

ZONING BOARD SPECIAL MEETING
TUESDAY- MARCH 10, 2020
ZONING BOARD
7:00 P.M. - TOWN HALL -1529 NYS RTE 12
BINGHAMTON, NEW YORK 13901

PRESENT: James Brewster, Chairperson
Aleta Kinne, Board Member
Melanie Pandich, Board Member
Scott Smith, Board Member
Joe Aston, Board Member
Thomas Eldridge, Alternate

ALSO PRESENT: Rosemarie Pope, Esq.
Frank Carl, Councilperson
John Freer, Ordinance Officer
Donna Webster, Stenographer of the Zoning
Board

Mr. Brewster – Okay everyone it is after 7:00. We will begin the meeting of the Zoning Board of Appeals for the Town of Chenango. This is a special meeting here Tuesday, March 10, 2020. This is a public hearing involving Roosevelt, LLC and the property at 751 Dimmock Hill Road.

Before I read the public hearing notice that went out, I want to make sure everyone got an agenda from the envelope holders in the back. It a new year, several new faces, and a new Chair, so we have a code of conduct, if you will, and some rules that the meeting will be conducted under. Real basic, common sense stuff, and really the bottom line is this is an official government meeting and we have to maintain decorum at all times. You can all read along as we are going through some of the administrative stuff of what's on these rules.

Mr. Brewster read the Public Hearing Notice and then acknowledged that the Deamers, who are representatives for Roosevelt, LLC, were present.

Mr. Brewster – At this time, we will commence to open the public hearing to hear your testimony and the required questions I have to ask you.

Ms. Kinne – Mr. Brewster, may I ask a question? I would like to know if Scott Smith or his agency is involved in this sale.

Mr. Smith – No, we are not.

Mr. Brewster – at this time I will make a motion to open the Public Hearing. Do I have a second?

Mr. Eldridge – Second

Motion passed – Ayes – 5 Nays - 0

Mr. Brewster – The public hearing is now open for this application. Ms. Deamer, I think you are aware, (from the application that you filled out and the information I sent out) of the questions that I have to ask you about the four factors that go into a use variance.

Factor #1 – Can you please tell us about all the hardships associated with that property as it relates to Roosevelt Farms, LLC purchasing the property in an agricultural zone and its ability to realize a reasonable return on that property should you purchase it. In other words, where is the hardship that is required for the need of a use variance?

Ms. Deamer – Because we want the property to be dual purpose. We want to continue to keep the horses, and the pastures to remain the same. There will be four horses in residence additionally and maybe more in the future. I currently have my engineering company at St. Rita’s Church on Rte. 12. We would like a better flow for our company, which this building provides; and because it’s an Ag District, and it’s an Ag building, we need a use variance to have an engineering company there. Roosevelt Farm would purchase the property and will build out some office space for the engineering company and rent that space to the engineering company.

Mr. Brewster – Can you show us any evidence of the farm; or does the land have any hardship that you can identify that would prevent Roosevelt Farms from obtaining a reasonable return on the property?

Ms. Deamer – We do not have the expertise that the previous owner had as far as giving horses riding lessons or what not. We just want to board horses; and that will not give us enough revenue to purchase the property and do the renovations that we need to do.

Ms. Pope – I just wanted to explain reasonable return and how it works. What the law is looking for; unreasonable return is whether or not the property can have a reasonable return for you if you used it for any use that is currently permitted, not the one you’re looking for. So as the horse farm, would you be able to yield a reasonable return on the property? For any of the uses listed in that district, you need to show the Board that any of these uses would not provide a reasonable return. It’s called a “dollar & cents proof”

Mr. Hoteling – Can we answer that?

Mr. Brewster – They can call a witness, am I correct in that?

Ms. Pope – What is your involvement?

Mr. Hoteling – We are the current owners.

Mr. Brewster/Ms. Pope – We can allow it.

Mr. Hoteling – We've run that for 13 years; and even with upwards to 15 horses and lesson programs that she (his wife) has spent hours and hours on, we have not made significant money on that for a decent return. We pay the mortgage, we pay the taxes and what have you; so we haven't taken in any income in thirteen years.

Mr. Aston – How many horses are currently there?

Ms. Deamer – 6

Mr. Deamer – 6 horses, two are part of the sale and two owners are going to board two horses. With renovations, there will be space for 6-8 horses in the current condition of the building. We are in talks with builders, like Morton Builders to put a riding stable outdoors, which will have additional stalls.

Mr. Aston – Who would be doing that?

Mr. Deamer – Roosevelt Farms who is actually purchasing the property will be the one running the boarding operations. Roosevelt Farm will be handling all of the property operations and we'll just be renting space to overcome not having to have 20-30 horses on the property to be able to pay for it, as well as needed maintenance on the roof, some upkeep and stuff like that. It's a lot of property, so renting out the 6000 or so square feet to the engineering company would make up a lot of that lost revenue.

Mr. Aston – So you are not Roosevelt Farm?

Ms. Deamer/Mr. Deamer – Yes, we are.

Mr. Aston – So you will be taking care of the horses?

Mr. Deamer – Yes.

Ms. Deamer – But Roosevelt Farm is a different company than DDM Supply.

