



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES OCTOBER 6, 2015

Members present: Charles Koontz, Toni Gray, Seth Greenblott and Daniel Rinden. Staff present: Planning Director Karen Robertson.

Note: The Zoning Board of Adjustment's Rules of Procedure was available during the application process and additional copies were available at the meeting for the general public.

The Applicant was given an opportunity to post-pone review of the application to the November meeting as there were only four (4) members of the Board present and a possibility of a tie vote. In the case of a tie vote, the application fails.

Mrs. Toler asked for an opportunity to delay the meeting for one-half hour to review and draft a response to a letter she had just received from an abutter in opposition. The Board denied the request, noting that they also just received the letter. The letter was from Leslie Beletic, daughter of abutter Eleanor Pierce (attached hereto). At the request of Mrs. Toler, the Board delayed the meeting so that she could have time to consult, by telephone, with her husband and realtor.

While waiting for Mrs. Toler, the Board reviewed the Minutes and Notice of Decision of their July 7, 2015 meeting.

- I. **Call to Order.** Chairman Dan Rinden called the meeting to order at 5:35 PM in the Hopkinton Town Hall.
- II. **Review/Approval of Minutes and Notice of Decision.**

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** the Minutes of July 7, 2015 as presented. Motion passed unanimously (Gray, Koontz, Greenblott, and Rinden).

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** the Notice of Decision of July 7, 2015 as presented. Motion passed unanimously (Gray, Koontz, Greenblott, and Rinden).

- III. **Application(s).**

Mrs. Toler returned to the meeting asking the Board to move forward and review her application.

#2015-6 Lorianne & Lance Toler Special Exception to keep farm animals for private use at 293 Penacook Road in the R-2 (medium density) district. The property is currently owned by Leslie & Michael Grant, shown on Tax Map 103 as Lot 15. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.D.2.

Mrs. Toler addressed the Board advising of her intentions to acquire one (1) animal per Christmas, over a five (5) year period, for her children. The farm animals will include possibly two (2) bunnies, six (6) hens, one (1) pot belly pig, (1) milking goat and one (1) Shetland pony. However, before getting the farm animals she plans to begin with a cat and then, hopefully, the following year a dog.

Mrs. Toler discussed her initial review of the property and Zoning Ordinance assuming that the property was zoned for farm animals. After discussing the provisions of the Ordinance with Mrs. Robertson, she realized that farm animals were permissible, but by Special Exception. Mrs. Robertson concurred with Mrs. Toler's initial review of the Zoning Ordinance which clearly indicates that "Agriculture" is a use permitted by right in the R-2 (medium density) zoning district. However, upon further review, the Ordinance also clearly indicates that "Farming" is a use permitted by Special Exception in the R-2 district. Mrs. Robertson suggested that the Ordinance is confusing given the fact that the definition of "Agriculture and Farming" is one in the same and specifically includes farm animals.

Mrs. Toler's written response for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

1. **Standards provided by this Ordinance for the particular use permitted by Special Exception.** "Applicable standards are sections 2.1.A.4, 3.5.3, 3.6.D.1 and 3.6.D.2."
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** "The combined waste of the few animals will not rise to the level of 'toxic waste'. There will be no threat of fire or explosion. All hay will be tended and rotated."
3. **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.** "The chicken coop will not be visible from the road (from most angles) and keeping animals on the property is in keeping with historical uses of the property and abutting land and is similar to the present uses of at least one abutter who keeps goats and chickens."

Mrs. Toler noted that she had just received a permit for the erection of a 6' x 4' chicken coop. She explained how all farm animals will be housed at night and that the property in question is more than adequate in size, 3.2 acres, for animals. In response to Mrs. Toler's comments concerning the chicken coop, Mrs. Robertson informed the Board that the permit is subject to Zoning Board of Adjustment approval of the farm animals.

4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** "No increase in traffic as the animals will be for personal use."
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** "No excessive demand on water supply for the animals. Their waste will be composted in the garden. No other Town facilities will be required."

