

Zoning Board of Adjustment Meeting Minutes March 20, 2019

Meeting Notice: Chairman Montana read the meeting notice

Pledge of Allegiance: Members and professionals present participated in the pledge

Oaths of Office: The following members were administered the oath of office by Board Attorney David Rutherford:

- John Montana: Regular member for 4-year term ending 12/31/2022
- George Kakaty: Regular member for 4-year term ending 12/31/2022
- Irena Holiat: Regular member, term ending 12/31/2021
- Jim Kerner: Regular member, term ending 12/31/2020
- Lilian Peros: Regular member, term ending 12/31/2020
- Bob Howard: Alternate 1, term ending 12/31/2020
- David Yale: Alternate 2, term ending 12/31/2019

Roll Call: The following members were present: Montana, Kakaty, Holiat, Kerner, Peros, Zagorsky, Trobiano, Howard (alt.) and Yale (alt).

Approval of Minutes: Mr. Zagorsky made a motion, and Ms. Trobiano seconded, a motion to approve the January 16, 2019 minutes. A roll call was taken:

Aya: Montana, Trobiano, Kakaty, Zagorsky,

Nay:

Abstain: Holiat, Peros Kerner, Howard, Yale.

Election of Officers, Professionals, Meeting Dates, Fees, bylaws, and Conflict Counsel:

- A motion and second was made to Nominate Mr. Montana as Chairman of the Board
 - Roll Call: Unanimously passed
- A motion and second was made to Nominate Mr. Kakaty as Vice Chairman of the Board
 - Roll Call: Unanimously passed
- A motion to appoint a secretary was placed on hold. Mr. Giaimis is serving as Acting Secretary
- Mr. Zagorsky made a motion to appoint David Rutherford as Board attorney which was seconded by Ms. Holiat
 - Roll Call: Unanimously passed
- A motion and second was made to appoint Martin Spence as Board Engineer
 - Roll Call: Unanimously passed
- A motion and second was made to appoint Scott Levy as Landscape Architect
 - Roll Call: Unanimously passed
- A motion and second was made to establish the 2019 meeting dates
 - Roll Call: Unanimously passed
- A motion and second was made to establish the 2019 zoning fees
 - Roll Call: Unanimously passed
- A motion and second was made to adopt the bylaws
 - Roll Call: Unanimously passed

- A motion was made to appoint Stickel, Koenig, Sullivan and Drill as conflict council
 - Roll Call: Unanimously passed with Ms. Holiat abstaining from the vote
 - Attorney Rutherford advised the board that at the request of the applicant, the discussion of 1 Esler Lane, B. 1620, L. 5 has been carried to the next regular meeting and an extension was granted to the board to consider the application. He also thanks the board for his reappointment.
 - At this time Attorney Rutherford recused himself from the rest of the meeting pertaining to Patriot Farms, LLC and Ms. Razin of Stickel, Koenig, Sullivan and Drill took the dais.
 - Member Trobiano also recused herself from the Patriot Farm, LLC application and left the dais at this time.

Memorializing Resolution: There were no memorializing resolutions

Chairman Montana discussed the normal procedure for board members and the public to ask questions but for the purpose of this application, due to its complexity, questions will occur after each segment of the applicant's applications. He also advised the public that on advice of counsel they should only be asking questions and not offering comment.

Ms. Razin introduced herself and Mr. Burgess, board planner. She also discussed various public comments, news articles, and social media stories and emphasized that the board is starting anew and only the testimony and facts presented to the board are what will be considered by the board

Applications: Block. 1801, Lot 7.01, 12 River Farm Lane, Patriot Farm, LLC

Mr. Montana announced the details of the applicants.

The attorney for the applicant, Mr. Jaworski, introduced himself, the applicants, and application in general. He discussed the past process of the application and how we got to this point. He advised why he was starting over with the new board in this calendar year and that the meeting was re-noticed per the land use law. He noted that he allowed the board more time to act on the application.

