

PRESENT: Robert Chelus
Tracy Hirsch
Courtney Mead (alternate)
Kathy Praczkajlo
Bethany Pryor

ALSO Patricia Maxwell Deputy Town Attorney
PRESENT: Thelma Faulring Secretary to the Boards and Committees
William Ferguson Code Enforcement Officer

Mrs. Praczkajlo, as senior member opened the Work Session at 7:02 PM and read the Public Hearing Notice.

Mrs. Praczkajlo asked if there were any comments or questions on the petitions for this evening:

Charles Sauberan 8282 Cole Road:

Mr. Hirsch: According to Hannon we don't have anything for Charles, so we can move on to Craig Zolnowski.

Craig Zolnowski 6830 Omphalius Road

Mr. Hirsch: There's been some question on the square footage.

Mr. Chelus: That's supposed to read 2,600 not 4,600.

Mr. Ferguson: The proposed is 2,600, he has 1,440

Mr. Hirsch: This is a second accessory building?

Mr. Ferguson: Yes. Second detached one.

Mr. Hirsch: It's a second accessory building, detached

There was no further discussion at this time.

Allithea Killeen 7393 Boston Cross Road

Mrs. Praczkajlo: According to Hannon, we don't have to do anything for that one either.

Minutes

Mrs. Praczkajlo: Is there a motion for the minutes for the Work Session?

Mr. Hirsch: I'll make a motion to accept.

Mrs. Praczkajlo: Second. All in favor.

All were in favor of the motion.

Secretary Faulring: If that for all the minutes?

Mr. Hirsch: Yes.

Mrs. Praczkajlo: Regarding the Chair. Mrs. Kent resigned so we need a Chairperson.

Mr. Hirsch: I'd like to make a motion that you act as Chair until such time that we get somebody else.

Mr. Chelus: I'll second that.

Secretary Faulring: You need to make an appointment for recommendation for Town Board approval.

Mr. Hirsch: What's the proper way to do that?

Ms. Maxwell: You can have her acting until such time that you can make a decision, unless you're prepared to make a decision if you all agree that recommending to the Town Board. Appoint her tonight and put her in acting position for tonight to proceed, you can do that.

Mr. Chelus: Wouldn't we have to do that anyway?

Mr. Hirsch: So we did that.

Ms. Maxwell: Her acting chairman for tonight for tonight's proceedings...

Mrs. Praczkajlo: And I'd have to make a submission to the Town Board for appointment.

Ms. Maxwell: Could you amend your motion then to have her acting for this evening and recommend appointment to the Town Board.

Mr. Hirsch: Yes,

Mr. Chelus: And I still second.

Mrs. Praczkajlo: All in favor?

All were in favor of the motion.

Mrs. Praczkajlo: At the same time it leaves an empty seat, Courtney being the alternate for a little while, would you like to be appointed as a regular member?

Miss Mead: Yes.

Mrs. Praczkajlo: I'll make a motion to send a letter to the Town Board for Courtney as a member.

Mr. Chelus: Second.

All were in favor of the motion

Mrs. Praczkajlo: Thelma please send a letter to the Town Board to that affect.

Mrs. Praczkajlo to Miss Mead: And will for tonight appoint you as a full member.

Mrs. Praczkajlo: I'll make a motion that we close the work Session and continue for this evening.

Ms. Pryor: I'll second.

All were in favor of the motion to adjourn.

Signed: Katharine Praczkajlo
Interim Chairman

Dated: June 4, 2015

ZONING BOARD OF APPEALS
June 4, 2015
7:15 PM

Petition 481

Charles Sauberan
8282 Cole Road Farms LLC

PRESENT: Robert Chelus
Tracy Hirsch
Courtney Mead (alternate)
Kathy Prackajlo
Bethany Pryor

ALSO Patricia Maxwell Deputy Town Attorney
PRESENT: William Ferguson Code Enforcement officer
Thelma Faulring Secretary to the Boards and Committees

Mrs. Prackajlo read Town Engineer James Hannon's review dated June 2, 2015:
In t part the review stated:

“After further review, we now are of the opinion that the action does not require a variance. Town Code Section 123-48 A (3) lists agricultural buildings as a principal permitted use in an R-A Zoning District. Since the building will be used for agricultural purposes it is not an “accessory” and therefore Section 123-136 B (4) does not apply.”

Mrs. Prackajlo: With that being said I think we can close this petition.
Mr. Hirsch: I make a motion to close it.
Mrs. Prackajlo: I'll second.
Mrs. Prackajlo: All in favor.
All were in favor of the motion, there were none opposed.

Please note: Mr. Sauberan (applicant) and Ms. Solina (property owner) arrived at approximately 7:29 PM
Mr. Sauberan commented that he thought it started at 7:30 PM.