6. **No significant increase of storm water runoff onto adjacent property or streets.** “No structure, other than the small chicken coop, will be built; thus there will be no increase in storm water run-off.”
7. **An appropriate location for the proposed use.** “A large two-story barn to house most of the animals is already situated on the property, and the Clapsaddle property abutting was historically a chicken farm within recent memory. Having animals on the property will restore the original, historic uses for which this antique home was originally intended.”

Mrs. Toler further stated that the chicken coop would not be visible from the neighbors (Pierce) property. Furthermore, it may be difficult to see the pony when in the pasture as the area will be fenced.
8. **Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.** “Animals will be kept well within property boundaries. If anything our keeping a handful of animals on the property will enhance the value of surrounding land. No known adverse impact to health, safety, or use for development.”
9. **In the public interest and in the spirit of the ordinance.** “It is in the public interest for those within Hopkinton that have sufficient land. The Town borders the property with 50 acres of conservation land. The Special Exception will permit the enjoyment of the original historic uses of the property. The lot in question is on a similar sized lot to those in the R-3 and R-4 zoned areas.”

Farming is permitted in the R-2 district by Special Exception. Mrs. Toler suggested that if residents believe the area is high in density, then it may be in their best interest to have the area zoned R-1.

Ms. Toler noted that a neighboring property currently has chickens and goats. Just up the road on Gould Hill Road there is a horse farm, and she is aware that previously there was a horse at the Pierce property.

In response to Ms. Beletic’s letter concerning wild animals in the area and the addition of rodents and odors from the farm animals, Mrs. Toler explained how coyotes are active at night as they are nocturnal. The farm animals will be inside the barn or coop, whichever the case may be, during the night. The smelliest animal would be the pot belly pig; however, the pot belly pig is the least smelly type of pig. Furthermore, a recent inspection of the home at 293 Penacook Road showed no rodents in the house; however, to counter-act the possibility of rodents Mrs. Toler stated that the first animal they will get is a cat.

Mr. Koontz inquired about the storage of hay and whether it would be in the existing barn. Mrs. Toler replied yes, indicating that the hay would be stored in the loft and understands that placement of the hay is important in order to avoid the possibility of combustion. The hay should not be compacted when stored and should be aerated. She suggested that they would have a limited amount of hay in storage as she assumed that they would purchase it and have it delivered to the property. The hay would not only be used for feed but would be used as bedding in the barn.

Mrs. Gray questioned whether there is currently electricity in the barn. Mrs. Toler replied yes, indicating that the electricity is near the entrance or office area and is used for the garage door opener.

Mrs. Gray asked for clarification as to the time frame for acquiring the animals. Mrs. Toler stated that she intends to acquire one (1) animal every Christmas over five (5) years. The pony would be the last animal. In fact, Mrs. Toler stated that they may at some point change their mind and not have a pony.

Chairman Rinden asked whether they would immediately construct the chicken coop even though they don't have immediate plans have chickens. Mrs. Toler replied yes, explaining that they would build the chicken coop now so that they are ready when it is time to get hens.

Chairman Rinden opened public testimony.

Susan Pierce, daughter of abutter Eleanor Pierce, spoke on her mother's behalf even though Ms. Pierce was present. Ms. Pierce suggested that approval of the application would set a precedent. The concerns are not of what the Applicant has represented, but rather of what it could become. Ms. Pierce reiterated her sister's comments concerning how the neighborhood has changed in the past fifty (50) years with an increase in the number of homes and the work that has been done to improve homes in the area. As a result, Ms. Pierce believed that the R-2 district was created. At the same time she suggested that there was land that was zoned for farming. Ms. Pierce discussed the increase in traffic and the frequency of various types of wild animals in the area. She also reiterated some of the concerns raised by her sister with respect to rodents, coyotes, and property values.

Mr. Koontz inquired with Ms. Pierce as to the conditions that she and her mother would like imposed on the application, if approved. In response, Ms. Pierce suggested that permission only be given to the current residents and not go with the property should it be sold, that no animals be visible from her mother's home and that all animals be housed in the barn or home.

Abutter Barbara Clapsaddle of 337 Penacook Road addressed the Board explaining that she lives in the former Rollins home. She has seen a number of coyotes, fisher cats, bears, and skunks in her yard. She expressed concern that the farm animals will increase the number of wild animals seen in the area.

