

## **Topsfield Zoning Board of Appeals**

May 27, 2014

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Robert Moriarty, Jody Clineff, David Merrill, David Moniz and Gregor Smith. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

**Visitors:** Selectmen Dick Gandt and Martha Morrison; James O'Brien, Katherine Carlson, John Spencer, Bob Winship, Peter Ogren, Ziad Shahin, Jumana El Madhoun, Greg Huntley, Tina Strunk, Nicholas Richardson, James Leonardi, Kimberly Leonardi, Cindy Lancaster, Woody Lancaster.

**207 Boston Street Re: Topsfield Fair Special Permit:** At 8PM, Chairman Moriarty called to order the public hearing to consider the application of the Essex Agricultural Society for premises located at 207 Boston Street requesting a special permit pursuant to Article III, Section 3.05 of the Zoning By-Law in connection with the Topsfield Agricultural Fair to allow for parking of cars, use of the midway until 11:30PM and the use of loudspeakers until 11:00PM to be held from the Friday, 10 days prior to, and through Columbus Day in 2014 and for the same period for the four following years.

Presenting the application was General Manager James O'Brien for the Essex Agricultural Society requesting a five-year permit through the Fair in 2018. The requested conditions of the special permit relative to the operation of the annual fair would remain the same as in the 2009 special permit. Parking for the additional evening will be offered without charge, as has been the case since the commencement of the Friday night opening.

Mr. O'Brien then reviewed the operations of the Topsfield Agricultural Fair in response to questions posed by Chairman Moriarty and other members of the Board. Chairman Moriarty stated that principal areas of concern with the operation of the Fair are (i) the Friday opening which originally commenced as a low key Topsfield resident only event beginning at 5PM that has now been extended to a regular operating Fair day and (ii) the level and timing of sound that emanates from the Fairgrounds and affects abutters and nearby residents.

Mr. O'Brien acknowledged that the Friday opening has been added to the Annual Fair; however, there is still free parking, no grandstand act and free admission to all Topsfield residents who can obtain tickets at the administration booth as early as the month of August. The parade is now known as the "Grand Parade" which is still on Saturday morning. He further stated that this has worked out to everyone's advantage since floats and other equipment can be brought to the Fairgrounds on Friday. The first Friday opening is at now 1PM which has been the designated time for several years. The Fair is

now under 24 hour locked down for security purposed from the opening on the first Friday through its closure on Columbus Day. The Fair's staff works with the state police, Topsfield police and fire to make the Fair a safe and appropriate venue for families. All personnel and vendors must have badges to be admitted into the fairgrounds and the Fair has now implemented bag searches for admittance. He also reviewed the busing operation from North Shore and Masco on the five busiest days (Saturday & Sunday of both weekends and Columbus Day).

Chairman Moriarty asked Mr. O'Brien to review the operating schedule and the use of the loudspeakers since the noise levels seem to be intensifying. Mr. O'Brien explained that the agricultural buildings and displays opened at 10AM in the morning and the Fair allows the public access to the grounds at 9AM. The early morning crowd is usually seniors, mothers and children. The buildings and displays close at 10PM during the week. The midway opens later in the day and remains open until 11:30PM and since the rides have music the loudspeakers remain in operation until 11PM. He also noted that if the weather is rainy, the Fair including the midway would be shut down earlier and usually closed by 10AM especially during rainy week nights.

At this time, the Board recognized Mr. John Spencer of 27 Morningside Drive, an abutter of the Fairgrounds. Mr. Spencer noted that over the past years there has been an extended upward noise volume specifically the "techno music". He requested that there be earlier closing times for school nights. Ms. Katherine Carlson of 23 Perkins Row also expressed her concerns relative to the noise level and increased hours of operation including both daily operating hours and number of days of operation.

Chairman Moriarty then summarized the current discussion and views of the attending residents that there is a significant feeling amongst town residents including the members of the Zoning Board that there has been an increase in the commercialization of the Fair and specifically, the increase to the noise level, which has become a point of contention for the Town.

