IN THE MATTER OF THE APPLICATION
OF BONNIE ZICCARELLI AND LISA ZICCARELLI FOR A
VARIATION OF THE UNIFIED DEVELOPMENT
ORDINANCE OF McHENRY COUNTY, ILLINOIS

WHEREAS, your petitioners BONNIE ZICCARELLI AND LISA ZICCARELLI have filed a petition with the McHenry County Hearing Officer, requesting a variation as it relates to the McHenry County Unified Development Ordinance and to the real property more fully described as:

LOT 16 IN EMERY WOOD SUBDIVISION, BEING A SUBDIVISION IN THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 36, TOWNSHIP 44 NORTH, RANGE 6, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 13, 1959 AS DOCUMENT NO. 358388, IN BOOK 14 OF PLATS, PAGE 34, IN MCHENRY COUNTY, ILLINOIS.

PIN #12-36-201-001

More commonly known as 5105 Timber Lane, Woodstock, Illinois.

WHEREAS, the Petition requests no reclassification of the subject property from its present classification which is “A-1” Agriculture District with a Variation; but a variation from §16.56.050G.1 of the McHenry County Code of Ordinances be granted to the property to allow a minimum acreage of one point nineteen (1.19) acres instead of the minimum two (2) acres required for horses to be maintained on the subject property.

WHEREAS, the subject property consists of approximately 1.19 acres in which no reclassification is contemplated.

WHEREAS, a hearing on said petition was held before the Hearing Officer of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Hearing Officer of McHenry County did recommend the granting of a variation from §16.56.050G.1 of the McHenry County Code of Ordinances to allow a minimum acreage of one point nineteen (1.19) acres instead of the minimum two (2) acres required for horses to be maintained on the subject property, subject to the following conditions:

1) The variation will be restricted to the two existing horses.
2) The variation will be restricted to the petitioner, and no one else.
3) Petitioner shall not maintain any other farm animals during the period this variation is in effect.
4) All health code requirements pertaining to an animal containment area must be complied with.
5) All manure and used bedding must be removed on a weekly basis by a licensed contractor and must be stored in a container while waiting for removal.
6) The variation will be for a period of 5 years, at which time it shall be subject to further review or termination.
WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Hearing Officer of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for a variation as set forth in the McHenry County Unified Development Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Unified Development Ordinance and the Zoning Maps of McHenry County and such Ordinances and such maps as amended, be and the same are hereby amended to allow a variation from §16.56.050G.1 of the McHenry County Code of Ordinances to allow a minimum acreage of one point nineteen (1.19) acres instead of the minimum two (2) acres required for horses to be maintained on the subject property, subject to the following conditions:

1) The variation will be restricted to the two existing horses.
2) The variation will be restricted to the petitioner, and no one else.
3) Petitioner shall not maintain any other farm animals during the period this variation is in effect.
4) All health code requirements pertaining to an animal containment area must be complied with.
5) All manure and used bedding must be removed on a weekly basis by a licensed contractor and must be stored in a container while waiting for removal.
6) The variation will be for a period of 5 years, at which time it shall be subject to further review or termination.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this ___________ day of ___________________________, 20________.

________________________________________
Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

_____________________________________________
County Clerk

NUMBER VOTING AYE: _______
NUMBER VOTING NAY: _______
NUMBER ABSTAINING: _______
NUMBER ABSENT: _______
Petitioner: Bonnie Ziccarelli and Lisa Ziccarelli, owners of record.

Request: A Variation within the A-1 Agriculture district from §16.56.050G.1 of the McHenry County Code of Ordinances to allow a minimum acreage of one-point-nineteen (1.19) acres instead of the minimum two (2) acres required for horses to be maintained on the subject property.

Location: The subject property is located at the southwest corner Illinois Route 176 and Timber Lane. Common address: 5105 Timber Lane, Woodstock, Illinois, in Seneca Township. PIN: 12-36-201-001 (Lot 16, Emery Woods Subdivision).

Current Land Use: The property is designated SINGLE-FAMILY RESIDENTIAL on the Current Land Use map.

Adjacent Land Use: North: AGRICULTURE East: SINGLE-FAMILY RESIDENTIAL
South: SINGLE-FAMILY RESIDENTIAL West: SINGLE-FAMILY RESIDENTIAL.

Current Zoning: The property is currently zoned A-1V Agriculture.

