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ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



Meeting Minutes
September 11, 2018

The members present were: Chairman Cannistra, Mr. Carpaneto, Ms. D'Ippolito, Mr. Guyot, Mr. Harden, Mr. Newman and Mr. Santaroni.

Interested residents were also present.

Chairman Cannistra opened the meeting at 7:30 p.m. with a moment of silence in memory of the victims of 9/11 followed by the Pledge of Allegiance.

APPLICANTS

Chairman Cannistra announced that the application for Anthony and Catherine Porco, item number 3 on the agenda, has been adjourned until at least the October 16, 2018 meeting because a Stay was issued by the NYS Supreme Court. Also, the application for Kaela Choquette and David Potter, item number 1 on the agenda has also been adjourned until the October 16, 2018 meeting because their application has to be amended. In addition to the need for a Special Exception Use Permit to construct an accessory apartment on the 2nd floor of a barn, the application failed to include the need for an Area Variance because the barn is being built after April 1, 1992.

Although the application of Kaela Choquette and David Potter has been adjourned until the October meeting, the Chairman gave those present an opportunity to speak if they wished. All were reminded that the application is about the accessory apartment and has nothing to do with the construction of the barn and/or the fact that it will be housing horses.

Maureen Devine of 10 Susan Drive asked if the reason for an Area Variance could be further explained.

Dominic Veltri of 3 Annarock Drive strongly recommends that the Board review all the codes relative to building a barn. He also read out loud from the Code of the Town of Somers the responsibilities of the Zoning Board of Appeals to the Board.

Barlow Humphreys of 4 Annarock Drive is opposed to the accessory apartment for the following reasons: in his opinion it violates Section 170-70-B of the Code of the Town of Somers; it is unhealthy to live over a barn with horses; and since the existing one family dwelling is just under 4,000 square feet perhaps the accessory apartment can be constructed in the house.

Steve Miller of 22 Annarock Drive would like the Board to take Section 170-70-O (1) of the Code of the Town of Somers into consideration when hearing this application next month.

Bob Murphy of 7 Wellington Lane is concerned about the noise that might occur from having horses, as well as noise that might be generated in the future with regard to other uses of the barn.

Charlie Burns, President of the Somers Chase Board of Directors is concerned about the amount of land that might have to be cleared to build the barn.

Mary Theresa Benson of 13 Annarock Drive would like clarification on why the application is being adjourned. She is also concerned about traffic as in her opinion a horse trailer and a car can't pass at the same time on Highview Terrace and if a horse trailer were to get stuck on the road it would prevent emergency vehicles from getting through. It was explained that these issues don't fall under the purview of the Zoning Board of Appeals.

Karen Wagner of 8 Wellington Lane would like to see the details about the barn and would like a written determination about the plans. That request would have to be made to the Building Department. She is also concerned about a business being run from the property since it is a residential district. Since part of the land is in a groundwater protection district she is concerned over the impact of animal waste.

Maureen Devine of 10 Susan Drive asked who the current owner of the property is as the tax records show a different name. The applicants are the owners and closed on August 15, 2018. She also indicated that she doesn't agree with the Building Inspector's decision to allow them to build the barn.

Patricia Humphreys of 4 Annarock Drive would like to be able to be part of the process and review with the ability to comment if the barn is able to be built without the apartment. It was suggested she contact Planning and Engineering with regard to what they have jurisdiction over and was told the Building Department would allow her to review the plans once the Building Permit is issued.

Steve Miller of 22 Annarock Drive feels that the Area Variance issue is covered by the Special Exception Use Permit process as outlined in Section 170-70 of the Code of the Town of Somers and the application should be heard this evening.

MARTIN AND BETH ZUBATKIN – BZ20/18 – 28.06-1-21

An application requesting that the interpretation of the Building Inspector be modified to define a mature cockerel not on the basis of age, but on the basis of it being able to crow, located in an R-80 Residential District at 11 Highview Terrace, Somers. The property is shown on the Town Tax Map as Section: 28.06, Block: 1, Lot: 21. RE: Section Schedule 170-11-B (3) (b).

Mr. Zubatkin addressed the Board. Approximately 1 ½ to 2 years ago his neighbor had a rooster that was crowing. A complaint was made to the Zoning Department as mature cockerels are not permitted as per the Code of the Town of Somers. The rooster was removed. This past July the crowing began again. Another complaint was filed and the Building Inspector ruled that a mature cockerel is 6 months old. He continues to be woken up at 4:00 a.m. daily and is bothered on a regular basis. Mr. Zubatkin would like the Zoning Board to define a mature cockerel. In his opinion, it should be when they can crow, not how old they are.

Nancy Gerbino of 14 Raemont Road addressed the Board. She was one of the authors of the section of the Code of the Town of Somers that addresses roosters. She is also very involved with 4H. A rooster is needed if you want to raise chickens, but they can crow as early as 2 months of age and will crow whenever they want, however they don't have a right to disrupt the neighbors. Please assist the applicant so he can get some peace of mind.

Giovanna Abbate of 13 Highview Terrace addressed the Board. She would like to know what jurisdiction the Zoning Board of Appeals has. They can give relief from the code, but cannot change or amend it, only the Town Board has that authority. She informed the Board that you don't know the gender when buying chicks. In addition, there are hens that are transgender and some can have a hormonal imbalance that will enable them to start crowing and then they stop crowing. Mr. Guyot confirmed that they in fact got rid of the rooster 1 ½ to 2 years ago when the applicant complained about it and it would have been nice if the same thing was done now. She said the rooster is their pet and it is not always an easy task to get rid of them. It was suggested that it can be slaughtered for food...the circle of life. Ms. Abbate also referenced some additional research she did on roosters and shared statistics. The Chairman reminded her that the task at hand was to define a mature cockerel. Mr. Guyot suggested that perhaps the two parties could come up with a compromise.

Giovanni Abbate of 13 Highview Terrace addressed the Board. He is very upset about some unrelated problems with the applicant.

Michael Pacella of 10 Highview Terrace addressed the Board. He complimented the Chairman on answering the questions that he could, but asked why the Building

Inspector was not present to answer those that would have been under his jurisdiction. Mr. Pacella hopes that someone will be in attendance in his place at the next meeting since he is retiring.

Mr. Zubatkin reminded the Board that the rooster in question will be 6 months old on September 14th and hopes that the members can be sympathetic to his situation as it has very much been a nuisance. He also doesn't appreciate being woken up every morning at 4:00 a.m.

Ms. Abbate reported that she has never heard the rooster crow as early as 4:00 a.m.

Mr. Abbate thinks that the Board is letting Mr. Zubatkin do whatever he wants to do.

Chairman Cannistra did quite a bit of research with regard to mature cockerels and really couldn't find an exact definition, however he feels the intent of the Town Board when establishing the Code was to remove them when they start crowing.

Mr. Guyot agrees that a cockerel is mature when it starts crowing and must be removed.

Mr. Newman feels that when someone purchases a chick, they have to prepare themselves for its removal when the time comes.

Mr. Harden raised chickens when he lived in New York City and it was common practice to turn a crowing hen or rooster into food.

Mr. Carpaneto thinks the noise is the issue and should be the determining factor in defining a mature cockerel.

Ms. D'Ippolito agrees that a mature cockerel means that it can crow.

Kathie Pacella of 10 Highview Terrace addressed the Board. She was raised on a farm and just Googled a mature cockerel and it says it is less than a year old.

Mr. Newman was able to find at least four different definitions.

Ms. Abbate addressed the Board. She thinks a mature cockerel is 6 months of age and was reminded that the Zoning Board will only provide a determination of the definition of a mature cockerel as they are not authorized to amend the code.

Mr. Guyot made a motion for a Type II action. Ms. D'Ippolito seconded the motion.

A vote was then taken by the Board as follows...

POLL OF THE BOARD

Mr. Carpaneto	Aye
Ms. D’Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

Mr. Guyot made a motion that a mature cockerel is defined as when it starts crowing. Mr. Harden seconded the motion.

A vote was then taken by the Board as follows...

POLL OF THE BOARD

Mr. Carpaneto	Aye
Ms. D’Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

OTHER BUSINESS:

A motion was made by the Chairman to approve the minutes of the July 17, 2018 meeting. All were in favor.

The next monthly meeting of the Zoning Board of Appeals will be held on October 16, 2018 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board