

**MINUTES OF THE SADDLE RIVER BOARD OF ADJUSTMENT  
MAY 15, 2019 AT 7:00 PM  
SADDLE RIVER MUNICIPAL BUILDING**

**Note:** *Chairman Montana and Attorney Rutherford stated that due to the Borough's recording system not working properly, the applicant for Patriot Farms has graciously agreed to provide the Borough with the videotape of tonight's meeting.*

**SUNSHINE LAW:** Chairman Montana stated: "I have been informed by the Clerk that adequate notice has been provided by mailing a notice to The Herald News and The Record on January 3, 2019 and posting a notice in the Office of the Borough Clerk and on the Borough website."

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:**

**PRESENT:** Chairman Montana, Board Members Zagorski, Kakaty, Trobiano, Holiat, Kerner, Howard (alt.)

David L. Rutherford, Esq., Board Attorney  
Martin Spence, Borough Engineer  
Joseph Burgis, Borough Planner  
Cindy Kirkpatrick, Board Secretary

**ABSENT:** Board Members: Peros, Yale (alt.)  
Borough Landscape Architect Scott Levy

**APPROVAL OF MINUTES**

A motion was made by Mrs. Holiat, seconded by Mr. Zagorski to **approve** the March 20, 2019 minutes.

Roll Call:

AYES: Montana, Zagorski, Kakaty, Trobiano, Holiat, Howard

NAYES:

ABSTAIN: Kerner

ABSENT:

**MEMORIALIZING RESOLUTION(S):**  
**ZBA 12-19**

**Block 1611 Lot 4.03  
15 Big Ramapo Road  
Renco SR Realty, Inc.  
Proposed single family dwelling (new  
construction)  
APPROVED**

Attorney Rutherford gave an overview of the application at this time. Those members eligible to vote on the application are Board Members Trobiano, Zagorski and Holiat.

A motion was made to approve the resolution by Ms. Trobiano and seconded by Mr. Zagorski.

Roll Call:

AYES: Trobiano, Zagorski, Holiat

NAYES:

ABSTAIN:

ABSENT:

**ZBA 13-19**

**Block 1602 Lot 5  
1 Esler Lane  
Joseph and Sharon Carretta  
Proposed height of detached garage exceeds  
the maximum allowable.  
APPROVED**

Attorney Rutherford gave an overview of the application at this time. Those members eligible to vote on the application are: Chairman Montana, Vice Chair Kakaty, Members Trobiano, Zagorski and Holiat.

A motion was made to approve the resolution by Ms. Trobiano and seconded by Mr. Kakaty.

Roll Call:

AYES: Montana, Kakaty, Trobiano, Zagorski, Holiat

NAYES:

ABSTAIN:

ABSENT:

At this time, Ms. Trobiano recused herself from hearing the Patriot Farm, LLC application and departed from the dais. In addition, Mr. Rutherford recused himself from the hearing and departed from the dais. Kathryn J. Razin, Esq. (from the firm Stickel, Koenig, Sullivan & Drill, LLC) substituted as board attorney on the following application.

**APPLICATION(S):**

**Blk. 1801 Lot 7.01  
12 River Farm Lane  
Patriot Farm, LLC  
Proposed horse barn and indoor riding arena  
building area exceed the maximum allowable  
area of 1,000 sq. ft. and height of 17 feet.  
Living quarters over barn are not permitted in  
the residential zone. Commercial use of  
property is not permitted in the zone. Proposed  
accessory structures are not 25 feet behind the  
front building line of the principal structure.  
Proposed size of cupolas atop barn exceeds the  
maximum dimensions. Proposed number of  
garage doors exceeds the maximum permitted.  
Boarding of animals is not permitted in the**

**zone.**

The Applicant was represented by James E. Jaworski, Esq. of Wells, Jaworski and Liebman, LLP, 12 Route 17 North, P.O. Box 1827 Paramus, New Jersey 07653-1827.

Attorney Jaworski explained that this is a continuation of the hearing, having appeared before the board in March and April 2019.

Peter G. Steck, 80 Maplewood Avenue, Maplewood, New Jersey 07040 was sworn in by Ms. Razin.

