

**ZONING BOARD OF APPEALS  
TOWN OF ANCRAM  
FEBRUARY 26, 2008**

Present:

Leah Wilcox, Chair  
Susan Bassin  
Kurt Sommerhoff  
Sheldon Waldorf  
Will Lutz, Alternate

Absent:

Jordan Katz

Also Present:

Joseph Crocco  
Armand DiBiase, Architect rep. Segalot

The meeting was called to order at 7:35 p.m.

Minutes of the meeting of January 24, 2008 were approved on the motion of Mr. Waldorf, seconded by Mrs. Bassin.

A training session in Margaretville on March 19, 2008 was announced. Another will be offered in Columbia County in the Spring.

**Segalot Area Variance**

Armand DiBiase, architect for the Segalot project, appeared before the Board representing the applicant. A building permit for a new residence on Finkle Road had been denied by the Building Inspector because of a height restriction. The applicant has applied for an area variance to construct a part of the house three feet, six inches higher than the thirty-five feet allowed by the zoning ordinance.

Mrs. Wilcox said that, as a Type II action, the SEQR process was complete, that it was an exempt action not requiring submission to the County Planning Board, and that the Ancram Planning Board had recommended approval. Receipts for notification of abutting owners were submitted by the applicant.

Mr. DiBiase made a presentation to the Board, showing them maps of the property, architectural drawings of the residence, and explaining the requirements of the Dutchess Land Conservancy (DLC) which has an easement on the property. He said that the proposed residence will include reconstruction of an historic barn attached to the house. The main house will be 32 feet, 9 inches. The barn is 34 feet, 4 inches and requires additional height to accommodate both the slope of the ground and a shell around the building required to add insulation, wiring, etc. to make it habitable and to code. Mr. DiBiase said that it would probably require only 3 feet, 1 inch, but that they are asking for three feet, six inches for insurance. He added that the DLC had approved 38 feet, although their usual requirement is 35 feet. He said that the home and the extra height would pose no detriment to the character of the neighborhood and that the residence should not be visible except to the neighbor who had sold the property to Mr. Segalot.

Public hearing was declared open and closed without comment.

Mrs. Wilcox went over the five criteria for the granting of a variance as listed in the Zoning Ordinance, page ZO 56, Section VIII, D 4.

1. Is the action a detriment to other properties?  
The Board agreed that it would not adversely affect other properties.
2. Is there a feasible alternative?  
The Board noted that the building needs to meet code requirements and this seemed a reasonable way to do to.
3. Is this a substantial request?  
The Board felt that it was not.
4. Would the variance change the environmental or physical condition of the neighborhood?  
The Board felt that it would not because it is a low density area with further development controlled by DLC restrictions on building. They also noted that the DLC building envelopes for new buildings would not affect the ridgeline on the property.
5. Was the problem self-created?  
Yes, but the Board noted that in judging this criteria, it must balance the benefit to the applicant with any detriment to the community. In this case, it found that the variance would not harm the community.

Mr. Waldorf moved that the Board grant an area variance allowing the construction of the barn section of the residence to be constructed up to thirty-eight feet, six inches in height. The motion was seconded by Mr. Lutz and carried with five affirmative votes (Wilcox, Bassin, Sommerhoff, Waldorf, Lutz; absent, Katz).

Mrs. Wilcox reminded the applicant that a building permit is required before beginning any construction.

Mrs. Bassin thanked Mr. DiBiase for the detailed and step-by-step presentation before the Board.

### **Crocco Area Variance**

A public hearing on January 24, 2008 for this application for an area variance to allow construction of a barn to house alpacas closer to the property line than allowed by the zoning ordinance was adjourned in order to seek legal advice. The response from the Town Attorney was reviewed by Board members prior to this meeting.

Public hearing was re-opened and closed without comment.

Mrs. Bassin, who had been absent from the January meeting, thanked the Board Chair for having sent clear questions to the Town Attorney and obtaining from him a clear response to the questions raised by the Board. Because she had not been at the previous meeting, Mrs. Bassin could participate in the discussion at this meeting, but could not vote on any motion.

