



**TOWN OF PITTSFIELD
ZONING BOARD OF ADJUSTMENT
TOWN HALL, 85 MAIN STREET
PITTSFIELD, NH 03263**

MEETING MINUTES OF Thursday October 24, 2019

CALL TO ORDER

Call to order at 6:00 P.M. by Larry Konopka

MEMBERS PRESENT

Larry Konopka Chairman
Scot Palmer
Pat Heffernan
Scott Aubertin
George Bachelder
Carole Dodge - Alternate
Scott Jackson – Alternate

MEMBERS ABSENT

Mitch Emerson - Alternate
Mike Cabral – Alternate

AGENDA REVIEW

Add 2020 ZBA budget

NEW BUSINESS

a. Public Hearings

1. Application for Special Exception –to allow for keeping poultry in the Suburban Zoning District, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as the keeping of livestock, poultry, or other animals at 72 Fairview Drive, R22-30.

Larry Konopka read the public hearing notice into the record:

The Pittsfield Zoning Board of Adjustment will hold a public hearing pursuant to RSA 674:33, IV, and RSA 676:7 on an application for a special exception to allow for keeping poultry in the Suburban Zoning District, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as the keeping of livestock, poultry, or other animals.

The time and place of the hearing are Thursday, October 24, 2019, at 6:00 P.M., at the Pittsfield Town Hall, 85 Main Street, Pittsfield, NH. The applicants' name and address are Michael & Meredith Baer, 72 Fairview Drive, Pittsfield, NH 03263.

The proposal is to allow poultry at the subject property identified as Tax Map R22, Lot 30, owned by Michael Baer, and located at 72 Fairview Drive, Pittsfield NH.

The application for a special exception is on file for public inspection at the Town Hall, 85 Main Street, Pittsfield, NH.

George Bachelder: I make a motion to accept the application.

Scot Palmer: Second.

Discussion: None.

Motion carries 5-0-0

Introduction of rules of procedure – Larry Konopka advised those present of the rules of procedure for this evening's meeting.

Michael Baer and Meredith Baer of 72 Fairview Drive introduced themselves to the board. Michael Baer stated that the purpose of the poultry was for meat, eggs, homestead use and for his daughter's sensory issues. He stated that they have had the chicken's since they were hatched.

Larry Konopka asked Zoning Administrator Carl Anderson if he had anything that he wanted to add to the meeting. Carl Anderson stated that he did not have anything additional.

Larry Konopka had the applicant go through the application and address their answers to each section on the special exception application.

The use shall not be detrimental or offensive to the neighborhood.

The coop is kept clean, the chickens do not go out at night, as they are not free range. The coop is behind their home.

The use shall not diminish the value of any of the surrounding properties.

The coop looks like a shed so it is not unsightly, and there is no smell. There are horses and chickens at neighboring properties as well.

The use, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a street or on a nearby property.

There is no parking needed as it is for homestead use, not a commercial use.

The use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use.

The chickens are kept in an enclosed pen. They are not free range. They have a coop to keep them warm in the winter and cool in the summer.

The use shall be in harmony with the general purpose and intent of the zoning ordinance (RSA 674:33, IV).

Under table of uses and districts, livestock/poultry in a Suburban area is labeled E under use regulations, Article 3, Section 3(b)(2) states that every use that is of a type that sub part (6) lists with an E shall be permitted in that area.

Larry Konopka clarified that the reference to “E”, stating that it signifies that a special exception is required in order to be permitted in that area.

All conditions specific to the proposed use. The zoning ordinance requires various uses to satisfy permitting conditions specific to the use in addition to conditions A through E above. Check to see whether the proposed use is defined in the zoning ordinance, article 2, Interpretation Rules and Definitions, section 3, Definitions. If the zoning ordinance requires the proposed use to satisfy conditions specific to the proposed use, then article 2, section 3, will define the use, and the definition entry will either list the permitting conditions or point to the permitting conditions.

The proposed use is not defined in the zoning ordinance allowing it to be permitted.

Larry Konopka asked if the applicant had any additional information that he wanted to submit to the board. Michael Baer stated that he did not have any additional information.

Larry Konopka asked the board if they had any questions.

