

**ZONING BOARD OF APPEALS
EAST GRANBY, CONNECTICUT
February 7, 2017 MEETING**

A special meeting of the East Granby Zoning Board of Appeals was held on Tuesday, February 7, 2017. Members present when Acting Chairman John Corcoran called the meeting to order at 7:33 p.m. were David Tobin, Gary Ginsberg, Robert Paskiewicz and alternate member Jennifer Cook.

PUBLIC HEARING

The legal notice was read.

- A. Application #16-06 – Debra Banning/879 South Grand Street – Appeal from ZEO/
Front yard variance for an animal shelter/variance for number of animals

Scott Lingenfelter, an attorney representing the applicant, distributed a handout which he reviewed with the Board page by page. He believed that there were only two issues, if the Board agreed then the third item would not be necessary. He discussed the history of the property which is unique as it is dissected by a town line with .4 acres in East Granby and 2.4 acres in Suffield. Upon inspection, the Department of Agriculture required a windbreak shelter for the animals. This was built without a permit. For the size, a building permit was not necessary but a zoning/wetland permit was and he stated this was an oversight by the applicant.

A variance for the shelter as denied back in June 2016. The vote was 3-1 in favor, but a super majority of 4 is required by law. When his client went to reapply for the variance, she was told she now needed to add the cattle and a cease and desist order was sent. Mr. Lingenfelter stated he disagreed with some of the items in Mr. Haynes's staff report. He noted that the order was incorrect as it cited the wrong section. This section was for livestock in a residential zone where his client is in the agricultural zone. The agricultural zone has no limit on the number of animals listed just acreage for a farm (3 acres). He stated that the cease & desist should be rejected as flawed and not upheld.

As to the variance request, photos were distributed. It was noted that this was a unique situation as the location is the best possible area for a shelter with the least impact on wetlands. It was also noted that the Town catch basin and associated runoff limits the location. The variance request was minimal, the property was unique as it is split between two Towns and a variance should be granted.

Discussion ensued regarding the agricultural regulations (which appeared to be contradictory) regarding the keeping of livestock and the lack of clear definitions. Mr. Haynes noted that whether you look at the residential regulations or the agricultural regulations, the applicant can't meet either. Mr. Lingenfelter stated that the Banning family should not be penalized for the Town's oversight. He stated that the animals were pets – this was not a farm.

Mr. Haynes reviewed his report and the history of dealing with the issue. Wetland violation complaints especially in the spring were a major concern. He tried to work with the applicant but the addition of a structure exasperated the already existing problems.

The applicant was questioned many times by Mr. Tobin as to why the cattle were not in Suffield where there is more land available. No clear answer was given except to say that the Board had no jurisdiction over the Suffield property. The Board also questioned why the issue of having the cattle now, after 7 years, is a problem for the Town. Mr. Ginsberg asked, "Why did this not come up earlier?" Mr. Haynes stated that the issues on the property became worse in the spring of 2016. Mr. Lingenfelter stated that the Town dealt with the fencing, wetland and pipe issues over the years and this current issue of the cattle "seemed more like retribution".

There was further discussion on the interpretation of the regulations and the lack of clarity. Town Attorney, Carl Landolina, who noted he is also the Town Attorney for Suffield, explained that he was present to help the Board understand their powers, duties, and the State Statutes. He clarified several definitions. As to the timing, the law is clear that the timing or "waiting to act" doesn't matter.

Mr. Haynes stated that the granting of the variance could set a precedent and open the door for other agricultural zoned lots as the variance runs with the land and this could have far reaching consequences.

There was back & forth discussion on revising the regulations to address the issue, the technical flaw in the cease & desist, outgrowing the footprint for large animals, livestock as pets – not a farm, and what conditions can and cannot be placed on a variance approval.

In favor, neighbors on South Grand Street and farmers in the area, stated that they supported this application noting "couldn't they just keep the cattle until they died and then no more." Many stated that livestock are pets and they couldn't understand why the Town waited seven years and why "bring up the issue now". They stated that the family has been through an emotional roller coaster and that the community wants the cows.

Mr. Constable, an area farmer, noted that the lean-to could be moved at an angle and that would eliminate the need for the variance. He hoped the Town and the Banning family could work out a solution to the problem and come to an agreement. There should be a way to work this out.

Debra Banning, the applicant, spoke of the history of the animals and how she has tried to comply with all that the Town asked. She distributed pictures of the cattle whom she rescued and got for her daughter. Angelica Banning spoke of growing up with these animals and what they mean to her.

John Febbroriello, a town resident and an attorney, stated it appeared there were conflicts with the regulations. He felt the cease & desist was flawed, should be withdrawn, and that

everyone should stop while the Town revises their regulations to address this issue. There are too many loose ends and he did not envy the Board in making their decision.

Mr. Haynes offered to try and work out an agreement with the Banning family. Attorney Lingenfelter stated that the family has tried this approach, and since they have been able to come to an agreement in the past, they saw no reason to do so now and wished to proceed.

No one spoke in opposition. There were no further questions. Attorney Landolina advised the Board on several options for procedure. The Board determined that enough evidence had been presented and the public hearing closed on this application. The public hearing portion of the meeting closed at 9:45p.m.

NEW BUSINESS

A. Application #16-06 – Debra Banning/879 South Grand Street – Appeal from ZEO/
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No action taken. The majority of the Board did not feel ready to vote and decided to reconvene at a special meeting on Tuesday March 21, 2017 at 7:30pm in the Town Hall Hearing Room.

ADJOURNMENT

A motion was made by Robert Paskiewicz and seconded by Jennifer Cook to adjourn the meeting at 9:50 p.m.

Respectfully submitted,

Rosalie McKenney
Land Use Administrative Assistant