

**TOWN OF WINDSOR  
ZONING BOARD OF APPEALS**

**Regular Meeting  
November 20, 2019  
Approved Minutes**

**PRESENT:** Chairman Joe Breen, Loretta Raney, George Bolduc, Max Kuziak, & Dawn Kirkwood. Excused Absence: Robert Griffiths. Unexcused Absence: Theresa Tillett. Staff: Robert Ruzzo

**I. CALL TO ORDER – PUBLIC HEARINGS:**

The meeting was called to order at 7:00 P.M. by Chairman Breen in the Council Chambers of Town Hall, 275 Broad Street, Windsor, Connecticut.

**1. LEGAL NOTICE:**

The Legal Notice submitted by Max Kuziak, Secretary, which appeared in The Hartford Courant was read by Commissioner Kirkwood and included the following:

- #19-10 16 Adam Hill – Appeal of ZEO decision concerning 15 Dewey Ave. Special Use Site Plan Requirements
- #19-11 462 West Wolcott – Section 4.1.3 Front and Side yard Setbacks
- #19-12 120 Hilltop Rd.- Section 14.1.20A(2)(c) Solar array setbacks
- #19-13 35 Ashley Rd – Section 4.4.1A(2) Accessory building location
- #19-14 21 Orchard Rd – Section 4.4.7A(1) Small livestock minimum size and density

**2. PROCEDURES:**

Commissioner Bolduc read the procedures for presentation of a variance application and appeals. Hearing no comments, the hearings proceeded.

**ESTABLISHMENT OF QUORUM:**

Chairman Breen announced the four board members who were present. Three regular members and Alternate Kirkwood were seated and a quorum was established. He reminded the audience that 4 affirmative votes were needed to approve a variance or an appeal, not just a simple majority. In this case unanimous. Hearing no further objection, she declared the hearings proceed.

**II. PUBLIC HEARINGS**

1. #19-10 16 Adam Hill – Appeal of ZEO decision concerning 15 Dewey Ave. Special Use Site Plan Requirements

**DISCUSSION:** Robert Ruzzo, Zoning Enforcement Officer for the Town of Windsor explained his decision. Sometime in the past he received a telephone call from Ms. Colleen Olson regarding headlights from an adjacent property that was at a higher elevation than hers were shining into her

second-floor bedroom and that there was known to be a site plan approved to prevent the actions as described. I contacted the property owner and met with Mr. Christopher Gelinis at the property of 15 Dewey Ave. He indicated to me that at the time he purchased the property which was subsequent to the planning commission's approval for the enlargement of the parking area, that the trees had died or were in process of dying, mostly caused by the fact from him plowing snow off the parking area. Snow mixed with wood, ice and chemicals that had killed the plants and trees that were there. There was a discussion about how to satisfy the intent of the notes on the site plan and came to an agreement that substituting a 6 foot fence was a reasonable accommodation to satisfy the intent of the site plan approval. A number weeks later I received another telephone call from Ms. Olson who indicated that she felt that the fence was not proper or what the site plan required. She preferred plantings and indicated that she thought the fence was ugly and so I informed her that I had made my decision. She had the option to appeal to this board that would either uphold or to sustain her appeal. There is a typography drawing in the appeal package. It shows a very steep slope from the back of the driveway at 15 Dewey. Mr. Ruzzo visited the site on couple of occasions and stated it is now covered in pachysandra. Planting trees along that slope would be difficult. Mr. Ruzzo stated he is not an arborist but based on the slope he believes that we were probably looking at a situation of the cycle of planting, plant deaths and replanting. A fence seemed the most reasonable way to solve the issue. The fence is to prevent the headlights shining and to hide their cars and garbage cans. Mr. Ruzzo can only speculate as to what was the intent of the planning director in 1993 when that note was placed on the approval for the large parking lot but it does seem reasonable that the intent was to screen. The site plan mentions planting arborvitae and that doesn't seem to be working. The fence is taking over the job and the excessive headlights do not go over the top of the 6 foot fence. Mr. Ruzzo then addressed other issues the appellant brought forward.

Note 17 on the approved site plan 1993 specifies round tops and toes on the paved area. He does not know what round tops and toes are so suggested that maybe the Planning Commission or Department should define this. He doesn't know how to order that to be done and that was also not in the original complaint when we made the decision about the fence.

Number 18 requires about 4 inches of mulching chips. Mr. Ruzzo can see where that was a reasonable request at the time but now the entire slope is pretty much covered with pachysandra and some other plantings so to just bury that under chips and mulch does not seem to be a sensible thing to do. The defendant has said it is ugly and it used to be all green. Mr. Ruzzo suggested that perhaps planting a row of ivy on the fence but doesn't see where the town has any authority right now to order such a thing.

