



TOWN OF HOLDEN

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ZONING BOARD OF APPEALS PUBLIC HEARING, August 25, 2016

Amy Parker and Richard Atkins

Case No. V-1609

The Zoning Board of Appeals held a public hearing on Thursday, August 25, 2016 at 7:00 p.m. in Memorial Hall in the Town Hall on the Petition of Amy Parker and Richard Atkins for property located at 69 Summit St for a use VARIANCE to conduct events at The Farm at SummitWynds.

Members in attendance: R. Spakauskas, S. Annunziata, J. Deignan, R. Fraser, and R. Butler.

R. Spakauskas reviewed the procedures for the hearing stating that if anyone has questions for the petitioner, he/she is under no obligation to answer if they wish to not do so. The Secretary proceeded with the reading of the application along with a memo from the Planning Board signed by Pamela Harding, Director of Planning & Development, dated August 23, 2016. The memo expressed the Planning Board's concerns about a commercial use operating in a residential area but is reserving comment because of the potential to receive a site plan and a special permit application should the variance be approved.

Atty. Francis DiLuna, representing the petitioners, approached the board with a SummitWynds brochure and an aerial view of the event venue of the 3 buildings. Atty. DiLuna continued with a review of the application and provided a history of the property since purchased in 1964 as an equine facility. This has always been a site of assembly for approximately 200 people and parking is sufficient for up to approximately 175 cars with no street parking necessary. There have been complaints regarding noise disturbances and the petitioner had a decibel rating test completed at the stone wall surrounding the property with a reading of 55. Atty. DiLuna stated the applicants want to comply with the town and therefore are requesting a use variance for the continued use of the property to conduct social events.

S. Annunziata asked if the use of the property would still be used as a horse farm which Atty. DiLuna stated yes, it will continue its use as a horse farm and this use variance approval would allow to supplement the agricultural activity.

R. Butler questioned the parking area for 175 cars and asked how much of that is parking on the paved area. Atty. DiLuna responded the paved area is held open for handi-capped cars and emergency vehicles and can hold 40-50 cars if necessary. The property is used approximately 52 times a year and the duration of the events is typically 6 hours. R. Butler asked how long the events last on the weekends. R. Atkins, petitioner, stated the contract now states the music is turned off on Fri/Sat evenings at 10pm and Sunday evenings at 9pm.

R. Fraser stated he believes this is an R-1 zoning district and D. Lindberg agreed. R. Fraser stated the application reads much more than just an events venue (i.e. bridal loft, food service, hotel, etc). Atty. DiLuna stated the petitioners do not prepare any food, etc., they only lease the premises to the caterer, DJ, etc. in which they all have to abide with the Town's rules to be properly permitted. There was discussion of the erected tent on the property which has been properly permitted and can be renewed for a longer period of time after 3 months at the building commissioner's discretion.

R. Spakauskas opened the discussion up for public comment. Jim Bradbury of 52 Heather Circle submitted a written document and stated that this application reads more like a special permit. He reviewed the document and believes the facts do not meet requirements for a use variance based on Town of Holden rules. He went on to say this is a residential district and is not a permitted use for entertainment. This property is currently operating as a horse farm and should continue that way and not operate as an entertainment venue as it is disrupting the neighborhood every Friday, Saturday and Sunday. We must rely on zoning laws and request the board deny this petition.

Atty. Patricia Gates, representing Greg and Maura Goodsitt, residing at 27 Summit St. stated that the Goodsitts purchased this property from petitioners in 2004 and signed covenants requested by the owners stating that they would keep this property quiet and maintain the character of the neighborhood etc. In 2016 they were blindsided by this wedding venue. There was no contact with the neighbors or any proper permits pulled from the town. On Feb. 17, 2016 a letter was written to the petitioners from D. Lindberg stating they must obtain the proper permits in order to legally operate this venue. The petitioners continued with the venue anyway in spite of the letter received from D. Lindberg. Atty. Gates submitted a written document and reviewed it with the board. Gates respectfully requests that this variance application be denied.

Greg and Maura Goodsitt of 27 Summit St, spoke stating they had purchased property in 2004 and since signing these covenants at the owners request, the street has changed immensely due to this wedding venue. There are events Fri, Sat, and Sunday evenings with the potential of corporate events Monday – Thursday. The whole character of the street has changed immensely and the impact to the neighborhood is great.