Mr. Aston – I understand.

Ms. Kinne – As I understand it, Roosevelt Farm LLC has not been established yet.

Mr. Deamer – That is correct.

Ms. Kinne – It depends on this variance.

Ms. Deamer – That is correct.

Ms. Kinne – If Roosevelt Farm, LLC is not established yet, would it be the current owner that would have to answer these questions?

Ms. Pope – I just want to say that they are doing the right thing before purchasing the property by coming to see if you can get the variance before you invest that money and find out you may not get it.

Mr. Deamer – We have already invested money in the site plan and engineering, making sure this was going to be a reasonable thing that we are trying to do here.

Ms. Pope – Thank you. They (Roosevelt Farm, LLC) need the use variance and they're the ones that need to show going forward that they can get no reasonable return on the property. So if they get this use variance, and they form the LLC, then it's an established LLC and I'm not really seeing a problem with it at this point. They are doing the right thing. You don't want to invest the money in an LLC that costs over \$1000 to get it done.

Ms. Kinne – I understand that part, but...

Mr. Smith – From a real estate perspective, we do see people doing that in that order all the time; where they purchase a property with every intent to put it under an LLC. They do that part after the purchase, after all of the contingencies of the purchase are met. So, it's a common occurrence.

Ms. Pope – And I think we have the current owner here that can speak to the current use that's being used as a horse farm, for the lack of a better term.

Mr. Hoteling – When we purchased, we did the same thing. We basically started the LLC at closing.

Ms. Pope – Right, I do understand. That's money you don't want to do and then you have an LLC and no property to put in it. I know this is a tough factor to understand. The current owners speak to its current use and maybe not a reasonable return, but any other use allowed on the property other than what they are using it for; you have to provide us with information saying no that wouldn't work for you. That's why you need the use variance to do what you want to do on the property. This is called "Dollars and Cents" proof. This is the hardest one to overcome and this is where you actually need to have something to provide to the Board showing dollars and cents and how it won't work.

Ms. Deamer – Every use that is approved for this property we would have to show proof that would not work for us? Is that what you are saying?

Ms. Pope – Right.

Ms. Kinne – Have they been given the list of things that are allowable? Are you familiar with the agricultural code? Are you familiar with the different things that are allowable?

Mr. Deamer – I remember looking at it when we were first interested in the property.

Ms. Deamer – The building was built as a horse barn. It currently has 15 stalls and a wide open riding arena, so the use for that 14,000 SF building is for horses. They worked it for 13 years and haven't made money. That gives you all the information you need. We're not farmers. We enjoy horses and we want to keep horses, which that property allows us to do. We want to keep the building and the property basically in the same form it's in and just improve it, by putting a new roof on, and we're looking at re-siding it and in red so it looks like a barn. The horses will be there so people driving up and down the road are basically seeing that same thing they are seeing now, only better. I think the hardship question is answered.

Mr. Aston – I'm just a little curious about the horse farm now. Other than the 2 horses you will acquire in the sale; do you own horses currently?

The Deamers – No

Mr. Aston – Never boarded horses before?

Ms. Deamer – No, we like horses and always wanted a horse.

Mr. Deamer – Our signed contract with the current owners is them being part-time care takers.

Mr. Aston – So that's why you wanted to continue to have the horses there, as well as your business?

Mr. Deamer – Correct. The current owners will be partially employed by Roosevelt Farms to be a caretaker to horses at least in the short term until we get a more established boarding operation going; plus they have 13 years of experience.

Ms. Kinne – We're talking close to 20 acres on the parcel; and from this drawing I have, I'm not a mathematician; but in figuring it out, the area that you're going to have for horses is around 3100 SF. The warehouse is around 10,000 SF, so the majority of it is going to be warehouse.

Mr. Deamer – The front portion of the building, (if you have the drawing from the first Zoning Board meeting submitted with the application) the first 6000 SF of the building; which is currently a stable, has the 15 stalls that is being converted into finished space; and that will be used for both the engineering company, as well as the horse boarding operation. Because we are going to be part owners in the farm as well as we both work for the engineering company; that whole 6000 SF is going to be dual purpose.

Mr. Aston – But it will be primarily for the new business you’re bringing in, correct?

Mr. Deamer – It would be about 50/50. We’re there every day, and if you’re boarding horses and taking care of horses, you’re there quite often. It’s where the bathrooms will be; the kitchen/break room will be; and my personal office. There will be a lounge so if we do have other horses that are boarded, the owners of the horses can come hang out, relax, shoot pool and hang out with their horses. It’s not just for the engineering company; it’s a dual purpose space. (And then the current indoor riding arena, which is 8000 some SF, the front portion of that is cold storage that will have a tack, as well as cold storage for the engineering company which the loading docks will be attached to that.) Behind that portion, (I forget the exact SF) will be the actual stable itself. That will just be where the horses are. If you look at the current layout of the building; that whole back portion, (the 14,000 SF) is just riding arena. The horses themselves are only in 6000 SF; and because that has 15 stalls, and we’re only keeping four horses, it’s not really necessary to have an entire 6000 SF that just sits there. We cut it to 3000 SF, give or take, for the 6-8 stalls we’re going to have for the horses. If you look at the overall percentages of the property, (it being 20 acres) it comes out to about 17 acres is just pasture; and that is only being used for the horses. There is a very small portion that we’re going to install for tractor trailer access to the loading docks. The rest of the pastures are staying intact; we’re not doing anything to that.

