**URBANSKI AREA VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Lacey, that the area variance requested by Christopher Urbanski, 343 Cheese Factory Road, Honeoye Falls, NY, consisting of 13.59 acres and zoned RA-1, to allow a structure housing one rooster to be 128 feet from one property line and 121 feet from another property line, whereas code requires 150 feet from any property line, with Tax account no. 222.01-1-18, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Christopher Urbanski, the property owner, appeared before the Zoning Board of Appeals at the public hearing on December 13 2018, and again on February 7, 2019.
2. Section 260-8 N(2)(b) of the Mendon Zoning Code states “Any structure housing a rooster shall be located not less than 150 feet from any property line”. Per the survey map provided by the applicant, dated Oct 9 2015, the existing coop is situated approximately 121 feet from one property line, and approximately 128 feet from the opposite property line.
3. On October 15 2018 the Mendon Zoning Code was amended. Under the previous code, rooster(s) were only allowed in RA-5 zoning and needed a minimum of 100 feet to the property line (200-8 N(5)), whereas the current code requires a minimum of three acres for each rooster and a minimum of 150 feet (260-8 N(2)(b)). This is not a preexisting nonconforming situation, as the property is zoned RA-1, and as such was not previously allowed to have rooster(s). Therefore, only the current code has standing, and the 150 feet minimum applies.
4. While the applicant has more than enough land to relocate the rooster’s housing such that it has adequate distance to the property line, doing so would require removing a number of trees in the forested portion of the lot. The applicant stated that he plans to relocate the structure if he is denied a variance.
5. While there are hens on the property, they are a non-factor as section 260-8 N(2)(c) of the Mendon Zoning Code states “A structure housing ... said creatures shall be located no closer than 100 feet to any property line”. The closest portion of the structure is approximately 121 feet from the property line, meeting this requirement.
6. The applicant stated the rooster’s purpose is to warn the hens of predators.
7. John Tracey, of 361 Cheese Factory, filed a Complaint Record about the rooster, dated October 25 2018. The existing coop is approximately 280 feet from the complainants nearest property line.
8. Letters in support of the Urbanski’s requested variance were received from Stephen and Karen Pasquarette, of 355 Cheese Factory, and Samuel and Marcella Mueller, of 330 Cheese Factory.
9. Members of the public were given the opportunity to comment during the public hearing.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as relocating the rooster would require too much effort, while offering little to no gain.
2. The request is **not** substantial, as the approximately 30 feet relief will have negligible impact.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it has no meaningful impact on the local environment, whereas the most reasonable alternative would lead to the removal of a number of trees.
4. The request will **not** have an undesirable change in the neighborhood, as the closest neighbor has stated they are in favor and, as the distance to other neighbors increased, the impact of approximately 30 feet becomes insignificant.
5. The difficulty **was** self-created, as the applicant should have factored the zoning code in before they placed their structure.
6. This is a Type II action under SEQR