Donald StJohn of 43 Heather Circle. He has concerns about security and safety of those in attendance at these events and the sound level is too loud.

Sara Tindall of 65 Heather Circle – confirmed that events go until 10:30pm and the sound is much too loud.

Peter Johnson – 22 Heather Circle. Events ending at 10 – 10:30pm, gun fire, etc. Much too loud – request to deny this variance.

Statements from neighbors that could not attend were handed to the board by Karyn Currie and will be put in the record. Ms. Currie of 199 Jackson St. residing there for 5 years, read her letter aloud. She stated this neighborhood has always been a quiet neighborhood and currently can't hear anything at their house on the weekends.

Pat Bocian of 58 Heather Circle – Sunday night – too loud. Events have ended frequently after 10pm. If this is not denied, it seems the board and the town is being made a mockery. This land borders MDC

land in which she asked who is responsible to notify MDC of this activity. Request that the board turn down this variance.

R. Spakauskas asked D. Lindberg to review the process of which this process for a use variance began. D. Lindberg stated in October 2015, D. Lipka, retired as Building Commissioner and before his retirement D. Atkins stated he had spoken to D. Lipka about using this farm for the purpose of a wedding venue and was told at that time by Mr. Lipka that this use was allowed. However, nothing was in writing and the Town read about this venture in the Landmark. Reading about this is what sparked the February letter written to Mr. Atkins asking him to tell us about this new venture. Officials from the town went to the property and looked at the work/maintenance that was completed and reviewed the details with the applicant. Numerous times over the months, the town officials spoke with Mr. Atkins about what was required. D. Lindberg stated that as the Town Counsel states in the letter written, wedding venues are not incidental uses to agricultural properties. He went on to say that Mr. Atkins does have the right to come to the board to seek a variance.

Chris Kindstedt of 172 Jackson St – DJ too loud with windows closed and air conditioner on.

R. Spakauskas stated we have heard the noise complaint which is well documented and if anyone has anything else to state that is of significance to the board, please do so.

Mr. Sloate of 17 Tannery Dr – had questions regarding the process in permitting this venue and asked who was notified ahead of time about this hearing. D. Lindberg reviewed the process again and also stated the petitioner is only required to notify abutters within a certain distance. D. Lindberg requested he speak with the Assessor's Office on any issues.

Kathy Ricciardi of 56 Heather Circle – When looking for a nice neighborhood for your family, would you purchase a property near a venue such as this? She stated the property values will decrease because of this venue.

Donald Bocian of 58 Heather Circle – wears hearing aids and the noise is too loud.

Erin Bradbury of 52 Heather Circle – months have passed since this application was submitted and venue continues without permits and not meeting the requirements in the town and Massachusetts law. She recommends considering ordering a cease and desist and to deny this variance.

Nick Viapiano of 28 Meadow Wood – has catered events at SummitWynds and the caterer is overall responsible for liability purposes. All caterers should have insurance and are therefore completely covered for safety concerns. R. Spakauskas stated the town had clearly stated to the applicants what is required from all vendors to cover all liability.

Aimee Crockett of 25 Heather Circle – The fact that we are here before the property was properly permitted is a case of the cart was put before the horse.

Ted Leahy of 1399 Wachusett St – Amy and Dick spoke with D. Lipka before his retirement and they were assured it would be ok, with no variance necessary. They are here tonight for something they were told a variance was not at all necessary.

R. Spakauskas ordered a 5 minute recess.

The meeting resumed and a summation was made by Atty. DiLuna. He stated the applicants did not jump into this head first having spoken with the previous building inspector about this venture in which he gave his ok on this event venue for it is a matter of right. The applicants then spoke with the town officials and worked with them by making the necessary improvements and then were advised to apply for this variance.

R. Fraser recommends not to vote tonight until we receive more information but continue to allow the public to comment in writing only and R. Butler agreed. R. Spakauskas stated the board is interested in Fire and Police Department reports, etc. and to continue this meeting. He asked that Mr. Lindberg provide a report from the previous commissioner stating he granted this use to the applicant. Due to this request from the board for more information, we will set a date for a continuation/extension of this meeting and the town authorities will get us this information we are requesting as quickly as possible. The board will speak with the town authorities to determine if this use can continue before a decision is made on this application. Atty. DiLuna stated he agreed with signing a document to extend this meeting to a future date.

