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1350-R 1 year
CASE NO. 1350 (review)
DATE OF HEARING 2/18/21

Town of Aurora Zoning Board of Appeals
575 Oakwood Avenue, East Aurora, New York 14052

Zoning Board of Appeals Application Form

I. TYPE OF REQUEST

AREA VARIANCE SPECIAL USE PERMIT USE VARIANCE INTERPRETATION

II. APPLICANT/PETITIONER

Applicant's Name JAMES AND JENNI TUDINI
Address 650 WILLARDSHIRE RD.
City EAST AURORA State NY ZIP 14052
Phone 71 Fax _____ Email ja oo.com
Interest in owner/purchaser/developer own

III. PROPERTY OWNER INFORMATION (If different from applicant information.)

Property Owner(s) Name(s) _____
Address _____
City _____ State _____ ZIP _____
Phone _____ Fax _____ Email _____

III. PROPERTY INFORMATION

Property Address 650 WILLARDSHIRE RD.
SBL# 163.00-3-10
Property size in acres 6.30 AZ Property Frontage in feet _____
Zoning District RR/A Surrounding Zoning RR/A
Current Use of Property _____

IV. REQUEST DETAIL

(check all that apply)

Variance from Ordinance Section(s) # _____
 Special Use Permit for: _____
 Use Variance for: _____
 Interpretation of _____

PETITIONER'S LETTER OF INTENT

Please describe in detail the proposed project, reason the variance and/or special use permit is being requested and any additional information that may be helpful to the Zoning Board of Appeals in deciding this appeal: (attach additional pages if needed)

As of January 2021, nothing has changed per the decision made in the original petition of 2020.

TO BE COMPLETED ONLY WHEN A USE VARIANCE IS BEING REQUESTED:

A Use Variance is requested because the applicable regulations and restrictions in the Zoning Code of the Town of Aurora have caused unnecessary hardship as demonstrated by the following:

1) I cannot realize a reasonable return on my property for each and every permitted use allowed in the current zoning classification as demonstrated by the accompanying financial evidence (provide financial evidence to support your argument).
Financial Evidence Provided Yes ___ No ___ (financial evidence is required per NYS Town Law)

2) Describe why your alleged hardship relating to the subject property is unique and does not apply to other properties in the zoning district or neighborhood: _____

3) Describe why you believe that the essential character of the neighborhood/community will not change if the Zoning Board of Appeals grants you a use variance: _____

4) Is your need for a use variance a result of you own actions (is your difficulty self-created)? Please explain: _____

(Attach additional pages if needed)

ZBA # 1350
1/16/2020

MINUTES OF AN HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

January 16, 2020

CASE #1350-Jennifer & James Tudini
650 Willardshire Rd, East Aurora, NY

The hearing was called to order by the Chairman Paul Ernst with the following Board members present:

Rod Simeone
Tony Rosati
Timothy Stroth
Davis Heussler

Others Present: Elizabeth Cassidy, Building Inspector

The notice of public hearing was read by the Deputy Town Clerk. The notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as exhibit 1. The Affidavit of Posting was marked as exhibit 2. The Building Departments Application was marked as exhibit 3. The Petitioners Letter of Intent was marked as exhibit 4. Photographs of the Animals were marked as Exhibit 5. The Building Departments Letter of Determination was marked as exhibit 6. The ECDP and Response was marked as exhibit 7. The Short Environmental Assessment Form was marked as exhibit 8. A Copy of the Survey was marked as exhibit 9. The Copy of the Deed was marked as exhibit 10. The List of Abutting Property Owners was marked as exhibit 11. A Letter of Support 1/12/20 from Frederick Lippert was marked as exhibit 12. Photographs of the overlay were marked as exhibit 13. A Letter from Henry Koningsor was marked as exhibit 14. Articles from Shirley Duane were marked as exhibit 15.

The Chairman opened the hearing with the Pledge of Allegiance to the Flag and stated the purpose and procedure of the hearing. Following the hearing a meeting would be held to render decision for a variance to have domestic farm animals and a variance for the number of acres required to house these animals at 650 Willardshire Road, East Aurora, NY.

Tudini Jennifer Tudini, 650 Willardshire. We are applying to return it to what was an agricultural property which is what it was when we bought the property in November of 2016. Only five months after we bought the property it was rezoned to rural residential and one of the sole purposes of us buying that property was because of its agricultural positioning, the land associated with it, the barn with our intent to create a small homestead to raise our children over the coming years. In that time that we have had it we have started to do that. We started to transform one of the fields that was pretty much brush and debris into an orchard.

That is an ongoing project. We have a small amount of chickens on the property that we keep for eggs and we have bee hives that we harvest honey from. As our funds have progressed we have reached the point that we wanted to know if we can have a few cows that we can raise seasonally and two pigs for our own families' purposes not for anything for production for retail or anything of that nature. It was in doing so up to we visited with a local farm that I felt that I needed to check with if there were any licenses that I needed to obtain or anything in the Town. I visited with Liz and that was when it was established that it had been rezoned and we were not aware of it and so that led us to here. After the three of you coming out this week based on those recommendations I have made an aerial view of the areas that we were planning on designating for, to visualize it for those who have not been out. There was also a recommendation to show the possible types of fencing that we would use on the inside of the post and rail fence that is pre-existing. I am also submitting an additional image to show the relative size of the type of cow that we are looking at opposed to a person because that was one thing that was brought up because they don't know what type of cows these are so how big are they so I have these in addition. It was also recommended that I try to talk to my closest neighbors so that would be two across the road and one next to us. I wasn't able to speak to one due to health and I spoke with the other two neighbors and the one that is the closest to us opposite the house who openly supported what we were doing and likewise with the furthest neighbor from us.

