

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: JUNE 17, 2015

CASE NO.: 6/17/2015-1

APPLICANT: MICHELLE SANBORN
42 CLARK RD.
LONDONDERRY, NH 03053

LOCATION: 42 CLARK ROAD, 15-93-3, AR-1

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
JACKIE BENARD, VOTING MEMBER
JIM TIRABASSI, VOTING MEMBER
ANNETTE STOLLER, VOTING ALTERNATE
BILL BERNADINO, NON-VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING INSPECTOR/ZONING
ADMINISTRATOR/HEALTH OFFICER

REQUEST: VARIANCE TO ALLOW LIVESTOCK ON A RESIDENTIAL PROPERTY WITH
LESS THAN TWO ACRES AS REQUIRED BY SECTION 2.3.1.4.A [FORMERLY
SECTION 2.3.1.4.1].

PRESENTATION: N. DUNN READ THE CASE INTO THE RECORD. NO PREVIOUS CASES. NO
LETTERS.

JIM SMITH: Okay, who will be presenting?

DOUGLAS FORESTEIRE: I will sir.

JIM SMITH: Okay, you want to approach one of the mics and...want to identify yourself and street address?

DOUGLAS FORESTEIRE: Good evening Council. My name is Douglas Foresteire, 42 Clark Road. Michelle Sanborn is my wife. I'm appearing in her behalf. We are appearing for a variance for poultry. It's not so much livestock. I'm not sure if that's all bunched in? Eight hens, we have eight hens. No roosters. Nothing loud. Nothing out of control. There housed at the back end of our property. Well over seventy feet from the road. Virtually no visible sign of the coop from the road. Cleaned on a regular basis. There is no odor. There is no debris, and again they are all hens. No roosters. We just don't do the roosters because they're loud and obnoxious. They are family pets. We do not breed them. We do not sell them. We do not slaughter them.

45 My daughter hatches them from eggs and names them and we keep them. They are ninety-five percent of
46 the time in the coop, or in the chicken run. On occasion they are out of the chicken run when I'm cleaning
47 the coop. Directly behind us, Coke has purchased the property and it's a buffer zone. There's nothing back
48 there but a field and some dense woods. To the right of my property, Coke has also purchased that property.
49 Again, dense wood and vegetation. Nothing over there. To the left of my property, more dense woods and
50 44 Clark Road resides there. They're the closet abutter to my knowledge. Up to this point, I've had them for
51 six years. I've been on the property for twelve years. I've had up to sixteen chickens at one time, and down
52 to six. We presently have eight. Although while this has happened, my daughter's hatched two little babies.
53 Don't know if their hens, or roosters. If they are roosters, we give them away. So that's where we are total
54 wise. Do we anticipate on getting more? No. That is plenty enough for us, and I wanted to just reiterate
55 they're pets. They come when my daughter calls them. The children in the neighborhood feed them and
56 play with them. They you know, if you're not out back you don't see them. When they are out front, it's
57 briefly and it's to get bread of crumbs whatever the kids are playing with out there. I do have an older child.
58 A nine year old boy with autism and part of his autism is he has some sensory issues. The neurologist
59 suggested several years ago to maybe find a pet to help him with his sensory. There's some textures that
60 make him escalate and there's some textures that make his de-escalate, and we've tried kittens, and
61 hamsters, and guinea pigs, and rabbits, and chickens. He has gravitated towards the rabbit and one specific
62 chicken, and not to say that every day that's his thing. It rotates from Legos, to books, to the rabbit, to the
63 chicken, but those are his world and if you were to chop one of those things away...change is a big drastic
64 horribly difficult thing for him to handle. We're zoned A-1. The under two acres I certainly wasn't aware of
65 any of that. Again, I've had them six years and I had no clue that it was an issue at all to anybody, and if it
66 were I would just keep them in the run. I think that's about it for now.

67

68 JIM SMITH: Okay, how much land do you actually have?

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70 DOUGLAS FORESTEIRE: A little over half an acre.

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72 JIM SMITH: So, it's an under sized lot?

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74 DOUGLAS FORESTEIRE: It's been split. It's been in the family since 1942, and it's been split, and split, and
75 split, but we're roughly half an acre.

76

77 JIM SMITH: Okay, any questions from the Board?

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79 NEIL DUNN: Richard, how was it brought to your attention?

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81 RICHARD CANUEL: [Inaudible].

82

83 NEIL DUNN: I'm just thinking.

84

85 ANNETTE STOLLER: I have a question?

86

87 DOUGLAS FORESTEIRE: Yeah.

88

89 ANNETTE STOLLER: How did the complaint come about? Was there an issue that came up?
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91 DOUGLAS FORESTEIRE: You heard it before I heard it. I have no idea. If there was an issue, we certainly
92 could have...like I said, I have an eighteen by twenty run attached to the coop and they can stay in there all
93 day long. It just so happens when I do cleaning, I let them forage and get bugs and mosquitos and ticks. They
94 have a good old time then I call them and they go back in.
95
96 JIM SMITH: What was the nature of the complaint, Richard?
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98 RICHARD CANUEL: Complaints were the chickens migrating into the neighbor's property on to actually their
99 porch and front steps and defecating on the property.
100
101 JACKIE BENARD: If I may Mr. Chairman?
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103 JIM SMITH: Yeah.
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105 JACKIE BENARD: You claimed that you had sixteen at one time and that you're down to eight.
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107 DOUGLAS FORESTEIRE: Um hmm.
108
109 JACKIE BENARD: I guess how did you come to have so many and then go down to eight?
110
111 DOUGLAS FORESTEIRE: Well, we came to have some many...my daughter really, she's an animal person and
112 we got a cheap little incubator from Tractor Supply and ordered some eggs on line. There is no guarantee
113 with shipping eggs. You don't know if you'll get one, or all of them. We got most of them. A lot of them
114 were our roosters. Which we gave away. That would be the max at any time. The odds of getting eighteen
115 hens is ridiculous. The reason we went down...predators. We have foxes. We have coyotes. We have the
116 hawks up above.
117
118 JACKIE BENARD: How long have you had these eight?
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120 DOUGLAS FORESTEIRE: These eight have been for six years.
121
122 JACKIE BENARD: Okay.
123
124 DOUGLAS FORESTEIRE: Two of them are probably on their last days. I don't really think they last very long. I
125 was surprised they made it to this year. They don't produce eggs anymore, but their pets.
126
127 JACKIE BENARD: Thank you.
128
129 BILL BERNADINO: Did you say this was part of your...somebody...with ADA? Yeah, not ADH...his routine?
130
131 DOUGLAS FORESTEIRE: Yes, yes. You can't schedule it because you can't get in his head, but some days he
132 wakes up and it's Legos. Then some days he wakes up and it's the rabbit. Then some days he wakes and it's

