



TOWN OF SALISBURY  
*Office of the BOARD OF APPEALS*  
5 BEACH ROAD  
SALISBURY, MASSACHUSETTS 01952  
978-462-7839

**September 22<sup>nd</sup>, 2015**

7:00 P.M.

**MINUTES**

**Members Present:**

Susan Pawlisheck, Derek DePetrillo, Linda Tremblay, Joseph Stucker, Kevin Henderson

**New Business**

**Case No. 15-15      Jerry V. Klima  
15 Second Street (Map 7 Lot 56)**

Request for a Variance to divide the existing lot into Lot A-2, which will contain the existing residence and detached garage and Lot A-1, which will not be buildable but used as a field and garden area.

**This case was continued to October 13<sup>th</sup>, 2015 per request of the applicant.**

**Case No. 15-16      Mark and Stacie Warcewicz  
2 Red Ridge Road (Map 10 Lot 42)**

Request for a Special Permit to determine if use of a farm for both agritourism and the hosting of weddings is allowed in this residential/agricultural district.

Frank Di Luna representing the applicants explains that the applicant has been performing agritourism as allowed by Chapter 40a section 3. Massachusetts has diversified the use of farms as a means of drawing people to farms. The conduct of weddings falls under the chapter 40a section 3 exemptions. A farm must either sell its own product during the activity or from other Massachusetts farms, which the applicants have required in their weddings.

Susan explains that the town has been discussing this with the applicants over the last several weeks, particularly issues related to zoning, environmental, and building issues and abiding by them. Susan received a letter in which the applicants promise to abide by all requirements laid before them. The Board needs to give them an exemption, so the weddings will be included in the farm's agricultural activities.

**QUESTIONS FROM THE BOARD**

Kevin asks why the case was brought up if it is permitted by Massachusetts General Law. The original issue was if weddings are an acceptable agritourism activity. It is promoted by the Agricultural Department. Was the client aware of this law? They may not have been specifically aware of the law, but they knew of other farms performing weddings.

Susan wants to know how the product of the farm is incorporated into the weddings. They will allow the Building Inspector to see their records. They qualify for the exemption by selling 25% of the product raised annually through the venue and 50% from other Massachusetts farms. They require their caterers and vendors to supply from other Massachusetts farms. What is available on the farm besides cattle? Stacie Warcewicz explains that they plan to have pigs and chicken as well if they are able to continue hosting weddings. They have contracts with the three vendors they use for 2016 that they will purchase all beef from the farm. She has records of where they have gotten product. Linda asks if they can guarantee that the people are using Massachusetts farm products. The contract with the caterers requires that they get product from other Massachusetts farms.

They cannot access the field from the house as is because of wetlands. The drift way is the only route directly into the field.

They started renting out for weddings in 2012 beginning with their daughter. They have had 15 weddings this year. They have not booked for 2016 since being informed they could not book without resolving this issue.

## **ABUTTERS**

Chris Mcquire & Stacey Robinson

42 Baker Road

This is the intersection of Baker and Red Ridge Roads. Stacey Robinson is concerned because Red Ridge Road is not a public road. It is a drift way, designed so that people could get to their property for which there is no direct route. The applicants have the deeded right of way through this property to get to their lot. The applicants never asked if the right of way being used for the weddings would burden the abutters. They do not pay taxes on that road, and the abutters want a more commercial access point established. Susan asks if they have had a conversation with the applicants. The applicants did not reach out until recently. The applicants have agreed to sit down with the abutters and the town and have a mediated discussion. The abutters would not be upset with the weddings as long as there was an alternative entrance to the land.

David Fowler

14 Baker Road

Mr. Fowler, representing his father, like Chris Mcquire & Stacey Robinson, is concerned about liability. They were not approached prior, so they are feeling apprehensive.

Mark Warcewicz explains that they did not start without asking. They spoke to the previous building inspector who gave his blessing to hold weddings in the cow field. He has always used the road and up kept it before there were homes there. Susan asks why he did not consider asking them as a courtesy. He claims he got signatures of support from almost everyone on Baker Road, and he wants to keep this open space and host weddings in the future. Susan asks if he has considered an alternative route. He has not. They have 30-60 cars every weekend compared to his driving farm equipment or 1-2 cars a day in the past.

#### Dorothy & Joseph Fanaras

##### Rear Red Ridge Road

They first discovered the weddings by reading about them in the newspaper. They were never approached. They are also concerned about liability and wish they had been informed. They have approximately 2.9 acres of property there.

#### Ann St. Cyr

##### 40 Baker Road

She abuts the road. They have traffic of large equipment and others that affects her sense of safety. As this traffic turns, it can occasionally enter her yard where younger family members play. She feels that the applicants have used her land. Her daughter, Mary Beth St Seer, agrees that the traffic is negatively impacting their lives.

#### Mickey Mcquire

##### 264 North End Boulevard

He feels they have backed into agritourism by accident. They received the cease and desist and decided to use the agritourism as an excuse. This commercial use is not fair to their neighbors who bought noncommercial land for the purpose of not having commercial businesses. The drift way is 12 feet wide. Its intended use was for herding cattle, not for a huge amount of traffic. These issues, including sanitation, electric, water, and safety, are to be conditioned and explored by the town.

#### Chris Deluca

##### 27 Bayberry Lane

He owns Deluca drive, and people turn down his road due to an issue with their GPS directions. There is a risk of residents being injured as people try to access the wedding area from his road.

