

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

April 2, 2024

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, A. Wine, T. Flynn, S. MacDonald, and B. Etson, alternate. K. Taub is absent. J. Reckner is present. B. Etson has full voting privileges for the entirety of the meeting.

Minutes

March 5, 2024

MOTION: A. Wine
SECOND: T. Flynn

RESOLVED, that the Zoning Board of Appeals waives the reading of, and accept the corrected Minutes.

VOTE: Ayes: D. Eskoff, A. Wine, T. Flynn, and S. MacDonald
Noes: Noes
Absent: K. Taub,
Abstain: S. MacDonald and B. Etson

Old Business

Patrick, D. Case #1068
TM# 126.-1-31.22

Interpretation
2 Brookstone Drive

Daniel Patrick is present. D. Eskoff states last month the Board closed the Public Hearing. She hopes that the Board can come to a Resolution for this Interpretation. A. Wine states that the Applicant has low hanging fruit, Guinea Hens, and chickens. Guinea Hens are not on the list for personal farming activities and are not meant to be there. D. Eskoff states if the Board will review J. Reckner's letters. T. Flynn states Right to Farm is referring to large scale farming. D. Eskoff states the Right to Farm was added to our Code the first time in 2009 but unfortunately when Hobby Farm was added in 2011, and with the definitions there, it can be confusing. What Right to Farm covers is separate and distinct as a protection process for alternative dispute resolution for someone such as those in an Agricultural District. T. Flynn states that the Guinea Hens and the acreage are important. A. Wine asks if the parcel 1 acre. T. Flynn states yes. D. Eskoff states there is a home, detached garage, an in-ground pool, and a single chicken coop. It is not in compliance. T. Flynn states that the Right o Farm Law needs to be clarified. D. Eskoff reads the Code. A. Wine reads the Code § 105-42 (B). T. Flynn agrees. A. Wine states the Code serves to clarify it. B Etson states he has no problem with the violation and the Code clearly states what can be done on one's property. D. Eskoff states that the Town is reviewing this section of the Code, but this is what we have now.

MOTION: A. Wine
SECOND: T. Flynn

RESOLVED, the Zoning Board of Appeals hereby makes the following decision regarding the Request for Interpretation by Daniel Patrick, for property located at 2 Brookstone Drive, LDR Zoning District, TM# 126.-1-31.22, Case #1068, as follows:

We agree with the Town of Greenfield Code Enforcement Officer's (CEO) determination dated September 11, 2023 that conformance is required under § 105-21 (A) that "no building or land shall be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein set forth for the district in which it is located and with the requirements of the stormwater management and erosion and sediment control provisions of Chapter 85 of the Town Code."

Further, we agree in part with the CEO, that under §105, Attachment 5 (Table 2, Area Regulations) that there is a minimum of a 4 acre lot to the use the property for personal farm activities. However, the 4 acre minimum on this table refers to property with sewer. Because this property does not have sewer, the minimum acreage required for Personal Farm Activities is 6 acres and must meet all zoning requirements for Personal Farm Activities as specified in this table.

The property located at 2 Brookstone Drive is a 1 acre parcel that includes a single-family dwelling with garage, a detached garage, inground pool and a small coop within the subdivision of Brittany Chase located within the Low Density Residential District (LDR). Under §105 Attachment 4, Table 1 Use Regulations, Personal Farm Activities are a permitted use as accessory to the principal use such as a single-family dwelling.

The property located at 2 Brookstone Drive does not fall under Chapter 51 Farming, Article 1 Right to Farm. Right to Farm corresponds to the New York State Department of Agriculture & Markets (NYS Ag & Markets) Right to Farm law for the purpose of private nuisance dispute resolution for specific types of farm operations. The term Farmer, under Town Code, is defined as "any person, organization, entity, association, partnership, limited-liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock" is general in nature. However, the Right to Farm sections of Chapter 51 are based on NYS Ag & Markets law that centers around the farm operation not on the farmer. Farm Operation under Town Code "shall be defined in § 301(11) in the State Agriculture and Markets Law."