133 a book. On the day where it's the chicken...I mean that is it. Until you...you can't alter that routine because
134 when you do it's really, really hard.
135
136 BILL BERNADINO: Now, is that done through your doctor? The doctor is...?
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138 DOUGLAS FORESTEIRE: Yeah, neurologist, Doctor Woods in Manchester.
139
140 BILL BERNADINO: So, basically under the Americans with Disability Acts, it's part of his treatment right now?
141
142 DOUGLAS FORESTEIRE: It's part of his treatment, yup.
143
144 ANNETTE STOLLER: Mr. Chair, may I?
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146 JIM SMITH: Go ahead.
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148 ANNETTE STOLLER: I just want to say that I understand the inability to make a change for your son.
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150 DOUGLAS FORESTEIRE: Um hmm.
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152 ANNETTE STOLLER: It's really difficult and animals are the best, as best as I know it, relationship for the
153 children with autism. I'm curious; did they recommend horses for the child? This has nothing to do with
154 this...
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156 DOUGLAS FORESTEIRE: No, actually we were going up. We started with the kittens, and then we went to the
157 gerbils and the hamsters and the guinea pigs. None of them did a thing for him. The rabbit did. It just so
158 happened that we had the chickens at the time, and it was just one certain one and it's a big fluffy white one.
159
160 ANNETTE STOLLER: Yeah, I'm familiar with it. My granddaughter went through those stages.
161
162 DOUGLAS FORESTEIRE: Yeah, yeah. So, that's seems to be...the other ones, he doesn't even know they exist.
163 He just knows which chicken it is.
164
165 ANNETTE STOLLER: Um hmm.
166
167 DOUGLAS FORESTEIRE: Again, the whole back of the property there is nothing. It's a buffer zone from the
168 Coca-Cola plant to us, and the same thing to the right of us. It's all buffer zone and woods. There's nobody
169 there.
170
171 ANNETTE STOLLER: Mr. Chair, may I? So, if I'm to understand when you clean the cage, or coop, whatever
172 you have there, you have to have the chickens out of there. I understand on that...
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174 DOUGLAS FORESTEIRE: Yes.
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176 ANNETTE STOLLER: ...but, is there another way of confining them?

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DOUGLAS FORESTEIRE: Absolutely, it's got a sixteen by twenty enclosure.

ANNETTE STOLLER: For that.

DOUGLAS FORESTEIRE: I certainly can keep that fence closed and leave them in there as I clean.

ANNETTE STOLLER: Okay.

DOUGLAS FORESTEIRE: It's surrounding the shed more or less.

ANNETTE STOLLER: Yeah, because listening to the complaint, you don't want to experience that frequently.

DOUGLAS FORESTEIRE: I can make that go away tomorrow. Had I known, I certainly would have done that.

JIM SMITH: Richard, isn't there a provision for a variance in regards to handicap?

RICHARD CANUEL: Yeah there is. The statute was amended a number of years ago to give the Zoning Board the authority to grant variances for those who are physically disabled. To grant a variance without finding a necessary hardship as you would in other variance requests, but I think the intent of that statute is mainly for structural provisions. Where someone may have to build an accessible ramp, or something and encroach on the property line. Because the statute does say a physical disability.

ANNETTE STOLLER: So you've never...? I'm sorry, Mr. Chair, may I?

JIM SMITH: Yeah, go ahead.

ANNETTE STOLLER: So, you've never encountered a request for things of this nature before?

RICHARD CANUEL: I haven't.

ANNETTE STOLLER: Not that you are aware of?

RICHARD CANUEL: No, no, I haven't, no.

NEIL DUNN: We...if I may Mr. Chairman? We have in the past for other animals.

ANNETTE STOLLER: I know for other animals, but what I'm looking at is the child's need as an autistic child when, God forbid, that particular chicken dies. You're going to have your hands full.

DOUGLAS FORESTEIRE: Yes.

ANNETTE STOLLER: The child's need for the lack of stability, or the lack of change. It's not a normal thing...