Pat Heffernan asked if there was a “banty rooster” at the subject property. Meredith Baer stated that they had a bantam rooster, which is tiny in size, and their daughter has had this rooster since it was hatched. She went on to say that her daughter has four sensory disorders, and any abrupt lifestyle changes can make her regress from the progress that she has already made. Meredith Baer stated that she has information from the child’s doctor, showing that she does have the sensory disorders, and has had sudden changes in her life recently that has set her back. She went on to say that when this rooster dies, her daughter has been advised that there will not be another rooster. Meredith Baer said that it was just this rooster, who is about three years old.

Pat Heffernan asked how long bantam roosters live. George Bachelder and Carole Dodge stated that they can live a long time.

Larry Konopka opened the meeting for public input.

Steve Adams stood and read his letter to the board (See attached). Steve Adams stated that his objection to the poultry is specifically to do with the rooster and the constant crowing. He said that he had no objection to the hens. His issue is regarding the constant crowing of the rooster.

Adam Gauthier stated he feels that a precedent was set for chickens on Wildwood Drive and the zoning ordinance does not distinguish between a hen and a rooster, it only lists poultry.

Jodi Cunningham of 76 Fairview Drive stated that she supports her neighbors and does not hear the rooster.

Steve Adams stated that if there was a way to silence the noise from the rooster, he would have no problem with the Baer’s having poultry.

Adam Gauthier asked for confirmation if a special exception was granted on Wildwood Drive. Zoning Administrator Carl Anderson stated that there was a special exception granted before he was the zoning administrator and prior to most of the people on the current ZBA. Carl Anderson stated that he felt a special exception granted previously does not necessarily set a precedent because each special exception is taken on a case by case basis. He said that there was a provision in Section 5, of Article 5 of Special Exceptions that states the ZBA can attach case specific conditions when approving a special exception when necessary.

Jodi Cunningham said that if the little girl needs the chicken in her life, she doesn't see why there is an issue, and feels that it doesn't matter if it is a hen or a rooster.

Steve Adams discussed the distinction between hens and roosters.

Michael Baer inquired about the current zoning ordinance in relation to the distinction between poultry and hens/roosters.

Carl Anderson stated that the ZBA can approve the application as it stands, or they can permit it with case specific conditions, if they choose.

Meredith Baer stated that she had spoken with Lee Adams, and advised her that they had plans to put a door on the chicken coop to keep the rooster inside longer, which seemed like a good compromise but at the time they had planned to do it, they experienced a death in the family, which pushed back their plan to put in the door. She went on to say that shortly after speaking with Mrs. Adams, and dealing with the family loss, they received a letter stating that there had been a complaint about the rooster, and this meeting had to be scheduled. Mrs. Baer said that once they found out about the meeting, they held off putting any more money into the chicken coop, in case it was not allowed by the ZBA.

Carole Dodge stated that there had been two special exceptions granted in the past in the Suburban area that she is aware of. One was Wildwood Drive with pigs and chickens and the other was in South Pittsfield with chickens. They specifically put the number of chickens allowed and they did not want roosters, so that was noted. Carole Dodge said that just because the special exceptions were granted, did not mean that it had set a precedent.

Larry Konopka asked if there was any more public input. Hearing none, he closed public input and thanked the applicant and audience for attending the meeting.

Larry Konopka opened the board deliberation. He stated that the board would either act on the application or they would continue the public hearing to a later date.

Larry Konopka began review of the special exception criteria.
The use shall not diminish the value of any of the surrounding properties.

George Bachelder said he was questioning section A. relative to the use not being detrimental or offensive to the neighborhood. He said that it is detrimental to at least one neighbor.

Scott Jackson remarked that people do sleep differently.

Pat Heffernan asked if there was something that a vet could do to try and keep the rooster from crowing. Larry Konopka stated that public input was already closed, so in order for the applicant to respond the chairman would need to open the public input back up. Pat Heffernan suggested that the applicant check into that to see if it was an option, and he stated that he thought the board should continue this application. Pat Heffernan also said that if the door is installed to the coop, it might make a difference.

George Bachelder said that the coop could be insulated and the door installed, which could cut down on the noise.

Scott Jackson asked what happens when the rooster comes out of the coop, wouldn't the noise start back up.

The use shall not diminish the value of any of the surrounding properties. It was stated that someone could consider chickens as something that would diminish property values. Carole Dodge stated that there is livestock at a neighboring property

The use, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a street or on a nearby property.

Larry Konopka said this application does not have an impact on parking.

