



BOARD OF ADJUSTMENT

PO Box 120
Windham, New Hampshire 03087
Telephone (603) 432-3806

Zoning Board of Adjustment Minutes August 10, 2010

Board Members

Mark Samsel – Chairman
Tom Murray – Vice-Chairman
Dianna Fallon – Secretary
Elizabeth Dunn – Member
Heath Partington – Member
Jim Tierney – Alternate (Excused)
John Alosso – Alternate (Absent)
Mike Scholz – Alternate
Sal Basile – Alternate

Staff

Laura Scott – Community Development Director
Tim Corwin – ZBA/Code Enforcement
Patricia Kovolyan – Administrative Assistant

Lot #17-G-26 Case #32-2010 (Continued from July 27, 2010)

Applicant – Windham Coffee Roasters
Owner – The Common Man Restaurants
Location – 84 Range Road
Zone – Gateway

A variance is requested from Section(s) 706.4.2 of the Zoning Ordinance to permit more than the allowed number of signs on the building.

Case #32-2010 was withdrawn by the applicant.

Lot #19-B-10 Case #38-2010

Applicant – Gary & Heather DelRossi
Owner – Gary & Heather DelRossi
Location – 43 Mammoth Road
Zone – Rural

A special exception is requested from Section(s) 602.1.8 of the Zoning Ordinance to permit the keeping of chickens on a 1.31 acre lot where 2 acres are required.

Mr. Gary Del Rossi read into the record a letter dated July 7, 2010 that he sent to Elizabeth Wood, Town Planner and Dave Poulson, Health Officer. The Chairman marked the letter as



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Exhibit A. In his letter Mr. DelRossi states...*12 chicks were purchased in Salem, NH at Dodge Grain Co. The store's owner insured us that it was very common to keep backyard chickens in Windham... Fresh home grown eggs are the sole reason that we purchased these chicks... We have invested close to two thousand dollars having a custom coop built and building an adjoining fully enclosed 8' X 12' pen that allows the chickens to safely roam within its confines wife and I pride ourselves in keeping our property in meticulous condition. At no time would we ever allow these hens to create an unsafe or unhealthy situation (the coop actually sits 15 feet away from our in ground pool where the kids play all summer)... Regarding potential noise concerns, when we bought the baby chicks we were told that they were all female (thus not a noise concern). Unfortunately the hatchery was incorrect on one out of the twelve. As the hens have grown we discovered that we do have one rooster in the group. The rooster...has not yet learned to cock-a-doodle-do; however it is foreseeable in the near future. Currently we often hear a neighborhood rooster that I believe lives 2 houses away and it has never bothered us. If this is a point of contention with any of our neighbors, we completely understand and are willing to put Henry (the rooster) up for adoption...*

Mr. DelRossi also submitted two photos marked as Exhibit B, two more photos marked as Exhibit C and one map marked as Exhibit D.

Mrs. Dunn asked Mr. Del Rossi about the size of the coop and the amount of space needed for chickens. Mr. DelRossi said that the coop he had built is twice the size needed for 12 chickens; it is actually sufficient for 24 chickens. The pen built by Mr. DelRossi and his brother-in-law is much larger than they need.

Mr. Basile asked the applicant how they are getting rid of the droppings. Mr. DelRossi replied that they bag the droppings and take them to a facility in Nashua.

Laura Scott, Community Development Director, advised the Board that the Health Officer, Mr. David Poulson, was notified about this request but he had to unexpectedly fly to Ohio for a family emergency before he could give his written report. Ms. Scott had a conversation with Mr. Poulson who said that there is sufficient acreage for 12 chickens and the coop is more than large enough and has no concerns regarding this request. Upon his return the Health Officer will provide a letter.

Heather Del Rossi did research chickens before investing in this project and chickens only need 2' X 4' of space outside of a pen.

The following residents spoke in opposition to this request:

- Mr. Richard Morway of 4 Barker Road said that the rooster, because of the noise, is detrimental to his wife's recovery. Mrs. Morway requires a lot of sleep. Mr. Morway went on to say that the hen house will draw rates and other undesirable animals.



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- Mrs. Carol Morway of 4 Barker Road said that she is concerned about property values.
- Mr. Michael DiMarco of 47 Mammoth Road said that he is concerned about his dog because the chickens will bring additional predators. He is also concerned about contamination to their pond such as E.coli.
- Mr. Russ Williams, speaking for his Mother, Elizabeth Williams, said that he is concerned about property values and that the Del Rossi's lot is the smallest in the area.

Mr. DelRossi addressed the residents' concerns. Mr. DelRossi advised Mrs. Morway that the rooster will be removed and apologized for any loss of sleep that may have been caused by the rooster. Mr. DelRossi explained that he dug down 6" on the side and 1' in the front and back and buried ½" chicken wire 1' to 2' below the ground to prevent tunneling animals. The DelRossi's put down hay to absorb moisture and fecal matter and it is cleaned constantly. The entire area is kept clean and healthy. There is zero visibility from the street to the chicken coop.

Mr. Murray motioned and Mrs. Fallon seconded the motion to go into Deliberative Session.

Motion passed 5-0.

Deliberative Session

Mrs. Fallon advised the Board that Best Management Practice states 3-4 square feet per Hen for enclosed housing and 10 square feet per hen for an exercise yard, therefore this is an undersized structure. The chicken coop is 90' from the wetland and the applicant meets the health code standards. There is no proof that property values will be affected.

Mr. Murray read the following Sections of the Ordinance into the record:

- 602.1.8.4 *The Board determines that there is sufficient acreage and/or suitable terrain for the proposed use.* Mr. Murray said the applicant is only 7/10 of an acre short of the two (2) acres required.
- 602.1.8.3 *The Special Exception shall state the type of animal and the maximum number allowed.* Mr. Murray said that this is not an issue.
- 602.1.8.2 *The Health Officer certifies that the proposed use would not constitute a health hazard.* Mr. Murray said the Board received verbal testimony stating that the Health Officer has no concerns and will provide a letter when he returns from his trip.
- 602.1.8.1 *There will be no diminution of surrounding property values.* Mr. Murray said that Lot 19-B-100, 53 Mammoth Road has chickens and there are no visual concerns.

In regard to the concern about predators there is fencing all around and underneath the ground.

Mr. Partington said that since the coop and the chickens could not be seen from the road he didn't think that the property values would be affected.



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Mrs. Dunn motioned to grant a Special Exception for Case #38-2010 allowing up to 12 hens and no roosters contingent upon the Health Officers' certification that this would not cause a health issue. **Motion passed 5-0.**

Approval of July 27, 2010 Minutes

Pat Quit!

Miscellaneous Board Business

Correspondence