221 DOUGLAS FORESTEIRE: A change in routine is...if you want to throw him upside down that would be it.
222
223 ANNETTE STOLLER: So, you haven't encountered that because in this case who knows it might be a mouse
224 you know, it's...okay so we're weighing that against the neighbor's complaint? Okay.
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226 NEIL DUNN: If I may Mr. Chairman? Richard, I thought you know our zoning has been changed as it needs to.
227 I thought a few years ago, we had an exception for chickens, or there was talk of that, no?
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229 RICHARD CANUEL: Not that I'm aware of?
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231 NEIL DUNN: But, you can have a pig?
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233 RICHARD CANUEL: No, not that I'm aware of?
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235 NEIL DUNN: But, we can have a pig in the ordinance?
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237 RICHARD CANUEL: Well, it's livestock by definition of the ordinance.
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239 NEIL DUNN: Right, but...no...I thought that maybe there was talk years ago because everybody wanted free
240 range chickens and good eggs. I remember a discussion I think maybe and I apologize.
241
242 RICHARD CANUEL: Um, yeah.
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244 NEIL DUNN: But, under 2.3.1.4 they could have a pig?
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246 RICHARD CANUEL: I suppose?
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248 NEIL DUNN: Well, it says commercial...
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250 [Overlapping comments]
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252 JACKIE BERNARD: You have to go by the definition of livestock.
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254 NEIL DUNN: No, but it says the raising of pigs for one's own home consumption shall be permitted in doing
255 so? I'm just trying to get a balance on the thing. That's all I'm trying to do here.
256
257 [Overlapping comments]
258
259 NEIL DUNN: So, okay. It's 2.3.1.4.C. It talks about you can't have a commercial piggery, but for your own
260 consumption you could raise pigs.
261
262 JACKIE BERNARD: Correct, but it gives a definition one page 171 in our ordinances for livestock. Where it
263 says domestic.
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265 NEIL DUNN: Well they're not talking domestic if you're going to eat if for your own consumption?
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267 JACKIE BERNARD: No, but it clearly defines that domestic pet. If you have a domestic pet what is it, and
268 versus the livestock which this falls under the livestock.
269
270 NEIL DUNN: Yeah, no, I've follow that but, okay...I just...
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272 JACKIE BERNARD: It was just the way it was worded, so...
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274 NEIL DUNN: ...okay.
275
276 ANNETTE STOLLER: There are some pigs, and people have used them to slaughter them and sell the meat,
277 and they've run against the ordinances for that, but I know that some of that is still going on. This is quite
278 different. I am curious, was this one complaint, or multiple?
279
280 RICHARD CANUEL: Well, we did receive more than one complaint from one neighbor.
281
282 ANNETTE STOLLER: I was thinking that if it was one perhaps there could be a settlement between the two
283 people and avoiding all of this?
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285 DOUGLAS FORESTEIRE: I'd be wide open to that, and I have a full enclosure. If that's was the issue. Then
286 we'll keep them in the enclosure.
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288 ANNETTE STOLLER: Well, the issue here also is an undersized lot for this.
289
290 DOUGLAS FORESTEIRE: Um hmm.
291
292 ANNETTE STOLLER: So.
293
294 JACKIE BERNARD: So, you can have a pig, but you have to consume it?
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296 NEIL DUNN: But, you'd still need two acres.
297
298 JACKIE BERNARD: Yeah, exactly. You are not eating any of these chickens?
299
300 DOUGLAS FORESTEIRE: Oh, no.
301
302 JACKIE BERNARD: Okay.
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304 JIM SMITH: You want to go through the five points of law?
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306 DOUGLAS FORESTEIRE: Sure.
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308 JIM SMITH: So, we have that on the record.

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DOUGLAS FORESTEIRE: Okay. Point of law, would that be number one the variance would not be contrary to the public interest?

JIM SMITH: Yeah.

DOUGLAS FORESTEIRE: Okay. Surrounding property values would not diminish. We're zoned A-I. We have no roosters. No noise. There is no smell. There is no odor. There is no mess. Coops are seventy feet from the road, and a minimum of a hundred feet to any other door...any other home. No abutter would be disturbed by sight, smell or noise.

JIM SMITH: Okay.

DOUGLAS FORESTEIRE: Number two. Spirit of the ordinance is observed. The chicken coop is located more than seventy feet from the road barely visible. Never to this day, in the past six years have I had a complaint from any of the neighbors. No one has approached me. Again, there is no smell. No danger. No destruction to the community. Number three. Substantial justice is done. In addition to the eggs that they provide the church and the neighbors a seven year old has hatched them named them. They come to her when she calls. They aren't used for breeding/slaughter, selling, etc., they are family pets. Values of surrounding properties are not diminished. Coca-Cola owns the property next door and behind me, and the land is used as a buffer. It's complete with fields, trees, thick woodlands, wooden area on either side of me. Prevents the neighbors from seeing them, or hearing them. Only time the chickens do go to the front of the house is during cleaning time. Then they return right away. Go to number five?

JIM SMITH: Yeah. Go ahead please.

DOUGLAS FORESTEIRE: Okay. The enforcement of the provisions of the ordinance would result in an unnecessary hardship. My autistic boy, it would turn his world upside down. I know it's silly, but that's his thing. The one chicken...came from his neurologist. We tried several...trust me over the years, many, many ways to help him escalate, or de-escalate. Stop him from escalating, or de-escalate, and we found several things and this is one of them. It turns his world around. It stops him from your know from going from here to here, and if by petting a chicken for five minutes can help him. That's my thing. Keep going?

JIM SMITH: Yeah, please.

DOUGLAS FORESTEIRE: The chickens pose no disturbance in regards to sight, noise, smell because of the distance to surrounding properties. Again, buffer zone to my back. Buffer zone to my right. The neighbor at 44 is on the other side of the trees. Never heard a word from him. The proposed use is a reasonable one. Again, their pets. They're never seen, heard. You know with the exception from what I'm hearing is when the two went out on the lawn, but that is easily corrected. Again, once that hen house is clean, you don't hear a peep. No roosters, no noise...eggs. B. Go on to B?

JIM SMITH: Yeah, please.

353 DOUGLAS FORESTEIRE: If the criteria of subparagraph A are not established an unnecessary hardship will be
354 deemed to exist if and only if owing to special conditions of the property that distinguish it from other
355 properties in the area the property cannot be reasonably used in strict conformance with the ordinance and
356 the variance is therefore necessary to enable a reasonable use of it. We have less than two acres, we do. I
357 have chickens and chickens that run free at times. I do. They're not out of control. They're well in control.
358 They are pets, and my eight year old boy loves a chicken. Any change for an autistic child is brutal, and if I'm
359 losing a chicken over something like it's not being locked up for an extra forty-five minutes out of the day
360 seems to me a little bit harsh. I'll just leave it at that.

361
362 JIM SMITH: Okay, thank you. Any other questions from the Board?

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364 NEIL DUNN: If I may?

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366 DOUGLAS FORESTEIRE: Yes.

367
368 NEIL DUNN: You don't need roosters to have eggs hatch?

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370 DOUGLAS FORESTEIRE: No sir. Hens will lay eggs all by themselves.

