

**Leicester Zoning Board of Appeals
Meeting Minutes**

Minutes of June 4, 2014

Members present: David Orth; Chairman, David Kirwan; Vice Chairman, Jim Buckley; Clerk, Vaughn Hathaway

Alternate members present: Jim Reinke

Hearing on the petition of Michelle Albrizio of 1 Rural Drive, Leicester, Ma. for a Special Permit to house and raise three (3) miniature horses on property.

Meeting called to order at 8: 26PM

Instructions were given on the hearing procedures.

Voting at tonight's meeting: Jim Buckley, Vaughn Hathaway, David Kirwan, David Orth, Jim Reinke

Mr. Buckley read the Notice, Application, a letter from the Building Inspector, and Finding of Facts into the record.

Submitted into Evidence: a Registered Plot Plan, the green and white receipts from the Certified Mailing to abutters

Correspondence received: Site consideration from the Building Inspector, letter from the Board of Health; two letters in opposition from Paul Bernard; letter in opposition from Angela Rothera; letter in opposition from Mary Fish; letter in opposition from the LeBlanc Family

Mr. Orth opened the meeting to the applicant to address the Board.

Ms. Michelle Albrizio said all the animals purchased will be male and gelded and she was looking to purchase two miniature geldings. The area to house the animals was on the other side of her lot where it slopes up towards the cemetery and is the most level spot on her lot. They will need to fill one end to bring it more level on one side.

The plan for the barn was reviewed with the Building Inspector to make sure it was within the zoning setbacks and she was told there was more than enough land for the barn to be placed away from her abutters. There will not any running water and she was told that the more trees there was between the barn and the abutting properties the better because the horses drink up to 250 gallons of water a day, and the trees would catch the urine, therefore the urine would never reach an abutting property. There are also some certain plants that can be planted around the site that would be safe for the animals and absorb the liquid on the property as well.

Addressing the concerns of smell, she doesn't want the smell either and there a simple way of avoiding that, it's called cleaning. It's picking up the waste every day and making sure there are clean shavings put down. Horses are known to urinate in one area and that's where the shavings are put down and will be cleaned daily. They don't roam like on a large farm, there are only two horses and will be within a small area. Their stalls will also be cleaned daily.

Ms. Albrizio continued. The barn size will be a 10 x 20 instead of 12 x 18, because the Building Inspector advised her that by having a 10 x 20, she would meet all the setback requirements. Miniature horses don't require any major fencing, so she wants to put up a 48-inch x 100-foot silver galvanized steel perimeter fence. This type of fencing is easy to move and can be relocated if needed. She priced vinyl fences and found it very cost prohibitive.

These horses will be show horses and will be maintained. They have to be kept in pristine condition. They will have talked with a Farrier, (professional breeder) from Camp Marshall who agreed to do the health care for the horses. The horse shows will be out of 4H and also on the national level.

She was not looking to get a third horse right now, but thought it would be easier to add that into the application now, as a possibility down the road, so they wouldn't have to go through this process again.

The horses will be trained as show horses and will be worked with every day. They will not be allowed to roam freely; they will be under supervision at all times.

They've been invited by the Leicester Harvest Fair Committee to represent 4H and show the horses at the Fair, as well as, the Town of Auburn during their Fourth of July Celebration.

She wants to form a club called the Leicester Little Bits that will be opened to all children and run by adults.

They will not be breeding the horses. These horses will be strictly pets and show animals. The U.S. Government identifies the miniature horses as a pet, not livestock. They are not treated any different from a dog or cat. They are not loud animals. They were considering a miniature donkey, which they found out they can be loud.

With all respects to her neighbors, she understood their concerns and was with them. She didn't want to be having a cookout and have the smell of the animal waste either. She contacted the representative of Camp Marshall regarding composting the waste. It will be put into containers with locked covers and then twice a month, will be loaded onto a trailer and brought to a farm in Charlton.

Ms. Albrizio felt it was important to have a place where the kids can come and learn how to care for animals. She would also include fund raising programs.

She has taken serious consideration in this project and has done her homework in finding all the information needed.

Mr. Hathaway mentioned that the Board can only hear what was advertised on the Notice and put in the paper and the petition only mentions the miniature horses and not the goats. He felt the Board would not be able to make a decision regarding the goats.

