

YARMOUTH GENERAL BOARD OF APPEALS MINUTES

November 15, 2021

I. ROLL CALL OF MEMBERS

PRESENT

ABSENT

Jennifer Peters	X	
Tom Marjerison	X	
Phil Ahrens	X	
Craig Wolff	X	
Samuel Carter	X	

OTHERS

Nicholas Ciarimboli, Code Enforcement Officer
Wendy L. Simmons, Administrative Assistant, Recording Secretary

II. PUBLIC HEARING

There were 1 person from the public in attendance.

Jennifer Peters called the meeting to order at 7:00 PM.

III. NEW BUSINESS

1. Special Exception to Keep Chickens on MDR Lot Under 2 Acres; Chapter 701, Article IV/H; Christopher and Elizabeth Waaler, Applicants; 65 West Elm St; Map 41 Lot 69.

The applicant is requesting to have domesticated chickens on their .43 acre property located at 65 West Elm St. Per Ch. 701/ Art. IV/ H., the Medium Density Residential (MDR) zone requires a minimum of 2 acres for the permitted use of Farm Animals for Personal Use. Lots of less than 2 acres in the MDR may seek a Special Exception for this use. Uses designated as Special Exceptions within this Ordinance are intended as potential land uses in the districts in which they are so designated, subject to the issuance of a Special Exception permit by the General Board of Appeals per Ch. 701/ Art. VII/ B./2./b.

Definitions:

Animal, Farm for Personal Use: *The keeping of bovines, horses, birds, goats, sheep, pigs and other related animals for personal pleasure and/or consumption.*

Special Exception: *A special exception is a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, areas, location, or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special exceptions, if specific provision for such special exception is made in this Zoning Ordinance.*

Christopher Waaler, applicant presented the application. They have 6 hens and no roosters located in the back yard of their double sized lot. They are kept in a fully enclosed run with access to their coop. Previously they were roaming; but have since been restricted to their run. Their run area and coop are cleaned and

turned over weekly. New pine shavings are added and the waste is disposed of at the Transfer Station.

The Board questioned the status of the Chicken Ordinance with Town Council. N. Ciarimboli shared the Town Council took an initial vote on 6/10/21 and the item was tabled. At their 7/15/21 meeting after making several changes and amendments to the ordinance it did not pass. Some Town Council Members thought the Ordinance was too vague and others too restrictive.

Chair Jennifer Peters opened to public comment

Rebecca Rundquist, 55 West Elm St.

Is a neighbor to the applicant and has no objections to the chickens staying. The applicant has a large yard and the coop and run fit within it. Concerned about enforcement when a neighbor complains and what the applicant must do to file for a Special Exception. Questioned how the State's Right to Food amendment will impact the Town's lack of an ordinance? Frustrated by what the Town makes as a priority and what they do not.

Public comment closed

The Board discussed the application and took the following vote:

- i.) The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

Findings:

The applicant has satisfied this criterion by replacing pine shavings in the chicken apartment weekly and turning over the soil. The debris is disposed of at the transfer station.

Findings and conclusion moved by Tom Marjerison, seconded by Phil Ahrens, and voted 5 in favor, 0 opposed.

- ii.) The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

Findings:

The applicant has satisfied this criterion with the chickens being enclosed in a coop and a run and are well within the bounds of the property owner's yard.

Findings and conclusion moved by Phil Ahrens, seconded by Sam Carter, and voted 5 in favor, 0 opposed.

- iii.) The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the

neighborhood or require a substantially greater degree of Municipal fire or police protection than existing uses in the neighborhood.

Findings:

The applicant has satisfied this criterion as described in their application and will not impact public safety.

Findings and conclusion moved by Tom Marjerison, seconded by Sam Carter, and voted 5 in favor, 0 opposed.

- iv.) The proposed use will not result in unreasonable sedimentation or erosion, or have an adverse effect on water supplies.

Findings:

The applicant has satisfied this criterion with minimal environmental impact.

Findings and conclusion moved by Sam Carter, seconded by Phil Ahrens, and voted 5 in favor, 0 opposed.

- v.) The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, proximity to other Structures and density of development.

Findings:

The applicant has satisfied this criterion with the structure being like others nearby.

Findings and conclusion moved by Phil Ahrens, seconded by Tom Marjerison, and voted 5 in favor, 0 opposed.

- vi.) If located in a Resource Protection District or Shoreland Zone, the proposed use (1) will not result in damage in spawning grounds, fish, aquatic life, bird and other wildlife habitat; (2) will conserve Shoreland Vegetation; (3) will conserve visual points or access to water as viewed actual points of access to waters; (5) will conserve natural beauty; (6) will avoid problems associated with flood plain development and use; and (7) will comply with the performance standards of Article II of this Ordinance.

Findings:

Not applicable. The property is not located in the Resource Protection District or Shoreland Zone.

- vii.) The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

Findings:

The applicant has satisfied this criterion with their deed.

Motion moved by Tom Marjerison, seconded by Sam Carter, and voted 5 in favor, 0 opposed.

- viii.) The applicant has the technical and financial ability to meet the standards of this Section and to comply with any conditions imposed by the General Board of Appeals pursuant to Article VII.B.2.b.(1)(e) of this Section.

Findings:

The applicant has satisfied this criterion. The coop and run are currently in place and additional costs will be minimal.

Findings and conclusion moved by Tom Marjerison, seconded by Phil Ahrens, and voted 5 in favor, 0 opposed.

Motion: Based on the findings of fact and conclusions as voted above, and subject to the following conditions of approval, the Yarmouth General Board of Appeals hereby finds that approval of the Farm Animals for Personal Use on Lots of less than two (2) Acres **does** achieve the spirit and intent of the MDR, and therefore **does** approve Special Exception application for Christopher and Elizabeth Waaler owner of property at 65 West Elm St., Map 41 Lot 69.

Conditions of Approval:

1. Approval of Variations from Plans: The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant, testimony during the public hearing, and the administrative record. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation.
2. No roosters allowed.

Findings and conclusion moved by Jennifer Peters, seconded by Phil Ahrens, and voted 5 in favor, 0 opposed.

Voted by the Town of Yarmouth General Board of Appeals on November 15, 2021.

The Board requested a joint meeting with the Town Council to discuss the chicken ordinance and short-term rentals.

IV. OTHER BUSINESS

None

V. ADJOURNMENT

Without objection the meeting adjourned at 7:45 PM

Respectfully submitted:

Wendy L. Simmons, Administrative Assistant, Recording Secretary