Ms. Razin noted that Messrs. Burgis and Spence were previously sworn in.

Mr. Steck provided his qualifications and was accepted as an expert by the Board.

Exhibits were entered into the record as follows:

- A-20 Planning Evaluation – Application of Patriot Farm LLC, prepared by Peter G. Steck, P.P. dated May 6, 2019
- A-21 Colored Rendering of Patriot Farm site plan with identification of “use” and “dimension” variances, prepared by Peter G. Steck, P.P. dated May 15, 2019

Mr. Steck reviewed his May 6<sup>th</sup> evaluation report. The property in question is a 19.0 acre parcel abutting the Saddle River and accessed via River Farm Lane. The property contains a large, irregularly shaped lot.

There is a vegetable garden on the property which the applicant would like to continue farming, but there is also a desire to expand the farming component to include equestrian facilities, especially due to the fact that the applicant’s daughter is an accomplished rider.

The application consists of modifying the farm use to accommodate horses, barn riding arena and out building.

Mr. Steck spoke about Master Plan considerations as well as zoning considerations. He also reviewed the variances that were being requested, namely:

- Section 210-9A
- Section 210-9
- Section 210-10A(3)
- Section 210-29
- Section 210-10A(4)
- Section 210-10A(6)
- Section 210-11.1B(1)
- Section 210-11.1B(4)
- Section 210-32B

At this point, the following exhibits were marked into evidence:

BOA-3 Memorandum from Burgis Associates, Inc. dated May 13, 2019

BOA-4 Memorandum of Katie Razin, Esq. to Saddle River Zoning Board of Adjustment dated April 19, 2019

The discussion turned to Exhibit A-21 (colored rendering of Patriot Farm site plan with identification of "use" and "dimension" variances prepared by Peter G. Steck, P.P. dated May 15, 2019).

There are three d(1) variances being requested: for second principal building; for horse boarding use (up to 8 horses); and for two grooms' dwelling units. D(1) variances are uses not permitted in the zone.

Mr. Steck argued that with respect to the dimensional or "c" variances being sought, there is a hardship and practical difficulties as well as benefits that substantially outweigh any potential detriments.

There will be a total of 11 garage doors which will not be easily visible from the road.

The cupolas are duly purposed serving both aesthetic and functional purposes.

The expert witness stated that this application promotes the permitted use of farming and promotes open space. It is a large property and not on main road. It is also an environmentally sensitive property. DEP has already given their approval.

Mr. Steck concluded by explaining his reasoning as to why the negative criteria are fully satisfied.

Chairman Montana opened the meeting for the professionals to question the witness:

Mr. Spence did not have questions at this time.

Mr. Burgis asked the witness to break down the individual "d" variances and identify the special reasons and negative criteria associated with each to which Mr. Steck responded, emphasizing the farm use of the property. Horses will either be owned or authorized by the resident family and are likely to be high-end horses receiving same level of care.

Mr. Burgis asked the witness to expand on his testimony concerning the functionality of the cupolas and how it promotes public safety. Mr. Steck said the proposed method is safer than mechanical ventilation.

Mr. Burgis wondered how the public can appreciate the aesthetic appeal of the property when it is not mostly visible to the public. Mr. Steck replied that the estate can be viewed from a public street (River Farm Lane) and will be more visible in the winter when the trees are bare.

Mr. Burgis clarified that his line of questioning is not to be interpreted as being in favor or opposed to the application, but merely to elicit further information.

At this time, Chairman Montana opened the meeting to the public for questions directed toward the witness:

Ravi Sachdev, 2 Adams Rd., asked how many employees would be on site at any given time? Mr. Steck replied that there will always be an employee on site, with a maximum of two employees. Veterinarians may come and go.

Lucille Lasalla, 4 River Farm Lane, asked when was the last time Saddle River permitted a commercial enterprise in a residential zone. Mr. Steck did not know. Chairman Montana said it was when Lower Cross Road application came before the board about 17-18 years ago.

