



(Approved March 20, 2024)

**Meeting Minutes
Zoning Board of Adjustment (ZBA)
January 17, 2024, at 7:00 P.M.**

1. CALL TO ORDER

The meeting was called to order by T. Hardekopf at 7:00PM.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members Present: Tracy Hardekopf, Jackie Flanagan, Cheryl Huckins, Alexandra Simocko

Members Virtual: Paul Thibodeau

Staff Present: Town Planner: Vanessa Price, Zoning Administrator: John Huckins

4. ACTION ITEMS:

A. CONTINUED CASES: From December 20, 2023

1. [249-32&250-133-NR-23-SpecExcept \(Owner: DWSX2 Holdings, LLC\)](#) Request by applicant for a Special Exception from Article 19, Table 1: Table of Uses for a Mixed-Use Development in the Neighborhood Residential District, to allow for a Mixed-Use Development conforming to the requirements as defined in the Zoning Ordinance. The location is at 270 Beauty Hill Road (Map 249 Lot 32 and Map 250, Lot 133) on a total of 72.04-acres in the Neighborhood Residential District.

T. Hardekopf read the application description.

T. Hardekopf asked for Derek Small to come before the board. She stated to Mr. Small that before he presents anything, she informed him that they have talks to the town attorney and they are comfortable to make a motion at this time that a special exception is not required if nothing has changed in your business model from when you presented to planning board. She asked Mr. Small that he was presented at the planning board he was given a conditional use approval.

Mr. Small stated yes for an educational institution.

T. Hardekopf stated that based on the discussion from the town attorney, she stated that the board found no need for special exception at this time. That the code enforcements determination for special exception being required is not one that needs to be presented to this board at this time.

T. Hardekopf addressed Mr. Small that he will be required to file for a variance if anything else other than the educational institution. She stated that if there are changes to the site at some point. For example, she discussed that she heard Mr. Small talk about yurts, yoga and other various business model changes.

A motion was made by T. Hardekopf and seconded by C. Huckins that no special exception be required and that the board refunds this applicant's fees. The motion passed unanimously.

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

J. Flanagan - Yay

P. Thibodeau-Yay

T. Hardekopf-Yay

2. [239-88-V-23-Var \(Owner: Michelle Stash\)](#) Request by applicant for two variances from Article 4, Section 4.1.1, Table 2, the front and side setback requirement in the Village District to allow a residential garage of 24.5' x 23.2' to be constructed. The proposed front setback of 5.7' where 40' required and side setback of 16.2' where 30' required. The location is at 55 Cate Road (Map 239, Lot 88) on a total of 0.65-acre lot in the Village District. BY: Christopher Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

T. Hardekopf read the application description.

Christopher Berry, Berry Surveying & Engineering, is representing the owner Michelle Stash at 55 Cate Road. Mr. Berry discussed the home details: the home is split level, a modest size home on a substandard lot of record, it has an existing septic system tank to the right side of the home where there's a little bit of ledge, there isn't a whole lot of space on the inside. He referred the board to photos submitted with the application. He discussed the applicants want to add approx. size garage of 24 by 24. Mr. Berry pointed out and referred to the location on the plan. He stated that he is looking into doing an alternative analysis, see if there is a better way of laying this garage out that did not require a variance first and whether or not we could improve upon the variance request, but he expressed it was a difficulty issue. Mr. Berry explained that the garage can't be placed on the right side of the home, there are sight constraints of ledge, grading, slope, and he explained the other alternatives that are not possible due to the non-conforming lot. He explained that the zoning district is in the village district as all the abutter lots, and the lot was created prior to zoning and their nonconforming in nature. He explained that the closed abutting property to the north is also nonconforming, and it's approximately the same size as the house that we have here, but it also sits fairly close to the front property line. He stated that if the neighbors wanted to put a garage on their property, they would be in the same situation as the Stash's are in for a variance request.