He then proceeds to discuss the application and described the property in general. Discussed environmental and DEP issues and informed the board he will offer witnesses to confirm all permits have been secured and will be able to secure any other permits sought by the board engineer. He read from 201-9, 210-9(d)(1)(c) regarding animals in the R1 district. He advised that he will be proposing less than the allowable number of horses. He discussed the 19 acres and how the criteria is impacted by the R1 rules.

Substance: He described the project as an equine estate and informed the board that he is proposing, in addition to the residence being construction and several accessory structures, a barn (6080 SF) and riding room (16,00 SF). He is asking for preliminary and final site plan as well as 3 use related variances and several bulk variances. He briefly discussed on all of these prior to the witnesses coming forward and the reaction from those who received the 200-foot notice list. He described the history of the lot and what is currently being done.

Ms. Razin interrupted and asked for clarification regarding a prior comment on affordable housing and Mr. Jaworski advised that his clients are not threatening litigation in this regard. Ms. Razing advised that the board will consider the application on its merits.

Mr. Jaworski advised of the past applications of the planning board and offered exhibits of same. He also noted that they secured both the approvals of the NW Bergen Health Commission and BC Planning Board for the application before the board. He also provided the note from the construction office refusing the permit which brings the application to the board. He noted that he is before the board so the applicant can have live in help to take care of the horses which are otherwise permitted in the zone. He advised that the aforementioned barn will contain 2 small apartments for a managing groom and assistant groom. He advised that the applicants have abandoned the prior approval for a 3-lot subdivision and will not explore the opportunity to maintain the 3-lot subdivision to mitigate the need for zoning approval. The second issues that is requiring board approval is the boarding of horses. He noted that he will accept a limit of 12 horses on the sited despite the fact that he is allowed to have 19. He is asking for 8 of those 12 stalls to be available to board horses. He described details around the boarding of horses and clarified that while it sounds like a commercial operation but he stressed that this is not a profit-making entity and differentiated what is being proposed and a traditional commercial boarding of horses. He mentions that there is no staff trainers and the high end trainers will come once or twice a week to train people who board their horses and their own daughter. He noted that he will accept a condition of approval that limits the utilization of the property in the matter they are describing by the board. He advised that the standard for a use variance is particular suitability and absence of detriment. He suggests that 19 acres makes this possible.

Mr. Jaworski introduced his witnesses. His first witness is Ms. Debbie Cerbone, and landscape architect and professional planner, Deborah Cerbone Associates, 540 Route 202, Far Hills, New Jersey 07931. His second witness is Mr. Tibor Latincics, Conklin Associates, 29 Church Street Ramsey, New Jersey 07446. His third witness is Daniel Glick, Amish barn builder who will be at the next meeting and his final witness will be the planner to wrap up the application.

Swearing in of witnesses: Board Attorney Razin swore in Ms. Cerbone, Mr. Latincics along with Board Professionals Scott Levy (Landscape architect), Joe Burgess (planner) and Martin Spence (engineer).

First witness for the applicant: Ms. Deborah Cerbone – Ms. Cerbone discussed her professional background, education and experience with horses. She answered questions on same from Mr. Jaworski. She discussed her role in the project as taking the needs of the horses and clients in developing a site plan that functioned for all of them and offered significant details throughout the course of her testimony in this regard. She offered a detailed explanation of the applicant's daughter experience and background with riding horses. She discussed in detail the process of boarding of horses and the various things that go into taking care of the horses both in general and how it relates to this proposal. She discussed in detail the current use related to the community supported agriculture taking place on the property. She continued to discuss the layout of the property and the use. She further described the various temperaments of horses and more details on why these horses needed FT care. She mentioned that this was a private facility and not open to the public. Ms. Cerbone gave a detailed explanation of pasture management and large animal waste management. She described what this meant in detail and how it relates to the proposal. She affirmed that the applicant intended to comply with the state's best management practices in this area. Regarding, manure, she referenced the states management plan and that theirs is approved and permits are received. She described this plan in significant detail. She also discussed in detail hay storage and the manner in which it will be delivered

and the various other vehicles that might visit the property if the application is approved. At this point Mr. Levy, board landscape architecture discussed some issues related to landscape architecture of the project. She then spoke in detail about the landscape architecture on the project to address issues raised by the landscape architect for the board.

