

**VILLAGE OF PITTSFORD**  
**PLANNING AND ZONING BOARD OF APPEALS**  
Special Meeting – May 5, 2015 at 7:30 PM

**PRESENT:**

Chairperson: Remegia Mitchell  
Members: Meg Rubiano  
Jill Crooker  
Joe Maxey  
Justin Vlietstra

Attorney: Jeff Turner  
Recording Sec: Linda Habeeb

Chairperson Mitchell called the meeting to order at 7:30 P.M.

**ZONING BOARD**

**Roger and Elizabeth Powers – Appeal of Building Inspector’s decision**

**Present:** Roger and Elizabeth Powers; John Mancuso, Harris Beach

**Discussion:** Mr. Mancuso stated that Mr. Powers’ contention is that the proposed fence is exempt from approval and permit requirements by the Village Code, and therefore, the Stop Work Order should be rescinded by the Zoning Board of Appeals. He further stated that pursuant to Village Code § 98-1(G), “agricultural fences are exempt from all approval and permit requirements.” He stated that Powers Farms is located in a recognized agricultural district and is engaged in an active farming operation for the production of crops and livestock.

Mr. Powers stated that installation of the fence is essential to his business for security and safety reasons. He explained that the fence will protect his livestock and crops and will create a buffer from the general public. He further stated that there is a serious liability issue if the area is not enclosed.

Chairperson Mitchell stated that the Code Enforcement Officer made a determination in May 2014 that the fence was not an agricultural fence, but Mr. Powers moved forward with the installation of the fence. She explained that the time to appeal that decision was 60 days after the determination was made. She stated that at this point, the issue that is before the Zoning Board is whether or not Mr. Limbeck acted appropriately in issuing the Stop Work Order. She acknowledged that Mr. Powers’ liabilities are serious, but that is not the issue that the Board is reviewing. The issue is the reasonableness of the decision by the Code Enforcement Officer to issue the Stop Work Order.

Mr. Powers stated that he was not aware that the letter sent by Mr. Limbeck was an official determination. His interpretation of the Code was that the fence did not require approvals. Mr. Mancuso stated that their interpretation was that the decision was merely a preliminary determination. Mr. Limbeck stated that the applicant had 60 days to appeal the decision. Mr.

Mancuso stated that at the time of the determination, the fence had not been built; therefore, there was nothing to challenge at the time.

Chairperson Mitchell stated that Mr. Limbeck's determination was a form of administrative review. Mr. Mancuso stated that the Zoning Board has jurisdiction to interpret the Code. Mr. Turner stated that he advised the Board that the written determination by the Code Enforcement Officer was appealable.

Chairperson Mitchell questioned whether the fence was a complete enclosure or a boundary line fence. Mr. Powers stated that it's an enclosure.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Rubiano, to open the public hearing at this time.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Vlietstra - yes; Maxey - yes. **Motion carried.**

The following people spoke:

- **Chris Wally, 21 Brookwood Lane**, asked what remedy the Powers have to respond to the Stop Work Order other than to appeal it.

Chairperson Mitchell again pointed out that Mr. Limbeck's letter stating his decision was the clear avenue to make an argument for the proposed fence.

- **Fran Kramer, Golf Avenue**, stated that the Powers are stewards of the land and she hopes there is a way to resolve this issue.

Member Vlietstra questioned Mr. Powers as to his primary grievance in this matter. Mr. Powers stated that his grievance was the issuance of the Stop Work Order. Mr. Vlietstra presented alternative types of fences that to Mr. Powers. Mr. Powers stated that the types of fences suggested would not contain livestock from escaping or the public from trespassing on his property. Member Rubiano stated that the Stop Work Order is the issue before the board, not the type of fence. Mrs. Powers stated that the fence will not be visible from the public way.

**Motion:** Chairperson Mitchell made a motion, seconded by Member Maxey, to adjourn the public hearing until the regularly scheduled meeting on May 18, 2015.

**Vote:** Rubiano – yes; Mitchell – yes; Crooker – yes; Vlietstra - yes; Maxey - yes. **Motion carried.**

**Adjournment:** There being no further business, Chairperson Mitchell adjourned the meeting at 8:30 pm.

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Linda Habeeb, Recording Secretary

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