

DRAFT FOR DISCUSSION PURPOSES

TOWN OF WENHAM

BOARD OF ZONING APPEALS

9 Hull Street, Wenham Massachusetts
Petitioners Jonathan and Sarah Prescott

The Board of Zoning Appeals for the Town of Wenham, Massachusetts, conducted a public hearing at Wenham Town Hall on March 2, 2017 to consider The Petition of Jonathan and Sarah Prescott, (9 Hull Street) for a variance from Section 5.2.8 (Dimensional Requirements and Location) and Section 5.1. (Table of Dimensional Requirements) to allow the construction of a small accessory structure on an existing stone foundation, which is within 15 feet of the side yard setback. While the square footage of the structure is very small, a variance is required because the accessory structure is larger than 150 square feet and because it is within 15 feet of the side yard setback. Separately, the Petitioners have also requested a Special Permit under Section 4.3.4.2 (Home Occupation by Special Permit) for allowance of a home occupation (a dog obedience training business) at their home.

Present at the hearing were the following members of the Board:

Anthony M. Feeherry (Chairman)
Jeremy Coffey
Christopher Vance

A notice of public hearing on this application was advertised as follows, a true copy of which is on file in the office of the Zoning Board of Appeals:

- 1) Published in The Hamilton Wenham Chronicle, a newspaper of general circulation in the Town of Wenham on Thursday February 16, 2017 and Thursday February 23, 2017
- 2) Posted at the Town Clerk's office February 6, 2017.
- 3) Mailed February 6, 2017 to the petitioner, abutters, owners of the land directly opposite the property in question on any public or private street or way, abutters to abutter within 300 feet of the subject property.

RELEVANT FACTS AND BYLAW PROVISIONS

With respect to the requested variance, the relevant provisions in the Zoning Bylaws are Section 5.2.8 (Dimensional Requirements and Location) and Section 5.1. (Table of Dimensional Requirements) There is an existing foundation on the property measuring 19.2 feet by 10.8 feet, which dates back to at least 1930 when a structure on the foundation served as a steamed-powered wood mill used for cutting firewood and milling fence posts. Like much of the property, the existing foundation is situated within the 100 foot buffer zone to bordered vegetated wetlands that impact the entire property. The structure will be very small and indeed

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the square footage is only slightly greater than the size that is allowed without consideration of setback. The proposed studio structure will be a retreat space for personal meditation, yoga and exercise with a dedicated reading and writing area. The structure will not otherwise be used for a residential dwelling, nor will it be used for any commercial purposes.

With respect to the proposed Special Permit pursuant to Wenham Zoning Bylaw Section 4.4.3.4 (Home Occupation) the Prescotts ask this Board to allow them to create the following programs at their site:

1. A traditional 1.5 hour classroom program of dog obedience training involving one to four clients and their dogs. There will be a maximum of four dogs with four (4) owners in this program, offered on a weekly basis.
2. A train and board program that provides intensive training and accelerates the results for time-constrained clients. This program requires that a dog remain in the Prescott's care for one to three weeks depending on the level of training required. There will be a maximum of four dogs in the train and board program at one time.
3. Overnight dog boarding for existing and previous clients. Only dogs that have attended their training programs will be eligible for boarding with the Prescotts. The overnight boarding program would be offered for 4 to 8 dogs, as space becomes available in the train and board program.
4. There will never be more than 8 dogs overnight in the combined train and board and overnight boarding programs. There will never be more than a total of 12 client dogs on-site at any one time (which assumes programs 1, 2 & 3 are fully subscribed).

DECISION

With respect to the requested variance, the Board unanimously approved that variance to allow construction of a structure of approximately 200 square feet at the location of the existing foundation on the Property. The Property will be serviced with [electricity (plumbing)?], and shall not be used as a dwelling or for any commercial purpose. The variance is granted based upon the Board's recognition of hardship to the Petitioners and the unique topography of the lot in question.

With respect to the home occupation, the Board recognizes that "kennels" are not allowed in Wenham under our By-Laws. The principal issue before the Board is, therefore, whether the proposed use is sufficiently different from a "kennel" to allow it as a Special Permit use. Ultimately, we believe that the requested relief should be approved, if at all, in stages. The first stage will be approval of the training programs at the site, so as to allow the training of a maximum of four (4) dogs, often on a weekly basis, as requested by the Petitioners. With respect to the train and board program, the Board will approve this program only after 6 months of experience with the dog obedience training program. In connection with any such approval of

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the train and board program, it will be necessary for the Petitioners to provide to the Board a complete set of plans for the renovation of the existing barn on the Property, which shall be insulated, centrally heated and air-conditioned so the dogs can be safely be boarded year-round. Outside there will be two (2) fenced in areas, a training yard and an entry yard. The dimensions are shown on the plans submitted to this Board. There will be a maximum of four (4) parking spaces for client visits.

Special Conditions

- Number of Employees: There shall be no more than 2 additional employees on site at any time.
- Signage at the Property: Any proposed signage shall be submitted for approval to the Planning Board per Section 7.1.2 of the Wenham Zoning Bylaws
- No more than four (4) dogs shall be allowed in the training program at any one time during the first year of this approval.
- : The Special Permit shall be for the training program only for the first six months from approval date. No Boarding will be allowed for the first six months. After the expiration of the six month trial period the Petitioner shall return to the Zoning Board of Appeals for consideration of the Special Permit to allow the Training and Boarding program. The Board will consider the impacts of the use of the property for the training. The Petitioner shall be required to submit a new application for the training and Boarding program and will include a complete set of plans for the renovation of the existing barn on the Property, which shall be insulated, centrally heated and air-conditioned so the dogs can be safely boarded year-round.
- Due to the uniqueness of this home occupation and in order to protect the interests of any abutters, this special permit shall expire after one year, or the transfer of the property, whichever first occurs; provided, however, that the special permit shall automatically renew prior to the expiration of said one year period provided that the home occupation remains in compliance with any terms and conditions set forth in the original special permit.
- Hours of Operation: No dogs shall be allowed outside of the enclosed area after ???PM

Anthony M. Feeherry (Chairman)

Jeremy Coffey

Christopher Vance