Mr. Berry stated that an oddity of the lot is that everybody operates on this lot, and all of the abutting lots, as if it was a much narrower road, right of way. He stated the average road right of way is between 3 rods, 49 1/2 feet wide and sometimes 66 feet wide, 4 rods wide. He expressed this particular road (Cate Rd.) is laid out as a 66-foot-wide road. Mr. Berry explained a 4 Rod Rd and that place is the front boundary line much further from the edge of pavement then I think anybody would really realize the average owner would not know this and in fact I submitted the septic design application as part that the prior owners had done, and you'll see the actual septic tank is located within the road right of way because everybody thought the road right of way was much further away. He expressed that he points that out because when we were talking about variance requests, we're always asking relief to the front boundary or the side boundary. You don't really know that it's a right of way that's actually out in front of you and other eight to 10 feet. Mr. Berry explained the difference between whether or not we're asking for a variance to a front setback for six feet or ten feet when the boundary line really isn't something that you can optically see is really not overly germane.

Mr. Berry addressed the Chair he was going to go through the five criteria for a variance.

1. *Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.*
The lot has multiple special features that make literal enforcement of the ordinance impossible. The existing structure is situated more than 50% of the way within the front setback and is not square to the road. The lot is non-conforming in width compared to the requirement within the zone. Any attempt at expanding the structure for this dual purpose would require a variance and therefore denial of the variance does constitute a hardship to the applicant. This is a reasonable addition that provides for both additional parking and additional living space and there are no other alternatives to use the property in this manner.
2. *Granting the variance would be consistent with the spirit of the Ordinance.*
The spirit of the ordinance is to allow development on parcels in a reasonable manner. Given the special non-conforming conditions of the property as well as the non-conforming conditions of the abutting parcels, the proposed addition will not markedly change the character of the neighborhood and is therefore in line with the spirit.
3. *Granting the variance will not result in diminution of surrounding property values.*
Granting the variance will not result in a diminution of the surrounding property values whereas this is an allowed use within the zone. There are no nuisances generated by the addition of a small single-family garage that would devalue abutting land owners.
4. *Granting the variance would do substantial justice.*
Granting the variance provides substantial justice whereas it provides a benefit to the applicant that far outweighs any detriment to the ordinance, abutting land owners or the community at large. Approval will permit a reasonable use of the property.
5. *Granting of the variance would not be contrary to the public interest.*
Granting the variance is not contrary to the public interest given the non-conforming status. The proximity to the front boundary line is not known by the general public and will appear no closer to the street than the closest abutting land owner. In-fact this provides a congruent streetscape when the two are compared. The ordinance intends to permit reasonable uses of the property that do not markedly change a neighborhood and this proposal keeps within that interest.

Mr. Berry submitted, for the record, a letter from the closest abutter. (V. Price put a copy for the case file.)

Mr. Berry discussed in closing that in this particular case, he has pointed out that the gain to the applicant here is actual more usable space, additional parking space. In the application he points out in the application that currently you can fit two cars in the driveway. Mr. Berry stated that between the edge of pavement and the front face of the structure, this will actually allow for the applicant to park within a garage structure to cars within a garage and will allow for visitors and family members to come visit without an imposition on the surrounding traffic infrastructure. He finished by explaining the roadway infrastructure by allowing the site to have additional parking and so denial of the variance would be an imposition on the applicant and approval of the variance would not undermine the ordinance whatsoever.

T. Hardekopf opened public comment.

T. Hardekopf closed public comment.

T. Hardekopf asked V. Price to read the letter from the abutter into the record:

I, Scott Proctor am aware of the proposal to build a two-car garage addition at 55 Cate Rd., Barrington, NH 03825. I am aware that the setback between my property line at 53 Cate Rd. and the property line at 55 Cate Rd. will be reduced to 16.2'. I approve this change and do not have any outstanding questions or concerns.

Respectfully,

Scott Proctor

Sign:

Date:

Handwritten signature of Scott Proctor and the date 12/16/23.

Mr. Berry stated that he had one final comment, the additional space above the garage is additional living space, meaning it's a small sitting room or family room. He stated to the board to reference the renderings that we provided, this does not create additional bedroom space and does not create a ADU space, and I think that's important when we're talking about adding additions through the use of variances and overburden of the lot.