Mr. Hirsch explained that the petition had already been heard and closed;
and read from Town Engineer Hannon's review:

“After further review, we now are of the opinion that the action does not require a variance. Town Code Section 123-48 A (3) lists agricultural buildings as a principal permitted use in an R-A Zoning District. Since the building will be used for agricultural purposes it is not an “accessory” and therefore Section 123-136 B (4) does not apply.”

Mr. Hirsch: That's what transpired. So if you want to stay, you can stay, if you don't you don't have to.

Signed: Katharine Prackajlo
Interim Chairman

Dated: June 4, 2015

PRESENT: Robert Chelus
Tracy Hirsch
Courtney Mead (alternate)
Kathy Prackajlo
Bethany Pryor

ALSO PRESENT: Patricia Maxwell Deputy Town Attorney
William Ferguson Code Enforcement officer
Thelma Faulring Secretary to the Boards and Committees
Craig Zolnowski Applicant – 6830 Omphalius Road
Don Genzel 6761 Omphalius Road
Fran Leeson 6800 Omphalius Road
Jerry Genzel 6811 Omphalius Road

(Please note: Recording is very garbled and at times dialogue is undecipherable, those times will be noted for these minutes by ‘.....’)

Mrs. Prackajlo opened the Public Hearing and read Town Engineer James Hannon’s review in its entirety; main points being:

- Type II Action
- The action will not have a significant impact on the environment
- The action is not subject to review under Part 617
- No further action with respect to SEQRA is necessary or recommended

Mrs. Prackajlo: Is Mr. Zolnowski here. Please come up and state your reason for requesting the variance.

Mr. Zolnowski: I’m here to propose building a pole barn for storage use. We’re a modernized family with kids. We want to store an R.V. , snow mobiles, snow plowing equipment, ‘.....’ clean up the aesthetics of the area also and keep things inside, just a storage area for our use.

Mr. Hirsch: Did you have a survey of where the accessory building is going?

Mr. Zolnowski: Yes I did I turned it into Mr. Ferguson.

Mr. Hirsch: Have you had a chance to talk to any of the neighbors to see if they are in favor or apposed?

Mr. Zolnowski: I see some neighbors are here, I’m willing to answer any questions or concerns that they have about it. I would say that this will be encompassed in the woods, will be surrounded by the trees, you will hardly be able to see it because of all the trees around it, ‘.....’ won’t be able to see the construction so if there are some concerns I’m willing to answer anything anyone has; to the side by the pond area.

Mrs. Prackajlo asked about the first accessory building.

Mr. Zolnowski: I have cars, some motor vehicles...

Mrs. Zolnowski: We have antique cars, we store cars in there, our own cars.

Mr. Hirsch: So the building isn’t going to be used for a commercial purpose or work or run a business?

Mr. Zolnowski: No sir.

Mrs. Zolnowski: Absolutely not.

Mrs. Prackajlo: Is there anyone else that would like to come and speak?

Jerry Genzel 6811 Omphalius Road

- I live directly across from the residence
- I’m here representing a number of the neighbors in the neighborhood that are maybe 2,3,4 houses away.
- I’m requesting that the variance be denied
 - Does a variance have to be granted for a second accessory building

Mr. Ferguson: There isn’t one required.

Mr. Genzel: For the first one?

Mr. Ferguson: There was no variance required for the first one, this variance is for exceeding accessory square footage

Mr. Genzel: The criteria used by the Zoning Board of Appeals:

1. Does it create an undesirable change to the character of the neighborhood?
 - a. Yes, it does, we don't know what it will look like, we don't know where it will be exactly'.....'
2. Can the benefit sought by the applicant be achieved if the variance is not granted?
 - a. '.....'
3. Is the requested variance substantial?
 - a. Yes, it is '.....' to the existing
4. Will the variance have an adverse effect/impact on the physical or environment of the neighborhood?
 - a. Not sure – the roof, water runoff, '.....'
5. Is the alleged difficulty self-created?
 - a. I would say yes it is self-created because '.....' Created a need for it

Mr. Genzel: I guess that's all I have. Like I said there are a number of neighbors not here tonight so I'm here to represent them.

Mrs. Prackajlo: Is there anyone else to speak. Being none, I will close the public comment portion of this petition.. I have a question – the variance is for square footage and does he also need to get a variance for the second accessory building?

Ms. Maxwell: If it's not for agricultural purposes, because this is an R-A district which would also need a Use Variance for a second accessory building.

Mrs. Prackajlo: And that hasn't been applied for.

Mr. Ferguson: That's not correct.

Ms. Maxwell: As far as I can see it's just a variance with respect to square footage.

Mr. Ferguson: That's all it is.

Mrs. Prackajlo: So at this time it's been requested to get a second accessory, does he get a petition for that?

Ms. Maxwell: Yes.

Ms. Pryor: For a variance?

