

ZONING BOARD OF APPEALS

The hearing on Tuesday, January 13, 2004, was called to order by Chairman Trzepacz at 8:00 PM.

Members present: Harry Kaczmarek
Lee Occhino

Robert Schafer
Donald Trzepacz, Chairman

Also: Robert Pierce, Town Attorney
Joseph Colern, Building Inspector

After Roll Call, the Clerk read the Notice of Public Hearing for a Continuance on Appeals Case #955, for Richard Tuberdycy, 1251 Ostrander Rd, who is requesting a variance to construct a 32'x32' attached garage to their home with a non-conforming front setback, for personal use only, no business use, Res. C, 144-99 C (4), 52-6; Appeals Case #956 for current property owners Mr. and Mrs. Randy Marks, of 3230 West Blood Rd, for potential purchaser, Jo Ann Johnson DVM, which was tabled from last months hearing.

In the matter of Appeals Case #955, Mr. Tuberdycy was out of Town and unable to attend.

In the matter of Appeals Case #956, Attorney Allithea Killeen again presented the case for Jo Ann Johnson DVM and her husband Keith Gargulio who were present. Ms. Killeen referenced several sections of the Town Code of Elma. She also made references to NY Agriculture and Markets Laws, Agricultural District legislation, and Common Law. She stated she would not go into detail with regard to materials previously provided and arguments previously made at last meeting and subsequent thereto. She did give further information as well as reiterating information from the last meeting regarding the barn, a vet-tech living in the apartment, no permanent boarding of horses, etc. No one spoke in favor of the project.

Those opposed to the project were:

Charles Crofut, 3280 West Blood, who is concerned with 60'x100' riding arena, environmental issues, traffic, noise, his property value decreasing, additional housing.

Joseph Macaluso is concerned that a business across the street from him would depreciate his property, feels no one is being truthful about the project.

Laurie Clark of 3271 West Blood Rd spoke on behalf of herself and her neighbor at 3269 West Blood Rd about traffic nuisances, retail components, neighbors not being informed.

There were no further comments for or against this project.

There will be a Continuance on Appeals Case #955 until next month. The Clerk will inform Mr. Tuberdycy.

Mr. Schafer made the motion: In Appeals Case #956 for current property owners, Mr. and Mrs. Randy Marks, for purchaser JoAnn Johnson DVM, 3230 West Blood Rd, who is requesting permission to operate a business involving an Equine Care Facility with examination and treatment stalls, recovery stalls housing and/or boarding horses during the period of recovery, retail sales and an indoor arena in a Residential C/Agricultural Zone, I move the application be denied. The following determinations have been made:

1. Section 144-58 A (3). Requirements of this section have not been met in that the proposed facility and/or use requires applicant to obtain unanimous written consent of neighbors within 1000 feet of the proposed facility and/or use, which applicant has failed to obtain.
2. Section 144-58 B. The proposed use of the facility constitutes commerce and as much would be a non permitted use in a Residential C/ Agricultural zone within the language of this section.
3. Section 144-71. The proposed use of the facility constitutes a business for other than normal farming purpose and as such would be a non-permitted use in a Residential C/ Agricultural Zone within the language of this section.
4. Section 144-99 C (5). The proposed use of the facility constitutes, among other uses, the housing of animals in a building that fails to meet the 75' front set back from the road requirements of this section. Such use does not constitute an acceptable non-conforming use, any prior non-conforming use having been abandoned.

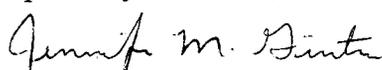
Seconded by Mr. Kaczmarek. Poll vote – 4 Ayes.

Mr. Kaczmarek made the motion to approve the minutes of the last meeting as submitted. Seconded by Mr. Occhino. Poll vote – 4 Ayes.

There being no further business, Mr. Kaczmarek made the motion to adjourn the meeting at 9:43PM. Seconded by Mr. Schafer. Poll vote – 4 Ayes.

Meeting adjourned at 9:43PM.

Respectfully submitted,


Jennifer M. Ginter
Secretary-Clerk