R. Fraser made a motion to vote to continue this hearing and R. Butler seconded. The Board unanimously voted 5-0. Atty. DiLuna submitted a handwritten request to continue the hearing. The public hearing was closed at 8:35 p.m.

ZONING BOARD OF APPEALS
CONTINUED PUBLIC HEARING, September 29, 2016

Amy Parker and Richard Atkins

Case No. V-1609

The Zoning Board of Appeals held a continued public hearing on Thursday, September 29, 2016 at 7:00 p.m. in Memorial Hall in the Town Hall on the Petition of Amy Parker and Richard Atkins for property located at 69 Summit St for a use VARIANCE to conduct events at The Farm at SummitWynds.

Members in attendance: R. Spakauskas, S. Annunziata, J. Deignan, R. Fraser, and R. Butler.

R. Spakauskas reviewed the procedures for the hearing and read aloud portions of a letter received from the petitioner's representative, Atty. Robert Nislick, asking to postpone the continued hearing until November 17, 2016 and to extend the time for deciding the same until December 15, 2016. Atty. Nislick then addressed the board stating he has been newly appointed to represent Amy Parker and Richard Atkins and with this recent appointment, there has not been much time to prepare. He would like to arrange a meeting with D. Lindberg, Building Commissioner to discuss this case and try to reach as much of a collaborative way to resolve this matter. Atty. Nislick believes the activities held at SummitWynds are within the zoning laws and therefore a use variance is not needed. He is respectfully requesting to postpone this hearing until his meeting with D. Lindberg.

Atty. Steven Madaus, Town Counsel, stated that whatever the decision on this case, the applicant or residents could appeal that decision and then the case comes back to the board of appeals.

R. Fraser stated he has a problem with the proposed postponement dates from Atty. Nislick. R. Butler agreed that moving the date out until December with the events still going on every weekend is too long. Atty. Madaus stated we must determine a date tonight if the continuance is granted.

J. Deignan asked Atty. Nislick, why not withdraw this application now without prejudice? Atty. Nislick responded that they probably would do that if withdrawing without prejudice is approved. He stated the petitioners are trying to address the towns concerns in good faith. R. Spakauskas stated that if the application is withdrawn without prejudice this evening then the responsibility falls to the Zoning Officer and the petitioners are allowed to resubmit an application at any time.

Atty. Patricia Gates asked for clarification on, if the decision is made to postpone the hearing tonight, the points that are included in Atty. Nislick's letter dated September 27, 2016 will not be included as part of the original variance application. Atty. Nislick stated the application will not be changed in any way and the petitioners have the right to argue that a variance is not needed at all. Atty. Gates stated that if a continuance is granted tonight, she believes the activities will continue and asked the board to not delay the inevitable and to consider their obligation to protect the residents of the town.

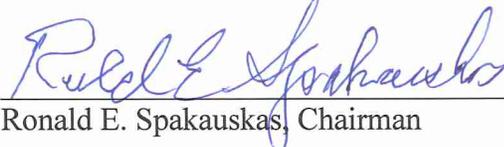
Jim Bradbury, of 52 Heather Circle, stated on behalf of the 179 residents that signed a petition, he respectfully asks to deny this continuance.

B. Butler asked if we vote on the continuance tonight, will a Cease & Desist be issued? Atty. Madaus will consult with D. Lindberg regarding a Cease & Desist Order as the Building Commissioner is the Enforcement Officer. J. Deignan stated he does not see the benefit of an extension and would vote against the continuance. S. Annunziata agreed that his vote would be a denial tonight on the continuance.

J. Deignan made a motion to deny this request for a continuance. B. Butler seconded. The Board unanimously voted 5-0 to deny the continuance.

Atty. Nislick then submitted a written request to withdraw the variance application without prejudice. R. Fraser made the motion to grant the applicant's request to withdraw the application without prejudice and R. Butler seconded. The Board unanimously voted 5-0 approving the application to be withdrawn without prejudice. R. Spakauskas stated that the Town of Holden now has all the authority to enforce rules.

S. Annunziata motioned to adjourn the meeting and R. Fraser seconded. The public hearing was closed at 8:00 pm.



Ronald E. Spakauskas, Chairman