There are a number of items that are to be addressed. One, they request the removal of the stockade fence. The town has no authority to order anyone to remove the fence in the fact that it's not on the original site plan doesn't prohibit them from installing it. There apparently was a no trespassing sign that has since been removed. There is a request to do some work on weeds and invasive species. Mr. Ruzzo was there last week and did not see any detritus from dead trees and what not on the embankment. There is something about removal of the balcony and porch adjacent to or attached to the garage. The town has no authority to order anything along those lines. In response to questions from the board, Mr. Ruzzo said he went to the property on October 31 in the throes of a rainstorm in which the town of Windsor got one quarter of an inch of rain in 20 minutes while he was in the parking area. Most of the water runs from the garage east and the rest goes

primarily down the driveway. There was some run off to the south towards Adam Hill but the he saw no evidence of erosion or anything. There is plenty of plant life, especially pachysandra.

The board had no further questions.

Andrea Olsen, the daughter of Colleen and Richard Olson spoke on behalf of her parents. She submitted a petition with signatures of 16 neighbors in support. As part of her appeal application, there are a number of numbered photographs or images she will be referring to how they disagree with the zoning enforcement officer's resolution of the 15 Dewey Ave. His resolution of the Special Use Site Plan is a decision that is an oversimplification of persistent issues which have impacted the Adam Hill neighborhood, most especially the 16 Adam Hill. Mr. Ruzzo's decision does not match the intent of the Special Use Site Plan as described in her Application for Appeal and the Zoning Enforcement Officer (ZEO) may not have utilized it as a basis for his decision. The final and approved plan dated May 27, 1993 has specific amendments by the town planner. Those were the three or four items that he referred to address. There are three main issues that impact 16 Adam Hill as a direct result of the noncompliance. The final special use site plan requires support from the town to rectify these.

The first of these is the visual blocking of trucks, cars, garbage cans, recycling cans and headlights on the extended parking area on image number one. This map shows how evergreens at the time blocked approximately 80 to 85% of the activities on the extended driveway. The image thoroughly illustrates how much higher the extended parking area and embankment is. Other photos illustrate the water run off that is directed at 16 Adam Hill. Image six shows how the screening was greatly reduced in recent years and there are only four remaining evergreens.

Dead trees were pushed over the embankment She would say about 80 to 85% of the embankment is covered with weeds, not pachysandra. Pachysandra is planted at 16 Adam Hill. Photo number 8 is the view of the water accumulation along the property line and also impacting our neighbors at 10/12 Adam Hill. Visible are the tire marks from their lawn care professionals that have are significant after minimal rainfall. The water from 15 Dewey has a significant impact on 16 Adam Hill

Significant impact is felt from water runoff from the extended parking area.

General neglect is the third issue. Since filing the application, the owner of 15 Dewey has removed dead trees from the embankment and removed the private property, no trespassing signs that were on the stockade fencing facing 16 Adam Hill. One of the signs now has been put back up on the garage and is only visible from the backyard and interior of 16 Adam Hill with the topography sloping towards the back of house.

Her family has had to deal with a variety of privacy and water issues over the years. The volume of water coming onto the property increased significantly after 15 Dewey Avenue was subdivided with a variance and a new house with sloping asphalt driveway were constructed at 19 Dewey Ave. The water issues were further compounded by the extension of this parking area at 15 Dewey Ave. Piping was installed as part of an extension that drains directly onto 16 Adam Hill. (refer back to image four and five).

The family has had to mitigate water runoff from both 15 and 19 Dewey for years. Initially the family planted evergreen trees helped to absorb water. After four attempts by various contractors

costing over \$30,000. Most of the yard is now usable. The major drainage designed by Ed Lally was the most effective. However the Olsen family is consistently dealing with erosion along the shared property line with 15 and 19 Dewey Ave. They are constantly maintaining their property by composting, mulching and planting perennials, shrubs and trees. They contract with Grimshaw Tree Service in the spring to fertilize and spray fungicide as needed on the trees and shrubs. Over the years, Patrick Mareno and his crew have planted numerous evergreens in attempts to absorb water help block the view.

The Olson's are powerless to do anymore. We did not oppose the 19 Dewey Ave. variance or 15 Dewey Ave special use site plan as they placed trust in the Town of Windsor to fulfill the terms and conditions as stated and presented in the approved site plan and had faith that they could rely on the town to follow through and support this appeal.

