

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
May 22, 2012

PRESENT: Charles Dahlquist
Tim Lederhaus, Chairman
Kevin Roth, Alternate
Donald Jablonski
Michael Bartus
Frank Loiars

ALSO PRESENT: Jane Trombley, Secretary
Brian Belson, Senior Building Inspector
Daniel Seaman, Town Attorney

The May 22, 2012 Zoning Board of Appeals meeting was called to order at 7:00 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

MOTION made by Member Jablonski, seconded by Member Dahlquist to approve the April 24, 2012 and March 27, 2012 minutes. 5 Ayes, 0 Nays, Carried.

CASE #1 6749 Old Beattie Avenue – SBL #152.03-2-21 – Jac-Lynne S. Ward –
Requesting a variance to operate a kennel. Jac-Lynne Ward presenting with Kimberly Gray. Ms. Gray stated her fiancé is Ms. Ward's son and lives in the home currently with his three dogs and they would like to get married, but she also has a dog and would need a variance for the 4th dog to live there. Ms. Gray stated her dog is a 9 year old German shepherd and only wants the variance while the dog is alive as the life expectancy is only about 10 years.

Chairman Lederhaus opened the Public Hearing.

Member Loiars asked if the yard is fenced in. Ms. Gray stated it has an electric cow fence in the back and the dogs are only out to "go" and don't stay out.

Member Jablonski asked about the dog's temperaments. Ms. Gray said her dog is very friendly and gets along well with other dogs.

Chairman Lederhaus asked if there will be breeding and Ms. Gray stated all the dogs are spayed and just family pets.

Attorney Seaman asked if there had been a complaint there in the past and Senior Building Inspector Belson stated yes, about a year ago when they had 4 dogs. Ms. Gray stated 1 dog had been given away at that time and the remaining dogs are all from the same litter.

Ms. Gray stated they have been maintaining separate homes for 5 years and they have been working on fixing up this home and maintain the yard to fit in with the neighborhood and feels the complaints were more because the house is old and needs work and doesn't feel when it is fixed up there will be any complaints.

Chairman Lederhaus asked how much the dogs will be out. Ms. Gray stated not for extended periods, only to do their business and then will go back in.

Member Jablonski asked if the dogs are AKC registered and what kind they are. Ms. Gray stated yes, 3 pit bulls and 1 German shepherd.

Member Dahlquist asked how large the lot is. Ms. Gray stated about 2 acres. Senior Building Inspector Belson stated it is 1.28 acres.

Attorney Seaman asked why there is an electric fence and Ms. Ward stated her son's father gave it to him as they couldn't afford a stockade or other nice fence.

Member Dahlquist asked if there is a doggie door and Ms. Gray stated yes, to the garage.

Chairman Lederhaus asked if the electric fence is underground. Ms. Ward said no, they only turn it on when the dogs leave the garage and are out.

Chairman Dahlquist asked how many strands and Ms. Ward thinks 4.

Chairman Lederhaus asked for Public Comment.

Karen Rohe of 6438 Sherwood Drive stated she lives right behind this property and has no problem with it. Ms. Rohe stated she has 2 dogs that are behind her 6' tall vinyl stockade fence and never hears the dogs that are there now.

Member Dahlquist asked who cleans up after the dogs and Ms. Gray stated her fiancé currently, but once they are married, she will probably be helping. Member Dahlquist asked if all the dogs are licensed with the Town and Ms. Gray stated yes.

Member Loiars asked when one dog passes away, will it be replaced. Ms. Gray stated no. Member Loiars asked what if two dogs pass away, will one be replaced and Ms. Gray stated probably not, she really doesn't want more than 2 dogs.

Attorney Seaman advised the Board that this is actually an area variance as dogs are an allowed use, they just want more than what is allowed and suggested the variance, if granted, be conditional on only having 4 dogs and the variance to expire when 1 dog dies and also to only allow them out to relieve themselves or only so many at one time.

Member Bartus asked if the neighbors had been notified. Ms. Gray stated she wrote a letter and took it to the 12 neighbors.

Hearing no further comment, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Loiars, seconded by Member Dahlquist to allow an area variance for Jac-Lynne Ward at 6749 Old Beattie Road to operate a kennel for 4 dogs, conditional on once a dog is decreased it will not be replaced and not more than 2 dogs out at a time, with the variance expiring on the death of the first dog, based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood because of the conditions attached;
 2. The benefit sought by the applicant cannot be achieved by any other feasible method because the couple wishes to marry and combine their households;
 3. The requested variance is not substantial;
 4. The proposed variance as conditioned, will not have an adverse effect on the physical or environmental conditions in the neighborhood; and
 5. The difficulty was self-created due to the impending marriage of her son.
- 5 Ayes, 0 Nays, Carried.

