

**TOWN OF SOUTHBURY**  
**ZONING BOARD OF APPEALS**  
**REGULAR MEETING**  
**OCTOBER 6, 2009**  
*(summary of meeting)*  
*(subject to approval)*

**MEMBERS PRESENT:** Lemuel Johnson, Jr. – Chairman; Peter Peterson – Vice Chairman; Paul Sullivan; Robert Greene; Robert Lieber – Alternate; John Bucciarelli – Alternate

**MEMBERS ABSENT:** Geoffrey Ice; Douglas Breakstone – Alternate

**OTHER'S PRESENT:** Zoning Official Mark Massoud, applicants and other interested parties

**CALL TO ORDER:** Chairman Johnson called the meeting to order at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

**SEATING OF ALTERNATES:** Robert Lieber and John Bucciarelli

**OUTSTANDING APPLICATION:**

**Continued:** Application #7544 Joseph McAllister, owner & applicant – Applying for a Special Exception of the Zoning Regulations (Schedule A, Line A-10) to allow a proposed 21,600 square foot equestrian building on the site. Property located at 374 Main Street North, Zone(s) R-30 and R-60.

Charles Spath of the Stuart Somers Company gave a brief overview of the special exception request noting written approval has been received from both the Pomperaug Health Dept. and the Inland Wetlands Commission.

Mr. Spath continued the statement of use has been revised to add a manure management plan were by manure from the barn would be removed and deposited directly into an on site dumpster. A requirement for the Fire Marshal of an underground water storage tank is currently in review. Any outside lighting would be attached directly to the new barn over the access door areas only and shining down at a 45 degree angle so as not to shine at property lines and would operate by motion detectors and/or timers. Building plans for the barn have been checked and submitted and the words “Not Checked” have been removed. Revisions have been made to the handicapped access and driveway grades and submitted plans reflect such revisions.

A referral response dated September 15, 2009 from the Planning Commission was read into the record.

A memo dated September 11, 2009 to DeLoris Curtis, Land Use Administrator from Milone & MacBroom was read into the record. A discussion followed with Mr. Spath explaining all comments and items listed within the memo including those of the Fire Marshal has been addressed.

Mr. Massoud reviewed his report dated October 6, 2009 with the members.

The Inland Wetlands resolution of approval with conditions dated September 8, 2009 was read into the record.

For the record Mr. Spath corrected the Planning Commission's memo which read that the new barn would hold 32 horse stalls; the correct amount of stalls was 36.

Commissioner Bucciarelli questioned if a cover could be added to the manure dumpster to protect it from the weather (rain) and flies. After some discussion Mr. Spath noted as the current plan and statement of use did not depict a covered manure dumpster, consideration can be made to add one to the plan.

No correspondence was received.

The Chairman opened the floor to the public.

No one spoke in favor or in opposition to the application.

There being no further questions or concerns the public hearing was closed at 8:15 p.m.

**PUBLIC HEARING:**

**Application #7618 Jeffrey Aversano, owner & applicant - Applying for a Variance to Section 4 of the Schedule B standards (Line 1 and Line 3) of the Zoning Regulations, relating to minimum lot area and minimum dimension of square on the lot so as to permit a reduced lot size for Lot 1 (front) from 60,000 square feet to 43,696 square feet and a reduction in the minimum square from 200 square feet to 175 square feet. Lot 2 (rear) will have the required lot area and minimum square. Property located at 1128 Southford Road, Zone R-60.**

Jeffrey Aversano took the floor explaining his intention was to divide his property in order to construct a home for his parents on the interior rear lot. The proposed plan would allow for a 30 foot driveway access from the road over the State of Connecticut Bridle Trail easement and front lot (1) to the interior lot (2).

Commissioner Bucciarelli asked the Zoning Official to clarify the applications conformity to the zoning regulations.

Mr. Massoud explained the current application before the board proposes non-conformity of the front lot (1) and conformity of the rear interior lot (2).

Commissioner Peterson questioned the hardship of the application.

Mr. Aversano explained at the time of purchase an old Assessor's tax map of the property showed 3.5 acres but a recent survey by Stuart Somers Company clearly showed the property having 3.0 acres.

All return receipts were previously submitted for the record.

The Chairman requested a copy of the property deed but Mr. Aversano was unable to produce it at the time.

Mr. Spath confirmed that the deed references the property as 3.0 total acres.

The Zoning Official suggested the board consider information within the zoning regulations that states only two interior lots are allowed access to the road over an easement or right-of-way as driveways of several homes now exist off the State of Connecticut Bridle Trail easement to Southford Road.

The Chairman opened the floor to the public.

No one spoke in favor of the application.

Judith Frodermann, 1126 Southford Road spoke in opposition noting her property next door is considered an interior lot.

No correspondence was received.

Chairman Johnson suggested based on the Zoning Officials easement issues and concerns with wording in the deed he would like to refer with consul regarding the easement and give the applicant time to produce the property deed.

He reminded the board that unless there is a land induced hardship a variance cannot be granted thereby creating non-conformities.

The board discussed the Chairman's suggestion and determined there was enough evidence presented during the hearing to make a decision on the application.

There being no further questions or concerns the public hearing was closed at 8:40 p.m.

**DISCUSSION AND DECISION:**

**Application #7544 Joseph McAllister** -After some discussion the Board determined all comments and conditions had been met and that the applicant agreed to cover the manure dumpster.

Chairman Johnson read the resolution into the record and some corrections were so noted.

On a motion by Vice Chairman Peterson and seconded by Commission Sullivan, Application #7544 was unanimously approved for Special Exception to the Zoning Regulations based on the findings and conditions within the resolution and with the following additional conditions that the manure dumpster be covered to protect from rain and flies, a manure management plan is to be submitted and that the total stalls within the new barn would be for 36 horses.

**Application #7543 Jeffrey Aversano** - After a discussion regarding what constitutes a hardship it was so noted a land induced hardship is created by the property itself and not by easements. The applicant's property would need to maintain the 200 foot square requirement.

The Board determined granting a waiver for the applicant's property would create non-conformity were no evidence of a hardship exists.

On a motion by Vice Chairman Peterson and seconded by Commission Bucciarelli, Application #7544 was unanimously denied for variance on the grounds that no evidence was presented at the hearing or set forth in the application to substantiate any claims that literal enforcement of the regulations would result in unusual hardship affecting this property, and that the granting of the waiver would not be in harmony with the general purpose and intent of the Zoning Regulations.

**NEW APPLICATION:**

**Application #7641 Heritage Village Foundation, Inc./owner, Milton Gregory Crew/applicant - Applying for a Special Exception of the Zoning Regulations (Schedule A, Line B-4) proposing an addition (2,210 SF) to the existing Activity Building for continued use as an upgraded fitness center & pool changing facility. Property located at 11 Heritage Way, Map 28, Block 77, Lot 3, Zone R-30A.**

The above said application was received and a public hearing date was set for November 3, 2009.

**MINUTES:**

**Approval of Minutes - September 1, 2009**

On a motion by Vice Chairman Peterson and seconded by Commissioner Sullivan the minutes of the September 1, 2009 meeting were unanimously approved.

**CORRESPONDENCE:**

There was no correspondence received.

**BILLS:**

There were no bills.

**ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD:**

There was no other business noted.

**ADJOURNMENT:**

On a motion by Commissioner Bucciarelli and seconded by Commissioner Sullivan the meeting was adjourned at 9:12 p.m.

Respectfully submitted,

Deborah Zachariewicz  
Secretary