Ms. Olsen addressed the disagreement about whether or not the embankment is currently planted or not. She emphasized that it is covered in weeds and there is a little bit of pachysandra that has only crept over from their property. They believe that the initial terms that were added in the amended and final site plan were not necessarily meant specifically to address screening the headlights. Zoning Enforcement of the need for round tops and toes on the paved areas and for planted slopes should be addressed. This site plan is the extension to allow for parking spaces for what is now two or three family rental units. The understanding would be the round tops and toes on the paved areas, curbing of sorts, to control the water from falling down the embankment to the neighbors.

The Olson's realize that the owners of 15 Dewey have tried to take steps to address what they may or may not have been aware of in certain points of the site plan. They feel that their efforts have not really addressed the original intent of the site for Dewey Avenue.

Commissioner Breen noted that this site plan is from 1993 and asked when the water issues arose. The Olson property is downhill for 15 Dewey Ave and have always been water problems. Ms. Olson said that it started when 15 Dewey Ave. was subdivided to create 19 Dewey Ave. The subdivision of 15 Dewey Ave. to make 19 Dewey Ave. site plan has not been enforced. They have an asphalt driveway that slopes towards us without curbing. They have discharge pipes that discharge into our neighbors' woods and also into the corner of our property. The gravel storage area behind the garage stores equipment and run off from there also runs right down the slope. That subdivision had requirements and was called out by the town planner to make sure that there was a swale to control water and plantings of significant size to control water and also to act as a screen. The majority of run off feeds into Adam Hill catch basins. The trees that were originally planted along the embankment can be re-planted.

One of the modifications that was made as an amendment to the final site plan was the number of trees planted. Only four sections of fencing that doesn't meet the intent of the 15 trees all along the entire edge of extended parking areas. The fence side is not particularly attractive or very neighborly. No trespassing signs facing the Olson's have been removed and are now on the garage facing them. The fence is along the main portion, but it still allows perfect visibility to the garbage and recycling cans, and in all the other activities happen in a parking lot.

The water issues been going on since at least 1993. It has definitely been exacerbated by 15 Dewey's lack of maintaining the required site plan.

Ms. Olson is not sure, but believes that after the fencing was put in, it became clear that there was a drainage pipe was installed not shown on the site plan was added that leads directly to their property.

Ms. Olson think the purpose of the trees were twofold. They were for screening because initially there was no parking area there. Everyone who lives here has dries a big truck. The second benefit of the trees would be to help mitigate some of the water.

The purpose of the trees to be were mostly to screen in the area and prevent the headlights, cover hide the garbage cans and not see anybody's activity. Ms. Olson said the renters that garbage and recycling spills over and ends up in their yard to pick up dispose of ourselves.

The water issue has ebbed and flowed over the years.

Ms. Olson clarified the property line for the board.

Commissioner Breen said the issue that we are here tonight for is the trees versus the fence. And there has been a water issue since 1993. Ms. Olson said the water has could be mitigated if there were trees in place as originally specified. The 15 Arborvitae would absorb bit of water and the embankment was also originally called to be mulched and chipped and planted. It Is weeds, so there doing nothing to help mitigate the water. The fence is not doing what the original special use was meant to address

Commissioner Breen expressed that plowing the driveway of the snow, which includes a lot of times deicing additives is what could be killing those trees so planting more trees will not work ending up with the same result in a few years. Ms. Olson expressed that this it sounds like an excuse and not a reason. Commissioner Breen said the intent of the town is that the trees are not going to work only to die, put up a fence. The fence will not absorb water but is going to prevent the eyesores you would normally see if the fence wasn't there.

Ms. Olson cannot answer the question about ice melt killing the trees, but if there were a curb on the driveway it would help. She believes it is more the physical movement of the snowplow physically pushing the trees over the hill killing the trees.

Coleen Olson is offering to pay for trees to be put in as the fence is objectionable. The trees she has planted are doing well absorbing water and blocking. She asked for a price and was told that the trees could be planted on slopes and would cost 150 to 200 dollars apiece. 15 trees would be \$3,000 dollar and she is willing to kick in money. The fence is just not helpful.

Commissioner Breen suggested a compromise that the fence stays but the Olson's put the trees up on the side of the fence facing their property on the embankment. It cannot be ordered but Mr. Ruzzo could ask the property owner to allow that.

They have not approached Mr. Gelinas with that offer.

Mr. Ruzzo also pointed out that the town of Windsor does not have zoning regulations governing the transfer of water from one property to another. That is a civil matter. Whether it comes from 19 or 15 Dewey that is not the purview of the Town of Windsor.

There are no regulations about whether or not a neighbor can see the garbage barrels at your neighbor's property. They must be kept back from the street and you cannot leave the out at the curb all the time.

It's a reasonable and generous offer to say that you will be happy to plant the trees, we have no authority to order that the property owner remove the fence so you may get your trees.