CASE #2 **6583 Royal Parkway North – SBL #138.2-1-17 – Betsy J. Farkas** – Requesting a variance to own farm animals in a residential district. Betsy J. Farkas presenting. Ms. Farkas states she would like to have 2 Nigerian pygmy goats, feels they are an animal she can maintain on her property and has spoken with her neighbors and they have all signed the paper she presented to them. Ms. Farkas stated the neighbor on the west will be the most impacted and she has underlined his name and the neighbor to the south will be able to see them, but no neighbors had any problem with the animals.

Chairman Lederhaus asked if her back yard is fenced in. Ms. Farkas stated she has a chain link fence but plans to cut her lawn in half in the back to keep the pygmies separate from her 2 dogs.

Member Jablonski asked what kind of dogs. Ms. Farkas stated a boxer mix, both registered and up on their shots.

Chairman Lederhaus asked if one will be male and one female and Ms. Farkas stated no, the 2 she has reserved are both females, she doesn't want a male as they have a horrible smell and can be aggressive when rutting.

Member Jablonski asked where they will come from and Ms. Farkas said Afen, and they are about the size of a dog, not more than 70 pounds.

Chairman Lederhaus asked if they will be kept in the house and Ms. Farkas said no, she will get a Heritage structure shed that will have a stall in it.

Chairman Lederhaus asked what she will do with the waste and Ms. Farkas said she will use pine shavings that are biodegradable and will put them in her garden. Ms. Farkas stated she has a neighbor with cows and horses that she can hear.

Attorney Seaman stated this would be for a use variance and in an R1 district, farm animals are not allowed, and a lack of economic return is required for the use variance.

Ms. Farkas stated this is her hobby as she loves animals and this won't impact anyone else. Ms. Farkas stated people had told her to just do it without getting the variance and she doesn't want to do that as she wants to teach her children to accept responsibly and felt this was an opportunity in life lessons. Attorney Seaman stated what about people having sheep, cows or horses in their backyards, the district doesn't look at the size of the animal, but at the allowed uses. Demonstration of economic hardship is necessary for a use variance. She has not advised any claim of hardship. Senior Building Inspector Belson stated people call frequently asking to have chickens in their yards. Ms. Farkas stated she sees their point but that pygmies are smaller than the average dog and safer as they don't have any bottom teeth.

Member Jablonski stated basically the Boards hands are tied unless the Town Board changes the zoning and Attorney Seaman agreed.

Member Loiars asked Ms. Farkas what if her neighbors wanted horses or cows and Ms. Farkas stated personally she wouldn't care but lot sizes wouldn't allow it. Member Loiars asked what pygmies eat and Ms. Farkas stated grass hay and supplements are safest.

Chairman Lederhaus asked how large her backyard is and Ms. Farkas stated about 80 x 50' and the shed will take away 8 x 10', but she would like to eventually open up the whole backyard, as they are pets.

Member Dahlquist asked how much hay she would need to store and Ms. Farkas stated it would be stored in the shed and one bale would last a long time as they don't each much.

Chairman Lederhaus asked for Public Comment. Two children with Ms. Farkas stated they are for it and Ms. Farkas stated she had spoken with her neighbors and they are for it. Ms. Farkas stated goats are the 2nd most popular pets and these are bottle fed and hand raised, not raised for consumption as farm animals are, but raised for pets.

Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Loiars, seconded by Member Jablonski to deny a use variance to Betsy J. Farkas at 6583 Royal Parkway North to own and harbor farm animals in a residential district based on the following findings:

1. There has been no showing of substantial financial hardship and no evidence of lack of financial return if the variance is not granted;
2. There is no unique hardship demonstrated;
3. The requested variance will alter the essential character of the neighborhood because it introduces livestock into a residential neighborhood; and
4. The hardship is self-created.

5 Ayes, 0 Nays, Carried.

MOTION made by Member Jablonski, seconded by Member Bartus to accept tonight's decisions. 5 Ayes, 0 Nays, Carried.

The next Zoning Board of Appeals meeting will be June 26, 2012 at 7:00 pm.

MOTION made by Member Jablonski, seconded by Member Bartus to adjourn. 5 Ayes, 0 Nays, Carried.

**BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS**