

ZONING BOARD MEETING  
TUESDAY – JUNE 28, 2016  
ZONING BOARD  
7:00 P.M. – TOWN HALL – 1529 NYS RTE 12  
BINGHAMTON – NEW YORK – 13901

PRESENT: Mr. Donald Phillips, Chairman  
Messrs. Ruston, Waskie, & Doolittle  
Ms. Pandich (Alternate)

ALSO PRESENT: Donald G. Walls, Esq. – Town Attorney  
Jim DiMascio, Councilperson  
Scott Russell, Ordinance Office

ABSENT: Ms. Kinne, ZBA Member

The meeting convened at 7:00 p.m. at which time Mr. Phillips called the meeting to order and welcomed the audience. Mr. Ruston read a statement which explained how the Zoning Board members are appointed, along with the Board's functions, limitations and duties. Mr. Ruston noted that the reading of this statement not only informs the audience about the Zoning Board of Appeals, but it also reminds the Board members of their responsibilities. Mr. Ruston also read the Notices of Publication for each case, which was duly published, as required by law, and as evidenced by Affidavits of Publication received and placed on file.

#### APPROVAL OF THE MINUTES

- Approval of the Minutes for May 24, 2016 Zoning Board Meeting.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, to approve the Minutes of the May 24, 2016 Regular Meeting.

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#### PUBLIC HEARINGS

- PATRICK J. WILLIAMS – 186 Wilson Hill Rd. – TM#094.03-2-37 – Application for a Use Variance to allow an accessory structure in front of the principal use in an agricultural zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – You want to build a pole barn. What is the dimension?

Mr. Williams – It will be 30' x 40' and the height is 14'.

Mr. Walls – Why do you want to position it in front of your house?

Mr. Williams – There's no other feasible location around or behind the house or on the side due to the grade of the land. There is a bank on one side – too close to the property line with the pool on the other side and behind the house there is a drop off.

Mr. Walls – It would be impossible for you to build back there.

Mr. Williams – Correct.

Mr. Walls – Would have to spend more money to place in the back?

Mr. Williams – It would not be feasible economical wise.

Mr. Walls – The purpose of the pole barn? What do you want to use it for?

Mr. Williams – Storage of equipment – accessories, toys, backhoe, boat and four-wheelers.

Mr. Walls – Do you intend to use it for commercial purposes?

Mr. Williams- No for his own personal use.

Mr. Walls – Have you investigated alternative locations?

Mr. Williams – Yes.

Mr. Walls – It's setback from the road many feet. It's screened with woods.

Mr. Williams – Yes two sets of tree lines.

Mr. Walls – Any pole barns in your neighborhood?

Mr. Williams – There are a few.

Mr. Walls – Your neighborhood is primarily residential.

Mr. Williams – Correct.

Mr. Walls – What if any change or impact will the pole barn have on the neighborhood.

Mr. Williams – Doesn't think there would be any as no one can see it from the road.

Mr. Walls – If the Board turned this down would you suffer financial consequences of any kind or would you have to relocate it offsite?

Mr. Williams – Would have to relocate it.

Mr. Walls – Anything else you'd like to tell the Board?

Mr. Williams – No not at this time.

Mr. Walls closed the Public Hearing

Mr. Russell, Ordinance Office, recommends granting this Use Variance with a building permit being required.

Mr. Ruston – Noticed there was a camper parked there on the left. Is that about the location of the barn?

Mr. Williams – The camper is by the first tree line you need to go back to the second tree line.

Mr. Phillips – Indicated no commercial use but you have a backhoe. Do you use it on your property?

Mr. Williams – Correct.

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has determined that the project is not subject to review pursuant to Section 239-1 and m of General Municipal Law because the project site is not located within 500 feet of the State or County interests covered under the law.

Urda Engineering has reviewed the documents provided and finds that the structure is substantially setback from the roadway, any neighbors, and is buffered by trees. A variance for the height between 16' and 25' is not required as the less than 25' setback requirement is met. A building permit is required. This project is a Type 2 action under SEQ. The application will not be injurious to the surrounding area. A favorable advisory is recommended.

Planning Board refers this application to the Zoning Board of Appeals with a favorable advisory with building permit being required.

Drainage Coordinator recommends approval.

- JASON ROSENBERGER – 202 Ransom Rd. – TM#094.03-2-46 – Application for a Use Variance to allow domestic game bird breeder – Class B in a residential zone.

Mr. Walls conducted the Public Hearing.

Mr. Walls – What is your definition of a domestic game bird breeder?

