A Regular Meeting of the Zoning Board of Appeals was held on Thursday, July 13, 2017, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

Daniel Bassette

Clayton Lacey

Liz Sciortino

David Cook (arrived at 7:11)

ATTORNEY: Jeff Clark

Others: Councilperson Cindy Carroll and 10 others.

Minutes were taken by Mary Fletcher.

Mr. Peckham opened the meeting at 7:00 p.m.

Mr. Peckham stated there is a sign-up sheet if members of the audience want to speak during the public hearing portion of the meeting.

**MOTION**

Mr. Peckham moved, seconded by Ms. Sciortino, to postpone the approval of the minutes of the June 22, 2017 meeting until the July 27th meeting.

**APPROVAL**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye.

**ORDUNA AREA VARIANCE PUBLIC HEARING (Continued)**

Marcus Orduna, 52 Mendon Ionia Road, Mendon, NY, consisting of 2.13 acres, bearing Tax Account No. 216.02-1-15, located in an RS-30 zone, came before the Board requesting an area variance to own two goats where Town Code requires a minimum of 3 acres to own 1-3 hoofed animals.

Mr. Peckham stated he spoke to a woman from Lollipop Farm regarding the keeping of goats. Mr. Peckham asked if there were alternative means to achieve the same results. Mr. Orduna stated not without toxic means. Mr. Peckham asked if Mr. Orduna has considered mechanic means to remove the poison ivy. Mr. Orduna stated there were cost issues associated with that method.

Mr. Peckham shared with the Board information he had received from other people who have goats.

**MOTION**

Mr. Peckham moved, seconded by Ms. Sciortino, to close the public hearing.

**APPROVAL**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

Mr. Peckham asked Mr. Oduna if there would be any undesirable change in the neighborhood. Mr. Orduna stated no.

Mr. Peckham asked if the benefit could be achieved by any other means. Mr. Orduna stated no.

Mr. Peckham asked if this request was substantial. Mr. Orduna stated no.

Mr. Peckham asked if there would be any adverse physical or environmental effects. Mr. Orduna stated no.

Mr. Peckham asked if this was a self-crated difficulty. Mr. Orduna stated yes.

**FERNANDES AREA VARIANCE PUBLIC HEARING**

Leonie Fernandes, 385 Boughton Hill Road, Honeoye Falls, NY, consisting of 11.83 acres, bearing Tax Account No.222.04-1-5, located in an RA-5 zone, came before the Board requesting an area variance to construct a 16’ x 24’ garage which, when added to the existing accessory structures, will exceed the 2% lot coverage allowed by Code .

Ms. Fernandes explained what she wants to do. Ms. Fernandes stated you cannot see the property from the road.

Mr. Bassette asked if she would be using the building for storage. Ms. Fernandes stated she would use it for storing a vehicle and a tractor. Mr. Peckham stated Ms. Fernandes had been before the board previously for a riding arena.

Mr. Peckham asked Ms. Fernandes if there would be any undesirable change in the neighborhood. Ms. Fernandes stated no.

Mr. Peckham asked if the benefit could be achieved by any other means. Ms. Fernandes stated no.

Mr. Peckham asked if this request was substantial. Ms. Fernandes stated no.

Mr. Peckham asked if there would be any adverse physical or environmental effects. Ms. Fernandes stated no.

Mr. Peckham asked if this was a self-created difficulty. Ms. Fernandes stated yes.

**MOTION**

Mr. Peckham moved, seconded by Mr. Lacey, to close the public hearing.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**GHIDIU AREA VARIANCE PUBLIC HEARING**

Mr. Peckham stated the next item on the agenda was Dave Ghidiu, 4143 Clover Street, Honeoye Falls, NY, consisting of 2.5 acres, bearing Tax Account No. 203.04-1-12.11, located in an RA-2 zone, for an area variance to construct a 6 foot high fence in the front yard, whereas code states no fence in the front yard shall exceed four feet above ground level.

Mr. Ghidiu was not in the audience and no one appeared on his behalf.

**MENDON FIRE DISTRICT AREA VARIANCE PUBLIC HEARING**

Steve Shuler, for the Mendon Fire District, 101 Mendon Ionia Road, Mendon, NY, consisting of 6 acres, bearing Tax Account No. 214.04-1-3.21, located in an RS-30 zone, came before the Board requesting to rebuild/update the existing freestanding sign to include a digital display.

Mr. Shuler stated the existing sign is eight years old, and the District would like to replace it with an updated sign that can have the wording changed via computer. He stated this will mean the information is up to date and can include important information such as Amber alerts.