Heussler The only certain thing is you still want the pigs?

Tudini The only reason I put cow or horse because there are no active plans at this time to have horses. I have three children and my oldest is an avid rider and one of the reasons we bought the property is because it already has horse stalls in the barn although there is no active plans that's a potential for the future until it was advised to make this appeal to put on or request essentially anything that we may want to have on the property in the future so that it is put in under one application. That is why it says cow or horse.

Ernst It seems like a lot of area for the number that you are asking for, are you trying to rotate them?

Tudini Do you mean it's like a lot of pasture for what we are requesting?

Ernst Yes.

Tudini The plan would be for the type of cows that we are planning and hoping to have they are very hardy cows. They are very used to harsh conditions so the plan would be for them to be outside year round so we would rotate them through the fields just so it not too harsh on one field at any one time. The one area at the very back that is a long strip at the very back of the property that is not visible

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from the road and that is a mixture of wooded area and grassy brush area that would be a seasonal occurrence from spring to fall.

Ernst That piece of the property is still zoned agricultural?

Tudini Yes.

Ernst That you are allowed to do what you would like to do.

Heussler How many acres do you have in total?

Tudini Just under 6 1/2 acres.

Cassidy Survey shows 6.9 then we subtracted out the structures and the driveway approximately so that leaves them with about 6 acres of undeveloped land on that property.

Ernst How many chickens do you have?

Tudini We have 12 chickens, layers for two years now. Twice a year raise meat chickens for about 7 weeks in total. Depending on the weather they are in the house for 3-4 weeks so there are about 25-50 in these little moveable tractors so they don't take up any space at all.

Ernst What would be the maximum number of chickens at any given time?

Tudini 50

Ernst I see you are looking to get two female cows with young calves so is that four? One of those cows is pregnant?

Tudini The hope would be that both cows would be pregnant at the time.

Ernst So that would be six?

Tudini Yes we would go with what we are allowed but at this point time and time those two currently have a calf with them that are about three months old. The plan would be that the calves be raised for beef and they would be kept with us until about two years of age. As to whether we elected to sell one before that or breed any one cow at a time if that was what the variance allowed, we have no issue with that so we would go with that basis.

Ernst You discussed between two and four cows but if I am reading that it may be as many as six?

Tudini Potentially yes.

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Ernst So what is it you are asking for?

Tudini I would say maximum of six if we are going with the highest number.

Ernst That is for a full year; the pigs are basically seasonal, spring to fall. That we will call six months.

Tudini In all likely it would be two but you can put four on those for the absolute maximum.

Ernst Eventually one horse and that would be full time?

Tudini Yes.

Rosati Other thing that we talked briefly about was the question of any businesses in the barn or that kind of thing. Did you concern that the intent of your property was all personal use and not any expansion of your business? No additional space being used for rental purposes of housing?

Tudini Correct we have no intent to build on the property. We like the open space that we have and we don't want to obstruct it with any buildings. The barn that we have is about 3,000 sq. ft. it has five or six horse stalls in it already. The housing that we would need if we have inclement weather that they need to move in they would be in a pre-existing building. We have no funds to develop that barn for whatever barns are being converted for like weddings and things like that. There are no business plans for that we do own and operate a veterinary practice and we do store the mobile unit in our barn. That is not necessarily a forever scenario but it is for the foreseeable future right now. There isn't space for more than one truck right in that barn.

Heussler Nobody comes with their animals to your house?

Tudini A handful like very close friends and family. Certainly no that is something that I discourage very much so that is our personal space.

Rosati The intent of the cows and pigs is for your own personal use as opposed to selling it commercially?

Tudini Correct.

Ernst Do you think you could get away with less land use with the number of animals or are you willing to maybe reduce the number of animals to reduce the amount of property you are looking to develop?

Tudini If it had to be. I just want to make sure the ground essentially doesn't get beaten up, also so they can rotate through and give the environment chance to recoup after grazing so that is taking care of the land.

Ernst The grazing is for the cows?

Tudini Yes the horses would graze but then they would get separate pelleted feed. I don't have any active plans at this point and time or in the near foreseeable future for that. As with any grazing animal it is best when possible where possible to rotate them through to just let the ground chance to recover from that so that it is not over grazed.

Ernst What kind of time frame is that.

Tudini I would probably try to rotate them every few days. Why would I want to limit the amount of grazing potential when I have a larger area that they could spread over and disburse over? As far as the pigs go with that being such a seasonal thing I didn't feel that necessarily a concern. That falls in the agricultural section anyway.

Rosati Your intent was to do the example electric fencing across all four of these fine fields?

