

MINUTES OF A PUBLIC HEARING HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

September 21, 2000

The hearing was called to order by the Chairman, Peter Keenan, with the following board members present:

Robert Harris
Peter Keenan
Marilyn Marky

Members absent: Stephanie McCormick
James Whitcomb

Others present: David Thomason, Town Councilman
Dwight Krieger

CASE #855 Philip and Elizabeth Colarusso, 1509 Quaker Rd, Orchard Park (Town of Aurora)
NY

The Notice of Public hearing was read by the recording secretary. The Notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked exhibit 1. The Affidavit of Posting marked exhibit 2. Zoning Board of Appeals application marked exhibit 3. Copy of Use Permit application marked exhibit #4. Copy of plot plan marked exhibit #5. List of abutting property owners marked exhibit #6. Presentation of proposal marked exhibit #7.

The Chairman opened the hearing by stating the purpose and procedure of the hearing and said that after the hearing a meeting would be held to render a decision with respect to a request for a use permit for a garden/lighting center at 1509 Quaker Road, Orchard Park (Town of Aurora), NY.

Colarusso -Philip Colarusso, I live at 1509 Quaker Rd.

Hearing started with locating the property for the Board members.

Keenan -This is the second time you've been before us. What was the date of the last time?

Marky -February 18, 1999

Keenan -Good. Because you're not supposed to reappear for one year. You're asking for a use permit in an Agricultural zone for a previously undefying business. I want to compliment you on the presentation you made. Please explain your concept to us.

Colarusso -The concept I'm proposing here is a speciality garden center and lighting show room. In the nature of my business now, I specialize in landscape lighting. I get a lot of referrals

Case # 1288
Exhibit # 10
Date 2/16/07
Law

from different garden centers because they don't do lighting and I don't compete with them. My land permits me to have a garden center but does not permit me to have a lighting showroom. But the two do go hand in hand, so by developing this concept of having a garden center, I'm not going to infringe on any of my referrals because I'm going to specialize exclusively in daylilies.

Keenan -Only?

Colarusso -Daylilies will be the only type of plant sold. I thought I was being original. There are about a dozen nurseries in the U.S. that sell only daylilies. There are 40,000 plus varieties of daylilies that range in cost from \$5 to upwards of \$300.

Keenan -Are you going to sell daylilies?

Colarusso -Yes. We will have daylilies displayed in the labyrinth type display. The aisles will be three feet wide and the beds will be six feet wide. The beds I have designed will be able to house up to 10,000 plants, 300 to 500 different species.

Keenan -Do they cross breed?

Colarusso -They do. That's how they get the 4,000 and growing.

Keenan -What are you going to do in the winter?

Colarusso -The nature of my business in the next few months I will decorate houses for Christmas. I trim houses and some businesses on the exterior. We don't do much after Christmas except take them down.

Keenan -Would that be in the same building?

Colarusso -Yes. I want to integrate the two so they go hand in hand. I'll be doing the holiday lighting and the landscape lighting will be around the nursery stock and the displays that I built.

Keenan -You don't do anything with Christmas flowers?

Colarusso -No. I don't want to anything with Christmas flowers or Christmas trees.

Keenan -If I understand you properly then, you are going to specialize in daylilies, which are perennials.

Colarusso -Yes.

