

Minutes

Monday, October 23, 2023 6:30pm

Attended:

Doreen Prouty

Richard Maggi

Gary Geiger

Vincenzo Ronghi (6:36pm)

Aldo Mancini

Also Present:

Stefanie Kesecker

A. 6:30PM-PUBLIC HEARING-Case#2012-82 Northwood Street-Ehle-Special Permit

Chairperson Prouty opened the meeting at 6:30pm and introduced the members of the Board and explained the process of the public hearing to the petitioner and those in attendance. She then gave the floor to the petitioner Christina Ehle.

Ms. Ehle, 82 Northwood Street, passed handouts to the voting members. She started by thanking the Board for hearing her case. She stated she, her husband, and 3 children have been residents of Agawam and owners of 82 Northwood Street for 7 years. She stated they love living in Agawam and they love their neighborhood. She stated they love that Agawam takes pride in being an agricultural town. She stated this year they put a coup and run in their yard to be able to house a small number of chickens for their family. She stated they received a notice in the mail from the Building Inspector informing them of a written complaint concerning their chickens and stating that they needed to get rid of the chickens. Ms. Ehle stated the issue is how the property is zoned. She stated according to Town GIS system provided on the Town of Agawam website, the property is listed as agriculturally zoned. She referred to the handouts she had given the Board members and stated the Agawam Assessors' property record card also states the property is agricultural. She stated the Building Inspector as well as the Assessors' office have informed her that this information is outdated and the property is now residentially zoned, which prohibits chickens. She stated according to the Towns' zoning map the property lies at the very end of residential zoning and immediately abuts 4 agriculturally zoned properties. Ms. Ehle stated their property is the largest on Northwood Street and properties on neighboring streets. She stated the coup and run are well designed and big enough to accommodate up to 12 chickens. She went on to say no ground was broken in its construction and it is a free standing structures. The dimensions of the coup are 6ft. by 8 ft. and the dimensions of the run are 10ft' by 13ft'. She stated they only have hens, no roosters and that the chickens are fully contained in their coup and run, unable to leave the property, and not free-ranging. Ms. Ehle stated their lot is .96 acres. She stated the coup and run are set back 65ft. from neighboring property lines, and 125 ft. from the street. She stated the coup has solar powered motion activated lights to discourage any wildlife predators. Ms. Ehle then referred to the handout and stated pictures 1-6 show a view of the chickens and the coup and the view from neighboring property lines and the street. She stated the chickens are very important to her family as they serve multiple needs including: food security and educational purposes for the children's home based schooling. She stated

individuals should have the right to produce their own food under reasonable circumstances, especially considering the food supply issues that presented during the pandemic and the eggs shortages in 2022. Ms. Ehle stated they like to know where their food comes from and that what they are eating is healthy and fresh. She stated they want to cut their support of commercial egg facilities where chickens are kept in dark, crowded, and unventilated conditions that breed disease. Ms. Ehle stated her family has raised these chickens since they were one day old and each chicken has a name. She stated she and her family have bonded emotionally with them and they are pets to the family. She then referred to pictures 7-12 that demonstrated the educational and emotional benefits of the chickens. She stated the chickens have taught her children how to safely handle animals, responsibility and chores, frequent hand washing practices and how to be entertained without a screen, and how to raise food in a community. She stated her children daily learn from these chickens and that is integrated into their home-based education. Ms. Ehle stated the happiness of their neighbors is a high priority to them and she has spoken to all of her neighbors within 300 ft. of her property line to inform them of the chickens, and gave each neighbor their phone numbers if there was any issues or concerns. A letter was given to each neighbor and Ms. Ehle stated they all expressed support. She referred to the list of supporters who had signed a petition for her and this was included in the handout she presented to the Board. She stated the two concerns neighbors expressed were roosters and she stated they have no intention of having roosters. She stated the second concern expressed was that the chickens would attract predators. She stated there has been no issues with predators as the run and coup are enclosed and secure and motion sensor flood lights were installed. She stated the chickens are not injurious to her neighbors or their properties. She stated chickens produce less sound than landscaping machinery, barking dogs, or playing children, which are all neighborhood sounds. Ms. Ehle went on to say she spoke to both neighbors directly beside her to see if they could hear the chickens and both neighbors stated they could not. She stated the chicken area is well maintained with both time and money and they live in very clean conditions and are tended to daily. Flowers, shrubs, and herbs surround the chickens to muffle sounds and limit visibility. Ms. Ehle stated her case satisfies the criteria for a special permit in that it they serve a need for food, education, and emotion support as pets. She stated they have no negative impact on traffic flow, utilities, or other public services. She stated they have no fiscal impact on the Town. They have a positive impact on the environment, as they are insect control, and add nutrient rich compostable nutrients to the soil. She stated as witnessed by the 23 signatures in support of the chickens that they do not negatively impact the neighborhood character.

Chairperson Prouty read a letter sent to the ZBA from Richard Knight, 65 Northwood Street, who stated he lived across the street from the Ehle's and he has no problem with the chickens and the Ehle's are a wonderful family.

Member Maggi thanked Ms. Ehle for her presentation and he stated this presentation was the best he has heard on this Board. Mr. Maggi asked if the property was purchased in 2016. Ms. Ehle stated yes. Mr. Maggi asked how long they have been raising the chickens. Ms. Ehle stated since April of 2023. Mr. Maggi asked if she knew when the zone change occurred. Ms. Ehle stated she did not.

Member Geiger asked Ms. Ehle how many chickens. She stated they purchased 10, 3 were roosters, and 1 passed away, so they have 6 hens. She stated they would like the special permit to

allow them to own 12. Mr. Geiger questioned how the property went from Agricultural to Residential A-2. He stated he also found what the petitioner did when he looked at the Town website.

Chairperson Prouty stated she agrees that it is confusing because online the Assessors' record cards say Agricultural, as well as GIS, but the zoning map is Residential A-2.

Mr. Geiger stated the City Council is the only body that can change zoning.

Chairperson Prouty stated under §180-23(K) that "the keeping and raising of poultry, livestock and pigeons, whether for the table or other purposes, or other like objectionable uses are prohibited." Chairperson Prouty stated this issue is black and white.

Member Ronghi stated that the City Council was the one to make the zone change. He stated there is a distinction between zoning and the prohibition. He stated it is the Towns' responsibility to manage the information and if one part of the website says Agricultural and one part says Residential A2 it is not the Boards' job nor the petitioners' job to discern that. He stated he would defer to Agricultural. He stated both Residential A-2 and Agricultural are listed in different places for this property, so he is deferring to the Town. He stated what residents are left to, is going to the Towns' website to obtain this zoning information and on the GIS and Assessors' record card it states Agricultural.

Chairperson Prouty stated the effective date of the zoning map is 1960 and it was revised in 2006 and this map lists the property by Residential A-2. Chairperson Prouty stated she can only go by the legal zoning map and what the Building Inspector stated is Residential A-2.

Chairperson Prouty then opened the meeting for public comment.

Mike Stefano, 54 Rosie Lane, stated he has been a letter carrier for 25 years and there are chickens on every single street in Town. He stated there is not one street on his route that does not have chickens. He sees the children out playing with them. He stated he has never had a problem with any chickens, but plenty with dogs. He stated you are allowed to have 2 or 3 dogs in Town and he doesn't understand why chickens are not allowed. He stated he is not sure why a Town by law from 1960 is still in effect and that in 2023 people are busy and they look online at the Towns' website for accurate information. He stated no one is coming to Town Hall to look at a map from 1960. He stated you do not need an agricultural lot to raise chickens if you can raise a dog or cat you can raise chickens.

Rick Seldomridge, 844 Main Street, stated he was Animal Control for the Town on nights and weekends. He stated there are chickens everywhere he goes. He stated he has no problem with chickens. He stated there are dogs in Town that are not registered and all kinds of animals. He stated chickens are the cleanest animal. He stated this is an agricultural town and it should stay that way. He stated we don't need more businesses or more of anything else, but we need more farms. He stated he has a farm in Town and has been here 14 years.

William Clark, 26 High Meadow Road, stated the Assessor's record card doesn't make sense

because how many times have times have houses been reassessed in the last few years and they keep updating the record cards. He questioned why the zoning portion of the record card is not updated. He said if the Towns' record card states that it agricultural, how can this information be wrong.

Paul Nicosia, 65 Chapin Street, stated he doesn't think anyone in Town is trying to have a huge agricultural chicken farm. He thinks what the residents are looking for is some common sense expectations that are reasonable for the properties that they own and pay taxes for. He stated they want to maintain some chickens to provide food, companionship, valuable manure, insect control, and a lot of other valuable benefits that come from animal husbandry. He stated everyone that owns chickens is looking to utilize the property they own and live on in a way they feel is best to support their family. He stated the Town should look a common sense expectations for owning chickens. He stated there needed to be a limited number of chickens and some level of control. He stated that other neighboring towns have done this. He stated he does not have a problem with chickens as long as there are limits and the chickens are contained.

