

Town of Wilton
Zoning Board of Adjustment
Final

Date: July 12, 2022
Time: 7:30 p.m.
Place: Wilton-Lyndeborough Cooperative High School Cafeteria
Present: Neil Faiman (Chair), Joanna Eckstrom (Vice Chair); Andy Hoar; Paul Levesque; Peter Howd (alternate); Judith Klinghoffer (alternate); Jeff Stone (remote)
Absent: None
Attendees: Ana Marie Hernandez, applicant, 102 Holt Rd.
Deb Mortuedt – Heritage Commission
Lincoln Geiger, applicant, 195 Isaac Frye Hwy

1) Call to order by the Chairperson

N. Faiman opened the meeting at 7:55pm and introduced the board members.

2) Minutes

J. Eckstrom requested the minutes be deferred until after the Public Hearings.

Note: Minutes of 6/14 do not have numbers

Note: Copies of minutes of 5/10/22 were not included in the packet and were not reviewed at this meeting

3) Public Hearings

Case#7/12/2022-1

Ana Maria Hernandez has requested a special exception under section 5.3.1 of the Wilton Zoning Ordinance to allow an in-home licensed family child care business at Lot D-37, 102 Holt Road.

Zoning Ordinances:

5.3.1 Home Occupations

5.3.1.1 Special Exception Not Required

a. The home occupation shall occupy no more than 20% of the existing, gross heated floor area of the primary residence or the structure in which the home occupation is operated.

b. There shall be no customer or client visits to the premises and commercial traffic for the delivery or pick-up of materials associated with the home occupation shall be limited to five visits per week.

5.3.6 Residential- Schools and day care

6.6.1 Residential/Agricultural – Home Occupations

Voting board members: J. Eckstrom; A. Hoar, P. Levesque, J. Klinghoffer, N. Faiman

Non-voting board members: P. Howd

Ana Maria Hernandez presented the application and described her home-based business providing alternative child care for families with non-traditional working hours. Day Care Licensing does provide for up to 6 children (including her own child) but she does not plan to enroll the full amount. Proposed use is described in detail in the application.

Plans are to use more than 20% of gross heated floor area as outlined in 3.3.1 and to provide outside activity during the day.

Day Care License provides for up to 6 children which exceeds the 5 visits per week limit for drop off and pick of each child.

Discussion:

J. Eckstrom questioned the need for a variance. N. Faiman stated that at first glance this does not need a variance and then reviewed the ordinance as it pertains to a Licensed Day Care home occupation.

P. Levesque expressed concern about the short-steep driveway and asked for clarification on the hours of business. Applicant replied that the core of the hours will be from 7am-5pm but may open as early as 4:30am and close as late as 6pm if needed. They are considering a new driveway in the future. Owner/applicant takes care of the driveway.

J. Eckstrom asked the ages of the children. Applicant responded that the Day Care License allows 2 children below the age of 24 months. Her child is 4 months old. In addition, she could have no more than 3 toddlers. Applicant is planning to have between 3-4 children.

It was noted that none of the neighbors attended the session. Applicant stated that she spoke with her neighbors and they were supportive.

A Hoar asked if two cars can pass each other on Holt Rd. It is winding and gets narrow at different spots. Applicant responded that parents would use the driveway for drop off and pickup. There is also a place in front of the property where other cars can easily pass if the driveway was full.

J. Eckstrom asked if Holt Rd was on the bus route. Applicant didn't believe it was. This is in reference to 4.12.e. (activity will not have an unacceptable effect on traffic in the neighborhood or in the Town.)

P. Levesque asked how many cars would visit the location. Applicant responded that at max there would be 10 cars per day. 5 at drop off and 5 at pickup.

J. Eckstrom asked about the primary days of business. Applicant responded that she planned on operating Monday to Friday only.

J. Eckstrom asked if the business was subject to inspection by the state. Applicant responded that the Life Safety inspection was scheduled for 7/13 and the general building inspection is scheduled for the end of the month.

P. Levesque asked if she was required to carry insurance. Applicant responded that her insurance covered up to 4 and that she had an addendum for liability. She also said she can bring the information if it was needed.

J. Eckstrom asked if there were any employees. Applicant responded no.

At that point **A. Hoar MOVED to close the public hearing. J. Eckstrom SECONDED.**

Discussion – J. Eckstrom said the application was well presented; will have minimum impact; will provide daycare for a limited number of children. P. Levesque concurred. N. Faiman stated it meets expectation and the one concern is about traffic but it is not real problem.

J. Eckstrom MOVED to grant application request for special exception. P. Howd SECONDED

J. Eckstrom MOVED to come out of closed session. A Hoar SECONDED.

Motion to grant application: Roll call: J. Eckstrom -Yes; A. Hoar-Yes; P. Levesque, -Yes; J. Klinghoffer-Yes, N. Faiman– Yes

Motion carries (5-ayes, 0-nays, 0-abstain)

Decision: The special exception under section 5.3.1 was granted. Written notification coming. Site plan review is required by Planning board and state review is also required.