We agree with the Town of Greenfield CEO's determination dated October 3, 2023 that the activities conducted at 2 Brookstone Drive fall under Farmer as found in Hobby Farmers. Hobby Farmers as defined under Town Code, "are those engaged in personal farm activities and are not involved in large-scale agricultural operations and are limited to the number of animals listed in Table 51-6 only." § 51-6 Hobby Farmers states that "Hobby farmers are those engaged in personal farm activities and are not involved in large-scale agricultural operations and are limited to the number of animals listed in Table 51-6 only. All zoning regulations shall apply. The hobby farmer shall dispose of animal waste properly. The hobby farmer shall not create excessive noise, objectionable odors or viewshed from this activity. The hobby farmer and/or Town residents are not allowed to have exotic animals." Table 51-6 is limited to the following animals and quantities thereof: Chickens (12), Ducks (6), Geese (4), Goats (2), Miniature Pigs (2), Rabbits (12), Sheep (2) and Turkeys (4). Guinea Fowl are not listed under Table 51-6 and therefore, Guinea Fowl are not allowed within the personal farm activities of Hobby Farmers.

We agree with the CEO, that an area Variance would be required to continue to use this property for personal farm activities. The area regulations that apply to Hobby Farmers are found in § 105 Attachment 5, Table 2, Area Regulations listed as Personal Farm Activities. The area regulations for Personal Farm Activities are listed separately and distinctly from the area regulations for Single-Family Dwellings in this table and therefore apply separately and distinctly from those area regulations for the Single-Family Dwelling. Under current zoning in LDR, area regulations for Personal Farm Activities on this property would require a Minimum Lot Size of 6 acres (without sewer), Minimum Lot Frontage of 250', 100' Front Setback, 100' Minimum Side Yard, 100' Minimum Rear Yard, 0.15 Maximum Lot Coverage Ratio, 35' Maximum Building Height.

VOTE: Ayes: D. Eskoff, A. Wine, S. MacDonald, T. Flynn and B. Etson
 Noes: None
 Abstain: None
 Absent: K. Taub

New Business

Rojek, D. Case #1069
 TM# 149.-1-119

Area Variance
 96 Kilmer Road

David Rojek is present. D. Eskoff recuses herself. D. Rojek states that he is doing this because his wife is ill. D. Rojek states that he built his home in 1988. It was part of the Chatfield Homes subdivision. Originally it was a 1.38 acre lot. Over the years he and his wife had purchased several other lots. In 2016 he was in front of the Planning Board for ground mount solar. The Planning Board required them to add 1.5 acres to his original lot for the solar, so that the solar wasn't the primary principal use. His original lot is was 3.21. What he is looking to do is reverse what they did in 2016. He and his wife are looking to sell the home they live in and build a small one level home across the street and use the solar array at the new home. A. Wine asks if the solar goes under the road. D. Rojek states yes, the inverters are in the house they are looking to disconnect the solar from the current home and then put it in the new home. He states that he has a 3,000 square foot barn and they use it to do agility training for rescue dogs. They don't want to give up the barns. Regardless they still need to build a new home. A. Wine states if the barn is an accessory structure what are the assurances that the ZBA have that he will definitely build a house. B. Etson states that he feels this is not important for this project. D. Rojek states that he has been in front of the Planning Board at their last meeting and originally it was in front of them for a subdivision however, the Planning Board determined that it is a Lot Line Adjustment to put the parcels back the way they originally were. T. Flynn states that they should request a site plan. A. Wine states he would like a referral from J. Reckner. He states that he knows that will not be done tonight. J. Reckner states that he can do that. B. Etson states that he doesn't feel that the ZBA needs this. Essentially, he is looking to put his property back the way it was. D. Rojek states yes. S. MacDonald states that he needs 250' frontage and he will need the variance for that. D. Rojek states that he has no problem getting a site plan. T. Flynn states they will need a proposed site plan. A. Wine states he would like an opinion from the Code Enforcement Officer. T. Flynn states the variance runs with the property. A. Wine states that he doesn't want an accessory structure on vacant land. He totally understands what he is looking to do, but the ZBA can't approve that. D. Rojek states that he can have J. Reckner come out to his property and he can stake it out. A. Wine asks the ZBA can approval conditional acceptance of this project to move