Mr. Greenblott asked Mrs. Clapsaddle if she was opposed to the application. Mrs. Clapsaddle replied yes, stating that she is opposed to having more farm animals in the area as it will increase the wild animals seen in the neighborhood.

In rebuttal, Mrs. Toler reiterated her commitment to acquiring the farm animals over a five (5) year period. Furthermore, acquiring the animals would actually be delayed for two (2) years as she plans to get a cat and dog over the first two (2) years.

Mrs. Toler again reiterated the fact that, at one time, there was a large chicken farm at the former Rollins property and there was a horse at the Pierce property. There are currently goats being raised two (2) houses over and a horse farm on Gould Hill. Mrs. Toler wondered how the five (5) animals, plus chickens, would increase the wildlife in the area. She did not believe the wildlife would be of a significant harm.

Mrs. Gray asked Mrs. Toler if she would be agreeable to not acquiring the pig and goat. Mrs. Toler replied yes to not getting a pig, but offered to potty train the pig so that it could live in the house. With respect to the goat, Mrs. Toler stated that the milking goat would be used as part of her family's food.

In rebuttal, Eleanor Pierce's daughter, Susan Pierce, stated that zoning does not allow animals in the R-2 district. She further stated that it would not be in the best interest of everyone to allow farm animals. Ms. Pierce, again, expressed concern with the impact on property values should farm animals be allowed in the neighborhood.

With no further testimony, Chairman Rinden declared public testimony closed.

During deliberation, Mrs. Gray expressed concern with the number of farm animals being requested. In response, Mr. Koontz noted that the proposal is for one farm animal a year with a cat and dog being acquired first and then the farm animals over five years. He recommended, should the application be approved, a condition that the farm animals are to be contained in a structure or fenced area. Mr. Greenblott asked Mr. Koontz if his intentions were that the animals are to be out-of-sight or contained. Mr. Koontz stated contained.

Chairman Rinden offered a condition that the animal types are to be incremented to one-type per year, over five years, beginning after the Applicant acquires the cat and dog. Board members agreed.

Toni Gray, seconded by Charles Koontz, moved to **APPROVE** the application for Special Exception (#2015-6) as presented with the following conditions: (1) All animals are to be contained in a structure or fenced area; (2) Animal types are to be incremented to one-type per year as enumerated in the application (represented by the Applicant), and (3) Roosters are not permitted. Motion passed unanimously (Gray, Koontz, Greenblott and Rinden).

Reasons for approval as follows:

1. Although concerns about safety were raised, the Board found that, with the foregoing conditions and representations made by the Applicant, the keeping of farm animals would not cause undue hazard to health, safety or property values nor be offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke or other similar reason.
2. The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Hopkinton Zoning Ordinance.

IV. Adjournment.

Toni Gray, seconded by Charles Koontz, moved to **ADJOURN** the meeting at 7:15 PM. Motion passed unanimously. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, November 3, 2015, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

1317 Mill Creek Ct
Thousand Oaks, CA 91360

October 3, 2015

To: Town of Hopkinton Zoning Board of Adjustment
Re: Special Exemption for 293 Penacook Rd

I am writing to express my concern regarding the request to introduce farm animals at 293 Penacook Road, the property next door to my mother's home at 281 Penacook Road. I believe that this would be detrimental to my mother's property value and to the integrity of the neighborhood.

I grew up in the home at 281 Penacook Road and have returned there every year since graduating Hopkinton High School. I just returned from a 4-month visit with my mother so I am very familiar with past and present life on Penacook Road. The Penacook Road of 50 years ago was drastically different than the present neighborhood. I grew up in a sparsely populated area and spent many hours playing in the fields behind the Rollins farm and roaming the railroad bed from Little Tooky Road to Briar Hill. My play area has been transformed from fields and woods to a lovely neighborhood of beautiful homes and properties. The area has upgraded and grown significantly during the past 50 years and this type of growth has increased the encompassing property values.

My mother is 90 years old and her home is her largest financial asset. She has lived in her home for 50 years and it is clearly a residential property. Mom is fortunate to have a lovely backyard and vacant lots on two sides of her property. The property in question at 293 Penacook Road is very close to Mom and they essentially share a large, open backyard. Introducing farm animals to the backyard will have a detrimental effect on Mom's property and thus could significantly affect her quality of life. This is a very valid and serious concern for my mother.