Mr. Peckham asked how the messages would appear – would they be blinking? Mr. Shuler stated they would be the standard layout; the digits will be stationery, no scrolling.

Mr. Lacey asked which of the sign pictures submitted would the District want. Mr. Shuler stated it depended on the pricing.

Ms. Sciortino asked for the dimensions of the proposed sign. Mr. Shuler stated they would use the existing foundation, but the new sign might sit down over the existing foundation.

Mr. Peckham asked Mr. Shuler for his title. Mr. Shuler stated he was the Commissioner of the Mendon Fire District.

Mr. Peckham asked Mr. Shuler if there would be any undesirable change in the neighborhood. Mr. Shuler stated no.

Mr. Peckham asked if the benefit could be achieved by other means. Mr. Shuler stated no.

Mr. Peckham asked if this request was substantial. Mr. Shuler stated no.

Mr. Peckham asked if there would be any adverse physical or environmental effects. Mr. Shuler stated no.

Mr. Peckham asked if this was a self-created difficulty. Mr. Shuler stated no.

**MOTION**

Ms. Sciortino moved, seconded by Mr. Lacey, to close the public hearing.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**DAVE STOTT (MENDON 64) AREA VARIANCE PUBLIC HEARING**

Mr. Peckham stated the next item on the agenda was for David Stott, 75 Langpap Road, Honeoye Falls, NY, for an area variance for property located at 1369 Pittsford Mendon Road (Mendon 64), Mendon, NY, consisting of 1.62 acres, bearing Tax Account No. 216.01-1-26, located in a business zone, to build a structure over a patio which would have a 5 foot 6 inch setback, whereas Town Code requires a 10 foot setback.

Mr. Stott was not in the audience and no one appeared on his behalf.

**FLOESER USE VARIANCE PUBLIC HEARING**

Michael Floeser, 38 Shara Place, Pittsford, NY came before the Board requesting a use variance at 3802 and 3804 Rush Mendon Road, NY, consisting of 2.69 acres, bearing Tax Account No. 216.1-1-11, located in a Business zone, to allow a two family dwelling on the property which requires a use variance.

Mr. Floeser stated the building was a 2-family structure when he purchased it, and he has since discovered that it is not an allowed use in the district. Mr. Peckham stated Mr. Floeser is requesting a Use Variance.

Mr. Clark reviewed the criteria that must be met in order for a Use Variance to be granted:

Cannot realize a reasonable return – substantial as shown by competent financial evidence.

Alleged Hardship is unique and does not apply to substantial portion of district or neighborhood.

Requested variance will not alter essential character of the neighborhood.

Alleged hardship has not been self-created.

Mr. Peckham stated Mr. Floeser had provided the Board with his tax returns from previous years. Mr. Peckham asked if these returns were solely for the property in question. Mr. Floeser stated yes. Mr. Peckham stated these returns showed a loss. Mr. Peckham stated in order to show a hardship, Mr. Floeser would have to show what the impact would be if the building was a sole apartment.

Mr. Floeser’s brother, Charlie, came up to the table. Mr. Michael Floeser reviewed the layout of the house, with a front and back apartment, and his estimate of what the rent would be for the whole house.

A discussion followed regarding when the new zoning code was adopted.

Mr. Peckham reviewed the criteria that must be satisfied for a Use Variance.

Mr. M. Floeser stated the larger apartment rents for $1,000/month and the smaller for $500/month. Mr. M. Floeser stated he has a lease with the tenant in the smaller apartment. Mr. M. Floeser stated that if this use variance is not granted, he would lose the larger rental amount for seven months.

Mr. Clark stated part of the cost analysis is what it would cost to convert it to a single family dwelling. Mr. Peckham asked that Mr. M. Floeser find a contractor to give him an estimate of the conversion and provide the Board with that information, in writing.

Mr. Peckham stated that according to his research, this was self-created. Mr. M. Floeser stated he has a letter from Mr. Russell, the previous owner, which states that he had assurances from the contractor that all the permits were in place.

Mr. Cook asked if Mr. M. Floeser had a mortgage on the property. Mr. M. Floeser stated yes.

Mr. Peckham asked what the market will bear for the rental of a single family home in that area. Mr. Clark state Mr. M. Floeser could get comps from a realtor.

Mr. Peckham stated the Board would be continuing the public hearing to the next meeting.

Mr. Peckham asked if there would be any undesirable change in the neighborhood. Mr. M. Floeser stated no.

Mr. Peckham asked if there were other means to achieve this result. Mr. M. Floeser stated no.

Mr. Peckham asked if there would be any adverse physical or environmental effects. Mr. M. Floeser stated yes.

