

**TOWN OF CAMPBELL ZONING BOARD OF APPEALS  
PUBLIC HEARING AND MINUTES OF  
SPECIAL MEETING OF SEPTEMBER 19, 2016**

**PRESENT:** Board Members: Chairman Glenn A. Vogel; Albert L. Johnson II; Deborah Baldwin; David J. Swan, and Secretary to the ZBA: Sandra M. Austin.

**ABSENT:** William E. Galligan.

**GUESTS:** Treavor Good, Diana Good, Abbygail Good, Faith Good, Kaitlyn Good, Curt Hopkins, Joe Wood, Shirley Anderson Tim Steed, Marvin Rethmel and Charles Miller.

**Call to Order.**

At 6:15 p.m., Chairman Vogel called the meeting to order at the meeting room of the Campbell Town Hall, 8529 Main Street, Campbell, New York.

**Prior Minutes.**

The minutes of the prior meeting of August 24, 2016, were approved and accepted by motion of Baldwin and seconded by Johnson and passed by unanimous vote.

**Legal Ad.**

It was noted that a public hearing notice covering the 3 applications before the Board, for this meeting, was printed in The Leader on 9/14/2016 and posted on the Town Clerk's signboard and on the Town's website.

**Treavor & Diana Good -- Appeal #3 of 2016.**

Appeal #3 of 2016 is an application from Treavor and Diana Good, the record owners of the property at 8316 County Route 333. The request is for an area variance to allow the keeping of horses/ farm animals on less than 2 acres where the requirement is more than 2 acres per Article 4 of the Town of Campbell Zoning Law. Applicants have 5 horses and 1 mini-horse. They have 1.576 acres and the property is located in the R-1 Zone.

Applicants have submitted several letters of neighbors, all of which do not object to the horses: Lisa and Brandon Brooks; Richard Knowles; Terry & Sharon Strauss; Jim & Carol Gurnsey; and Catherine Putman & Shirley Anderson.

Public hearing notices for this appeal had been sent by the Town Clerk to owners of 13 neighboring properties; a copy of the mailing list is appended to the file.

Chairman Vogel declared the public hearing open at 6:05 p.m. with the following persons speaking:

Diana Good spoke on behalf of the application. Abbygail Good, Faith Good and Kaitlyn Good all expressed their desire to be able to keep the horses which is very important to them. There was no other public comment and the public hearing was declared closed at 6:24 p.m.

Also noted, is the Planning Board referral by their July 20, 2016 meeting minutes.

**FINDINGS:**

The Board discussed the evidence received and made the following finding with unanimous agreement:

1. **Change Character of the Neighborhood.** The majority of the Board felt that the horses themselves do not create a detriment to nearby properties; the appearance should not be a problem. The neighborhood is rural and agricultural even though it is in the R-1 Zone. It is not out of character for the neighborhood.
2. **Other Feasible Methods.** It was agreed that it appears that there are no other feasible methods to accomplish applicants' current objectives.
3. **Is the Request Substantial?** The majority of the Board agreed that it is not a substantial request.
4. **Effect on Physical or Environmental Conditions.** The Board majority agreed on the following: There is nothing to indicate an undesirable effect on the physical or environmental conditions in the neighborhood or district and there appears to be no health or safety issues.
5. **Self-created Issue.** Being self-created is relevant to the decision but doesn't necessarily preclude the granting of the variance. The Board said it was not self-created.

**DECISION:**

Based on these findings documented in the record, the Zoning Board of Appeals, decides as follows:

A motion was made by Baldwin, seconded by Swan, that the Board hereby grants the variance as requested by Treavor & Diana Good by Appeal #4 of 2016 for an area variance to allow the keeping of horses/ farm animals on less than 2 acres where the requirement is more than 2 acres per Article 4 of the Town of Campbell Zoning Law. The motion passed with all 4 votes in favor.

**Joseph D. Wood —Appeal #5 of 2016.**

Appeal #5 of 2016 is an application from Joseph D. Wood / Mary J. Naida for an area variance to allow the construction of a pole barn/ garage at 8427 Route 415 with a 20' rear yard setback where the requirement is 50 ft. and a 6-ft. side yard setback where the requirement is 20 ft. per the density control schedule of the Density Control Schedule of the Town of Campbell Zoning Law.

Public hearing notices for this Appeal had been sent by the Town Clerk to owners of 13 neighboring properties per listing of addresses appended to the file.

Chairman Vogel declared the public hearing open at 6:33 p.m. with the following persons speaking:

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Joseph Wood -- explained the plan for the garage /pole barn. The placement of the well creates a problem; it is way too close to the back of the house. There was no other public comment and the public hearing was declared closed at 6:35 p.m.

It is noted that currently the record owner of the property is Mary J. Naida. She had submitted a letter to the Board stating she is selling the property to Joseph D. Wood and gives Mr. Wood full permission to proceed with anything with regard to the property. The property is located in the R-1 Zone and is not in the floodplain.

Also noted, is the Planning Board referral set out in their August 24, 2016 meeting minutes.

**FINDINGS:**

The Board discussed the evidence received and made the following findings with unanimous agreement:

1. **Change Character of the Neighborhood.** It does not create a detriment to nearby properties; the appearance should not be a problem. The variance would not change the character of the neighborhood.
2. **Other Feasible Methods.** It appears that there are no other feasible ways to accomplish applicant's current objectives. The plan seems logical.
3. **Is the Request Substantial?** The Board agreed that it is not a substantial request.
4. **Effect on Physical or Environmental Conditions.** The Board agreed unanimously on the following: There is nothing to indicate an undesirable effect on the physical or environmental conditions in the neighborhood or district and there appears to be no health or safety issues.
5. **Self-created Issue.** This is relevant to the decision but doesn't necessarily preclude the granting of the variance. The Board said it was not self-created; the location of the well is the problem.