Mr. Jaworsky ended the presentation and questions for this witness and the Chair asked Mr. Spence to the opportunity to ask questions of the witness.

Mr. Spence asked questions regarding to qualifications of staff and how they are selected. Ms. Cerbone suggested they were looking for single applicants who needed an extensive knowledge of horses pertaining to the applicants need and proposed project. Regarding the riding arenas, Mr. Spence asked what if any treatments were required. Mr. Cerbone replied that the sand would need to be dragged. Mr. Spence asked about dust and was advised that they do get watered. Mr. Spence asked if any other state permitting/licensing needed. None was advised. Mr. Spence asked about the lifespan of a horse and what occurs when they are deceased. He was advised that anywhere from 30-35 years old. It was further advised that service addressed the deceased animals.

Mr. Burgess, Board Planner, asked questions about traffic related to feed deliveries and was advised that this would occur once per month. He asked if there were seating areas that would generate more people coming to see the horses. He was advised that there is a viewing room intended for family and friends of those boarding horses; not public. Mr. Burgess asked how many people can be in the sitting areas. He was advised that it is not stadium seating and not intended to be for the public.

Mr. Levy, Board Landscape Architect, asked about lighting and signage. He was advised that there will be no lighting or music in the outdoor arena.

Chairman Montana opened the meeting to the public for this specific witness

Henry Senger, 69 W. Saddle River Road: Commented that he was pleased with the concept and collapsing a 3-lot subdivision into one. He described the horse background in his family and the importance of having staff on site. Applicant was sworn in after his testimony because he made a comment and did not ask a question.

Attorney Razin advised the audience that this was for questions, not comments.

Lucille La Salla, 4 River Farm Lane: The resident asked the applicants witness if there was a guarantee the staff would be single. And are they employees or boarders. She was advised that they were employees and the process would be very selective. The witness described the applicant and lease process in general and what type of person could be interested in the situation.

Chairman Montana opened the discussion up to board members.

Ms. Holiat: Asked how many washing stalls there would be and advised there would be 2 with hot and cold water. Asked what type of horse trailers there would be and was advised that a 3-horse trailer would be there on a regular basis. Asked how often indoor footing was changed and was advised that it would be based on professional recommendation. Asked whether or not a conversation occurred with the FD regarding the turn around and was advised that those discussions occurred with the prior Fire

Marshall and they agreed to the recommendations. She asked for details of what type of shade trees would be planted and was advised of the several types that would be planted.

Mr. Zagorsky: Asked if the facility would be open to the public and was advised that it would not be.

Ms. Perros: about the potential for further commercial farming. She was advised that the 14 clients come to the site once a week and the excess are donated and that is the plan for the future. Regarding the breeding and sale, she asked if there would be active grooming sales and was advised that the answer was no. She asked how many parking spots were available and the answer was 9.

Mr. Yale: Asked how size of arena was determined and was advised that a future witness would be able to discuss those at the next meeting. He further asked how the arena size might contract to a more commercial entity. He was advised that the size is the same regardless and is based on discipline and the manner in which the applicant rides. Asked about the hours of operation of boarders and was advised that daylight hours would be the hours.

Mr. Kerner: Asked about any other potential staff and was advised that there are usually 2 people helping out on the farm.

Mr. Howard: Asked about qualifications of individual staff members and was advised that one would be more like a supervisor and have more qualifications. Regarding manure smell he was advised that composting would reduce the odors.

Mr. Kakaty: Asked about current traffic stream and was advised that it was 14 customers, 2 per day.

