

**Minutes of the Zoning Board of Appeals
June 20, 2007**

**Hearing: #07-04
Victorian Stables, Inc.**

Board Present: David Perry, Chairman, Cheryl Anderson, Acting Clerk, Terry Girouard,
Richard Coswell (Alternate for Joseph Daigle), Donna Brooks

Absent: Gil Carriero

1. David Perry opens meeting at 7:36 PM.
2. More information submitted
 - #1 Letter dated May 16th from Lorden & Pastor on Victorian House Restaurant
 - #2 Letter dated May 15th from Yazou Stables Trust
 - #3 Victoria Stables packet
3. Roy Pastor states is consider agriculture the “Keeping of Horses” added to statute clearly under 1995 Amendment. It’s clear it’s agriculture. It’s clear the intent is to raise and breed horses
4. David Perry states it appears to be agriculture and asked Richard Coswell if parcel and lot are the same.
5. Richard Coswell states yes the same. Second lot makes 5 acres. He looked under 61A and two adjoining lots can be used together on By-law page 14 (read) that parcels under five acres requires Special Permit. Richard Coswell concludes that it’s the single parcel and requires a Special Permit as it stands. The other lot is not used for agriculture and reads the By-law as they are separate.
6. Roy Pastor states that Richard Coswell’s comment is incorrect. He spoke with Attorney Phillips on this and determined it meets the requirement of five acres.
7. Donna Brooks asked what Attorney Phillips and Attorney Pastor disagree on.
8. Attorney Pastor not sure they disagree. The keeping of horses to the Raising of Horses.
9. David Perry from what he reads it is agriculture and supersedes local Zoning By-laws.
10. Attorney Pastor states if it needs a Special Permit, he will have other things to concern with.

11. Cheryl Anderson spoke to Building Inspector states on letter from Michael Gallant dated February 20, 2007, comment #6.
12. David Perry states not an issue for the Zoning Board of Appeals that from this letter from Mr. Gallant only comments #1 and #2 applies to ZBA.
13. David asked Richard Coswell if use Variance is required.
14. Richard Coswell states if you have a parcel of less than 5 acres.
15. Michael Gallant states that under Section 3 – at this point getting a Special Permit would not solve the problem.
16. Attorney Pastor states in his mind it's clearly agriculture and should be settled tonight. He'd like to resolve tonight.
17. Donna Brooks states that combing the deed should not be an issue.
18. Captain Nolan of the Ashburnham Fire Department has two letters dated October 18, 2000 with list of things required to be done. Capt. Nolan asked if living area was there.
19. Attorney Pastor states no living space.
20. Captain Nolan presented letter dated March 8, 2004 regarding no stands or bleachers.
21. Attorney Pastor states no bleachers in the building.
22. Lori Saccone states horses and riders will be in the building but no spectators. Only riders in building.
23. Richard Coswell asked if they are having public exhibitions.
24. Lori Saccone says yes.
25. Captain Nolan asks questions.
26. David Perry states what Captain Nolan asked is not relevant.
27. Donna Brooks asked if Use is Zoning.
28. Captain Nolan asks if the building is used for assembly then there should be issues addressed and agriculture should not exempt for safety.
29. Donna Brooks states she is not clear on Use and every question is not answered.