Adjacent Zoning: North: A-1CV Agriculture East: A-1V Agriculture
South: A-1V Agriculture West: A-1 Agriculture.

2030 Plan: The property is designated AGRICULTURAL, ISOLATED ESTATE, AND ENVIRONMENTALLY SENSITIVE on the McHenry County Land Use Plan Map.

Municipal Plans within 1.5 miles: None.

Improvements: The subject property contains a 2-story brick and frame residence with an attached garage, and concrete paved areas, according to the plat of survey.

Natural Resources: No wetlands are found on the subject property. Due to the amount of previously disturbed soils on the site, impact to natural resources from the proposed use is minimal, according to Natural Resources Inventory (NRI) Letter L19-037-4240.

Flood Hazard Areas: No portion of the subject property is located in any floodplain, according to FIRM map panel number 17111C 0200J.

Flood-of-Record: No flood-of-record is indicated for the subject property, according to USGS map number HA-256 (Woodstock Quadrangle).

SARA: The site is located in a zone with elevated aquifer contamination potential, according to the McHenry County Sensitive Aquifer Recharge Area (SARA) map.

Comments / Conclusion:
• No zoning violations are currently open on the subject property.
• The residence was originally built circa 1958, according to County building permit records.
• Although the zoning map indicates a variation dating to circa 1979, no records from that period confirm that a variation was approved for the lots in this area. The conditional use to the north is for a unique agritourism operation.
• The granting of this variation will make it possible for the petitioner to keep horses on a lot that does not meet the two-acre minimum lot area requirement under §16.56.050G.1 of the McHenry County Code.
• The Zoning Enforcement Officer recommends a condition of approval limiting the variation allowance to one horse.
• The petitioner should be aware that under Section 16.20.020 (F) of the McHenry County Unified Development Ordinance, several standards are cited, all of which must be met in order for a Variation to be granted. These standards include hardship in relation to the site conditions, that the request is unique to the property, that the purpose of the request is not based on any monetary gain, that the petitioners did not cause or create the hardship, that the request is not detrimental to the public welfare and safety, that the request will not impair adequate light and air to adjacent property, or increase congestion in the public streets, or increase danger of fire, and that the request not confer any special privilege to the applicant that is denied to others of the same zoning district.
• An Illinois Department of Natural Resources (IDNR) report was not required for this project.
Any parcel lines depicted on the aerial photograph are for general reference only. Please refer to the plat of survey for the location of lot or parcel lines.

**Elevation (above sea level)**
- 10-foot contours
- 2-foot contours

**ADID Wetland Map 2005**
- High Functional Value Wetland (hfvw)
- High Quality Wetland (hqw)
- Wetland (w)
- Farmed Wetland (fw)

**FEMA Flood Hazard Areas**
- 0.2% Annual Chance of Flood
- 1% Annual Chance of Flood
- Floodway

*Prepared by the McHenry County Department of Planning and Development*
Current Land Use Map

Subject Property

Current Land Use
Single-Family Residential

Land Use Adjacent to the PIQ
North: Agriculture
South: Single-Family Residential
East: Single-Family Residential
West: Single-Family Residential

Current Zoning
A-1-V Agriculture

Adjacent Zoning
North: A-1-CV Agriculture
South: A-1-V Agriculture
East: A-1-V Agriculture
West: A-1 Agriculture
August 23, 2019

Terrence J. McKenna
PO Box 5
Marengo, IL 60152

Re: Parcel # 12-36-201-001
Common Location: 5105 Timber Ln., Woodstock, IL
NRI#: L19-037-4240
Zoning Change: Variance for housing horses.

Dear Mr. McKenna:

The McHenry-Lake County Soil and Water Conservation District has carefully reviewed your application for Natural Resource Information Report on the Bonnie Ziccarelli property as applied for in Report #19-037-4240. Due to the nature of the request, the SWCD finds that impact to natural resources from the proposed use is minimal for the purposes of the NRI report.

This letter fulfills your requirement to notify the SWCD of land use changes as per the Illinois Compiled State Statutes, Chapter 70, Par. 405/1 et seq. Illinois Revised Statutes, Ch. 5, Par 106 et seq. and the McHenry County Stormwater Ordinance. If you have any questions concerning this letter, feel free to call our office.

