

## **Zoning Board of Appeals – Public Hearing**

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*Monday June 1<sup>st</sup>, 2020 7:00 p.m.*

**Members Present:** David Lavenburg (Chair), Ellen Freyman, Michael Michon, Marissa Komack, Steve Bennet, Suzanne White, Jane Mantolesky

**Members Absent:** Timothy McKenna, Jerry Plumb.

**Applicants Present:** Robert & Ashley Walsh, Michael & Caroline Brown, David & Laura Kattan, Richard & Josie Camerota.

**Others Present:** Attorney Mark Beglane, Robert Bailey, Ron Weiss, Elaine Tourtelotte, Lauri Deary, John & Brenda Sjoberg, Paul Friedmann, Janis and David Gustafson, Bill Firestone, Debbie Saremi, Oleg Kofman, David Rene, Bill Toner, Sharon Levy, Mark Teed, John & Barbara Allen, Susan Hamilton, Donna Fischer, Meredith and Jason Kerk, William and Julia Collins, Sherry Himmelstein, Madelyn Dybdahl, Peter Coupe, Peter Greenberg, William and Theresa DeGiulio, Raghav and Seetharam Palreddy, Jackie Dunn, Stephen Hefner, Christina Carroll.

The **ZBA Hearing** was called to order at 7:05 p.m. by Chair David Lavenburg, who reminded the public of the protocol to follow with this hearing, especially given the unique virtual setting in which it was to be conducted; it was also requested that participants adhere to certain practices, such as muting their devices during presentations in an effort to reduce background noise and enhance audio quality.

### **Petition #2020-1 – Special Permit for 31 Glenwood Circle, Nancy Collins:**

In recent weeks the applicant formally requested an application withdrawal. Ellen Freyman made a motion and was seconded by Ms. Komack, to grant the request of application withdrawal for Petition #2020-1. All in favor, Mr. Lavenburg: yes; Mr. Bennet: yes; Ms. Freyman: yes; Ms. Komack: yes; Ms. Mantolesky: yes. Motion passed 5-0.

### **Petition #2020-2 – Special Permit for 62 Greenacre Ave., Michael & Caroline Brown:**

Chair Dave Lavenburg disclosed that, while he has had interactions with the applicant in social settings, he does not have a conflict of interest in this matter. The project consists of the existing garage's demolition and construction of a new garage with a slightly increased footprint (20' x 24'); garage will be attached to the existing dwelling's rear façade by a new proposed addition (approximately 40' x 30'). No members of the public came forward in regards to said application.

Steve Bennet made a motion, and was seconded by Mr. Lavenburg, that the board makes the following findings of property non-conformity effective based on Article VI of the Zoning Bylaws: (1) On lot size there are 14,340 sq. ft. instead of required 18,750 sq. ft., (2) on frontage there are 110' instead of the required 125', (3) on west side yard there is 9' instead of the required 15' and (4) on front yard and structures setback there are 20.6' instead of the required 40'. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennet made a second motion, and was seconded by Mr. Lavenburg, that the board make a finding based on Article 4 of the Zoning Bylaws that the proposed project would further intensify the aforementioned non-conformities of the lot by increasing overall construction size thus reducing overall open space within it. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennet made a third and final motion, and was seconded by Mr. Lavenburg, that the board make a finding that the proposed project won't be substantially detrimental to the neighborhood based on the project's scope generally conforming to the neighborhood and the lack of members of the public opposing said petition. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

The applicant was reminded that the special permit for this decision is valid for two years and is subject to a 20-day appeal period beginning the day the decision is filed with the Town Clerk.

**Petition #2020-3 – Special Permit for 857 Longmeadow St., Robert & Ashley Walsh:**

The non-conforming property sits on the corner of Longmeadow Street and Longfellow Drive and the proposal is to add an attached 2-car, side-loading, 1-door garage of approximately 857 sq. ft. The existing detached 2-door garage would be turned into a shed as the structure, according to the applicant, cannot accommodate 2 vehicles nowadays. Members of the board raised concerns over the legality of having both an attached and a detached garage on the same property; no members of the public came forward in regards to said application.