- Keenan -What's their live span?
- Colarusso -I don't know. The girl I hired to run that will be able to answer that question.
- Harris -That will be a seasonal display?
- Colarusso -I'm not taking them away in the winter. They'll be up (in bloom) until Fall and they'll be right there again in the Spring.
- Keenan -Do they survive the winter weather?
- Colarusso -They are perennials so they come back every year. I'm not going to take them away in the winter.
- Harris -They're tubers as opposed to bulbs, aren't they?
- Colarusso -Correct.
- Marky -What would you anticipate doing with the building? Would you have lighting in there?
- Colarusso -Correct. Exterior lighting only. I have no dealings with interior lighting and the lighting is either landscaping based or holiday trimming based.
- Marky -The layout looks nice.
- Kreiger -You live in the first house behind there?
- Colarusso -Yes.
- Keenan -(Read from A-2 of the district regulations.) I think it is rather broad as long as there are horticultural/floricultural pursuits.
- Harris -You know just up the road in Murray's. We considered this and he is zoned same as this property. (Discussion of Murray's permit followed.)
- Marky -According to this, because of A-2 his floricultural/horticultural pursuit would fit in and it wouldn't be an exclusion.
- Keenan -What I think it says in the code "...together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits." I think that is rather broad in latitude.

Marky -I agree.

Keenan -Do you want to tell us a little more about your operation? What you plan on doing?

Colarusso -The display will be set up in front of the building in a labyrinth. The lot slopes slightly towards the road and we will grade it a few more degrees so you get a little bit of the visual impact. There will be lighting fixtures within the beds. Different types of lighting techniques that people will be able to see...

Keenan -What will be your hours of operation?"

Colarusso -What I foresee as normal hours of operation would be not extending anything in the evening any later than 9:00. I don't think it would be reasonable to exceed those hours because we are too residential.

Keenan -Daylight, but not later than 9:00?

Colarusso -Correct. The winter time that will be an advantage because it is dark at 5:00 and you'll be able to see the lights earlier. In the summertime you won't have that advantage during business hours. What I anticipate doing in the retail part as having an area I can call a light lab, a 20 x 20 or 30 x 30 room and make it look like someone's back yard. Have a couple hundred switches people can play with lights to see what it would look like.

Harris -We don't have a problem with the horticultural aspects of your presentation. Would you be having trucks delivering lighting fixtures? Are you going to warehouse them there or do you have an offsite? Are you going to inventory lighting fixtures and (accessories) there?

Colarusso -Yes. I didn't have a blue print. 45 x 90 of the back of the building is warehouse portion.

Keenan -Do you subcontract? Do you sell to electricians?

Colarusso -I don't subcontract. I am looking to target the retail market. At this point I don't know how much selling to other contractors will be a factor in it. Much the way Buffalo Hardwood Floors sells to the do it yourselfer and their own customers.

Harris -I'm trying to get a handle on truck traffic. Are you saying you'll just have some delivery trucks dropping off several cases of fixtures, or during the course of the day will subcontractors be coming in with pickups or vans?

Colarusso -My work is done by my employees. I don't use subcontractors. If other contractors are going to purchase products from me I don't know how that is going to play out.

- Harris -You're not going to be a lighting supply distributor or anything like that?
- Colarusso -I will distribute products that I sell once I have this lighting show. I will get a better margin from manufacturers if I call myself a distributor than if I go to, say Shanor Electrical to buy a fixture where I may get only 15-20 points. If I get a distributorship I may get 50 points. So that's my intent. There are 38 different manufacturers of landscape lighting products now.
- Harris -We can stretch the interpretation of horticultural, but we've got to be careful that we consider all the ramifications of a possible wholesale/retail distributor where you've got a lot of traffic coming in.
- Keenan -What percentage of your income, dollar volume, do you think will come from lighting and what percentage from horticultural/floricultural?
- Colarusso - At this point I feel it would be about 50-50.
- Harris -You wouldn't be selling many daylilies five to six months of the year.
- Colarusso -Correct.
- Harris -So your livelihood would be based on performing services for others primarily in the lighting fields.
- Keenan -On a retail basis.
- Harris -That's what I am trying to get a feel for. I can personally comprehend in our emerging technologies that horticultural could be construed as landscape lighting as well as trees and bulbs, etc. But I want to make sure I understand the proposal. Is it going to be a Buffalo Light, whatever, or just a nice, comfortable speciality shop where people can see the lights and their impact. You'll have lilies growing indoors as well? Am I correct?
- Colarusso -I can do that if it is an indoor variety.
- Harris -I thought you might have ambient conditions where plants might grow with artificial light.
- Colarusso -I can use as much as possible. I may need, in this back yard environment, use some artificials to simulate a feel for the different techniques. Why I have lights in this showroom is that for most people it is very hard to visualize context. If I show them a light fixture it means nothing. If I can show them a light fixture in the bed then they can have a reference point. So the showroom aspect of this business will be very extensive

