

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

January 7, 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, A. Wine, and S. MacDonald, Alternate. S. MacDonald will have full voting privileges for the entirety of the meeting K. Taub is absent. M. Waldron Zoning Administrator/Code Enforcement Officer is also present.

Minutes

December 7, 2019

MOTION: N. Toussaint
SECOND: S. MacDonald

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the December 5, 2019 Minutes.

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

OLD BUSINESS & PUBLIC HEARING

Bayer, L. Case #1018
TM# 151.2-1-12

43 Locust Grove Road
Area Variance

Louise Bayer is present. D. Eskoff asks if there is anyone from the public for this case. No one is present. D. Eskoff opens the Public Hearing at 7:03. D. Eskoff reads the correspondence in favor of the project. She states this is for a right yard setback for a new garage. D. Eskoff states that M. Waldron has stated that L. Bayer needs 7' but to be safe 10'. The Board also has pictures. No one is present for the Public Hearing she closes the Public Hearing at 7:05 p.m. A. Wine asks where the pictures are taken from. L. Bayer states from the road. D. Eskoff states that in order for her to take any pictures from the side of the property she would have had to go into the woods. L. Bayer states that next to her there are 30'-50' of woods between the properties. A. Wine asks what side of the property is the porch on. L. Bayer shows the Board on the map. D. Eskoff shows A. Wine a picture. She states this case is pretty straight forward. S. Mac Donald agrees. L. Bayer states that the shed is actually larger

that the garage. A. Wine states because he was not at the meeting last month he wants to make sure he is not missing anything.

MOTION: N. Toussaint

SECOND: D. Eskoff

RESOLVED, the Zoning Board of Appeals hereby grants an Area Variance for property located at 43 Locust Grove Road, TM# 151.20-1-12, as follows:

- 10' Right Side Yard Setback

This approval is based on the following criteria:

- The benefit cannot be achieved by other means feasible to the applicant because the garage addition cannot be put anywhere else
- There are no undesirable changes to the neighborhood character or detriment to the nearby properties because it is consistent to neighboring properties to the Applicant's property
- The request is not substantial it is necessary for a garage
- There are no determined adverse environmental effects of the proposed garage
- This is not a self-created adversity.

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

Noes: None

Abstain: None

Absent: C. Kolakowski and K. Taub

OLD BUSINESS

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

141 Squashville Road
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 that the Board is still reviewing this case and has not accepted it yet. The Board did receive the information that was requested. S. Ferradino states that the Applicants are seeking 2 Variances. One for lot size, it .2% $2/10^{\text{th}}$ of a percent from 5 acres to 4.901 acres. Also, for frontage. The requirement is 200' for this type of use and they have 185'. The Applicants are seeking a Variance of 15'. The Applicants made a second submission after the December 3, 2019 meeting and provided the Board with these documents

- Revised site plan, they brought to the last meeting but had not circulated it
- An aerial photo of the adjacent properties because the Board was interested in how far the homes were from the property line (she believes it showed 40' on one side and 190' on the other with a barn in between)
- Two documents from NYS DEC basically saying that agriculture is allowed in the wetlands so it is an exempted activity and able to be carried out in the wetlands

S. Ferradino states that because there is some time sensitivity on their end with the contract to purchase the property if the Board needed any other information to let the Applicants know in advance and they didn't hear from anyone. D. Eskoff states that the Board only meets once a