371
372 NEIL DUNN: Well, I knew they laid eggs. I just didn't know if they'd hatch...whether?

373
374 DOUGLAS FORESTEIRE: No, the roosters will fertilize them, and we don't want more chickens. Nor do we
375 want the noise, or the mess from big old roosters.

376
377 NEIL DUNN: The ones that you hatch are the ones that were bought?

378
379 DOUGLAS FORESTEIRE: Bought, yeah.

380
381 NEIL DUNN: Oh, okay. I was just trying to...

382
383 DOUGLAS FORESTEIRE: No, good question.

384
385 NEIL DUNN: ...catch up on my...it's been a while since I've been in biology. I thought you probably needed a
386 rooster.

387
388 JIM SMITH: Okay, seeing no further questions from the Board. Anyone who is in support of this request?
389 Would you approach a microphone? Identify yourself, name and address.

390
391 DOUGLAS FORESTEIRE: Should I sit for this, or stay?

392
393 JIM SMITH: Yeah, you can stay.

394
395 DOUGLAS FORESTEIRE: Okay.

396

397 ELIZABETH VELTS: All set?

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399 JIM SMITH: Yeah, there's a second mic there.

400

401 ELIZABETH VELTS: My name is Elizabeth Velts. I live at 39 Clark Road. Almost across the street from the
402 Foresteire's. We've live there for twelve years. Myself and my fiancé Glen Hamel. We rent the property
403 from Steve Doyle (see Attachment #1). In which I'd like to submit this e-mail from him. He tried to get it to
404 you last night. He's been out of town, but he's in full support of them and there chickens. We've lived there
405 for twelve years and have never ever experienced any problems with the chickens. All the neighbors like
406 them. The children would feed them. I pet those chickens. I'll give them bread on my lawn, so that they'll
407 eat the bugs out of my gardens. I mean their pets. You know, simple as that. We've never had any problems
408 with them, and up until recently, I've never experience or heard anybody else ever having problems with
409 them there. There's been other people that have had chickens up there also. Nobody has ever said a word
410 until recently, so that's pretty much all I have to say. I'd like to submit this letter though from...?

411

412 JIM SMITH: Yeah, you can give it to...

413

414 ELIZABETH VELTS: Okay.

415

416 NEIL DUNN: Would you like me to read it in, or are you waiting for the...?

417

418 JIM SMITH: Yes, please.

419

420 [N. Dunn read into the record the email from Steven and Helena Doyle (see Attachment #1)].

421

422 KAREN LAMONTAGNE: Hello, my name is Karen Lamontagne. I live at 44 Clark Road. Right next to Doug and
423 Michelle on the...I think it'd be the left side correct? Never had a problem. Never any odor. My son, he's
424 eight. My oldest boy is thirteen. They love the chickens. I myself, we had chickens. Unfortunately, a
425 raccoon came along and we no longer have any more chickens, but I've lived there for eight years, not... and
426 never had any problem. No odor. You don't hear them. There...and I myself have witnessed Alan going
427 towards that fluffy. Fluffy is his name. The white one, and just to see a child that when he's focused
428 on...that's all there's nothing else around him. That's it, and to see Olivia. She's like the pied piper. I've
429 never seen a little girl whistle and here they come in like a little line, and just follow here. I keep telling him,
430 he needs to put it on YouTube. That he'd get a million hits, but yeah never. No odor. Don't hear them, so I
431 guess that's it.

432

433 JIM SMITH: Okay, thank you.

434

435 KAREN LAMONTAGNE: You're welcome.

436

437 JULIO FIGUEROA: Good evening. Julio Figueroa, 41A Clark Road. We are the neighbors right across...pretty
438 much across the street from Doug and Michelle. We've been here three years. I've never had a problem
439 with any of the chickens. You know like I said, to reiterate...I mean, I don't smell anything. I don't hear
440 anything. I think probably the most noisiest thing I've ever heard living there has been a fisher cat. In the

441 three years I've been there, there's been plenty of other animals around. Domestic and wild...I've seen
442 turkey. I've seen hawks. I mean you know as far as the chickens. I don't have a problem with it. I've seen
443 you know first-hand Alan. It makes him happy and if the kids happy then everyone's happy. I've had
444 experience with friends that have autistic kids, and yeah the little things make a world of difference so...you
445 know, I'm fine with the chickens. I have no problem with it.
446

447 JIM SMITH: Okay. Thank you. Anyone else in support?
448

449 WYATT LAMONTAGNE: Hello, I'm Wyatt Lamontagne. I think the chickens are good because all the kids in
450 the neighborhood really like them because they are helpful. They eat all the ticks and mosquitos and that
451 helps us so if we get bit by ticks or anything, we may get lime disease and stuff, and that's not good for
452 children. Thankfully, with the chickens they eat them and they protect us from harmful causes of the earth,
453 and also Al and Olivia they love the chickens so much. They take care of them. She calls them, they come.
454 Alan, he loves fluffy the white chicken. He's so durable. He has like fluffy paws. There's a girl across the
455 street named Vanessa. She calls the chicken and they come. She gives them bread and strawberries and fruit
456 and stuff. Me and my brother, we have a path that leads next door, so we usually go over there and visit
457 them. Give them bread. Chill-lax with them.
458

459 JIM SMITH: Okay, thank you. Anyone else in support?
460

461 KYRSIS FIGUEROA: Hello, my name is Kyrsis Figueroa. I live at 41A Clark Road. Vanessa is my daughter, and
462 she loves the chickens. We save all our bread ends. All the vegetables that are going bad and the fruit, and
463 we leave presents for Doug and Michelle at the door on a weekly basis so that he can feed his chickens.
464 When Missy and Shaw had them as well, we would do the same thing. We'd split it up in half. So, we really
465 have no issues with the chickens. It makes the kids happy. It gives them something to do. It keeps them out
466 of trouble.
467