There were many trees in 2009 as shown on the aerial map. The trees were very effective. Trees will take on the slope. Mrs. Olson believes that it is someone who lives there that owns the plow. They could push the snow to an empty spot on the east side.

She does not believe she could communicate with the owner and would like the town to act as intermediary. She appreciates the effort made this fall to clean up. She will pay for the trees but feels she shouldn't have to. She believe the second owners that bought the property in 2008. They may have been unaware of the site plan but that is no excuse when buying a property. She has maintained her property and does not feel she should have to maintain theirs as we. She is uncomfortable approaching the owners directly.

Mr. Ruzzo said he believes the owner would be willing to engage in a conversation. He has been most cooperative with himself.

Commission Breen asked Mr. Ruzzo if he would be willing to mitigate that. Mr. Ruzzo replied he would be willing to be an arbitrator to negotiate.

Ms. Olson added that besides the trees, the agreement should also include the removal of dying apple tree, invasive Sumac, and other weeds.

Commissioner Breen said that we are not going to get involved with weeds and landscaping. Mr. Ruzzo said the town blight ordinance only deals with what can be seen from the street. There are no regulation against brush and bramble as long as it is more than 10 ft. from the house. We cannot order anyone to plant trees on their property or let someone else plant, he may decide not to because they are legal obligations and things that come along with that and so a conversation can be suggested, it cannot be forced.

Commissioner Kirkwood stated for the record that we cannot order anyone to plant trees on their property or let someone else plant, he may decide not to because they are legal obligations and things that come along with that and so a conversation can be suggested, it cannot be forced

**PUBLIC COMMENT:** Mrs. Olson submitted a letter signed by 16 neighbors supporting her appeal in their request for adherence to the specifications outlined in the 15 Dewey Ave. Special Use Site Plan, specifically the planting of 15 evergreens along the edge of the extended parking.

## 2. #19-11 462 West Wolcott – Section 4.1.3 Front and Side yard Setbacks

**DISCUSSION:** Mr. John Coleman, 462 West Wolcott is requesting a variance to allow construction of a carport in front of the original garage. This would provide weather protection for

his aging mother to go directly from the car to the sidewalk entry to her home. The original home has a single car garage built in 1953. Mr. Coleman hired a contractor and assumed he had gotten a permit for the work. Mr. Ruzzo saw the construction and ordered construction cease and desist and paperwork submitted. It was discovered a variance would also be needed for the project.

The property predates zoning regulations. There are at least 20 houses on the street that in the same proximity and some even closer.

The town received 2 phone calls in support of the variance from 471 W. Wolcott and 456 W. Wolcott.

**PUBLIC COMMENT:** None

3. #19-12 120 Hilltop Rd.- Section 14.1.20A(2)(c) Solar array setbacks

**DISCUSSION:** Mr. John McLellan, Earthlight Technology and Mr. Michael Whittlesey homeowner present the case. Mr. Whittlesey gave some history of the property. He and his wife have a long standing interest in the environment. They first installed solar hot water collector on their home in the late 70's or early 80's. They are very concerned about the environment, climate change and what they can do to minimize their consumption of fossil fueled energy. They feel that the installation of the solar array will supply the majority of their electrical needs and is the best opportunity to reduce their carbon footprint.

The property is the last house in the cul-de-sac on Hilltop. The location requested is the best location for the 40 panels. There is only a small portion in the setback area. The panels will be sufficiently screened from the street.

ZEO Ruzzo had no comment.

**PUBLIC COMMENT:**

4. #19-13 35 Ashley Rd – Section 4.4.1A(2) Accessory building location

**DISCUSSION:** Mrs. Sarikciogly presented the case. They just bought the home and installed a dog house about a month ago. It is 23 feet from the street (and 13 feet from the sidewalk and property line). They were unaware of the setbacks and the regulations. The lot is uniquely shaped and the house sits at the top of a steep slope and wetlands. With the current location they are able to see the 2 German Shepherds from the balcony. The dogs did bark when they first moved in, but have gotten used to their environment and other walkers with dogs on the sidewalk she feels it is no longer a problem. They did plan to expand and screen the kennel but halted that process when they became aware that the dog house was in violation.

The dog house is on an 8 x 8 slab, 3x8 enclosed and 5 x 8 enclosed with a metal fence. Mr. Ruzzo is in agreement that the backyard is not suitable for the dog house.

Planning Dept. commented *“The siting of the accessory building does not appear to be the best possible location for this structure. It does seem feasible to locate the structure closer to the house along the driveway by leveling a portion of the yard or possibly the doghouse in the rear of the*

house... every effort should be made to screen the building as much as possible from the road and sidewalk directly adjacent to the doghouse... to create more of a buffer between the doghouse and the sidewalk.”