Mr. Aston – So what is the nature of your business now?

Mr. Deamer – We’re the middle man in a manufacturing process. Our customers come to us with a drawing of the mechanical parts and they want us to figure out how to make it. They do the manufacturing offsite and send it to us. We do the engineering and quality on site; and we have a list of vendors that do the actual manufacturing process offsite. We do the quality inspection, the packaging and then we ship it off to our customers. So all we do in house is engineering, quality and logistics.

Ms. Deamer - There is only four of us: My son, my father and one guy that works for us. We’re not talking a big operation. We had this company and were part of another company since 2005 with the same number of people. We don’t manufacture anything on site.

Mr. Aston – I was just concerned when he mentioned trailers.

Ms. Deamer – We average one to two per week is all and the UPS guy.

Mr. Smith – How many additional parking spaces? The site plan, I believe; only shows five and they did that to the code. Current parking location is like six or eight; so I think we are only adding five. Just because we have to for code; and that’s based on the size of the building, the amount of emergency exits and the operation. Otherwise, we wouldn’t put any more parking spots in at all because we don’t need them.

Mr. Smith – Are you adding any signage to the building?

Deamer- No. There is a sign that is currently on the corner of Dimmock and West Chenango that has the Harmony Hill Ranch. We'll just be taking off the center portion and putting a new placard using the same sign size and location. Everything will be the same just a new name.

Mr. Brewster – Going back to the first. Ok board members and the Deamers, I'm going to have to steer the ship back to the course of questioning. The free flow is good and we actually covered some other parts of other questions. We'll make it up on the back end; so I do want to get back to that first question we have. The first factor, just to see if we have any further thoughts.

Rose – I hear what you're saying and you've obviously looked at all the uses for agricultural. It's just that this particular factor requires some backup. OK? You seem to know exactly what won't work there; but the board needs some kind of numbers or documentation. I don't know if you've been doing some kind of research; or it's just that you know the area. But that's what this one requires. While I understand what you're saying, that's what is required and we need to talk about what it could be that you could provide to help with this factor. We could do that.

Ms. Deamer – Would a letter from the current owner saying that they haven't made any money as a horse farm? Like I said do we have to go through every single use showing this isn't going to work, this isn't going to work?

Ms. Pope – That's what this factor actually requires.

Mr. Deamer – So you said you could just have a note from a realtor?

Ms. Pope – Well a report from a realtor. Not an appraisal because I know appraisals cost. But if you have a realtor that can say here's the property, here's the cost, here's what you can get out of it, here's how we'd sell it; all the things you talked about. If you had something like that, it's a start. Okay? The other uses won't work because of A,B,C,D, & E.

Mr. Brewster – Would soliciting the current owner's taxes help?

Ms. Pope – Well yes.

Mr. Deamer – Well they did that. They tried to do a multiple agricultural operations on the property and they found it wasn't going to work for them. They backed out of it and they found a new property that is smaller so they could afford it. So a report from a realtor looking at comparable properties and different operations? We have a thirteen year veteran in agriculture so they can give their input. They don't have anything on paper; but they can jot something down quick.

Ms. Pope – Yes, but it does require backup and I'm not asking you to do it; but if you wanted to share your tax return to the Board members as confidential document; that would be something. But I'm not saying you have to do that because that's personal information. But something like that for backup. This factor requires backup.

Ms. Deamer – So a letter from a realtor is sufficient or do we need more than that?

Ms. Pope – A report from a realtor says that they are familiar with this type of property and they know the value of it and if it was used as something else, what would it sell for, what could be a reasonable return. I don't want to request a full appraisal because that's expensive, and I don't think that will provide us any better information than a licensed realtor; who knows how to sell property saying what the different uses value would be for the property and getting a return on it.

Mr. Deamer – Can we move on? I just emailed my realtor. I know he did that when we were looking at properties, because he asked that.

Mr. Eldridge – You said he pulled together a bunch of Ag properties. At any point did you pull together any numbers on commercial properties?

Mr. Deamer – For the last three years or so we looked a lot of commercial properties: They were commercial land; they were industrial land in Conklin; Kirkwood, and all the way out to Owego. And it was going to be about double what the cost would be for this project would be; and it was not even close to being reasonable for us to do.

Mr. Brewster – Well, we'll move onto Factor 2.

Ms. Deamer – I just want to make sure we understand exactly what you require. Is a letter is sufficient? I don't know if they want to share their tax returns; I just want to make sure that we provide you what you need.

Mr. Brewster – I used the example of the taxes: Number one because the gentleman said it and number two, to my understanding; that's an example of hard numbers and that's what this statute and code requires. I understand how difficult this is but...

Ms. Kinne – That's on each thing that is listed?

Mr. Brewster – That's the way I understand it; each permitted use.

Ms. Pope – On each permitted use.

Mr. Brewster – We can move on to factor two.