Ms. Maxwell: Yes.

Mrs. Prackajlo: I will make a motion that we table this petition to give Mr. Zolnowski the opportunity to apply for a Use Variance '.....' and reconvene on July 2nd.

Mr. Hirsch: I second the motion.

All were in favor of the motion.

Mrs. Prackajlo explained to Mr. Zolnowski that he needed to apply for a Use Variance for the second accessory building.

Mr. Ferguson: The variance tonight is for the square footage; the...

Mrs. Prackajlo: We tabled that so that he can apply for a Use Variance

Ms. Maxwell: '.....'

Mr. Ferguson: The Town Board has to approve the second accessory building. The Town Board will have to approve the second accessory building after the variance is approved. The Town Board approves a second, third detached accessory building.

Ms. Maxwell: I would prefer that you table it anyway so that we can assess it. So I understand that this petition is just for square foot usage, right? The question is, is this considered a second accessory building, there is already one there correct?

Mr. Ferguson: Correct.

Ms. Maxwell: The Town moves on that the second accessory building until there is a variance for square footage correct?

Mr. Ferguson: Correct.

Ms. Maxwell: I think there are a lot of questions that you really want to take a look at. Is that clear?

Mrs. Zolnowski: No, I don't understand what the questions are.

Ms. Maxwell: They want to table for further discussion to look at it a little bit further. There are some questions to whether this is a second accessory building on the property, which is correct right.

Mr. Hirsch: Yes.

Mrs. Zolnowski: What we did was we just ended our main garage, we added on so it's really one building.

Mr. Ferguson: Correct.

Mrs. Zolnowski: We added this first building which separate from our garage more or less.....

Mr. Zolnowski spoke from the audience '.....'

Mr. Ferguson: Correct.

Ms. Maxwell: Before the Board right now is the second accessory building.

Mr. Ferguson: Before the Board is the square footage, period.

Ms. Maxwell: A pole barn would be a second accessory building on the property.

Mr. Ferguson: Right and you don't need a variance for a second accessory building, the Town Board approves that.

Mrs. Prackajlo: We will table this for a month to answer some questions.

Signed: Katharine Prackajlo
Interim Chairman

Dated: June 4, 2015

PRESENT: Robert Chelus
Tracy Hirsch
Courtney Mead (alternate)
Kathy Prackajlo
Bethany Pryor

ALSO PRESENT: Patricia Maxwell Deputy Town Attorney
William Ferguson Code Enforcement officer
Thelma Faulring Secretary to the Boards and Committees
Michael Becker 7386 Boston Cross Road
Joyce Becker 7386 Boston Cross Road
RaeAnn Collier 7204 Boston Cross Road
Susanna Kane 7291 Boston Cross Road
Timothy Folley 7291 Boston Cross Road
Robert Loftus 7274 Boston Cross Road
Barbara Loftus 7274 Boston Cross Road
Robert Blizniak 8812 Cole Road
Phyllis Decker 8859 Cole Road – Woodbury Estates
Barry Decker 8859 Cole Road – Woodbury Estates

(Please note: Recording is very garbled and at times dialogue is undecipherable, those times will be noted for these minutes by ‘.....’)

Mrs. Prackajlo opened the Public Hearing and read Town Engineer James Hannon’s review in its entirety; main point being:

‘Agricultural Uses and Structures are listed in Town Code Section 123-48 A (3) as permitted principal uses and structures in the R-A Zoning District. Since both proposals a) and b) involve the construction of a building(s) for agricultural uses including ‘hay storage of rolled bales, machinery storage and some space for animals,’ they should be considered a permitted principal use and not an accessory use. It is therefore our opinion that neither of the applicant’s proposal options will require relief in the form of a variance from Town Code Section 123-136 B (4).

Mrs. Prackajlo: So this one is closed?

Ms. Maxwell: Well to me it’s a permitted use under an R-A District. I don’t know...

Mr. Ferguson: We’ve been overruled twice already on this type of request. I got a call from Ag and Markets, ‘.....’ regardless of the size of the building, it’s an agricultural use and they make a profit off of it. That’s basically what the letter said. It has a single family dwelling on it but it’s agricultural purposes, it’s not an accessory building.

Ms. Maxwell: And is a permitted use building...

Mr. Ferguson: It’s a principal use and is permitted within the District.

Ms. Maxwell: It goes back to the Town Board and the Planning Board to accept, it does not require a variance/

Mr. Ferguson: Correct. It does not require permission from the Town Board, Planning Board or anyone. It’s also located in Erie County Ag District 15, so we’re out of it.

Mrs. Prackajlo: I’ll make a motion that we close for this evening.

Ms. Pryor: Second.

All were in favor of the motion.

Signed: Katharine Prackajlo
Interim Chairman

Dated: June 4, 2015