The suggestion was made to just move this doghouse and possibly spinning around and have it at the end of the pad closer to the house. Mrs. Sarikciolglv asked if the variance is denied she be given adequate time to make changes in the spring.

**PUBLIC COMMENT:** 2 phone calls were received about barking dogs.

5. #19-14 21 Orchard Rd – Section 4.4.7A(1) Small livestock minimum size and density

**DISCUSSION:** David Newell presented his case. He and his wife, Kim, live at 21 Orchard Rd. He read the following statement which in part says:

The horse and pony, about whom we speak this evening have lived on our property for two years without any complaints, mistrust, disharmony, or any of the other feelings of which we are accused of causing. Our neighbor to the north Diane Whitesell supports the variance. Neighbors to the south, Rusty and Ellen Peck support the variance. Neighbors across the street Gary and Diane Whitney support the variance. Other neighbors across the street, James and Anne Graczyk support the variance. James enjoys bringing their kids down to see the animals in their next-door neighbors Victor and labor Bernstein a regular visitors with their grandchildren. The abutters and Marilyn Loomis have given permission for the horse and pony to graze on their property, and all have stated how much they enjoyed having them around. Other neighbors regularly ask about the animals and take pictures.

The male Arabian horse name Chance rescued from slaughter, who is a large domesticated animal requiring 3 acres according to the town regulations and a female pony named Missy. Also a rescue which the town claims is a large domesticated animal.

The town states that the small domesticated animals include donkeys and mules, each of which would only need 1/2 acre horses. Donkeys are both listed in the genus bequests horse are roughly the same size 14 to 15 hands or pony is only 11 hand side, more like a llama which is also listed as a small domesticated animal. So if we had purchased the donkey instead of the pony we wouldn't be here tonight.

If our application for a variance is denied, we could legally purchase seven donkeys or mules, all of which could be larger than our pony and have them on our 3.7 acres. Where is the logic in that it certainly wouldn't be in keeping with the intent of the law to reduce waste.

As for the waste generated by the horse and pony, Tom Hazel, Windsor Wetlands agent, visited our property and gave us a clean bill of health. Waste is composted, and some is given the local farmers. Overgrazing is not an issue. We move their fences around our property.

We've been accused of the horse and pony being free without a lead. That was true on some occasions in the past, but Wendy has been good about grazing them on their leads after she heard that there were concerns. She is always with them when they are grazing outside their corral. These animals are not wild and they're not a threat to anyone. They just want to eat, breathe and be left alone. The Pelton's will tell you that the horses been viewed six properties to the south. Claims the horses pooped in his driveway is ridiculous. Maybe when the horse was staying at the Pelton's,



which he did before he came to our property, may be then that happened, but not since he moved in with us.

The Pelton's their progeny crafted a six page letter to you full of untruths and accusations. Most people in the neighborhood get up go to work and raise their families without giving the horse or pony a thought.

We were asked to send notices of this event to all of our neighbors within 100 feet and all have given their support for the variance except the Loomis Institute is on the other side of the train tracks and received no comment. No comment from Marilyn Loomis but she did sign a letter giving Wendy permission to be on her property with the horse and pony.

The facts are that we have a caring owner taking great care of an old horse and even older pony who have now bonded over two years and hope to live out their lives with us. Veterinary Dr. Christopher Weber of Samberg veterinary Hospital provided his letter of support for the fine work. Wendy has done with the animals and clearly the neighbors are in support of having the horse and pony. This property is easily accessible and provides a safe and comfortable environment for Chance the Arabian horse and Missy the pony to graze and exercise. In addition.

Wendy grazes Chance and Missy on the grassy areas outside the enclosure by attaching a halter and lead line letting them graze under her control. There's a small building to provide shelter from inclement weather. This property meets the needs of the horse and the pony and is accessible if they need veterinary care. Both Chance and Missy are well cared for in good general health with normal age-related changes. Wendy has provided a safe and comfortable home for two animals that may have been euthanized without her care and the involvement of others like her caring for an aging horse population would be left with an uncertain future.

The photos you were given entered into evidence as a laughable grainy great game cam photos with magic marker. Plot lines drawn in unmarked photos of the horse out of the window. Anybody can take those photos and draw imaginary lines that are not accurate may prove nothing.

Finally, please don't lose sight of the main reason that were here. This is about allowing an old horse and an old companion to live out their lives. We have no desire to have more animals and we just want this variance for the life of these two animals.

There are 7 abutters against this and they are greater than 100 feet away from the property. The Bernstein's at 42 Orchard think having the horses in a secure area is welcomed and state this as a neutral party.