Board Chair Wilcox said that, because of the concerns expressed at the previous meeting and the fact that this property is a non-conforming lot, she had written what could be used as a resolution. She then read the following which includes response to the criteria for judging an application for a variance: (note underlined segments)

The Crocco property at 132 Carson Road is located in the R district (3 acre, rural residential), and although it is part of a subdivision, it abuts a large dairy farm to the south. The area is agricultural and the presence of alpacas, the raising of which is permitted by right, and a building to house them would not produce an undesirable change in the neighborhood. Given the nature of alpacas and the fact that they make no noise or create offensive odors, as described by the applicant (see file records), the presence of a building to house them will not create a detriment to nearby properties

The property is a non-conforming lot that predates the Town's zoning regulations. Given the dimensions of the property, the applicant could not build the proposed building anywhere on the property without an area variance. Because the raising of alpacas (a use permitted by right in the R district) requires a shelter for them, the building is necessary. The applicant has no alternatives to requesting the area variance.

An area variance is required for a building that houses animals, a use permitted by right in the R district. However, as an accessory building to an agricultural use, no variance would be required. Although the variance is dimensionally substantial, the property abuts a farmed field resulting in little or no impact on adjoining properties.

Because the use and building are agricultural and because of the nature of alpacas, there will be no adverse impact on the environmental conditions of the neighborhood. However, housing animals other than alpacas so near to a property line would have an adverse impact.

The difficulty is self-created.

Based on these considerations, I would submit that the benefit to the applicant far outweighs any detriment to the community and I would propose approval of an area variance to construct a building to house alpacas no closer than 10 feet from the south property line and approximately 75 feet from the north property line. However, in order to protect the public health, safety and welfare of the community, said building shall house no more than 12 alpacas and shall not be used to house any animals other than alpacas.

Mr. Waldorf asked if this statement could be construed as a motion and Mrs. Wilcox replied that it could.

Mrs. Bassin reminded the Board that an area variance remains with the property in the event of sale.

Mrs. Wilcox asked Mr. Crocco to point out the actual space for the alpacas in the building design.

He showed a space of 25 x 16 feet, but said that they like to be outside and would probably use space under the roof overhang.

Mrs. Wilcox asked if the building could house more than 12 alpacas and Mr. Crocco said that it could house up to 18.

Mr. Sommerhoff said that he would not limit the building to only alpacas.

Mr. Waldorf said that horses might be okay for any future use, but questioned pigs.

Mrs. Wilcox asked if the Board would prefer striking from her statement all of the last sentence "However, in order to protect the public health, safety and welfare of the community, said building shall house no more than 12 alpacas and shall not be used to house any animals other than alpacas."

Mr. Waldorf said that he thought that would be appropriate.

Mr. Lutz said that, even though it is an agricultural district, he could see that other animals could be a detriment, but that he would go along with a decision not to limit a variance to the housing of alpacas.

Mr. Sommerhoff said that any future commercial enterprise would have to apply for a permit.

Mrs. Wilcox said there would be no requirement for a farming operation to apply for a variance or permit. She read from the Zoning document the permitted use in an R district: "Agricultural uses including the keeping and raising of livestock and fowl (subject to V, A9)." (See ZO-6 General uses) Section V A 9 (ZO-16) states that the "processing and storage of agricultural products including packing, warehousing, storing is permitted except that slaughterhouses, rendering, fertilizer plants and canneries are prohibited."

Mrs. Wilcox said that she would amend her motion so that it would read: I would submit a motion that the Board approve an area variance to construct a barn no closer than 10 feet from the south property line and approximately 75 feet from the north property line.

The motion, as amended, was seconded by Mr. Waldorf and passed with four votes in favor. (Wilcox, Sommerhoff, Waldorf, Lutz; Bassin recused; Katz, absent).

Mrs. Wilcox reminded the applicant that a building permit is required before beginning any construction.

Adjournment at 8:25 on the motion of Mr. Waldorf, seconded by Mrs. Wilcox.

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Joan S. Roberts

