TOWN OF GREENFIELD ZONING BOARD OF APPEALS

February 4, 2020

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by D. Eskoff, Chair, at 7:00 p.m. On roll call the following members are present: D. Eskoff, C. Kolakowski, N. Toussaint, K. Taub, A. Wine, and S. MacDonald, Alternate. M. Waldron, Zoning Administrator/Code Enforcement Officer, and Brian Reichenbach, Town Counsel, are also present.

<u>Minutes</u>

January 7, 2020

MOTION: N. Toussaint SECOND: S. MacDonald

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the January 7, 2020 Minutes with correction.

VOTE: Ayes: D. Eskoff, N. Toussaint, A. Wine, and S. MacDonald

Noes: None

Abstain: C. Kolakowski and K. Taub

Absent: None

NEW BUSINESS

1. Ford, P. & L'Heureux, K., Case# 1019 TM# 153.13-1-4 499 Maple Ave. Area Variance

The Applicants, Patricia Ford and Kimberly L'Heureux/Oxmoor Associates, LLC, and their Agent, Corinna Martino PE, Martino Engineering, PLLC are present. C. Martino states that the Applicants are looking for three Variances. For the lot size, they have .68 acres they need two acres, they also need a front yard setback to Route 9 where they have 33.8 feet and they need 45 feet and the garage is seven feet from the rear property line. They looked into the possibility of purchasing adjoining property but it is not available. They are not proposing any changes to the footprint of the building. They will be proposing additional parking in the Site Plan phase. They will be using the existing driveway as a one-way where everyone would be entering the property on Route 9 and exiting out on to Brower Road. They are proposing a mixed use building as opposed to what it currently is. Currently it is a two-family residence and they want to make a medical office. There are several other practices in the immediate vicinity that offer similar services in keeping with the character of the neighborhood. The office would

be on the first floor and they would leave it as a residence on the second floor. D. Eskoff states that her main concern is parking. The Planning Board would be able to give input on parking and the ZBA has referred similar projects for an advisory opinion. D. Eskoff states the ZBA will need to also refer this to Saratoga County because of the location on Route 9. K. Taub asks if the building is currently occupied now. C. Martino states that she is not sure if they are occupied. The medical office will be for a mental health practice. The hours are 9:00-6:00. K. Taub asks is there is public sewer there. C. Martino states not in that area. She states that she has an inspection letter that the septic is adequate and functioning and can provide it to the ZBA. K. Taub wonders what the current or recent history use has been. He is trying imagine whether a medical facility with five or six parking spots would increase the use that might make it marginal. He does not doubt that they are professional he would like to see what he or she are basing their opinion on. C. Martino states that she can show a breakdown of the flow for an office for DEC standards verses what a home would require. C. Kolakowski asks how many employees are there. P. Ford states one full time secretary from 9:00-5:00 and one part-time biller. K. Taub asks if there are 3.5 employees. P. Ford states yes. D. Eskoff states that if the ZBA refers it to the Planning Board they will be able to flush out some of these questions and concerns. The footprint is not changing. This is in the Office Residential District. The Board agrees. D. Eskoff states the Applicants and C. Martino should discuss with the Planning Board and check with K. McMahon to see when they will be on the Planning Board Agenda.

MOTION: D. Eskoff SECOND: K. Taub

RESOLVED, The Zoning Board of Appeals hereby tables and postpones review of the Application of Patricia Ford & Kimberly L'Heureux/Oxmoor Associates, Case #1019, TM# 153.13-1-4 and refers this case to the Town of Greenfield Planning Board for their advisory opinion on the Application and to the Saratoga County Planning Board as the subject property/project site is located on Route 9.