I do not want to set a precedent for someone in the future to increase the density of large animals in residential zones. I understand, except that we are not setting a precedent for large animals because I argue we have a large animal and a small animal.

The property is set up is that we are on the ridge on the top of the hill and then it goes down and part of the reason that you are unable to see the horses from the street. You don't smell anything unless you go down into their and might smell horse manure. We compost at the bottom of the property and Manure is usually picked up immediately.

The town received 4 letters of support from abutters; 7 letters against and 1 neutral from addresses greater than 100 feet from 21 Orchard Rd.

**PUBLIC COMMENT:**

Ellen Peck, 23 Orchard Rd. She and her husband, Rust Milo Peck, are in favor of the applicant. She does not want live next to 7 donkeys. But are in favor of the 2 animals there now. Wendy does a fantastic job caring for the horses. She is always moving the fences around. She likes seeing the horses. They are direct abutters. She does not smell anything from her home. Wendy cleans up after the horses and composts.

Three audience members raised their hands in support but did not wish to speak.

Marilyn Loomis, 27 Orchard Rd. clarified that she is not in favor of the variance.

Todd Habersang and his wife, 1186 Windsor Ave. are about 200 feet away from the property line and have a significant view of 21 Orchard's backyard. They oppose the request submitted by David and Kim Newell at 21 Orchard. They believe that zoning enforcement officer made the correct interpretation of the current residential zoning regulations which requires the density of horses or similar large domesticated animals shall not exceed one head per 3 acres. The Newell's arbitrarily chose to allow a tenant to board horses on the property. The Newell's request is to allow one horse and one pony on a 3.7 acre property. A pony is a horse in the same equine species. The Newell's did not establish legal hardship, exceptional difficulty or unusual hardship. The only issue is that they do not have enough land for two horses.

It is their observation that the Newell's lack of acreage resulted in the two horses overgrazing the Newell's backyard which has created the need for them and their tenant to seek alternate grazing rights from other property owners. They have been in violation of the town's requirement to keep the horses in their enclosure or on lead lines. Neighbors often witness one or both of the horses outside of their enclosures with lead lines unattended. They run across multiple properties. Both horses have cataracts. One has serious cataracts. Allowing the horses to roam free poses a threat to the health and safety of the horses and to the individuals of our neighborhood. It also poses a hazard to drivers on Orchard Road, Route 159 and the trains which run directly behind their property.

In the warm summer months they can smell the odor of horse manure from our back deck.

They cannot support the variance that is not in the best interest to the health and safety of the horses does not promote the ongoing welfare in the harmony of our neighborhood.

This is the exact same neighborhood that now faces 3500+ solar panels off the Loomis campus. Anybody who objected to that project, Loomis purchased those homes, moved the neighbors, and then replaced them with their staff. He seeks to defend the residential character of the neighborhood that existed when he and his wife made a mindful decision to buy in a residential neighborhood 20 years ago or so.

The Newell's now know the zoning and the onus is on them to understand the zoning to protect the residential character of the neighborhood. Mr. Habersang stated for the record, he has witnessed on multiple occasions, one or both of those horses running through multiple properties, including his.

Mr. Habersang is trying to protect the safety of the horse and protect the safety of anyone on their property.

Sue Pouliot, 29 Orchard Rd., is against the application. Their home is three properties down to the right. The backyards are a mix of mowed lawns and swampy wetlands and the front yards are just 500 feet from the intersection of Windsor and Park Avenues. It's one of the busiest intersections in town and proximate to the middle and high schools.

She became aware of the zoning issues when Wendy Nobles, the tenant stopped by her home and explained that as the Newell's backyard was overgrazed and she needed to expand the horse boarding operation to adjacent properties. She asked her to grant her use for grazing. While researching the risks and issues associated with changing the use of our yard, we learned about the impact to our insurance coverage. Part-time use for livestock grazing, which includes five horses or less, requires additional coverages and that comes with much higher premiums. Sue and her husband declined to assume that risk and are uncomfortable with the Newell's tenant soliciting a long-term legal commitment. There are many suitable pasture lands in and around the Windsor area for purchase or choose a qualified boarding facility. They hoping that the Newell's will move forward with their opportunity to purchase appropriate grazing land and suggest that they check with zoning first. They failed to check with the town and they got caught. We feel that our neighborhood is taking the brunt for that responsibility. The benefit of upholding the current regulations are profound for healing our neighborhood. First, it will empower the Newell's to choose a more suitable land for long-term care if the horses live for another 20 years. In closing by denying this variance the board enabling us to preserve the residential character of the neighborhood,