Tudini As far as the pig pasture area that would be more of like your typically white kind of strip electric fencing. That is a temporary structure type of fencing that you would put up so it wouldn't be a permanent fence post structure. I tried to show you more of what would be more aesthetically seem if you were driving by the property.

Ernst How high does it need to be?

Tudini The height really isn't so much of a concern because they are trained to it. They are pretty much more docile cows by nature anyway it's not necessarily the height, they won't jump the height. They just will know not to go there.

Ernst I am thinking more the horse.

Tudini If you drive down on Davis you will see a property that has horses on a large section there and they have a standard post and rail fence and in some areas they have a double rowed post and rail fences.

Ernst Is this the fence that you are proposing?

Tudini Yes there is a pre-existing post and rail fence there that borders. There are areas that we have had to take out completely and some areas that are in need of repair. The split rail would remain and the electric fence would be within that.

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- Rosati Have you had any discussions with anyone whether the deer in the area would increase maintenance issues with the fencing?
- Tudini Currently right now the deer go right over our post and rail fence as it is. They are part of the problem with breaking it down. We do have deer come in the property and they do have certain points that they do tend to come in on.
- Rosati I am not worried about the open area I am just worried if the deer are knocking down the and potentially letting out you live stock with the impact on the neighbors.
- Tudini That is why there is going to be a double rail fence. The post and rail fence is not being used as any form of security for the animals. It is for aesthetic purposes. The security of the animals would be maintained through the electric fence.
- Ernst Would you be interested in eliminating the front parcel and keeping the back?
- Tudini I am concerned it would not allow enough grazing. Whether we limited maybe a little bit closer? My one issue with that is then you have a much more visible fence coming across. I feel that would be more visible and I think that would be more of a negative as far as the aesthetic look of the property.
- Ernst I am just trying to look at ways of balancing things.
- Tudini What is your concern as far as having more acreage available?
- Ernst Is not so much a concern but it has been rezoned so it's law now.
- Heussler My concern is the size of the variance. You are allowed two acres per large animal so you are limited to three. The smaller the variance the easier it is for us to grant it. It looks like you would need 22 acres for what you are asking for and you have six acres. I would want you to have fewer animals if we were to grant this. I guess the pigs are alright because they are back in the agricultural part.
- Rosati It is also be small so to the extent getting by on the small area is very feasible. The two acres per pig in code I believe is intended to be year round rather than six months. When they get to be full size and the breed that you are talking about can get up to 600 lbs. and I think you mentioned that in a six month period that they may get to half of that?
- Tudini I can't remember the exact poundage of weight that they might get to in that time frame but they are nowhere near full adult size.
- Ernst They are a lot smaller than the cow.
- Tudini Yes.

- Rosati I believe the origin of some of the code two acres per large animal goes back to U.S.D.A. grazing standards for commercial farms. Dairy farms, horse breeding etc. The intent is two acre per 1,000 lbs. of animal, that's at least one of the justifications that was used.
- Cassidy Any of the animals that are kept in the agricultural zone should not be considered in the request.
- Heussler So if the pigs were all in the back then they would be eliminated from the acreage.
- Cassidy There would be no limits in the agricultural zone.
- Heussler I am more comfortable now.
- Rosati One question to the total acreage required is do we have to include anything for the chickens? I know there is something in the code about chickens per acre.
- Cassidy It is six chickens or other poultry per acre; because she has more than that we suggested it be addressed.
- Stroth Do the chickens predate the zoning change?
- Tudini To be honest we did not get them within five months of us moving in. So we got them after.
- Simeone So is field 4 or 3 is that the agricultural area?
- Ernst If you look at the survey the shaded area is now the 300' in both directions going down and the upper left that is still in white is still the agricultural area.
- Simeone So just where field 5 is the only area?
- Ernst Probably $\frac{3}{4}$ of the barn also. So if you understand that if you only stayed in that area?
- Tudini This would be a non-entity.
- Ernst You do understand.
- Simeone Field one and two is there going to be or are you proposing to have two separate fences inside the existing split rail?
- Tudini There is currently a post and rail fence there that sits right along here so we don't really have a thought right now but we would do what we are allowed to do or what makes most economical sense as well.

- Simeone If everything was granted is field one and two going to be one electric fence where there might be cows and horses intermixed?
- Tudini I wouldn't say intermixed but I would be open either way. I think sectioning it and allowing them to graze would allow for that rotation a little bit better.
- Simeone What about field three and four?
- Tudini They are definitely separate.
- Simeone Will they be electrified?
- Tudini Four is not.
- Simeon So three might be electric?
- Tudini Yes if we have animals in it.
- Ernst I know you say the horse is in the future but do you know when that might be?
- Tudini Probably not before five years. My daughter is 8 and if she continues one and heads in that direction maybe five years.
- Ernst It really would be for the cows for the most part?
- Tudini Yes
- Simeone It is my understanding is that the pigs are no more?
- Tudini Correct
- Rosati I am thinking about families that adopt dogs and say - so daughter you are going to be totally responsible for feeding and it doesn't always last quite as long as we expect. The intent here is not to put this off on the children right? You and your husband are primary caregivers?
- Tudini Absolutely and we are both veterinarians we know of what is necessary. We are trying to raise our children to develop responsibility and the same as getting the eggs and helping out with the fruit trees and things that we have is developing and encouraging them to appreciate where things come from and what hard work is what is needed. It goes in general alongside of how we want to raise our children.
- Rosati You are looking at horses in the future there is a possibility that through experience you may determine that the appropriate level of pigs and cattle might be a little lower and that might offset.

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- Tudini Correct we may decide to not breed the cow this year we are going to wait a couple of years or so. It is not set in stone. Having two female cows we might find that we don't need to breed both each year. The same goes for the horse, the reason that was put in is because it was recommended to put in any potential future animals that may be on the property. When we bought the property we bought it because it had a barn on it with four stalls and the space to be able to have a horse on the property. My daughter was already riding at the time, I've ridden growing up, and so that was the plan. If my daughters decide that riding is not for them then it may end up that a horse never ends up on the property so I just wanted to include it.
- Simeone Right now you are planning to purchase two full size cows and they each have a calf so a total of four?
- Tudini Correct
- Simeone The pregnancy issue may or may not be?
- Tudini Correct because we don't know if they will be pregnant or not.
- Ernst You are asking for six cows max?
- Tudini Yes maximum only because of the potential. I would hate to sit here and say only four and what if we end up with both of them being pregnant. We don't have to take the mothers with calves but I would hate to separate them when they are so young.
- Simeone How would you address potential pregnancy? There are going to be four animals.
- Ernst Are the cows always female?
- Tudini The two that we are hoping to have are female.
- Ernst Would you rotate as time goes on?
- Tudini We are hoping to keep the same two mothers and they would be bred back to the bull at a local farm. If they gave birth to another female cow in all likely we would be looking to raise the males for beef.
- Simeone What about the chickens should they be in this equation? Where the chickens are in that coop is it right behind the shed?
- Tudini Yes
- Simeone If you move that back into the agricultural that goes away also.

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- Tudini Ok
- Ernst There is no limit in agricultural?
- Cassidy There are no limits.
- Simeone Is that a possibility that you could or would consider?
- Tudini It is a possibility. The reason we put it where we did was because the children are being apart of being involved with their care and collecting eggs. It is also a safe spot for them. The main thing is the electric from the house that does the water circulation throughout the winter. Moving it back there is electric from the barn. It was just the involvement of the children.
- Simeone How would we do that for four cows and twelve chickens?
- Ernst Chickens was what 36?
- Cassidy Six per acre.
- Tudini Does it matter at all that the chickens are free ranging throughout the whole day and they only go in the coup at night?
- Cassidy Yes.
- Heussler Are there roosters?
- Tudini No we re-homed him.
- Ernst That might be a requirement.
- Tudini Reduce the number of chickens?
- Simeone She said six per acre and they and they have six acres. It may be a non-issue.
- Tudini We have 12 that year round that are layers. We seasonally raise maximum 50 at a time and they are only outside about three weeks. They are in the house in a brooder.
- Cassidy Those are in the tractor could they be in the agricultural zone?
- Tudini Yes they are already in this field and they can move back and forth along this field. Yes they can certainly fit into that area.
- Ernst Is there any other questions or concerns from the Board? (No Response). We will now open it up to the public.

Ball Dennis Ball I live at 607 Willardshire, right across the street. I am not anti-farm; I grew up next to one. My biggest concern is the manure pile. The intent right now is to have the outside range free but there is going to be a manure pile, where is it, how is it going to be mitigated, how many times are you going to be spreading it? That is going to be the biggest effect on the neighbors. I know the intent is self-sustainable but I am more worried about commercially viable. As with any endeavor you get into it and you want to make the most out of it. Is the inclination to sell them on the side? That can create the snowball factor and it may or may not exceed the variance if someone is not staying on top of it. Does the code or the variance process limit the amount of animals that they can have permanently? Is it a hard cap? The 3,000 square foot barn was built when that farm had more property. There may be the tendency to fill it up with animals which will spill out onto the surrounding property. My least concern is that I am kind of terrorized by passerby's currently between the motorcycles and the rich guys and they're corvettes leaving Craig Burn. It's just a non-stop traffic nightmare and the cops aren't doing anything about it. I'm worried about the cows that they are looking at. They are Instagram friendly so I can people are going to stop by and grab pictures of these things because it's pretty much all the rage now a days which then causes more traffic problems. More starts and stops and the dog starts barking more. You talked about a double fence is as much to protect the animals from getting out as it is to keep the public out from getting in. If you double up the fence along the road then people can't walk up to fence to try to catch the cows and take pictures with them and all that stuff. We already get people daily pulling over in front of our house for phone calls or whatever. They stop at the intersection and they are stopped for minutes on end with their headlights blaring in my front windows so I am kind of sensitive to that stuff. I commend them for wanting to be self-sustainable. I think need more and to wrap it up I think maybe six animals are too much. Four might be a good number. The chickens, we haven't had a problem with. They have crossed the road but that doesn't bother me at all. The deer if she can scar them over to me so I can hunt them I'd be happy for that. I'm not against it; my concern is that it might be too much meat production given the space.

Simeone It sounds like a legitimate concern.