in having it in context so that when you're inside it can't be a bunch of fixtures up against a wall like you would find at Shanor or Buffalo Light supply. It needs to be in context for people to understand.

Keenan -Would you propagate any of these daylilies inside?

Colarusso -I don't know. If that can be done inside or outside. If I have to use the display area I have of if I need to use another acre or two of my property.

Keenan -Let's assume that you are going to have five or six months of less activity with your outdoor. If you were to have something inside that would be of the horticultural nature rather than just lighting nature it might fit better.

Harris -Where are you going to do your cuttings? Somewhere back here you're going to want to separate tubers and cuttings. I envision you need a prep area for your mulch and bedding materials and so on that you cart off to do someone's daylilies in there.

Colarusso -I am going to sell nursery stock on a retail basis. I won't be installing landscapes for people. I don't know if the square foot requirements I need to achieve what you just mentioned can be incorporated into part of that 4,000 square foot of warehouse.

Harris -So you're not so much horticultural as you are lighting.

Colarusso -They will be propagated there. In order to make an immediate impact I don't want to wait a year or two to propagate enough stock so stock will be brought in for that. But then we will be propagating right there and even developing some of our own varieties. Again I have additional acreage in back that I can work with in that regard.

Keenan -Can we go back to my question about the ability to have some of the actual flower work inside.

Colarusso -Yes. I can carry an interior type of plants too, and incorporate that. I would want to parallel that lily concept....

Keenan -I'm not thinking of a diverse type of plant. I'm thinking of doing something with the lilies on the inside.

Colarusso -Yes. I could do that.

Marky -I'm confused, Peter.

Keenan -I', trying to offset some of the criticisms that might come.

Marky -I mean, do what with the lilies?

Colarusso -I can have out door lilies outside and indoor lilies inside.

Marky -Would the indoor lilies be for sale?

Colarusso -Yes.

Harris -Primarily, if I'm reading this correctly, you're into the light and that's a means to display the lighting. It wouldn't really need to be daylilies. It could be petunias or something of that nature. But you see where we're coming from. We're trying to draw you away from the lighting fixture supply house and display room into something more palatable to us in our zoning regulations. That's why we're ferreting out how you're going to do it.

Marky -If you propagated them in here and had something to do with the lilies in here (the building) you'd need (the building) to take care of your horticultural business.

Keenan -We're trying to establish that so someone couldn't come in here and challenge us or you. We're trying to see if there is a balance to be struck.

Colarusso -Yes. I can develop a line of interior plants that we can propagate and grow there as well.

Keenan -How many employees do you figure you'll have?

Colarusso -I have two full time right now. To start this I would probably start with six to eight full time.

Keenan -Particularly during the summer time. During the winter, hopefully, too?

Colarusso -I'm in the position where I'm looking for two other full timers now and that doesn't mention the seasonal help I need for the holiday lights.

Keenan -Your exhibit here (Exhibit #7) would be enough to attract passers-by, but you said much of your business comes from other nurseries now?

Colarusso -Some of my business, not the majority. The Spree Magazine (where he was featured) is an excellent source.

Keenan -Are you anticipating signs?

Colarusso -The signage would be in the little entrance island.

Keenan -You know there is a sign code. You can check with the Building Office for the details.

Jarky -How far back would you estimate the building is from the road?

Colarusso -I believe about 280-285 feet.

Keenan -How close would you say the beds would be from the road?

Colarusso -Fifty to sixty feet to the front edge of the bed from the edge of the road.

