

Hamlin Zoning Board of Appeals *Minutes*
Monday, December 19, 2011
7:30pm

The regular scheduled meeting of the Hamlin Zoning Board of Appeals was held in the Hamlin Town Hall located at 1658 Lake Road, Hamlin and was called to order by Chairperson Norman Baase at 7:30pm with the location of the fire exits and AED explained for those present.

Present: Norman Baase, Rocky Ellsworth, Ed Haight, Jerry Hoffman and Klaus Pohl.

Also present: Town Board Liaison Craig Goodrich, Support Boards Attorney Ken Licht, Building Inspector Lee Nettin, Planning Board member Tom Jensen, Conservation Board members Nick Kramer and Ed Evans and residents Lorraine Vyverberg, Allen Wannamaker, Art and Shirley Holcomb, Marty Maier, Judy Hazen, Richard and Susan Sullivan.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to approve the minutes of the November 21, 2011 meeting as recorded. Members polled Baase aye, Ellsworth abstain, Hoffman aye, Haight aye, Pohl aye. Motion carried.

At this time Chairperson Norman Baase turned the meeting over to Vice Chairperson Rocky Ellsworth.

Vice Chairperson Rocky Ellsworth asked for nominations for Chairperson for 2012.

A motion was made by Klaus Pohl, seconded by Ed Haight to nominate Norman Baase as Chairperson for 2012. There were no other nominations. Nominations for Chairperson were closed. Members polled Baase abstain, Ellsworth aye, Hoffman aye, Haight aye, Pohl aye. Motion carried.

The meeting was turned back over to Chairperson Norman Baase.

Chairperson Norman Baase asked for nominations for Vice Chairperson for 2012.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to nominate Rocky Ellsworth as Vice Chairperson for 2012. There were no other nominations. Nominations for Vice Chairperson were closed. Members polled Baase aye, Ellsworth abstain, Hoffman aye, Haight aye, Pohl aye. Motion carried.

The Clerk showed the Proof of Publication

**PUBLIC HEARING
JUDITH HAZEN
3344 BRICK SCHOOLHOUSE ROAD**

Judith Hazen was present seeking relief from Town Codes 520-41C(1)(b) for a 35' side setback variance for barn #2 to keep animals, 520-27C for a 43' front setback variance for a barn in front of the front foundation of the house, 520-41C(1)(a)(1) for a 0.1 acre variance to have animals on a lot less than 5 acres and 520-41C(1)(a)(1)(a) for a variance to have two additional adult animals on the lot for a total of 4 adult animals allowed located at 3344 Brick Schoolhouse Rd. Judy Hazen explained that they purchased the house in 1981 and the lot was 5 acres. The State changed where the acreage was measured from to determine lot size and the lot was under the 5 acre requirement needed to have animals. She needs several variances for the lot size and barn on the property to keep animals. She also needs a variance for an existing barn that is in front of the house. She is asking for a variance to have two additional adult animals on the property for a total of 4 adult animals allowed.

At this time Chairperson Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal. There were no replies.

At this time Chairperson Norman Baase closed the Public Hearing.

A motion was made by Rocky Ellsworth, seconded by Jerry Hoffman to grant relief to Judith Hazen for Town Codes 520-41C(1)(b) for a 35' side setback variance for barn #2 to keep animals, 520-27C for a 43' front setback variance for a barn in front of the front foundation of the house, 520-41C(1)(a)(1) for a .1 acre variance to have animals on a lot less than 5 acres and 520-41C(1)(a)(1)(a) for a variance to have two additional adult animals on the lot for a total of 4 adult animals allowed all located at 3344 Brick Schoolhouse Rd. This is a pre-existing lot. There is no other means to achieve the benefit. No adverse effects to the neighborhood will be caused. This was not self created. This is the minimum to provide relief. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Hoffman aye, Haight aye, Pohl aye. Motion carried.

LORRAINE VYVERBERG
811 CHASE ROAD

The following statement was read by Klaus Pohl:

ZONING BOARD OF APPEALS
TOWN OF HAMLIN

RESOLUTION

WHEREAS, Lorraine Vyverberg, owner of Dakota Creeks Alpacas, is seeking relief from Town Codes 520-41(C)(1)(c) for 8' variance for a manure pile setback, 520-41C(3)(c)(2) for a 25' variance to have a fence for animals closer to her lot line, 520-41C(3)(c)(1) for a 14' setback variance to have a fence for animals closer to a dwelling, 520-31D for a variance to keep dogs in an existing shed and 520-37B(23)(a) and for a 15' sign setback variance on her property located at 811 Chase Road, and

WHEREAS, a public hearing was held on November 21, 2011 at which time the applicant and several neighbors spoke, and

WHEREAS, members of the Zoning Board have visited the site, reviewed all material submitted by the applicant and considered the remarks made by the neighbors at the hearing.