The use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use.

Larry Konopka said there is no door on the chicken coop.

The use shall be in harmony with the general purpose and intent of the zoning ordinance (RSA 674:33, IV).

Larry Konopka said it is permissible with the granting of a special exception.

Larry Konopka advised the board that they can ask the applicant any questions that they might have for them.

Pat Heffernan asked if the applicant would be willing to check with a veterinarian to see if there is a way to alter the rooster, so it does not make so much noise. Michael Baer stated that he cannot insulate the coop, because they will peck at it.

Scott Jackson asked the applicant if he was willing to see if the veterinarian could do something to silence the rooster. Meredith Baer said it was the cost of the vet bill that was the issue. Michael Baer said no, he wasn't inclined to pay the vet bill because he has already had to pay application fees for the special exception.

George Bachelder advised the applicant that they could insulate the coop. Meredith Baer stated that the coop is so small that if they insulate it, they will not have enough space to have each bird have a one-foot area.

Larry Konopka reminded the board that they can put special conditions on this application to allow for hens only, if they so choose.

Pat Heffernan: I make a motion to continue the meeting, so the board can think about it for a little while to see if there are any other options for a resolution.

Scot Aubertin: suggested that the applicant install the door on the chicken coop between now and when the board meets next, to see if this helps resolve the noise issue.

George Bachelder: Second.

Discussion: Larry Konopka stated that the motion is to continue the public hearing pursuant to RSA 674:33, IV, and RSA 676:7 (on an application for a special exception to allow for keeping poultry in the Suburban zoning district, according to Pittsfield Zoning Ordinance, Article 3, Section 3(b)(2) Special Exception (6) Agriculture – as the keeping of livestock, poultry, or other animals) to Thursday, November 7, 2019 at 6:00 PM.

Motion carries 5-0-0.

Adam Gauthier advised the board that there is a planning board meeting scheduled for November 7, 2019.

Pat Heffernan: I move to amend the date of the meeting to Thursday, November 14, 2019.

George Bachelder: Second.

Discussion: None.

Motion carries 5-0-0.

b. 2020 Budget Review

1. Larry Konopka stepped down from the board for this discussion as he is on the Budget Committee.

Pat Heffernan took over as vice-chair to run this portion of the meeting. He asked if the 2020 zoning board budget included enough money for the secretary position.

Scot Palmer advised the board that he had met with the Selectmen regarding the ZBA budget request and while a lot more money has been spent in the 2019 budget for training, the bottom line proposed 2020 budget is ok. If the board agrees, then the Selectmen will move forward with what is printed. If there are changes to the ZBA proposed 2020 budget, then he will have to present it to the Selectmen at another meeting.

Pat Heffernan discussed the secretary line and the minute taker position, and it was discussed that the position would be shared with other departments.

Scot Palmer said that the bottom line of the ZBA budget was the main concern. So long as the bottom line of the budget was not over spent, the Selectmen were happy.

Pat Heffernan: I move the 2020 ZBA proposed budget as presented.
George Bachelder: Second.
Motion carries 4-0-0.

Larry Konopka rejoined the board and continued the meeting.

OLD BUSINESS

None.

ZONING ADMINISTRATOR'S REPORT

None.

MEMBERS CONCERNS

Scott Jackson asked if Mitch Emerson stepped down from the board. Larry Konopka said no, that he was out sick this evening.

Larry Konopka stated that the ZBA has received a letter for an alternate from Paul Metcalf, III. The members encouraged Mr. Metcalf's appointment. Larry Konopka stated for the record, that Paul Metcalf, III does some part-time work for him. Larry Konopka will get the letter of interest for the board's next meeting.

PUBLIC INPUT

None.

MINUTES

Thursday September 12, 2019

Scot Palmer: I move that we accept the ZBA meeting minutes of Thursday, September 12, 2019, as presented.

Pat Heffernan: Second.

Discussion: None.

Motion carries 5-0-0.

ADJOURNMENT

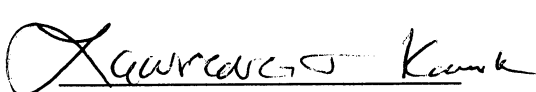
Scot Palmer: I make a motion to adjourn.

George Bachelder: Second.

Discussion: None.

Motion carries 5-0-0.

Approved:

 2/13/2020