Keenan -Assuming that you receive this approval, when would you expect the construction to start? When would you be operational?

Colarusso -I have to get a few more ducks in a row. But I would love to have this operational for the Spring of 2001. I don't want to make this kind of effort and then have a little plant out there the size of my thumb in a pot. It needs to have some curb appeal.

Keenan -Let's review. We're talking about section A-2 (District Regulations). We read the definition of what is available and what is possible under A-2. Horticultural pursuits...

Marky -If the day lilies didn't work out you know that the lighting business couldn't function without the horticultural aspect.

Colarusso -I understand that.

Keenan -That would be part of the permit. The other thing would be that if you were to sell the business and the property it would have to be to a use that would be permitted under Agricultural use.

Harris -Could you live with such restraints as no external sleigh lighting? You mentioned Christmas lighting. I don't think it would be within our realm to permit sleigh on roof...I wondered if when you mentioned seasonal lighting if that is what you were referring to.

Colarusso -Seasonal lighting does include that. In my opinion there is seasonal lighting that is tasteful and seasonal lighting that isn't. It is kind of hard to legislate taste, but, I'm not going to make this kind of effort and put something out there that is in poor taste. Would I want to go into this knowing I could not put up any type of sleigh or anything? No. I want to do that type of thing in the winter.

Harris -Would you be going the 1000 watt multi deer and manger scenes? They are quite bright and eye attracting because of their brightness. I'm wondering what you had in mind.

- Colarusso -If I do some kind of Christmas display, I can't light up everything because then they'll compete with itself. I see doing different scenes that fade in and out at different times so that things are tasteful and have some aesthetic value to them or a concept the lighting plan, not go in there and light up everything.
- Keenan -I personally don't worry about that because I think the nature of your activity has to be of a tasteful nature.
- Harris -If we're looking at it from a horticultural standpoint that's what it has to be.
- Marky -And truly, I can put any kind of lighting in my yard that I want.
- Harris -I'm willing to consider the fact that with our emerging technologies that landscape lighting is part of horticulture. It may not be what the framers of our bulk regulations had in mind but they didn't know about computers then either.
- Keenan -Back to signs. In an A district signs not more than 24 square feet in area which advertise the products of the farm on which they are located and they may not be internally lit.
- Colarusso -3x8 would be appropriate. I'd have a scaled down version of the stone pillars on the front elevation (of the building) to hold the sign so it is in context.
- Keenan -As long as you're within the code you don't need anything else from us for the sign. Does the Board have any more questions? Do you have anything else you can tell us that you think would be helpful to the Board in coming to a decision?
- Colarusso -No.
- Keenan -Do you understand our concern and suggestion about keeping some horticulture inside?
- Colarusso -Yes I do & I will address that and add something to that affect.
- Keenan -As there is on one here in the audience who wishes to address this case we can close the hearing part of this case.

LIST OF EXHIBITS

CASE #855 Philip and Elizabeth Colarusso, 1509 Quaker Rd, Orchard Park (Town of Aurora)
NY

- Exhibit 1 Affidavit of Publication
- Exhibit 2 Affidavit of Posting
- Exhibit 3 ZBA application
- Exhibit 4 Copy of Use Permit application
- Exhibit 5 Plot plan
- Exhibit 6 List of abutting property owners
- Exhibit 7 Presentation of proposal

MINUTES OF A MEETING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

September 21, 2000

The meeting was called to order by the Chairman, Peter Keenan, with the following Board members present:

Robert Harris
Peter Keenan
Marilyn Marky

Members absent: Stephanie McCormick
James Whitcomb

Others present: David Thomason, Town Councilman
Dwight Krieger

CASE #355 Philip and Elizabeth Colarusso, 1509 Quaker Rd, Orchard Park (Town of Aurora)
NY

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Marilyn Marky, seconded by Robert Harris, that the applicants be granted approval to have a Garden and Lighting Center in that the Board considers it an accepted use under A-2 of the code as it includes horticultural and floricultural pursuits.

