

A Regular Meeting of the Zoning Board of Appeals was held on Thursday, February 24, 2022 at the Mendon Community Center, 167 North Main Street, Honeoye Falls, NY, 14472 at 7:00 pm.

PRESENT: Daniel Bassette
Stephen Maxon
Dustin Cichon
Stephen Tudhope
Christian Mahood (arrived at 7:54 pm)

ATTORNEY: David Hou

OTHERS: Dan Considine, Mendon Fire District
Joshua Cawley, 1100 Pittsford Mendon Center Road
Tamara and Marcus Orduna, 52 Mendon Ionia Road
Willie Stromeier, 822 Pittsford Mendon Center Road.
Peter Kester, via Zoom

Minutes were taken by Katrina Allen.

Mr. Bassette opened the meeting at 7:00 pm.

MENDON FIRE DISTRICT AREA VARIANCE PUBLIC HEARING

An area variance application by the Mendon Fire District, 101 Mendon Ionia Road, Mendon, NY, consisting of six acres, for a previously approved variance on July 13, 2017 for an updated electronic public sign, whereas code requires construction to be completed within six months and a lapse of authorization has occurred, and therefore requires an updated area variance. Zoned RS 30, with Tax account no. 216.04-1-3.21.

Mr. Bassette waived the reading of the public notice; it was published in the Sentinel.

Mr. Bassette asked the Board members if they were all familiar with the property. They all replied in the affirmative.

Mr. Considine appeared representing the Mendon Fire District.

Mr. Considine said the Mendon Fire District wants to replace its existing manual sign to an illuminated one. It will have the same footprint as the existing sign, as it is keeping the same brick. The Fire District wants to swap out the letterboard part only.

Mr. Considine stated the signs are used to keep the public aware of meetings, carnival information, to changing smoke detector batteries, and such.

Mr. Tudhope asked for clarification on a drawing.

The Board and Mr. Considine discussed the dimensions of the new sign versus the existing sign.

Mr. Tudhope said the new sign is a foot bigger, so it is not the same footprint.

Mr. Bassette asked the height of the sign.

Mr. Cichon stated the sign is identical to Rush Fire Department's sign.

Mr. Considine said yes, it will be the same as Rush's and Fisher Fire Department's.

Mr. Maxon said it is six feet high and 11.5 feet wide.

Mr. Tudhope stated overall it is a bigger sign. Mr. Considine said, yes. The display size is 2.7 feet by 8 feet. It will be full color all the time.

Mr. Tudhope asked what is code. Mr. Bassette replied when the sign is on, it cannot be flashing or have graphics like fireworks.

Mr. Tudhope clarified the Town can have them, but the sign cannot move or be flashing or rolling.

Mr. Tudhope asked if there were any illuminated signs in Town. Mr. Bassette stated he did not know of any. Mr. Cichon confirmed there are not others.

Mr. Tudhope asked if the variance was not because it is digital. It is because it is a bigger sign. Mr. Bassette stated it goes with the free-standing sign that needs a variance. He continued the need for a variance is what brought the Fire District to the Zoning Board six years ago, and they had been given approval. They were advised there is no flashing sign, and it has since been added to code. Mr. Bassette asked Mr. Considine if that is accurate. Mr. Considine said, yes.

Mr. Tudhope asked if there is time it will go off at night. Mr. Considine said no.

Mr. Cichon asked if will still face North and South. Mr. Considine said yes.

Mr. Hou advised code requires signs need to be off at 11 pm.

Mr. Tudhope asked who would manage it. Mr. Considine said the District will.

Mr. Tudhope said he is assuming they have a timer when it can go off at a certain time. It can go off at 11. Mr. Considine said, yes.

Mr. Hou said 11.

Mr. Bassette asked if there was a section of code for that. Mr. Maxon replied, 260-70 D. (1)(a)

Mr. Considine clarified the sign is to be off at 11. Mr. Bassette said, yes, but if he does not like it, he can come back for another variance.

Mr. Considine asked if it is off at 11, what time can it come back on. Mr. Hou said there is not a time. Mr. Cichon said 6.

Mr. Tudhope asked if technology allows it or is it manual? Can they just flip a switch?

Mr. Cichon said it will be like Rush.