Factor #2 – The alleged hardship relating to the property is unique to that property. In other words, that hardship may not apply to all the agricultural zoning in the area, but you are seeing hardship only on that property. What is the uniqueness of this property that requires you to have a use variance?

Ms. Pope – What is the unique disadvantage, so to speak, on this property that would require you to have a use variance on this property those and other surrounding neighboring properties wouldn't have unique disadvantage. What sets this property apart from your neighbor's property? Something that would require it to have a use variance but the other properties would not.

Mr. Deamer – Just it being an agricultural building and we're looking for a portion of it to be a commercial use.

Ms. Deamer – I think the answer to that is there's not another building in the town of Chenango that is 14,000 sq. /ft. that would be sufficient for us to use. We talked to Tom Geisenhof and I think John is familiar as well with the buildings that are available in the Town of Chenango, and that's it that would be large enough and the right configuration for us to utilize for our engineering company. So there is no other neighboring property that would be sufficient for us to use or available.

Mr. Brewster – I think what makes this tricky to me in my opinion, is that the Roosevelt Farm has to prove is that the land has a unique hardship that will not allow Roosevelt Farm to be a farm or an agricultural center, not related to your engineering firm. (to Ms. Pope) Am I correct on that? They're technically the property purchasers. The current owner or the future owner, the farm, has to show that uniqueness of this factor number two.

Mr. Deamer - If I understand this correctly, that refers back to the first factor of it being a financial hardship.

Mr. Brewster – I think they're linked. It can be shown through topography and other land factors, correct?

Ms. Pope – Yes it's about the land. There is something about the land that is causing a disadvantage that would require you to get the use permit, and I tried to look up examples of this because it's confusing; and I didn't really find much. It's something on the land itself, set aside your business that you want to put in. It's the land itself causing some sort of hardship for you that surrounding properties wouldn't have that same hardship.

Mr. Deamer – The property as a whole it includes a 14,000 sq./ft. building along with the twenty acres. It would one thing if you would be like comparing it like a cliff as pasture. It would be hard to build on it, it would be hard to put a pasture on it; but where else is there a cliff? I mean you're looking at a current farm property and if others are being sold as farm properties.

Ms. Deamer – Would the land being too wet to farm crops I mean we go back to number one again, but it refers back to the land itself. It's on a downhill slope and there is lots of water.

Mr. Brewster – That is a factor that can be considered as being a unique characteristic. If it's one of a few or none that have that characteristic. Is anyone else doing farming on a slightly relieved property that is wet?

Mr. Deamer – I think we will just leave that question how we answered it. If we don't understand the question, and the board doesn't understand the question; it's kind of hard to answer it.

Mr. Brewster – I think we do.

Mr. Smith – Can part of their answer be that it's been for sale as a farm for five years and it hasn't sold?

Ms. Pope – No because that's not unique to the land. Actually the cliff example was very good. If you wanted to do something on the property and all the permitted uses you couldn't do because of that cliff then you could get a use variance.

Ms. Deamer – Do we need to look at every property in the town of Chenango? You are saying compared to other properties...

Mr. Brewster/Ms. Pope – Neighboring properties.

Ms. Deamer – Ok, neighboring properties. Within so many feet?

Mr. Brewster – I guess we can determine that as a board.

Mr. Eldridge – I think in this situation, no matter what information is brought, it's going to be very hard in this situation for anyone trying to take an agricultural piece of property and put a commercial business in there to meet the code, no matter where the agricultural property is. If you have 10 farms surrounding this farm and they all drained into yours so yours was flooded $\frac{3}{4}$ of the year; that would make you unique. That's never going to happen. No piece of property there is going to make you unique for this instance; it's almost impossible.

Ms. Deamer – So what does that mean?

Mr. Eldridge – I'm new to this mind you, but research I've done based on the guidelines by the State, you have to meet all four of these factors in order to get a variance. It's very difficult to get any variance passed not just this. It's not just you guys. It's made difficult on purpose. So that's something that has to go on beyond us.

Mr. Aston – I think the concern he is trying to make, from what I'm gathering here too, is that the ranch LLC that you are trying to create here doesn't seem to be the primary use of this residence. It sounds like DDM supply is going to be the primary use. This is not zoned commercial; this is zoned agricultural. To bring something like that here you are going to have to meet these parameters and show that this ranch which you are going forward with is going to meet these parameters.

Mr. Deamer – It seems as though these parameters have nothing to do with the engineering company.

Mr. Aston – Because it is zoned agricultural and you are going forward with the Roosevelt Ranch LLC as the purchaser.

Ms. Deamer – Would it make a difference if DDM was the purchaser?

Ms. Pope – No, it would still be a commercial use in an agricultural district. That's the issue. Commercial use in an Ag district.

Ms. Deamer – As long as we can prove that the property will not make any money in any Ag use...

Ms. Pope – Let me just clear that up ok? What you have to prove to get a use variance is unnecessary hardship. Ok that's what you have to prove. If you can meet these 4 factors then you have proven unnecessary hardship and you can be granted the use variance. Each one on its own is a hardship. But I just want to be clear; all 4 have to be proven for you to prove unnecessary hardship. Not seeing that this property has any unique circumstances to set it apart; just the property and nothing to do with who owns it. It is the fact that there's nothing that we can see that's unique about this property that would mean commercial was the only use or a commercial/Ag mix is the only use.