month and she believes that they submitted everything the Board asked for. S. Ferradino states that the Applicants are happy to answer any questions the Board may have. She believes that she provided a thorough analysis of the 5 criteria both in her letter and at the last meeting. A. Wines states that he was not present at the last meeting what types of animals are the Board discussing is it just goats and chickens? S. Ferradino states yes. A. Wine states he thought there was a conversation about ducks as well. H. Gupta-Carlson states geese and ducks as well. A. Wine states that he was reading the email exchange letters from NYS DEC they made a comment about water fowl being considered poultry and not livestock being not exempt. D. Eskoff states the letter basically states that the poultry is not part of livestock. The ducks and geese will be part of poultry verses part of livestock. A. Wine states which is a whole separate entity. D. Eskoff states yes, basically there is a whole separate setback issue and the it is OK for the goats to graze livestock, use livestock. Do other agricultural type things within wetlands and a 100' barrier setback. It is also there because of the agricultural buildings. That does not include the use of the poultry. A. Wine states he was thinking about the animals and the structures in and around. D. Eskoff states that there is several issues here specifically as far as livestock. Basically, the goats. A. Wine asks is this in terms of accepting the application. D. Eskoff states that she believes that the Board has everything they are in good standing with everything they need from the Applicants. The Board has been waiting for a determination on this case as part of moving forward with the acceptance of this case. Now that M. Waldron has the information he need together for the Board to move forward. M. Waldron reads a determination letter (which is in the file at the Building Department). D. Eskoff asks if M. Waldron has a determination for the Board as far as the applicability of Chapter 51 with this case. M. Waldron states that he is not clear what the Applicants are commercial farmers. He feels that needs to be under intense review. He feels they are too far out of the perimeter to be Hobby Farmers. He feels they are small commercial farmers. He states that definitions and controlling usage 301 is agriculture processes and agriculture structure and agricultural use and he believes they all play a part in New York Agriculture and Markets Law definition. He is concerned that if the ZBA only looks at this as the Area Variance that the Applicants have applied for that in their own language that the Town of Greenfield has adopted it from New York State. There are certain requirements set forth i.e., a certain acreage of property to be considered that farmland in there definition and it may in turn be illegally granting a Variance. D. Eskoff asks if M. Waldron considerate farmland? M. Waldron states he does not, it is in MDR-2 District. D. Eskoff states that if the Applicants had come to him rather than coming to him under this situation is the Board looking at a Hobby Farm situation or a Commercial Farm situation. Aside from what has transpired this is a new situation how is the Board supposed to look at this case. M. Waldron states that 163 farm animals is far outside the parameter of what is considered a Hobby Farm. The practices that he saw while at their property with that many animals and having them put fencing up in order to take care of the animals. On his first visit he would not consider them Commercial Farmers. At best he would say they are small Commercial Farmers. If the Applicants are granted a Variance it would be considered farmland. D. Eskoff asks if not then it wouldn't be. M. Waldron states correct. D. Eskoff states that the Board has struggled with this from the beginning and asking what can and cannot be done in that District. It is an existing situation that came to M. Waldron. S. Ferradino asks for some clarification she is trying to understand what the issue is. She states she is missing it completely. Is the Board talking about what is happening at the existing property or the subject of tonight's Application which is the property the Applicants are under contract to purchase? D. Eskoff states the Applicants are here to remedy a situation. S. Ferradino states the appropriate place is in court with action. She understands and she appreciates what the Town is doing. D. Eskoff states that because these are similarly situated properties they are on the same road they are right down from each other, they are both slightly less than in different ways. If you can't do something on one property probably not going to be able to do it on the other property.

S. Ferradino states that the Applicants can do it because as M. Waldron pointed out agricultural uses and structures are allowed with Special Use Permits. D. Eskoff states that the Board and the Applicants are not at that point yet. She states the Board is trying to balance. S. Ferradino states that the ZBA is not the appropriate parties to be determining that. The ZBA can grant the Variance but then the Applicants and she could fail. D. Eskoff states yes they could, absolutely and the ZBA has no control over it. S. Ferradino states that is the Planning Board's decision not the ZBA's so she does not even know why they are talking about to farm or not to farm. D. Eskoff states that it is the Board's decision part of is about what goes on there just like the previous case was whether or not the last Applicant could have a garage for their house, it's whether or not the Applicants are going to have agricultural use, agricultural structures and agricultural processing. It's not just that the Applicants need an Area Variance you need an Area Variance to do something don't you. S. Ferradino states yes. D. Eskoff states that are why the Board is looking at 3 things the Applicants want to do on this property that all weighs into the Boards decision because it is going to be different for that verses maybe something else possible a small shed that goes up or a garage. These are different types of uses. Even though it is not a Use Variance the Board reviewing they are looking at what will be happening on that particular property. M. Waldron states that as far as Town rights go it will be considered a farmland under Agriculture and Markets 301 it is still not classified for that farmland. D. Eskoff states that the Town's definitions are copied directly from New York State Agriculture and Markets Law. So whatever NYS Agriculture and Markets is the Towns are the same. M. Waldron again reads the last paragraph of his determination letter. It refers particularly to Chapter 51 in the Town Code Book under farming. It particularly references to State Agriculture and Markets Law 301 and subsections 3012 Article 25-AA also subdivision 301 Article 25-AA and 30111 specifically cited Chapter 51. B. Reichenbach asks if the Board is looking to deem the Application complete and set a Public Hearing. B. Reichenbach states it sounds like the Board is arguing merits D. Eskoff states the Board is trying to get a clearer idea of what the Board is looking at and that is what they have waited for. This is M. Waldron's determination and the Board will move forward from there. A. Wine states from paperwork stand point he feels they have everything they need to move forwards.

MOTION: N. Toussaint
SECOND: A. Wine

RESOLVED, that the Zoning Board of Appeals hereby accepts the Application of Jim and Himanee Gupta-Carlson, Case #1017, as complete for Area Variances for property located at 141 Squashville Road, TM # 137.-7-36.112, and sets a Public Hearing for February 4, 2020 at 7:00 p.m.

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

Meeting adjourned at 7:33 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahon
ZBA Secretary

DRAFT