Mr. Tudhope said he is trying to have aspirations to not be like Rush.

Mr. Bassette asked if the Board had any other questions. The Board did not.

Mr. Bassette opened the floor for public comment.

PUBLIC COMMENT

Marcus Orduna, 52 Mendon Ionia Road, said he is a dedicated member of the Fire District, and he appreciates the community when they acknowledge us. As a resident, he is against the light up sign. He was not present at the meeting, and he means no disrespect. It will be a visual nuisance as a neighbor. He and his wife discussed it, and she shared her displeasure. He said his wife is walking in, and she can speak for herself.

Tamara Orduna, 52 Mendon Ionia Road. She said her son, who is 11, said it would look terrible and cost a lot of money. She said he is an Explorer. Ms. Orduna said the current sign is rustic and classy. She said they do not live across the street, but she would imagine they would not like it.

Mr. Kester had no comment.

Mr. Considine asked to respond. He said a couple of reasons for the digital sign is manpower is not an issue, and the information would be accurate. The current sign is hard to change and keep up to date. Currently, they do not have consistency and updated messages. He wants to know what is the true impact. Is it how bright it is? They can tone down the illumination. He asked before it is shot down, the District would have the opportunity to test it and tone it down.

Mr. Tudhope asked who pays the \$27,000. Is it the Fire Department? Is it the taxpayers? Is it a general pot? How is it funded the \$23,000 funded. Mr. Considine said it is from original District funds and donations. The Department has the money, it is not the taxpayers.

Mr. Tudhope said the Department has capital. Mr. Considine said, yes.

MOTION

Mr. Tudhope moved, second by Mr. Cichon, to close the public hearing at 7:15 pm.

APPROVED

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

CAWLEY AREA VARIANCE (SETBACK) PUBLIC HEARING

An area variance application by Joshua Cawley, 829 Pittsford Mendon Center Road, Honeoye Falls, NY, consisting of 2.28 acres, for a variance for an existing 12-stall horse barn to house up to 12 horses and is 83.7 feet from the property line, whereas code requires any structure housing more than five horses shall be located at least 150 feet from any property line, and therefore requires an area variance. Zoned RA2 with Tax account no. 204.02-1-5.

Mr. Bassette waived the reading of the public notice; it was published in the Sentinel.

Mr. Bassette said that the applicant has two variances. One is for the barn being too close to the road and the other is for the number of horses on the acreage of the property.

Mr. Bassette advised the Board will first talk about the distance of the barn to the property line of the road. He asked if the Board is familiar with the property. The Board was familiar.

Josh Cawley came forward and said he lives at 1100 Pittsford Mendon Center Road which is a mile down the road from the property at 829 Pittsford Mendon Road. There is an existing horse barn, and it was divided into two parcels. The barn had been abandoned and he has been fixing it up. It has a new roof and paint. There will be no increase in size or stalls. They just want to get it up and running again. Mr. Cawley stated he has spoken with his neighbors, who all have children, and they all love the idea. They were willing to speak or sign an affidavit.

Mr. Maxon asked if the applicant owns property across the street. Mr. Cawley replied he has 31 acres across the street. He also owns 11 acres down the street.

Mr. Tudhope asked if the barn exists, and he just wants to put horses in it. He said Mr. Cawley is being honest. Mr. Cawley said there are not horses in it and have not been in 10 years. He stated he has the 10-11 acres up the road that has trail riding area he could fence in.

Mr. Bassette asked how long the applicant has owned the property. Mr. Cawley said since June.

Mr. Cichon asked if the applicant would cross Mendon Pittsford Road. Mr. Cawley stated he does not know. He is not a horse person. He saw the property and wanted to fix it up and spruce up the neighborhood.

Mr. Cichon said it looks like 12 existing stalls and does he intend to board or have as pets. Mr. Cawley said there are 12 stalls, and in the back, there is a barn for storage and hay and two stalls underneath that were used as a tack room.

Mr. Cawley said he intends to advertise and lease and have boarding and training. He would like a person to live and work or rent and someone else manages the barn.

Mr. Cichon said there is approximately 2/3 acre that is fenced. His calculations have the property at two acres. He said with his knowledge, that is a lot of horse apples. Mr. Cawley said that is what his background is in, and he has the original survey. He has taken out the turnstile in the

back and fenced in the South to the barn.