Ms. Deamer – But if they try to sell the property for a number of years, and they can't sell it because nobody wants to run a horse farm; because they can't make any money at it; and it's not advantageous because of the property's wetness and whatever; you can't grow crops; and we show all the Ag uses; this wouldn't work, and this wouldn't make money and; that wouldn't be unique to this property; because of the topography that you couldn't do these things. Wouldn't that answer 1 and 2? We looked at this property because it's something we could enjoy. It's quiet and we want to have horses.

Ms. Kinne – Have you been to cooperative extension for them to do soil testing? On my farm, every field has a form that tells what type of soil it is and what can be done on that.

Mr. Deamer – We are looking at purchasing this property to continue to board horses and supplement some of that income with the engineering rent. We did not look at purchasing the building to get rid of the horses and plant crops. So, no we did not do soil testing.

Ms. Kinne – Well, that goes back to the first hardship.

Mr. Eldridge – The hard part is that there are two more hurdles and the fourth one is going to be hard, well, in this situation.

Mr. Deamer – Would you just say the other two so I can take notes?

Mr. Brewster – Sure.

Factor #3 – The requested use variance if granted will not alter the essential character of the neighborhood. I think you have already touched on that with what you suggested for improvements with the barn color and things like that. There are some things that need to be addressed that might be negative. Say the construction grading and traffic concerns.

Mr. Deamer – Let me just say...the construction and the grading. If a farm wanted to put in drain tile, they would need very large dozers to dig up the dirt and put in drainage tile. There are farms putting in gravel pads for grain silos all the time. We're not putting in any black top or concrete. Everything is going to be gravel so you can take that out of there. The truck traffic, the only traffic is one or two trucks per week which is much less than a farm would have during harvest season. If a traffic study is done there are probably already delivery trucks going up there. We really aren't changing too much.

Ms. Deamer – And if the entrance for the trucks is changed to West Chenango, the amount of dirt that would be disrupted would be less than one acre. We're not talking about a whole lot of changes or disruptions. It helps taking it off West Chenango not coming up Dimmock.

Ms. Kinne – Have you considered that?

Ms. Deamer – Yes.

Ms. Pope – Are your hours of operation just during the day?

Ms. Deamer – 8:00-4:30pm

Mr. Brewster – Board members, are there any further questions about Factor #3?

Ms. Deamer- All the pastures are remaining. We want to make it a barn color and we're only adding the dock for the tractor/trailer to come in. Like I said, the building is going to look better with putting a new roof on. If you are driving up and down it's going to look the same with the horses outside. The plants are staying, not a whole lot is changing.

Ms. Kinne – What about shipping containers or pallets?

Ms. Deamer – Nothing is stored outside. The tractor trailers pull up, it's off loaded, it will be in cold storage, we take samples, make sure they are correct and they go back out again. Nothing is outside.

Ms. Kinne – What about future expansion? You're looking into a riding arena?

Mr. Deamer – I'm getting pricing from Morton Builders to build a separate structure for a riding arena.

Ms. Deamer – It's for exercising the horses.

Ms. Kinne – It will be a change for the neighborhood.

Mr. Aston – Is there a house on the property?

Mr. Deamer – The house that's up on top of the property is a separate parcel.

Mr. Brewster – Just to clarify on the future expansion comments; would that be agricultural future expansion?

Ms. Deamer – That is correct.

Mr. Deamer – The building would cost somewhere between 250-300 thousand dollars to build that structure. It would be a little bit bigger than the indoor riding arena.

Mr. Brewster – To follow up on that, what would be the long term plans for the engineering business?

Mr. Deamer – We'd love to grow financially, but I don't want any more employees. So as far as overall growth having to add square footage for the company, or employees, that is not in the foreseeable future. We're pretty comfortable where we are now. We are actually looking into other sources of revenue. Expanding the horse boarding operation vs. expanding the engineering company.

Mr. Brewster – Let's get onto Factor #4.

Factor # 4 – In short, the alleged hardship has been self-created. Further, an applicant who creates the hardship or who acquired the property knowing of the existence of the condition he or she now complains, should not be granted a use variance.

Ms. Pope – Explained that if you had purchased the property knowing it wasn't zoned for the commercial use you want to use it for, then that's a hardship for yourself and a risk that you took. As I said earlier, you're doing the right thing coming for the use variance. But you do understand if you don't get the use variance, then ...

Ms. Deamer – then we won't purchase the property.

Ms. Pope – Right.

Mr. Brewster – I guess that clarified that. You wouldn't purchase it just for the farm's sake.

Ms. Deamer – No, so I think that answers that we're not creating a hardship. That purchase is completely contingent upon us getting the use variance.

Mr. Brewster – Legally that is true.

Ms. Pope – That one seemed the easiest.

Mr. Brewster – Any follow up ladies and gentlemen? Any final thoughts or comments? So with that said, the applicant has gone over the four factors and we have folks here that would like to speak. Would anybody here like to address the issue?

