

**January 3, 2013
7:15 PM**

Petition #451

**Eaton, Paul & Susan
8188 Feddick Road**

PRESENT: Dennis Mead, Chairman
Tracy Hirsch
Beverly Kent
Bethany Pryor

ABSENT: Kathy Prackajlo

ALSO	Kelly Vacco	Deputy Town Attorney
PRESENT:	William Ferguson	Code Enforcement Officer
	Thelma Faulring	Secretary to the Boards and Committees
	Paul Eaton	Applicant – 8188 Feddick Road
	Susan Eaton	Applicant – 8188 Feddick Road
	Mark Dobson	8260 Feddick Road

Mr. Mead called the meeting to order at 7:15 PM and asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mrs. Vacco, Mr. Ferguson, and Miss Faulring to those in attendance.

Mr. Mead appointed alternate member Beverly Kent to serve as a regular voting member for this petition.

Mr. Mead opened the Public Hearing at 7:16 PM.

Mr. Mead read the Public Hearing Notice.

Mr. Mead read the SEQR review received from Town Engineer James Hannon: “the action is not subject to further review; no further action to the SEQR is needed or recommended.”

Mr. Mead asked the applicants to come forward and state their reasons for requesting the variance.

Susan Eaton – 8188 Feddick Road

- I am requesting a variance to build a build so that I can ride my horses in an indoor arena
- An add a lean-to for the storage of equipment

Mrs. Kent: How many horses do you currently have?

Mrs. Eaton: Two.

Mrs. Kent: Is there any interest in increasing the number of horses?

Mrs. Eaton: No, just private use.

Mrs. Vacco: Mr. Chairman, before you start asking a lot of questions, it’s kind of a moot point:

- The application is erroneous on its face
- Public Notice is sent out to neighbors and they read this and their understanding is that this is what the variance is about
- It’s really a moot point to go forward
- What needs to happen is:
 - The application either needs to be amended
 - another notice be put out
 - if it’s going to be used on the 1.9 acres it has to be that the square footage allowed is 840
 - if you’re going to do a quick claim deed and tweak that legal description of that property...
 - if you’re going to put it on that neighboring...that becomes another variance of an accessory building without a principal building

Mrs. Vacco continued:

- You just kind of figure out what it is you want to do
- Then if you still want to move forward on this particular barn on the this property that you own it just has to be noticed that the allowed square footage is 840, we're asking for this and therefore the variance is going to be this much
- And that is what would have to go out into the papers

Mrs. Eaton: When I submitted the application for the variance; we're going to join the lots; but I didn't want to spend, because I had checked into a surveyor coming and surveying, it was a thousand +; and I didn't want to put that money up if I found out the neighbors or somebody didn't want it and there was no point in doing that. I guess it was more like a preliminary...if I could, can it be tabled or what?

Mr. Mead: This application is...

Mrs. Eaton: I'm willing to join the lots but I didn't ...I do own that much and I could join it and it would be that much, but I do understand what you're saying.

Mrs. Vacco: It wouldn't be tabled the variance request would have to be amended because this one, you're not going to go forward with this one, so that's the only way you could table would be if the application were to remain in effect as it was drafted. If you want to amend it, but if you do amend it and you're going to join those properties the Code Enforcement Officer is going to require a new legal description of the property.

Mrs. Eaton: So I'm going to have to put that money up...

Mrs. Vacco: You're kind of in a catch 22, because they can't act on it on your word, it has to be something legal, it has to be a legal description of the property that the land has been joined, otherwise...

Mrs. Eaton: Is there anyway of me knowing it would be approved if it was the case?

Mr. Mead: No. and a second question if you heard our discussion and a concern of mine is that everything is on that strip of 1.9 acres so if you go ahead and do all this legal action and put this onto the deed all the land, my concern in all honesty is 'okay what then down the road is the Town legal obligation to say okay now I want to sell off this frontage...'

Mrs. Vacco: Your condition of the variance is that the property remains intact.

Mrs. Eaton: How many acres do I need in order to do this? Five?

Mrs. Vacco: Five.

Mrs. Eaton: Could just section off five more, four more acres actually of that vacant land?

Mr. Mead: That's to get the wording of exactly as you put the application in and was put into the paper. Still it's quite a few, it's quite a big variance of 8000 square feet additional for just five acres.

Mrs. Eaton: I just went big, I could do smaller, not a whole lot smaller in the riding area but I could eliminate the lean-to or make it maybe 20 feet smaller. In other words there's no way I would know whether, you know I just hated to put up that money, join the lots and have it not happen. We've owned the property for about 30 years.