Mr. Hathaway continued. The plot plan doesn't show the proposed structures or distances. Ms. Albrizio presented her plot plan explaining that the Building Inspector advised her to keep the barn 10-feet from the property line. She showed where she wants the barn and it will be more than 10-feet from her abutters.

Mr. Hathaway said the distances need to be marked on the plan so the Board can see what is being proposed. It was said that the barn was going to be 10 x 20 so another permit won't be needed.

Ms. Albrizio said yes, the Building Inspector said if she put up a 10 x 20 shed, she would not be required to pull a permit and anything larger, they would need a permit.

Mr. Hathaway asked if that size would be big enough for both horses. Ms. Albrizio said yes, each stall will be 8 x 5-feet, which is more than sufficient to house a miniature horse.

Mr. Hathaway asked if there would be one horse per stall. Ms. Albrizio said yes, there will be three stalls, one for each horse and one for grooming. The upper portion of the barn is where the hay will be stored.

Another option is to move the barn sideways, so that the paddock would be more in her backyard than on the side. The barn would still be in the same area, just flipped the other way and it would bring the paddock area further away from her neighbors on her left.

Mr. Brian Rivers, 80 Waite Street said he lives down slope from this property and it's a 12 ½-foot slope and a 25-foot span around his in-ground pool. There is a water runoff there and it runs between the two properties. Every time it rains, it's a natural runoff and the area becomes very soggy.

There is a water table underneath his property and if this seeps into the water table, it gets into Waite's Pond, which runs through all the rivers and down to the mill and just keeps going. That's a lot of phosphates and nitrates getting into that water.

That's one problem; the next problem is the smell. He just spent \$30,000 in his backyard and he does not sit there and have a cookout and deal with the smell. If he wanted to live next to a petting zoo, he would move to Mendon. He likes where he is and has been there for 10-years.

Ms. Elizabeth Jacques, 73 Waite Street said she lives on Waite's Pond and is very concerned with any runoff that may be going into our already polluted pond.

Mr. Rivers said it is only 20-feet from his pool where they want to put the barn.
Ms. Albrizio said which is more than the required 10-feet.

Mr. Reinke asked if there was a minimum area requirement for a horse.

Ms. Albrizio thought it was a 1-acre minimum for a full size horse.

If she were to move the barn in the opposite direction, it would bring the miniatures more up on the level lot. If kept it in the original spot, they would be brought down on the side which does have a slope towards Mr. River's property.

Mr. Reinke asked the distance between the paddock and the property line.

Ms. Albrizio didn't know exactly, but the Building Inspector told her she only needed 10-feet.

Mr. Rivers said he also spoke with the Building Inspector and was told if he wanted to put a shed on his property, 200-square feet would need a permit. Anything under 200-square feet would not.

Ms. Albrizio said that is for a shed, a barn for livestock does not require a permit because livestock needs shelter.

She agreed that if she was just putting up a shed, she would need a permit, but to house livestock, she's allowed to have a 10 x 20 and anything over that would require another permit.

Mr. Rivers disagreed.

Mr. Hathaway said he viewed the property and didn't see much of the lot that was level.

Ms. Albrizio said the most level spot was behind her house and they would have to put the barn sideways in order for it to open up to the level area and that would avoid them being down on the side near Mr. River's property.

Mr. Orth noted that there was someone else in the neighborhood that owned horses and asked if there were any issues concerning runoff, or smell or anything like that.

Mr. Albrizio said no, it's a flat piece of property.

Mr. Orth asked how the horses would be on an uneven piece of property.

Mr. Albrizio said the horses would be fine. These horses don't require shoes, but they were trying to locate on the most level piece of the property. They are also proposing to fill in one side to bring the property up.

Mr. Orth asked how she planned to level the property out.

Ms. Albrizio said either they would cut into the hill and dig it out to make it more level, or they could add fill.

Mr. Rivers disagreed and said that area was ledge and couldn't be dug out.

Mr. Kirwan asked if the horses would be contained to the paddock area at all times.

Ms. Albrizio said yes, with the exception of training, which then they would be put on a lead line that's in the front yard on the other side of her house away from Mr. River's property.

Mr. Kirwan questioned the difference between a miniature horses urinating versus having 4 dogs urinating on the property. Ms. Albrizio agreed there wasn't much difference, but if the horses each drink 250 gallons of water per day that is more than dogs drink.

Mr. Kirwan asked if the Board of Health was contacted.

