



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue
Elmira, NY 14904

*Minutes Approved
by Board of Appeals
8/18/2021*

BOARD OF APPEALS

AGENDA

WEDNESDAY, JULY 21, 2021

REQUEST FOR AREA VARIANCE

Nathan Shields, 50 Bird Creek Road, Pine City, NY

REQUEST FOR AREA VARIANCE

Tina Jones, 327 Riverview Circle, Elmira, NY 14904

REQUEST FOR AREA VARIANCE

David Townsend, 325 Riverview Circle, Elmira, NY 14904

SOUTHPORT TOWN HALL

1139 PENNSYLVANIA AVENUE

ELMIRA, NY 14904

7:00 pm

Webex Meeting

1-415-655-0002

Meeting number (access code): 179 720 2769

Meeting password: 93pc67J7Q2S

Minutes of the Zoning Board of Appeals, Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on July 21, 2021 at 7:00 p.m.

Board Members Present: Justin Faulkner
Shawn Crater
Belinda Combs
Edward Steinhauer

Board Member Absent: Susan Silvers
Ken Wrigley

Others Present: Leslie Connolly, Town Attorney
Peter Rocchi, Town Code Enforcement Officer
Bonnie Balok, Secretary-Zoning Board of Appeals

Item No. 1 – Call to Order

Mr. Faulkner called the meeting to order on or about 7:00 p.m. All present, with the exception of Ms. Silvers and Mr. Wrigley.

Item No. 2 – Approval of Minutes of April 21, 2021

Mr. Faulkner advised the next item on the agenda was the approval of the minutes of April 21, 2021. Motion made by Mr. Steinhauer to accept the minutes as prepared; seconded by Mr. Crater. The minutes of April 21, 2021 were unanimously approved.

Item No. 3 – New Business

Mr. Faulkner advised the first informational hearing is held for Nathan Shields, 50 Bird Creek Road, Pine City, NY 14871. The request is for an area variance to allow raising chickens and pigs in a R-1 zone on 1.4 acres, not in compliance with:

Section 525 Zoning, Article V-Bulk Density Control Requirements and
Section 525-33-Special Requirements

(A). Special requirements for each agricultural use identified and defined in Section 525-5 shall apply as follows:

(2) The keeping or maintenance of animals or animal waste for any use on any parcel shall Not be less than 150 feet from any residence located on another parcel.

(7) An agricultural use, personal:

(a) Within any R-1 Zoning District that involves animals, shall have a minimum lot of 5 acres

Tax Map #: 117.04-3-4 Zoned: R-1 Current Use: Residential

Present: Leah Shields
50 Bird Creek Road, Pine City, NY 14871.

Ms. Shields advised they are seeking an area variance for chickens and a pig. The pet is a mini pig, thirty (30) pounds and can grow to seventy (70) pounds, seven (7) months old, not outdoors and the chickens they have always raised. When they were looking at the home, they asked the homeowner if they could have a pig and chickens in this area; Mr. and Mrs. Shields were advised yes. They moved in May 2021. The previous owner did not have a permit for either of these animals. The pig has a fenced in play area and at night comes into the home. The Shields have a neighbor to the right of them and all hillside behind their property. The pen was on the right of the property, but they moved the pen closer to the middle of the property. The pen was built for the pig. The neighbors next to the Shields are in an agriculture zone. Ms. Shields advised they want the chickens for tick control because her husband and son have a tick borne disease. The chickens are free-range when she is out in the yard.

Mr. Crater asked about providing a restrictive variance, including the type of animal. Attorney Connelly explained yes restrictions could be put on any variance issued; this is not an emotional support animal, the pet was moved in without having the proper zoning, the pig has to be inside and other such restrictions that would be reasonable and palatable to the neighbor. Attorney Connelly further advised restrictions such as the animal sleeps inside, domiciled as a pet pig, miniature, thirty (30) pounds growing to seventy (70) pounds, grant for one (1) animal.

Discussion took place concerning the language in the Code, "Agricultural Use, Personal-Any agricultural use, general, with a maximum combined total of not more than five (5) livestock animals, except for horses as set forth in §525-33(A)(3), and not more than twenty five (25) fowl . . . ". Mr. Rocchi advised the Shields' ~~property~~ "pen" is one hundred fifty (150') feet from the neighboring property. (*Note: Correction on Minutes-omit property; include pen*).

