

**ZONING BOARD OF ADJUSTMENT
MAY 3, 2016 FINAL MEETING MINUTES**

Present: Chairman - Jack Dearborn, Member - Stu Richmond, Member - Marc Morette, Alternate - Michael Meyer, Alternate ó Donald Rogers, Land Use Coordinator ó Chip Meany, Minute Taker ó Tina Ripley

Guests: Shaunna Bulcock, Joseph Bulcock, Michael Motta, Kerry Landry, Robert Munchie, Jane Munchie, Christine Lynady, Luc Williams, Ted Williams, Debbie Jackson

I. CALL TO ORDER & INTRODUCTION

The meeting was called to order by Jack Dearborn at 7:30pm. The Board introduced themselves: Marc Morette-member, Stu Richomd-member, Chairman Dearborn, Don Rogers-alternate and Michael Meyer-alternate.

II. ADMINISTRATIVE ITEMS

Chairman Dearborn said they will seat the Board, which they did. Chairman Dearborn said everyone is entitled to have a 5 member board and if we don't have it, we can continue a case because of that at the request of the applicant. Chairman Dearborn said the way he runs the meeting is ask for a motion to accept the application (find that the application is complete), then he will ask the applicant to stand up, they will take a vote (assuming it is in the positive) they will continue, they will discuss amongst the Board any details before they start the process. Chairman Dearborn said once that is done he will have the applicant read the five points of hardship into record. Chairman Dearborn said after the applicant has made their case, he will open up to the Board, then open it to approving abutters, then disapproving abutters, then other board, then public at large. Chairman Dearborn said once that is all done he will ask the applicant back up to rebut anything that was said and they go through the same process again. Chairman Dearborn said once that he done he will close the public hearing. Chairman Dearborn said the Board will then deliberate and try to have the motion, yes mean yes and no mean no.

III. PUBLIC HEARING

Seated members for case #0416 are Marc Morette, Stu Richmond, Chairman Dearborn, Don Rogers, and Michael Meyer.

Case #0416: Shaunna Bulcock requesting a variance from Article 17.2.2, selling agricultural commodities for profit in a residential area at 68 Bogue Road, Map 410-235 in Residential Zone

Chairman Dearborn said they have the list of abutters, 5 points of hardship, tax schedule of property, deed, mortgage and diagram tempting to show where livestock and garden are. Mr. Morette move to accept case #0416. Mr. Richmond seconded. Motion passed. 5-0-0.

Chairman Dearborn said that Mr. Richmond and he stopped and took a look at the property and said if I understand the layout, looking at the house and to the left-hand of the house, asked if Ms. Bulcock planned on expanding that area. Ms. Bulcock said no. Chairman Dearborn asked if Ms. Bulcock planned on using the sloped area and Ms. Bulcock said no, but there is a little area in the back for a goat pen.

Chairman Dearborn said from the application he didn't get grasp of what the scale of the operation will be: hours of operation, amount of traffic coming in and out. Chairman Dearborn said before we get started he would like an understand of what Ms. Bulcock thinks will happen beyond what she has today physically on the property - do you plan on expanding, maybe the density of the area that is cleared, is it going to be increased by animals or gardens. Ms. Bulcock said no, all the gardens are already in place and said she don't plan on clearing any more trees for gardens or buildings.

Chairman Dearborn said so everyone is clear, Ms. Bulcock is requesting a variance, which is requesting a relaxation to the zoning. Chairman Dearborn asked Ms. Bulcock if you are not requesting a larger enterprise, asked her why she is requesting a variance. Ms. Bulcock said she has had chickens for several years and said she would like to sell the eggs to businesses in the community, neighbors and to make a profit on it. Ms. Bulcock said she would also like to be able to sell the produce she sells in her garden. Chairman Dearborn said he is trying to get Ms. Bulcock to understand that she is requesting a variance for what she is currently doing. Ms. Bulcock said she would like to make a profit off what she is doing now. Ms. Bulcock said as she understands it, in a residential zone you can't sell to make a profit or have a business.

Chairman Dearborn said when you read the description, it sounds like a much larger operation. Ms. Bulcock said she wanted to encompass everything she might possible sell so she wouldn't have to come back and explain herself again. Chairman Dearborn said here lies the problem, when the Board grants a variance, if they grant it, they want to know exactly what you are going to do. Chairman Dearborn said Ms. Bulcock hasn't put any limits on what she can do.