Lindsay Duffy, 310 Corey Street, she stated that the petitioners did their due diligence to make sure they were in the boundaries. She stated she supports the Special Permit for this case. She states it supports their sustainability, food security, and more importantly their initiative to home-school their children. She stated she thinks it would be a disservice to take all that away from them when they have done their due diligence. She stated it is not the petitioners' fault that there is some red tape. She stated she supports the Right-to-farm community wholly.

Karen Szymczyk, 65 Day Street, stated her son asked for chickens. She stated she went onto the Towns' website and did not see anything about chickens. She stated she has a very small coup and her son goes out to there and has fun with his chickens, which are all hens. She stated he went to every single neighbor to ask if they were okay with him having chickens. She stated the neighbors had no objections. She stated her chickens are free-range and visit with the neighbors, but the neighbors enjoy it. She stated the neighborhood kids play with the chickens. She stated chickens are entertaining, they know who they are, and they get along great with children. She stated they do not peck, or bite, or run after them. She thinks rezoning needs to be done, so that the petitioners can continue with their beautiful coup. She stated she grew up here and her aunt had chickens. She stated they are not asking for horses or cows, but hens that give wonderful eggs each day. She stated they are loved just like a dog or a cat.

Paul Broz, 24 Broz Terrace, stated surrounding towns such as, Westfield, West Springfield, and Enfield allow residents to have chickens and he thinks Agawam should change their ruling. He states this used to be a farming town and there was probably 400 farms and now there is maybe 12. He stated no farms, no food. He stated we all should be able to raise our food and that chickens are good for removing ticks out of the yard.

Monica Melchionne, 14 Gold Street Westfield, stated she went through a similar situation where she had chickens for several years and they cited her for being industrially zoned. She stated she went through many of the same things where none of her paperwork said industrial, the only thing that said industrial was the map. She stated they fought to have chickens and she just had an inspection from the animal control officer last week in Westfield. She stated it is turning out

to be a success and it has been a positive experience. She stated the people that wanted chicken already had them and the same is probably true in Agawam. She stated it seems counterproductive to not change with the times. She stated that even the United Nations has a law stating that no government shall stand between you and free food on your own property. She stated it's time that that the local government starts following this.

Brett Suzor, 71 Northwood Street, stated he didn't sign the petition, but only because he wanted to make sure there wasn't going to be roosters allowed. He stated he supports residents having chickens. He stated a barking dog is worse than chickens.

Donna Jargo, 1028 River Road, stated she doesn't have chickens, but does not oppose anyone having them. She stated that the times are changing and it's very costly to live. She stated she thinks a lot of the younger generations will probably have a hard time ever buying a house and providing food and education for their kids. She stated that having chickens provides families food and saves them money. She stated she doesn't know any reason chickens would be a bother to anyone. She stated it's time to come up with new laws to provide sustenance for families. She also stated that chickens help relieve stress and help with the food budget. She stated she would love to have a neighbor who had chickens. She stated she is promoting the change that is needed.

Jennifer Gilbert, 41 River Road, stated she has chickens and she has a 7 year old child with severe food allergies called celiac. She stated she makes everything from scratch and uses the eggs. She stated the chickens have a beautiful coup with herbs around them. She stated she does not have roosters. She stated it would be devastating to not be able to have her chickens.

Chairperson Prouty asked if anyone would like to be recorded in name only in support of this Special Permit. The following individuals identified their support:

Bruce Jacobs, 122 Elaine Terrace, West Springfield
David Ehle, 59 Upland Street Springfield
Jason Scott, 57 Fox Farms Road
John Parchewpikoff, (sp.) 32 Park Avenue, West Springfield
Mike Yo, 480 School Street
Simone Broz, 24 Broz Terrace
Trent Comee, 21 Central Street
Carol Small, 28 Deborah Lane
Jessica Velez, 59 Simpson Circle
Hsin Ju Lu, 14 Porter Drive
Katherine Cruz Stefano, 54 Rosie Lane

Chairperson Prouty asked the attendees if anyone wanted to list their name recorded in opposition. No one opposed.