A motion was made by A. Simocko and seconded by C. Huckins to approves the variances because special conditions exist such that literal enforcement of the ordinance will result in unnecessary hardship to the applicant as defined under applicable law, because this is a non-conforming lot with a structure situated such that there is no way to comply and add this modest addition and granting the variance would be consistent with the spirit of the ordinance and not contrary to the public interest because there's no imposition and the garage is in keeping with this cluster of nonconforming lots and homes. There are no present objections that have been presented to this board of granting this variance will not result in a diminution of surrounding property values, because good structure support, good property values, and there's no indication from what's been presented today that this would cause any negative impact on the applicable property or the surrounding properties. But probably would result in a positive impact and granting this variance would do substantial justice because it allows a modest improvement on a structure which is non-conforming and to which the zoning ordinances cannot apply without prejudice for the owners. The motion passed unanimously.

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

J. Flanagan - Yay

P. Thibodeau-Yay

T. Hardekopf-Yay

B. NEW APPLICATIONS:

1. [226-50-14-Appeal \(Owners: Daryl & Michelle Kelly\)](#) Request by applicant for appeal of an administrative decision that a variance is required from Article 3, Section 3.1.6 Site Plan Review Regulations and Article 19 Commercial Keeping of Farm Animals at 17 Coachman Drive (Map 226, Lot 50-14) in the Neighborhood Residential Zoning District. BY: Brian R. Barrington, Coolidge Law Firm; 98 high Street; Somersworth, NH 03878.

T. Hardekopf read the application description.

Brian R. Barrington, Coolidge Law Firm; 98 high Street; Somersworth, NH 03878, is representing the owners, Daryl & Michelle Kelly at 17 Coachman Drive.

T. Hardekopf addressed the board that they have heard portion of this case prior, stating its at least fundamental, however, the presentation tonight they have to view it as a whole new case.

Mr. Barrington stated that the prior variance request had a lot of evidence presented and exhibits. He stated that he thought it proper to reference the variance case and the evidence and the and the proceedings that went in there that that the evidence could be consolidated for the record for for this decision as well. He explained they're entirely consistent with each other. He addressed the board, that what happened in this case is that a neighbor complained that they felt that there were too many animals on the lot, and the code officer doing his best to interpret the statutes as it. He continued to explain that if you get a variance then this would take care of it as the cases developed, one of the most important statements by the author of the zoning ordinance is that they really hadn't considered goats and they hadn't considered miniature goats, which is really quite a separate and distinct species. Mr. Barrington stated that they went through in the attachment to the appeal and and also happened during the zoning variance request, the math involved. He stated that when the math is applied, the animal density requirement of one per 5,000 square feet for chickens, ducks, rabbits and other similar applies, and there is 1.976 acres/ 85,272 square feet. If you looked at it that way, you would allow 17 chickens, ducks, rabbits or similar animals. He explained that if you use the large animal definition which starts in size with sheep and then goes up to cows and horses, then you would have to have have a variance. He stated that in deciding this appeal, you have to just see that there is no black and white answer from the variance. He addressed the board they are trying to decide the impact upon the land, which is what zoning is about, is the impact upon the land while looking at a miniature goat more similar to rabbits, chickens and ducks, or as the impact upon the land of a miniature goat more similar to a sheep or a cow and a horse. Mr. Barrington stated that everyone here and a semi-rural community can appreciate the size difference and the manure production and the noise of these two different types of animal groups. He stated he has a witness to testify as to the nature of miniature goats and that's it's a question of fact whether people who are more familiar with these animals can give better evidence. He emphasized that he wanted the board to realize that this is not a case of a non-conforming use. This is not a case of someone doing something which the zoning ordinance didn't think should ever happen. This is in the Neighborhood Residential, this is known to be in more rural areas of the town and a lot of places, it would be called an agricultural rural district. Mr. Barrington emphasized that it's specifically allowed for the keeping of animals and it's specifically understood that commercial farm operations or any types of animals shouldn't be there. He explained that a lot of people in especially the whole movement called homesteading and self-sufficiency, use of the land have a small amount of

animals that are for their personal enjoyment and use and and pets and and frankly, miniature goats are often a pet, often in the house as as it say, so that is the the decision that has to be made by the board.

