

TOWN OF CLARKSON – ZONING BOARD OF APPEALS
May 5, 2010

PRESENT – Board Members

Conrad Ziarniak - Chairperson
Paul Dittman
Rick Sheffer
Jackie Smith
Scott Tantalo

Support Board Members

Richard Olson, Town Attorney *
Chad Fabry, Code Enforcement *
Ursula M. Liotta, Building Dept. Coordinator

Excused *

CALL TO ORDER:

C. Ziarniak called the meeting to order at 7:00 pm with the Pledge of Allegiance, followed by a review of the agenda.

PUBLIC HEARING:

1. **Steven F. Haefner**, 7660 Ridge Road W., Tax Acct. #054.04-1-27.22, Zoned RS-20
Application for Area Variance

C. Ziarniak opened the public hearing by reading the legal notice aloud. He asked the Applicant to briefly outline his application for an area variance. S. Haefner stated he intends to build a 36' x 48' barn on his 9-acre property to house his four horses, supplies, and other equipment. He would like to build the barn approximately 90'-100' behind his home, however, the site he has chosen does not meet the 100' side setback requirement per Town Code. He would rather not build the barn further back because of the following:

1. It would be more expensive to run the utilities to the barn.
2. It would be very inconvenient in inclement weather
3. It would be less safe than having the barn close to the pasture fence.

S. Haefner purchased the 9-acre parcel with the intent to board his four horses on site. His realtor told him that he needed 5 acres for a barn, as opposed to being told about the 100' side setback requirement for a barn that houses livestock. Last November, shortly after he moved into the house, he built a horse lean-to as shelter for the winter; he could not afford to build a barn at that time. The lean-to was built as close to the house as possible to meet the 100' setback requirements.

S. Haefner stated that if the area variance is granted, he intends to build the proposed barn in front of the lean-to. C. Ziarniak reiterated the size of the barn (36' x 48'), and that the proposed barn would incorporate the pasture fence and be directly in front of the lean-to. In order to comply with the 100' side setback requirement for the barn itself, S. Haefner would have to build the barn an additional 200' North of the site proposed in the application.

C. Ziarniak reiterated that S. Haefner owns 9 acres, and asked him if there is a ratio of pasture vs. horses. S. Haefner stated that he does not know if there is a ratio, but that he currently has four horses and does not intend to have more; that he intends to create more pasture over time; that he plans to add fencing on the other side of the pond; that he has other tentative plans for the property. His intent is to be able to move the horses around on the property, which is good for the horses.

Further, S. Haefner added that the horses are kept outside most of the time; that they will stay in the barn only during freezing rain, a harsh snowstorm, or extreme heat in the summertime, which equates to only 1-2 weeks per year at most. Otherwise, they are not inside for more than just their feedings in their separate stalls. The barn will have four stalls, 12' x 12' each, plus a 12' x 12' space for the hay and the feed barrels, and space for shavings and other equipment; that he does not plan to expand.

C. Ziarniak asked regarding the creek flow on the West side of his property. What has he noticed over the first winter? S. Haefner stated that in early spring the creek rose but it did not compromise the lean-to, nor does he expect it to affect the barn.

C. Ziarniak inquired if the board members had any further questions. P. Dittman verified that the 36' side of the barn would run East to West, and the 48' would side would run North to South. S. Tantalo asked if there are any physical reasons why the barn cannot be erected according to current code? S. Haefner stated that he can and will build the barn further back on his property according to code if he is not granted the variance.

C. Ziarniak stated that neighbors might be concerned about farm animals, odors, flies, etc. S. Haefner stated that the waste pile is presently on the East side and he does not want to put it on the West side close

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to the creek. He does not want to make anyone's day-to-day life difficult because of this. People have expressed an interest in taking the waste for use in their gardens, but he is still looking for a spreader to use at the back of his property. He would prefer to collect the waste in a pile and dispose of it. Even if he scrapped the barn idea and just kept the horses in the lean-to, he would still be dealing with the waste.

A neighbor, who did not identify herself, stated that she came to the meeting because she was curious about the planned use for the barn. Any time she reads a legal notice with regard to a barn being erected, she is curious about the intended use for the barn. She was concerned that it not be used as an animal rescue. She did not stay for the duration of the meeting.

