

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
JULY 7, 2010**

Members Present: Peter Barber, Chairman  
Sharon Cupoli  
Susan Macri  
Allen Maikels  
Mike Marcantonio  
Tom Remmert  
James Sumner  
Charles Cahill, Alternate  
Stephen Parker, Counsel

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Acting Chairman Maikels opened the meeting and pointed out the emergency exits in the event they were needed.

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**NEW CASES:**

**MATTER OF HENRY MATALA – 3023 LILLIAN ROAD**

Sue Macri read the legal notice:

Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will hold a public hearing pursuant to Articles **III & V** of the Zoning Law on the following proposition:

**Use Variance Request No. 4216**

Request of **Henry Matala** for a Use Variance of the regulations under the Zoning Law to permit: **the keeping of up to four laying hens in a single-family zone.**

Per Articles **III & V** Sections **280-14 and 280-51** respectively

For property owned by: **Henry Matala**

Situated as follows: **3023 Lillian Road Schenectady, NY 12303**

Tax Map # **15.10-1-36** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 7<sup>th</sup> of July, 2010 at the Guilderland Town Hall beginning at 7:30pm.

Dated: June 23, 2010"

The file consists of the mailing list to 73 neighboring property owners, the Town's required forms for a use variance to allow for the 4 hens, a Short Environmental Assessment Form for an Unlisted Action under SEQRA, a narrative from the applicant in support of his application, a letter from the property owner at 3018 Evelyn Drive objecting to the granting of the variance and articles published regarding the keeping of chickens.

Henry Matala, applicant, presented the case. Mr. Matala stated that they had bought the chicks for his children. Mr. Matala stated that he did read the Town Code before purchasing the chickens but did not find any reference that prohibits chickens in a residential zone or which kind of pets are allowed or which kind of birds are allowed in Guilderland. Mr. Matala stated that they had received a violation notice which tell what is allowed in a residential zone, but not what is not allowed. Mr. Matala asked if there is any reason why someone in Guilderland cannot have a bird for a pet.

Chairman Barber replied that he cannot speak for all birds, but he might want to look at Section 280-13 to see what the permitted uses are allowed in an agricultural zone.

Mr. Matala stated that they are not breeding or selling the chickens as he does not have a rooster to breed with the hens. Mr. Matala emphasized that the chickens are pets only. Mr. Matala stated that animal husbandry is the cultivation or production of animals or plants, which they are not doing. Mr. Matala stated that they had checked with their immediate neighbors and they do not have an issue with it. Mr. Matala stated that they went around to all of their neighbors with a petition to keep their chickens and they have 50 signatures of people in the neighborhood who have no issue with the chickens; there is only one neighbor that does have an issue with it, and that neighbor is at least 8 houses away from their property.

Chairman Barber asked if they did have a rooster at one point.

Mr. Matala stated that they did initially, it was a mistake and they have given it away. Mr. Matala stated that the rooster did make noise, but that the hens do not crow and they are very quiet.

Susan Matala stated that when they first got the chickens, they went to the immediate neighbors to make sure that nobody had an issue with it. Ms. Matala stated that as soon as they found out that someone had an issue with a rooster, they got rid of him almost immediately. Ms. Matala stated that the location of the neighbor that is opposed to the chickens is very close to the thruway, which is very loud and she said it is hard to fathom that they can even hear the chickens.

Mr. Matala stated that Tim Holloran, who is a police officer who lives right next to the neighbor who objects to the hens, said that he cannot hear the hens in the yard. Mr. Matala stated that the neighbor on the other side of the objecting neighbor stated that she cannot hear the hens either.

Lilliana Matala, daughter of the applicant, presented material regarding the benefits of chickens as pets.

Susan Matala stated that the chickens provide pest control and their neighbors have noticed a reduction in the number of mosquitoes, etc. in the area.

Mr. Matala submitted two letters from neighbors in favor of keeping the chickens.

Tom Remmert asked how much the hens weigh.

Ms. Matala replied that they are about 3 or 4 pounds.

Ed Gorga, friend of applicant and a lifelong farmer, classified chickens as being from the same biological order as parakeets and stated that these chickens were definitely pets.

There was discussion if the same argument could be applied to the keeping of pigs, cows or horses.

Chairman Barber made a motion to close the public hearing. Motion seconded by Al Maikels. Vote 7 – 0.

Chairman Barber stated that he would like to give this more thought and take into consideration setting a precedent. Chairman Barber stated that he would like to continue this case for decision only until the first meeting in September.

Ms. Matala stated that chickens and rabbits should be treated the same. Ms. Matala stated that equating their four hens with animal husbandry would be similar to equating a backyard garden with farming, it is on a completely different scale.

There was discussion as to whether a special use permit or a use variance was needed.

Chairman Barber stated that the question is do you need a use variance because it is farming activity or do you need nothing because it is a pet. There is no special use permit to have a pet.

Chairman Barber made a motion to adjourn this case to the first meeting in September. Motion seconded by Sharon Cupoli. Vote 7 – 0.