**DECISION:**

Based on these findings documented in the record, the Zoning Board of Appeals, decides as follows:

A motion was made by Swan and seconded by Baldwin, that the Board hereby grants the variance as requested by Joseph D. Wood by Appeal #5 of 2016 for an area variance to allow the construction of a pole barn/ garage-type building at 8427 Route 415 with a 20 ft. rear yard setback where the requirement is 50 ft. ; and a 6 ft. side yard setback where the requirement is 20 ft. per the density control schedule of the Density Control Schedule of the Town of Campbell Zoning Law. The motion passed with unanimous vote.

**Monroe Tractor [Charles Miller] & Curt Hopkins—Appeal #6 of 2016.**

Appeal #6 of 2016 is an application from Monroe Tractor [Charles Miller] for an area variance to allow the construction of a commercial building at an un-numbered parcel on NYS Route 415 with a 1 foot elevation variance from Section 6.17.1.1 of

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Article 6 "Flood Damage Prevention" of the Town Zoning Law, to place the proposed finished floor at 1039 ft. or 2 foot above the base flood elevation of 1037 instead of 3 foot above base flood elevation.

Public hearing notices had been sent by the Town Clerk to owners of 5 neighboring properties; the mailing list is appended to the file. The parcel is a 13.5 acre parcel located just north of the school bus garage. It is noted that the record owner is currently Curtis Hopkins who has contracted to sell the parcel to Monroe Tractor / Charles Miller.

Chairman Vogel declared the public hearing open at 6:53 p.m. with the following persons speaking: Tim Steed of Hunt Engineers explained the preliminary plans and explained the difficulty. Charles Miller also discussed the plan.

There was no other public comment and the public hearing was declared closed at 7:00 p.m.

Also noted, is the Planning Board referral as written in the August 24, 2016 meeting minutes.

It was noted by the Board that the parcel is in the Zone A7 and the variance request is to the Section 6.9 of the Town of Campbell Zoning Law regarding non-residential structures that new construction shall have the top of the lowest floor, including basement, elevated to or above the flood protection level. [BFE]

The criteria for flood plain variances was considered as follows:

1. With regard to the danger that materials may be swept onto other lands to the injury of others; and the danger to life and property due to flooding or erosion damage; and the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner is all very minimal since there would only be a back flow of waters in this area.
2. The importance of the services provided by the proposed facility to the community was considered—it would be another business added to the tax base and it is appropriate because the Town is a agricultural-type town;
3. The necessity to the facility of a waterfront location, is not applicable in this case;
4. With regard to the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage—Campbell is very limited in this regard;
5. With regard to the compatibility of the proposed use with existing and anticipated development and the relationship of the proposed use to the comprehensive plan and floodplain management program of that area—it is in keeping with the comp plan adopted in 2013;
6. With regard to the safety of access to the property in times of flood for ordinary and emergency vehicles—there is no foreseeable problem with this;

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7. The costs to local government and the dangers associated with conducting search and rescue operations during periods of flooding is considered, but would appear to not affect this site;
8. With regard to the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site—not applicable;
9. Regarding the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas electrical and water systems and streets and bridges—not applicable; and
10. The request for variance is not an after-the fact-request.
11. The application does not involve any historic structures;
12. The parcel is not within any regulatory floodway.
13. The variance is the minimum relief necessary

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It was noted that the Board can impose conditions per Section 6.12.2. of the Zoning Law. Discussion was had regarding conditions. Suggested conditions were: That the structure should be equipped with flood vents to meet requirements of the code.

Applicant can justify the following: (a)--Showing of good and sufficient cause; (b)--A determination that failure to grant the variance would result in exceptional hardship to applicant; and (c)--Determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

It was noted that we don't need to send the letter of written notice regarding increased insurance rates to applicant because the variance, in this case, is not below BFE. Also, applicants will need to get a flood plain permit from the Planning Board.

**DECISION:**

Based on these findings documented in the record, the Zoning Board of Appeals, decides as follows:

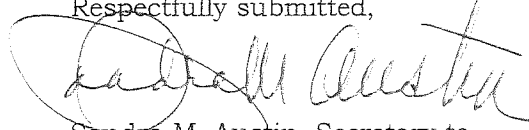
A motion was made by Swan, and seconded by Baldwin, that the Board hereby grants the variance as requested by Monroe Tractor (Charles Miller) and Curt Hopkins by Appeal #6 of 2016 for an area variance to allow the construction of a commercial building on NYS Route 415 on a 13.5 acre parcel just north of the school bus garage with a 1 foot elevation variance from Section 6.17.1.1 of Article 6 "Flood Damage Prevention" of the Town Zoning Law, to place the proposed finished floor 2 foot above the base flood elevation of 1037 ft. [which would be at 1039 ft.] instead of 3 foot above base flood elevation; the Board also recommends dry flood proofing in the office area and flood vents in the garage area. The motion passed with unanimous vote.

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**Adjournment.**

There being no further business before the Board, the meeting was adjourned at 7:28 p.m. by motion of Swan, and seconded by Baldwin.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sandra M. Austin". The signature is written in dark ink and is positioned above the printed name.

Sandra M. Austin, Secretary to  
Town of Campbell Zoning Board of Appeals

**Dated:** September 30th, 2016.