T. Hardekopf asked Mr. Barrington the average weight of a sheep.

Mr. Barrington stated that others will testify, but he estimated 75 pounds is a fair size for the smallest sheep or lamb I can think about, but I'd like to defer that to the people who know about these more.

T. Hardekopf asked Mr. Barrington the particular goat.

Mr. Barrington stated he would refer to the to the other person presenting.

Michelle Kelly, 17 Coachman Drive, Barrington, NH 03825, approached the podium to speak.

Mrs. Kelly presented materials to the board, and for the case file, informational material about the chickens and the goats.

T. Hardekopf addressed Mrs. Kelly by asking in your testimony that you give short summation of what you've presented so that people who will review this online know what's being reviewed and will enter the three pages into the case file.

Mrs. Kelly stated to the board, as Mr. Barrington stated, the main reason for us obtaining chickens and goats was for small homesteading scenario. The benefit of the goats would be to produce milk for cheese and other beneficial milk-based applications. The chickens are free range chickens and research has proven that free range chickens produce much better eggs. She explained that the chickens are happier, healthier, and the eggs they produce have a have an explanation exponentially improved health benefit to them. Mrs. Kelly stated that their reasoning was not just for the benefits they provide but also for the companionship. She explained she is semi-retired and also looking to at the beneficial side from the standpoint of therapy.

T. Hardekopf asked Mrs. Kelly is there is anyone in her home that has a written doctors review for a service companion animal.

Mrs. Kelly answered no.

Mrs. Kelly stated that two of her sons have been diagnosed on the autism spectrum and they enjoy the animals if a but of course I don't have a doctor ordering it as medically necessary. No, but it has been shown that goats connect more like dogs. She stated they're very intelligent and they know their names and the chickens free range, they benefit in that they remove the ticks. She stated they have no ticks since having the chickens. She explained that her son was diagnosed with Lymes at one point as he was bitten by ticks on our property. Mrs. Kelly said that she prefers not to spray chemicals on my property to eliminate ticks. The chickens do a great job the the goats. One of the benefits she was hoping to use the goats for was to eradicate Poison Ivy. Mrs. Kelly emphasized that again, not wanting to spray herbicides and poisons on the property because it affects the other, the wild animals as well as the animals on the property, my children and so forth.

Mrs. Kelly stated that a question last time that was asked of me is why we chose to position the the space for the animals on the property, there are two reasons for why we chose to position the containment area for the animals where we did. She stated the first is that the leach field for our septic covers the whole mid area from our house to the first raised planting bed. This made it difficult to make it closer to the house. Mrs. Kelly stated the second reason is there are big boulders and in order to reposition them somewhere else for the benefit of the goats, it would require heavy equipment. That would require that the heavy equipment would drive over our leach field, which would then potentially damage the leach field. She explained that the reason, they chose to go ahead and put the containment area for the goats in the current location. She stated that they're not raising these animals for commercial use whatsoever. Mrs. Kelly emphasized that they don't sell eggs and have no plans of doing that. She stated that any extra eggs of chickens might lay they plan to give to friends and family and there's really no other now. Mrs. Kelly went on to explain the cost of feed versus the cost of eggs. She expressed that some points it can be argued that the store selling eggs sold in grocery stores could be cheaper specifically to as compared to feeding some chickens with animal feed. She addressed the board stating that the tradeoff is not is not good for us from the standpoint of the health benefits of the eggs that these chickens produce versus the eggs that I could get at the grocery store.

T. Hardekopf asked about the size of the goat.

Mrs. Kelly stated that the goats are about 40 pounds, about the size of a middle-sized dog, like Cocker spaniel or a little larger. She estimated that other average size of a sheep would be about 200 pounds.

T. Hardekopf asked about some material she read on the goats, she asked about how they go into heat every month, not once a year and asked if this was correct information.