Mr. Tudhope asked if the variance is only for this applicant or does it go with the land, and can the Board make it a condition? He was advised it stays with the land, and the Board cannot condition it.

Mr. Tudhope said his concern is if Mr. Cawley sells the property, and a new owner is spreading horse crap on two acres.

Mr. Bassette quoted the relevant code and asked if the Board members had any questions on the barn. They did not.

Mr. Bassette waived the five questions as they had been answered.

Mr. Bassette asked the Board if it wanted to address the horses separately, and the Board agreed to hear the horse variance separately from the setback variance.

MOTION

Mr. Maxon, moved, second by Mr. Cichon to close the Public Hearing for the barn at 7:26 pm.

APPROVED

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

CAWLEY AREA VARIANCE (HORSES) PUBLIC HEARING

An area variance application by Joshua Cawley, 829 Pittsford Mendon Center Road, Honeoye Falls, NY, consisting of 2.28 acres, for a variance for an existing 12-stall horse barn to house up to 12 horses, whereas code requires the keeping of hooved animals shall require a minimum lot size of three acres, and therefore requires an area variance. Zoned RA2 with Tax account no. 204.02-1-5.

Mr. Bassette waived the reading of the public notice; it was published in the Sentinel.

Mr. Bassette stated the Board would now hear about the horse variance. He said the size of the lot is a little over two acres and code says there is minimum of 14 acres to house the 12 horses proposed by the applicant. Mr. Bassette also stated the applicant owns 14 acres of land adjacent to the property, including across the street.

Mr. Cawley stated that is correct. He wants to keep with the Three Guiding Principles of the Town. He wants to be as flexible as possible and has extra acreage across the street he wants to maintain as pasture. He is registered as a farm and is working with the DEC on the wetlands. He wants to maintain the agriculture of his properties, rather than having it developed. Mr. Cawley's background is in agricultural economics. He wants to be allowed horses, so he can run a successful business and pay his taxes. He said it will either go agriculture or some type of development. There is a certain number of horses he needs to maintain what he intends, and any

limitations would hurt his business. He would not want to have the land developed as he wants to support and protect the Town's landscape.

Mr. Bassette asked if the Board had any questions on the number of horses.

Mr. Cichon advised the applicant that it is referring to the number of hooved animals and any other type of hooved animal would count against his number of horses. If he wanted a Nigerian horse, it would count against him. Mr. Cawley understood.

Mr. Maxon asked Mr. Cawley about the 19 acres he owns to the South. He asked what that is. Mr. Cawley said those are wetlands, and he would like to build a pond, but he needs that passed.

Mr. Tudhope said with this variance, you could have 15 meat cows there or milk 15 cows. Mr. Bassette said 12. The limit is 12. Mr. Tudhope said he can milk 12 cows. Mr. Cawley stated he would go on record, and say he will not milk any cows.

Mr. Cichon said there was an instance with meat cows, and they wanted Scottish Highlanders. They are big animals.

Mr. Tudhope wanted to know how the manure would be managed. Mr. Cichon said there are a lot of shavings this time of year. It would be a fulltime job to manage the shavings.

Mr. Bassette waived the asking of the five questions as they had been answered.

PUBLIC COMMENT

Mr. Bassette asked if anyone from the public wished to speak.

Willie Stromeyer, 822 Pittsford Mendon Center Road, said Mr. Cawley is doing an awesome job. He wanted to know the manure management plan, but it seems under control with the acreage. Mr. Stromeyer is worried about crossing back and forth. People drive way too fast there and the State has not done anything. Even with signs, people drive too fast. If it is a fully functional horse facility, where will people park?

Mr. Cawley asked the Board if he could comment. The Board said yes.

Mr. Cawley said he has the same concerns as Mr. Stromeyer. He said people are whipping down the street and Topspin Drive. He spoke with his wife and it is a county road. He would be willing to work something out with them as there is only that stretch of road that is 50 mph. All the rest are only 40 mph. He does not know why that is. He would like a crosswalk or something. He does not want it to be contingent on his application.

Mr. Tudhope asked if there was any water over there. If there is a drought what would happen? It is the farmer in him that has him asking. Mr. Cawley said there is water there, and he has it in the run-in sheds. He continued saying to be honest, there could be someone working in the arena and they may cross over there. Mr. Tudhope said he wanted to make sure there is water, and there is.

Mr. Bassette asked if there were any more questions. There were not.

MOTION

Mr. Cichon moved, second by Mr. Tudhope to close the Public Hearing at 7:36 pm.

APPROVED

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; Mr. Mahood – aye; and Mr. Cichon – aye.

MINUTES

Mr. Mahood moved, second by Mr. Cichon to approve the minutes from December 19, 2021, as submitted.

APPROVED

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; Mr. Mahood – aye; and Mr. Cichon – aye.

The Board reviewed the draft determination for the Mendon Fire District.

Mr. Mahood asked if he should abstain as he arrived after the applicant presented. Mr. Hou said he can participate even though he missed the Public Hearing, as long as he read the application and is knowledgeable.

The Board discussed the Mendon Fire District sign.

Mr. Cichon stated what is displayed. It is off at 11 pm, and there is no on time, so they threw out 6 am. There are no flashing lights or scrolling.

Mr. Tudhope said he does not like it. It will look like crap. He told the Board to put him in check, if he is wrong. He said that some members of the Fire Department are against it and the approval is six years old. He feels that something is amiss.

Mr. Maxon stated they need to look at the variance, and the variance is for a free-standing sign. Mr. Bassette agreed, and said the Board can condition the details.

Mr. Bassette stated the code and there was no Monroe County response, but there is previous approval.

Mr. Maxon said they are asking for a free-standing sign, not that it is digital or it might look like another town's sign. Mr. Maxon advised it was only one homeowner that objected.

The Board discussed the determination.

MENDON FIRE DISTRICT AREA VARIANCE DETERMINATION

Mr. Tudhope moved, seconded by Mr. Cichon, that the area variance requested by the Mendon Fire District, 101 Mendon Ionia Road, Mendon, NY, consisting of six acres, with Tax account no. 216.04-1-3.21, zoned RS 30, for a previously approved variance on July 13, 2017 for an updated electronic public sign, whereas code requires construction to be completed within six months and a lapse of authorization has occurred, and therefore requires an updated area variance, be denied based on the following:

WHEREAS, Dan Considine, on behalf of the Mendon Fire District, appeared before the Zoning Board of Appeals at the public hearing on February 24, 2022; and

WHEREAS, Mendon Fire District previously received approval for this sign at the July 13, 2017 Zoning Board of Appeals meeting; and

WHEREAS, Section 260-94 of the Mendon Zoning Code requires the applicant to obtain a building permit within six months of variance approval. The Mendon Fire District did not do so, leading to the previous variance automatically being revoked, and the current re-application; and

WHEREAS, The applicant is requesting to rebuild and update their sign, while Section 260-70B of the Mendon Zoning Code states freestanding signs require a variance; and

WHEREAS, The existing sign is over a decade old, and the Mendon Fire District would like to replace it with an updated sign that includes digital display such that it can have wording changed via computer, which would make it easier to include important information and keep it up to date; and

WHEREAS, The planned digital display size will be approximately 2.5 feet high and 8 feet wide within the structure size of 7.25 feet high and 8 feet wide; and

WHEREAS, Section 260-70D.(1)(a) of the Mendon Zoning Code states no sign shall have flashing or moving lights and turned off by 11PM. Mendon Fire District has not requested a variance to section 206-70D.(1)(a), and thus is not allowed flashing/moving lights on this sign; and

WHEREAS, Members of the public were given the opportunity to comment during the public hearing; and

WHEREAS, This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review; and

WHEREAS, after review, the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

1. The requested benefit **can** be achieved by other feasible means, such as using what they currently have.
2. The request **is** substantial.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as the impacted area is too small.

4. The request **will** have an undesirable change in the neighborhood, as the lighted sign may become a distraction.
5. The difficulty **was** self-created, as the applicants delay caused them to require this variance.
6. This is a Type II action under SEQR

NOW, THEREFORE, BE IT RESOLVED that the application be denied for the reasons stated above.