468 JIM SMITH: Okay, thank you.
469

470 KYRSIS FIGUEROA: Yup.
471

472 JIM SMITH: Anyone else in support? Anyone in opposition, or having questions?
473

474 TOM HILL: Yes, I do right here.
475

476 JIM SMITH: Okay, want to approach a microphone. Identify yourself. Give us your address.
477

478 TOM HILL: Yeah. My name is Tom Hill. 41B Clark Road. Richard, I believe my wife came to see you and
479 Libby.
480

481 RICHARD CANUEL: Yes.
482

483 TOM HILL: We had spoken to Libby. As you can see they all love the chickens, and I have no problem with
484 that. Okay. For his kid, that's great, but as you can see everyone's feeding the chickens. Three weeks ago, I

485 had to complain. Me and him don't get along that well. Okay, so what I did was I did the right thing and
486 came down to the Town. I talked with Libby. She said write a letter. If you don't get along with him, you
487 don't need any problems. So, I wrote the letter. Okay. Since the letter, since three weeks ago, I haven't had
488 a problem with the chickens. He's had the chickens confined. I have a dog. I confine that dog. He's on a
489 leash. He has done the right thing in three weeks, but as you can see everybody feeds the chickens. They've
490 been feeding them before the three weeks. So, if they want to go out and throw the food in their yard. The
491 chickens of course are going to come. Now they are coming in my yard. I don't want the chickens in my yard.
492 If I put down fertilizer...I don't want them eating that. It's not right. I don't want them walking up towards
493 my deck. That's my preference, but if they wouldn't keep feeding the chickens and maybe go over to the
494 cage and feed them personally great. Again, he's done a great job in three weeks. I had one incident. They
495 were over. I took some pictures. You don't need to see the pictures. Okay, but he's done a great...I haven't
496 seen them. Honest to god. They may go out when he cleans the pen. I'll see one, or two around his area
497 where he sits, and what have you, but they haven't been over. He's done a good job, but I had to write the
498 letter. In order for this to happen. Do you understand? Because if I didn't, they all would have kept feeding
499 the chickens. They love them. That's fine. That's great, but go to their house and feed them. Not in front of
500 your yard because I have a big yard. They like to come over to my house for some reason because of the
501 grass, or what have you. If they would do that, hey let them have them. No problem. He's done a great job.
502 My only incident after I wrote the letter. One week later, I had the police at my house. They accused me of
503 knocking over their bike with the flowers in them. I never did that, and I want him to know that because we
504 don't talk. I talk with Mr. Tom Olson. He says Tommy, I believe you. Okay. Did you call his children...I don't
505 even want to say the word, and it begins with an r. Never ever would I do that to a child. He accused me of
506 that. It's not right. I am not that kind of a person. Two weeks ago, the cops come back to my house saying
507 my wife is going to kill him. I had to go to the cops...come over. This is what I'm going through right now
508 which I don't need. I don't need the cops at my house every other week. If you're mad at me because I
509 called them...the chickens. I had to do what I had to do, but to involve the police and make up accusations
510 that never happened. I wouldn't do that. Okay, if they would stop feeding them...everybody, not problem.
511 Again, he's done a great job in three weeks. He has, and I support him. I want him to have the chickens
512 because I'm not a bad person, and if I can go out today and shake his hand, I will. I just ask you, do not...don't
513 think I am doing something to you, or your family because I would never do that. We were good friends
514 Doug. We were good friends.

515
516 JIM SMITH: Okay, let's not get in...

517
518 TOM HILL: I've plowed your driveway. I've done a lot of things for you, and I've helped you, and I appreciate
519 things that you do back in return. We haven't talked in over a year. If we can go out today and shake your
520 hand, I would say "hey god bless". I would like him to have the chickens. If it helps his child, which I never
521 knew about. I'm learning about this today, god bless because I'm not a bad person. My neighbors, I don't
522 get along with any of them. None of these people. I sat back there. I'm not on their team, but I'm not a bad
523 person. Whether or not they believe it or not is one thing, but that is the truth. Okay, and that's what I've
524 been going through and that's why I had to go see Richard and Libby, and do what I had to do. Okay, because
525 if not chickens would have kept coming, and they all would have kept feeding them, and I would still have to
526 keep putting up with the chickens in my yard. I shouldn't have to. I shouldn't have to shoo chickens out of
527 my yard when I come home from work, and if he's don't that...and he's done that in three weeks. He's
528 confined them. He has done a great job, and that's all I ask in return, so am I on his team? Yeah, I would like

529 him to have the chickens. I really would. I would like him to have the chickens. Especially, if it helps his child,
530 but the accusations that I went through for the last two weeks, and my wife never were true. Never were
531 true because even Tom Olson said that if those were true, and those things happened, we would have
532 arrested you. He's upset right now, and he wants to punish you because you wrote the letter to them about
533 the chickens. I've never had the cops come here until these chickens came. Until the chickens story,
534 so...again, I support him, I want him to have them. Again, if we can shake hands at the end of the day, and if
535 not no big deal. Because I've learned one thing from the officer just mind your business, if he doesn't
536 want...you know that's the best thing. So, I don't say nothing to him. He don't say nothing to me, but if we
537 can shake hands, and say hey "listen you go on your way, I go on my way, good luck to you" that's all I ask.
538 That's all I'm hoping for.

539
540 JIM SMITH: Okay, thank you.

541
542 TOM HILL: Alright, thank you.

543
544 JIM SMITH: Anyone else?

545
546 MARK BEAUDOIN: Thank you Mr. Chair, my name is Mark Beaudoin. I'm from Nixon Peabody in Manchester.
547 I represent Coke Bottling Company of Northern New England. To be clear, we are not opposed to the
548 variance. Truthfully, when we got the application, we thought we were dealing with cattle, or bison, or
549 something because of the word livestock...

550
551 [Laughter]

552
553 MARK BEAUDOIN: ...and I read the application and I realized it was chickens. My client just wants to express
554 that if the variance is granted, we'd appreciate it if you'd limit the number of chickens to the eight which is
555 what they put in the application, and limit it to laying hens. Because there is some sort of safety issue with
556 the chickens roaming all over into the production facility, so that was our concern. I have a letter that I would
557 like to submit which sets forth that. Thank you very much.