Jan Houlihan – 711 Dimmock Hill Road – Summary of concerns: 1) the traffic, 2) the loading dock, 3) damage to the road, 4) the noise, 5) the potential that a smaller boarding facility will not make money and will go under and there will be a business with no agriculture next to it.

Ms. Deamer – Can I address this? 1-2 trucks per week is what we average and as far as the boarding operation making money, we're not boarding horses to make money. We're boarding the horses because we love horses and we want to have horses. It's not a money making operation as far as that goes.

Mr. Deamer – It still is going to be a business. There is going to be money made. It's all going to be supplemental income. One operation is not going to be able to afford the property and care for the property the way it needs to be cared for in order to keep it in a visibly nice state for the neighbors. Also, just a note for the loading dock and tractor trailers, that is on the down side of the hill so not visible at all by the street. It's like 1-2 local delivery trucks, not the big continental trucks going across the country. They are not big noisy loud trucks.

Mr. Brewster – Do we have anyone else who would like to speak?

Joe Pratt – 41 Treadwell Road – Please see the comments and questions attached, hereof. The responses from the Deamers are as follows:

- Roosevelt LLC or Roosevelt Farm will be owned by Lynne Deamer and will be the property owner.
- DDM Supply is owned by Lynne Deamer.
- Franklin Hillcrest LLC is a company that was created for Ms. Deamer's two-family in Hillcrest. It has nothing to do with 2518. Deamer's Classics owned by Ms. Deamer's ex-husband and will have nothing to do with the property.
- The mix of debris on the Rte. 12 business property belongs to Ms. Deamer's ex-husband and will not follow them to the new property.
- Tractor trailers will arrive during business hours and there will not be any tractor trailers overnight.
- Forklifts will be inside.

Ms. Houlihan – Question for the Board; when they supply you with their first requirement' and why it won't work; who evaluates those claims? Is there somebody with expertise?

Mr. Brewster – It would be the six of us.

Ms. Houlihan – Do you have the expertise...

Mr. Eldridge – I think this is worded so tightly. It's not really open to interpretation. They either meet it or they don't, and so that makes it easier for us to either yay or nay. The State passes this on to us.

Mr. Brewster – Anyone else on the public speaking?

Dave O'Neal – 65 Brooks Road – Concerns: 1) that there will be a factory in the neighborhood and it will affect the ability to sell his house, 2) coming out on West Chenango is a bad idea. There are accidents on the corner at least once/yr, 3) traffic going downhill is much faster than the speed limit and you don't see many things, 4) the decline in farm land in the area. He would like to keep it agricultural and residential to preserve the neighborhood as it is now.

Ms. Deamer – I'd like to address one thing that he said. He said it was a factory. It is not a factory. It's an office space and horses. We don't make anything on site.

Mr. Senio – Michael Senio – I live in the Town of Chenango. I don't understand the loading dock concept. Every loading dock I've had has big tractors and big trailers. They bring material in and they take material out. If this is going to be a farm basically, what is the need for a loading dock?

Ms. Deamer – We have a loading dock because we have parts that are manufactured by a whole list of vendors that we work with; and so we will place an order with a vendor and say we need this made. Then it comes to us on a tractor trailer, it goes out to the loading dock, we unload it, we open the boxes and make sure the parts have all the specifications they are supposed to have, we repack it and it goes back out again. There is no manufacturing we do, no waste and 1-2 trucks per week.

Mr. Brewster – 1:30. Okay, thank you everybody who chose to speak and thank you to the Deamers for going through this process. At this time, I have some correspondence that needs to be read into the record:

Broome County Planning – The Planning Department has reviewed and has not identified any significant county wide or inter-community impacts associated with this project. They make no determination on the four tests of the variance. They do request a review of the site plan when it becomes available.

Broome County DPW – No comments on the use variance, but does reserve the right to comment on the site plan application once that is submitted again.

BMTS and Broome County Health Dept. – No comments on the use variance.

Town of Chenango Drainage Coordinator – Site inspected and approved the drainage portion.

Town of Chenango Engineer – Granting of this variance is necessary for reasonable use of the land is in harmony for general purpose and there are no objections from the Town Engineer.

Town of Chenango Planning Board – Reviewed the application on February 10th and refers the application to the ZBA with a favorable advisory. That was an advisory, not a site plan review.

Town of Chenango Ordinance Office – The Ordinance Office has no concerns regarding the use variance. A building permit would be required upon approval.

Mr. Brewster – At this, Board Members, we have a decision to make. I'm not going to call for a closure of the public hearing. We're going to leave that temporarily open, but we do have decisions to discuss. We do have the capability to leave the public hearing open to accept future documentation.

Mr. Eldridge – Two things: 1) Even if there was evidence presented for reason #1, there is still nothing that makes it unique. 2) Something was said about, in the future, spending \$200,000/\$300,000 for a riding arena. If the business according to #1 does not make any money as a horse stable, why would you put \$200,000/\$300,000 into a horse stable?

Ms. Deamer – We would have horses on the property and they need to be exercised. Because the indoor riding arena is going to be separated from the current indoor riding arena and separated from cold storage and actual stalls for the horses, there won't be any indoor exercise place for them.

