

BOARD OF ADJUSTMENT
P O BOX 159
DEERFIELD, NH 03037
OCTOBER 26, 2021

MINUTES OF MEETING

PRESENT: Board members Anthony DiMauro, George Thompson, Jonathan Leer, Joshua Freed, Amy Lockwood. Alternate member Harry Hotaling. Secretary Jane Boucher.

7:15PM Chair Anthony DiMauro called the meeting to order.

BOARD AND COMMITTEE QUESTIONNAIRE

Chair DiMauro completed the questionnaire and asked members if they recommended any changes. Chair DiMauro will add "Special Exceptions, Variance, Equitable waivers, and Appeals to Administrative Decisions" to Section 10.

BOARD OF ADJUSTMENT BYLAWS

Chair DiMauro also sent copies of the ByLaws dated October 22, 2013. Board members will review and discuss at the November meeting.

APPROVAL OF MINUTES

Joshua Freed moved to approve the minutes of August 24, 2021. Jonathan Leer seconded. The following corrections were made to the minutes:

Pages 1, 2, 3: Correct Name: Van Vliet.

Page 3: Paragraph 8: Correct to read "across from the Bugnacki home...."

Voted to approve minutes as corrected.

7:25 Chair DiMauro moved to recess meeting.

7:30 Chair DiMauro called the meeting back to order. He introduced members and explained procedure.

CASE #21-12

Clerk Jonathan Leer read the Notice of Public Hearing. Applicant Anne Moschella, 115 Nottingham Road, Deerfield, NH for property at same address, Map 416 Lot 69 is requesting a variance from Article II Section 207.3 for side boundary setbacks, for the purpose of constructing a dry barn.

Joshua Freed moved to accept Case #21-12. Amy Lockwood seconded.,

Jonathan Leer noted that the applicant has made changes to the wetland setbacks, but not to the side setbacks.

Voted in favor to accept Case #21-12. It was unanimous.

Attorney Jason Reimer, Anne Moschella and Simon Cantu were present.

Attorney Reimer noted that they had been before the Board previously requesting a variance from wetlands and now they have moved out of the wetlands area. He said that Anne Moschella and her husband Simon Cantu live at 115 Nottingham Road on a 9.84 acre property. They seek to construct a 1444 square foot barn at the northeast corner of the property. The barn would be a dry barn without running water. The variance they need is from 207.3. The proposed location at the corner of the property will not interfere with wetlands and will preserve existing horse pasture.

Attorney Reimer reviewed the variance criteria noting the NH Supreme Court says that "to deny the variance it must be unduly and in market degree conflict with the ordinance such that it violates basic zoning objectives." A variance would violate basic zoning objectives if it threatens public health or would alter the essential character of the neighborhood."

Attorney Reimer said that the property is a residential property with a horse barn and has farm equipment. Right now the equipment is stored under an existing tarp which is outside. The neighbor who would be impacted by the addition of this barn supports granting the variance.

He then addressed "Substantial Justice" denial of this variance would not cause any gain to the general public. Equipment now being stored under a tarp would be stored in the barn. Attorney Reimer said that agriculture is a benefit to the Town of Deerfield.

Putting the barn anywhere else would require a variance from wetlands which would be a loss to the applicants as they would lose pasture land.

Chair DiMauro questioned how many acres are required per horse. Ms. Moschella replied three acres per horse. They currently have two horses.

Attorney Reimer noted that the applicants have resided at the location for 17 years and have spent time and a great deal of money to create what is now a well developed horse pasture. He added that the pasture area supplies food for the horses and to take it away would take away food.

Attorney Reimer showed where the proposed barn would be located on the Tax Map

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Attorney Reimer said that the pasture is not suitable for building. If you build on the pasture you have less pasture and they have worked for 17 years to develop the existing pasture.

Jonathan Leer questioned putting the barn in another location. Mr. Cantu explained that because of the existing wetlands location would be difficult.

Jonathan Leer said he fails to see a hardship and because of the size of the lot felt there could be another location to locate the barn. He added that he felt a site visit should be held.

Erroll Rhodes noted that there are several horse properties in Town and many have equipment stored outside. He failed to see a reason for granting a variance.

8:10PM The Board went into deliberative session.

Harry Hotaling felt the request was reasonable.

Amy Lockwood said that she felt it was a reasonable use.

Joshua Freed also felt the application was reasonable.

Jonathan Leer felt there was not a clear picture of wetlands and pasture and he did not feel he had enough evidence.

Jonathan Leer moved that the Board of Adjustment conduct a Site Visit in order to get a better picture of the submitted request. There was no second. Motion fails.

George Thompson said he was baffled by the application and although he would vote to approve it, he was not comfortable with information presented.

George Thompson moved that the Board of Adjustment conduct a Site Visit to the property on 115 Nottingham Road. Jonathan Leer seconded. Voted in favor.

It was agreed to conduct a Site Visit to the Nottingham Road property on Saturday, November 6, 2021 at 10AM.

The meeting was adjourned at 8:30PM.

Recorded and transcribed by Jane Boucher
Pending Approval by the Board of Adjustment