VOTE: Ayes: D. Eskoff, N. Toussaint, C. Kolakowski, K. Taub and A. Wine

Noes: None Abstain: None Absent: None

OLD BUSINESS & PUBLIC HEARING

1. Gupta-Carlson, J. & H. Case #1017 TM# 137.-2-36.112

141 Squashville Rd. Area Variance

Jim and Himanee Gupta-Carlson, Applicants, and Stephanie Ferradino, Esq., Ferradino Firm PLLC, as counsel for the Applicants, are present for the Application. D. Eskoff states this Application is for lot size Variance of .06 of an acre and for frontage for 15.29 feet. The underlying reason for the request is for agriculture uses and structures which are subject to Special Use Permit by the Planning Board if they are approved a Variance. Request for Variance for agricultural processing is also subject to a Special Use Permit. She states that this Application is a Public Hearing tonight. D. Eskoff opens the Public hearing at 7:12 p.m. and asks K. McMahon if there is any correspondence. K. McMahon states yes, and provides a list of correspondence received. D. Eskoff states that the ZBA has received a large amount of letters for this case. She states that she will not be reading them, but the letters will be on file in

the Building Department office and copies have been distributed to all Board members. She reads the list of the names of those who submitted letters and the dates the letters were received. Letters of Support were received from: Melissa Lambert (October 18, 2019); Jamie Williams (October 18, 2019); Ron Feulner, Town Historian (October 18, 2019); Ron Duetsch, Town Historical Society, Town of Greenfield Farmers Market Manager (October 18, 2019): Laura Clark, Saratoga Springs Public Library (January 31, 2020); Julie Slovic, Franklin Community Center (January 31, 2020); Joseph E. Bruchac III (January 31, 2020); Julia Howard (January 31, 2020); Patricia Garrette, RD (January 28, 2020); Cynthia J. Barton (read October 18, 2019); Alexandra Morgan (January 18, 2020); Suzanne "Zuzia" Kwasiniawski (January 28, 2020); Lee Hennessy (January 28, 2020); and J'Mae Shemroske (February 4, 2020). Letters in Opposition were received from: Greenfield Resident (January 22, 2020); Lauren Parent & Randall Mott (February 4, 2020); and Justin M. Grassi, Esq., Jones Steves, Attorneys at Law (February 4, 2020). D. Eskoff asks S. Ferradino, Esq., if she would like to speak. S. Ferradino states the Applicants are seeking two Variances in the MDR-2 District. Two tenths of a percent for lot size and 7.5 percent for the frontage for the lot. If they receive approval for the Variances the Applicants will be applying for a Special Use Permit with the Planning Board who will be determining if the use is appropriate or not at the site regardless what the ZBA decides based on the Variances. The Farm Stand is also subject to Site Plan Review. Her clients reside at 178 Squashville Road which is a little over three acres and it is not particularly relevant to this Application except would comply with Agriculture and Markets Law for farms having seven or more acres. New York State Law requires seven acres. The Town Law refers to NYS Agriculture and Markets Law and she reads the law. Land used for agricultural production has the seven acre rule that they keep hearing about. The balancing test is the benefit to the Applicants verses the detriment to the health safety and welfare of the neighbors. She states that it will not be changing the neighborhood. A benefit can be made. Historically this property was used for dairy farming. She states that Mr. Grassi's letter states that agriculture isn't happening here, actually agriculture started here and it is continuing. People chose to live here after the agriculture was already established. Further down the road, someone purchased a large parcel and renovated the barn and want to teach people how to farm. Can the benefit or some other method be achieved other than this. They say no. Her clients will have to give up years and years of cultivating their property if they are not able to establish their farm there. If her Applicants are not granted these Area Variances they will not be able to stay in Greenfield. They will have to give up part of their livelihood. It's hard to put a value on years and years it has taken to get the land this good. When the ZBA is weighing someone's livelihood verses someone's inconvenience that they want to live in a residential neighborhood when they purchased property where there are farms, she is having trouble seeing that in a balanced way. Will it be an impact on the physical environment conditions. She does not believe so. K. Taub asks if there are any historical use existing farms in Town and how long have they been there. S. Ferradino states her client's farm is less than two tenths of a mile away. H. Gupta-Carlson states that there is a farm with horses and chickens at the top of their street and at the end of the street that keeps chickens and honey bees is another farm. She believes that their next door neighbors have chickens. S. Ferradino states the property that they are seeking to acquire is historically used for a farm. H. Gupta-Carlson states yes, it was part of the Benze farm its last use was a tree farm. K. Taub asks if it is 150 acres are there any farm actively this size or slightly bigger. H. Gupta-Carlson states that she does not know the acreage of the various farms that were referenced. J. Gupta-Carlson states up the road from them is a farm with llamas, horses, and chickens. K. Taub asks if J. Gupta-Carlson knows the size of the property. J. Gupta-Carlson states no. K. Taub asks if there are any other farms that are raising meat and are currently engaged in butchering. J. Gupta-Carlson states Allen VanDyck and J'Mae Shemroske state that their family butchers their animals and they are just down the road from them. K. Taub asks how far down the road. H. Gupta-Carlson states that there is another farm