John Pouliot, 29 Orchard Rd., stated he is here tonight to oppose the Newell's variance request for all reasons and facts that have been presented to this board in both correspondence and in some of the previous statements from some of those others who oppose. Owning horses is expensive and it's a huge commitment and tremendous responsibility. He has observed Wendy and the Knowles struggling for the past two years and all sorts of conditions hauling feed and water and bedding and other supplies down to where they have the horses, and particularly in the winter in the stormy weather looks like a pretty intense struggle. There's no road or driveway, down the hill. It is no easy means to haul supplies and waste or refuse. He has seen the degradation of the grasses. These are lawns not pastors. They're not capable of rejuvenating as quickly when there distressed as hardy wild pastor grasses. I don't see that the Newell's really have the appropriate land facilities access or resources to adequately board horses and I believe those horses would be better reported elsewhere. He certainly can't fault the Knowles passion or compassion, but believes their judgment has been overshadowed by their desires. Secondly, this past September they received a letter from Newell's claiming that someone had apparently been harassing the horses and poisoning their food along with that there was a demand of no trespassing on their property. Shortly thereafter, the horses owner came to their home requesting report written permission to graze the horses on their property, which was subsequently denied. He and his wife were offended by the hypocrisy and arrogance of being asked to permit grazing after being accused in some kind of class action of abuse and receiving notification and no trespassing from the Knowles's was without any personal discussion or inquiries. These behaviors caused undue tension and division in the otherwise friendly neighborhood. He would like to say that they would be very disappointed if this board were to rule in favor of a single homeowner's personal desires over legitimate concerns and objections of the many

Holly Pelton, 3 Orchard Ln. is oppose the request for variance 21 Orchard Rd in addition to the facts

presented in the petition letter to the zoning Board of appeals dated November 15 in which she signed along with nine others and would like to give a firsthand account of very important safety concern in regards to the horses grazing on other properties. Last December, she witnessed the two horses running across multiple yards. One horse galloped across six properties to her house and through her backyard. Fortunately her dog was leashed because her dog would've chased that horse and potentially been injured. She has a lifetime of experience with horses and whenever a horse is out of its fenced or confined area, galloping free of property, spooked or scared always has been considered an emergency. She did not see the owner come to retrieve the horses and they continue to run away from her property and others the properties of Orchard Lane. Some have long steep driveways. Horses coming across those properties towards those driveways, vehicles could be coming up or down those hills and run into the horse and cause a serious accident. She believes the 21 Orchard Rd. property does not provide adequate safety for horses or their providers. Whether be the owner or emergency responders that occasionally come to the property, there is not proper vehicle access to the backyard where the horses are kept on a steep hill. Our seasonal conditions in New England cause for difficult hazardous conditions. There is now tension amongst the neighbors having its start when letters sent from the Newell's that were accusatory nature, without prior communication, that seemingly accuse the neighbors of causing harm to the horses that they did not witness happening. She firmly object to the commission changing the current zoning on this residential property as well as the precedents for other residential properties in Windsor.

ZEO Robert Ruzzo pointed out that the planning department was in error when they mentioned conditioning with the approval of this variance. There is nothing in the state statute that allows this. The variance goes with the property and that means all subsequent property owners would be allowed to have at least two large animals on the property. He thinks that the board should not be swayed by the emotional argument. Both animals could be boarded somewhere else together

### **III. CLOSE OF PUBLIC HEARINGS:**

Chairman Breen CLOSED the Public Hearings at 9:24 PM

### **IV. COMMENCE REGULAR BUSINESS MEETING**

Chairman Breen OPENED the Regular Business Meeting at 9:34 PM

#### **1. Cases heard during Public Hearing/Application**

- a. #19-10 16 Adam Hill – Appeal of ZEO decision concerning 15 Dewey Ave. Special Use Site Plan Requirements

**MOTION:** Commissioner Bolduc made a motion for purpose of discussion to uphold the ZEO ruling

**SECONDED:** Commissioner Kirkwood

**DISCUSSION:** Commissioners were in agreement that we heard does not fit into the purview of this board. A lot of it is legal. The things that appellant discussed could not have been caused by not having trees there, i.e. the water of the owner of the property. People on the hill. They have the right to repel the water. Whether it's build the dam and put a trench. It is but is not in not in the scope of ZBA 11-20-19

this board to get involved in anything more than the fence. A fence a good alternative to the arborvitae. Commissioner Bolduc would be the in favor of upholding the decision of the ZEO in terms of enforcement of the initial complaint that was based upon the headlights flashing into the yard. It is the purview of zoning enforcement to determine whether or not additional or alternative methods would be would be appropriate in light of the circumstances.