Mr. Faulkner explained to Mrs. Shields about the public hearing process and advised the public hearing would be held August 18, 2021 at 7:00 pm at the Southport Town Hall. Mr. Faulkner reviewed the five (5) area variance questions that would have to be answered at the public hearing, advised a sign would be placed in the Shields' front yard, a notice would be published in the "Star-Gazette" and the details of the legal notice would be sent to them by Ms. Balok.

Meeting adjourned: 7:32 pm

Original on File: Town Clerk
C: Town Supervisor, Town Attorney, Town Code Enforcement Officer
Board of Appeals Town Board Planning Board
Minutes of 7/21/21 Nathan and Leah Shields, 50 Bird Creek Road, Pine City, NY 14871

Bonnie Balok, Secretary-Zoning Board of Appeals
July 22, 2021

Item No. 3 – New Business *(continued)*

Mr. Faulkner advised the second informational hearing is held for Tina Jones, 327 Riverview Circle, Elmira, NY 14904. The request is for an area variance to allow raising chickens in a R-1 zone on a lot (67.70 x 149.25), not in compliance with:

Section 525 Zoning, Article V-Bulk Density Control Requirements and

Section 525-33-Special Requirements

(A). Special requirements for each agricultural use identified and defined in Section 525-5 shall apply as follows:

(2) The keeping or maintenance of animals or animal waste for any use on any parcel shall Not be less than 150 feet from any residence located on another parcel.

(7) An agricultural use, personal:

(a) Within any R-1 Zoning District that involves animals, shall have a minimum lot of 5 acres

Tax Map #: 99.09-1-23

Zoned: R-1

Current Use: Residential

Present: Tina Jones and James Jones
327 Riverview Circle, Elmira, NY 14904

Mr. Jones advised they moved into the home in December 2020, they have three (3) fenced in chicken coops (coop on top and flat on bottom) and three (3) hens; the purpose of having chickens is for tick control, as well as teaching their son and three (3) year old grandson about taking care of animals. There is no rooster, the chicks are fourteen (14) weeks, got them in April, get one (1) to two (2) eggs a day and enough to feed their family. The feed is inside the garage, the chickens are fed in the morning. At night, the chickens are put in the top part of the coop and the feed is put inside the garage. Waste management involves raking the chicken manure into the yard and vegetables, mulch all this up, it is more of an organic fertilizer. Not going to increase number of hens. All neighbors have no problem with this, except for one individual who moved in recently. Behind their property there are fourteen (14) acres of land zoned agriculture. Behind the Jones property is Mr. Steinhauer's property and to the line, the property is owned by a man from Texas, beyond that the property is owned by the City to the river. The property behind the Jones property is in a flood zone and can't build on that land.

Mr. Rocchi advised some land might be developable and is zoned Agriculture.

Discussion took place concerning the fact the area is zoned R1 all around this property, agriculture zone is behind this property and then the river; Jones has .23 acres and is forty feet (40') from the neighbor's property. There has been a complaint from one neighbor.

Mr. Faulkner explained to Mr. and Mrs. Jones about the public hearing process and advised the public hearing would be held August 18, 2021 at 7:00 pm at the Southport Town Hall. Mr. Faulkner reviewed the five (5) area variance questions that would have to be answered at the public hearing, advised a sign would be placed in the Jones' front yard, a notice would be published in the "Star-Gazette" and the details of the legal notice would be sent to them by Ms. Balok.

