

Chairperson Pam Knapp called the regular meeting of the Zoning Board of Appeals of the Town of Walworth to order at 7:01 PM. Members present: Pam Knapp, Jim Hinz and Michael Bagne. Members absent: Tony Laga and Jerry Champagne. Town employee present: Phil Williamson, Code Enforcement Officer.

Jim Hinz made a motion, seconded by Michael Bagne to approve the minutes of the May 5, 2009 meeting as presented.

| | | |
|------------|-----------------|--------|
| Roll Vote: | Tony Laga | Absent |
| | Jerry Champagne | Absent |
| | Pam Knapp | Aye |
| | Jim Hinz | Aye |
| | Michael Bagne | Aye |

Motion carried.

1. Application of Clifford & Jessamy Lancaster of 4657 County Line Road for area variance. Applicant seeks relief from Town Code Sections §180-4 Definition of Farm and §180-10A(2) Customary Agricultural Operation. Property is zoned: RR-1.

Jessamy Lancaster of 4657 County Line Road was present, along with her husband Clifford. The Lancaster's have submitted an application for an area variance to allow the keeping of pet goats on their property. The property is 199.96 ft. wide, less than the 300 ft. requirement. However, the length is 1,012 ft on the south side and 1232 ft. on the north side. The property on the northside is vacant farmland which is DEC controlled wetlands and too wet to develop. The variance would allow the shed to be placed in the middle of the property with a side setback of 89.88 ft. if the shed were 20 ft. in width. However, since the property north of the property is vacant farmland the shed could be moved north by 10 ft. which would be 100 ft. from the south line and 80 ft. from the vacant farmland. The application also stated that it was the understanding at the time of purchase that the property did qualify as a farm because it was 5.15 acres. This influenced the Lancaster's decision to purchase the property so that they could have animals for their children.

The Board asked several questions of the Lancaster's.

Chairperson Knapp questioned, "How far is the building that you are housing the goats to your north?" There is 79 or 80 feet on either side.

Chairperson Knapp also questioned whether the goats were pets or if they were being raised to sell? Ms. Lancaster responded that they are pets for their children. Ms. Lancaster told the Board that they now have four goats and do not plan on having any additional goats on the property.

Jim Hinz questioned the approximate distance of the shelter housing the animal to the nearby residence on the south side of the property. Ms. Lancaster stated that it is approximately 248 ft. from the residence and over 100 ft. from the property line.

Chairperson Knapp questioned whether the shelter was a permanent structure? Ms. Lancaster stated that it was not posted to the ground.

Jim Hinz expressed some concern about what happens to the manure. Ms. Lancaster stated that there is no storage of manure on the property and the minimal small pellets just go back into the ground.

Phil Williamson clarified for the Board the definition of a farm by reading Section §180-4:

"FARM – Any parcel of land consisting of at least five acres having a minimum width of 300 feet, which is used for the raising of agricultural, acqicultural or horticultural commodities, including livestock, dairy, poultry, fruit, vegetables, grain, flower, shrubs, trees or any other customary agricultural or horticultural produce. Barns and other buildings housing livestock shall be located at least 100 feet from property lines."

Chairperson Knapp opened the public hearing.

James LaPlante was present along with his mother who resides at 4639 County Line Road. Mr. LaPlante questioned whether the three nearby landowners should have been sent a letter. Chairperson Knapp responded that individual letters are not sent. A sign is posted in front of the applicant's house and serves as a general notification. Public hearings are also advertised at least five days prior to the public hearing in the town-selected newspaper, The Times of Wayne County. Both were done.

Mr. LaPlante questioned the size of the shelter and whether or not it had to be enclosed? Ms. Lancaster responded that it is 14 ft. x 12 ft. Phil Williamson stated that as long as the goats have shelter to get out of the elements that would be all that is required, however this is not something that falls under the jurisdiction of the town, but the Humane Society.

Is there a limit on the number of animal permitted? There is not a limit, but this Board could put a condition on the variance limiting the number if they so chose.

Mr. LaPlante also expressed concern about the disposal of manure and the sound that the goats make at night.

There were no further comments from the public.

Chairperson Knapp closed the public hearing.

Jim Hinz made the following motion, seconded by Mike Bagne to approve the application of Clifford and Jessamy Lancaster for an area variance.

I move, after considering the benefit to the applicants and the detriment to the health, safety, and general welfare of the neighborhood or the community that would occur as a result of the variance being granted and taking into consideration the five factors set forth in Section 267-b(3b) and finding:

1. The granting of the variance will not cause an undesirable change in the character of the neighborhood or a detriment to nearby properties because of the characteristics of the neighborhood as it now exists.
2. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue because of the width of the property at present, but does take into consideration the fact that the property is 5 acres plus.
3. The area variance is substantial because it is 1/3 of the total.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood because there is no stockpiling of manure and there are a limited number of animals.
5. The alleged difficulty was self-created; because the pre-existing zoning code spelled out the minimum side setback requirements.

And further finding the variance is the minimum variance that it deems necessary and adequate and at the same time preserves and protects the character of the neighborhood and the health, safety and welfare of the community.

This Board finds that the findings it has made as set forth in factors 1, 2, and 4 outweighs the findings it has made as set forth in factors 3 and 5 and that substantial emphasis be given to factors 1, 2 and 4 and by reason thereof, the Board concludes that the variance be granted since the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community.

And further, the following conditions be imposed:

1. No more than four goats over the age of 6 months old.
2. No stockpiling of manure at any time. If condition exists, manure must be stored in a covered metal container and removed weekly.
3. Goats must be raised as pets and not as commodities to be sold.

| | | |
|------------|-----------------|--------|
| Roll Vote: | Tony Laga | Absent |
| | Jerry Champagne | Absent |
| | Pam Knapp | Aye |
| | Jim Hinz | Aye |
| | Michael Bagne | Aye |

Motion carried.

Phil Williamson told the applicant that the Zoning Board Clerk would be sending the applicant an approval letter for the variance and a copy could also be sent to Mrs. LaPlante if the Board chose to do so. The members agreed that Mrs. LaPlante should receive a copy.

Mike Bagne made a motion, seconded by Jim Hinz to adjourn the meeting.

Chairperson Knapp adjourned the meeting at 7:35 P.M.

Respectfully submitted,

Gail Rutkowski, Zoning Board Clerk