
YARMOUTH GENERAL BOARD of APPEALS

Special Exception Standards, Findings, & Decision General Board of Appeals Meeting of October 3, 2016

Applicant/Project Description

Nicola Manganello and James Harnden tentative buyer of property at 463 Lafayette Street, Map 04- Lot 05, requests a Special Exception to convert existing barn to offices to house the businesses of the owners, Nicola's Home (NM) and Harnden Commercial Brokers (HCB) as a Home Occupation and to permit an increased number of full time non-resident employees from the two allowable to no more than 5 total for the combined two home occupations. Also to permit an increase in the amount of the existing barn floor area that can be utilized for the home occupation(s) to 62%, in excess of 20 % of the existing dwelling unit as permitted in the Low Density Residential (LDR) District. Reference: Chapter 701, Article II Section J, Article IV, Section G. (LDR District), and Article VII, Section B., Subsection 2.b. (Special Exceptions) of the Town's Zoning Ordinance.

Chapter 701, Zoning, Article VII.2.b(2)(d) Standards for Special Exceptions

(d.) Standards for Special Exceptions. Before it issues a Special Exception permit, the Board of Appeals shall find, as a matter of fact, that the proposed use meets the following criteria:

- i.) The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

Findings of Fact:

State of Maine HHE 200 and the existing bathroom in the barn will meet State standards. No additional septic will be required per CEO/LPI.

Findings and conclusion moved by Tom Marjerison, seconded by Craig Wolff, and voted 4 in favor, 0 opposed.

- ii.) The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

Findings of Fact:

The requested 10 trips per day by employees and owners will not create unsafe conditions.

Findings and conclusion moved by Craig W., seconded by Phil Ahrens, and voted 4 in favor, 0 opposed.

- iii.) The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of Municipal fire or police protection than existing uses in the neighborhood.

Findings of Fact:

No increase in fire or police needed as per plans submitted.

Findings and conclusion moved by Tom M., seconded by Phil A., and voted 4 in favor, 0 opposed.

- iv.) The proposed use will not result in unreasonable sedimentation or erosion, or have an adverse effect on water supplies.

Findings of Fact:

No unreasonable sediment based on DEP standard for soil erosion was indicated in application and testimony.

Findings and conclusion moved by Tom M., seconded by Craig W., and voted 4 in favor, 0 opposed.

- v.) The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other Structures and density of development.

Findings of Fact:

The home occupation is contained within the existing barn with no exterior size change. The proposal provides a productive use for the historic barn and thereby helps ensure the preservation of an important and attractive structure. While the 62% residential use exceeds the normal 20% limit, the large structure and site can absorb the use with limited visual and traffic impacts. The application, public hearing testimony, and with appropriate conditions on the level and time frame of activity and visibility, demonstrate that this use as proposed will be compatible in the neighborhood.

Findings and conclusion moved by Craig W. , seconded by Tom M., and voted 4 in favor, 0 opposed.

- vi.) If located in a Resource Protection District or Shoreland Zone, the proposed use (1) will not result in damage in spawning grounds, fish, aquatic life, bird and other wildlife habitat; (2) will conserve Shoreland Vegetation; (3) will conserve visual points or access to water as viewed actual points of access to waters; (5) will conserve natural beauty; (6) will avoid problems associated with flood plain development and use; and (7) will comply with the performance standards of Article II of this Ordinance.

Findings of Fact:

Not located in Resource Protection District or Shoreland Zone.

Findings and conclusion moved by Tom M. , seconded by Craig W., and voted 4 in favor, 0 opposed.

- vii.) The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

Findings of Fact:

Purchase/sales contract and testimony presented demonstrate sufficient right, title and interest in the property.

Findings and conclusion moved by Phil Ahrens., seconded by Craig W., and voted 4 in favor, 0 opposed.

- viii.) The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the General Board of Appeals pursuant to Article VII.B.2.b.(1)(e) of this Section.

Findings of Fact:

Technical and financial ability based on application and testimony of the applicant during the public hearing regarding the value of projects undertaken demonstrate sufficient financial capacity to undertake the project. Norway Savings will be financing.

Findings and conclusion moved by Craig W., seconded by Tom M., and voted 4 in favor, 0 opposed.

- (e.) Conditions of Special Exceptions. Upon consideration of the standards listed in Article VII.B.2.b.(1)(b) of this Section, the General Board of Appeals may attach such conditions, in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with those standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of Vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, landscaping and planting screens, hours of operation, operational controls, professional inspection and maintenance, sureties, location of Piers, Docks, parking and signs, and types of construction.

Conditions of Approval:

1. Monday through Friday, 8:30am-5pm hours of operation only.
2. Maximum of 10 trips/day for home occupations
3. Not to exceed 5 outside employees or equivalent; 3 for Nicola's and 2 for Harnden
4. Parking for the Home Occupation shall be located behind the barn to limit visibility from the street, or if located elsewhere on the site parking shall be screened from view from the road in a manner subject to review and approval by the Planning Department.

5. Approval of Variations from Plans: The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant, testimony during the public hearing, and the administrative record. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.

Motion to Approve: Based on the findings of fact and conclusions as voted above, and subject to the five conditions of approval as stated above, the Yarmouth General Board of Appeals hereby finds that approval of the Home Occupations **does** achieve the spirit and intent of the Home Occupation definition in Article I.D, and therefore **approves** Special Exception application for Nicola Manganello and James Harnden, tentative buyers of property at 463 Lafayette Street, Map 04 Lot 05.

Motion moved by Tom Marjerison, seconded by Craig Wolff, and voted unanimously, 4 in favor, 0 opposed.

Voted by the Town of Yarmouth General Board of Appeals on October 3, 2016.

Signed by:



Jennifer Peters, Chair, General Board of Appeals

10.26.16

Date