Sincerely,

Spring M. Duffey
Resource Analyst

cc. McHenry County Department of Planning and Development
APPLICATION FOR ZONING PETITION, ADMINISTRATIVE VARIATION OR SITE PLAN REVIEW

OWNER INFORMATION:
Name: Bonnie Ziccarelli
Address: 5105 Timber Lane
City, St, Zip: Woodstock IL 60098
Daytime Phone: (815)276-4476
Email:

ATTORNEY or AGENT CONTACT INFORMATION (If Applicable):
Name: Terrence J. McKenna
Address: P O Box 5
City, St, Zip: Marengo IL 60152
Phone: (815)923-2107
Email: McKenna@fgmlaw.com

CONTRACT PURCHASER (If Applicable):
Name:
Address:
City, St, Zip:
Daytime Phone:
Email:

TRUSTEE/BENEFICIARY/OFFICERS/DIRECTORS (please use separate page for additional information):
Name:
Address:
City, St, Zip:
Phone:
Email:

PARCEL INFORMATION:
Address: 5105 Timber Lane,
City: Woodstock IL Zip: 60098
Parcel/Tax Number: 12-36-201-001
Number of Acres:

Applying For:
☐ Reclassification
☐ Conditional Use & Site Plan Review
☐ Variation, Administrative
☑ Variation, Zoning
☐ Site Plan Review

Current Zoning: A-1
☐ Requested Zoning: A-1
☐ CUP Request:
☐ Variation Request:

variation to permit the maintenance of two (2) miniature horses on a 1.19 acre lot

Please provide additional information on the back of this page.
NARRATIVE: Please use this space to explain your request in detail.

Petitioner seeks a variation of Section 14.3.V of the UDO to permit the maintenance of two (2) miniature horses on a 1.19 acre lot. Petitioner suffers from an emotional/mental disability which meets the definition of Disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Due to this emotional/mental disability, Petitioner has certain limitations related to coping with daily life tasks. The presence of her mini horses helps alleviate these difficulties and enhances Petitioner's ability to function independently. Attached herewith is a copy of a letter from Petitioner's Advanced Nurse Practitioner detailing the foregoing.

VERIFICATION

I/we hereby verify and attest to the truth and correctness of all facts, statements and information presented herein.

[Signature]

Bennie Zuccarello

Print Name

[Signature]

Print Name

SUBSCRIBED and SWORN to before me this ___ day of ___ , 2019.

[Signature]

NOTARY PUBLIC

"OFFICIAL SEAL"

TERRENCE J MCKENNA

Notary Public, State of Illinois

My Commission Expires 7/8/2022

Page 2
LEGAL DESCRIPTION: LOT 16 IN EVERYWOOD SUBDIVISION, BEING A SUBDIVISION IN THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 36, TOWNSHIP 44 NORTH, RANGE 8 EAST, OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 13, 1989 AS DOCUMENT NO. 358286, IN BOOK 14 OF PLATS, PAGE 34, IN McHenry County, Illinois.

PARCEL AREA: 51,669 S.F. (1.19 ACRES)

Route 176

Timber Lane

Parcel Area: 51,669 S.F. (1.19 Acres)

Route 176

Timber Lane

Parcel Area: 51,669 S.F. (1.19 Acres)
HEARING OFFICER REPORT TO THE MCHENRY COUNTY BOARD IN THE MATTER OF PETITION #2019-024

1. Recommendation: Approve

2. Petitioner: Bonnie Ziccarelli and Lisa Ziccarelli, owners of record

3. Request: A Variation within the A-1 Agriculture district from §16.56.050G.1 of the McHenry County Code of Ordinances to allow a minimum acreage of one-point-nineteen (1.19) acres instead of the minimum two (2) acres required for horses to be maintained on the subject property.

4. Location and size of property in question: The subject property consists of 1.19 acres and is located at the southwest corner of Illinois Route 176 and Timber Lane. Common address: 5105 Timber Lane, Woodstock, Illinois, in Seneca Township.

      PIN: 12-36-201-001 (Lot 16, Emery Woods Subdivision)

5. Present at hearing:

   Bonnie Ziccarelli
   Terrence McKenna, Attorney for Petitioner
   Sean Foley, County Staff
   Michael J. McNerney, Hearing Officer
   Amy Schillinger, Demetrios Vocos, Danielle Morlock, Todd Morlock, Kasey Tumilty, Donna Hass, Jeff Levato, Scott Smith, Robert Madro, Members of the Public

6. Date, time and location of the hearing: January 14, 2020 at 1:00 p.m. McHenry County Government Center, Ware Road Administration Building, Woodstock, IL 60098.