Meeting adjourned: 7:45 pm

Original on File: Town Clerk

C: Town Supervisor, Town Attorney, Town Code Enforcement Officer

Board of Appeals Town Board Planning Board

Minutes of 7/21/21 Tina and James Jones, 327 Riverview Circle, Elmira, NY 14904

Bonnie Balok, Secretary-Zoning Board of Appeals
July 22, 2021

Item No. 3 – New Business *(continued)*

Mr. Faulkner advised the third informational hearing is held for David Townsend, 325 Riverview Circle, Elmira, NY 14904. The request is for an area variance to allow raising chickens in a R-1 zone on a lot (50 x 172.45), not in compliance with: Section 525 Zoning, Article V-Bulk Density Control Requirements and

Section 525-33-Special Requirements

- (A). Special requirements for each agricultural use identified and defined in Section 525-5 shall apply as follows:
- (2) The keeping or maintenance of animals or animal waste for any use on any parcel shall Not be less than 150 feet from any residence located on another parcel.
 - (7) An agricultural use, personal:
 - (a) Within any R-1 Zoning District that involves animals, shall have a minimum lot of 5 acres
- Tax Map #: 99.09-1-24 Zoned: R-1 Current Use: Residential

Present: David and Erica Townsend
 325 Riverview Circle, Elmira, NY 14904

Mr. Townsend explained they are requesting an area variance for chickens, they have .57 acres, their backyard is large and the chickens on kept on the northern part of the property, close to the land that is zoned agriculture. Mr. Townsend explained he uses two (2) two hundred foot (200') electrical cords to reach the coop from his home. Mr. Townsend advised they have ten (10) hens and one (1) rooster. Mr. Townsend further advised he maintains manure management by putting the chicken manure in compost piles and this is managed very well. Mr. Townsend explained he maintains odor control with straw and keeps the feed in garbage cans. The coop is ten feet (10') by twenty five (25') feet enclosed with hardware cloth and a tin roof and he lets the chickens out if he is out in the yard. Mr. Townsend advised he sees geese every day – two hundred (200) a day out back and twenty five (25) deer in his yard. Their property is almost in the agriculture zone. There are nine (9) houses in the area and the agriculture zone is almost all the way around these homes. The Townsend property is adjacent to agriculture zoning. Mr. Townsend maintains odor and waste management control. Mr. Townsend advised he spoke with the property owner in Texas and he is receptive to letting Mr. Townsend move everything onto his agriculture zoned property, and ultimately Mr. Townsend would like to buy that property. Mr. Townsend explained he has spoken with all other neighbors and they are all receptive to the chickens and rooster he has on the property. Mr. Townsend advised the rooster was the reason for the complaint; there has only been one complaint by one woman and it was the rooster problem. The rooster crows seven (7) to eight (8) times in the morning and Mr. Townsend tracked that during the pandemic. Mr. Townsend has provided eggs to nearly everyone on Riverview Circle.

Mr. Faulkner explained to Mr. and Mrs. Townsend about the public hearing process and advised the public hearing would be held August 18, 2021 at 7:00 pm at the Southport Town Hall. Mr. Faulkner reviewed the five (5) area variance questions that would have to be answered at the public hearing, advised a sign would in placed in the Townsend's front yard, a notice would be published in the "Star-Gazette" and the details of the legal notice would be sent to them by Ms. Balok.

Meeting adjourned: 7:59 pm

Original on File: Town Clerk
C: Town Supervisor, Town Attorney, Town Code Enforcement Officer
 Board of Appeals Town Board Planning Board
 Minutes of 7/21/21 David and Erica Townsend, 325 Riverview Circle, Elmira, NY 14904

Bonnie Balok, Secretary-Zoning Board of Appeals
July 22, 2021

Item No. 4 – Old Business

No old business

Item No. 5 – Discussion

The Board, Attorney Connelly and Mr. Rocchi discussed the necessity for a resolution to be sent to the Southport Town Board concerning the need to review the law allowing poultry and smaller livestock in the R1 district. The Board approved a resolution be sent to the Southport Town Board before the next town meeting.

Item No. 6 - Adjournment

Motion by: Mr. Crater
Seconded: Mr. Steinhauer
Unanimously approved
Meeting adjourned: 8:30 pm

Original on File: Town Clerk
C: Town Supervisor, Town Attorney, Town Code Enforcement Officer
Board of Appeals Town Board Planning Board
Minutes of 7/21/21 Nathan and Leah Shields, 50 Bird Creek Road, Pine City, NY 14871
Minutes of 7/21/21 Tina and James Jones, 327 Riverview Circle, Elmira, NY 14904
Minutes of 7/21/21 David and Erica Townsend, 325 Riverview Circle, Elmira, NY 14904

Bonnie Balok, Secretary-Zoning Board of Appeals
July 22, 2021