The members then discussed scaling back the hours of operation for the use of the loudspeakers relative to the amplified sound as entertainment music from the Midway. It was the consensus of the Board that the use of loudspeakers should be scaled back on school nights and agreed after input from Mr. O'Brien to limit the time period to Sunday thru Wednesday. The use of loudspeakers for amplified sound as entertainment music from the Midway should cease operation at 10:15PM.

The Board then reviewed a list of conditions for the special permit which included use of loudspeakers Sunday thru Wednesday till 10:15PM for entertainment sound music; only public safety announcements allowed after 10:15PM Sunday thru Wednesday; 9AM admittance to Fairgrounds; three (3) year permit; 1PM opening on First Friday; free parking for First Friday and all other conditions remaining the same as 2009 permit.

The Board made the appropriate findings relative to the required zoning relief. Gregor Smith moved that the Board grant a special permit pursuant to Article III, Section 3.05 of

the Zoning By-Law in connection with the Topsfield Agricultural Fair to the Essex Agricultural Society subject to the conditions stated below.

A. The conditions for the 2014 special permit are as follows:

1. Loudspeakers for amplified noise for entertainment purposes are to cease operation at 10:15PM, for the period of Sunday thru Wednesday during the Topsfield Fair;
2. Loudspeaker announcements would be limited to only public safety announcements after 10:15PM;
3. The period of this special permit is for three (3) years which includes the operation of the Fair for 2014, 2015 and 2016;
4. The Fairgrounds will open no earlier than 9AM for admittance to the general public in the morning during the annual fair with buildings and agricultural displays opening at 10AM;
5. The First Friday start time opening for the public to gain entrance will be 1PM.
6. All other conditions remain the same as the 2009 special permit including free parking on the first Friday on Fairground owned and operated lots.

Seconded by Member David Moniz; so voted 5-0.

**47 Central Street:** At 8:30PM, Chairman Moriarty called to order the public hearing to consider the application of Ziad Shahin of 21 Summer Street for premises located at 47 Central Street, a corner lot with two principal structures, requesting a variance for zoning relief from the required lot area and depth requirements pursuant to Article IV, Section 4.02 Table of Dimensional and Density Regulations of the Zoning By-Law in order to subdivide the lot into two non-conforming lots.

Project Engineer Peter Ogren of Hayes Engineering reviewed the ANR site plan for 47 Central Street, a corner lot with two principal structures; the second of which is located on Summer Street with a mailing address of 21 Summer Street. Mr. Ogren noted that the second principal structure located on Summer Street was allowed to be constructed under a special permit issued by the Zoning Board of Appeals in 1999. Said structure replaced an existing trailer that had been located on the Summer Street side of the property since the 1950's. He noted that both structures had their own septic systems. Mr. Ogren then reviewed the requested relief required in order for the Planning Board to approve the subdivision of the lot. Lot A (47 Central) would require a variance from the required area and lot depth and Lot B (21 Summer) would require a variance only for area. The intention of the owner is to transfer the houses to family members. It was also noted that

due to the disparity in the valuations of each home it was not financially feasible to turn the homes into condominiums. The use of the land will remain the same as single family residential homes.

Several residents of Summer Street noted that they had no objections to the divisions of the property and supported the request. Planning Board Chairman Martha Morrison informed the Board that the Planning Board had no objections to the ANR proposal provided zoning relief was granted.

The Board made the appropriate findings relative to the required zoning relief. Clerk David Merrill moved that the Board adopt the foregoing findings and grant a variance for the area and depth requirements for Lot A, and for the area requirement for Lot B. The motion was seconded by Member Jody Clineff so voted; 5-0

**Minutes:** Member Jody Clineff made the motion to approve the minutes of February 11, 2014, Joint February 11, 2014, February 25, 2014 and April 30, 2014 as written, seconded by Gregor Smith; so voted 5-0.

The meeting was adjourned at 9:21 PM

Respectively submitted,

Roberta M. Knight  
Community Development Coordinator