Tudini We currently have a composting pile at the back in the agricultural area. There is space behind the barn if needed. They will be rotating through their grazing and they will drop their feces where they are walking and it will compost on the ground so you are not ending up with one large area that you are going around. By nature you don't go around cleaning fields like you would clean up dog feces from your backyard; that just doesn't happen. There wouldn't be a big heap anywhere and the plan would be that they are going to be out year round so there wouldn't be an accumulation of manure within the barn space. Even if there was then I would foresee that we could figure something out to put it to the back of the property.

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Rosati The biggest potential sounds like the horse more than the cattle.

Tudini Yes then we would want to utilize the manure for our garden.

Brinkworth I am Diane Brinkworth from 574 Willardshire and we are to the left of her property. There is a road dividing N. Davis.

Ernst So you are the east side?

Brinkworth Yes, my biggest concern is the number of animals. That is being very ambitious for what they are intending for the property. I don't have all them maps so I don't know what she is talking about with the rotating but it doesn't seems like six acres is enough for all those chickens and cows and I don't know what he is talking about pigs because he said pigs are off and not being discussed, I guess.

Heussler Part of the property is zoned agricultural already so she can put the pigs there.

Brinkworth So the pigs won't be on that property it will be behind the residential properties?

Simeone That is correct.

Rosati Near the ravine.

Heussler The part that is zoned agriculture.

Tudini It is still my property.

Brinkworth Where is the six acres of pasture?

Ernst The whole property outlined here.

Brinkworth So the orchard is not going to be used?

Ernst Right it is going to be used as an orchard as it is now.

Brinkworth The chickens?

Ernst The chickens will be back with the pigs.

Tudini The chickens free range.

Brinkworth I don't know I am not a farmer but when you look at the variances it seems a like a lot of variance for a lot of animals.

Heussler This is what the cows look like so they are not huge cows.

- Ernst I think the pigs are even smaller than we would normally think.
- Tudini Right they will not get to be full size.
- Brinkworth What about the odor of the pigs and all that like the manure.
- Tudini The pigs are not an issue.
- Ernst If she keeps them there it is not a part of this.
- Brinkworth Is she obligated to what she is saying now or can she change whatever she wants?
- Heussler If we grant the variance she is obligated to what she told us and if she violates it then she is going to have some problems.
- Rosati We can put conditions that say as an example it can't be commercial, it can't more than an X number of cows and Y number of horses.
- Brinkworth Are you thinking about doing that?
- Rosati We haven't got to that part of the discussion yet but we could. The other thing to keep in mind is the Town of Aurora as well as New York State is a right to farm area so particularly in an agricultural zone as opposed to a residential zone or village or something there is a lot of flexibility in terms of letting normal farm operations including the odors that may come as the normal part of farming be allowed and not being taken into consideration unless it creates a significant health and safety hazard. From that point of view concerns about a lot of traffic is certainly valid, you can have an accident, animals getting loose and running across the road and creating traffic issues could be a health hazard.
- Brinkworth Like the other gentleman said it's true there are motorcycles racing through they really like that hill and curve so all summer long we have motorcycles screaming by and we have cars racing so I don't know what that does to the cows, I don't know if they get nervous about it. It's not a country road.
- Tudini It's not but I live on two of those roads so I see the traffic coming by and I wouldn't say it's well I don't share that same concern personally.
- Brinkworth I have lived there for 20 years and I own a motorcycle store.
- Stroth So is that a concern the traffic impact on the animals?
- Tudini I don't necessarily think the noise because farm animals by nature are familiar with large vehicles, tractors driving by and so on and do forth. They are familiar with trucks coming by and putting hay in the field or whatever.

- Brinkworth They don't get skittish?
- Tudini No I wouldn't say and coming down North Davis a car is naturally coming down to a stop sign, they are not driving fast. Willardshire is different but the majority of the space is on North Davis.
- Ernst It is a big space to put it in perspective it is 300' so you can think of it as two football fields side by side.
- Tudini I would think that horses would be more skittish in general by the creatures that they are than cows.
- Duane Shirley Duane 680 Willardshire and I am going to read a letter from Henry Kongingisor at 694 Willardshire who is my neighbor. This letter was submitted as exhibit #14. RE: Opposition. I live at 680 Willardshire Road for the last five years. My property is west of the Tudini's and their property slopes downward onto toward mine. Hank my neighbor tells me there is a drain in that barn that goes underground beneath their property to the middle of mine becomes perpendicular and empties into the creek. Hank said he almost bought my property back in 1955 but he didn't like the fact that the drain was there and how there was a depression in my property. In any event drainage is a huge issue here for me. The Tudini's land is much higher than mine and the land between our properties is always squishy wet. After a hard rain you can see the puddles and the deer prints on the border between our properties. Water is also a concern everybody on Willardshire Road depends on their well for water. I grew up around cattle so I know how many resources cows need. Water in particular. One cow can drink from 3 to 25 gallons a day. Consumption ranges from one gallon to 100 pounds of body weight during cold weather to nearly two gallons per 100 lbs. of body water during the hottest. Those that are lactating require twice as much. I spoke to my water guy that services my well and they explained to me that the aquifer that fills my well is impacted by a super user so farmers that use a whole lot more water are going to emptying out the water table in the aquifer that fills my well as well as the water table will be emptied. Not intentionally but they can drain the water which will eventually refill but it may not be available for those that live further on down. There is also a small creek that is behind my house that runs into the Cazenovia and I am concerned because there is no DEC monitoring that protects our environment. The area that you talk about that is in the back that is zoned agricultural eventually turns into this really sweet creek that I sit at and enjoy. That area it sounds like know is going to be having animals over there. I worry about protecting our environment. Would there be leaching into the soil and then into the water. I have been a nurse practitioner for 20 plus years and a nurse for 40 years and I have cared for many patients with illnesses from livestock farms, many viruses, bacteria and air contaminants are derived from livestock farming causing respiratory health problems in humans. I speak from professional as well family. My grandpa had