Member Maggi stated §180-23(K) stated is says, "keeping and raising" and there has been no evidence here that this petitioner wishes to raise chickens, just to provide food. He went on to say classifying the raising of food as objectionable use is a very subjective misnomer in this case.

He stated there has been no issues raised by the health department, so there is no health hazard. He stated finding that no one has objected to this petition, he does not find that subsection K is objectionable. He stated he thinks the Special Permit should be granted.

Member Geiger stated he was proud of the people that were in attendance and that he grew up in Feeding Hills and has been in the town for 62 years. He stated he witnessed a lot of farms go away throughout the years. He stated the petitioners kids are getting something really good. He stated he was ready to vote.

Chairperson Prouty asked if there were any further comments. No one responded. She informed the petitioner there is a 20 days appeal period from the time the decision is stamped in at the Clerk's Office to appeal through the Hampden County Superior Court, Housing Court, or Land Court.

Chairperson Prouty then called the public hearing to a close.

Chairperson Prouty stated that she is pro-chicken and had some of her own in the past and loved the eggs. She stated she agrees with the thoughts everyone has expressed. She stated this is a black and white issue. She stated a Special Permit can be granted by the ZBA, but it has to be allowed in the zoning. She stated there is no where she can find in the Zoning laws that allow for chickens in Residential A-2, unless the parcel is 5 acres, and that is state law.

Ms. Ehle asked the purpose of a Special Permit if it allows for something that is already allowed in the zoning.

Chairperson Prouty stated Special Permits were created because the Town wants to allow a use, but the Town is concerned with that use and they put it under the Special Permit to make sure a body oversees it to make sure what is being proposed is okay for the community, the area. The Town has to state you can get the Special Permit and when the Town is silent you can ask for a Variance, which is a different condition. Prouty then stated the ZBA does three things: grant or deny a Special Permit, grant or deny a Variance, or grant or deny an appeal from a Building Inspector decision. She stated the Board also handles Comprehensive Permits.

Ms. Ehle stated she still was not understanding why they had not met the criteria for a Special Permit. Prouty stated the Town has to allow it for a Special Permit, and conditions have to be met. Ms. Ehle stated the zoning is unclear and they built the coup with the understanding that the Town was reflecting the zoning accurately and they have not.

Chairperson Prouty stated the Building Inspector stated it is Residential A-2 and she fully supports that. Prouty further stated she was not aware until today that the Assessor's record cards showed this parcel as agricultural and she understood the petitioners' confusion.

Mr. Nathaniel Ehle asked if the case was not able to be valid for a Special Permit why were they here. He stated they have spoken with Town officials who told them what to do, which lead them to the ZBA. Mr. Prouty stated that is was the Building Inspectors' decision was to send the petitioners' to the ZBA for the Special Permit.

Chairperson Prouty stated that the only body that can create or change a zoning ordinance is the City Council.

Member Maggi suggested continuing the public hearing until the petitioner can seek a zone change from the City Council. He stated no one is objecting to the chickens.

Member Ronghi thanked the City Councilors, Russo, Calabrese, Sandlin, and Hendrickson who were present for coming. Mr. Ronghi stated chickens in Town have been an issue for some time. Mr. Ronghi stated there is selective enforcement in this Town and that no one cares about chickens unless someone calls to complain. He stated the fact that so many people stood up to support this cause as well as state they have chickens makes him encourage the voting members to table this case until the City Council can jump on this issue. Mr. Ronghi stated that part of the ordinance can be suspended until the City Council visits this issue. He went on to say Chairperson Prouty was correct in that if a usage is prohibited, then it's prohibited.

City Council Russo, stated this process has already been started. Councilor Calabrese stated she has been working with the Health Department on this issue, and Councilor Sandlin will be helping on the zoning task-force. Councilor Calabrese stated this should be on an upcoming agenda under new business.

Motion was made by Mr. Geiger and seconded by Mr. Maggi to rescind the motion to close the public hearing and to continue this public hearing until the December 11, 2023 meeting. Geiger-yes, Maggi-yes, Prouty-yes.

B. Approval of Minutes-July 24, 2023

Motion was made by Mr. Geiger and seconded by Mr. Maggi to approve the July 24, 2023 meeting. Geiger-yes, Maggi-yes, Prouty-yes, Mancini-yes, Ronghi-yes.

C. Any other matter that may legally come before the Zoning Board of Appeals

Nothing under this agenda item.

Meeting adjourned at 8:00pm.