He wants clear signage that shows where the weddings are. He has had to chain his road off and add a "no wedding" sign. People continue to cut into his yard to reach this road, which is dangerous. Stacey has added directions to their website to avoid this GPS glitch. She wants to add a larger sign for the weddings.

Scott Vandewalle explains that they have worked with the applicants to try to find solutions. The impact of the agritourism must be offset by the positive effect of the agritourism's impact. He has called several farms in the area and the Massachusetts Department of Agritourism. The attorney and Scott have agreed to resolve issues between the applicants, land owners, and other related parties. They will try to resolve these issues to everyone's satisfaction in the next 90 days. Issues involving the land are a civil dispute.

Joseph Fanaras

Rear Red Ridge Road

Mr. Fanaras asks Mr. Vandewalle when these bylaws were adopted by the town. The zoning bylaws were adopted in 2010.

Ray Cote

45 Baker Road

He mentions that in 1986, the applicant was denied the right to put up a one story home because he did not have frontage on Bayberry Lane. The town counsel at the time advised the applicants to have their house to one side so they could have access from Bayberry Lane. He also questions the town's further involvement in potential issues involving the drift way. Because this drift way is owned privately, the town would not have a liability. It is between the two land owners. Susan explains that there is a duty to balance the abutter's concerns with the decision to decide if this is agritourism.

Fred Bishop

51 Dock Lane

He believes that farmers need to have help in succeeding.

David Fowler

14 Baker Road

Mr. Baker feels this was handled the wrong way by not notifying abutters.

Megan Noels, pending a purchase of a house on Baker Road, was not made aware that the farm was commercial. She would not have purchased this home if she had known that the farm was behaving commercially.

Stacie Warcewicz presents a petition of the people living on Baker Road who support their hosting weddings.

David Fowler

14 Baker Road

David Fowler wants the abutters to know the facts and to understand the effect the weddings have on those living directly nearby.

Fred Bishop

51 Dock Lane

Mr. Bishop asks if other farms in Salisbury have required a Special Permit to carry on their operations. Scott does not recall any other SP being issued in his time as the Inspector. Mr. Bishop wants to know why this is considered a special event. This is not an exact special permit. It is to overturn his decision that this is a commercial use rather than agritourism. Should it be overturned, they will be allowed to use this land agritourism and operate under that exemption. Mr. Bishop asks about if others have been scrutinized in this way. Susan explains that they must balance the need for enforcement with fairness.

Laura Pelletier

55 Baker Road

She wanted to live there for it to be a quiet neighborhood. She felt intimidated into signing this petition because Mark Warcewicz said he would have to sell, resulting in condominiums and thus more traffic.

**Susan makes a motion to close for discussion amongst the board. Kevin seconds. Joseph, Derek, Linda vote to approve. 5 in favor, 0 opposed. Motion passes.**

Derek agrees that they cannot know the issue until they hear from abutters. The abutters received late notice of the memorandum as it was just finalized that afternoon. He wants to have the farms function as agritourism if other farms are able to as well.

Linda does not want this issue dumped onto the laps of the abutters if permitting the agritourism will create further problems for them as abutters.

Kevin wants to continue this case until the abutters are satisfied. The abutters cannot be satisfied until they have had mediated meetings and decided a course of action that satisfies all.

Joseph feels it is one thing to want to allow people to use their land as they see fit. He feels they can only go by the by laws and State laws. It is an issue of repealing the Inspector's decision and then deciding if it is agritourism and if it is detrimental to the neighborhood. He wonders if the primary business is farming or if it is more of a wedding venue on a farm. He also wants to decide after the memorandum has been solidified and agreed upon by all parties.

Susan believes the memorandum does not address the issues of the road and the issues of if this is detrimental to the neighborhood.

Derek is concerned about this not being a special permit. They have to decide if this is agritourism when they need more information. They need more focus on if this is agritourism. He asks if they will need a full 90 days to resolve this. The secretary explains that once a case is opened, there are only 90 days to resolve a case.

Susan asks if this case will be resolved by so it will be done in a timely fashion. Mr. Di Luna would like to meet an agreement within 60 days.

Kevin asks if the applicants parcel will be landlocked without this drift way. It would not be. Derek is concerned because the applicants made it seem as though there was no other access. Mr. Di Luna and the applicants will begin to explore other options.

Susan explains that this is about being aware of one's neighbors and involving them in future decisions.

Kevin motions to continue the case to October 27<sup>th</sup>, 2015. Derek seconds the motion. Susan, Linda, Joseph vote to approve the motion. 5 in favor, 0 opposed. Motion passes.

#### Minutes

**Kevin makes a motion to accept the minutes of July 28<sup>th</sup>, 2015. Derek seconds. Susan, Linda, Joseph motion to approve the minutes. 5 in favor, 0 opposed. Motion passes.**

**Kevin makes a motion to accept the minutes of August 25<sup>th</sup>, 2015. Derek seconds. Susan, Linda, Joseph vote to approve the motion. 5 in favor, 0 opposed. Motion passes.**

#### Adjourn

**Kevin makes a motion to adjourn. Derek seconds. Susan, Linda, Joseph vote to approve the motion. 5 in favor, 0 opposed. Motion passes. Meeting is adjourned.**

Date: \_\_\_\_\_

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Susan Pawlisheck—Chairperson

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Derek DePetrillo – Clerk

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Kevin Henderson

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Beth Gandelman

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Linda Tremblay

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Joseph Stucker

Respectfully submitted by Catherine Scott

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Catherine Scott

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Date