Mr. Montana: Asked how often there might be a nighttime distress event. He was advised that the answer was difficult. He asked why two were needed and was advised so they could take a day off. Asked and was advised that cameras would be there but immediate care was still needed. (1:15 remaining). He asked about boarding requirements and whether or not why the applicant wouldn't just buy more horses instead of allowing others. He was advised that he wanted to allow other people to use it and provide the opportunity for others as this was his hobby. He asked Mr. Jaworski if it was legal to stipulate a wife could not come in and Mr. Jaworski said he was not stipulating this.

Chairman Montana allowed Lucille La Salla of 4 River Farm Lane to ask a question: She asked whether the days of operation would include Sunday and the answer was yes and compared it to a family having houseguests on the weekend.

The Chairman closed this portion of the public comments and allowed Mr. Jaworski to call his next witness.

Prior to doing so Mr. Spence explained his memorandum relevant to the next testimony.

The applicant called Mr. Tibor Latincics, Engineer of Conklin Associates, 29 Church Street Ramsey, New Jersey 07446. He was sworn in earlier in the meeting and provided a background of his professional and academic expertise. He was accepted as an expert by the chairman. He provided an overview of the technical and site plan elements of the property. He described the existing conditions of the property and described the property in significant detail and where it is located in relations to saddle

rivers boundaries. He explained flooding issues and past uses and history of the properties and why he believed it was well suited for this use. He described the existing land uses that are operating or under construction at this time. He discussed the proposal for the 19 acres and why he believes these are suitable for the property. He described the lot coverage, building coverage, barn, indoor riding arena, turnout shed, viewing pavilion, manure composting shed, garden shed, flag pole, and framed enclosures for equine purposes. He discussed the fire protection measures of the property and discussed in detail the various measures taken to make the property suitable for emergency services purposes. He discussed several issues related to the DEP and advised that all necessary permits have been obtained. Regarding lighting he advised that there would be routine security lighting but no other outdoor or commercial lighting planned for the outdoor arena. He discussed the various traffic patterns that could occur under a subdivision and compared that to this application. He discussed the soil movement aspect of the application and mentioned it would be around 5000 cubic yards.

Mr. Latincsis discussed the bulk variances requested.

- Section 210-10 (4) which limits Accessory Buildings to 1000 SF; The Barn is 6080 SF. The Indoor Riding Arena is 16,000 SF. At the request of Mr. Jaworsky, he discussed how far away any adjacent residences are from this. He answered this in detail by going through each adjacent property and its distance.
- Section 210-32-B required Accessory Uses and Buildings to be set back 25' behind the front building line of the Principle Building. The following buildings and accessory use structures are in front of the Principal Single-Family Home; Outdoor Riding Area, Round Pen, Five Turnout Sheds, Farm Shed, Outdoor riding area viewing pavilion
- Section 210-11.1 B. (1) limits Decorative Cupolas with a square base to 3 x 3. The Barn and Indoor Arena ventilation cupolas are not decorative but essential ventilation components for the Barn and Indoor Arena. As a practical matter these cupolas shall be larger than 3' x3' for adequate ventilation, functionality as well as architectural reasons. A single 84" square by 13' tall cupola is proposed for the barn. The indoor riding arena has 3 Ventilation Cupolas. Two are 60" square with a height of 10.0'. The center Ventilation Cupola is 72' Square with a height of 12'. All cupola heights are references above the roof ridge. Lightning rods may extend above the cupolas.
- Section 210-11.1 B. (4) exempts Decorative Cupolas from the maximum building height limit if the cupola is no greater than 3' x 3' x 5'. However, as the Barn and Indoor Arena exceed the permitted 17' roof height for Accessory Structures, it would seem prudent to request a confirming variance to exclude the Functional Ventilation Cupolas and lightning rods from the building height calculate
- Section 210-10 A. (6) (a) may limit the number of garage doors to six on any property. There are currently 6 garage doors on the 19-acre property. Three in the principle home. Two on the drive-thru Horse Trailer garage One on the Farm Tractor Storage Building. These existing overhead doors would be supplemented by; Two additional on Farm Tractor Storage Building. Three on the Farm Storage Building Garage
- Section 210-10 (3) which limits the roof height of accessory structures to 17'. Height of Accessory Buildings shall be measured from the average finished grade or the lowest floor, whichever is more restrictive. The barn roof height measured to the lowest barn floor is 31"-10". The Indoor Riding Arena roof height measured to the sand floor of the indoor arena is 31'-3" and 33'-3" to the lowest grade at the exterior of the building.