30. David Perry called for recess at 8:15PM to 8:30 PM for Town Counsel to arrive.
31. Attorney Phillips, Town Counsel arrived at 8:20PM
32. David Opens Meeting at 8:25 PM
33. David Perry filled in Attorney Phillips on what was stated and needs clarification on parcel.
34. Attorney Phillips stated that she believes the Use is agriculture.
35. David Perry asked if the lot is the same as the parcel
36. Attorney Phillips states they can consider the two lots as one.
37. David stated that if that's the case, it is your opinion that the Special Permit is not required.
38. Attorney Phillips stated yes.
39. Mr. Gallant stated that the only point is if the Use is consistent with the By-law and not a granted Use until it's allowed and before they were under five acres.
40. David Perry stated that both Town Counsel and Building Commissioner have no problem not having a Special Permit.
41. Donna Brooks stated that she was not sure about the Use. Will riding be viewed by Public?
42. David Perry asked what regulations are in place for protecting the people if the public is there.
 - A. Attorney Pastor stated the Building Inspector can use his authority.
43. Information submitted by Captain Nolan
 - #4 Letter from Town of Ashburnham Fire Department dated March 8, 2004.
 - #5 Letter from Town of Ashburnham Fire Department dated October 18, 2000.
44. Attorney Pastor states no people inside the building because it disturbs the horses.
45. Lori Saccone states people will be outside, not inside.
46. Motion
 - A. Attorney Phillips refers to the letter from Mr. Gallant dated February 20, 2007
 - B. #1 Special Permit under Section 3.24
 - C. #2 Use Variance under Section 3.24(s)

- D. David Perry asked for Motion
 - E. Richard Coswell finds Special Permit under Section 3.24 is not required as per Building Inspector letter of February 20, 2007.
 - F. Terry Girouard seconds
 - G. Vote if favor: David Perry, Richard Coswell, Terry Girouard, and Cheryl Anderson.
Vote Against: Donna Brooks
47. Motion for Use Variance under Section 3.24(s)
- A. Attorney Phillips states that Attorney Roy makes statement to why it's not needed.
48. Mr. Gallant states he's heard no evidence to why the Use Variance is not required. There is nothing there to show there will be assembly. Agriculture is allowed in all Zoning Districts.
49. Attorney Phillips states that if they change their minds, they can come back before the Board.
50. Captain Nolan asked what District this will be.
51. Mr. Gallant states Agriculture – Use Section #3 of Fire Code.
52. Attorney Phillips states this Board can only deal with Zoning issues. With the plan they presented, there is no assembly.
53. David Perry asked for Motion that at this time no use variance.
54. Richard Coswell makes Motion a Use Variance from ZBA not required from Section 3.24(s) per letter dated February 20, 2007 number #2/
- A. Terry Girouard seconds.
 - B. Vote: Unanimous in Favor that no Use Variance is needed at this time.
55. Letter from Mr. Gallant dated February 20, 2007: Comment #3 on Site Plan Review from Planning Board under Section 5.101 of the Ashburnham Zoning By-law.
56. Attorney Roy Pastor stated he had no issue with requesting a Site Plan Review.
57. Richard Coswell makes Motion to confirm that comment #3 of the February 20, 2007 letter that Site Plan Review under Section 5.101 to be done by them.
- A. Donna Brooks seconds
 - B. Unanimous in Favor
58. Letter of Building Inspector dated February 20, 2007 Section 4, 5, 6 is out of the scope of the Zoning Board of Appeals Authority.

59. David Perry closed Hearing at 8:47 PM

Minutes of May 2, 2007: Hearing #07-05: Paula Gorrell
Cheryl Anderson makes Motion to accept
Terry Girouard seconds Motion
Unanimous to Accept

Minutes of May 2, 2007: Hearing #07-04

1. David Perry wants added to the minutes where Victorian House Restaurant crossed off cover letter and okayed by Attorney Phillips but chairman asked for letter than we received.
2. Donna Brooks: Page 4, 4th paragraph Saccone spoke for Victorian – add
Page 6, 6th line acreage spelled

Donna Brooks Motion to accept with changes
Terry Girouard seconds
Unanimous to accept

Minutes of May 16, 2007: Hearing #07-04

Terry Girouard to Accept
Richard Coswell Seconds
Unanimous to Accept

Minutes of June 13, 2007

1. Change last line – Acting Clerk

Donna makes Motion to Accept with change
Richard Coswell Seconds
Unanimous to Accept

*******There was no Motion to adjourn the Meeting*******

Respectfully submitted by Cheryl Anderson, Acting Clerk