7. Items of evidence:

   Official Site Plan
   Petition to allow variance
   Department of Natural Resources, Office of Water Resources.

8. Summary of Testimony at the hearing:

   The Hearing Officer opened the meeting and explained that the petitioner was requesting the variation described above. The Hearing Officer also explained the burden was on the Petitioner to demonstrate compliance with the standards found in the McHenry County Unified Development Ordinance relating to the variation request. The Petitioner was informed that this petition and hearing only dealt with the variance as requested.
The petitioner, Bonnie Ziccarelli testified as follows:

She has lived on the property since August, 2019. She has two miniature horses. The horses are important to her because they keep her calm and pull her out of her depression. Tending to the horses on a frequent daily basis keeps her moving and prevents her from getting stressed and calms her down.

Petitioner presented a letter from her advanced nurse practitioner which stated that the petitioner suffers from an emotional and mental disability which meets the definition of disability under the Americans with Disability Act, the Fair Housing Act, and Rehabilitation Act of 1973. The letter further stated that the presence of her miniature horses alleviates the petitioner's difficulties and limitations relating to coping with daily life tasks. She further testified that these are emotional support animals necessary for her emotional and mental health.

She testified that the horses are little guys and they are much smaller than full-sized horses. She testified that the horses are generally less than 34 inches tall, and that her horses are less than 34 inches tall. One of the two mini horses that she owns is a couple of inches shorter than the other.

She testified that Great Danes can stand up to 32 inches high and weigh 275 pounds. Mastiffs are generally taller than 30 inches and can weigh up to 230 pounds. That St. Bernards stand 30 inches high and weigh nearly 200 pounds. She testified that there are other dog breeds that are even taller and heavier. She testified that her horses are not much bigger than the large breed dogs.

She testified that the horses do not bark or make noise and do not run up to the fence when someone approaches in the driveway. She testified that her miniature horses would not be a nuisance to the neighbors the way that barking dogs might be. She also testified that they would not be a nuisance regarding manure as she would contract with a company to deal with that.

She has owned the horses since the end of 2017, having acquired them from a kill shelter. Prior to moving to her current residence, the mini horses lived on the same property with her. She testified that the horses have always lived together and that it is necessary for the two of them to continue to live together as they are social animals.

The staff report suggested consideration of approval for one mini horse on the property, but she could not do that as she would not be able to separate the two.

The horses are currently stabled approximately 5 miles from her current residence. She visits the horses almost every day. She would be able to see the horses more
frequently if they were living on her property, due to occasional bad weather conditions.

She purchased the property in November, 2019, and was aware that the property was zoned agricultural. The property is zoned A-1 with a variance. When she purchased the property, petitioner assumed that she could keep horses on the property. The house was further attractive to her because she has a physical disability and can't go upstairs. Her existing home is handicapped accessible. She looked at other properties that would meet her needs but did not find any others.

She intends to improve the property to accommodate the miniature horses by constructing a 6 foot solid fence on the west side and on the north. The fence would not go all the way to the property line. It would go north from the garage along the the north line of the property then west and then back down to the south towards the house. It would be a stockade type fence that could not be seen through. She would put up a little barn, which would be within the fenced area. The building would be 8' x 24’ or less. It would not need a loft. The petitioner has seen other properties in the area that have solid six-foot stockade fences.

She testified that she has seen buildings in her neighborhood similar to what she wants to construct. The property to the west, is not part of her subdivision and the owner operates a roofing business on site and maintains farm animals. He has many trucks that come and go. This property is zoned A-1 so this permitted.

There are trees along the southern property boundary which act as a site buffer between her home and the property to the south. The owners of the property to the south are the same individuals who sold her pre-existing home. They knew during the sale process that she intended to have miniature horses on the property. The property to the north, which is across Route 176, is the All Seasons Apple Orchard, which is zoned agricultural. As part of the business they operate a petting zoo on a seasonal basis.

The area for the horse pasture would be less than 1/4 of an acre and would be approximately 100' x 80'. The petitioner testified that the mini horses are better off on a dry lot as they are not supposed to be pastured at all. They require special feed. They are not supposed to be pastured because they suffer from colic. They are not supposed to eat too much grass. She would store the special feed in the stable. She does not need to store a lot of hay as the horses are not supposed to eat the type of course hay the typical horse would eat.