Mr. Deamer – I'll just say the riding arena is a necessity for the horses. It is hard to exercise the horses in the winter outdoors without good footing. It's necessary for them to have something to ride indoors, a comfortable place where the horses are not going to get hurt, and the riders are not going to get hurt. To go to that extent of putting up that nice of a building is an investment to expand the boarding, as well as to leave it open to riding events. I mean we would possibly leave it open to have summer riding events. The current owner still has a lot of friends and former clients who would love to ride, so having that available, it's there for the community to use for events like that. So, it's not just to throw the money away on this big building when we are not going to make money off of it. It's for the community; it's for us to own horses, as well as it's a possible expansion for the boarding operation.

Ms. Deamer – The other point I want to make as that the horse boarding operation will not pay for that building. The engineering company will pay for that building.

Mr. Brewster – Any other thoughts here? This needs to be very fluid, a very open discussion amongst the board here. We are essentially in deliberation here.

Mr. Aston – I know we got an email to go and visit the sight, but I didn't have any time to get over there. I would like to go over there and take a look and see where the business is. I understand trying to bring a business like that to an area where there is no real type of commercial business currently, you're going to face opposition and I'm thinking if I'm neighbor there I would be fearful too.

Mr. Deamer – I know there are other commercial businesses that have gone into the area that are way more commercial than we are. I mean we're still keeping a farm. The property as a whole is still going to act as a farm, look like a farm and smell like a farm. We're not putting up a steel commercial building and run an HVAC company out of it or running a tool machine shop or a job shop out of it. We're putting in some

nice office space, a hang-out area, a full blown kitchen, and some nice bathrooms and keeping it a farm.

Ms. Pandich – For point #3, there was a lot of discussion about tractor trailer traffic. What size trucks are we truly talking about, when you say tractor trailer truck?

Mr. Deamer – I would say 90% of the trucks that we get in are local delivery trucks. Those being the ones going down Front Street. Those are your local terminal trucks, regular cab tractor with a single axle and typically a short trailer. We're not getting full sleeper cab, full 53' trailers up there.

Ms. Pandich – Thank you.

Mr. Brewster – So basically we can have a motion to continue the public hearing to allow the Deamers to provide additional information. I think we could give them the opportunity to do that; but before I ask for the motion, I would like to get a census on....

Mr. Smith – Time commitment?

Mr. Brewster – Well there is time commitment for the attorney, but there is also the time commitment for the contact I would imagine. And number two, is it going to tip the scales? All of the factors? And without further deliberation from all of you, I cannot answer that.

Mr. Deamer – What were we able to answer. Was it #3? We're looking up #1 & #2 for further explanation of financial hardship and land hardship.

Mr. Brewster – That's a good question.

Mr. Eldridge - #4 is kind of a no point, because they don't know if they are doing this yet.

Mr. Brewster – Correct. That would be a yes factor. There is at least two if not three that we have to decide on.

Mr. Deamer – So we have to provide financial hardship and hardship of the land?

Board Members – And the neighbors.

Mr. Deamer – And the neighbors too.

Mr. Aston – I look at this too. That area is an area where you look to live to get away from businesses and crowds. I'm not saying you have a ton of that, but people don't move to that area of town to have that type of stuff, so that's my opposition. If we table that, we might have some more discussion on that, in that area.

Mr. Brewster – Sure, if you would like to have some more information under your belt, that’s a valid point. How about everyone else?

Ms. Kinne – I agree with you. Is it really going to tip the scales?

Mr. Eldridge – That’s where I’m at.

Mr. Brewster – Well, that’s my question, and I guess that’s the question on my mind and the question I can pose to everyone else.

Ms. Kinne – We heard from neighbors.

Mr. Eldridge – After reading this and the other documents, I feel as if it would have to be a more unique situation to receive a variance.

Mr. Brewster – It’s a very high bar to overcome.

Mr. Deamer – Not having the information, I think you guys can accurately deny it without proof of all for factors. I would ask that we at least have the opportunity to prove ourselves with the four factors, whether we are able to or not so you guys have an accurate answer, can they or can’t they. Let us try.

Mr. Brewster – I think that’s a very fair assessment. The one concern I have on that before we move on with the motion or further discussion would be; what’s the sunset on your contract?

Mr. Deamer – It’s open.

Mr. Brewster – And then there is a pretty good chance that you will have to schedule the planning board again.

Mr. Deamer – Well, we never submitted a complete site plan.

Mr. Brewster – So that would have to be done anyway?

Mr. Deamer – Diane does have an email with that site plan to be sent to the County.

Mr. Brewster – Okay, so what do we think? I can accept a motion to continue the public hearing. We’ll put it on old business for our next meeting to provide information. I can entertain that motion or I can entertain another motion. I do feel strongly with perhaps moving forward and allowing them time to prepare further information just for completeness, so we understand what they can provide.

Ms. Pope – Do a motion.

Mr. Brewster – Do I have a motion?

Motion to continue the Public Hearing of Application 2019 V-10, Roosevelt LLC – Lynne M. Deamer, until March 31, 2020 – motion made by Joe Aston, seconded by Melanie Pandich and carried by the following roll call:

Joe Aston Aye
Scott Smith Aye
Melanie Pandich ... Aye
Aleta Kinne Aye
James Brewster Aye

Mr. Brewster – Okay, that’s what we will do.