four miles from us. K. Taub asks is there any farming a half of a mile or mile from the Applicants home and where the new farm would be. He is not referring to keeping chickens and honey bees. D. Eskoff asks that K. Taub is looking for more information regarding similarly sized operations that are in a general vicinity of property. K. Taub states that since Counsel is arguing it is not just a historical use, but he thinks she is saying it is an active current use and that the people that live immediately nearby moved into their place knowing that there was agriculture going on, farming, animal slaughtering in the immediate vicinity when they moved in and asks is that their position. S. Ferradino states that she didn't make a distinction about the size of the farm. K. Taub states that he understands that, but she states historically two or three times and he is sure historically all of this land was historically farms. Historically only has so much value or relevance. D. Eskoff asks if K. Taub is asking that question. K. Taub states yes. D. Eskoff states that is information that the Applicants can provide. D. Eskoff refers to the signin sheet for members of the public who are present and wishing to speak at the Public Hearing tonight. She invites them to speak, in order of sign-in, and requests comments be limited to five minutes. C. Hollow, Duanesburg, states he is a farmer in the Saratoga Farmers Market. He has also served in administrative positions and as the President of the Saratoga Farmers Market. He spent six years on the Cornell Schenectady County Board of Directors and has been in agriculture most of his life in addition to being a retired engineer. He states that when J. & H. Gupta-Carlson first started coming to the Farmers Market they volunteered for four years before they started selling any items at the Farmers Market. At the end of each Farmers Market, H. Gupta-Carlson would go around and collect all the food from the vendors that couldn't take their food home with them and give it to Franklin Community Center, Inc. He feels the Applicants project is an asset to the Town. Keith Cieslinski, Squashville Road, states that he has been present for all the meetings thus far and has patiently listened to what is going on. He knows that there are a lot of people present and have written letters and have opinions on it, however they don't live on either side of the property that is intended to be purchased. He does not see how someone can say that it won't change the neighborhood dramatically. He states it will change his life and the use of his property. He states that it will change the ability to enjoy his property. It will change the ability to open the windows without breathing in the stench of animals. He states that he moved here 20 years ago and the have put a lot of time and effort into their property and does not want to live next to a barnyard and have butchering next door to him. When they moved there they did not know that there was a possibility of there ever being a farm and a butchering operation next door to them. He does not feel it is the proper use for that property. He feels there is other suitable property out there where it could be done and that it is not a matter of convenience. It's more than an inconvenience it's a change of life. He states that he has watched the property at 178 Squashville Road for the last eight years, it is a mess. He does not want to live next to it or have to look at that. He does not want to smell the animals, he does not want to hear the noises. At 141 Squashville Road there is a cemetery and there are Civil War here's buried there and he feels it should be preserved for prosperity. He states this is the Harris cemetery and refers to a Civil War veteran's plaque hanging on the wall of the Town meeting room that includes the names of those buried in this cemetery. He does not think animals should be allowed to graze on it, defecate and urinate on it. This will greatly change his life and also he feels it is disrespectful. He would never have known about this if it wasn't for neighbors down the road telling him. There are issues at 178 Squashville Road and there will be issues at 141 Squashville Road if this is allowed. Mona Runion, Squashville Road, states that she bought her home 20 years ago and she did not move to have a farm next door she moved to the country. They worked very hard to build stone walls and flower beds. They did not move to a herd of goats. The idea of a Farm Stand is a commercial operation. She became very ill four years ago and it took almost three years to get a diagnosis of lupus. Due to pain and fatigue she has lost a lot. She can no longer work. Her illness is not reversible it only gets worse. She can no longer garden. The one thing she can do is enjoy her property and