Case#5/10/2022-1-Continuation

Educational Community Farm (owner) and Four Corners Farm Cooperative (applicant) have requested variances to sections 5.1(c) and 5.1(d) of the Wilton Zoning Ordinance to allow two dwellings and three dwelling units on Lot F-98-1, 195 Isaac Frye Highway (Four Corners Farm), where the ordinance would only allow one dwelling and two dwelling units.

Voting board members: J. Eckstrom; J. Stone; A Hoar; P. Howd; N. Faiman

Non-voting board members: J. Klinghoffer; P. Levesque

P. Levesque & J Klinghoffer recused themselves from this case. J. Stone participated remotely.

J. Klinghoffer has recused herself from review of minutes and discussion of Case#5/10/2022-1

Site Visit Minutes cannot be reviewed at this time because they were unavailable.

N. Faiman summarized the status of case, continued from 6/14/2022. This case was presented 5/10/2022 and a site visit conducted on 5/18/2022. He asked if there was anything more to include. Lincoln Geiger, applicant, asked if, in the future, they wanted to allow 5 occupants instead of 3, would it make sense to get permission now.

N. Faiman asked if the application, as submitted, allows for that consideration. J. Eckstrom also asked for clarification, asking if the request is for 5 occupants in the same building. Applicant,

responded they are considering 5 occupants in the building and no change in the construction – just in the number of occupants.

A. Hoar asked if the number of occupants changes the number of dwelling units. N. Faiman clarified that a dwelling unit is a place where people are living together as one – not limited by the number of people. N. Faiman also stated that a variance would be needed to allow a second unit in the dwelling. Also, consideration of 5 occupants would impact cars in the driveway. N. Faiman stated they can address the application as written for a dwelling.

J. Eckstrom asked if they had considered utilizing the existing café and convert it to a dormitory as an opportunity to provide for more occupants and had they explored placing a dormitory somewhere else on the property and not on this specific lot.

J. Stone responded that a dwelling must be on the farmstead property lot and there are conservation restrictions on the other lots. Dwellings must be built on the farmstead lot only.

Applicant responded that the 2-1/2 acres are set aside is all ledge lot. It is possible to build, but cost prohibitive and that might require blasting. Applicant added that a road would be necessary to that site and they would prefer to have less impact.

N. Faiman reviewed the application and stated the application does not specify the number of occupants but could limit total occupancy. J. Stone added that with 5 occupants there needs to be sufficient parking. P. Howd was also concerned about the parking situation with an additional unit.

P. Howd asked if the maintenance area could be moved to another area on the lot. That is, build a different barn structure and utilize the existing structure for housing. A. Hoar pointed out it is all one building. They would still need a separate dwelling and that would require a variance for 2 buildings and a 3rd apartment on the lot, regardless.

J. Eckstrom stated that parking is congested and applicant asking for a variance to attract employees and provide a benefit of housing is going too far. .. Applicant interrupted and J. Eckstrom continued ...reasonable pay and benefits; it is not the zoning board's responsibility to create a benefit for employees when you can utilize the café as a living quarter or place a structure across the way. Applicant responded that the land is controlled. A farm needs housing for temporary workers. Parking for apprentices is currently behind the hay barn where there is space for parking. Dormitories are a benefit of a farm. In the past, workers were local. It is now a requirement of a farm to hire enough people to farm the land.

J. Eckstrom pointed out that with five additional people, is the sanitary system adequate? Applicant responded that they would add appropriate sanitary system capacity and they will build three spaces now but want to be able to build an additional two in the future. P. Howd asked if they would increase space if planning for 5 now. Applicant responded it would expand the square footage but not the footprint.

P. Howd stated he would love to see the future plans for housing, etc. and could the applicant create and present the full plans. Applicant stated LCHIP is waiting for the variance approval before accepting detailed plans for construction. They would also look at moving some farm

activity to outside the dwelling area instead of piece-meal the changes, including a proposal to add an apartment over the existing barn for full time staff resulting in violating the number of dwelling and dwelling units. There is a need for housing to attract and keep workers for the farm.

J. Eckstrom MOVED to close public hearing. A. Hoar SECONDED. Roll Call – all: yes.

Discussion:

N. Faiman summarized. Basically, it is a farm with a café, encouraged and permitted use of land by state law. Essentially farms need workers and the Applicant has argued the economics that to maintain a farm requires providing housing to run a farm.

J. Stone stated the farm area would be enough space for dwelling if there were no restrictions that prevent putting dwellings on other parts of the property. Easements prevent it, and all non-farm buildings must all be in farmstead area.

J. Eckstrom appreciates that farms are benefit and vital resource to community. The problem is putting 3 separate dwellings where only one building is allowed. It already exceeds the number permitted. Construction exists on top of barn. The current variance allows two (2) dwellings on property and now asking for another dwelling unit. It opens question about use of the lot.

A. Hoar stated that the area can adequately support the increased number of dwelling units if considering total size of property. A farm is a special thing. Extra dwelling is not. The issue of commuting is a relevant concern.