Mrs. Kelly stated they don't have a Billy goat.

T. Hardekopf asked Mrs. Kelly if they go into heat once a month.

Mrs. Kelly said she would like to defer to Larissa to answer.

Larissa Mullen, Tiny Hill Farm, 38 Willie Rd. in Milton Mills, NH 03852 introduced herself and approached the podium.

T. Hardekopf asked Ms. Mullen if these particular goats go into heat every month.

Ms. Mullen answered that all goats that are female will go into heat every 21 days. However, heat cycles for goats that aren't exposed to male goats, which we call bucks, they tend to be very, almost and unnoticeable. She stated that the majority of people have absolutely no idea when their animals are in heat.

T. Hardekopf asked Ms. Mullen about she read in reference material that in reference to this particular breed was that they're very verbal during the heat cycle, and you're indicating that that is only when there is a male present.

Ms. Mullen stated that is typically only when there's a male present. However, they aren't any nosier than they normally are throughout the day.

T. Hardekopf asked Ms. Mullen about the animal waste of goats.

Ms. Mullen explained Nigerian dwarf dairy goat and all goats are ruminants, so they have four stomachs. Those four stomachs are really very good at digesting their food. Their waste is kind of more akin to a rabbit, it's so well digested that there's not a lot of odors. They're able to digest a huge amount of hay and make it into a very small amount of waste. It's pelletized, so it's usually very it's spreads fairly easily. She explained that it's really very not too easy to notice, as she has a pen with 21 dairy goats in it on an acre and you walk in there and it's just grass growing up. Ms. Mullen stated that you don't really notice that there's appellants feces anywhere just because it disintegrates so so quickly, and it just gets dispersed amongst the grass. She addressed the board that can speak a little more about the size of the goats.

T. Hardekopf asked her to read that they're 17 to 19 inches in height.

Ms. Mullen answered yes. She stated that they are no way at all what I consider them to be a large livestock animal. She explained that they need specialized equipment due to their size because they are not a large livestock species at all.

J. Flanagan asked in general, what is the range of goat weigh.

Ms. Mullen answered when Nigerian dwarf dairy goats are born, two or three pounds large size, one of the largest area breeds we have in the US would be a Nubian or a Sanin. Those are maybe 250 pounds for adult bucks.

J. Flanagan asked that it would be fair to say some goats might be very equivalent to the size of a sheep, and we're saying that this particular breed is not.

Ms. Mullen answered that is would depend on the breed of sheep as well, because they also come in different sizes. He anticipated that there would be a similar issue as with goats.

T. Hardekopf asked Ms. Mullen an expert witness with 21 of these little goats are, are you required to have a variance in your particular municipality in order to operate a business for 21 of them?

Ms. Mullen answered no.

Ms. Mullen went to explain about the waste management. They are smaller animals. She gave the example of dogs where if you got a little teeny tiny Chihuahua and your poop scooping behind them, it's going to be not as much of a big deal as if you're poop scooping behind the Saint Bernard. It's significantly less waste and again, there's really no odor. She gave a personal testimonial that on her property she has a very large pen with a lot of goats and when anybody comes to visit, they say I didn't even know you had livestock here. She described that no means someone who's really good with manure management. They typically just let it compost naturally, so most folks don't know we have any livestock. They really have little to no odor whatsoever, and they're the kind of animal where you can have a whole big bunch of them, and people don't know they are there.

P. Thibodeau asked Ms. Mullen if she had experience with chickens.

Ms. Mullen stated yes.

P. Thibodeau asked Ms. Mullen if she has chickens on her property as well.

Ms. Mullen answered yes, we raise Exhibition Bantams and also raise different breeds of layers.

P. Thibodeau asked about the chicken waste odor, if it is more or less than goat waste odor.

Ms. Mullen stated that the goat's odor would be significantly less than chickens and that again is because their digestive systems are different. She explained that the chickens really aren't digesting as much, so the waste is not nearly as concentrated. Also, being birds, it's physiologically a little bit different since.

