

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
SEPTEMBER 5, 2012**

Members Present: Peter Barber, Chairman
Sharon Cupoli
Mike Marcantonio
Tom Remmert
Nicole Ventresca-Cohen, Alternate
James Sumner
Janet Thayer, Counsel

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

CONTINUED CASES:

GAUTAM AITCH – 6 ILDRA LANE

Chairman Barber stated that this case was continued to this evening to compare Mr. Aitch's request for the keeping of chickens with the Board's prior review of a similar request back in March 2011.

Chairman Barber made a motion regarding:

Interpretation Request No. 4347

Request of **Gautam Aitch** for an Interpretation under the Zoning Law to: **determine if the keeping of up to 10 laying hens is consistent with the purpose of a single-family zone.**

Per Article **V** Section **280-56**

For property owned by **Gautam Aitch**

Situated as follows: **6 Ildra Lane Albany, NY 12203**

Tax Map # **51.04-1-26.2** Zoned: **R15**

This is the second request for an interpretation regarding the keeping of chickens. In March of 2011 the Zoning Board issued an interpretation that was expressly limited to the facts of the case based upon the specific circumstances of how the chickens were being maintained. This application involves a personal, not a commercial use and therefore does not constitute a farming or agricultural activity which is limited to agricultural zones. The sole issue is whether this particular family's keeping of chickens for personal, non-commercial reasons is a compatible use which is a phrase used in Section 280-14 for

a single family residence. The Board has had the benefit of seeing how this family has kept their chickens and how this family has demonstrated adherence to health standards in taking steps as such in this case of removing roosters to minimize the impact on neighboring property owners. Moreover, at the prior public hearing six neighbors appeared and all six expressed support in favor of the application. For these reasons, the Board finds that the family's keeping of chickens constitutes a compatible in this residential neighborhood within the meaning of 280-14.

This interpretation is based upon the continued compliance with the certain conditions to ensure that the use is compatible with residential standards:

- 1) Continued adherence to the representations contained in the application.
- 2) No roosters are allowed.
- 3) The number of hens shall be a dozen or less.
- 4) The henhouse and chicken fence shall be maintained as stated in the application and shall be treated as accessory structures.
- 5) No odors or noise shall be perceptible beyond the property boundaries.
- 6) The Zoning Administrator is authorized to inspect the operations of the keeping of chickens for compliance with the conditions and shall seek any appropriate action necessary to address any risk to public health or comply with any conditions.

Motion seconded by Tom Remmert. Vote 5 - 0.

MATTER OF EDWARD MARSH – 103 – 105 HILTON LANE

Chairman Barber stated that this is a continuation of a public hearing that involves variances under NYS Town Law Section 280-A regarding road frontage. Chairman Barber stated at that time the Board had some questions and since that time Mr. Victor Caponera is now representing the applicant and has addressed those concerns in his correspondence.

Mr. Victor Caponera gave a history of the properties. Mr. Caponera presented reasons that Hilton Lane is an acceptable access to the dwellings it serves. Mr. Caponera stated that the same family has owned this property for over 75 years and the Marsh's grandparents legally subdivided this property many years ago. Mr. Caponera stated that these lots exceed the minimum requirements for an R-15 zone. Mr. Caponera proposed an easement to address maintenance of the road surface.

Chairman Barber asked if there would be any further subdivisions on this road.

Mr. Caponera stated that there would not be any further subdivisions.

Chairman Barber asked about the lots on Dewberry Court and their access to Hilton Lane.

Mr. Caponera stated that no lots on Dewberry Court will have access to Hilton Lane though one lot on Hilton Lane may choose to access Dewberry Ct. in lieu of Hilton Lane in the future.

Chairman Barber stated that the easement is for many reasons; one reason is to assure the Town that the road will continue to be maintained so that Town emergency vehicles will be able to have safe passage. Chairman Barber stated that the easement has some importance in the Board's consideration. Chairman Barber asked Mr. Caponera to describe the proportionality.

Mr. Caponera replied that it has to be further defined in the easement; the whole purpose of the easement is to ensure that it is maintained in the future for users and emergency vehicles.

Chairman Barber asked what "maintaining" meant; does it include snow removal.

Chairman Barber asked if there is a mechanism that gives the town the ability to bring the road up to the minimum standard that the Town has for a driveway.

Chairman Barber asked if there were any questions or comments from the residents.

Tony Haas of Hilton Lane spoke of his concerns regarding the road maintenance agreement.

Chairman Barber made a motion to continue the case to October 3, 2012 to address the road maintenance agreement and for counsel to review the subdivision law. Motion seconded by Tom Remmert. Vote 5 – 0.

SIGNS:

The Board approved a sign modification for 1826 Western Avenue.

The meeting adjourned at 8:17pm.