A Regular Meeting of the Zoning Board of Appeals was held on Thursday, October 12, 2017, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

 Daniel Bassette

 Liz Sciortino

Clayton Lacey

ABSENT: David Cook

ATTORNEY: Jeff Clark

OTHERS: Councilperson Cynthia Carroll, Supervisor John Moffitt and 7 others

Minutes were taken by Michelle Booth.

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

**STEFANOU AREA VARIANCE 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, requesting an area variance allowing him to have one rooster on his property whereas Town Code states the keeping of roosters is only permitted in an RA-5 zone.

Mr. Stefanou was present to discuss this matter.

Ms. Sciortino asked how many hens that the rooster has access to. Mr. Stefano stated that there are 20-30 hens that he can access.

Mr. Bassette asked if the adjoining parcel is farmed by him. Mr. Stefano stated yes.

Mr. Peckham stated that the affidavit of posting is in the file and waives the reading of the public notice.

Mr. Peckham asked when the family moved into the property. Mr. Stefanou stated September 2014.

Mr. Peckham asked when the chickens arrived. Mr. Stefanou stated July 2016.

Mr. Peckham asked what the activity was like on the adjacent farmed land. Is it a hobby or to make money? Does he receive an Agricultural Exemption? Mr. Stefanou stated that the farm is named Red Barn LLC. It is not a hobby, he anticipates making money. He sells squash and sunflowers to markets in the city of Rochester. Mr. Stefanou stated that the Mendon Town Assessor mistakenly denied his agricultural exemption for this year and after lengthy discussions, he would be approving it for next year.

Mr. Peckham asked what size the chicken coop is. Mr. Stefanou stated that it is 8 x 10.

Mr. Peckham asked if the coop required a permit. Mr. Stefanou confirmed that it did and provided a copy of the Certificate of Compliance dated in October of 2017.

Mr. Peckham presented a petition signed by 18 of Mr. Stefanou’s neighbors that are against the application. It was delivered to the town of Mendon on October 3, 2017. He read the petition into the record.

Mr. Peckham presented 4 letters of neighbors in favor of the application. Although, 2 of the letters were not properly signed by the home owners. Mr. Peckham stated that Mr. Stefano could have the homeowners sign them and return them to the office to place in the file if he would like them considered.

Mr. Peckham asked when the rooster was brought to the property. Mr. Stefanou stated July 2016.

Mr. Lacey asked if they could relocate the rooster. Mr. Stefanou stated that he will be resurveying the property and moving the property line. The coop would then be considered part of the farmed parcel. He will be installing a fence approx. 638 ft. on the south side property line.

Mr. Peckham asked how the farmed parcel was zoned. Mr. Stefanou stated that it was zoned RA-1 also.

Ms. Sciortino asked how many acres the farmed land would be once it is subdivided. Mr. Stefanou stated it would be around 16 acres.

Mr. Peckham asked where the barn is going to be built. Mr. Stefanou indicated on the survey map as to where it would be located. He needs to keep it closer to his home due to vandalism of his property recently.

Mr. Lacey asked if there was a police report of the vandalism. Mr. Stefanou stated that he will provide a police report of the most recent vandalism. He doesn’t have one for the other two.

Ms. Sciortino visited the home on October 11, 2017 and stated that the rooster was very vocal. She asked if this was normal. Mr. Stefanou stated that he was only vocal when strangers or people wearing yellow are present.

Mr. Lacey asked if the fence was for keeping the deer out or keeping the noise down. Mr. Stefanou believes it will do a little of both.

Ms. Sciortino asked if there are no strangers around, when does he crow? Mr. Stefano stated only in the morning when he is not disturbed.

Mr. Peckham asked if the request will have an undesirable change to the neighborhood. Mr. Stefanou stated no.

Mr. Peckham asked if the request could be achieved by any other means. Mr. Stefanou stated no.

Mr. Peckham asked if the request is substantial. Mr. Stefanou stated no.

Mr. Peckham asked if the request would have any adverse physical or environmental effects. Mr. Stefanou stated no.

Mr. Peckham asked if the request was self-created. Mr. Stefanou stated no.