The site plan question was done back in 1993. Considering the circumstances that it faces now, it is certainly within zoning enforcement officer's purview to determine what is and is not an appropriate alternative. It does look like from the pictures it provided in from the testimony that the fences has resolved that issue.

The rest of the pictures in the discussion are outside of this boards' scope.

Chairman Breen said maybe something can be worked out between the two parties that trees still can be planted but they were planted on that hill. He would like to see Mr. Ruzzo be the mediator between both parties. The appellant is willing to purchase trees. However, she's going to need the permission from the owner of the other property in order to plant them. He keeps his fence she gets her trees. If that's what happens we can ask Mrs. Olson to drop the appeal. If he says that he doesn't want her trees on his property, the board can vote on this within 65 days. This will allow time for the parties to work it out.

Commissioner Bolduc withdrew his motion, seconded by Commissioner Kirkwood.

**MOTION:** Commissioner Bolduc made a Motion to table this for 65 days

**SECONDED:** Commissioner Kirkwood

**VOTE: 4-0-0**

b. #19-11 462 West Wolcott – Section 4.1.3 Front and Side yard Setbacks

**MOTION:** Commissioner Raney made a motion for purpose of discussion to approve 462 West Wolcott –Section 4.1.3 Front yard set back a variance of 12 ft. to allow 28 ft. and side yard setback variance of 4ft. to allow 6 ft.

**SECONDED:** Commissioner Bolduc

**DISCUSSION:** The Commissioner were in agreement that the hardship was the home predates zoning regulations and there are multiple homes with similar setbacks in the area.

**VOTE: 4-0-0**

c. #19-12 120 Hilltop Rd. - Section 14.1.20A(2)(c) Solar array setbacks

**MOTION:** Commissioner Kirkwood made a motion for purpose of discussion to approve 120 Hilltop Rd. - Section 14.1.20A(2)(c) Solar array setbacks in the side yard of 12ft. to allow 8 ft. setback.

**SECONDED:** Commissioner Raney

**DISCUSSION:** The Commissioners were in agreement that the shape of the land was such that the best location for the solar array.

**VOTE: 4-0-0**

d. #19-13 35 Ashley Rd – Section 4.4.1A(2) Accessory building location

**MOTION:** Commissioner Bolduc made a motion for purpose of discussion to approve 35 Ashley Rd – Section 4.4.1A(2) Accessory building location to allow 8 ft. x 8 ft. dog enclosure in the front yard, a variance of 17 ft. to allow enclosure to be 13 ft. from the front property line.

**SECONDED:** Commissioner Raney

**DISCUSSION:** Commissioner Bolduc is against and feels that the out building could be moved further back. Commissioner Raney is also against, that is not appropriate in the front yard and should be moved closer to the house.

**VOTE: 0-4-0**

e. 19-14 21 Orchard Rd – Section 4.4.7A(1) Small livestock minimum size and density

**MOTION:** Commissioner Kirkwood made a motion for purpose of discussion to approve 21 Orchard Rd – Section 4.4.7A(1) Small livestock minimum size and density variance to allow one horse and one pony on 3.7 acres of residential home

**SECONDED:** Commissioner Raney

**DISCUSSION:** Commissioner Kirkwood feels the regulations as written conflict. Commissioner Raney agrees and also cites all of the neighbors who have come forward against approval. Commissioner Bolduc looked up the definition on line during the break. A pony and a donkey are both a horse by definition. Chairman Breen believes the applicant should have checked the regulations prior to his decision to board the horses.

**VOTE: 1-3-0 Denied Kirkwood, yes; Raney, no; Bolduc, no; and Breen, no.**

## **2. New Business**

a. **Communications from the Public** – None

b. **Minutes Acceptance**

**MOTION:** Commissioner Bolduc made a motion, seconded by Commissioner Kirkwood to APPROVE the **October 30, 2019 minutes**

**VOTE: Approved 4-0-0**

- c. **Communications from Board Members** – The commission suggest Mr. Ruzzo approach the Town Planner and get clarification and revision to the definition of Small Livestock.
- d. **Communications from Staff Liaison** - Zoning Officer and Building Official, Robert J. Ruzzo, gave a brief report on construction projects underway in Windsor.

**3. Old Business** - None

**V. ADJOURNMENT:**

**MOTION:** Commissioner Kirkwood made a motion, seconded by Commissioner Raney to ADJOURN the meeting at 10:11 PM.

**VOTE:**

Respectfully submitted,

I certify that these Minutes were accepted  
On

\_\_\_\_\_  
Lori Hartmann, Recording Secretary

\_\_\_\_\_  
Max R. Kuziak, Secretary  
Zoning Board of Appeals