Ms. Deamer – When do we need to submit the information by?

Mr. Deamer – If we submit it by the scheduled ZBA meeting on the 24th, will that be okay?

Mr. Brewster – That’s fair. Submit through the ordinance office and they will get it to us. I will just say, thank you for your time.

ADJOURNMENT

Motion to adjourn – motion made by Scott Smith, seconded by James Brewster. All were in favor.

Meeting adjourned at 9:00 p.m.

Respectfully Submitted,



Donna M. Webster
Stenographer of the Zoning Board

From: Joe Pratt sheikjoe@aol.com
Date: Mar 10, 2020 at 12:05:58 PM
To: Joe Pratt sheikjoe@aol.com

Copy
Dianna
Donna

Mr chairman. ZBA members and applicant. For many years I have heard several application being presented to this board. Residents will describe their application be approved and soon after will expand and operated outside the scope of the original application! I could describe at least 4 that I commonly refer to. This usually occurs when the business enjoys success. I believe that the ordinance dept has not acted in the best interest of the town residents. Also I am disappointed that the planning board allowed approval without final site plans. I would like to ask some questions for your consideration. I do not support or oppose this application. I mean no disrespect to the applicate as she makes efforts for her business success. However to many times I have seen good intentions go bad. I ask the following questions and considerations.

Sent from my iPhon

- ④ Hidden Hollow Campground
- Bing Pre - CAST
- Bing Chrysler Jeep
- Sand Bag Factory

UNDESIRABLE CHANGE

QUESTIONS

- * Roosevelt LLC OR Roosevelt Farm IS OWNER Lynne Deamer?
- * Will SITE BE PROPERTY OWNER?
- * IS DDM Supply THE ENGINEERING CO (TENANT) OWNER Lynne Deamer?

(WOMAN OWNED MECHANICAL CONTRACT MANUFACTURER)

IF THIS IS THE CASE YOU HAVE SOME OWNER w/ 2 BUSINESSES. TO REFER TO A HORSE FARM RENTING TO A COMM COMPANY. IS QUESTIONABLE SINCE YOU WILL SEE MORE TRACTOR TRAILERS THEN HORSE TRAILERS. AND MIGHT BE CONSIDERED ^{NON} CONFORM

- * ARE THERE ANY OTHER BUSINESS ^{COMING TO THIS PROPERTY} DENNER CLASSICS / FRANKLIN HILLCREST LLC
- * WHAT IMPACT WILL THEY HAVE? (WHAT WOULD THESE MENTIONED)

* AT THE RT 12 BUSINESS THERE IS A PAULION AT THE REAR OF PROPERTY. FULL OF A MIX OF DEBRIS WHICH COULD EASILY BE CONSIDERED AN EYE SORE. WILL THIS OCCUR ON THE NEW PROPERTY. I WOULD ADVISE THE BOARD TO CONSIDER NO OUTSIDE ^{CONTAMINATION}

ENVIRONMENT IMPACTS

- * TRACTOR TRAILERS - OVERNIGHT? OR
- * WILL TRUCK TRAFFIC OCCUR ONLY ~~BEFORE~~ DURING BUSINESS HRS?
- * BUSINESS HRS BE DETERMINED
- * WITH PRESENCE OF TRACTOR TRAILERS AND ANY OTHER MATERIAL HANDLING EQUIP. EX FORKLIFTS ALONG WITH MANUFACTURING PROCESSES OCCURRING WITHIN THE COMMERCIAL BUSINESS.

I EXPRESS MY CONCERNS ABOUT DIESEL FUEL, OIL, ANY MANUFACTURING WASTE INCLUDING COOLANTS, OIL, WASTE CHIPS, PLASTICS AND PALLETS. I AM ASKING THAT BEST MANAGEMENT PRACTICES BE IN PLACE BEFORE CONSIDERING THE APPLICATION. THIS WOULD INCLUDE SAFETY, MANUFACTURING PROCESS LEAKS AND SPILLS.

HARDSHIP

ANY HARDSHIP AS SELF CREATED BECAUSE THEY ARE CURRENTLY OPERATING COMMERCIAL AT R/L AND ROOM FOR EXPANSION. I WOULD ASK FOR CONSIDERATION OF SOMETHING SIMILAR TO CURRENT SIGN. NO LED.

From: Joe Pratt shekijoe@aol.com
Subject: Dimmick hill variance
Date: Mar 10, 2020 at 1:03:18 PM
To: Joe Pratt shekijoe@aol.com

In closing. To the ZBA My concerns have derived from past applications that have caused problems in the town. Also it is my opinion that any extra burden that you put on the ordinance dept as far as enforcement would be wasted time. This dept has an overwhelming work load and is currently making efforts to decrease restrictions on town law. Be sure to document what the town wants! If it isn't documented then you have no recourse. To the applicate. I wish you success in your future. I hope that you understand my concerns and will become a good neighbor as have the previous owners. Remember when you leave after a days work and return to the comforts of you home. We are still here living next to it. Thank you

A YOUR BUSINESS