Mr. Rosenberger – The title basically is to enable him to house a certain type of animal. Basically you have to apply to the State of NY to be able to keep for example ring neck pheasants. A person can't just have a few pheasants and throw them in a coop. That would be a violation of a DEC law. So by having this permit it enables him to have a handful of birds such as turkeys, pheasants, geese, ducks, etc. Not looking to propagate.

Mr. Walls – Do you have a present population of birds?

Mr. Rosenberger – Approximately 28 birds – ducks, geese, turkeys, pheasants, and chickens.

Mr. Walls – Are they confined?

Mr. Rosenberger – Yes they are in an appropriate structure that they are kept in at night so predators are not coming around. During the day they have a fenced in area that they are kept.

Mr. Walls – They do not roam free.

Mr. Rosenberger – They do not.

Mr. Walls – Noticed in the letter a portable shed.

Mr. Rosenberger – Can move it from one spot to another.

Mr. Walls – When you say you breed these animals are they for sale or for personal use.

Mr. Rosenberger – They are not interested in breeding them. This is just to house them.

Mr. Walls – Do you sell them?

Mr. Rosenberger – For their own personal use and consumption. This is a hobby and they are teaching the children responsibilities of how to raise them.

Mr. Walls – How do you store the food and dispose of the waste.

Mr. Rosenberger – The food is kept in a storage container in the basement of the residence where

there are no mice. They haven't found any but they do set some traps to make sure that mice are kept to a minimum. The waste is removed, sent to the landfill, or they do use it in the gardens.

Mr. Walls – You don't perform any sales to customers or the general public.

Mr. Rosenberger – No.

Mr. Walls – Do you get deliveries at the home for materials, or any traffic going in or out?

Mr. Rosenberger – No they go to Tractor Supply or wherever for the feed.

Mrs. Ross – 192 Ransom Rd. – They have some concerns that they have typed out.

Mr. Ross – 192 Ransom Rd. – He and his wife work from home, so they are there seven days a week all day. They do have some concerns over noise. They do keep them penned up – they have no complaints about the penned up animals. If they are disposing of the waste properly they are not too concerned there. Predators would have to keep them penned up, but that doesn't keep the predators from coming out of the woods. They do have a small child – well aware of coyotes in the wooded area.

Mrs. Ross – There biggest concern is the quantity. Interested in seeing the variance limit the amount of animals that can be kept and make sure this variance would not be conveyed to new owners if they decide to sell. If there are issues that arise – cleanliness or whatever are they able to come to the Board – what would be their means to have something relooked at if it is not going well.

Mr. Walls – Has there been any evidence of rodents or mice?

Mr. Matthew Ross – In general it's residential, but we all have wooded lots and there are other creatures.

Mr. Walls – What's the closest resident?

Mrs. Saunders – 185 Ransom Rd. – We're across the road, Scott and her and they are agriculture there. The whole parcel is agricultural.

Mr. Rosenberger – Fifty feet you can throw a stone you'd be in an agricultural zone. Surrounded by a lot of woods – ridge behind woods on this side so you will have these predators because that's where we live you could hunt back there.

Mrs. Saunders – It's always been that way Scott and her have owned the property for over 30 years.

Mr. Rosenberger – There are two neighbors with residences within 200’ where the penned animals are and then on the other side they are much closer.

Mr. Walls – Do you have any roosters?

Mrs. Ross – There are some across the street.

Mr. Ross – In the end that’s what they are seeking will/can he have a turkey that’s what they are....

Mrs. Ross – Will he have five turkeys or ten? They have had an issue with neighbors at 185. They started out with a few chickens and now they have over fifty. They had one rooster now they have multiple roosters. The smell is much more obvious. They are worried about the same think happening again.

Mr. Walls – What is your population?

Mr. Rosenberger – To keep it around 28 which would be the highest of all species combined. The Planning Board thought that would be favorable.

Mrs. Ross – Just to say they have a video showing the roosters that they have; which is across the street from them are louder than the train in the background.

INAUDIBLE – Too many speaking at once.

Mr. Walls closed the Public Hearing.

Mr. Russell, Ordinance Office recommends granting this Use Variance with the stipulation limiting the number of birds being kept on the parcel to applicant’s letter of intent pen raised 8 chickens, 6 turkeys, 4 pheasants, 8 ducks and 2 geese and a building permit being required. Also suggest the use variance terminate upon transference of the property.

Mr. Phillips – Twenty-eight is a lot of animals. When our zoning is setup like that whenever they have two zones next to each to other some are allowed to have chickens yet they are not. These folks are concerned about noise and varmints and rightfully so. Simply a mix of zones that are tight together. This Board understands the concerns and they are going to do what’s right as they finish up the meeting

Mr. Phillips read the following correspondence.