Ms. Freyman made a motion, and was seconded by Mr. Lavenburg, that the board makes the following findings of property non-conformity effective: frontage, front and side yard as well as lot size. Roll call vote - Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes; Mr. Lavenburg: yes; Ms. Freyman: yes. All in favor, motion passed 5-0.

Ms. Freyman made a second motion, and was seconded by Mr. Lavenburg, that the board make a finding based on Article 4 of the Zoning Bylaws that the proposed project would increase the overall construction size and further intensify the aforementioned non-conformities with respect to lot size and front yard along Longfellow Drive. Roll call vote - Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes; Mr. Lavenburg: yes; Ms. Freyman: yes. All in favor, motion passed 5-0.

Ms. Freyman made a third and final motion, and was seconded by Mr. Lavenburg, that based on the fact that the new addition will be flush with the Longfellow Drive side of the house (thus providing continuity in design and appearance of the overall structure) and the new garage door will be located on the side of the addition (thus making the new design less intrusive), that the board make a finding that the proposed project won't be substantially detrimental to the neighborhood based on the project's minimal impact to the neighborhood and the lack of members of the public opposing said petition, on the condition that the existing garage only be used as a shed. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

The applicant was also reminded that the special permit for this decision is valid for two years and is subject to a 20-day appeal period beginning the day the decision is filed with the Town Clerk.

*Documents presented: 857 Longmeadow Street Plan of Land dated 3/4/2020 and stamped/signed by P.E.*

**Petition #2020-4 – Special Permit (Keeping of Domestic Fowl) for 59 Prynwood Rd., David & Laura Kattan:**

The applicant, as a means to educate their young children on matters related to sustainability and responsibility, wishes to enter into a 6-month rental agreement with the company "Rent the Chicken", which delivers two hens, feeding, and a small mobile 3.6' x 5.5' coop with its bedding that sits on the grass; at the end of said agreement the applicant has the option to adopt the animals but that decision has not been made. Daily feeding, caring and cleaning of the animals and coop is the responsibility of the applicant and the fecal matter will be disposed in the owner's onsite composting system. While the backyard is not fully enclosed with a fence, the property does have a 20' x 20', 7'-tall deer fence that protects their apple orchards and the plan is to have the coop within this fenced area. Members of the board raised concerned over the lightness of the structure and the ability some predators have of breaking into structures in order to reach hens, therefore the applicant is open to researching techniques that would allow the coop to be anchored to the ground with fencing that continues up to 10" below ground; the board also wishes to see a plan showing the location of the coop within the property.

On another note, Mr. Lavenburg explained that these types of permits, when granted, are tied to special conditions related to biosecurity measures requested by the Board of Health (BOH) a few years ago; that

said, he expressed concern over what could be perceived as a disconnect between both boards in recent communications on this topic, therefore he wishes to clarify the matter with BOH.

Comments from the public in favor of petition:

- Stephen Hefner (38 Prynwood Rd): is in favor of the petition and proposes that the board grant them a 7-year limited liability exemption.
- Richard Camerota (397 Williams St): is in favor of the petition and is happy to offer guidance on issues related to care and maintenance of domestic fowl.

Chair Dave Lavenburg made a motion, as was seconded by Ms. Freyman, to continue the hearing on the Request for Special Permit (Keeping of Domestic Fowl) for 59 Prynwood Rd; thus allowing for additional time for the ZBA and the BOH to review the special conditions for the applicant to research the feasibility of complying with the board's safety concerns as well as prepare a plan. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

*Documents presented: Application form with cover letter and sample image of proposed coop.*

**Petition #2020-5 – Special Permit (Keeping of Domestic Fowl) for 397 Williams St., Richard & Josie Camerota:**

Chair Dave Lavenburg indicated that the board is in receipt of a voluminous amount of information from concerned abutters, as well as information and letters in support of the application, delivered via email in recent days and that review of the material remains ongoing. He also reminded all participants of the board's desire to address the potential disconnect with BOH, which has a direct impact in the presentations related to domestic fowl presented this evening.