Since we were only given official notice of this hearing on October 1, we were unable to hire an appraiser to evaluate the impact of farm animals on residential property values, but this is a case where common sense prevails. Most people looking to buy a residential property do not want to be exposed to the unpleasant aspects of farm animals such as smell, manure, flies, rodents, noise and the attraction of unwanted wildlife.

Unfortunately my mother has been exposed to some of these unpleasant aspects by having chickens and two goats on the other side of her property. While these animals are not within sight, Mom has had an increase in rodents and has had dead chickens left on her front and back lawn by a fox. She has recently had to hire

a pest control firm to fight the increase in mice that has occurred since the introduction of these animals.

Our family is very concerned for Mom to have farm animals on two sides of her property in a residentially zoned area. Mom never received notice of the hearing for the chickens and goats at 255 Penacook Road. To add a pig, pony, goat, chickens and rabbits at 293 Penacook Road places Mom's property in between 2 small farms even though the area is zoned as medium density residential. We request that the town protect her from this.

Specifically, I am concerned with criteria 7, 8 and 9 of the Special Exemption Application.

Regarding #7, the applicant claims that it is an appropriate location for farm animals because the property has a barn and because the adjacent Clapsaddle property (formerly Rollins) once housed a chicken farm. The location is not appropriate because it is a medium density residential neighborhood. The neighborhood has transformed from the days when it was open farmland. The Clapsaddles have done a fantastic job renovating their farmhouse and have significantly upgraded the property in every way. The chicken farm that was previously on the Clapsaddle property was a huge multi-story building that housed thousand of hens. When it closed, the building was an eyesore for years as it decayed in the field. Likewise, all of the smaller coops that were in the field behind the former Rollins house were dilapidated and in disrepair. The neighborhood owes a lot to the Clapsaddles who have removed the old, smaller coops and improved the property by leaps and bounds. It is not appropriate to reintroduce chickens and add a pig, goat and pony into this neighborhood that has changed and clearly moved away from the farm uses of the past.

Criterion #8 concerns the question of the health and safety of the residents in the area. Introducing farm animals to the property will attract coyotes and foxes, which is a serious problem. There is a pack of coyotes in the immediate area that we hear at night and we see cut across my mother's backyard. They are large, powerful animals and having livestock will attract them. This will endanger our elderly mother when she is in the backyard as well as any children in the neighborhood.

Criterion #9 pertains to the public interest and the spirit of the ordinance. The zoning ordinance serves to define and protect various districts in the town. I believe that this zone was designated medium density residential when the zoning map was introduced in 1988. Since it was zoned medium density it has actually become more dense with the development of the properties along Penacook Road to Briar Hill Road, and the development of the area going up Gould Hill Road. The neighborhood is clearly more residential and the homes are lovely. It is not in the spirit of the ordinance to introduce farm animals into this neighborhood that has worked hard and spent a lot of money to upgrade. If someone desires a small farm,

there are many agricultural areas in the town and plenty of room for farm animals in areas already zoned for agriculture.

Lastly, throughout the application, the main reason given for housing farm animals at 293 Penacook Road is because at some point since 1760 (when the house was built) there were farm animals on the property and that there was a chicken farm on the adjacent property. In the 1700's and 1800's rural families required livestock in order to survive. The fact that the property has a barn on it has no bearing on the current zoning ordinance. That is the same as saying if decades ago there used to be a general store on the property that now the town should allow a convenience store. In the 50 years that our family has lived next door to 293 Penacook Road there have never been farm animals on the property. I do not believe that Jessie Gould (who was our dear first neighbor) ever had livestock, so the property has been strictly residential for at least 75 years.

Thank you for listening to my concerns. This is a very important issue to our mother and our family. I'm sure that you can see from the very close proximity of this property to my mother's that changing the zoning will affect her property the most. I strongly believe that it is in the best interest of all the property owners in the vicinity of 293 Penacook Road to maintain a lovely, residential neighborhood.

We request that the Zoning Board of Adjustment deny the Special Exemption for 293 Penacook Road.

Respectfully yours,
Leslie Beletic