Jeff Liva, 30 Bayberry Dr., questioned if two grooms would be enough to care for horses if two or more horses got ill. Mr. Steck said that he would rely on the expertise of the applicant and their experts.

Ravi Sachdev, 2 Adams Rd., asked about the total investment for the operation. Mr. Steck replied that he does not know, nor is it a consideration for the variances to be granted.

Chairman Montana invited board members to ask questions of the witness.

Mrs. Holiat said that the board previously approved 3 lots on the property and asked if the applicant could have used one lot as the primary residence and combined the other two lots for the barn, in effect creating two dwelling spaces? Mr. Steck responded that there could have been two separate dwellings and a farm as they are all permitted uses on the property. Mr. Jaworski added that it would have obviated the need for second principal structure.

Mr. Kerner clarified the matter of detached single family dwelling as it applies to this application. He also thought that a d(6) variance would be required due to height of cupola. Mr. Steck said in his opinion, the cupola can be considered an accessory component to the principal use and a "c" type variance.

Mr. Kerner spoke about boarding of the horses and their need for herd mentality being a man-made hardship. The witness said he is not making a hardship argument, but rather promoting farm use.

If 24/7 coverage is required as testimony reflects, Mr. Kerner asked why do employees need to live on site? He made the comparison to police dept., fire dept., hotel, assisted care living facility and the fact that employees do not live at those locations despite the need for 24/7 coverage. Mr. Steck replied that it's traditional to have the grooms live at the barn and also the other facilities mentioned typically have shift employees.

Mr. Kerner discussed the concept of "kennel" and asked if the horses were on site and there was no consideration exchanged, would that affect the boarding aspect of the application? Mr. Steck did not think that removing money from the equation would exclude the farming use.

Mr. Kakaty asked if there was a way to reduce the height of the cupola without giving up functionality? Mr. Steck replied that the cupola is proportional to the structure and it is an issue of aesthetics and proportionality.

Mr. Howard asked for clarification regarding boarding of the horses. Mr. Steck stated that applicant would ideally like to have 12 horses, 8 of which they would board. The state considers boarding as part of the farming enterprise.

Chairman Montana asked Attorney Jaworski if he would stipulate that there be only one employee in the apartment and secondly, could Saddle River residents be given priority for boarding their horses? The attorney will check with the applicant.

Attorney Razin advised the board not to limit the condition in the resolution to a single tenant.

In contrast, however, she would suggest that the applicant advertise the apartments as a single bedroom apartment and a studio apartment. The condition could also stipulate that the tenants must be employees of the farm.

Mr. Zagorski thought that there should be no condition limiting number of tenants in the apartments.

Mr. Burgis provided a summary of his observations.

Chairman Montana asked the Board members if they had any questions for Mr. Burgis. Seeing none, he opened the meeting to the public for questions directed to Mr. Burgis.

Jeff Liva, 30 Bayberry Dr., commented on the number of (potential) affordable housing units that could possibly be included on this property.

Ravi Sachdev, 2 Adams Rd., asked about height restrictions. He also inquired as to whether this would be a commercial venture. Mr. Steck responded in the negative and added only owners of horses can tend and/or ride their horses.

Dean Cerf, 2 Lookout Dr., wondered if the applicant would consider allowing supervised children to learn about the care and compassion of the horses. Attorney Jaworski suspects that is something the applicant would entertain.

There being no further witnesses, Chairman Montana opened the meeting to the public for comment.

Robert Lahita, 31 West Church Rd., spoke about his support of the application.

BJ Ehrhardt, 23 Kipp Rd., Goshen, NY, born and raised in Saddle River, spoke about her support of horse farms in Saddle River.

Jeff Liva, 30 Bayberry Dr., wished to read a statement from Michael \_\_\_\_\_, 27 Burning Hollow Rd. Mrs. Razin explained the Boards' rights to hear a statement from an individual not present. Dr. Liva read the statement in support of a horse farm. Dr. Liva added his support of the application.

Frank Hughes, 6 Ridge Crest Rd., stated his support of the application.

Ravi Sachdev, 2 Adams Rd., expressed support for the application.

Dale Smith, 17 Dennison Dr. East, spoke about his knowledge of horses and supports the application.

