



City of Newburyport, Mass.

BOARD OF APPEALS

CITY HALL



SEP 2 5 1985

The Zoning Board of Appeals of the City of Newburyport met on August 13, 1985, August 27, 1985, and September 10, 1985, at City Hall to act on an application from Francis Vitale, 7 Winter Street, Beverly, Massachusetts; and Ribot Realty Trust, owner, 54 Corning Street, Beverly, Massachusetts; in conformity with provisions of Massachusetts Zoning Law, Chapter 40A, as amended by Massachusetts Zoning Law, Chapter 808, Acts of 1975.

The applicant requested a SPECIAL PERMIT in accordance with provisions of State Zoning Law and local Zoning Ordinance, SECTION X-H-3B, POWERS OF THE BOARD OF APPEALS; SECTION V-D, TABLE OF USE REGULATIONS #27; FOR PURPOSE OF CREATING PUBLIC 9-HOLE GOLF COURSE AND CLUBHOUSE IN AN R-1 ZONE AT PREMISES SITUATED AT 63 FERRY ROAD, NEWBURYPORT, MASSACHUSETTS, in accordance with the plan and application submitted.

Appearing in favor of the application was the petitioner, Francis Vitale, 7 Winter Street, Beverly; Gordon Lindroff, abutter; Neil Shea, 7 Hart Road; Geraldine Davis, 15 Lauren Road; Jack and Joan Comick, 15 Briggs Avenue; Louis Resto; Mrs. Bresnahan; Father Leonard; Ruth Hughes and Colleen Hughes of 59 Ferry Road; Mrs. Lindroth, Arthur and Toni Adams, and Mrs. Festo.

Those opposing the application were Noble Lane and Arlene Lane, Ferry Road, James Foley; Marianne O'Connor; Sandra Foley; Dorothy Sprague; Melanie Bennet; Richard Cataldo; Philip Theberge; Lillian Shapiro, 1 Briggs Avenue; Barbara Moles, 12 Briggs Avenue, Robert Sprague, Briggs Avenue, and Wesley Moles.

DECISION

The Zoning Board of Appeals of the City of Newburyport has considered the above described application and after careful deliberation finds as follows:

On August 13, 1985, Francis Vitale appearing before the Zoning Board, asked permission to develop a former gravel pit off Ferry Road into a golf course. The most important criteria which the proposal would have to satisfy is that it must be essential and desirable to the public and cannot overload the city's water system.

Also, there was considerable concern expressed over a nearby drinking water well, which supplies up to 20 percent of the city's drinking water.

Most of those who spoke for the proposal were abutters to the 52-acre site, which is currently used as an illegal dumping ground and off-road motorcycle course. They said they were



in favor of the development because it would clean up the area. But others were worried about the potential impact on the well. SEP 25 1985

The Board members said they wanted to hold off any action on the proposal until they received more information on the question of whether the development of the pit could pollute this adjacent fresh water well.

Therefore, the Hearing was adjourned until reports are received from consulting engineer M. Anthony Lally.

The Board members at this Hearing were Chairman Connolly, Angelo Fotinopoulos, Gerald Larson, and Vincent Malgeri. Mary Rocco excused herself from this Hearing because of her affiliation with the Arlington Trust Bank.

On August 27, 1985, The Zoning Board of Appeals convened again at 6:05 P.M. at City Hall to continue this Hearing. Mr. Connolly indicated that no report had been received from the City at this time.

At this meeting, Mr. Vitale went over the seven conditions of the Zoning Ordinance required before a Special Permit can be granted:

1. The use requested is listed in the Table of Use Regulations as a Special Permit in an R-1 zone.
2. The requested use is essential and/or desirable to the public convenience or welfare; Mr. Vitale feels that the golf course would be a benefit to the community and also eliminate an eyesore.
3. The requested use will not create undue traffic congestion or unduly impair pedestrian safety; Mr. Vitale reviewed the conclusion of a traffic report, and felt a steady flow of customers in and out would not hamper Ferry Road; parking lot would have 66 spaces; similar golf courses in Newbury and Topsfield with no traffic problems.
4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare. Mr. Vitale said the Clubhouse will measure 60' X 50', two levels with rest-rooms on the first floor, sewer system adequate.
5. Any special regulations for the use, set forth in the special permit table are fulfilled. Mr. Vitale presented new grade plans of property in which the land gradually grades down to keep ground water draining towards Route 95.

