



TOWN OF WESTFORD

ZONING BOARD OF APPEALS

55 Main Street  
Westford, Massachusetts 01886

RECORDED  
AT BOOK 18620  
PAGE 205  
4/15/05

**Notice of Decision on Petition BOA-04-018-VAR**

*(To be mailed forthwith to the petitioner, abutters, and owners of the land within 300 feet of the property line, Building Commissioner, the Planning Boards of every abutting municipality and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent, as provided in Section 15, Chapter 40A as amended.)*

Petitioner: **George S. Fletcher**

Date: **November 30, 2004**

Owners: **SAME**

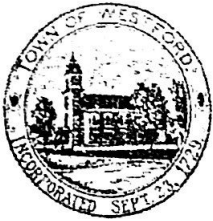
Premises Affected: **3 Plain Rd, Westford MA 01886**

Referring to the above noted petition to the Zoning Board of Appeals to vary the terms of the Zoning By-Laws of the Town of Westford at the premises located at **3 Plain Rd**, Assessors' Map 63 Parcel 29 in the Residence A District, by granting a Variance from Section 3.1, Principal Uses, **to allow for the continued operation of a farm stand on a lot containing less than five acres, and where the majority of products are not produced by the owner of the land**, or any limitation, extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises.

After public hearings on August 18, September 15, October 20 and November 17, 2004, the Zoning Board of Appeals at its meeting November 17, 2004 voted:

*Ronald Johnson, seconded by David Earl, moved to approve Petition BOA-04-018-VAR so as to grant a variance from Section 3.1, Principal Uses, to allow for the continued operation of a farm stand on a lot containing less than five acres, and where the majority of products are not produced by the owner of the land, based on the following findings:*

1. The Petitioner is an owner of record and therefore has standing to bring the Petition.
2. The subject property is located in the Residence A (RA) District on portions of two parcels, denoted as Lot 2 and the lot now or formerly (N/F) owned by Richard L. and Deborah J. Shaw on a Plan of Land prepared by Landtech Consultants, Inc., dated May 13, 1997. George Fletcher is currently an owner of both parcels. Lot 2 contains 5 acres, more or less, and is located at the intersection of Plain Road and the Boston and Maine railroad tracks. The Shaw parcel contains 0.86 acres, more or less, and abuts Lot 2 on Plain Road. These lots together contain three houses, a barn, a farm stand, and several sheds.
3. The petitioner proposes to combine and subdivide the two lots to create a one-acre lot to contain the existing farm stand and related buildings, so as to create a legal residential building lot for possible future development, while retaining the current farm stand use on that lot. The petitioner desires to secure the farm stand use for the proposed lot before presenting the subdivision plan to the Planning Board.



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4. Appendix A, item C2 of the Westford Zoning Bylaw, which is referenced by Section 3.1.2 of the bylaw, permits the farm stand use, with certain restrictions, on land of five acres or more in the Residence A District.
5. There was considerable support for the petition from abutters and other townspeople in attendance, who wished to have the farm stand use retained to preserve a part of the town's rural heritage.
6. There was some concern from abutters about the use and visual aspects of the remainder of the parcels, upon which various agricultural equipment and buildings are situated. These concerns were addressed by negotiations throughout the duration of the hearing, and resulted in a side agreement signed by the petitioner. This agreement does not address the one-acre lot that is the subject of this petition, and therefore does not constitute a part or a condition of this decision.
7. Due to conditions relating to the shape of the lot and its topography and the positioning of the existing structures upon it, which are unique in the zoning district, a hardship would be created if the Zoning Bylaw were literally enforced, in that the farm stand use could not be continued.
8. No substantial detriment to the public good was identified.
9. Relief may be granted without derogating from the intent and purpose of the Zoning Bylaw.

***And with the following conditions:***

1. The Plan of Land submitted with this application and cited above shall be made a part of this decision, by reference.
2. This variance shall be effective upon the submittal to and approval by the Westford Planning Board of an Approval Not Required (ANR) Plan creating a separate lot of no less than 40,000 sq. ft. and meeting all other dimensional requirements for a building lot in the Residential A (RA) District. The variance shall run with and be applicable only to the building lot so created.
3. The total floor and building areas and volumes of the existing farm stand facility, including the farm stand building, greenhouse and ancillary buildings, shall not be increased beyond that total which exists as of the date this variance was granted. Nor shall the parking areas be increased from what exists as of the date of the granting of this variance. The applicant shall cause to be prepared and submitted to the Board a signed and stamped engineering plan showing the location and size of all parking areas and existing building footprints and elevations. The terms of the variance shall not be effective until said plan is received and approved as to form by the Zoning Board of Appeals or its agent. Said plan, when approved, shall thereafter be made part of this variance decision.
4. The character of the business operation shall remain that of a farm stand, whereby the principal operation shall be the sale of farm-related products, including but not limited to: fruits, vegetables, meats, flowers, plants, trees, gardening and farming supplies, bark mulch, firewood, milk, cream, ice cream, cheeses and



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other dairy products, honey, syrups, jams, jellies and other dry goods, coffees, teas, juices, homemade and manufactured baked goods and foods, wreaths and country crafts. Any substantial change to the nature of the operation (i.e., use) or the products sold shall require review and approval by the Building Commissioner for consistency with this decision.

*Voted in favor 5-0-0, unanimously.*

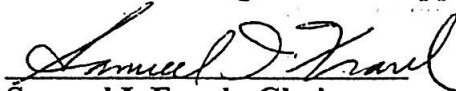
The decision of the Board, together with a detailed record of its proceedings stating the reasons for the decision (refer to the minutes of the Zoning Board of Appeals meetings held on August 18, September 15, October 20 and November 17, 2004), shall be filed within 14 days after the close of the hearing in the Office of the Town Clerk.

This Decision does not relieve the Petitioner or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, and/or regulations.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance, such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided further that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period.

APPEALS: Any appeal from the decision of the Zoning Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed within twenty (20) days after the date of the filing of the decision with the Town Clerk.

**Westford Zoning Board of Appeals**

  
Samuel I. Frank, Chairman

RECEIVED  
DEC 1 2004

Decision Filed with Town Clerk on: TOWN CLERK WESTFORD Appeal Period Ends: DEC 21 2004

Building Permit may be issued on DEC 22 2004 upon receipt of recording information.

Cc: Town Clerk