Dean Cerf, 2 Lookout Dr., implored the board to support the application.

Patty Nazzaro, 3 West Wind Ct., is in favor of the application.

Tami Trobiano, 76 West Saddle River Rd., the application has her full support.

Henry Senger, 69 West Saddle River Rd., hopes that the board will support the application.

Jim Burt, 183 Braeburn, commends the tenacity of the applicants and thinks the proposal is a crown jewel.

Lucille Lasalla, 4 River Farm Rd., does not see the necessity for business of boarding horses. She wishes the applicants well.

Ravi Sachdev, 2 Adams Rd., again noted his support of the application.

Seeing no other member of the public who wished to speak, Chairman Montana closed the meeting to the public.

The Chairman reminded all that in order for the use variance to be approved, there must be 5 affirmative votes. Tonight there are 6 voting members, but in June, there should be 7 voting members. Attorney Jaworski requested a sense of the board.

Mr. Jaworski provided his summation of the application followed by Mrs. Razin's instructions to the Board.

Mrs. Razin summarized the three issues for interpretation:

Three "d" variances being requested: 1) boarding use, 2) residential, and 3) barn as second principal building.

Mr. Zagorski asked for clarification regarding "principal" building in Chapter 210. Mrs. Razin offered her interpretation. Mr. Zagorski takes exception to the way Chapter 210 ("Zoning") is written. Mrs. Razin explained that now is not the time for the modification of the ordinance.

Mrs. Razin took a straw poll as to whether the board agrees with the request for the three "d" variances:

The Board members unanimously agreed with the request, but Mr. Kerner also thinks height issue should be considered as 4<sup>th</sup> "d" variance.

Mrs. Razin took a straw poll as to whether the cupola should be considered a "c" variance:

Mr. Zagorski said that the cupola is not only decorative but functional too and does not believe it requires a variance.

The remaining board members agreed on the "c" variance aspect of the cupola.

Chairman Montana took a sense of the board:

Holiat – yes

Zagorski – yes, without conditions

Kerner – no

Kakaty – yes, with restrictions

Howard – yes, with restrictions

Montana – yes, with restrictions

Mr. Jaworski advised that he would like to proceed to a vote with only the six voting members.

Mrs. Razin confirmed that she is in receipt of certifications from Messrs. Kerner and Howard that they reviewed the transcript of the previous meeting.

Mrs. Razin reviewed the conditions.

Mr. Spence asked for clarification regarding special events and Mr. Jaworski advised that there were no anticipation of shows.

Mr. Spence referred to his February 19, 2019 memo and pointed out that he had made a comment for widening of River Farm Lane, however, Mr. Jaworski does not feel that it is a burden that the applicant should bear. Mr. Spence will take it out of his review. Mrs. Razin asked the engineer to provide her with a copy of his memo.

If traffic problems arise as a result of the granting of this application, Mr. Kakaty asked what can be done. Mrs. Razin explained that traffic would have to be monitored, but the applicant could not be brought back before the board on that issue. Mrs. Razin would include in the resolution that development would have to match the plans.

Prior to voting, Mrs. Razin reminded the board members of the "d" and "c" variances being voted on.

**Vote on the "d" variances (boarding, residential and second principal barn building):**

Motion to approve the "d" variances made by Mr. Zagorski, and seconded by Mrs. Holiat.

**AYES: Holiat, Zagorski, Kakaty, Howard, Montana**

**NAYES: Kerner**

**ABSTAIN:**

**ABSENT: Peros, Yale, Trobiano (recused)**

**Vote on the "c" variances:**

Motion to approve the "c" variances made by Mrs. Holiat, and seconded by Mr. Zagorski.

**AYES: Holiat, Zagorski, Kerner, Kakaty, Howard, Montana**

**NAYES:**

**ABSTAIN:**

**ABSENT: Peros, Yale, Trobiano (recused)**

Upon motion by Mrs. Holiat, seconded by Mr. Kerner and agreed by all, the meeting adjourned.

Respectfully submitted,

Cindy Kirkpatrick  
Secretary to the Board of Adjustment