Broome County Planning has reviewed the above cited case and has determined that the project is not subject to review pursuant to Section 239-1 and m of General Municipal

Law because the project site is not located within 500 feet of the State or County interests covered under the law.

Urda Engineering has reviewed the documents provided and finds noise and odor shall be maintained per the Town Code. The birds/fowl should be required to be fenced and not able to free range off property – consider a fence setback from the adjacent neighbors. The Board might consider setting a limit to the number of birds/fowl (twelve chickens was a prior application maximum at a different location) and having any variance terminate in the event of a change of ownership. This project is a Type II action under SEQR. The granting of this variance is necessary for reasonable use of the land and is in harmony with the general purpose and intent of these chapters. The applicant has indicated that the adjacent neighbors do no object and included signature from same. Should the comments be addressed satisfactorily a favorable advisory is recommended.

Town Planning Board recommends this application with a favorable advisory with a building permit being required, limiting the number of birds to 28 total and the Use Variance terminates upon transference of the property.

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NEW BUSINESS

- LAURENCE BORELLI – Louis Korchak Jr. – 14 Cherry Ln. – TM#112.06-1-34 – Application for a Double Area Variance to construct an addition on a corner lot with less than required rear yard setbacks from 25’ to 21’02” and 25’ to 10’ in a residential zone.

Mr. Russell, Ordinance Office finds this application to be complete and recommends the Zoning Board accepts and schedules a Public Hearing for July 26, 2016.

A motion was made by Mr. Ruston, seconded by Mr. Waskie, to accept this application for a Double Area Variance to construct an addition on a corner lot with less than required rear yard setbacks from 25’ to 21’02” and 25’ to 10’ in a residential zone.

ROLL CALL:            AYES – 5      NAYS – 0

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- BC DEVELOPMENT LLC. – Maryanne Burke – 101 Castle Creek Rd. – TM#111.12-4-8 – Application for a Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10’ to 7’ and rear yard setback from 25’ to 8’ in a PDD-C zone.

Mr. Russell, Ordinance Office finds this application to be complete and recommends the Zoning Board accepts and schedules a Public Hearing for July 26, 2016.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston, to accept this application for a Triple Area Variance to construct an accessory building in front of the principal use with less than required side yard setback from 10' to 7' and rear yard setback from 25' to 8' in a PDD-C zone.

ROLL CALL:            AYES – 5      NAYS – 0

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VOTES ON PUBLIC HEARINGS

- PATRICK J. WILLIAMS – 186 Wilson Hill Rd. – TM#094.03-2-37 – Application for a Use Variance to allow an accessory structure in front of the principal use in an agricultural zone.

A motion was made by Mr. Doolittle, seconded by Mr. Ruston, to approve the Use Variance to allow an accessory structure in front of the principal use in an agricultural zone.

ROLL CALL:            AYES – 5      NAYS – 0

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- JASON ROSENBERGER – 202 Ransom Rd. – TM#094.03-2-46 – Application for a Use Variance to allow domestic game bird breeder – Class B in a residential zone.

Mr. Doolittle – Would like to make the recommendation for them to have a total of 28 or push it up to 30 with the breakdown by species that the Ordinance Office has. Also no roosters.

Mr. Phillips – Anyone else?

Mr. Waskie – Yes would like to add terminate upon the transference of the property. Also add, if it's okay, the license does expire 3/31/2020 assuming it's a 5-year renewal, that once it's renewed we get a copy of the renewal but also in the event any circumstances leading to that license becoming invalid the variance will terminate.

Mr. Doolittle – Will accept that amendment.

Mr. Ruston – Would like to review in a year to ensure there are no problems.

Mr. Doolittle – Will accept that amendment.

Mr. Philips – Trying to protect everyone. Any further discussion from the Board?

Mr. Ruston – Did we define a number?

Mr. Phillips – Fred said 30.

Mr. Doolittle – 28 – 30.

Mr. Ruston – Was it 28 or 30? He likes 28.

Mr. Phillips – Since the motion was for 30.

A motion was made by Mr. Doolittle, seconded by Mr. Waskie, to approve the Use Variance to allow domestic game bird breeder – Class B in a residential zone with the following conditions –

Limiting the number of total birds to thirty (30).

Use Variance terminates upon deed transference of the property.

One year renewal – June 27, 2017.

Must submit a copy of the renewed (expires 3/31/2020) DEC Domestic Game Bird Breeder – Class B license to Ordinance Office and in the event any circumstances leading to that license becoming invalid the Use Variance will terminate.

ROLL CALL:           AYES – 4     NAYS – 1 (Ruston)

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#### ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Waskie, and seconded by Mr. Ruston to adjourn the meeting at 7: 30 p.m.

Respectfully submitted,

Nancy Schnurbusch,  
Recording Secretary