



Wildstar Farm

Chris Canney
Building Commissioner
Zoning Code Enforcement
Town of Sherborn
19 Washington St.
Sherborn MA 01770

14 May 2020

Dear Chris,

We have always held that the barn, arena and associated apartment are an agricultural activity under GL c 128, Section 1A. We got a Special Permit for the apartment under protest and now rather than renew that Special Permit seek to eliminate the need for it. I note that the apartment was established with a Special Permit and could easily qualify for such. Should the apartment no longer be occupied by a person employed for an agricultural purpose I can return to the Zoning Board of Appeals and apply for a Special Permit if that is required for the new use.

Wildstar Farm is a DBA for my wife Polly Kornblith and myself. On our property we raise, train and board horses. We rent stalls to Horse Senseability and in turn Horse Senseability provides riding lessons and therapeutic riding lessons. Any part of this activity meets the standard of being a Commercial Stable. As I understand it the seminal case on Special Permits and horse farms is Steege:

<http://masscases.com/cases/app/26/26massappct970.html>, which motivates the standard I use here.

As you well know the Wildstar Farm barn has always been a commercial activity. This was the basis for many of your requirements on the building permit. We spent hundreds of thousands to satisfy those requirements. For example as a non-commercial residence, barn and accessory apartment no sprinklers or fire alarm system would be required.

Wildstar Farm is licensed as a commercial stable with both the State of Massachusetts and the Town of Sherborn. The Horse Senseability riding programs carry commercial insurance. You also know that the apartment has always been intended for a full-time salaried barn manager involved in that commercial activity as confirmed here.

This letter may be taken as an affidavit that Sarah Lovett, the occupant of the apartment in our barn, is a full-time employee of Wildstar Farm. Sarah is responsible for the care and management of the horses on our site. Per your email I understand that this certification is what you need in your position as Building Commissioner to accept that the residential use of the apartment is incidental to the agricultural use.

Sarah's full-time employment in support of the Wildstar Farm agricultural activity is why we consider our apartment exempt from the Special Permit requirements of the Sherborn Bylaw on accessory apartments.

You have said that Town Counsel has suggested that we must provide specific information to be able to claim the apartment is due an agricultural exemption. The items in his email are listed in bold face below with specific responses to each item.

A business plan indicating that the operations on site are a commercial agricultural use (ie: "the keeping of horse as a commercial enterprise" GL c 128, Section 1A)

Wildstar Farm is on more than 5 acres as required by provisions in the law.

I see no provision in the law that requires a business plan. While we personally have no written business plan most of the stalls are rented to Horse Senseability (7 of 12 stalls as declared on our taxes). This clearly meets the provisions of the law. Case law clearly shows raising horses, riding lessons and/or renting stalls is part of "keeping of horses as a commercial enterprise". Renting stalls would satisfy by itself if the horses were merely boarding, but, Horse Senseability runs income earning riding programs that use all 12 horses on our farm. The 5 horses owned by us personally are frequently used by paid program activities. (There is a written contract for this use.) The majority of the stalls if not all of them thus are involved in the commercial agricultural activity.

Wildstar Farm engages in the purchase training and resale of a horse or two each year. Wildstar Farm also raises and trains horses for use by Horse Senseability. Wildstar Farm charges a small fee to each boarder for grazing rights on our land. Wildstar Farm also sells eggs raised on the property. As required by the law in every year Wildstar Farm has exceeded \$500 in gross sales of agricultural products. Wildstar Farm reports these sales as income on our federal and state taxes.

Provide details of the area of the property that is used for agricultural use versus single-family residential use to determine which is the “principal” use of the Property.

I challenge the concept that principal use of the whole property is at issue. Town Counsel’s request suggests that proportions or principle use of the whole property are relevant. The apartment arena and barn are entirely in agricultural use. The house is not. The pastures and paddocks are. The apartment is the only reason for a Special Permit. The principal use of the apartment is what should be in question. The apartment is 100 percent in agricultural use. Nevertheless based on land area or building square footage the majority of this property is in agricultural use.

Our property is 11.3 acres. For federal tax purposes 10.3 acres of that land is apportioned to the agricultural activity. We could put our land into 61A, we choose not to do so because we do not want to grant the right of first refusal that this would entail. I understand that under Massachusetts rules for property tax reduction 3 acres of land required here for a single-family residence would not qualify for 61A tax reduction. Thus under those rules you might claim that 8.3 acres of the land is what is in agricultural use still a majority.

The assessor’s finished area square footage for our house shows 8409 square feet. My measurements for federal taxes show 6016 square feet of living area. I suspect the assessor’s data is counting unconditioned basement square footage. The stable and arena buildings are much larger than the house 19608 square feet (taken from the code compliance data sheet).

Provide details of how the apartment supports and is required by the agricultural use, ie demonstrating that the housing unit is necessary to the agricultural operations at the Property.

The barn manager caring for all of the Wildstar Farm horses lives in the apartment to perform horse care and associated management. This is the full-time job of the barn manager. A barn manager caring for horses at a commercial stable clearly qualifies under the law and is normal and common for barns of this size. All the commercial barns I know of have a similar residence for a horse care person. Leaving horses alone on an unoccupied property is considered poor management and, in our case, would result in increased insurance premiums. There are even some conditions under state law that require a night watchman for horse occupations. Having a barn manager live on site is normal, even sought after for stables.

Our barn manager living in the apartment is 100 percent in support of the commercial stable activity. Having a barn manager live on site has many advantages, covering night time horse emergencies is a good example. While calling a residential manager necessary might be a slight stretch it is certainly a good idea and is considered a “best practice”.

I hope this gives you what you need to put this Special Permit issue to bed. Thanks for the help.

Michael Newman

Cc: Richard Novack, Jeanne Guthrie