P. Thibodeau stated that goats are not free roaming, that they are kept in the pen.

Ms. Mullen stated that she would recommend anyone who has goats to keep them in a pen.

P. Thibodeau stated that the applicant mentioned that the goats eat Poison Ivy and eradicate it. He said that for the Poison Ivy and she prefers the goats eating it, then using a chemical to kill Poison Ivy on the property. So it just the question comes to mind, how are they eradicating the Poison Ivy off the property if they're kept in a pen?

Mrs. Kelly answered that temporary electric fencing can be installed. She stated that she has done some research on temporary electric fencing, and it can be installed around my tree areas that will contain the goats. She explained that when she needs them to graze down to the overgrowth of the of the Poison Ivy, and it's mostly between One Direction versus the other direction. She stated that she would not just cut them loose and let them run because they would be monitored or watched or contained within electric fencing.

P. Thibodeau asked Mrs. Kelly about her property sitting on the north side of an abutter to your right?

Mrs. Kelly stated that their property is north of the neighbor complaining.

P. Thibodeau stated that the next question as the the Code Enforcement officer's letter, and I do have a letter in front of me that he wrote, and he was talking about either moving the animals in a different location on your property. He stated Mrs. Kelly stated that you explain that that would be a hardship because of the location of your leach field getting heavy equipment back there. He stated when we were on your property doing a site visit for one me and and it came up at the last meeting, the the odor was really strong. He expressed if you are on the north side of the property that is complaining about order, then it order it stands to reason the wind's blowing predominantly from the north. He said that they're getting that odor now. P. Thibodeau expert testified that it's the chickens that are giving off the high odor instead of the goats. So it doesn't make sense.

Mrs. Kelly answered that she thought her testimony was that the that chickens would create more of an odor than a goat, comparatively speaking, and everybody's senses are different.

Mrs. Kelly stated that a board member at the site walk asked why does it smell so much better back there than it does up here by the road? Mrs. Kelly stated that she told her I couldn't explain that, so I guess your perception. She stated that she doesn't really don't smell anything during the rainy season, and we had a lot of rain this summer. She explained that the rain kind acts as a damper in a sense. She stated she was buying lots of the pine pellets to try and manage any kind of odor that could potentially be put off by the mixture of water and whatever because the animals do walk out of the chicken run, and they do come run around the the the yard and so forth there is that potential.

P. Thibodeau stated that he could testify to the smell the day he was out there, and walked to the Southside of the property and the odor was extremely strong. He said that now he just learned that it was from the chickens and not the goats, primarily. He also just learned that when it rains, it exacerbates these odors to the point where you smelled it yourself and you were trying to tone it down with some pine pellets.

Mrs. Kelly stated that was back in the summer.

P. Thibodeau stated again, regardless of when it was it, the fact is that that the odors were there and strong enough so that it was offensive to an abutter.

T. Hardekopf opened public comment.

T. Hardekopf asked V. Price to read the sections of the Zoning Ordinance that the code enforcement officer was applying to the case and to read it for the board.

V. Price read from the Zoning Ordinance,

3.1.6 Site Plan Review Regulations

All multifamily dwelling units and non-residential development shall comply with the Site Plan Review Regulations of the Town of Barrington.

Also the definition of:

Agricultural Use, Commercial Keeping of Farm Animals The keeping of domestic farm animals i.e. chickens, ducks, rabbits and other similar animals at a rate greater than 1 per 5000 sq. ft. of lot area, or for financial gain. The keeping of horses, cows, pigs, sheep and similar animals at a rate higher than 1 per 40,000 sq. ft. of lot area.

T. Hardekopf asked V. Price to re-read the definition of Agricultural Use, Commercial Keeping of Farm Animals.

V. Price re-read the definition of Agricultural Use, Commercial Keeping of Farm Animals.

J. Huckins addressed the board by reading from the Zoning Ordinance the definition of farm animal:

Farm Animals Cattle, calves, horses, mules, swine, sheep, goats, poultry or other similar birds and animals. It does not include house pets such as dogs, cats, or other similar animals.