Ms. Bulcock read the 5 points of hardship into record.

The undersigned hereby requests a variance to the terms of Article 17.2 Section 17.2.2 and asks that the said terms be waived to permit A profitable farming business. Making a profit on the sale and/or rental of animals, their meat, fur, hide, services, eggs, or by products.

The sale of palnts and/or plant based products as well as produce. The sale of baked goods, canned good. The placement and use of a farmstand/store for the sale of the aforementioned products.

1) That the granting of the variance will not be contrary to the public interest because:

The use is an appropriate use for the area, it allows a reasonable use of the land, with zero harm to the public or private rights of others. It is also an appropriate way to keep in line with the "Weare Master Plan".

- 2) The variance requested, will not be contrary to the spirit of the ordinance because:**

The proposal does not injure the public or private use of others and is consistent with the spirit of the ordinance, which is to control reasonable use. Farming is a reasonable use of the land in keeping in line with the "Weare Master Plan".

- 3) That through the granting of relief by variance substantial justice will be done because:**

The benefit to the applicant outweighs any hardship to the general populace. The use is conducive to keeping with the "Weare Master Plan Right to Farm" 3.11.1. Allowing me to continue to keep my family values intact, by maintaining my status as a stay at home mother, and providing the community with an alternative to traditional shopping, keeping moneys local, will certainly be Justice done.

- 4) That by granting the variance, the values of surrounding properties will not be diminished because:**

This will have no effect on the adjacent property values because agriculture is already permitted in a residential area for personal use. I have had animals and gardens in place for many years (6) for our own consumption, with no detriment to the surrounding community property values.

- 5) To qualify for a variance, you must demonstrate that denial of the variance would result in unnecessary hardship. Pursuant to applicable law, the test for "unnecessary hardship" is set forth in two alternative parts, (Parts A & B), as follows:**

A. "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i.) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and**
- (ii.) The proposed use is a reasonable one.**

Accordingly, while having the foregoing standards in Part A in mind, please provide the following facts relative to your application:

My property has a strong Southerly exposure that is critical for plant growth. 750' of road frontage. 2.2 acres, reasonable spaces for animals and gardens. Open areas for a farm-stand and parking. Mature prolific perennial berries. Young Apple trees, established poultry coops, established rabbit hutches, established goat

housing, established fowl and established garden areas are all on property currently.

A: Please describe the special conditions of your property that distinguish it from other properties in the area:

- (i) **No fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application of that provision to the property:**

This does not alter the essential character of the surrounding neighborhood, nor is it harmful to public health, safety or welfare. The use is appropriate for the area and is conducive with keeping with the "Weare Master Plan" 3.11.1.

- (ii) **And how the proposed use is a reasonable one:**

It allows for reasonable use of the land, it is appropriate of the area, it allows me the "Right to Farm". There is no injury to the surrounding area. I will be providing local healthy products to the surrounding area and to my neighbors.

B: If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Accordingly, while having the forging standards in Part B in mind, please provide the following facts relative to your application:

B. Please describe the special conditions of your property that distinguish it from other properties in the area:

My property has a strong Southerly exposure that is critical for plant growth/ 750' of road frontage. 2.2 acres, reasonable space for animals and gardens. Open areas for a farm-stand and parking. Mature prolific perennial berries. Young apple trees, established poultry coops, established rabbit hutches, established goat housing, established fowl, and established garden areas are all on the property currently.

Please indicate how owing to the special conditions identified above, your property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it:

Literal enforcement of the provision of the ordinance would result in a hardship as there is zero change to the character of the area. It is of the utmost importance to me that I be granted this variance so that I may help to preserve the goals of the "Weare Master Plan". I also strive to provide my local area with healthy local produce and products.

Chairman Dearborn said the 5 points of hardship are not signed and dated and said it can be an issue. Chairman Dearborn said Ms. Bulcock needs to be sure she has established a special condition of her commodity and said the variance is given to the property not the individual. Mr. Morette moved to continue case #0416 to June 7, 2016. Mr. Richmond seconded. Motion passed. 5-0-0.

Chairman Dearborn said Ms. Bulcock needs to identify the hardship and the scope.

IV. MINUTES

Mr. Morette moved to accept March 1, 2016 as amended. Mr. Richmond seconded. Motion passed. 5-0-0.

V. ADJOURNMENT

Chairman Dearborn moved to adjourn. Motion passed. 5-0-0

Tina Ripley