Mr. Peckham opened the Public Hearing.

Victor Tifone, 11 Country Meadow Dr., stated the he has no opposition to the chickens if it meets code. He stated that Mr. Stefanou has what he believes would be too many chickens than would be allowed. He is against the rooster. He worries about the resale of his home decreasing.

Kellie Reed, 18 Country Meadows, stated that she is against the rooster. She says that she picked this neighborhood for a reason. The rooster is incredibly vocal all-day long. She did not choose to live on a farm. The noise from the rooster disrupts her family’s life. They have had to change how they spend time outside.

Anthony Sousou, 3 Woodspring Dr., is against the rooster. He stated that the rooster is vocal all-day long. It is a disturbance to the neighborhood.

Marsha Napolitano, 3693 Rush Mendon Rd, is against the rooster. She stated that her family has lived in the area for many years. She loves the area. She says she loves animals, but the rooster is very vocal all-day long. She lives about a half mile away and it is disruptive.

Mr. Stefanou stated that there are automatic doors on the coop and he has never had them set very early. He said that none of his neighbors have ever knocked on his door and said the rooster was bothersome. He says neighbors should do that and that society is changing in a negative way.

Mr. Clark reminded Mr. Stefanou that this was a meeting about his variance application, not society’s issues.

Mr. Peckham asked if Mr. Stefanou has considered a no crow collar. Mr. Stefanou stated yes, but reviews stated they were cruel.

Mr. Peckham asked if he has checked with his vet about this. He stated no.

**MOTION**

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

**APPROVED**

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

**MINUTES**

**MOTION**

Mr. Lacey moved, seconded by Mr. Bassette, to accept the minutes of the September 28, 2017 meeting as amended.

**APPROVED**

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

**STEFANOU AREA VARIANCE DETERMINATION**

Mr. Bassette moved, seconded by Mr. Lacey, that the area variance requested by 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, requesting an area variance allowing him to have one rooster on his property whereas Town Code states the keeping of roosters is only permitted in an RA-5 zone, be approved based on the following findings of fact and conclusions of law and conditions:

**FINDINGS OF FACT**

1. Dimitri Stefanou, the property owner appeared before the Zoning Board of Appeals at the public hearing on October 12th, 2017.
2. On July 27th 2017, Mr Stefanou appeared before the Zoning Board of Appeals to request a code Interpretation on this issue. As the interpretation was not in his favor, he is now asking for a variance.
3. Section 200-8.N.(5). of the Mendon Zoning Code says Roosters are permitted only in an RA-5 District. As Mr Stefanou’s property is zoned RA-1, he is requested a variance for his one (1) rooster.
4. Mr Stefanou and his rooster live on an approximately 2 acre lot. In addition, Mr Stefanou owns an adjacent lot approximately 15 acres in size. Much of this larger lot is currently farmed by the Stefanou’s.
5. An RA-5 zone is adjacent to the northern border of the property Mr Stefanou currently farms.
6. Mr Stefanou has a chicken coop in his back yard that contains one (1) rooster, in addition to a number of hens. This coop is double fenced to contain both the animals and a small garden.
7. A number of residents submitted letters and petitions both for and against this action.
8. Neighbors, Kellie Reed, Anthony Sousou, Marcia Napolitano, and victor Tifone commented during the public hearing.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means.
2. The request **is** substantial, as it adds a creature to a zone that would otherwise be denied it’s kind.
3. Upon review of Short Form Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as the rooster will be housed in a preexisting chicken coop that provides secure storage of feed.
4. The request will **not** have an undesirable change in the neighborhood, as adequate steps will be taken to minimize the impact on neighbors.
5. The difficulty **was** self-created.
6. This is a Type II action under SEQR

**CONDITIONS**

1. This variance is offered for this particular rooster and property owner, it does not extend to any others that may replace it.
2. The approval of this variance is on the condition that a no crow collar be utilized to eliminate the rooster from crowing. Should this be unsuccessful and crowing continues the variance is void and the rooster must be removed from the property.

**MOTION**

Ms. Sciortino moved, second by Ms. Mr. Lacey, to adjourn the meeting.

**APPROVED**

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