Harris -aye
Keenan -aye
Marky -aye

Motion carried. Request granted.

MINUTES OF A PUBLIC HEARING HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

July 19, 2001

The hearing was called to order by the Chairman, Peter Keenan, with the following board members present: Peter Keenan
Marilyn Marky
Stephanie McCormick
James Whitcomb
Robert Harris

Others present: Patrick Blizniak, Superintendent of Buildings
Dwight Krieger, alternate

Case 872, Philip Colarusso aaf Dominic Colarusso, 1216 Quaker Road, East Aurora (Town of Aurora) NY.

The Notice of Public hearing was read by the recording secretary. The Notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked Exhibit 1. The Affidavit of Posting marked Exhibit 2. ECDP form marked Exhibit 3. ZBA Use Permit Application marked Exhibit 4. List of abutting property owners marked Exhibit 5. Introductory letter marked Exhibit 6. Site map marked exhibit 7. Copy of survey marked Exhibit 8. Existing site plan marked Exhibit 9A. Proposed site plan marked Exhibit 9B. Photos of existing buildings marked Exhibits 10 A, B & C. Letter of agency from Dominic Colarusso marked Exhibit 11.

The Chairman opened the hearing by stating the purpose and procedure of the hearing and said that after the hearing a meeting would be held to render a decision with respect to a request for special use permit for horticultural and landscape lighting at 1216 Quaker Rd, East Aurora (Town of Aurora) NY.

Colarusso -Philip Colarusso. Last year I was here asking for the same variance (special use permit) I am requesting now, except I want to move it down the street a half mile closer to East Aurora, on the opposite side of the street. The opportunity has presented itself to buy my father's home & I want to move the project there instead of where I asked for it last year.

Keenan -Please let me preface your presentation. Has anything changed with the type of work you would be doing on this new property from that which you described to us in the previous case?

Colaurusso -No sir.

Keenan -So all of the testimony that you gave us in the precious case holds, then.

Case # 1238
Exhibit # 9
Date 2/16/17
Sam

Colarusso - Correct.

McCormick -I was not here for that case. Was that a day lily farm also?

Colarusso -Yes.

McCormick -Have you started it already?

Colarusso -No. In fact when this idea presented itself I called Mr. Keenan and asked if I could do the same project and if I needed to re-present my case. The use permit is not transferable. When I presented my case last year I did not have the monies in place because I didn't want to do anything before I knew if the Town would accept it or not. Now I am ready to go. I did not start it on the other property. If I get acceptance I'm probably looking for a Grand Opening by the end of October.

Whitcomb -Would part and parcel of our consideration of this petition be the removal of the use permit at the other site?

Colarusso -Yes. It could be removed.

Whitcomb -That is certainly a condition I would want. I don't want two parcels out there with the same use permit on them.

Keenan -We would therefore withdraw the approval we gave you in case 855.

McCormick -Are you selling this property?

Colarusso -My father is taking my house and I am taking his.

Keenan -It would appear that you have substantially more space.

Colarusso -Quite a bit more.

Keenan -I'm not totally familiar with that property, but it seems to me the building and property are lower than the road.

Colarusso -Yes. In fact I was going to make another request tonight. Because the building is obscured from the road, there is no visibility from the street, I wanted to ask permission to put an "OPEN" neon type sign out on my signage in a small capacity, but something that would be flipped on so that people would know when I'm open.

Keenan -I think you'd have to consult the code and see what kind of signs are approved. Is there going to be any traffic problem because of the dip in the road and because of the

distance from the road?

Colarusso -I do need to expand the apron of the driveway for ingress and egress.

Keenan -Will you need State approval?

Colarusso -I'll need State approval to add a culvert pipe.

Keenan -How close is your entrance to the Chur property?

Colarusso -If I had to estimate I'd say at least 300 feet.