CAWLEY AREA VARIANCE DETERMINATION (setback)

Mr. Maxon moved, seconded by Mr. Tudhope, that the area variance requested by Joshua Cawley, 829 Pittsford Mendon Center Road, Honeoye Falls, NY, consisting of 2.28 acres, with Tax account no. 204.02-1-5, zoned RA2, for a variance for an existing 12-stall horse barn to house up to 12 horses and is 83.7 feet from the property line, whereas code requires any structure housing more than five horses shall be located at least 150 feet from any property line, and therefore requires an area variance, be approved based on the following:

WHEREAS, Joshua Cawley, the property owner appeared before the Zoning Board of Appeals at the public hearing on February 24, 2022; and

WHEREAS, The applicant is requesting to have their horse barn ~83 feet from the property line, while Section 260-8N.(1)(c) of the Mendon Zoning Code states any structure housing more than 5 horses must be at least 150 feet from the property line; and

WHEREAS, A building permit was issued near November 20, 1968 and the barn was built shortly thereafter; and

WHEREAS, Joshua Cawley purchased the property in 2021, at which time the barn already existed in its current form; and

WHEREAS, The existing barn does not currently house horses, but it has in years past; and

WHEREAS, No members of the public commented during the public hearing; and

WHEREAS, This application was sent to the County Planning Board for review under General Municipal Law 239-m and the County returned comments dated February 24, 2022; and

WHEREAS, after review, the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

1. The requested benefit **cannot** be achieved by other feasible means, as the properties dimensions prevent other locations.
2. The request **is** substantial, as it is ~44% of the required distance.
3. The request will **not** have adverse physical or environmental effects, as the barn has been at it's current location for a number of years.
4. The request will **not** have an undesirable change in the neighborhood, as the barn has

previously housed horses.

5. The difficulty was **not** self-created, as the barn was at this location when the property was purchased.
6. This is a Type II action under SEQR

NOW, THEREFORE, BE IT RESOLVED that the application be granted for the reasons stated above.

The Board discussed the draft determination and its concern with the manure and lot size. The Board discussed other property owned by the applicant, and they cannot be combined because the road intersects them.

CAWLEY AREA VARIANCE DETERMINATION (acreage)

Mr. Maxon moved, seconded by Mr. Cichon, that the area variance requested by Joshua Cawley, 829 Pittsford Mendon Center Road, Honeoye Falls, NY, consisting of 2.28 acres, with Tax account no. 204.02-1-5, zoned RA2, for a variance for an existing 12-stall horse barn to house up to 12 horses, whereas code requires the keeping of hooved animals shall require a minimum lot size of three acres, and therefore requires an area variance, be denied based on the following:

WHEREAS, Joshua Cawley, the property owner appeared before the Zoning Board of Appeals at the public hearing on February 24, 2022; and

WHEREAS, The applicant is requesting to house up to 12 horses in the existing barn, while Section 260-8N.(1)(a) of the Mendon Zoning Code states 14 acres is needed for 12 horses; and

WHEREAS, An 11 acre parcel directly across the street is also owned by Joshua Cawley. This parcel is currently configured as horse pastures, and the intent is to continue that usage; and

WHEREAS, The land does not currently house horses, but it has in years past; and

WHEREAS, Section 260-8I. of the Mendon Zoning Code forbids storage of manure within 200 feet of any lot line. Joshua Cawley has not requested a variance to section 260-8I, and thus this restriction continues to apply; and

WHEREAS, Members of the public were given the opportunity to comment during the public hearing; and

WHEREAS, This application was sent to the County Planning Board for review under General Municipal Law 239-m and the County returned comments dated February 24, 2022; and

WHEREAS, after review, the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

1. The requested benefit **cannot** be achieved by other feasible means, as the lots size is too small.
2. The request **is** substantial as it exceeds the requirement by ~614%, and the additional 11 acres does not mitigate the issues.

3. The request **will** have adverse physical or environmental effects, as the impact of manure would be too great.
4. The request **will** have an undesirable change in the neighborhood, as the impact of manure would be too great.
5. The difficulty **was** self-created, as it is their desire for horses driving this request.
6. This is a Type II action under SEQR

NOW, THEREFORE, BE IT RESOLVED that the application be denied for the reasons stated above.

MOTION

Mr. Cichon moved, second by Mr. Maxon to adjourn the meeting at 8:15pm.

APPROVED

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; Mr. Mahood – aye; and Mr. Cichon – aye.