Mr. Peckham stated the self-created difficulty has yet to be determined. .

Mr. Peckham stated he had neglected to mention that for all the applications, the affidavit of posting of the signs and the publication of the legal notices were in all the files. Mr. Peckham stated he was waiving the readings of the public notices.

**STEFANOU INTERPRETATION PUBLIC HEARING**

Dimitri Stefanou, 6 Country Meadows Drive, Honeoye Falls, NY, consisting of 2.66 acres, bearing Tax Account No. 216.01-1-46.1, located in an RA-1 zone, came before the Board requesting a review of the CEO’s interpretation of Section 200-8N(5) of the Zoning Ordinance which states the keeping of roosters is only permitted in an RA-5 zone.

Mr. Stefanou stated he received a notice of violation on May 5, 2017 from Tom Voorhees, the Code Enforcement Officer, stating he was in violation of Section 200-8(N)(5). Mr. Stefanou stated he did not believe he was in violation and spoke to the Town Attorney, Sheldon Boyce. He stated Mr. Boyce suggested Mr. Stefanou request an interpretation from the Zoning Board of Appeals.

Mr. Peckham stated the issue is a rooster that Mr. Stefanou has on his property. Mr. Stefanou reviewed his interpretation of the Code. Mr. Stefanou showed the Board an instrument survey of his property and pointed out the location of the chicken coop.

Mr. Stefanou stated he farms approximately 16 acres.

Ms. Sciortino asked how many chickens Mr. Stephanou has. Mr. Stefanou stated he has 16 chickens plus some little ones for a total of approximately 27. Mr. Stefanou explained how he came to own the chickens and rooster.

Mr. Peckham opened the meeting to comments from the Public.

Victor Tifone, 11 Country Meadow Drive, asked why the sign was posted on Country Meadow Drive.

Mr. Stefanou stated he owns three lots. Mr. Stefanou showed the Board where the coop and the rooster are located.

**MOTIO**N

Mr. Lacey moved, seconded by Ms. Sciortino, to close the Public Hearing.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

A discussion followed regarding the Ghidiu application.

Mr. Peckham opened the public hearing for the Ghidiu application

**MOTION**  
Mr. Cook moved, seconded by Mr. Lacey, to continue the public hearing for the Ghidiu application until the July 27th meeting.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

Mr. Peckham opened the Public hearing for the Stott application.

**MOTION**  
Mr. Cook moved, seconded by Mr. Lacey, to continue the public hearing for the Stott application until the July 27th meeting.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**ORDUNA AREA VARIANCE DETERMINATION**

Mr. Lacey moved, seconded by Mr. Cook, that the area variance requested by Marcus Orduna, 52 Mendon Ionia Road, Mendon, NY, consisting of 2.13 acres, bearing Tax Account No. 216.02-1-15, located in an RS-30 zone, requesting an area variance to own two goats where Town Code requires a minimum of 3 acres to own 1-3 hoofed animals, be approved based on the following findings of fact, conclusions of law, and subject to the following conditions:

**FINDINGS OF FACT**

1. Marcus and Tamara Orduna, the property owners appeared before the Zoning Board of Appeals at the public hearing on Thursday, June 22, 2017. The public hearing continued at the July 13, 2017 meeting.
2. The applicant has requested to have 2 goats on their 2.13 acre property. This is in violation of section 200-8 N(1) of the Town Code, which states a minimum of 3 acres to keep 1-3 hoofed animals.
3. The applicants stated purpose for this request is to provide weed and pest control (in particular poison ivy), as well as a source of non-lactose milk.
4. The goat pasture is screened from the road by trees and other foliage.
5. The applicant circulated a petition which received signatures from ~18 neighbors stating they approved of this activity. They also setup an online petition (change.org/p/town-of-mendon-support-local-homesteading) which received ~40 signatures. Additional letters were received from Arthur L. Torrey, of 9 Chateau Place, in favor. Heather Halstead and Mike Noll, of 12 Chateau Place, in opposition.
6. Joanna Dychton, Farm Manager, Lollypop Farm, visited the property and provided written feedback to the Zoning Board. To summarize, it is her professional opinion that the existing situation is adequate for management of the site for animal housing and the keeping of the goats in a humane environment.

**CONCLUSIONS OF LAW**

1. The requested benefit cannot be achieved by other feasible means, due to the quantity of poison ivy and price or toxic impact of alternatives.
2. The request is substantial, as it is ~33% reduction from the existing acreage requirement.
3. The request will not have any adverse physical or environmental effects, and may improve the quality of the land by removing weeds and pests.
4. The request will not have an undesirable change in the neighborhood, based on Mr. Orduna’s statements and input from additional sources.
5. The difficulty was self-created.
6. This is a Type II action under SEQR.