enjoy what they have put into it. They enjoy being outside without the smells, noises, slaughtering, and barns next to them of a farm. She does know that the properties on their road that are farms are hobby farms. They have a few chickens, a small garden, and beehives. One property did have an alpaca they no longer do. They had a horse they haven't seen it in ages, they had chickens and sheep that they don't see anymore. It seemed that they were treated as pets not farming. That is what they see from the road. She also has concerns about bacteria and viruses that maybe associated with waste products of these animals. She asks for the ZBA to please consider the quality of life that they have grown to love and not make this one more thing to lose. It would drastically change her life. It does not seem fair that they would have to give up their way of life for someone else's need. Katie Finnegan, Middle Grove, states that she has been a customer at Greenfield Farmers Market for many years and has bought many products from the Squashville Farm. She is very proud of the Town for being able to support a farmers market through the historical society. She likes that she can buy locally grown food. She feels what they grow and produce is a benefit to our Town. Matt Salvo, Squashville Road, states he understands that they don't want us to focus on the usage of the property, but, he feels that is the only reason they are present. If they wanted to just build a residence do they need a Variance for that? He wouldn't know. He feels that the property in question is in MDR-2 District aside from the obvious smells and pests and bacteria and viruses. He feels that it should the way it is. It's the Applicant's hardship that they created for themselves then they have the ability to fix it without changing the neighborhood to fit his passion for farming. He does not understand that it is not obvious they are being bad neighbors. The Applicants are more focused on their concerns and usage, passion and dream. He built his house, he cleared the land and he enjoys playing in his yard with his son. His bedroom will be the closest to this property. His bedroom window is 35' from the property line. It is a mess at 178 Squashville Road and it will be at 141 Squashville Road if this is allowed. His passion is to have his yard usable to him. How many rats will need to be taken care of because of this farm? Where is all the waste going? He hasn't heard any mention of this. No one has mentioned what they do with that. It is a concern to him. He did not move into a farming district he moved into a residential district. Thomas Pasmik, 168 Squashville Road, states that historically farming has been all over the place. There have been farms in several locations. This area has not been farmed in many years. There are a lot of hobby farms in Town, some have horses and different animals. He moved into the community with no farm close to him. The Applicants moved in and started gardening and taking it to farmers markets and that is very helpful to the community in that aspect. As the years progressed it expanded to chickens, goats, ducks, and geese. He is living next to them, he has had to put up with the smell and the sounds. He is from the county and has lived next to farms. The Applicants are not following the rules of the Town with the amount of animals per acre. Six acres is the law in Town in an area that is not zoned by Saratoga County as farming or agricultural. They have exceeded the property capacity for the amount of animals they have there. He is not against them being a hobby farmer but over 160 animals on three acres. After years of having animals come on his property and defecating on his property, and the goats were eating the rose bushes, he went to the Town and made some complaints. NYS is a Right to Farm State, but he did not move into a farm and it keeps escalating. He is not against him having animals it is the capacity he has. Justin Grassi, Esq., Jones Steves, Attorneys at Law, states that he submitted a letter this evening outlining their position. He represents Keith Cieslinski and Laura and Matthew Salvo the ones most likely to be detrimentally impacted by this Application. He does respectfully suggest that if the Board is not inclined to make a decision tonight that the Public Hearing remain open so that there can be further public comment. This Application that was pointed out by Attorney Ferradino is a balancing test. A balancing test is fairly simple for the ZBA. The benefit to the Applicant weighing against the health, safety, and welfare of the community. In this case, he feels it is really important to define and articulate what the benefit is to the Applicant. The benefit to the

