

Minutes of the Town of Manchester Zoning Board Meeting of July 6, 2021 – 7:00pm

Present: Scott DeCook, Michael Blazey, Jessica Hemenway, Leonard Bolton - members, Kenneth Blazey - Chairman, and Steve DeHond - Code Enforcement Officer

Also, present: Lee Sanders, Casey and Kim Jones, Pete Wright, William Young, Stephen George, Matt Worden, Wayne Combs, Victoria Bancroft Deys, Chris Deys, Frank and Beverly Santelli, Tom and Sandy Hood, Jim and Doris Kenny, Rebecca Nealey, Tucker Koutz and Jan Farnsworth.

Appeal 4620-21: Casey and Kimberly Jones requesting an area variance side setback of 17.4 feet when 25' is required for an attached garage located at 3203 Bedette Road. Tax map no. 3.00-1-39.110 in an A-1 agriculture district pursuant to Chapter 325.

Chairman Blazey read the public hearing notice and application for the area variance. Eight (8) surrounding property owners were notified of this hearing.

Chairman Blazey reviewed the application and pictures submitted by the applicant. Casey discussed a small shed on the property was demolished, the attached garage will have a breeze way with attached two car garage.

Chairman Kenneth Blazey: Anyone have any questions?

Hearing none, Chairman Blazey closed the public Hearing.

At this time the board reviewed the Area Variance Findings and Decision form. The ZBA, taking into consideration the five factors, finds that the benefit to the applicant **does not** impose a detriment to the neighborhood or community.

A motion was made by Mike Blazey to **approve** an area variance appeal #4620-21 for Casey and Kimberly Jones for area variance side setback will be 17.4' when code calls for 25' is required for an attached garage property located at 3203 Bedette Road. Tax map no. 3.00-1-39.110 in an A-1 district pursuant to Chapter 325 Attachment 1.

The motion was seconded by Jessica Hemenway. All voted "Aye". Motion carried.

Appeal 4619-21: submitted by Will-O-Crest Farms, LLC requesting an area variance for front setback of 340 feet when 500' is required for a manure pond at property located at Thompson Road. Tax map no. 13.00-1-4.100 & 4.00-1-32.000 in an A-1 agriculture district pursuant to Chapter 325 42-D-2-B.

Chairman Kenneth Blazey, read the public hearing notice and application for the area variance. Twenty-four (24) surrounding property owners including the Town of Arcadia were notified of this hearing.

Bill Young owner of Will-O-Crest spoke to regards of building a manure pond in a remote area. The storage would be used for more space and months of storage along with room to grow. This gives us more flexibility depending on the weather. We would use hoses to pump to the fields from the storage pond; this would cut down on the trucks going in and out. The whole process would be more efficient.

Chairman Kenneth Blazey: If it wasn't this projected site, it could be much closer and Bill Young wouldn't have to have this approved. Where Mr. Young has this projected site the location on side of a hill surrounded by trees in a remote area.

Jim Kenny: We need to consider the health and wellbeing of the residents, what studies have been conducted? We are worried about not having a cover on the storage container. If this is denied, will it cost more?? We as the residence in the surrounding area want this to be restricted with use of a cover to protect us. What knowledge and what has the board done to ensure the safety of us residence?

Jessica Hemenway Board Member: If we did deny this, where would you put the storage container?

Minutes of the Town of Manchester Zoning Board of Appeals Meeting of July 6, 2021.

Engineer: It would be closer to the north of Thomas Road, closer to homes. We have conducted several studies, and this remote location is the best area. Geological test have also been conducted in this area; it's in the best spot and would eliminate odor no tree removal is required.

Bill Young Will-O-Crest: We cannot put a cover on it because we won't be able agitate it enough to get the sand out. This unit does not have the same separation ability. It would be more costly to move it and it would be closer to the residence homes. The storage helps the farm efficiently pump manure to the fields. Its concentrated and cuts down on odors.