The petitioner testified that she alone can take care of the horses although they would require service by the Vet and the horse shoer. She called three different disposal companies, who would be able to take care of the manure disposal on a weekly basis.

Sean Foley questioned the petitioner about the fact that solid fences are not allowed in a street yard closer than 50 feet from the property line. Sean Foley further testified
that the current zoning would allow the petitioner to maintain goats on the A1 property without limitation, as long as they could be properly cared for. Petitioner could have more than two or three goats on the property.

**Objectors appeared at the hearing:**

**Amy Schillinger:**
Testified that she lives right next to Bonnie and her address is 5109 Timber Ln. She testified she did not think the lot was big enough for horses. She had concerns about the well and septic field getting contaminated, including her own. She testified that no one in the subdivision has either horses or goats. She feared that the request, if granted, would bring down her property value. In her opinion two miniature horses require an acre. She did not explain her reference to the acre. She has lived there for 18 years.

She further testified that the property was in a state of disrepair before the petitioner purchased it. The renters had destroyed the interior of the home. In addition, there was a lot of garbage laying in the middle of the property including couches. She testified that work was done to rebuild the property.

**Donna Hass:**
Testified that she's lived in the subdivision for 46 years and her father was John Emery who created the subdivision in the first place. Her father wrote the covenants that were put in place to protect the property. The covenants required that no fences be installed unless they were approved by everybody else and they needed to be aesthetic. She felt the proposed fence would not be aesthetic but would look like a wall. The covenants also prohibited farm animals unless they were approved by everybody in the subdivision. She is afraid that other neighbors will either want horses or goats and as a result the property values will flatten out. She knows of a stable called Pleasant Valley Farm, which boards horses and is right across the street from the subject property. She feels there are other options for the stabling of the horses. She testified that she has concerns about the removal of the manure and the bedding.

**Jeff Levato:**
Testified that he is employed by the McHenry County Department of Health Division of Environmental Health. He was here to provide clarification on the requirements for the well and septic and requisite setbacks pertaining to animal confinement lots. The well and septic for the subject property were installed under permit A-3304. The septic is south of the house and the well is in the general location that was shown on the plan. The well construction code requires a 50 foot setback from any private well from an animal confinement lots. He further testified that the petitioner must ensure that the animal confinement area is not on top of the septic field for the fear of the animals compacting the soils. He testified that the confined area for the animals must be limited to an area outside of the septic area.
There is no specific setback requirement for the septic field in reference to the animal confinement area. The barn as accessory structure must be ten (10) feet from the septic field although it is possible to get a variance of five (5) feet. He further testified that the petitioner could comply with the various rules from his department. However, the well could impose some additional restrictions on that animal confinement area.

The Staff Report recommended a condition of approval limiting the variation allowance to one horse.

9. **Planning and Development Report – comments and conclusions:**

**Current Land Use:** Designated single-family residential on the current land use map

**Adjacent land use:**

- North: Agricultural
- South: Single-Family Residential
- East: Single-Family Residential
- West: Single-Family Residential

**Current Zoning:** A-1V Agriculture

**Adjacent zoning:**

- North: A-1CV Agriculture
- South: A-1V Agriculture
- East: A-1V Agriculture
- West: A-1 Agriculture.

**2030 Plan:** The property is designated AGRICULTURAL, ISOLATED ESTATE, AND ENVIRONMENTALLY SENSITIVE on the McHenry County Land Use Plan Map.

**Municipal Plans within 1.5 miles:** none.

10. **Staff findings and comments:**

**Improvements:** The subject property contains a 2-story brick and frame residence with an attached garage, and concrete paved areas, according to the plat of survey

**Natural Resources:** No wetlands are found on the subject property. Due to the amount of previously disturbed soils on the site, impact to natural resources from the proposed use is minimal, according to Natural Resources Inventory (NRI) Letter L19-037-4240.

**Flood Hazard Areas** No portion of the subject property is located in any floodplain, according to FIRM map panel number 17111C 0200J.
**Flood-of-Record:** No flood-of-record is indicated for the subject property, according to USGS map number HA-256 (Woodstock Quadrangle).

**SARA:** The site is located in a zone with elevated aquifer contamination potential, according to the McHenry County Sensitive Aquifer Recharge Area (SARA) map.