J. Huckins stated what it comes down to is a miniature goat a farm animal or is it domesticated?

C. Huckins stated she would like to know how to define the term farm. She stated that she considers a farm, a working farm, as a money-making operation. Any animal kept on that farm is valuable to the farm's financial situation, and that's how I would determine a farm animal. She stated as a board they need to decide, she actually isn't doing a commercial farm. This is just a few animals on her property.

J. Huckins stated to look at zoning, farm definition of farm refers you to agricultural use, and agricultural use is what was read originally about the keeping of the commercial animals.

T. Hardekopf stated that clearly in the ordinance each of us could have an interpretation, but domesticated cats and dogs are being treated differently than any livestock is what I'm getting from this.

C. Huckins stated as someone who keeps chickens and about the odor she wanted to explain. In any odor that your smelling on that property comes from those chickens or geese. However, and it and it is, it makes sense that you'd smell it in one spot and not another, and she can't explain why. She stated that with the chickens sometimes the smell is great, and other times I'm standing right beside the coop and I can't smell it, but I can smell is when I open that coop door, even after it's just been cleaned, there is a slight odor.

T. Hardekopf opened public comment.

Chad and Lorrie Hodgdon 25 Coachman Drive, abutters to lot 17. Mrs. Hodgdon stated that she wanted to reiterate like last time that the farm is very close to our back deck. We are unable to have family dinners out on our deck or go out on the deck to read, and it's very close to our bedroom windows and living room windows in the spring, summer, or fall. We can't keep our windows open. We have to run the air conditioners and also have to keep our Windows closed due to the noise of the squawking and I don't know if it's the Chinese geese or the Roosters that are so loud. She explained that at 4:30 in the morning until bedtime or beyond that. She explained that that they cannot enjoy our property, it's a huge depreciation of our property as well. They want to sell because we're not happy with the situation and with the variance being allowed, it's going to depreciate our property and even for those properties around us as well.

T. Hardekopf clarified that this case is not about a variance presented before us is an administrative appeal and the board's decision is to be made whether or not the assistant zoning administrator should not have deemed this to require the variance to begin with. She explained that is what we're being presented with.

Mr. Hodgdon stated that he felt the original decision by the board was to deny the variance request for this, and they felt that the zoning boards were original decision was the correct one. It upheld the intent of the town of Barrington zoning Ordinance to protect the peaceful enjoyment of our property and our property values for adjoining lots and neighborhoods. He stated that they feel that they've been in violation of the zoning Ordinance for approximately eight months now for the excessive noise from the geese, the roosters, the the goats. The offensive odor is awful. During the spring, summer, and fall, I mean it is literally makes you sick to your stomach when it happens and it's difficult to to live in our property and not be able to go outside of our house and not be able to have people over outside without gagging. They continued to violate the zoning

ordinance with their free ranging chickens that continue to go on our property. It depreciates the property value of ours, like my wife said, if we were to sell the house, we'd have to sell it for a significantly reduced price due to the noise in the odor and the site. That affects not only our property, but if we have to set a lower price, now it affects everybody's property in the neighborhood because now we're set as a comp as a lower price. This is due, you know, not only from the odor, the sound and the site, but also the excess farm animals that they have on the lot that's more than allowed, per the zoning ordinance.

Mrs. Hodgdon stated there's also rundown our septic. There's rundown of waste that could be going right into our drinking water into our septic because we're downhill from them and where it's right on our property line.

Mr. Hodgdon stated that's our biggest concern. It's just we can't enjoy our property the way we should be able to. We also additionally did some research and found that there is a covenant in place for coachman estates that prohibits any farm animals and fowl from being maintained on any lot in the subdivision.

T. Hardekopf stated to the applicant that zoning boards are not able to enforce protective covenants. But you certainly can read the protective covenant we we are not here to enforce it.

Mr. Hodgdon stated the reason why I bring it up is because I think it just demonstrates the intent of coachman estates being a residential neighborhood, not farmland. He read from the covenants that no farm animals or fowl shall be maintained on any lot. A reasonable number of household pet shall be allowed but shall not be bred or maintained for purposes of resale. No animals shall create unreasonable noise or create a nuisance or annoyance to neighbors.

