

TOWN OF LANCASTER
BOARD OF APPEALS
Prescott Building
Thursday, March 22, 2018

Present: Matthew Mayo, Chair; Jeanne Rich, Vice-Chair; Sarah Gulliver; Hannah Meyer; Scott Miller and Bob Baylis

Absent: David Stadtherr; Frank Sullivan, Clerk

Also Present: Noreen Piazza, Planning Director

There being a quorum present, Chair Mayo called the meeting to order at 7:00 PM.

Chair Matthew Mayo went over the agenda for the evening's meeting.

Public Hearing, Appeal of Building Inspector/Zoning Enforcement Officer Determination, 61 Old Union Turnpike

Present: Kevin and Renee Joyce, 27 Old Union Turnpike, Lancaster, MA
William Kearney and Heidi Lundblad, 61 Old Union Turnpike, Lancaster, MA
Suneer Verma, 61 Old Union Turnpike, Lancaster, MA

At 7:00 PM, Chair Matthew Mayo read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering a petition by Kevin Joyce (applicant and abutter), 27 Old Union Turnpike, Lancaster, MA for an Appeal pursuant to the Determination issued by the Lancaster Building Inspector and Zoning Enforcement Officer, dated January 23, 2018, as it relates to the Lancaster Board of Appeals Findings and Record of Proceedings, dated February 25, 2016.

The site is located in the Residential Zoning District at 61 Old Union Turnpike, Lancaster, MA, and is identified on the Assessor's Map 10 as Parcel 116.

Abutters within 300 feet were notified via Certified Mail (return receipt) and interested parties were notified via First Class Mail. This matter was publicized in *The Item* on March 2, 2018 and March 9, 2018.

Kevin Joyce appeared before the Board to appeal the Building Inspector's/Zoning Enforcement Officer's (ZEO) determination that the residents at 61 Old Union Turnpike (Lundblad/Kearney) were not in violation of their special permit to keep two (2) horses on a property that is less than five (5) acres. The original decision was issued to Ms. Lundblad and Mr. Kearney at a public hearing held on February 25, 2016.

The original decision found that the two (2) horses could be kept on the property, however they needed to site their barn and paddock on a specific location on the lot. These locations were specified based on

a signed revision to the plan at the February 25, 2016 hearing that the 24' x 34' barn, with an attached 80' x 60' paddock, would be located at the far left rear side of the property in order to be further away from the Joyce residence at 27 Old Union Turnpike. This location would still comply with the side and rear yard setback requirements.

Mr. Joyce stated that the barn is sited in the correct location, but the paddock is much larger than the original 80' x 60' and spans the entire length of the rear yard right up to the lot line on the easterly side. The Board asked about the dimensions of the paddock, to which Ms. Lundblad did not have that information. She claimed that the paddock in its current size and location meets all side and rear yard setbacks.

Mr. Joyce discussed the size of the installed paddock with Mr. Kearney in 2016, which is only a temporary paddock to eventually be replaced with a permanent fence in Spring 2017. In December 2017, Mr. Joyce once again spoke with Mr. Kearney to understand the status of the fence, and Mr. Kearney indicated that what was installed met all of the side and rear yard setback requirements.

Jeanne Rich asked Mr. Joyce how far his house was from the lot line, to which Mr. Joyce did not know. Scott Miller asked if the fence was on the lot line, to which Mr. Joyce did not know. There has been no survey completed.

Mr. Joyce went on to state that the 80' x 60' size of the paddock that was originally agreed upon was not adhered to. The larger paddock is at least 250' in length and 50' deep. It spans the entire rear lot line and goes right up to the lot line on the Joyce side.

Suneer Verma stated that the paddock was placed where by the zoning bylaw allows. Heidi Lundblad said that the paddock was placed 12" from the lot line, and would not have purchased the property if she could not place the paddock in that location. Bob Baylis asked how large the paddock is, to which Mr. Verma stated it was not measured.

Jeanne Rich then cited the revised lot diagram from the original hearing that showed the final size and location of the paddock, with a signature and date by Ms. Lundblad. Ms. Rich did not understand why the existing size and location of the paddock were different from that on the diagram. Mr. Verma stated that the Building Inspector issued the building permit with the proper location per the zoning bylaws.

Ms. Rich responded by stating that the special permit decision takes precedence, and that Ms. Lundblad and Mr. Kearney are in violation to the change in placement and size of the paddock. Mr. Joyce continued to refer back to the revised lot diagram and signature as the recognized agreement.

Ms. Lundblad stated that she had not decided at the time of their original hearing what the size would be, and that this was always approximate.

Sarah Gulliver asked if there could be a compromise between the two neighbors. Mr. Joyce said that he could compromise if the paddock were located 100' from the easterly lot line. That means that the paddock could be increased in size from 60' x 80' to 60' to 100'. Ms. Gulliver then clarified that they would need to amend their special permit to do this. Ms. Lundblad reiterated that she has abided by the zoning bylaws.

At 7:40 PM, Mr. Scott Miller made a motion to close the public hearing for the appeal of the Building Inspector/Zoning Enforcement Officer's determination at 61 Old Union Turnpike. Ms. Jeanne Rich seconded. No discussion. VOTE: 5-0-0.

Scott Miller noted that the original hearing minutes noted a recommendation on the paddock placement which the Building Inspector/ZOE viewed as a suggestion. This recommendation took place prior to the hearing close and led to the revised final plan. The work should be enforced per that plan and the decision.

Jeanne Rich stated that the Building Inspector's determination was not specific as to the location of the paddock, only the setbacks.

At 7:45 PM, S. Miller made a motion to find in favor of the applicant (Joyce) as the owners (Lundblad/Kearney) were not in conformance with the special permit, and to direct the Building Inspector to enforce the special permit as outlined in the revised lot diagram dated February 25, 2016. J. Rich seconded. No discussion. VOTE: 5-0-0.

Chair Mayo notified Ms. Lundblad and Mr. Kearney that they could apply for an amendment to their special permit to move the paddock. He also said that the decision would be rendered within two weeks, followed by a 20-day appeal period. If they choose to appeal, this should be done through the courts.

Mr. Joyce asked when the Building Inspector can enforce, to which Ms. Rich said after the appeal period has expired.

Continuation of Public Hearing, Accessory Apartment (Section 220-9 (G)), 29 Mill Street

Chair Mayo read a request for a continuation from the hearing this evening to the May 24, 2018 meeting.

At 7:55 PM, J. Rich made a motion to continue the public hearing for 29 Mill Street to the Board of Appeals meeting to be held on May 24, 2018. Matthew Mayo seconded. VOTE: 5-0-1 (Sarah Gulliver abstaining).

General Business

Minutes from January 25, 2018

The Board reviewed the minutes from the January 25, 2018 meeting.

At 8:00 PM, Ms. Jeanne Rich made a motion to accept the minutes from the January 25, 2018 meeting. Mr. Scott Miller seconded. No discussion. VOTE: 5-0-1 (Sarah Gulliver abstaining).

There being no further business before the Board, the meeting was adjourned at 8:05 PM.

Respectfully submitted,

Noreen Piazza, Planning Director