Paul Eaton: I don't know what the issue is.

Mr. Mead: Because you only have 1.9 acres.

Mr. Eaton: But after it's joined you're still saying it's, even on five acres...

Mrs. Vacco: Even on 5 acres the Code only allows for 2500 square feet of accessory buildings. We've looked back in the past, I think the most the Town has granted and that was an AG District, so it didn't really need to be granted, was 3000. The average variance granted by this Board on a parcel of 5 acres or more is around 1200 or lower.

Mr. Mead: And you're looking for 6688.

Mr. Eaton: But the neighbor's house and the farms all around us have huge, this is just storage, just a pole barn, just a riding, it's not a barn used for anything else but just to ride in.

Mr. Hirsch: It did change at one time, if you're in an Agricultural District, it's one thing. It was more at one time and then it changed to 2500...

Mrs. Vacco: The Town Code was amended in 2004.

Mr. Mead: Your existing barn would be out of Code. You came to us and said that you wanted to build what's currently there, you would need a variance for that. So that's where it's changed. That's where we're at; I wanted to explain that to you.

Mr. Eaton: If there is no one opposing what we want to do; does that give us any credit with what we're trying to move forward with? There's nobody here opposing it, that's what we're really after.

Mr. Mead: We haven't heard from any other neighbors.

Mr. Eaton: We're aren't going to incur the cost of having it resurveyed and everything to come here and find that we can't do it anyways; what's the sense, I don't know it that's the way I want to split the property. That was our question. If the neighborhood was against us then... we go to Plan B.

Mrs. Vacco: Maybe you should do an informal survey of your neighbors.

Mr. Eaton: We have one letter.

Mr. Mead: That's not a bad recommendation that we ask tonight. When I asked for a variance I went to my neighbors and asked for a letter of recommendation saying are you opposed or not opposed, and it really helps.

Mr. Eaton: I don't know if that really matters because I think what really matters is tonight isn't it?

Mr. Mead: What matters tonight is that this application is null and void because it isn't to what...

Mr. Eaton: But our neighbors don't know that. I mean we talked to Bill and thought we go around this way

Mrs. Eaton: Was there a problem with the height?

Mr. Mead: We have one of the neighbors here, why don't you come forward, state your name and concerns.

Mark Dobson – 8260 Feddick Road

- What is the height of it? Where we bought our house we basically bought it because of the view of the lake and downtown Buffalo, and I'm concerned with the interior height with a 3 – 12, 4 – 12 pitch is going to be right where we look into downtown Buffalo off our deck
- Don't want it to depreciate the value of my house
- I think I paid more for my house than we should have because of the view we have
- The variance that I applied for with my barn was 1200 feet
 - My barn is tucked out of the way
 - Vernon's is back there and not blocking anyone's view at all
- That's what I'm concerned with – down the road what is it going to do to the value of my house

Conversation between Mr. Dobson, Mr. Eaton and Mrs. Eaton took place not all of it decipherable.

Mrs. Eaton: I think the highest point is 14 feet for riding....

Mr. Dobson: That's really the biggest. We have May's barn that's there they didn't have to get a variance because it's below the square footage; I had to get a variance for mine because it stepped out away from the side; so that's where our major concern is what is it going to do to the value of my property.

Mrs. Vacco: From a legal standpoint at this time:

- the Board needs to either vote on this particular petition
- you can withdraw it because as its stated it's erroneous and ask to amend it

Mr. Easton asked a question that was not understood.

Mrs. Vacco: You either have to officially withdraw this petition and regroup or the Board can vote and they would deny based on the fact that it is not correct. It's totally up to you.

Mrs. Eaton: What do you mean by amend it?

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Mrs. Vacco: You can amend the variance if you're going to keep it on the same lot, but you're then going to amend that it would be 840 square feet versus 2500 square feet and then the variance would be more. If you're going to redesign, reconfigure your property that's really a whole new variance and that would be my recommendation to you is to start from scratch; bring what you need to bring to the Board and then just withdraw this petition; it's cleaner and it's best with moving forward with what you're trying to accomplish.

Mrs. Eaton: At this time we would like to withdraw our petition.

Mr. Mead: At this time I will close the public comment portion of the Public Hearing.

Secretary Faulring: Do they have to pay another fee or are we tabling this?

Mrs. Vacco: No, this is withdrawn.

Mr. Mead asked if there were any further business for this evening.

Being none, Mr. Mead made a motion to adjourn, seconded by Mr. Hirsch and carried.

Dennis Mead, Chairman

Dated: January 3, 2013