Jessica Hemenway Board member: In discussion with the planning board, could we have a special variance with an annual review?

Kenneth Blazey Chairman: Under the Town of Manchester's Code book:
167-4. Right to farm.

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices or an agricultural farm operation within the Town of Manchester at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practice. In determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customers and procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.

167-6. Interference prohibited.

No person, group, entity, association, partnership or corporation shall engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly and/or deliberately interfere with, prevent, or in any way deter the practice of farming within the Town of Manchester.

325:32 Permitted accessory uses:

2. Any other accessory building or use customarily incidental to the principal use.
3. Agricultural waste management facility such as:

(a) Manure lagoons, ponds, holding area, facility retention pond, reservoir or liquid waste facility. The requirements of Subsection A(4) and 325-42, Swimming pools, spas, hot tubs and open water ponds, shall apply.

Jim Kenny: Would this be more expensive if you put a cover on the tank? This would help eliminate the odors that we are concerned about. Is there ground water monitoring? What about a leak detection system?? Will this be monitored??

Pete Wright, P.E. from Cornell University: This would be a monthly inspection done by the farm, with the DEC inspection as well. He discussed the uses of the storage units and why the farmers are using these units. There is no research that shows that the soil will be contaminated into the canals. This is why the inspections are completed.

Engineer: It has a leak detection system, so leaks are detected. This is located in a manhole. When it is monitored and they see its wet (in the manhole), they would have to empty the storage container. The leak is only in the manhole, not in the canal. This is why they would have to empty the storage container. In the manhole there is a shut of valve to prevent leaking into ground water.

Rebecca Nealey: How often is the manhole checked? What detection do you have for overflow? Your trucks are hulling down the road, going way over the exceeded speed limits.

Engineer: It's a monthly check by the farmers, there is a running log and is over saw by the DEC. The storage container cannot be filled over 1 foot, just shy of 18' to the top. This is monitored as well. They have to chart the elevation levels weekly.
There is no reason for detection system as it's closely monitored.

Community Resident: How often are you spreading the manure? And will we smell it more??

Engineer: The storage container naturally builds a crust and when the manure is added, it gets added under the crust, shouldn't be much of an odor issue.

Minutes of the Town of Manchester Zoning Board of Appeals Meeting of July 6, 2021.

Jim Kenny: What about the flies and maggots? They are going to breed there??? How is this not going to happen?

DEC: We do not see flies around the storage units, because the crust is either to dry or the liquid is to wet.

Jessica Hemenway Board Member: when you remove the manure, does it disturb the crust??

Bill Young: You agitated it before you remove it. We use agitated boats; you cannot agitate with a cover. The manure gets removed under the crust.

Jim Kenny: Was the Town of Arcadia notified as there are homes in that area? Who is the health officer for the Town of Manchester? What does each member of the board feel about the variance of this storage unit?

Steve DeHond Code Enforcement officer: Yes, they were notified on the 18th of June. The town of Manchester's health officer is Carole Kern RN.

Jan Farnsworth: Was it just this afternoon? Because no one knew anything about this. Maybe it just disappeared???

There was a lot of back-and-forth conversations with the residence with concerns about where the storage will be located, odor, contaminated water and health concerns. They are requesting a cover for the manure storage. Below is a feedback form from NYS Department of agriculture and Markets, that can help answer some of these questions, along with some links for the public to review.

Information compiled with feedback from the Ontario County Soil and Water Conservation District, the NYS Department of Agriculture & Markets (NYS AGM), and the Cornell PRO-DAIRY applied research and extension program.

A few key points:

Manure storages have been in use on farmsteads since the 1970s, many in close proximity to homes and barns. Though storages have been in close proximity to humans for over 50 years, links to impacts on human health have not been extensively studied.

This facility has been sited to utilize existing woods as a windbreak and placed on elevated ground from the surrounding area, both as practices to further mitigate odor concerns.