Applicant is lenience and that is it. This isn't a situation where there is a parcel that is locked into. This is a situation that the Applicant has a contract to purchase a lot that they picked for this purpose. The only benefit that they have is less driving time than if they were inclined to find a separate parcel which was zoning compliant. That is their benefit. The detriment to the health and safety of the neighborhood and how they identify that they go through the criteria that the ZBA has to go through. He appreciates the level of detail the ZBA has gone through. He states that criteria one whether or not the undesirable change will be produced to the character of the neighborhood or detriment to nearby properties will be created by the granting of the Area Variance. There is a suggestion that this area was historically agriculture that may be true. Zoning has changed. The Town Board in its infinite wisdom has set forth zoning legislation that requires five acres minimum for a farm. There's a reason that was changed, it is now a five acre minimum. The Town Board determined that at least five acres is necessary to not have significant impacts on your neighbors. In addition to a five acre minimum, the Town legislation has provided a Special Use Permit. The Special Use Permit is only required when the use is special and there are unique hardships to those around it. The Board does have to consider the use here. They are not taking this out of context by looking at what the proposed use is. If this were a shed with a front area setback that is a completely different thing from whether or not they are going to put 160 animal farm on this lot. This is no longer historically an agriculture district. It is absolutely a residential district. There have been some statements made that down the road there are certain farms. There has been nothing credibly demonstrated that there is anything nearby of this farming extent especially restrictive of a parcel. They have talked about 150 acres and four miles away which apparently is in close proximity. He disagrees. Detriment to the character of the neighborhood and nearby properties. Aesthetic detriment. The Board heard from property owners that are already neighbors to the existing facility. This is actually a fortunate situation where the ZBA does not have to guess what's going to go into this spot. They don't have to guess what it is going to look like, they don't have to guess the impacts. They can see it already. They listened to the neighbors stating what those impacts are based on that use. He does not suggest that the ZBA should judge this Application based on the Applicant and the Applicants prior behavior, but he absolutely suggests evaluate what exists currently and what has been proposed to simply move the Applicants animals and they are starting the same facility right down the road. That is what has been suggested. There are going to be odors, noises, farming equipment, animals, chickens, roosters, manure, compost, a butchering shop, additional traffic, noise from those cars. These are impacts that are going to be a detriment to this area this area which is residential, Medium Density Residential. Whether the benefit sought by the Applicant can be achieved by some other method feasible by the Applicant to pursue other than an Area Variance. This is one of the easiest answers about the five criteria. Absolutely, there are unlimited other alternatives. Again, the Applicant doesn't own the lot, they are simply in contract. The Applicant can find any feasible alternatives simply by finding a lot that is in compliance with the Zoning ordinance. They only argument that can be made is land has been cultivated. The land has been cultivated and it was unpermitted and in violation of the Town Zoning Legislation. An argument that it may have been cultivated and that tends to mean that they have no feasible alternatives is incorrect. Inconvenience simply does not warrant approval. Whether the requested Area Variance is substantial. Admittedly, the percent deviation, the ZBA has probably granted Variance with a higher percent deviation. For this instance they also have to evaluate the impact and whether that is substantial. He argues for this lot which is already a substandard lot under five acres, it is also unfortunately an awful dimension for purposes of a five acre farm. It is so narrow that it is all proposed barns and all proposed has to be as close as possible to the neighbors simply because of the narrow aspect of the lot. In addition, the narrow aspect of the lot is significantly constrained by both wetlands and a cemetery. They can't even use a large portion of the less than five acres. The impacts are substantial. Whether the proposed Variance will have an

