operate the business.
46

- 1 d) The granting of the special exception shall expire if operations cease for a period
2 of more than 12 months for any reason.
3 e) There shall be no more than 2 persons outside the immediate family employed by
4 the business, the applicants currently have 1 outside employee.
5 f) Storage in an accessory building shall be permitted as a condition of the special
6 exception and screening may be required by the code enforcement officer.
7 g) The applicants do not sell any goods.
8 h) The applicants do not have any vehicles greater than 26,000-pound gross vehicle
9 weight.
10 i) Sufficient off street parking is available for their one employee and all business
11 vehicles, the vehicles do not exceed 26,000 pounds gross vehicle weight, they are
12 not loaded with flammable, noxious or dangerous materials and are registered
13 with the Town of Stratham.
14 j) The business is not contrary to any covenants or conditions contained in the deed
15 to the property.
16 k) The applicants have no desire to have a sign for their business.
17

18 Mr. Caparso asked if the signage on the enclosed trailer would count toward the 4 square
19 foot sign allowed for a home occupation. Mr. Daley responded it would not and the
20 branding of the trailer will need to be handled separately through the building
21 department. Ms. Lawrence asked if the Code Enforcement Officer suggested additional
22 screening. Mr. Daley replied that Mr. Barnes did not address the issue of additional
23 screening with the applicants due to the existing topography of the site.
24

25 Mr. Dolan made a motion to approve the Special Exception with the following
26 conditions:

- 27 • The storage trailers be limited to the areas depicted on the sketch of the property.
28 • The mowers must be stored on or in the trailers when not in use.
29 • The area for use is not to exceed 595 square feet.
30

31 Motion seconded by Mr. Copeland. The motion was carried unanimously.
32

33 Mr. Charbonneau made the applicant aware that there is a 30 day appeal period and
34 anything the applicant does within that 30 day period is at their own risk.
35

36 Mr. Copeland made a motion to close Case #602. Motion seconded by Mr. Brett. Motion
37 carried unanimously.
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- 39 c. **Case #603 and #604: Seacoast Imported Auto, Inc. (d/b/a Honda Barn), 34**
40 **Portsmouth Avenue, Stratham, Tax Map 9, Lot 118 within the Gateway**
41 **Commercial Business District.** Special Exception request from Section 5.1.3 of the
42 Stratham Zoning Ordinance to allow the expansion of a pre-existing non-conforming
43 structure to add 3,348 square feet to the building footprint, and an Administrative Appeal
44 from Article 5.1.3.
45

1 Motion made by Mr. Copeland to accept the application as complete and as submitted.
2 Motion seconded by Mr. Elliott. Motion passed unanimously.
3

4 Michael Donahue of Donahue, Tucker & Ciandella introduced himself as the attorney
5 representing Roger Groux and Seacoast Imported Auto, Inc. Atty. Donahue stated that
6 should the first application for a Special Exception be granted there will be no need to
7 pursue the second application for an Administrative Appeal. Mr. Donahue referred to the
8 plans and explained that to the rear of the property there is a voluntarily designated
9 conservation easement area which contains an advanced state of the art water quality
10 treatment system with 4 bays and has more than adequate capacity. Atty. Donahue
11 further explained that they are requesting a 3,348 square foot expansion, which is about
12 18% of the total footprint. The desire is to move some activities that are currently being
13 performed in the parking lot area to inside the building to improve their customer
14 experience. The hope is to convert some of the existing bays into a reception area for
15 vehicle service. Instead of parking and entering the building to discuss services in your
16 vehicle, customers would park inside. Three bays would be added, 2 of which would be
17 devoted to service reception and aid in the delivery of new vehicles directly into the
18 building, and one additional service bay.
19

20 Atty. Donahue stated that the applicant had met with the Gateway Committee on July 30th
21 and received a favorable response from them with regard to the addition. He supplied
22 minutes of that meeting as well as elevation renderings from the architect and photos of
23 the mature landscaping on the site to the Board for review.
24

25 Bruce Scamman, Emanuel Engineering, Inc. then addressed the Board and addressed the
26 drainage on site, pointing out on the plan that the entire area below the building was
27 paved so no new impervious area is being created. Mr. Scamman also stated that the
28 architect is designing roof drains that are tight piped and there will be no increase in
29 drainage off site.
30

31 Atty. Donahue read through the criteria for a Special Exception and indicated that the
32 applicant has met them.
33

34 Roger Groux addressed the Board and stated that if the project stays within the allowed
35 budget he would like to also include LED lighting and will make the proposal to the
36 Planning Board at such time. He stated the site currently meets all light standards and
37 that the Honda Barn was the first dealership in town to do so.
38

39 Ms. Lawrence asked for clarification regarding the taking of existing parking spaces for
40 the addition, Atty. Donahue explained that although some parking spaces will be utilized
41 as part of the location of the addition, the parking was oversized when the original site
42 plan was approved by the Planning Board. There were no further questions.
43

44 Mr. Copeland made a motion to close the public session. Mr. Dolan seconded the
45 motion. Motion carried unanimously.
46

1 The Board read through the standards required for Expansion of Non-Conforming
2 Structures per section 5.1.3. The Board agreed that:

- 3 a) The proposed expansion will not intrude any further into the setback area than the
4 existing structure.
- 5 b) The proposed expansion will have no adverse impact on view and air of any
6 abutters.
- 7 c) The proposed expansion will not cause property values to deteriorate.
- 8 d) The proposed expansion will not impede on any existing rights of access or
9 egress.
- 10 e) The proposed expansion will not exceed the footprint of which presently intrudes
11 into the setback because the present structure is not within the setback.
- 12 f) The proposed expansion will not have any adverse impact on traffic, parking or
13 lighting since they are not adding operations, they are enclosing existing
14 operations.
- 15 g) The proposed expansion will not violate any height restrictions.

16
17 The Board read through the standards required for Special Exceptions per section 17.8.2.
18 The Board agreed that:

- 19 i. Standards provided are for the particular use permitted by special exception.
- 20 ii. There is no hazard to the public or adjacent property since it is a continued use.
- 21 iii. There is no detriment to property values.
- 22 iv. There is no creation of traffic or a safety hazard.
- 23 v. There will be no excessive demand on municipal services.
- 24 vi. There will be no significant increase in storm water runoff since they are
25 proposing a closed system with no impact.

26
27 Mr. Elliott made a motion to approve the Special Exception with no conditions. Motion
28 seconded by Mr. Brett. Motion carried unanimously.

29
30 Mr. Charbonneau made the applicant aware that there is a 30 day appeal period and
31 anything the applicant does within that 30 day period is at their own risk. Atty. Donahue
32 requested that the application for Administrative Appeal be continued to the October 14th
33 meeting and once the 30 day appeal period has lapsed the applicant will formally
34 withdraw the application in writing.

35
36 Mr. Copeland made a motion to accept Atty. Donahues request. Motion seconded by Mr.
37 Brett. Motion carried unanimously.

38
39 **3. Approval of Minutes.**

40 June 24, 2014

41 Mr. Elliott made a motion to approve the minutes. The motion was seconded by Mr.
42 Copeland and passed unanimously.

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44 **4. Miscellaneous.**

45 Audrey Cline introduced herself to the Board as the Town of Stratham's new Building
46 Inspector/Code Enforcement Officer.

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5. Adjournment.

Mr. Copeland made a motion to adjourn the meeting. Motion seconded by Mr. Brett.
Motion carried unanimously.

DRAFT