T. Hardekopf explained that your Neighborhood Association would have to pursue whatever you're pursuing. That has nothing to do with the zoning board, but I understand that was just to present the intent of the neighborhood.

Mr. Hodgdon said in closing that the zoning ordinance of Barrington was established to protect landowners from detrimental effects and uses of neighboring properties.

T. Hardekopf closed public comment.

T. Hardekopf addressed the applicant if there is anything else that you feel you would like to present from a legal perspective in reference to the zoning ordinances and definitions that we had read.

Mr. Barrington stated, I think you've hit all the points, but it is important to notice miniature goats come into the house and there are you looking at an alternative way of looking at the case is that they're more like a dog in a farm animal.

T. Hardekopf addressed the board that there are two motions that can be made in reference to administrative decision. Either the administrative officer used an appropriate description of the use of the property and that it is not permitted and that their decision, their original decision of bringing that forward was reasonable and applied appropriately, or the motion would be to

reverse the administrative officer's decision and that their reasoning in the case was not appropriate and that.

C. Huckins made a motion to override the decision of the administrative officer regarding the section 3.1.6, and then Barrington zoning ordinance, the administrative officer held with the proposed use, described the proposed use but was use of keeping a farm animal is not permitted because of reasoning, because they would were too many goats that put them over their allowed limit for animals. I find the decision to be inconsistent with 3.1.6 of the Barrington Zoning Ordinance, because my reasoning for this is from hearing the testimony of your abutters, the problem is the poultry. They're allowed to have poultry. The miniature goats are not farm animals as usable farm animals and I think the impact on their property is minor and to allow her to keep her goats, I think would be fair assessment of this. I think that would be fair to do because they are not the problem. The problem is the chickens, and she's allowed to have the chickens and geese as they are an allowable use on her lot. She stated that for the board to make a determination that she had to eliminate the goats wouldn't serve any purpose.

J. Flanagan stated her only comment was she (Mrs. Kelly) had a choice based on our discussion. It's not just about the goats. If we assume that they are farm animals, she could still conceivably keep the goats and get rid of the other animals.

T. Hardekopf stated the board is tasked with deciding whether the assistant zoning administrator applied the written zoning ordinance correctly and was the reasoning behind the original decision appropriate. We have a first and a second for reversing the decision of the administrating officer at this time.

A motion was made by C. Huckins and seconded by A. Simocko to reverse the decision of the administrating officer. Motion Failed 2-3.

Roll Call:

P. Thibodeau-Nay

A. Simocko-Yay

C. Huckins-Yay

J. Flanagan - Nay

T. Hardekopf-Nay

5. REVIEW AND APPROVAL OF MINUTES

A. Review and approve minutes of the December 20, 2023, meeting.

A motion was made by A. Simocko and seconded by T. Hardekopf to approve the minutes of the December 20, 2023; meeting minutes as written. The motion passed unanimously.

Roll Call:

A. Simocko-Yay

C. Huckins-Abstain

J. Flanagan - Yay

P. Thibodeau-Abstain

T. Hardekopf-Yay

6. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

V. Price addressed the board that there are zoning amendments going through the Planning Board Public Hearing process and wanted to notify the ZBA.

T. Hardekopf inquired about the response of a potential new ZBA member to V. Price.

V. Price will send out an application mailed to the interested member.

C. Huckins stated that she will be leaving the ZBA as it conflicts with her obligations on Wednesday evenings.

V. Price stated she needs the resignation in writing.

The board was sad to hear this and will be continually looking for ZBA members.

7. ADJOURN

A. Adjourn the Zoning Board of Adjustment (ZBA) Meeting. Next ZBA meeting date is February 21, 2024, at 7:00 P.M.

A motion was made by A. Simocko and seconded by T. Hardekopf adjourning the January 17, 2024, meeting at 8: 10 p.m. The motion passed unanimously.

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

J. Flanagan - Yay

P. Thibodeau-Yay

T. Hardekopf-Yay