- Section 210-10 (3); If there is a 17' height limitation for the accessory buildings that applies to flag poles the applicant requests a variance to allow a 25' tall flag pole in front of the barn on the 19-acre farm.

He then discussed the use variances.

The Use Variances that are being requested are as follows.

- Section 210-9 A; In additions to the primary five-bedroom single family home, two, living spaces for the Managing Groom and Assistant Groom are proposed within the barn. This additional residential use would require a Use Variance within the R-1 Residential Zone.
- Section 210-9 E (2) (b); The boarding of animals is prohibited. Up to eight of the twelve stalls would be available for boarding horses.
- Section 210-9: Trainers may be available to provide riding lessons to resident boarders for a fee through Patriot Farm, LLC. This would be a commercial use within an R-1 Zone.

Mr. Latincics discussed the letter from engineer Spence. This letter included issues related to parking stalls and the ADA, design of the septic system which was provided, information regarding approval from the fire officials and marshal, emergency turnaround, DEP issues, drainage information. He advised that he would comply with and provide all the information to the board engineer as requested.

Chairman Montana opened the floor to questioning from Board Professionals.

Engineer Spence: Clarified that the earlier referenced 5 lot subdivision was never approved by, or presented to, the board. The 3-lot subdivision was submitted and approved. He noted that the sand is included in the approved lot coverage which is still below the maximum coverage. He noted that the BC letter that merely said the county was not taking jurisdiction and did not address any merits. Mr. Spence asked a follow up question for Ms. Cerbone regarding the number of horses. He asked if with all the carve outs the property would still support 12 horses. Ms. Cerbone advised that it would and provided reasons for same.

Mr. Burgess: Made a comment regarding RSIS and how the figure is generated.

Chairman Montana opened the meeting to the public for questions.

Lucille La Sala, 4 River Farm Lane: Asked how much buildable property was on the 19 acres. The applicant discussed the flood aspects of the property and what could and could not be done on the property given its constraints. He estimated that 12 of the acres would be buildable. She also asked a question regarding traffic and how it was approved prior. It was agreed that the approval was for 3 units and it was stated that this was a business decision. She asked if the traffic calculation was based off 3 homes and the applicant provided more detail. She asked if those live there would have vehicles and the applicant said that was factored into their analysis.

Chairman Montana opened questioning up to board members.

Mr. Howard: Asked how it was determined how many pinch points were needed. Mr. Latincics discussed the formulas on how this was determined.

Mr. Kakaty: No questions

Ms. Holiat: No questions

Mr. Zagorsky: No questions

Ms. Perros: No questions

Mr. Yale: Asked if there was consideration to widen the road and was informed the answer was no because it was a public road and offsite improvement and it was not believed it was needed based on their testimony.

Mr. Kerner: Asked question regarding cupola and what might or might not be allowable by law. The applicants responded that they believe a variance is needed because they are functional, and not decorative, cupolas. A discussion on decorative, functional, and whether or not they are the same took places. Mr. Kerner asked a question regarding accessory buildings and an extra story and whether or not it requires a variance. It was stated that the accessory use can't be more than one story.

Mr. Montana: Asked if enclosed area and paddocks with grass were included in lot coverage, or only the one with sand. It was stated that the sand/dirt area was not included.

A motion was made, and seconded, to adjourn the meeting and carry this until the next meeting.

The vote passed unanimously.