558
559 JIM SMITH: Okay.

560
561 NEIL DUNN: That's alright, I'm just filling in.

562
563 JIM SMITH: At this point, if you wish to rebut anything?

564
565 DOUGLAS FORESTEIRE: I don't believe this is the time. I think...I'm thankful for your time, and if Mr. Hill
566 would like to shake hands, that's fine.

567
568 JIM SMITH: Okay.

569
570 DOUGLAS FORESTEIRE: I'm good with it.

571
572 JIM SMITH: Want to read the letter?

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[N. Dunn read into the record the letter from Nixon Peabody (see Attachment #2)].

JIM SMITH: Okay. At this point, I'll bring it back to the Board. Any further questions from the Board? Comments?

NEIL DUNN: I guess I'd like to get clarification that you can keep them penned up while you're cleaning and doing whatever you need...

DOUGLAS FORESTEIRE: Absolutely.

NEIL DUNN: ...and the kids can still go over and feed them in the fence?

DOUGLAS FORESTEIRE: Eight foot tall fence.

NEIL DUNN: Make a bigger fence, or whatever?

DOUGLAS FORESTEIRE: I have an eight foot fence going around it. Again, it's sixteen by twenty, and I can just keep that closed as I clean out the coop.

NEIL DUNN: And you have no trouble limiting it to eight?

DOUGLAS FORESTEIRE: No.

JIM SMITH: Any other comments, or questions?

ANNETTE STOLLER: No, that was my question.

JIM SMITH: Okay, at that point we'll close...well I want to...if we were to grant this would you be agreeable to have the variance cease if you sell the property?

DOUGLAS FORESTEIRE: Absolutely.

JIM SMITH: Okay, because one of the problems with a variance. It typically runs with the land.

DOUGLAS FORESTEIRE: Right. Upon...if and when the time comes that we are moving away, we walk away from the variance.

JIM SMITH: Alright.

ANNETTE STOLLER: Mr. Chair, are we able to do that?

JIM SMITH: I believe?

617 ANNETTE STOLLER: I thought if you didn't do the variance then you're into the land of special exceptions?
618
619 JIM SMITH: No, a special exception can only be granted for those things that are specifically listed in the
620 zoning ordinances for special exceptions.
621
622 ANNETTE STOLLER: Okay.
623
624 JIM SMITH: So, on a special exception there's a particular criteria and so that's a whole different...
625
626 ANNETTE STOLLER: Yeah, but that does not realm with the land, that's...
627
628 JIM SMITH: No, but that's a different...that's debatable too, I'm afraid.
629
630 ANNETTE STOLLER: Really, let's talk about that some time.
631
632 JIM SMITH: Well, according to our...when we went to that training up in Concord, I raised that issue whether
633 or not...remember that Jackie?
634
635 JACKIE BENARD: Yeah, Richard if we grant the variance it stays with the property forever?
636
637 RICHARD CANUEL: Well, the Board does have the power to place conditions on the granting of the variance.
638
639 JACKIE BENARD: Okay.
640
641 RICHARD CANUEL: You've granted variances before with sunset dates. You can do the same in this particular
642 situation and say that the variance sunsets when the occupant no longer has any need for the use of the
643 livestock, such as selling the property or moving away, whatever...
644
645 JACKIE BENARD: Okay. Alright.
646
647 RICHARD CANUEL: So, I'm sure...yeah, yeah it's...
648
649 JACKIE BENARD: Okay, good.
650
651 RICHARD CANUEL: ...legal to do that.
652
653 JACKIE BENARD: Okay, good. Thank you.
654
655 JIM SMITH: Much like when we request a requirement that they had to get a site plan and so forth.
656
657 JACKIE BENARD: Okay.
658
659 JIM SMITH: Same idea.
660

661 JACKIE BENARD: Okay.
662
663 JIM SMITH: No further questions? Comments? At this point, the public hearing is closed, and we will take
664 this under discussion and go from there.
665
666 DELIBERATIONS:
667
668 JIM SMITH: We're going to vote, so if you want to you can wait for the...
669
670 TOM HILL: No, no. Listen, like I said, I hope you vote his way. I really do.
671
672 JIM SMITH: Okay. Well, I'm just want...
673
674 TOM HILL: I'm not being you know...
675
676 JIM SMITH: Okay. We're not...
677
678 TOM HILL: ...He gets that. I really do from the bottom of my heart.
679
680 JIM SMITH: Okay.
681
682 TOM HILL: Because he's done a great job, okay. That's all I have to say. Thank you very much.
683
684 JIM SMITH: Okay. Why don't we go through the five points of law, and see what we get from that. Okay,
685 granting the variance would or would not be contrary to the public interest?
686
687 ANNETTE STOLLER: Does not affect property values.
688
689 NEIL DUNN: Well, I guess when I look at the public interest in this case with chickens in particular, I would
690 think as opposed to some oversized building, or encroachments on setbacks and all of that, it's really about
691 the neighbors. It appears the neighbors are in concurrence with them having the chickens, so I think they
692 meet it with that. I don't think it's contrary to the public interest in this case. It's not a safety hazard to the
693 Town or community. The only concern would be the residence and most of them seem to be here and some
694 just want a little bit more control which sounds very reasonable to me. I'm good with number one. I don't
695 know what you guys think?
696
697 JACKIE BENARD: I think it would be contrary to the public interest should there be a larger volume of
698 chickens. You know because at one time there were sixteen, so there really has to be some real clarity on the
699 amount of...
700
701 JIM SMITH: Well, at this point, he's saying eight.
702
703 JACKIE BENARD: Yeah, so.
704