1,000 acre cattle farm in northern Manitoba. There are many infection diseases that could be transmitted from animals to human so called zoonosis. They are a threat for example aiding in influenza, salmonella, etc. are all livestock associated zoonosis. I think the most important health threat for all the neighbors basically comes from inhalation of air pollutants. We talked about manure and I used to help birthing cattle's and the placenta itself when it is dried up can have bacteria viruses and zoonosis. Like traffic related pollutions this can cause serious respiratory and cardiovascular effects. Livestock barns particularly poultry and swine barns emit large amounts of dust particles through manure, bedding materials, straw, animal feed, feathers, skin flakes and hair. The dust may be contaminated with bacteria and viruses that are mostly harmless to humans but that can be pathogenic such as in aiding influenza or there is something really rare but I have seen acute fever that can be mortal so it can be problematic. The bigger concern from a selfish point of view is I am going to have a hard time selling my property if they see I am living next to a farm. I am concerned about that and I love where I live and I feel really terrible for this family that moved in under the thought that they would be having animals although I only heard about horses when they first moved in. They work really hard in establishing what they want. I moved into my house really feeling that I had protection from farm animals and if I wanted to move out to the sights and smells and sounds of farm animals I would have moved to Holland and I wouldn't have wouldn't have stayed two miles from East Aurora.

Rosati You bought in an agricultural zone.

Duane Right.

Rosati You were in the middle of farm country when you moved in.

Duane I had a house on Knox and I sold my house to my daughter and even there, yes.

Heussler When did you buy the house you are in?

Duane Five years ago.

Heussler So it was agricultural then then.

Duane Yes but what I am saying is that you have this expectation that you would see horses. I drove around a two to five mile radius around East Aurora and there are no cows to be found, I did the drive. It's the smells and you are talking about pigs well the pigs are going to be there outside when we are outside. She is not raising pigs when its winter and we are all stuck inside so pigs and cows they do smell. They also have a fair amount of bacteria and water is a concern for all on our road.

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Rosati When you were quoting about some of the medical concerns; did I hear you say something along the lines about pig barns and chicken barns? Is it a commercial kind of focus for those statistics?

Duane I did print out the two different articles that I took the information from because there isn't enough research that is really being done. This is not new.

Rosati It appears to be a different category.

Duane The research is for both small and large the difference being is that it only takes one manure pile if it's infecting. If you have an infected animal and they have manure even if there is a hundred or a thousand cows you still have that and it's available to go out in the air. The research that is out there so far is either really large and the really small certainly not the size that we are looking but it's also six acres not sixty acres. That is a huge difference there is so much going on a very small piece of property.

Ernst Thank you, would you like to comment Ms. Tudini?

Tudini As far as the drainage specifics, I don't have the knowledge on the water table aspect.

Ernst On that drainage that you talked about is that underground?

Duane It's deep, Hank says it's probably quite large. I think it comes all the way from the barn all the way through her land because all of our properties that we are currently living onso it comes down and makes a sharp turn.

Ernst So it must be a pipe that is buried?

Duane Huge pipe and it's much buried. I have dug amount there and nothing.

Stroth Is there anything on a survey?

Ernst It has not shown up.

Stroth Is there an out flow?

Duane No I tried to find something in creek.

Rosati A quick view of the surface area shows where the produce garden is?

Tudini We talked about putting something so we can improve that drainage area. We need to address the drainage there anyway so we plan on raising that a little bit.

- Rosati There is a normal flow of water from standard rain and snow melt runoff doesn't appear to go past towards her house.
- Tudini I don't see any. Considering the type of winter we had and the fact that the ground is not frozen at this point and time there is no pooling water on our property nor does it pool on that part. It pools on one corner where there is a long strip of grass on the property line.
- Duane I beg to differ because the property where they want to put the garden in is the lowest part and there is standing water. My garbage can was blown into that area and I had to go retrieve it. There is at least two to four inches in there.
- Tudini That is what I said in that corner.
- Duane The problem I have is that the property just goes sloping down and I am going to be getting water draining. It is a long way from the barn but still.
- Stroth There is water drain off from her property onto your property right now?
- Duane Yes.
- Ernst It does that now?
- Duane Yes.
- Tudini Can we considering how rainy it's been can we get photos taken because I disagree with that entirely?
- Ernst Ok.
- Tudini We do have a well in the barn. It was not functioning when we bought the property and it was surveyed and was told that we could re access it, we would have to re update the equipment so there is a non-functioning well. We are on well water; I feel the safety of the well water is the responsibility of the homeowner for making sure the water is safe. That is no different from water draining into our wells. I think that various disease and health concerns being raised especially because of my profession I feel like a lot of those do not fall into the category at all as far as we are talking about here. I think a lot of those concerns coming in are from a much more commercial standpoint and from a much more high density scenario of animals being raised in a much more confined area. We are not having animals in barns, dust; we are not in a closed in area.
- Ernst Is there difference with dairy cows as far as getting diseases?