The Board makes the following findings:

1. The applicant's land is located within an existing agricultural district created pursuant to Section 303 of the Agriculture and Markets Law ("AML").
2. The Agricultural Protection Unit of the State of New York Department of Agriculture and Markets issued an opinion dated August 15, 2011 that the business of Dakota Creeks Alpacas owned by the applicant is part of a farm operation as defined in Section 301(11) of the AML.
3. Section 305-a of the AML provides that local governments, in administering land use regulations, shall not unreasonably restrict or regulate farm operations that do not constitute a threat to public health or safety.
4. Requiring the applicant to comply with the setback requirements for fencing to contain the alpacas and for a manure pile would unreasonably restrict a farm operation.
5. Use of the existing shed on the premises for maintenance of alpacas is reasonably incident to the raising of alpacas and does not constitute a threat to public health or safety.
6. During the public hearing on November 21, 2011 several neighbors stated that the applicant's dogs frequently barked loud enough to annoy the neighbors.

7. Raising dogs is not part of a farm operation as defined by Section 301(2) of the AML.
8. The shed where the dogs are maintained is a fully enclosed and insulated structure. Maintenance of dogs in this structure does not constitute a detriment to nearby properties.
9. The existing sign near the road right-of-way identifies the agricultural use and is no threat to public health or safety.

The Board hereby grants the applicant for her property at 811 Chase Road, Hamlin, New York a variance from Section 520-41C(3)(c)(2) for a 25' variance to have a fence enclosure for animals closer to the lot lines, and a variance from Section 520-41C(3)(c)(i) for a 14' setback to have a fence enclosure for animals closer to applicant's dwelling, a variance from 520-37B(23)(a) for a 15' sign setback variance identifying applicant's agricultural business, and a variance from Section 520-31D to keep dogs in an existing fully enclosed and insulated shed.

The Board also grants the applicant a variance from Section 520-41C(1)(c) for an 8' variance to have a manure pile closer to the lot line with the following conditions:

1. The manure pile must be used only for alpaca and horse manure.
2. The manure pile must be located and maintained so that there is no drainage from the pile to neighboring properties.

The motion was seconded by Ed Haight. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth abstain, Hoffman aye, Haight no, Pohl aye. Motion carried.

**VESTY SUBDIVISION
81 ROTHS COVE**

Rich Maier from DDS Engineers was present representing Warren and Deborah Vesty seeking relief from Town Codes 520-24D(1)(15) for a 62' setback for a septic within 150' of the flood plain, 520-21C(1)(a) for a 1.05 area acre variance, 520-21C(2)(c) for a 7.9' front setback variance and 520-27C for a 9.7' side setback for the detached garage located at 81 Roths Cove. Mr. Maier explained that the owners just purchased the two separate lots and would like to combine them for tax purposes. There is an existing house and garage on one lot and the other lot is vacant. Several variances are needed for the proposal.

A motion was made by Rocky Ellsworth, seconded by Ed Haight to schedule a Public Hearing for Warren and Deborah Vesty for January 16, 2012 at 7:30pm seeking relief from Town Codes 520-24D(1)(15) for a 62' setback for a septic within 150' of the flood plain, 520-21C(1)(a) for a 1.05 area acre variance, 520-21C(2)(c) for a 7.9' front setback variance and 520-27C for a 9.7' side setback for the detached garage located at 81 Roths Cove. Members polled Baase aye, Ellsworth aye, Hoffman aye, Haight aye, Pohl aye. Motion carried.

Mr. Maier was reminded to have his fees into the Clerk by the deadline and that the Board would be looking at the property January 14, 2012 after 10:30am.

DISCUSSION

Chairperson Norman Baase stated that the Lot Combinations needed to be changed so that variances wouldn't be required for existing lots when no changes are being made. Town Board Liaison Craig Goodrich stated that they could address that at the Zoning Workshops.

Chairman Norman Baase wished everyone a Merry Christmas and Happy New Year from him and his wife.

Planning Board member Tom Jensen wished everyone a Happy Holidays and stated that the Planning Board looked forward to working with the Zoning Board next year.

Town Board Liaison Craig Good rich wished everyone a Merry Christmas.

ADJOURNMENT

A motion was made by Ed Haight, seconded by Rocky Ellsworth to adjourn tonight's meeting barring no further business. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Minutes respectively submitted by:

Heather Norman
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Zoning Board of Appeals will be held on Monday, January 16, 2012 at 7:30pm. Deadline for all fees is January 3, 2012 at 12:00 noon.