

APPROVED

**TOWN OF NEWBURY
SELECT BOARD**

MINUTES

DATE: November 7, 2022

PRESENT: **Select Board:** Chair Alicia Greco; Clerk Dana Packer;
Geof Walker; Gerry Heavey

Staff:

Tracy Blais, Town Administrator
Julie O'Brien, Executive Administrator
Martha Taylor, Planning Director
Larry Murphy, Planning Board Chair

Speakers: Lisa Mead, Mead, Talerman and Costa
Doug Deschenes, Finneran and Nicholson

Call to Order:

At 7:00 p.m. Chair Alicia Greco called the meeting to order with a salute to the flag

Motion: G. Walker moved to open the meeting, seconded D. Packer and voted unanimously

Discussion: None

Public Hearings: Special Permit continuance, 1 Marsh Meadow

Motion: G. Walker moved to open the Public Hearing seconded, D. Packer and voted unanimously

Discussion: A. Greco stated Selectman Colby realized he had a conflict of interest and has recused himself. She further explained the Special Permit will require 4 out of 5 votes to approve.

Discussion: Attorney Mead spoke to the right to request a special permit. Stated all have a right to apply under the zoning bylaw. Ultimately the Select Board to decide if the criteria has been met.

Attorney Deschenes addressed the Board and asked to clarify questions regarding overflow parking on lots adjacent to the primary lot on which the applicant is seeking the Special Permit and should notice have been given to those abutters as well. Stated client happy to develop a formalize parking plan for Board and provide notice to any of those abutters to the ancillary parking. Also stated there is adequate parking on the lot itself to support what is proposed 98% of the time.

Attorney Deschenes, presented a slide show regarding 1 Marsh Meadow Lane which included a project summary, existing conditions, pictures of the barn and property in question, a history of the property, Newbury Master Plan, Proposed Uses, and addressed parking concerns.

Attorney Deschenes clarified a misunderstanding of a overflow parking label on one of the site plans.

Attorney Deschenes answered questions from the Board.

G. Heavey inquired if weddings would be on the venue

Attorney Deschenes clarified they were no longer proposing using the site for weddings

Peter Binette, Building Commissioner, spoke to the wedding venue topic and explained would not be conducive to the property as no water, no heat etc. and would not be allowed

Attorney Deschenes reiterated indoor outdoor recreational activities only

G. Heavey inquired if there was ever a barn fire in that area.

Marshall Jespersen, 169 Elm Street, responded that there was a horse barn fire in 1990 caused by arson

G. Walker asked Attorney Deschenes regarding educational uses

Attorney Deschenes, stated he is familiar with educational uses. Stated tried to focus just on recreational activities but found activities led to discussions about classes and instruction relating to some activities.

D. Packer asked about the commercial aspect. Will a fee be charged?

Attorney Deschenes responded, yes not a profit take but to cover fees/overhead

Marshall Jespersen answered what looking for is to hold some events to make money to support the farm. Which other locations in Newbury do also

Attorney Mead explained not coming in as a Non Profit. Is not prohibited under the table of uses.

D. Packer feels barn does not meet the egress requirements and has concerns if there was a fire. Stated the doors in particular do not meet the requirement

P. Binette spoke to the egress matter. If, approved and the use was narrowed down get to be a A3 92 occupant load was the intention. Does not require sprinklers. There is path of egress which would have to be met. Would require a Chap 34 analysis, a code analysis on an existing building.

Attorney Mead gave an explanation regarding the Select Boards Special Permit purview

Attorney Deschenes asked to address the Board. Reiterated that he had suggested taking a step back and continue the hearing if Board agrees and do a more formalized parking plan and submit to the Planning Board.

D. Packer inquired about the historical aspect of the barn. For example, would doors be allowed to be added

Marshall Jespersen spoke to the matter

A.Greco asked P. Binette if he sees any other permits needed from other Boards and or commissions.

P. Binette responded did not necessarily feel needs a full-blown site plan review

A.Greco read comments received from the Board of Health Director, Conservation Commission and Planning Board

Larry Murphy, Planning Board Chair, 30 School Street, spoke on behalf of the Planning Board, regarding the preliminary letter the Planning Board sent and read the letter to the Select Board

G. Heavey asked of any plans to hot top parking lot,

Evan Jespersen answered no

A.Greco read a petition that was sent to the Select Board in support of the Barn. Stated at the time petition was printed there were 192 signatures

A.Greco also read into record the various correspondence received regarding 1 Marsh Meadow Lane:

Residents Letters of Support

Erica & Todd Jacobsen, 7 South Pond St.

EJ Ouellette, 4 Silvermine Road

Ryan Kelley, 24 School Street

Michael Updike, 21 Old Rowley Road

Keith Stromski, 35 School Street

Mary Leary, 31 Greentree Lane

William DiMaio, 12 Orchard Street

Donna Rusinak, 105 Central Street

Frank Bertolino, 10 Maple Terrace

Matthew Connorton, 78 Hanover Street

Mackenzie Rafeldt, 25 Main Street

Heather Burrell, 35 School Street

Dave Miller, 40 Orchard Street

Kelsy Stromski, 24 Withington Street

Christi Vlahos, 12 Johnson Lane

Non- Residents Letters of Support

Dr. Yori Thomas, 25 High Street, Amesbury

Sanford Farrier

Kristi Hutchinson

Danielle Johnson

Julia Slone

Steve Sanderson, 40 Parker Street, Newburyport

Kimberly LaCroix

Michelle Chabot

Sarah George

Debbie Davies, 665 Purchase Street, Newburyport

Ariele Ebacher, Newburyport

Dan Fionte, 51 Carmel Road, Andover

Gordon Przybyla

Kim Silvrants

Kari Bernard

Sarah Webb

Ashley Roy

Katy Banovic

Bert Snow, Director Outdoor Sculpture at Maudslay

Beth Randall, Actor

David Davies, Purchase Street, Newburyport

Alicia Casilio

Gwen Chabot

Brian Days, Owner and Maker, Red Birch Designs LLC

Jean Trim, 123 Bachelor Street, West Newbury

Dyane Stillman

Cheryl Fisher
Robert Watts, 126 Merrimac St., Newburyport

Residents Letters of Opposition

Leah Zambenardi, 20 Orchard Street
Helen Martocchio, 24 Orchard Street
Andrew Samuels, 22 Orchard Street
Alissa and Hugh Rice, 7R Austin Lane (rcvd 4 letters)
David Maida, 61 Larkin Road
Andrea and Matt Rumph, 21 Austin Lane
Ryan and Amanda Small, 19 Austin Lane

Public Comment:

Dale Williams, 12 Scotland Heights, asked for clarity as to why JR Colby recused himself. Chair Greco responded due to a conflict of interest of one of his business endeavors. Mr. Williams inquired if there are any suggestions to limit use to day light hours only and asked how much agriculture activity is happening now on that lot

Leah Zambenardi, 20 Orchard Street, stated from the back of her property she can see and hear what's going on at the Jespersen property. Mentioned in the Mid October submittal the phase, including but not limited to, was concerning and needs more clarification. Ms. Zambenardi has concerns regarding health, safety and welfare, particularly as it relates to parking and circulation within the site. Stated there is no stable parking surface and no defined aisles, what if there is an emergency. Commented Orchard Street is a long, winding and sparsely lite road. Asked that the Jespersen's take look at the letters that were sent in by the public. Brought up nuisance, for example, what is the lighting going to be like on the barn? Noise, difficult to regulate noise maybe can be done by limiting hours. Lastly mentioned most property 61 designation, ask that Select Board look at that for this use, will the Jespersens still have that status?

Zach Yeremian, 17 Austin Lane, stated his back yard looks at the Jespersen barn. Commented that the Jespersen's have not met with the neighbors to discuss impact of the proposal. Mentioned the Petition should not be admitted as no one knows who the 192 persons are. Stated he has many concerns including noise, alcohol, day vs night, safety concerns particularly at night feels will compromise, peace and privacy. Obnoxiousness, in small frequencies could be more adverse effects if grow to be more often. Community need, why not another location selected? Why not do at the library. Overall dangerous precedent. Lack of ability to police the noise and time of shows and alcohol, what constitutes the word "Art"? Can you insulate a historical building?

Laurie Collins, 15 Austin Lane, agrees with the artists exhibit but feels the usage has grown and not well defined. Suggested the Library as a place for exhibits. Asked who oversees compliance. Feels this would be precedent setting and has concerns about the traffic issues.

Ryan Small, 19 Austin Lane, confirmed he can see barn from his property. Stated can hear a pin drop in neighborhood and sound will be a big issue. Requested more clarity how frequent events would be and the hours that would be set. Asked if the Select Board does do a site walk to take note of the homes in the vicinity

Alissa Rice, 7r Austin Lane, Jespersen have not once come to the neighbors regarding this project. Felt tonight was a contradiction of what was presented in August. Asked how going to generate revenue at farm? Feels application is ambiguous. Disagrees that there are buffers of woods. Feels night time activities will cause lighting issues and will be a disruption on Austin Lane. Regulations need to be put in place if granted, hours must be specified. Implored the Board to take a site walk. Her understanding was the Subdivision approved as a private Road with no access to the public

Attorney Mead, responded means people who abut the road, own the road and its not a public way

Alissa Rice, agreed that the Petition from change.com should not be allowed to be submitted

Helen Martocchio, 24 Orchard Street, agrees with what the neighbors before her stated . Mentioned her major concern is traffic. No definition as to how often events will occur. Asked about coordinating with Evenstride as it relates to traffic. Stated she walks Orchard Street and it is dangerous. Feels application is open ended. Art and craft show could go either way in her opinion in regards to entertainment or commercial. Map shows proposed 10,000 gallon fire citrines.

Attorney Mead, clarified that the applicant reused the Subdivision plan and are not on the current proposed plan and that the applicant will need to correct that

Helen Martocchio, stated only one hydrant as far as she knows. What protection in case of fire. Advertising on Facebook is far reaching and estimates of volume of people are being under estimated.

Jim Breen, 18 Austin, disagrees with counsel (applicant) can hear everything, sound carries. Discussed traffic impact, as a runner and cyclist. Mentioned personal close calls, very narrow road. Definition of commerce is providing goods and services for compensation

Gail Meserve, 8 Maple street, mentioned the horse farm is rented and done a great job with the equestrian industry. Concerned regarding additional traffic to that already occurring with horse boarders and lesson programs. Suggested a traffic study should be performed. Asked if there will be parking on horse property?

Scott Leppanen, 66 Central Street, suggested the real traffic issue will be on Central Street. Asked for a traffic study

Matthew Connorton, 78 Hanover Street, has participated in art and craft fair at the barn. Stated he is a wood worker. Felt event was wonderful. Well organized and controlled, from set up to break down, everything went very well. Applicants has good intentions.

Adam McHale, 8 Austin Lane, asked if concerts considered art and would those be part of the events? Commented application too vague.

William DiMaio, 12 Orchard Street, stated in his 44 years living at Orchard Street he has heard hunting gun shots, can hear the marching band practice, hear cheering at games. Mentioned he has not heard complaints about BCAC parking, noise and alcohol. Commented the Jespersen's are respectful and conscientious people

G. Walker confirmed he would like to have a site walk

Attorney Deschenes addressed the Board. Stated he will need to provide a more well defined understanding of specific programs, hours, and expected attendance and put together a more formal parking plan. Stated would welcome a site visit. May recommend the Jespersen's have a neighborhood meeting. Confirmed alcohol is not related to this application. Stated would like to clarify expected intensity of use. Classes, group activities, would be class room size events, not 50 or 100 people. There would not be large scale events on a weekly basis. Would like an opportunity to continue the hearing in a month or so. Perhaps come up with a definitive list.

A.Greco asked Board if feels application falls under the indoor outdoor activities criteria, Recreational use in bylaw.

G. Heavey replied no it does not fit in that criteria.

D. Packer, does not fit in that criteria

A. Greco, spoke to recreational programming at school when her kids were young

G. Walker, stated hard to say falls under that criteria. What does "not limited to" mean?

Attorney Mead, stated is discretionary. Suggested perhaps the applicant should better define the use and convince you the use fits. Provide examples that are similar in Newbury or surrounding communities

G. Walker, the intention of the bylaw, in his opinion, reads very hard scape.

A. Greco asked applicant about the possible public access to the trail network on the farm.

M. Jespersen addressed the Board. Explained the intent was to find something that would bring people to the Town of Newbury for reasons of art and outdoors.

A. Greco mentioned the statement regarding a venue to exhibit arts and crafts, event last year drew in 800 plus persons. Artisans sold their wares, and was closed before dark.

Evan Jespersen, 7 Marsh Meadow, spoke to the exhibit last year for artisans. Would only occur once or twice a year. Bring in artists, have them sell their wares, stated need more persons to assist with parking. Would need to charge some money to pay for additional people assisting with parking. Money would be used to facilitate the event if, there was any leftover could be used for such things as plowing the farm. Stated is excited to share the space

A. Greco indicated to the Board she can see things such as theater, art classes, sculpting, yoga classes, walking trails falling under recreational opportunities. Asked Attorney Deschenes at some point to explain how the venue to exhibit arts and crafts falls under recreation.

Attorney Deschenes spoke to the matter. Mentioned Recreational Departments in general and what programs they include. Asked if what they are proposing is not Recreational then what is it?

Attorney Deschenes stated will provide a memorandum of the subject.

Attorney Mead suggested may want to meet to agree what are the indoor/outdoor recreational use categories.

Attorney Deschenes clarified the various submittals and the supplementals provided

Motion: G. Walker moved to continue the Public Hearing to a date and time certain, Tuesday, December 6th 7:00 p.m. seconded, G. Heavey and voted unanimously

Discussed a site walk and decided on Saturday Nov. 19th , 10:00 a.m.

Motion: At 10:04 p.m. G. Walker moved to adjourn seconded G. Heavey and voted unanimously

Respectfully submitted,
Julie O'Brien
Executive Administrator