705 JIM SMITH: And he's agreeable to limiting it to eight.
706
707 NEIL DUNN: And not letting them free range which was causing the issue, and there's room for them. He can
708 make more room for the kids to play in. So, I know, I'm good with one.
709
710 JIM SMITH: Anyone else? Okay, next. The spirit of the ordinance would or would not be observed because?
711
712 ANNETTE STOLLER: It's no imposition to the community.
713
714 JIM SMITH: Well, I think the spirit of the ordinance...I think part of it is trying to limit non-pets, or livestock
715 in...
716
717 JACKIE BENARD: In the confined areas.
718
719 JIM SMITH: ...in the confined areas. I think one of the problems I have with this a little bit is the fact that it's
720 only a half an acre. I mean if it was even an acre it would be a little bit better, but it's an undersized lot to
721 begin with. Of course we're talking eight chickens, so.
722
723 NEIL DUNN: And yeah, I kind of agree with you. The spirit is sometimes hard on something like this
724 because...and again, it's addressing livestock, and where these are pets and we define them as livestock.
725 They're not being...I mean the egg component I guess you could call it livestock, but it's a funny line with it
726 being more of a pet and having such a great effect on the child.
727
728 JIM SMITH: Yeah, when you look at the definition of a pet it says "animals normally kept as pets".
729
730 JACKIE BENARD: For enjoyment.
731
732 JIM SMITH: Yeah. Which kind of...
733
734 NEIL DUNN: I was in upstate New York. A lot of people have chickens for pet.
735
736 [Laughter]
737
738 NEIL DUNN: No and I...that's the trouble so when we get to it you know again if it was something a little bit
739 more invasive or something then that's where I would have trouble with the spirit. The size being a half-acre
740 is small but I don't know? I'm kind of seeing them more as pets. I'm not seeing it...
741
742 JIM SMITH: Again, when you talk about pets. There are pets and there are pets. What do you do with a
743 miniature horse? Is that a pet, or a horse?
744
745 NEIL DUNN: Okay?
746
747 ANNETTE STOLLER: Or a pot belly pig?
748

749 NEIL DUNN: That's why we call it...we can decide one by one can't we?
750
751 JIM SMITH: Ahh, I don't know? I was surprised on the TV not too long ago. I saw a show where they were
752 using a miniature horse as a guide animal.
753
754 ANNETTE STOLLER: Um hmm. A service animal?
755
756 BILL BERNADINO: Service animal, and that's the big thing right now. Is he's got documentation from his
757 doctor saying that this is helping his child with a disability.
758
759 JIM SMITH: Yeah, but that's only one out of the eight. In particular.
760
761 ANNETTE STOLLER: Um hmm.
762
763 JIM SMITH: One in particular out of the eight.
764
765 BILL BERNADINO: Yeah, if another one arises and he latches on to the next one it's still kind of like a
766 medically necessary...
767
768 JIM SMITH: Yeah, well again it's...
769
770 [Overlapping comments]
771
772 BILL BERNADINO: Yeah, Americans with Disabilities just it's right out there. Anything can be a service animal
773 now.
774
775 ANNETTE STOLLER: That might be stretching it?
776
777 BILL BERNADINO: No.
778
779 ANNETTE STOLLER: A service animal might be stretching it?
780
781 JACKIE BENARD: Well the thing was to don't...
782
783 BILL BERNADINO: Because it calms him down so it is considered good for his disability.
784
785 JIM SMITH: Okay. So where do we stand on spirit? Do we agree?
786
787 NEIL DUNN: I'm good on spirit because of the uniqueness of this case being more of a pet than livestock. I
788 mean...
789
790 ANNETTE STOLLER: And there's...I see no imposition to the community. As long as he exercises controls.
791
792 [Overlapping comments]

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JIM SMITH: Jackie anything further?

JACKIE BENARD: The spirit of the ordinance is for the area so as not to cause crowding and so on and so forth, and I understand it so because of these unique circumstances what the spirit of the ordinance was actually intended for I think I'd be okay.

JIM SMITH: Okay.

JACKIE BENARD: Yeah.

JIM SMITH: Okay, the next one. Granting the variance would or would not do substantial justice?

ANNETTE STOLLER: Same issue. They are pets.

JACKIE BENARD: I think granting the variance would do substantial justice do to the uniqueness of the animal in relations to the special needs child.

JIM SMITH: Okay, that takes care of one of the eight though? The other seven are...

NEIL DUNN: Back up?

JIM SMITH: Well, maybe? They evidently meet the needs of some of the other children involved in the family as well.

JACKIE BERNARD: Yeah.

ANNETTE STOLLER: And in the neighborhood.

JIM SMITH: Yeah again that's going to have to be...

NEIL DUNN: They've got to come visit.

JIM SMITH: ...rethought a little bit.

ANNETTE STOLLER: Yeah, well as you just said they can come visit.

JIM SMITH: Right, if they do it on that basis, I think it makes sense. With the following reasons the values surrounding property would or would not be diminished?

ANNETTE STOLLER: Would not.

JIM TIRABASI: Would not be.

837 JIM SMITH: Number five. Following the special conditions of the property that distinguishes it from other
838 properties in the area denial of the variance would result in unnecessary hardship because? The first part is
839 there or is not a fair and substantial relationship between the general public purpose of the ordinance
840 provision and the specific application of the provision to the property because?
841

842 NEIL DUNN: I tend to look more Part B on this only because he does back up to an industrial area with large
843 lots and so...you know the whole neighborhood. They have some small lots. They have some large lots. A
844 big industrial lot behind them where you can hear trucks coming in all day and out. So...
845

846 ANNETTE STOLLER: It is kind of strange when we're worried about eight chickens and we've got those big
847 trucks. I hadn't thought of that.
848

849 JIM SMITH: Well, the Coke plant isn't access through that road, so the Coke plant doesn't have any traffic on
850 that road.
851

852 ANNETTE STOLLER: Um hmm, but noise might be a factor?
853

854 JIM SMITH: Well...okay, other comments?
855

856 ANNETTE STOLLER: I think we just need to put in the condition of limiting the pets to eight chickens.
857

858 JACKIE BERNARD: So, there is or is not a fair substantial relationship between the general public purpose of
859 the ordinance? In respect to the industrial area?
860