The Affidavit of Posting, mailings and legal notice were checked and found to be acceptable. The McHenry-Lake County Soil & Water Conservation District determined that a full report was not necessary.

There are no pending zoning violations currently open on the subject property.

**11. Recommended findings of fact as to the Request for the Variation:**

The Standards for Variation, listed in Sec. 16.20.020.F of the McHenry County Unified Development Ordinance, have been met and granting this variation is recommended. Proposed findings follow.

**Sec. 16.20.020F.1:** The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

The petitioner testified that, yes, it would be a particular hardship if the strict letter of the regulations were carried out.

As the hearing officer, I find that the denial of the request would be a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation was carried out. Petitioner has presented evidence establishing a disability and the need for maintaining the mini horses on the property to help her deal with her daily life.

**Sec. 16.20.020F.2:** The conditions upon which the application for a variation are based are unique to the property for which the variation is sought and are not generally applicable to other property within the same zoning district.

The petitioner testified that it was true that the conditions on which the application for variation are based are unique to this property and are not generally applicable to other property within the zoning district.

As the hearing officer, I find that the petitioner has met her burden on the standard. The unique aspect of this request is the physical disability of the petitioner and her need to have the mini horses serving as comfort animals to the petitioner.

**Sec. 16.20.020F.3:** The purpose of the variation is not based exclusively upon a desire to increase the monetary gain realized from the property.
The petitioner testified that the purpose of the requested variation was not based exclusively upon a desire to increase the monetary gain from the property.

As the hearing officer I find at the petitioner has met her burden on the standard. The request is based upon her need to utilize these animals to help her deal with her physical and emotional disabilities. The petitioner is not seeking this variation exclusively to increase the monetary gain of the property.

**Sec. 16.20.020F.4: The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.**

The petitioner testified that the alleged difficulty or hardship was caused by the ordinance and has not been created by her or any person presently having an interest in the property.

As the hearing officer, I find that the petitioner has met her burden under the standard. The existing ordinance does not contemplate a homeowner maintaining mini horses on a 1 acre parcel. The current ordinance would allow the petitioner to maintain goats on the property but does not address the issue of mini horses which in some ways are similar.

While I find that the petitioner has met her burden, I do have some reservations on this issue as Petitioner did not conduct proper due diligence before purchasing this property.

**Sec. 16.20.020F5: That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

The petitioner testified that the granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

As the hearing officer, I find that the petitioner has met the standard. The fencing, if granted, would hide the mini horses from view of the neighboring properties. Requiring the removal of the manure and bedding would prevent the property from impacting the property values of the neighboring property. While there was some evidence to suggest the property values might be negatively impacted there was no hard evidence presented other than the opinion of the neighbors.

**Sec. 16.20.020F6: The proposed variation will not impair an adequate supply of light or air to the adjacent property or substantially increase congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the adjacent neighborhood.**
The petitioner testified that the proposed variation would not impair an adequate supply of light and air to adjacent property or substantially increase congestion and the public streets or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

As the hearing officer I find that the petitioner has met her burden on the standard. As stated above there is conflicting opinion evidence as to whether property values would be impaired. However, there was no factual data provided to show the property values would be negatively impacted. Obviously, if this request is granted, it would not impact congestion or affect an adequate supply of light or air to adjacent property owners.

Sec.16.20.020F.7. The granting of the variation requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings of the same zoning district.

The petitioner testified that the granting of the variation will not confer upon her any special privilege that is otherwise denied by the zoning ordinance to other lands or structures within the same zoning district.

As the hearing officer, I question whether the petitioner has met her burden on this standard. This request if granted would appear to grant a special privilege to the petitioner. This is not similar to an issue where someone's garage is simply too close to the property line.

The petitioner has met their burden of establishing the necessary ordinance requirements. Accordingly, it is my recommendation that the petitioner’s request be granted, subject to the following conditions:

1) The variation will be restricted to the two existing horses;
2) The variation will be restricted to the petitioner, and no one else;
3) Petitioner shall not maintain any other farm animals during the period this variation is in effect.
4) All health code requirements pertaining to an animal containment area must be complied with.
5) All manure and used bedding must be removed on a weekly basis by a licensed contractor and must be stored in a container while waiting for removal.
6) The variation will be for a period of 5 years, at which time it shall be subject to further review or termination.

Respectfully submitted,