Mr. & Mrs. Camerota then proceeded to read aloud their complete statement sent to the ZBA prior to the meeting which was meant to address concerns raised by neighbors. In addition, the following details were provided:

1. The applicant and his family have been living in the neighborhood for 20 years and Mr. Camerota is a certified executive chef with ample experience in food safety and food handling.
2. The intent is to have, in the owners' fully fenced backyard, 3 vaccinated and mature hens in a 6.25' x 2.5' elevated coop just over 4' in height that will be secured along the bottom with an additional wire fence extending 6" below ground on all sides; a small wooden ramp connects the barn portion of the coop to the ground. Additional weight will be added at the corners of the structure to avoid tipping. It will also be placed adjacent to a shed thus completely blocking one of its four sides. The hens will not be outside the coop at any time.
3. The source of the hens has not been selected at the time but contenders include farms in both CT and MA; once the hens are beyond their productive years they will be transferred to a farm or zoo that adopts them; no slaughtering of hens will occur onsite.
4. The fecal matter will be disposed in the owners' onsite composting system, which is used as fertilizer within the property. Other matters related to the care and handling of the coop are to be done per the guidelines set forth by the CDC, USDA and MA Dept. of Agriculture.
5. Noting that all distances are approximate, it is estimated that the coop's proposed location would be 7' away from fence separating the property from 407 Williams St. (east) and 18' feet away from the dwelling unit on said address. It will be 110' away from the fence separating the property from 387 Williams St. (west) and 130' feet away from the dwelling unit on said address. It will be 50' away from the fence separating the property from 161 Ardsley Rd. (south) and 200' feet away from the dwelling unit on said address.

Additionally, Dr. Sherry Himmelstein (21 South Rd., Hampden MA), the Camerota's veterinarian with 40 years of experience, expressed great surprise at the emotional response from the concerned neighbors and explained that, from a zoonotic disease standpoint, the proposed coop does not pose a health risk for the abutting neighbors as the highest health risk to humans is in the contraction of diseases such as salmonella, which occurs thru direct contact with the animal's fecal matter and poor hygiene on the part of the coop's

owner; it isn't airborne. She considered the risk of contracting airborne illnesses such as Avian Flu from the proposed hens and their coop are very low and similar in percentage to the risks posed by the birds and bird feeders in the area; similarly she clarified that other diseases, as mentioned in some of the articles sent by concerned abutters, are not found in this region. She reiterated that the hens are quiet animals and the odor associated with their fecal matter is low and less intrusive.

Attorney Mark Beglane, who for this meeting represented Mr. & Mrs. Gustafson, Mr. & Mrs. Levy, Mr. and Mrs. Friedmann, Mr. and Mrs. Sjoberg, Mr. Philip Fregeau, Mr. and Mrs. Firestone, Mr. Kofman, Mr. and Mrs. Allen, Mr. & Mrs. Saremi, Mr. Cary Rubman, Ms. Maria Staggs and Mr. and Mrs. Cosenzi, all of which oppose this petition, indicated that the board was in possession of a memo prepared by his office detailing the concerns of his clients as well as his findings on the case. Some of the highlighted concerns he presented were:

1. According to the Longmeadow Assessors' Office database, the property already has two accessory buildings (sheds) and an in-ground pool, raising concerns over having a third structure and its potential infringement of bylaw requirements pertaining to open space and accessory buildings.
2. The neighbors are concerned for fecal matter runoff in the event on heavy rainfall, which could end up in abutters' properties as well as underground water and causing health risks for others.
3. Some of the neighbors have a variety of significant health issues (such as heart disease, cancer, others) and/or are considered immunocompromised. The potential adverse effect that introducing the hens to the neighborhood's environment, and therefore, further compromising the health of some of the neighbors he represents, far outweighs the benefits of one resident having fresh eggs, which could be obtained by supporting local farms.
4. The introduction of hens in the area, even with the protections of the coop, will attract predators to an area already dealing with the presence of dangerous animals, such as foxes, coyotes and the occasional bobcat. This issue already poses a safety threat to the neighbors and their pets and may be magnified after the hens arrive at the property. A bobcat and a family of foxes frequent the areas as recent as a few weeks ago.
5. With the petitions for keeping of domestic fowl being handled on a case-by-case basis, there is concern of the cumulative effect on a community when the number of granted permits increases, therefore augmenting the number of hens in the community over time.
6. Should the board approve this petition, the neighbors request a number of strict conditions, some of which include:
  - a. Allowing a one-year temporary permit to ensure that the applicant is able to sustain compliance of the conditions in the long term, which can be renewed if the conditions have been satisfied.
  - b. Production of eggs is exclusively for owner consumption and not for sale.
  - c. Compliance with town bylaws pertaining to unreasonable noise.
  - d. The applicant strictly adheres to guidelines set forth by CDC, USDA and MA Dept. of Agriculture
  - e. The hens are vaccinated and reports of their care be provided to the Town's BOH; also, that the BOH be allowed to make unannounced visits to ensure compliance.
  - f. The coop is cleaned regularly and the fecal matter is to be disposed in a way that does not affect the neighbors and compromises their health even further.
  - g. That chickens are not allowed outside the coop or into the owners' shed or home.
  - h. That the board looked into whether any potential requirements for a Planning Board's Site & Design review due to the characteristics of the proposed coop and the existing structures on the site.

Comments from the public in opposition of petition:

- Dr. Paul Friedmann (161 Ardsley Rd.): as a physician with extensive experience in the medical field, he agreed with Dr. Himmelstein in terms of the risks of contracting certain illnesses mentioned earlier, but maintained that salmonella does pose a high risk for humans and pointed to CDC statistics showing an uptick in salmonella outbreaks directly related to backyard poultry, in which a third of the confirmed cases lacked a known origin, therefore opening the possibility of a number of environmental factors that would have caused fecal matter to spread and infect others.

Due to the fact that some salmonella strains do not respond well to the typical antibiotic treatments, immunosuppressive-diseased individuals may be at a major disadvantage. He also noted the lack of supervision on the part of the Town after these types of special permits are granted and requested that periodic monitoring be established moving forward.

- Dave Gustafson (173 Ardsley Rd): he described his highly delicate health condition due to a drug treatment that severely compromises his immune system and feels he is put in a precarious position when posed with the threat of any type of infection, not just salmonella; he appealed to the applicant's sensitivity in understanding the abutters' legitimate fears and reasonable requests based on the circumstances. He also pointed out to the neighborhood's high water table and underground stream, which, if contaminated, could pose a health threat to the neighbors. He reiterated the board's responsibility to look at each petition on a case-by-case basis.
- Sharon Levy (189 Ardsley Rd.): she strongly objects to the ability of raising chickens as farm animals in what is deemed a residential area and considers that this case goes against the bylaw's standards of health, safety, convenience and welfare of the town's inhabitants. She is deeply concerned over her spouse's immunocompromised health condition and the increase of predators' appearances. She recalled a koi pond on her property with herons that was eliminated a decade ago due to the increased presence predators.
- Debbie Saremi (251 Ardsley Rd.): as co-president of the Ardsley Road Association, considers that the case-by-case nature of domestic fowl permit handlings in town is cumbersome and reminded the board of the health lessons humans should be learning from the current COVID-19 pandemic, therefore she opposes said petition.
- John & Brenda Sjoberg (154 Ardsley Rd.): complimented the applicant's thorough presentation but, given the extensive and credible documentation provided by both sides, they pondered how the board would balance the reward with risks of their neighbors, which they do not consider fair no matter how small the risk may seem to be.
- Barbara Allen (143 Ardsley Rd.): recalled a case in Dunn Rd. years ago, where water well got contaminated after a farmer used chicken manure, resulting in an individual's death.
- Oleg Kofman (129 Ardsley Rd.): is opposed to having farm animals in a residential area, is concerned about his neighbors' health issues and, due to hens having the ability to fly up to 10', wonder what issues would emerge should a hen escape and fly over a fence.
- Bill Firestone (84 Ardsley Rd.): with hens being farm animals, he is concerned if the bylaw allows other farm animals as well and is concerned of how these cases are monitored after the permit is granted.

