

TOWN OF EDEN
ZONING BOARD OF APPEALS
2795 EAST CHURCH ST, EDEN, NY 14057

PUBLIC HEARING DATE: March 17, 2022

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Joseph Winiecki
Curtis Neureuter
Drew Riedel
Doug Scheu
Candice Pineau
Larry Dibble

APPLICANT (by phone): Tony Preischel

RESIDENTS: Nadene Woelfel
Cindy Gates
Mary Smith

RE: **Appeal No. 2022-2
Preischel
2993 Belknap Road**

Ms. Kent called the hearing to order at 7:00 p.m. and asked for comments on the January minutes. **Mr. Winiecki made a motion to approve the minutes from the January 20, 2022 meeting; seconded by Mr. Scheu. Minutes approved unanimously.**

Ms. Kent then read the Legal Notice for the hearing published in the “The Sun”:

Preischel: Application for variances at 2993 Belknap Road to allow a Minor Subdivision of an existing lot, in violation of the minimum lot size and other spacing rules under Code section 225-23.

Ms. Kent confirmed with Ms. Crowe that the property notice list was completed.

Mr. Preischel was then asked to explain the reasons he applied for a variance. Mr. Preischel explained that he wishes to separate his house from the farm for estate planning purposes. He plans to leave his houses to his daughter and the farm to his son. He cannot achieve the 4-acre minimum lot size for this house parcel without removing land from the farm property. This property has been farmed since 1901, first as a vegetable farm and now as a dairy farm. He acquired the property from his father-in-law.

Ms. Kent noted that the Town’s Agriculture Advisory Committee was created in 1994 to encourage farming, and preservation of agricultural lands; the Right-to-Farm law was adopted in 2001. The recent Master Plan also encourages protection for agriculture spaces.

Mr. Preischel was then asked questions by the board related to the requirements the board must consider in variance requests *(his answers are in italics):*

Will this variance create an undesirable change in the neighborhood? *There will be no undesirable change to the neighborhood. Moving property lines will not cause any visible change.*

Is there an alternative method that could provide a solution? *No, not really. A 4-acre lot for the house won't leave enough space to work the farmland next door. We have very large plows, etc.*

Will this be a substantial variance? *Yes, the numbers are substantial.*

Mr. Winiacki stated that the percentages of deviation are high, but the value of preserving farmland outweighs the numbers. Ms. Kent referenced the previous, similar variances granted to Mr. Zittel and Mr. Henry which also were granted to preserve "heritage" farms. Mr. Scheu noted that the south line for the house might be moved 5' or so, to reduce (but not eliminate) that setback deviation.

Will the variance create an adverse environmental effect on the neighborhood? *There will be no environmental effect, it will be the same as it was 60 years ago.*

Is the need for the variance self-created? *Yes, estate planning, but we want to preserve farmland.*

Area residents asked questions about future use of the lot and potential changes to the neighborhood. Mr. Rice said that if the house is demolished, a new one could be built in the same footprint only. If the variance is denied, Mr. Preischel will be forced to create a 4-acre lot, which would provide more options for future use - - but changing the property to retail or other future uses would have to meet the rules for those uses in this zoning district.

Mr. Neureuter stated that he understands the farming priority and the preservation of farmland, but if approved, it would provide monetary gain. Mr. Rice noted that creating the lot at 4 acres could provide the same overall monetary gain, just split differently between the children.

Ms. Kent noted that there appears to be no environmental impact, and the effort to preserve farmland supports the Town's goal of preserving "heritage" agriculture - - keeping intact long-standing farmland if possible. She also noted that the variances, if granted, should not be deemed a precedent for non-similar variance requests.

The board discussed that there will be no impact on the neighborhood; there isn't an alternative way to preserve farmland while creating a separate residential parcel; and that the variances may be substantial, but granting them respects the Town's goal of protecting agriculture.

Based on these factors, Ms. Kent made a motion to approve the lot size and setback variances as shown approximately on the map provided; Seconded by Mr. Neureuter. All voted in favor, motion approved.

Meeting was adjourned at 7:35pm.

Respectfully submitted,

Jen Crowe, Secretary
Eden Zoning Board of Appeals