6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare. Mr. Vitale feels that a golf course would not impair the integrity of the neighborhood, and in fact would be a definite asset.
7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood. There would be no excess of use because there is no other golf course in the area.

A report entitled, "PESTICIDE AND FERTILIZER CONSIDERATIONS FOR EVERGREEN GOLF COURSE" by Dr. Stanley R. Swier and Dr. John M. Roberts of the University of New Hampshire, Durham; Mr. Vitale read the report and the conclusion was that nothing can leach into groundwater and contaminate; Mr. Vitale indicated that he would not store any chemicals on the property, and that turf-grass species that have a low pesticide and fertilizer demand would be used. We accept these recommendations and make them a stipulation of the decision. The groundwater would be running away from the well, and Mr. Vitale doesn't think the water would hurt the well in any way.

Mr. Vitale believes that his proposal is preferable to any other type of development on the site.

The Board of Water Commissioners met on September 9, 1985, and gave their approval of the development, but specified compliance with twenty-two precautionary conditions drafted by consulting engineer M. Anthony Lally to avoid contaminating the abutting municipal water well.

On September 10, 1985, the Zoning Board of Appeals convened at 6:00 P.M. at City Hall for the third time and finalized their efforts by giving Mr. Vitale unanimous approval for his project. However, five stipulations were included concerning water quality and traffic and parking, some of these incorporated in the same twenty-two rules laid down on the previous day by the Board of Water Commissioners.



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The five stipulations are:

1. Abide by the twenty-two recommendations made by M. Anthony Lally Associates and the Water Commission regarding maintenance of the well's water quality, the report of M. Anthony Lally Associates is attached hereto and made a part hereof and is entitled, "REPORT OF FINDINGS EVERGREEN ESTATES & GOLF COURSE NEWBURYPORT, MASSACHUSETTS".
2. Put in four speed bumps on the access roads to reduce traffic problems.
3. Follow the recommendations of John Mosher, Hydrogeologist, ARCH Associates, consultant to M. Anthony Lally Associates, a copy of said recommendations is a portion of the Report, above referenced in paragraph 1, and is incorporated herein and made a part hereof.
4. Provide adequate parking according to zoning laws--66 spaces shall be provided.
5. Follow proposals by the BSC traffic report concerning signage in the area.
6. In the event evidence of contamination of water well #2 appears from groundwater monitoring wells, surface water analysis and any other source, petitioner hereby agrees forthwith to cease operation of said golf course and take all necessary corrective action.

Mr. Larson asked what plans Mr. Vitale had for the clubhouse and whether it would be used for functions and if a liquor license would be needed; Mr. Vitale responded that the building would contain lockers, restrooms, concession area and pro shop, outside furniture in the Summer, two offices on the top floor. He is not interested in running it for functions and does not have any immediate plans for a liquor license.

Therefore, based upon the above considerations, the Zoning Board of Appeals of the City of Newburyport voted UNANIMOUSLY TO GRANT

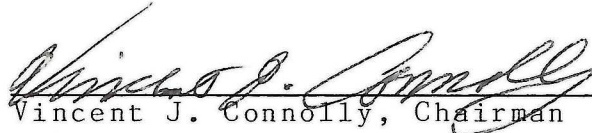


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the petitioner's request for SPECIAL PERMIT in accordance with the application and plan submitted. The four members who sat on the first and second hearings were also in attendance at this meeting and gave the unanimous vote: Chairman Connolly, Angelo Fotinopoulos, Gerald Larson, and Vincent Malgeri.

Notice is hereby given that appeals, if any, shall be made pursuant to Section 17, as amended, within twenty (20) days after which this decision has been filed with the City Clerk. A copy of this decision will also be filed with the Newburyport Planning Board.

You are also hereby notified that it is your responsibility to record this decision with the Register of Deeds in Salem, Essex County, Massachusetts.



Vincent J. Connolly, Chairman

Angelo Fotinopoulos Gerald Larson



Vincent Malgeri



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