Tudini No but it also comes down to the health care that are providing with as well. There is nothing stopping you from checking their feces for intestinal parasites or over growth of bacteria. Your dog as much as your cat can carry zoonotic diseases so any animal to come from a standpoint of concern that the keeping of an animal raises public health risks your dog or cat sitting inside of your home poses as much risk to that as there being a cow, horse, rabbit or anything else on your property. If you take normal hygiene practices and the chance of you developing or contracting a zoonotic disease is very minimal, especially with proper health care needs. I feel the argument or the concern regarding contracting as a neighbor whose not touching or coming into contact with those animals really I don't think it's a concern.

Ernst Do you have a plan or schedule where you do test your animals?

Tudini Yes we would have an appropriate vaccine schedule, fecal checks. As much as that I have three children, why would I put my children at risk who are immune compromised in comparison to a grown adult. In most recent years research has shown that children that are raised in a farm environment who are exposed to these pathogens in low levels on a regular basis actually are thought to be in more good health compared to those who have never been exposed. The same goes for allergens as well, being exposed at a very young age. I disagree with those health concerns especially in the numbers that we are talking about.

Simeone Can you address her comments about the amount of water that a cow would use?

Tudini I have not looked that up. Clearly there has been research done on those but I don't have those numbers in my head. As far as our chickens go they are on a permanent rain barrel system. They drink exclusively from the rain that falls from the sky. It accumulates and they do not tap any water at all from our personal property. The amounts that we talking amount from the number of animals that we are talking about I would be very concern if it were tapping of draining the water table. I would find that a great concern. I would find it hard to believe that there would be a water shortage based on them. What would be the difference of keeping horses? You would go through a very similar amount of water for both. It just comes down to a personal preference of what you like looking at. Again with it being a right to farm community is personal preference over what you like to look at a lawn ornament.

Rosati You would have to come up with a plan or something to have troughs or something in these fields?

Tudini Yes most likely or within the barn. The farmer that we have been speaking with keeps his water in the barn. Our thoughts as far as that goes they would be more to the back and any hay bales in the back corner so the animals would be drawn back here which addresses the concern of the animals close to the fence for a picture.

- Simeone Right now there is no running water inside?
- Tudini Correct there has been because there is a sink in there and the well. It is not active currently.
- Simeone I thought when I was out there you thought that you would put the water there so the cows would go there?
- Tudini Yes whether we bring in the water from another water source or renovate the well.
- Ernst The house is on a well too?
- Tudini Yes.
- Duane My cousin had a solar system for his water so that in the winter time and she is going to have outside animals you have to have water close by so he has solar panels set up so he can heat his water. I just wanted to add that to the mix because it is important that they have water available to them and the solar panels work really well.
- Janofsky George Jenofsky 706 Willardshire Road. I have to commend the Tudini family on their willingness and ability to educate their children, very nice. There are two factors to consider. I was going to come and just listen but I thought this might have some value and excuse me if they are repeated because my hearing aids are not working as well as the should. First you are going to have to consider the health, the safety and especially the water quality in the area. You are talking about water and if you look at my front yard right now we have a pond in front of it. It all comes from uphill. The second thing you have to consider is the area right now is residential, it was agriculture. We have a couple of estates in the area. Howard Schultz is going to be moving and he has that very big barn and if you set precedence now you are going to have to consider that later on as well because somebody may in which is close to 50 acres and have a huge barn rather than selling off the property and making it available for other people who might want to move into the area and also pay more taxes so you have a couple of things to think about but I do commend the family for trying to do the best for their own family.
- Tudini The question about the smell, the prevailing wind is usually west to east so we don't actually own any property where the one property was talking about the smell of the hay it goes into an open field so the smells are going away from the neighbors.
- Heussler I don't know what smell we have to be concerned about, I guess the cows and the potential horse because the pigs are where they will be.

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Ball Dennis Ball, 607 Willardshire, about the drainage pipe thing. I am a formal contractor. There is a creek there on the northern property, it probably drains there, it probably go all the way west.

Simeone So you think it drains into the creek?

Ball It probably runs north, there is a big pond at Crag Burn, the overflow, it leads into that and it crosses North Davis and it's north side of the driveway.

Stroth Is that pond the origin of the creek?

Ball I'd say it is.

Rosati The ravine starts sloping fairly close to the north edge of the barn.

Tudini There is a sharp drop off. We have walked down there; we don't see anything coming out. The creek itself is pretty much dry in the summer. It never gets full flowing water.

Ernst Is there anyone else that would like to speak? (No Response) The hearing is closed.

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

January 16, 2020

CASE #1350-Jennifer & James Tudini
650 Willardshire Rd, East Aurora, NY

Discussion:

Cassidy Talking about the code if they were to come in with two cows and the pigs would be in the agricultural area this conversation wouldn't have happened at all but they want to go over that.