Marky -Do you plan to change the physical feature of the land?

Colarusso -My intent is for the white pines to remain. There are hedgerows to the left and right of the driveway. I need to clear out some of the hedgerows and some of the trees. I need to make the property more inviting and sculpt it. My father, over 40 years, planted trees (haphazardly). I have a sensitivity and awareness of how to make things flow.

McCormick -The house is barely visible from the road. Your operation is in the barn and carriage house?

Colarusso -The barn for now. I hope to change the carriage house into office space.

McCormick -That is barely visible from the road.

Colarusso -That is correct.

Keenan -In addition you will have your pond and lily plantings with a fountain.

Harris -What bothers me is the parking in front of the house and along the side of the fountain would look too commercial.

Colarusso -I can't physically achieve curb appeal. I want to dress up the entrance and will have to use advertising.

Keenan -I remember your original permit was rather restrictive as to what you had and what you could use there because of the horticultural aspect of it. It was rather a stretch at that time because the architectural aspect didn't fall into the code whereas we could bend it a little bit with the horticultural aspect of it. You understand it as that and are going to maintain that?

Case 872 D. Colarusso, 1216 Quaker Rd
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page 4

Colarusso -Correct. Yes.

McCormick -You mean maintain emphasis on the lilies rather than the lights?

Keenan -Yes. And the fact that you're going to have some indoor plantings there on a year round basis if I understood correctly.

Colarusso -Yes, I can do that. The concept of day lilies are an exterior perennial and that season is going to be fast coming to an end by October, but lighting is still strong. I want to be able to sell Christmas lighting, too.

McCormick -That is our problem. Can't you also raise ivy for wreaths?

(Considerable discussion followed about parking on tennis courts and in front of buildings and why parking can't be behind the barn. Also number of desired parking spaces and wether a berm would hide the cars.)

Whitcomb -What do the neighbors to the east and west see?

Colarusso -To the east is 75 acres owned by (family members). There is about 1000 frontage. To the west is another farm house with a barn.

McCormick -Is it an active farm?

Colarusso -If he still farms it, it is not much.

Whitcomb -What is to the north?

McCormick -Cazenovia Creek.

Keenan -The plantings will be about 350 feet back and parking back further than that?

Colarusso -Yes.

Keenan -Does the Board have any more questions? Do you have anything more you can tell us that would be helpful to us?

Colarusso -No.

Keenan -Is there anyone here who would like to speak in regard to case #872? If not his hearing is closed.

LIST OF EXHIBITS

Case 872, Philip Colarusso aaf Dominic Colarusso, 1216 Quaker Road, East Aurora (Town of Aurora) NY.

- Exhibit 1 Affidavit of Publication
- Exhibit 2 Affidavit of Posting
- Exhibit 3 ECDP form
- Exhibit 4 ZBA Use Permit application
- Exhibit 5 List of Abutting Property Owners
- Exhibit 6 Introductory letter
- Exhibit 7 Site map
- Exhibit 8 Property Survey
- Exhibit 9A Existing site plan
- Exhibit 9A Proposed site plan
- Exhibits 10A, B & C Photos of existing buildings
- Exhibit 11 Letter of agency from Dominic Colarusso

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Case 872, Philip Colarusso aaf Dominic Colarusso, 1216 Quaker Road, East Aurora (Town of Aurora) NY.

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Bob Harris, seconded by Marilyn Marky to **grant the petitioner a special use permit to have day lilies and light displays and development on the new, larger location**

Harris -aye
Keenan -aye
Marky -aye
McCormick -aye
Whitcomb -aye

Motion carried. Special use permit approved.

A second motion was made by Stephanie McCormick, seconded by Jim Whitcomb, to **withdraw the Special use permit for case 855 at 1509 Quaker Road.**

Harris -aye
Keenan -aye
Marky -aye
McCormick -aye
Whitcomb -aye

Motion Carried.