

Germantown ZBA Minutes

September 19, 2019

Members in attendance: Acting Chairman Joe Guida, Randy Phelan and Amy Jo Davison via video conference. Attorney Corinne Smith was also in attendance.

Meeting is opened at 7:10 p.m. on a motion by Randy, seconded by Amy with all in favor and none opposed. Pledge of Allegiance. Minutes of August 15, 2019 are reviewed and on a motion by Amy, seconded by Randy with all in favor and none opposed are accepted as written.

Public Hearing: On a motion by Randy, seconded by Amy, with all in favor and none opposed Public Hearing was opened to accept public comment regarding the Application for a Use Variance of Lorraine Hejnal to continue the raising of pigs at her property located at 258 Main Street, Germantown.

Leanne Hejnal submitted to the Board a Penn State reference guide of 4-H Market Swine Project and an Article from Penn State "Raising Small Groups of Pigs." She stated that her current practices and the pen size are in compliance with these reference guides. With regard to manure, she stated that it is safe and used as fertilizer on the property. She stated her history of 4H and noted the benefits to the community and her hopes to continue her 4H program and raising of pigs at her family property. She stated that the pigs are shown at the fair at the end of the summer by the 4H members, and after butchered with meat sold at cost to the public. She answered that 7 children total from Germantown and Red Hook attend her program and thanked the board for their consideration.

Testimony was given against the Use Variance by:

Mariann Sullivan residing at 273 Main Street, Germantown: complaint of odor, especially in the summer months and her concern for the confinement of the pigs.

Robert Jennings residing at 489 Hover Avenue, Germantown: complaint of odor that drives him and people inside and windows have to be kept closed, his residence is located 2-3 properties away.

Kasey Shumway residing at 485 Hover Avenue, Germantown: complaint that her children do not want to go outside, and cannot have outdoor birthday parties because of the smell; she believes that the applicant is dumping pig waste into the stream, so she doesn't let her children play in the water. She said the odor is atrocious.

Jon Ronson residing at 495 Hover Avenue, Germantown: complaint of "noxious and overwhelming odor" that causes him not to be able to sit outside on his property and, several times a day, forces him to go inside; has seen kids told to go inside. One minute the odor is terrible, the next minute it could be gone.

Steve Savoris residing at 296 Northern Boulevard, Germantown: stated that the Zoning Law is the most powerful tool and that the board should give great care in deciding whether to grant a variance. Asked

the Board to keep in mind that the Variance is given to the property not the owner and that the owner could move. He stated that in that district Animal Husbandry is not permitted.

Spencer Lincoln residing at 260 Main Street, Germantown: stated that initially he made a neighborly request to the Hejnals pertaining to the raising of their pigs and history of the odor, but that the problem was not resolved. In 2017 he witnessed 12 pigs on the property. He filed a complaint with the Code Enforcement Officer at that time, but nothing was done and nothing came before the ZBA. Mr. Lincoln asked for clarity of his initial complaint filed to the town, and Attorney Smith answered that she would give a brief overview of the history. He continued to comment that his children will not go outside, cannot eat outside, and that odor and rats are the issue. He concluded by asking the board to consider to stop the raising of the pigs.

Heather Lincoln residing at 260 Main Street, Germantown: stated she supports 4H and farmers, but in appropriate locations. She feels she and her family are “locked” inside from May-October and that the raising of pigs is causing negative feelings in the neighborhood. She noted the odors and stench from the pigs.

John Sloss residing at 471 Hover Avenue, Germantown: stated that he hasn’t complained over the years but wanted to say that the odors have gotten worse.

Terri Jenkins residing at 220 Main Street, Germantown: stated that she is a 30 year resident and has never said anything, because she didn’t know she could, but that there is an odor problem. She mentioned that even if she walks past the property, she can smell the pigs. She noted that she appreciates 4H.

Elizabeth Dougher residing at 242 Main Street, Germantown: stated that the location is not good for the raising of pigs where there is pig odor in a residential area on a very small piece of property.

Testimony was given favoring the Use Variance by:

Amanda Krille residing at 8 Loyola Road, Elizaville: stated she is a licensed clinician and feels that the raising of pigs is therapeutic for coping skills and performance.

Emil Ericson residing at 181 Lasher Avenue, Germantown: stated he is a lifelong resident and in favor of 4H and the raising of pigs at the property of Hejnals. He also stated that they have been raising the pigs there for over 17 years and the complaints have been of 2 years and asks the board to grant variance approval.

Lou Kirby residing at 2 Charles Lane, Rhinebeck: stated that nothing is perfect and that the board has to judge the circumstances adding that most towns have streams with universal problems from farming and that he is here to support the Hejnals.

Jon Prezzano residing at 99 Denver Road, Red Hook: stated that he supports the Hejnals, and the importance of 4H and agriculture and that proper cleaning and bedding could solve the problem.

Ryan Hejnal residing at 52888 Route 30, Roxbury: stated he is Leeanne's brother in support of the continued raising of pigs and asked if the regulations of the town have changed.

Marissa Cidras residing at 351 Hover Avenue, Germantown: stated she was introduced to 4H by Leeanne and submitted a letter of support that will be filed with these minutes.

Written comments received will be filed with these minutes for the record.

Member Randy asked the applicant if there were any other location options for the raising of pigs, and was answered not at this time from Leanne Hejnal. When asked about the Site Plan visit that was conducted, member Amy, with permission from Acting Chair Guida, stated that during her visit odor was not so present, but she can understand the complaints received and that the Animal Husbandry skills are not doing service to students and are not upheld to 4H standards. She noted concern with rats, water, flies, and contamination.

Acting Chairman Guida announced last call for public comment. No further comments were received.

Attorney Corinne Smith read the Columbia County Planning Board letter of recommendation. She also read the powers and duties of the ZBA in granting use variances (Zoning and Subdivision Law, Article XIV-B.2), including what must be shown by an applicant before a use variance is granted. She noted that although the previous CEO Jay Trapp said the use was permitted, nothing ever came before the ZBA, and his determination is not binding on the ZBA. She read the definition of Animal Husbandry, reviewed Article 8 Section G- Odors and read the definition, reviewed non-conforming uses on page 130 of Germantown Subdivision and Zoning Law of 2011. She also reviewed Germantown Subdivision and Zoning Law 1973 which stated that Animal Husbandry at that time was not permitted in this district. She also read page 16 of publication from NYS Division of Local Government Services submitted by Acting Chair Guida regarding use variances.

Attorney Smith confirmed with Leeanne Hejnal that it was accurate that her family has had between 5-12 pigs on the property for the past 20 years. Attorney Smith also asked whether the applicant had any additional information that she would like ZBA to consider. The applicant did not.

On a motion by Amy, seconded by Randy, with all in favor and none opposed, the Public Hearing is closed.

Attorney Smith concluded that the next step would be to submit any received written comments, draft findings have to be written, review the findings and finalize SEQR and vote all at next meeting.

Applications:

Michael Saia and Karen Cecere are not in attendance as they have placed their application for an Area Variance on hold.

There is no Old, New or Other Business conducted.

On a motion by Randy, seconded by Amy with all in favor and none opposed the meeting was adjourned at 8:20p.m.

Jami L. DelPozzo- Planning and Zoning Secretary