For additional background and information on the questions, below, please also see NYS AGM's and NYS DEC's FAQ on manure storage in NYS

(<https://agriculture.ny.gov/system/files/documents/2019/08/FAQmanureStorage.pdf>).

Air Quality

- Is there information regarding air quality and effects on human health based on proximity to manure storages?

- NYS DEC regulates emissions from farms per State and federal regulations. Emissions from certain low emitting, diffuse sources such as barns, manure storages, covered/flared ambient temperature manure storages, and land applications, are exempt from such regulations.

- Manure storages have been in use on farmsteads since the 1970s, many in close proximity to homes and barns. Though storages have been in close proximity to humans for over 50 years, links to impacts on human health have not been extensively studied.

- A study from Penn State University shows some observations of H₂S levels during agitation (when emissions are likely to be highest) at the storage edge and 33 feet downwind with and without gypsum bedding. Will-O-Crest does not use gypsum bedding in their operations. This study showed that none of the farmers using traditional bedding were exposed to conditions above 20 ppm H₂S (i.e., the threshold of daily exposure set by the US Department of Labor) even when working adjacent to the storages on their farmsteads.

- Air emissions vary based on the animal species, storage, management, location attributes, and weather, so the specific aspects of a farm are important when reviewing studies for comparison.

Perhaps as an indication of the complexity of assessing emissions from barns and storages

(epidemiological studies bring additional complexity), please find two, thorough northern latitude dairy farm specific reports from the National Air Emissions Monitoring Study (NAEMS): ■ NY dairy barn:

<https://archive.epa.gov/airquality/afo2012/web/pdf/ny5bsummaryreport.pdf>

Minutes of the Town of Manchester Zoning Board of Appeals Meeting of July 6, 2021.

■WI manure storage:

<https://archive.epa.gov/airquality/afo2012/web/pdf/wi5asummaryreport.pdf>

Water Quality

•Is there information regarding groundwater contamination in regard to manure storages?

○ NYS recognizes manure storage as a key best management practice (BMP) that allows farms to spread at optimal time and field conditions for nutrient up take and reduced losses to surface water, ground water, and air. NYSDEC regulates CAFO farms according to the CAFO permit and the associated NRCS Conservation Practice Standards. CAFO permitted farms must follow their Comprehensive Nutrient Management Plan (CNMP) which provides specific requirements for the timing, method, rate, and source of manure and fertilizer applications to fields, including restrictions from spreading on frozen or saturated ground and during other conditions when the potential for nutrient runoff and surface and groundwater contamination is elevated. Manure application setbacks from wells and surface waters are also required. Manure storage capacity is necessary to meet this level of environmental performance required in the CAFO permit.

Manure storage systems are designed according to the NRCS313 Standard by Professional Engineers licensed in

NYS(https://efotg.sc.egov.usda.gov/api/CPSFile/28960/313_NY_CPS_Waste_Storage_Facility_2018-copy). Manure storages are specifically designed, built, and operated to completely isolate and protect the storage vessel from surface water runoff and ground water while safely containing the manure nutrients without leakage for later application to crop fields as the farm's primary fertilizer source.

○ Leak detection systems are also engineered to show failure of the liner and are required to be monitored by the farm.

○ For additional background, please see NYS AGM's and NYS DEC's FAQ on manure storage in NYS(<https://agriculture.ny.gov/system/files/documents/2019/08/FAQmanureStorage.pdf>).

•Are there studies on harmful bacteria and viruses in the manure storages and/or land applied manure?

○ Yes, there are. For that reason, the farm's CNMP, including individual BMPs such as manure storage, is specifically developed, updated, and operated to make the most of organic matter and nutrients in manure while reducing the risk of nutrient and pathogen losses to the environment. Pathogens are common in residential, commercial, agricultural, and natural environments/contexts. In the agricultural context, herd management, manure nutrient management planning, and manure storages are key tools used by farmers every day to reduce pathogen count, viability, and loss risk. Whether from residential, commercial, natural, or agricultural sources, many sectors of society (e.g., governments, organizations, individuals) apply additional layers of protection to further safeguard human health from pathogens in the watershed, such as proper drinking water treatment, well construction and maintenance, wastewater treatment, safe food handling, etc.