**CONDITIONS**

1. There can be no more than two goats on the property.
2. The variance applies only to the two goats presently housed on the property. When those goats are permanently removed from the property, the variance will be terminated.
3. This variance will not take effect until the applicant provides ear tag numbers of the two goats presently housed on the property to the Town of Mendon Code Enforcement Officer.
4. A waste management plan must be observed and maintained for the purpose of disposal of animal waste products such that an offensive, unhealthy or environmentally unsound condition is avoided.
5. All materials for the feeding of the goats, other than hay, must be kept in a shed or garage secured from outside intrusion and stored in covered sealable containers.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**FERNANDES AREA VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Mr. Lacey, that the area variance requested by Leonie Fernandes, 385 Boughton Hill Road, Honeoye Falls, NY, consisting of 11.83 acres, bearing Tax Account No.222.04-1-5, located in an RA-5 zone, to construct a 16’ x 24’ garage which, when added to the existing accessory structures, will exceed the 2% lot coverage allowed, by Code by 0.7%, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Ms. Leonie Fernandes appeared before the Town of Mendon Zoning Board of appeals at a public hearing on July 13, 2017.
2. The applicant wishes to construct a 16’ by 34’ (544 square foot) garage to be principally used for the storage of equipment needed for the maintenance of the property.
3. On November 2, 2006, the ZBA granted an area variance to allow the construction of a 64’ by 184’ riding arena
4. The property is substantially set back from Boughton Hill Road. Extensive shrubbery and trees along the southern, western and northern lot lines shield the property from the highway and the neighboring properties.
5. A rendering of the proposed structure is submitted with the application. Materials will include metal siding and roof colored to match the existing accessory buildings.

**CONCLUSIONS OF LAW**

* 1. The granting of this variance will not create an undesirable change in the neighborhood or to nearby properties. The property is naturally shielded from view. The immediate neighborhood has other facilities involved in keeping and boarding of horses.
  2. The request will not have adverse physical or environmental effects. This conclusion is borne out by review of the 617.20 Appendix B Short Environmental Assessment Form submitted with the application.
  3. The benefit the applicant is trying to achieve cannot be achieved by other means.
  4. The request is substantial. The difficulty is self-created.
  5. This is a type II action under SEQR.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**Mendon Fire District Area Variance Determination**

Mrs. Sciortino moved, seconded by Mr. Lacey, that the application by the Mendon Fire District,101 Mendon Ionia Road, Mendon, NY, for an area variance at said property, located north of the Taylor Road intersection , consisting of six acres, bearing tax account no.216.04-1-3.21, located in an RS-30, 000 zone, to replace and construct a new permanent sign on the property facing Mendon Ionia Road, which sign requires a variance from the Zoning Board of Appeals, be approved based on the following Findings of Fact and Conclusions of Law and subject to the following Condition:  
  
**FINDINGS OF FACT**  
1. Steven Schuler of the Mendon Fire District appeared before the Zoning Board of Appeals on July 13, 2017.  
2. The Fire District wishes to rebuild and update the sign to include digital display and additional lighting.  
3. The digital display size will be approximately 2 feet 7 inches high and 6 feet 9 inches wide within the structure size of 6 feet high and 11 feet wide.   
4. No members of the public voiced opposition.  
  
**CONCLUSIONS OF LAW**  
1. The benefit Mendon Fire District is attempting to achieve cannot be achieved by other means.  
2. The granting of this variance will not create an undesirable change in the neighborhood or to nearby properties.  
3. The request is substantial.  
4. The granting of this request will not have adverse physical or environmental effects.  
5. The difficulty is self-created.  
6. This is a Type II action under SEQR

**CONDITION**

1. Sign will not be illuminated by or contain flashing or moving lights.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**DISCUSSION**

A discussion followed regarding the Stefanou interpretation.

**MOTION**

Mr. Lacey moved, seconded by Ms. Sciortino, to re open the public hearing for the Stefanou interpretation.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**MOTION**

Mr. Cook moved, seconded by Mr. Lacey, to continue the Stefanou interpretation public hearing to the July 27, 2017 meeting.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.

**MOTION**

Ms. Sciortino moved, seconded by Mr. Lacey, to adjourn the meeting at 8:42 p.m.

**APPROVED**

Mr. Bassette – Aye; Mr. Peckham – aye; Ms. Sciortino – aye; Mr. Lacey – Aye; and Mr. Cook – aye.