#### Comments from the public in favor of petition:

- Bill & Theresa DeGiulio (8 Woodside Dr.): as residents living in town near the Camerota's for the past 18 years, they are in favor of the petition and spoke highly of the Camerota's moral character, meticulous approach to everyday living and they trust they will properly address the concerns raised today by abutters. They consider the adverse impacts the hens' fecal matter may have on the environment to be magnified in light of the abundance of wildlife that historically has and continues to roam through the neighborhood and other parts of town, leaving behind their droppings. Mr. DeGiulio pointed to his father's 60-year experience as a farmer and user of chicken manure, which he considers to have minimal odor and noted there are hens in the area already that have not caused issues in the neighborhood with odor or noise.
- Jason & Meredith Keck (387 Williams St.): are in favor of the petition and spoke highly of the Camerota's character and pointed to the thoroughness with which they have approach the research and planning of this project.
- Bill Collins (407 Williams St.): are in favor of the petition and spoke highly of the Camerota's character and good nature. He has discussed the project with them and is confident they will meticulously follow all guidelines and minimize the impact to neighbors. He offered the possibility of enlisting a third party to review the case if it helped the board. He also indicated that his East Longmeadow business is inspected by the Department of Health twice a year, therefore regularly inspecting a small community of three hens seems more if a misuse of town resources than a benefit.

- Raghav Palreddy (69 Lynnwood Dr.): as grantee of a special permit from the ZBA and owner of hens for approximately 8 months now, he is in favor of this petition and pointed out to the flawless experience they've had thus far. They haven't received complaints from their neighbors and live approximately ½ mile away from the Camerota's.
- Susan Hamilton (471 Williams St.): as the mother of an immunocompromised child, whose doctors have confirmed that the hens' location would not pose a threat to her child's health, strongly supports the petition. She has visited the property and does not consider the hens' presence in a secure coop within a fully fenced yard as having the potential to increase the presence and associated nuisance of predators in the area.
- Donna Fisher (33 Duxbury Lane): she obtained her special permit for keeping domestic fowl a number of years ago and, other than having the presence of a possum in the beginning, she has had no further issues with wildlife attraction. She considers the chemical lawn treatments to be more harmful to the environment and human health than the hens' manure, which she described as being nitrogen rich. She is in favor of the petition.
- Laura Deary (38 Duxbury Lane): is concerned that the overwhelming amount of medical information may not be filtered correctly and be potentially misleading. She is in favor of the petition.

Comments from the board members:

- Members of the board have visited the site and have deemed it helpful for visualization purposes.
- Based on the property's incline (towards Williams Street) and the presence of a stockade fence, it appears any contaminated runoff into abutters to the south would be highly unlikely.
- The board has shared the decision issued in June 2019 for domestic fowl to be kept on 69 Lynnwood Rd., so all sides can get acquainted with the board's thought process and language used during that deliberation.
- Mr. Lavenburg explained that the board follows the town bylaws, which has a specific provision for the keeping of domestic fowl to be granted on a case-by-case basis; he recalled a petition for a special permit related to domestic fowl filed by a homeowner in the Nevins Avenue neighborhood which, in contrast with other petitions of the same nature, was met with strong opposition from the abutters due to the documented continuous presence of a fisher cat and other wild animals roaming the nearby wooded areas.
- Ms. Freyman considered the possibility of arranging a site visit with concerned abutters; however, the applicants prefer to address any of their concerns with property pictures as they fear, based on the health conditions described by the neighbors themselves, that the risk to potential exposure of wildlife fecal matter may compromise their already delicate health.

Chair Dave Lavenburg made a motion, and was seconded by Ms. Freyman, to continue the hearing to the next scheduled date (date unknown, approximately within the next month) in order for the board to obtain clarification from the BOH, for the applicant to submit additional images and for the concerned abutters to submit any additional information they may have that was not readily available this evening; the meeting will be re-noticed. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Documents presented: Application with rendering and plan showing approximate location, Camerota statement, Mark Beglane statement.

The meeting was adjourned at 10:50pm.

Respectfully submitted,

*Bianca Damiano*