Ms. Albrizio said yes, she spoke with the Board of Health Agent and showed all the information she had. The Board of Health told her they didn't have any issues and would sign off on it. Their only concern was what was going to happen with the manure and she told them that it would be stored in a container and then removed from the property. The Board of Health didn't foresee any problems.

Mr. Rivers said he was told that storing the manure like that can create heat and methane gases and was subject to combustion. Ms. Albrizio disagreed.

Ms. Diane Messier, 6 Rural Drive said she had 3 miniature horses on her property for 13 years. They have contained their manure the same way Ms. Albrizio is proposing and have it removed regularly. They have never had a problem or complaint.

Mr. Orth said this practice is fairly common and the Board has had other requests for horses using the same type of containment without issue.

Mr. Reinke asked for the square footage of the paddock area. Ms. Albrizio didn't know the exact measurement, but expressed that it was a good size paddock for two miniatures.

Mr. Hathaway said it would be impossible for him to approve anything without knowing or seeing the exact dimensions.

Mr. Orth asked Ms. Albrizio if she would be agreeable to continuing the hearing in order to have the dimensions added to the plan.

Ms. Albrizio had no problem with that.

Mr. Orth said the Board wants to continue this hearing and have the applicant come back with a plan showing the exact measurements of the paddock area, show the dimension of the barn, and where it will be placed on the lot in relation to the setback requirements.

Mr. Reinke confirmed the Board wanting to see the topography of the lot, the actual setbacks from the property lines, and a more definitive plot plan.

Mr. Kirwan agreed and added it needed to be more than just a hand drawing. The Board needed to see exactly where the barn was going, where and how big the paddock area was.

Mr. Orth noted that there had been expressed concerns regarding runoff into the pond and neighbors yards.

Mr. Hathaway said for example, the building inspector says that being 10-feet away is sufficient, but the Board may see where it would likely become a problem. He felt the Board needed to see the minimum amount of space required and what those actual numbers are.

Ms. Albrizio was agreeable to bring back a more detailed plan.

Mr. David Wilson, 8 Rural Drive said he has concern with this affecting the property values and the safety having a lot of small children roaming.

Mr. Buckley said there have been other applications before the Board for horses and one was within the Henshaw Pond watershed area. The head of the Water District didn't have a problem with it because the waste was being contained and then removed from the property.

With this particular application, roughly how much are we talking about, is it a 5-gallon rubbermaid bucket, how big are the containers?

Ms. Albrizio said she is talking a much bigger container, 32-gallons. This is for two miniature horses and not full size horses and not 5 or 6 of them.

Mr. Orth said it would not be any different from having two large dogs in the back yard.

Ms. Albrizio agreed.

Mr. Buckley asked how many containers there would be.

Ms. Casandra Messier, 6 Rural Drive explained that for their horses they go through roughly 14 rubbermaid containers that equal up to 32-gallons every two weeks and sometimes they go three weeks.

Mr. Kirwan said he keeps hearing for 2 miniature horses and he wanted to caution the applicant that if the Board approves this for 2 miniatures, this was all that would be allowed.

Ms. Albrizio understood. She expressed frustration having to go through this process, because if she wanted to get two more dogs, would she still have to go through this for two more dogs? No, she wouldn't.

Mr. Orth explained the Board will be continuing this hearing and asking the applicant to come back with a revised plan showing the dimensions, where the building will be placed on the lot from the sidelines, and to show where the fence will be located.

Mr. Reinke added having a topographical plan showing the detail.

Mr. Rivers also added having more detail regarding compost storage and removal.

Mr. Hathaway asked to have more detail on how the compost concern would be policed.

Ms. Albrizio said she gave the Board of Health the right to make unannounced visits anytime they wanted.

Ms. Messier gave an explanation on the requirements to be met by the Board of Health and the ability for the Health Director to come in and shut down the site if violations were found.

Mr. Orth noted the answer to the policing question as being yes, this would be monitored by the Health Department.

After some discussion, the date to continue was agreed to be July 9th.

Hearing no further comment, Mr. Orth asked for a motion to continue.

MOTION: Mr. Reinke moved to continue this hearing for Michelle Albrizio of 1 Rural Drive, Leicester to Wednesday, July 9th, 2014 at 7:30PM

SECONDED: Mr. Kirwan – Discussion: None

VOTE: All in Favor

Meeting adjourned at 9:30PM

Respectfully submitted:

Barbara Knox

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Approved at the July 9, 2014 ZBA Meeting