Simeone How do you rate a calf is that two calf's equal one cow?

Ernst That is a good point you are allowed two cows so your requested variance could be for two more opposed to four more. That would be six total and the horse would be another.

Simeone The horse could be down the road a number of years.

Cassidy I think she could remove it from this request and then come back in if she wanted to or you can still do it now.

Stroth That could potentially give the benefit of history to show what the impacts are. Coming back at a later date you would have the benefit of some history to see how things were working out.

Ernst Or you roll the dice and ask for the horse now.

Simeone Down the road you may want three cows and one horse which is a total of four?

Tudini Yes

Miller Couldn't she amend her petition tonight for only the two cows if she wanted to?

Cassidy Perhaps I have not been at a meeting where that has happened.

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- Simeone My recollection is that we permitted a modification by the petitioner at the meeting correct?
- Heussler Yes.
- Stroth As part of that petition could it be to just do the two or if you want to introduce the horse could you say the combination of two of or any combination?
- Rosati A combination of five large animals?
- Simeone It could be additional two large animals and they don't have to be specified correct.
- Cassidy There are two requests. There is the number of animals and the acreage required.
- Stroth That is with the pigs being out.
- Cassidy The cows have two acre requirements and a horse has one acre requirement. So you can't just say three or four large animals.
- Ernst They have different requirements.
- Heussler I would be inclined to accept the restricted to four cows and leave the horse out altogether. They may not want a horse.
- Stroth The variance would be for two additional cows and there is not an area variance because they are not considering the pigs?
- Rosati The area variance is required for the animals anyway.
- Stroth The other variance of the 11 acres is no longer a consideration because it's two acres per animal. You have six acres.
- Cassidy Two are allowed and you need four acres for that. They need two cows you need four more acres.
- Stroth Not 11 as stated in the letter.
- Cassidy No.
- Heussler She needs two acres because she accepts our recommendation. She has two cows on four and she has two left.
- Rosati I think it would be important that we have an additional condition that says that it is for personal use, no commercial, to help limit the impact on the area.

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Simeone Would you be willing to activate the wells?

Tudini Yes if that is what we have to do.

Ernst Do we need to restrict it for them or if they were to sell the property?

Rosati It is supposed to go with the land.

Tudini When we purchased the land it specifically stated that horses are allowed on the property.

Ernst At that time they did.

Heussler I am also going to comment on diseases. I don't think that diseases are a serious issue with this small number of animals.

Ernst I agree, it's not a pasture full of cows.

Simeone We can address potential diseases, she is a veterinarian.

Heussler Do we want to talk about chickens?

Ernst I think it's important that the careers that you and your husband are in makes us feel more comfortable with what you doing in terms of the medicals.

Stroth You also have a plan.

Ernst It comes down to chickens.

Heussler You are allowed six chickens per acre so that is 36 chickens. We could include that in the variance if she wants. She wants 50.

Stroth I thought the 50 were going to be on the agricultural property for a limited time period. There with be twelve free range and six acres so I thought the chickens were resolved along with the pigs.

Heussler Ok.

Simeone That is my understanding too.

Stroth If that is part of your proposal that you are going to move those tractors to that area.

Tudini The tractors yes, am I OK in leaving the structure where it is? The one that we raise twice a year for meat are already out there. They are only out there for about four weeks at a time.

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Ernst Those chickens stay within that space?

Tudini Yes.

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

January 16, 2020

CASE #1350-Jennifer & James Tudini
650 Willardshire Rd, East Aurora, NY

Decision:

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 Rod Simeone and seconded by Davis Heussler to grant a variance for up to two additional cows and a variance of two acres to contain said animals with the condition that they would only be for personal use and no commercial use with proposing a review in one year in assuming no complaints in the area we would then review in one year for permanency and the petitioner would maintain the sanitary conditions in the field involved 650 Willardshire Road, East Aurora, NY.

Heussler Noting that we are allowing four cows and no horse.

Rosati This is also a type II for SEQR.

This is granted in accordance with the testimony and exhibits presented.

Upon a vote being taken:

Ernst Aye

Rosati Aye

Simeone Aye

Heussler Aye

Stroth Aye

Ayes-Five Noes-None Motion carried.

EXHIBITS

CASE #1350-Jennifer & James Tudini
650 Willardshire Rd, East Aurora, NY

- Exhibit 1 Affidavit of Publication
- Exhibit 2 Affidavit of Posting
- Exhibit 3 Building Department Application
- Exhibit 4 Petitioners Letter of Intent
- Exhibit 5 Photographs of Animals
- Exhibit 6 Building Dept. Letter of Determination
- Exhibit 7 ECDP Form and Response
- Exhibit 8 Short Environmental Assessment Form
- Exhibit 9 Copy of Survey
- Exhibit 10 Copy of Deed
- Exhibit 11 List of Abutting Property Owners
- Exhibit 12 Letter 1/14/20 from F. Lippert RE: Support
- Exhibit 13 Photographs of Overlay
- Exhibit 14 Letter from H. Koningisor
- Exhibit 15 Articles from Shirley Duane