Minutes of the Town of Manchester Zoning Board of Appeals Meeting of July 6, 2021.

Assessment Values

- Is there any data showing reduced property values/assessments in proximity to manure storages?
 - NYS AGM has not located studies or been presented with evidence of reduced property values/assessments when homes in NYS are nearby farms and their best management practices (BMPs), such as manure storage systems. It's understandable that an existing owner may have concerns about their property value, but we don't have information demonstrating that home sales and values are affected by practices like manure storage or any sound agricultural land use. This may be because home buyers are both notified that the property is in an agricultural district prior to purchase and may be more motivated by location than surrounding land uses. Additionally, implementation of new BMPs, like manure storages, improve management relative to the existing condition, but don't represent a change to the long-standing agricultural land use (i.e., it continues as an integrated crop and livestock farm where manure is recycled as the primary source of fertilizer to grow the crops for the farm's herd). The benefits associated with these BMPs are often lighter road use, reduced application odor/emissions, lower runoff and leaching losses, and improved soil health.

Wayne: How will I sell my home??

Jessica Hemenway Board Member: I am a member of the board and a member of the community, so I understand the concerns related to this.

Chairman Kenneth Blazey reviewed the approved comments from the Ontario County Planning Board at this time. We would be foolish to turn this down, as this could go closer to the homes.

Dorris Kenny: The agriculture and Markets law allows whatever they want?? Cancer, Health, Smell. When is enough enough? There will be tons of flies. We already have five storage containers in the area. People smell it all the time, no one will want to live around here.

Jan Farnsworth: When is it time to shut down? I will be selling my home because I will not live near this.

Mike Blazey Board Member: There are many people affected by this, we represent the people and the board. I would like to do more research on this project. I have read all the paperwork and there are still so many questions still circulating.

Chris Dyce: Will this affect the people with wells? The rest of Garnsey Road was never notified. I have petitions from everyone on this road.

Chairman Kenneth Blazey: Everyone within 500' feet were notified along with the Town of Arcadia.

Rebecca Nealey: We want facts and more time, there is too much speculation and still so many questions.

Sandy Hood: What about property values?? The community would rather keep it the way it is.

Scot DeCook Board Member: I went to the site; I can't see another place where it could be. It's in a remote location.

Jessica Hemenway Board Member: Is there a way to push back of additional 60' (400 feet total from the setback)?

Resident: Is there a gage for odor and air quality?

Jan Farnsworth: we want you to listen to the neighborhood. I have contacted the health department. If you people cannot do it, I will and have to. I have let anyone in the area know, no one is happy.

Mike Blazey Board Member: Do you prefer the system that is in place now?

Public answered yes.

Minutes of the Town of Manchester Zoning Board of Appeals Meeting of July 6, 2021.

Kenneth Blazey Chairman: If you all have continued concerns, it should be taken up with agriculture and Markets. This area was chosen in a remote location by hills and trees. Its 1600 feet away from any resident's home.

A motion was made by Kenneth Blazey to **approve** a requesting an area variance for front setback of 340 feet when 500' is required for a manure pond at property located at Thompson Road. Tax map # 13.00-1-4.100 & 4.00-1-32.000 in an A-1 agriculture district pursuant to Chapter 325 42-D-2-B. Along with the approval, the manure pond is in the best location and subject to yearly checks.

The motion was seconded by Leonard Bolton, third by Scott DeCook.
Motion denied by Jessica Hemenway and second to deny Michael Blazey. Motion carried.

Meeting adjourned at 8:35pm.

Respectfully submitted,

Kenneth Blazey
Chairman, Zoning Board of Appeals

Nichole Ruggles
Recording Secretary