adverse effect on physical environmental conditions of the neighborhood. He has heard there is animal waste and manure and fertilizer all on slope lands close to wetlands on top of historical cemetery. There are additional visual impacts that have not been addressed by the Applicant for the neighbors and passersby. They have provided photographs of the existing conditions on the three acre lot. Lastly whether or not this has been self-created. This is a no brainer, it is a self-created Application. This is an Applicant who identified this parcel for purposes of the proposed use recognized that it is under the five acre minimum and saw variances for himself. Lived down the street, understood the specifications that were needed, in fact it was a result of learning specifications the Applicant being in violation of the legislation that exists. Absolutely self-created, substantial impact, there are plenty of alternatives. There are environmental and physical detrimental changes to the neighborhood. J. Grassi feels for those reasons the ZBA has to deny this Application. Bill Ellsworth, Easton, states that he buys products from the Applicants and feels they do a good job. He feels that a lot of people just don't want to eat. If you want to live then you will have to eat. He probably is not doing the best job in the world, but he thinks, he is doing a good job with what he has to work with. Vincent Walsh, Greene Road. states that he wishes that he knew about this a couple of months ago to lend some support. He states that he knows that the ZBA has a hard job to do. He has a Special Use Permit himself 15-18 years ago and he went through 6 months of Public Hearing. He states that he did whatever the Board asked and mitigated every single concern. If that was me living next to the Applicants he might want some things mitigated. His biggest fear is people moving in and running ATV's, having lights, doing fireworks and shooting guns all the time. He feels in another five to ten years Greenfield will look like Clifton Park, but the Town has a Comprehensive Plan in place to slow that down. All of Greenfield is a pretty sensitive area. He wants to put some things into local context and global context. He has actually walked the property. It is not that sloped it has a gentle grade. Everything is a resource all that manure and composting that is what grows excellent vegetables. On a global scale, the most important thing anyone can do is farm and do it smartly. The Right to Farm Law that came in not that long ago. It's amazing because Greenfield has always been this district and always been this Town. Size, the Town of Greenfield is the largest Town in Saratoga County 100 square miles. There is always going to be farms spread out. No matter what they do they are going to have people five to six miles away. It has always been a farm to some extent. That property has red pine that was planted on it. It was not maintained. The soil is sand and needs to be built up to grow things. Now they are building the economy. The Town Board recognizes farming as an essential enterprise and an important industry which enhances the economy, the natural environment and the quality of life. That's good enough for him. He has been supporting Squashville Farm because they support me. He gets all his eggs there and gets them all year round. His kids go there and they love seeing the animals and where there food comes from. He feels that is very important. He sees this as not a little Town issue this is a global issue. More importantly in our region. The cemetery is very small. He feels every concern here can be mitigated. If the Applicant does not get this property what's the next best thing, it's residential and 185' wide. They live down the road they put down roots here. People not too far down the road have 50 cows and they farm up to the road. J. Gupta-Carlson states that 90% of what they have are chickens. Jim VanDyck, Daniels Road, states that he has a lot of empathy for the neighbors. He feels that they have legitimate concerns. The fact of the matter is if you move into Greenfield and there is five acre lots they will have a possibility to have a farm next door to you. The issue then becomes the land size. They lack .059 of an acre if they were talking statistics it would be statistically insignificant. The requested Variance is an extremely benign use. This use is not auto repair, excavating, or even a daycare center on a substandard lot. He thinks much like V. Walsh and feels that it could be mitigated. He feels deer waste is similar to that of goats. People do not complain about the odor from deer in yards. In his experience, remnants from chicken processing can be handled in wood chip piles. Erin Harris, Wing Road, is the last person from

the audience to give public comment for the evening. E. Harris states that she also lives on a farm. It is one of the first farms in Greenfield. It was broken up a long time ago. She grew up on a farm. Her grandparents were farmers. She had to go all the way to Washington County for a few years to learn how to farm. No one in the County knew how to teach her. She did not know how to take care of animals other than chickens. She did not know how to keep healthy compost. She did not know how to look out for pests. She did not know how to keep healthy soil. Now she is a preschool teacher. She would like to start to teach people how to farm. She states this isn't a problem with animals it is a problem with humans. Her farm is 20 acres it has an easement on it and it is protected forever. She wishes she could give them her farm. D. Eskoff asks S. Ferradino if she would like to speak at this time. S. Ferradino states no. C. Kolakowski states that he thought the ZBA did discuss in previous meetings that they asked for more information about other operations nearby. D. Eskoff asks the ZBA members if they feel they should keep the Public Hearing open to next month or close it. She states that the ZBA obviously has a lot of information to review not only about what was spoken about tonight but all the correspondence that the ZBA has received. C. Kolakowski states that he cannot vote tonight without reviewing everything they have received. C. Kolakowski states that if they asked for additional information from the Applicant then he feels that the ZBA should keep it open. The Board agrees. D. Eskoff asks the ZBA if they would like any other information. C. Kolakowski states that after the ZBA reads this stuff they may request more information, but not at this time. K. Taub states that he defers to his colleagues and agrees because everyone needs to feel comfortable when making these decision. A. Wine states that the community provided a lot of information that the ZBA needs to review and be thorough about.

MOTION: C. Kolakowski SECOND: N. Toussaint

RESOLVED, The Zoning Board of Appeals hereby adjourns the Public Hearing for Case #1017, Jim and Himanee Gupta-Carlson, Application for Area Variances for property located at 141 Squashville Road, TM# 137.-2-36.112, until March 3, 2020 pending receipt of:

 Similar operations on similarly sized parcels in proximity to this location to the Building Department by February 18, 2020

VOTE: Ayes: D. Eskoff, N. Toussaint, C. Kolakowski and K. Taub A. Wine Noes: None Abstain: S. MacDonald Absent: None

Meeting adjourned at 8:25 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahon ZBA Secretary