861 NEIL DUNN: No, I was referring to Section B on this where we start getting into more conditions physical
862 conditions of the property, or special conditions that distinguish it from other properties. But getting to
863 number one which you just read.
864

865 JACKIE BERNARD: Right.
866

867 NEIL DUNN: I don't think there is a fair and substantial between relationship and the general public purpose
868 and this specific application because of the needs of the child and that they are more like pets. I could stay
869 with the first portion. B is usually the fall back if you don't meet A...
870

871 JACKIE BERNARD: Um hmm, yeah.
872

873 [Overlapping comments]
874

875 NEIL DUNN: ...You know A1 and A2, but I'm still good with five A1 if it's not a substantial because of the...you
876 know they're more like pets than livestock and the special needs of the homeowners which to me they kind
877 of go along with the property as long as we make it sunset with them. I'm good with that.
878

879 JIM SMITH: Okay, under...then we have part...?
880

881 NEIL DUNN: A1...A2?
882
883 [Overlapping comments]
884
885 JACKIE BERNARD: A2 so the proposed use is a reasonable one...
886
887 NEIL DUNN: Because of...
888
889 JACKIE BERNARD: ...because of...
890
891 NEIL DUNN: ...they're more pet-like then...do we have to come up with a percentage of petness?
892
893 [Laughter]
894
895 NEIL DUNN: Over fifty-one percent? So, anyway I'm good with that one either way I don't know how
896 everybody else is thinking?
897
898 JIM SMITH: Okay, having gone through that exercise. I'd entertain a motion.
899
900 JACKIE BERNARD: Do we want a limit?
901
902 ANNETTE STOLLER: For the conditions?
903
904 [Overlapping comments]
905
906 JACKIE BERNARD: For the eight?
907
908 JIM SMITH: Yeah, limit conditions for eight.
909
910 NEIL DUNN: Kept within the enclosed area?
911
912 JIM SMITH: And the variance would terminate on the...
913
914 BILL BERNADINO: Sale of the property?
915
916 JIM SMITH: How would you say it the...?
917
918 NEIL DUNN: Well, they must also be kept in the enclosed area.
919
920 JACKIE BERNARD: Okay, so conditions of eight hens only, and they have to be hens. To be housed?
921
922 JIM SMITH: To be contained at all times.
923
924 JACKIE BERNARD: Okay.

925
926 JIM SMITH: Whether they're in the...

927
928 [Overlapping comments]

929
930 JIM SMITH: ...coop or enclosed area, and the variance would cease upon the...

931
932 NEIL DUNN: The moving of...

933
934 JACKIE BERNARD: The variance would sunset at time of property sale?

935
936 NEIL DUNN: Or if they moved?

937
938 JACKIE BERNARD: Or if they...okay, or if no longer residing?

939
940 JIM SMITH: Right, yup.

941
942 JACKIE BERNARD: Okay.

943
944 JIM SMITH: Okay, do you want to make a motion?

945
946 JACKIE BERNARD: Mr. Chairman I'd like to make a motion to grant Case No. 6/17/2015-1 to allow a variance
947 for livestock on a residential property with the conditions of eight hens only to be housed or contained at all
948 times and the variance would cease upon vacating of property by the owners or if the property is sold.

949
950 JIM SMITH: Do I have a second?

951
952 JIM TIRABASSI: Seconded.

953
954 ALL: Aye.

955
956 **RESULTS: THE MOTION TO GRANT CASE NO. 6/17/2015-1 WITH CONDITIONS WAS APPROVED, 5-0-0.**

957
958 RESPECTFULLY SUBMITTED,

959


960
961 NEIL DUNN, ACTING CLERK

962
963 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
964 SECRETARY.
965

966
967
968
969

APPROVED JULY 15, 2015 WITH A MOTION MADE BY N. DUNN, SECONDED BY J. BENARD AND APPROVED 5-0-0.

Zoning Board Meeting Minutes - June 17, 2015 - Attachment #1

Steven Doyle
to lizzyb53@yahoo.com

Tue, Jun 16 5:58 PM

Chickens

To whom it may concern :

Unfortunately we have been away and have been unable to pick up our mail and will not be able to attend the meeting. We are the owners at 39 Clark Road and completely support the efforts of Michelle and Doug to own and raise chickens. We can think of no better way to show our support than to write this letter. Please let us know of any further information us needed to show our support.

Sincerely,

Steven and Helena Doyle

Sent from my Verizon Wireless 4G LTE smartphone



NIXON PEABODY LLP
ATTORNEYS AT LAW

NIXONPEABODY.COM
@NIXONPEABODYLLP

Mark E. Beaudoin
Associate
mbeaudoin@nixonpeabody.com

900 Elm Street
Manchester, NH 03101-2031
603-628-4000

June 17, 2015

Jim Smith, Chair
Londonderry Zoning Board of Adjustment
268B Mammoth Road
Londonderry, NH 03053

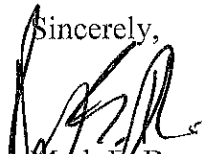
RE: Variance Application – Michelle Sanborn (Case No. 6/17/2015-1)
Premises: 7 Symmes Drive, Londonderry, NH (Parcel ID. # 015-098-0)

Dear Chair Smith:

We represent The Coca-Cola Bottling Company of Northern New England, Inc. (“CCNNE”) in connection with the above-referenced Premises. As an abutter to Michelle Sanborn, our client is in receipt of the variance requested by her to allow livestock on her property located at 42 Clark Road. Although CCNNE is not directly opposed to granting the variance at this time, due to my client’s proximity to Ms. Sanborn’s property, we believe the variance should be reasonably limited to Ms. Sanborn’s existing chickens. For this reason, my client respectfully requests that, should it be granted, the variance is expressly conditioned and limited to no more than eight (8) laying hens.

Please feel free to contact me with any questions or concerns.

Sincerely,



Mark E. Beaudoin
Associate

MEB/dvb