R. Sheffer questioned the existence of the barn vs. the already existing horses – does it detract or attract?

C. Ziarniak stated that since the variance goes with the property, he is concerned about any future property owners not keeping up with the care of the animals; that they may not be as conscientious.

C. Ziarniak asked about the fencing in the backyard. S. Haefner stated that it is a charged fence powered by solar energy. It keeps the horses in and other animals out. There are wooden fence posts on each corner and braided rope w/metal strands running between the posts. There is 40' between the posts equal to approximately 200' of fencing.

C. Ziarniak stated that the board seeks compromising solutions whenever possible. Would it be possible for the Applicant to push the barn further back approximately 80' to where the lean-to is now located? S. Haefner stated no; that the lean-to was built in November 2009 at a cost of \$7,000, and he does not want to remove it. The current location of the lean-to limits pushing the barn back any further.

P. Dittman stated that if this board grants the area variance, they are allowing a 20% variance.

C. Ziarniak stated that Applicant's property is very rural once you are off Ridge Road, and he realizes that the proposed barn is quite a distance from the neighbors. There are two houses to the East at Ridge Road approximately 4-500' away, and the closest house to the West is approximately 300' away.

C. Ziarniak stated that in order for this board to grant the application, it needs to consider all of the requirements of NYS Town Law.

- What benefits will be gained by Applicant? The board understands the benefits that S. Haefner will gain if the application is granted, i.e. that he will be able to manage the waste easier since he will not have to move the waste pile further away, allowing for better accessibility.
- Will the character of the neighborhood be changed? The neighborhood has other barns or large garages so his barn would not be out of character.
- Will there be an adverse impact or an environmental impact? This board does not think that would occur with proper management.
- Is it self-created? Yes, in that S. Haefner did not create a proper long-term plan when he built the lean-to.

C. Z. made a motion close the public hearing. Second by R. Sheffer; unanimously carried.

Further discussion:

R. Sheffer stated that there would be undue hardship for S. Haefner, i.e. the lean-to cost was 35-40% of the cost if he were required to build the barn another 200' further back. C. Ziarniak stated that he does believe the financial hardship to the Applicant is not pertinent to the application. Per NYS Town Law, the board needs to look at the applicable criteria for granting an area variance, and make a decision that weighs consideration of those criteria.

C. Ziarniak made a motion determining that this matter is a Type II SEQR action and therefore, not subject to further environmental review. Second by P. Dittman; unanimously carried.

The board discussed various conditions that should be considered for the Notice of Decision. C. Ziarniak made a motion that this board approves Applicant's request that a 36' x 48' barn be built behind his home at 7660 Ridge Road, 80 feet from the East property line and 80 feet from the West property line, a 20 foot variance on each side, with the following terms and conditions:

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1. That a maximum of four (4) animals be housed in the barn.
2. That the owner will utilize a controlled management plan for the removal of animal waste.
3. That the owner will make all efforts to minimize any offensive odors resulting from the animal waste.

Second by J. Smith; unanimously carried.

NEW BUSINESS: None

OLD BUSINESS: None

OPEN FORUM: None

OTHER:

1. **K&K Food Mart** – review information re: sign change request

The proposed sign change is “apples to apples”. Both Ulrich Signs and C. Fabry responded to the ARB’s concern with regard to the type of materials being used for the signs. This board needs to hear back from the ARB regarding their decision, and will act on it at the next meeting.

2. **WebQA** - update

C. Ziarniak stated that he had not yet connected w/the company rep to input information specific to the ZBA; he asked if C. Fabry would please call the company rep directly and advise.

3. **Resignation**

C. Ziarniak stated that the board accepts with regret, the resignation of R. Sheffer. The board thanked him for his two and one-half years of service on the board, and wished him well.

REVIEW OF MEETING MINUTES: April 20, 2010

P. Dittman made a motion to approve the minutes; second by S. Tantalo.

C. Ziarniak	aye
J. Smith	aye
P. Dittman	aye
S. Tantalo	aye
R. Sheffer	abstained

NEXT MEETING: May 19, 2010 at 7:00 p.m.

ADJOURNMENT: C. Ziarniak made a motion to adjourn at 8:15 p.m.; second by P. Dittman; unanimously carried.

Approved 5-19-10

Respectfully Submitted,

Ursula M. Liotta, Bldg. Dept. Coordinator