this forward. T. Flynn states that he feels that the Board should wait for J. Reckner opinion. B. Etson states that he agrees with D. Rojek and he does not understand why the Board is making D. Rojek jump through hoops. A. Wine doesn't want to slow down the process for D. Rojek. T. Flynn states that the ZBA needs a site plan before they move forward. He feels that they need an application for the house and another application for the frontage. B. Etson asks D. Rojek what di the Planning Board say. D. Rojek states that this can be done administratively. He states that when he bought the parcel he came in front of the ZBA for frontage. T. Flynn that the applicant will need a variance for both parcels. A. Wine states this could be a Temporary Use Variance. B. Etson states that he is doing this for medical issues B. Etson states that he does think he should assume people are lying and feels that he is going down a slippery slope. D. Rojek states that he has been in front of the Boards in the past and he is a rule follower. B. Etson states that he looks a things situational and feels that this is simple. A. Wine states that he feels this is a Temporary Use Variance. T. Flynn states that he feels the Board should deny this application as complete. A. Wine states that the ZBA can have another meeting this month. K. McMahon states if the ZBA decides to have another meeting this month D. Eskoff will recuse herself and there will only be 3 members present requiring a vote. The Board will have to have a super majority vote. A. Wine states that they can have a second meeting next month when K. Taub will be in Town. S. MacDonald states if the Board gets a determination from J. Reckner either way the application regardless. A. Wine states that the Board can approve a conditional acceptance for this project. S. MacDonald states all will be ok with the Application she feels that delaying doesn't hurt or gain anything. B. Etson states that the Lot Line Adjustment will be quick. T. Flynn states that he wants to see a Site Plan. D. Rojek states that he can get them. B. Etson states just take your survey and draw were the house, the well, and septic system will be located.

MOTION: T. Flynn
SECOND: B. Etson

RESOLVED, Zoning Board of Appeals hereby accepts the Application of David Rojek for an Area Variance for David Rojek, for property located at 96 Kilmer Road, TM# 149.-1-119 Case #1069 and sets a Public Hearing for May 7, 2024 at 7:00 p.m. contingent upon:

- Referral for classification of the barn.
- Referral on ZBA contingencies.

VOTE: Ayes: A. Wine, S. MacDonald, T. Flynn, and B. Etson
Noes: None
Abstain: None
Absent: D. Eskoff and K. Taub

McKenna, G. Case #1070
TM# 138.1-2-25, 26, & 62

Interpretation
3100 Rt. 9N

Gerard McKenna is present. D. Eskoff asks if G. McKenna is the Authorized Agent for this project. G. McKenna states yes. D. Eskoff states the way the application is listed it will need to be clarified going forward. G. McKenna states that Dr. Akawi opened the veterinarian clinic and has since sold the practice to Dr. Serfis. Dr. Akawi owns the parcel at 3106 Rt. 9N (rear) and the parcel at 9 South Greenfield Road. Dr. Serfis is looking to purchase them from Dr. Akawi. The problem is the septic system which is underneath the parking lot. Dr. Serfis is looking to purchase both the parcels and put the new septic system on the 3106 Rt. 9N (rear)

parcel. D. Eskoff asks if this is temporary. G. McKenna explains that at some point Dr. Serfis is looking to move the offices to 9 South Greenfield Road and possibly some vet services as well. There is no definite time frame. She may rent the house out. D. Eskoff states if a tenant might be an employee. T. Flynn states that they could join the parcels. D. Eskoff states that the ZBA should move forward with this Interpretation, this is a health, welfare, and safety issue.

MOTION: S. MacDonald
SECOND: B. Etson

RESOLVED, the Zoning Board of Appeals hereby accepts the Application of Gerard McKenna (Agent for Serfis Realty Holdings LLC, Greenfield Vet LLC) for an Interpretation for properties located at 3100 NYS Route 9N, 9 South Greenfield RD and 3106 NYS Route 9N Rear, Tax Map #'s 138.1-2-25., 138.1-2-27 & 138.1-2-62 (TC), Case #1070, and sets a Public Hearing for May 7, 2024 at 7 p.m.

VOTE: Ayes: D. Eskoff, A. Wine, S. MacDonald, T. Flynn and B. Etson
Noes: None
Abstain: None
Absent: K. Taub

Correspondence

Correspondence received from J. Ruhmel.

Other Business

D. Eskoff states that A. Wine's has resigned from the ZBA and this is his last meeting. She thanks him for his many years of service on the Board.

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

Respectfully submitted by,

Kimberley McMahon
Executive Secretary
Zoning Board of Appeals