P. Howd stated his concerns. Farms are treated different, but property is more than a farm, it is also a commercial property with a café taking up valuable resources. If additional restrictions are added to application, P. Howd would be happy with language with restrictions, but a longer-term plan is still needed.

A. Hoar wondered if a master plan is something for the Planning board. P. Howd stated that it was not what he was looking for but an idea for long term vision.

N. Faiman reviewed the criteria for granting a variance.

Fundamentally it violates the ordinance: yes

Does it affect neighbor property values: no

Substantial Justice – no issue

Hardship – unique character makes it hardship. It is a large agricultural property that needs housing: Reason for housing may not apply to other properties. Hardship would be met

P. Howd asked what makes a dwelling unit a dwelling unit. N. Faiman responds with the definition that a dwelling unit is one or more people living together as a single unit. P. Howd asked if they need their own kitchen.

A. Hoar asked what restrictions P. Howd would like to include. P. Howd responded: Not to exceed 1000 sq feet above barn and no bigger. Architectural restrictions should be made note of and encouraged. Also, 3 bedrooms should be the maximum. If more space is needed, come

back with long term plan. Consider moving farming building outside of farmstead area. Accessory unit 900 sq feet and 2 bedrooms max.

N. Faiman stated if variance is approved, new construction should be in area indicated. J. Stone pointed out the drawing is not-to-scale and it would be inappropriate to make that statement. Maybe something more precise would be presented such as at the end of barn, limited to that location show on drawing.

J. Eckstrom MOVED to reopen to public and P. Howd SECONDED. Roll call: all yes.

J. Stone asked what is the roof style/line allowed by LCHIP. Applicant stated it hasn't been pursued yet. Deb Mortvedt, Heritage Commission representative added that LCHIP will wait to become involved until ZBA makes a decision.

J. Eckstrom asked if there is an opportunity to expand the farming building. Applicant responded that primarily farm land cannot be built on. A solar application could not get through as initially proposed because it used USDA maps and restrictions.

J. Eckstrom asked – would adding farm housing above for a farming manager be an option and can that be expanded in the farmstead area. A. Hoar asked what a farm manager is. Applicant responded that it may not be enough contiguous living space. Two separate buildings are needed they are looking for alternatives. J. Eckstrom stated there is crowding, where can parking lots be. Applicant responded that there is private space for a family. There is an impact on small area especially with parking.

Summary: Parking is for farmers living locally and parking currently. Those spots would be taken by new farmers.

J. Stone asked if the proposal still does not increase footprint? Applicant stated Yes, does not increase total footprint except for stairwell to above area. From architectural aspect, there would be a break in the roof line to delineate between old and new construction

J. Stone MOVED to reclose discussion. A. Hoar SECONDED. Roll call: All, yes.

J. Stove MOVED to approve application as submitted. A. Hoar SECONDED. No Discussion.

Roll call:

J. Eckstrom: No

A. Hoar: Yes

P. Howd: No

J. Stone: Yes

N. Faiman: Yes Motion carries (3-ayes, 2-nays, 0-abstain)

Decision: The requested variance has been approved. Written notification coming. Site plan reviewed is required by Planning board and state review is also required. Right to request for

rehearing in writing must be filed within 30 days from tonight. In absence of rehearing, the decision becomes final.

Case#6/14/2022-1

Susan M. Latham has requested variances to sections [5.1\(d\)](#), [5.5.1](#), and [5.5.3\(b\)](#) of the Wilton Zoning Ordinance to allow construction of a detached garage containing an accessory dwelling unit on Lot K-89, 23 Clark Court, where the ordinance allows accessory dwelling units only in the same dwelling as the primary dwelling unit.

J. Eckstrom made MOTION to Continue Case#6/14/2022-1 to August meeting. Applicant unable to attend. P. Howd SECONDED. Roll Call: All yes. Motion carried.

Decision: Case continue to August.

2a) Minutes Continued

Minutes:6/14/2022

At the beginning of the review, A. Hoar recused himself from discussion.

- Reference case#4/12/22/-1. Add "Planning board had no objection to continuance.
- Reference case#4/12/22/-1. P. Howd asked to change the word "abstain" to "recused"
- Reference case#5/10/22/-1. Add reason for continuance "Only 4 members would be available to hear the case.

P. Howd MOVED to accept minutes as amended. J. Eckstrom SECONDED.

Roll Call: J. Stone abstained, P. Howd, yes; P. Levesque, yes; J. Klinghoffer, yes; J. Eckstrom, yes; N. Faiman, yes.

Minutes 6/21/2022

P. Howd MOVED to accept minutes as written. J. Eckstrom SECONDED.

Roll Call: J. Stone abstained, P. Howd, yes; P. Levesque, yes; J. Eckstrom, yes; N. Faiman, yes.

Notes: Minutes should include the board member asking question.

Notes: Minutes of 5/10/2022 and 5/18/2022 to be reviewed and approved at next meeting.

**Respectfully submitted by Margaret A Duggan, Acting Secretary
Approved on 09.13.2022**