

MINUTES OF THE ZONING BOARD OF APPEALS THE TOWN OF KINGSBURY

Minutes of May 24, 2018

MEMBERS PRESENT:

Hank LaFountain, Chairman
Brian Heasley
Katherine Henley
Rich Hogan
Bill Whipple
Michelle Wood
Scott Winchell

MEMBERS ABSENT:

Sondra Michaud (Excused)

CODE ENFORCEMENT OFFICER/ZONING ADMINISTRATOR:

Francis Cortese

TOWN ATTORNEY:

Jeff Meyer, ESQ.

The meeting was called to order by Chairman LaFountain at 7:00pm.

Roll call of all members.

Chairman LaFountain entertained a Motion to Approve the Minutes of April 26, 2018.

ON A MOTION BY MR.S WOOD, seconded by Mr. Winchell, the minutes of the April 26, 2018 meeting were approved.

AYES: 7

NAYES: 0

ABSTAIN: 0

MOTION CARRIED

1. Theodore Fowler for the property known as 16 Bardin Road, Hudson Falls, NY, Town of Kingsbury located in Zoning District RA-1A (Residential-Agricultural) and Tax Parcel ID # 137-1-42.7 is seeking a Special Permit to use property as a Home Industry/Doggie Day Care & Boarding. Plans for proposal are available at Kingsbury Town Hall, 6 Michigan Street, Hudson Falls, New York during regular business hours.

Chairman Lafountain opened the Public Hearing.

Chairman LaFountain introduced Theodore Fowler and Kevin Hastings, P.E., Consulting Engineer who will be representing Mr. Fowler.

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Mr. Hastings stated Mr. Fowler is proposing a 30' x 45' pole barn building for a home industry business, with four vehicle parking spaces and with a six foot vinyl fence on the north and south end of the property as part of a visual buffer to the neighbors. On the east and west perimeters there will be a chain link fence to create the perimeter enclosure for the dog runs and to socialization activities. Mr. Fowler is also proposing to relocate the driveway for better approach to the garage and the house.

Mr. Fowler will be adding a septic system for 100 gallons per day. This will satisfy bathrooms and washing facilities in the proposed building.

Mr. Fowler stated people feel bad leaving their dogs at home all day while they are at work, this way the dogs will be able to socialize. The hours of operation will be from 7:00 am to 6:00 pm.

The right side of the building will have six boarding kennels for people that want to leave their dogs for a week while they are on vacation. There will be an indoor kennel with an outdoor run area. At night the dogs would be in the kennel and during the day they would be in the outdoor run.

In the winter time the dogs would be inside and then in the summer they would be in one of the two fenced in areas.

Mr. Whipple questioned how many dogs in total will there be.

Mr. Fowler stated no more than twenty dogs. The idea with this project is to keep it small staffed. He does not want it to be disruptive to the neighborhood. He wants to have a family run business and may need part time help that would fill in when needed.

Mr. Heasley questioned if it could be fourteen dogs during the day and six dogs overnight.

Mr. Fowler stated yes there could be.

Chairman LaFountain questioned if the building was going to be a wood building or a steel building.

Mr. Hastings stated the building in the proposal was a picture of what they would like. It will probably be metal on the outside with blown in insulation or foam insulation and metal on the inside.

Mr. Winchell questioned the removal of dog waste.

Mr. Hastings answered they have not gotten that far into the plans as of yet.

Mr. Hogan questioned how they will control the noise of the dogs barking.

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Mr. Fowler stated he drops his dogs off at the kennel and obviously at pickup time when people are coming and going the dogs get excited, but he has picked up his dogs when there is no barking. The barking is not an all-day noise, once the dogs get settled in and get comfortable with one another and play one another. He would be very conscious of the barking.

Mr. Winchell questioned if this project would be strictly for dogs only.

Mr. Fowler stated yes it is strictly for dogs. The intent would be for the dogs to be dropped off at staggering times in the morning. By doing this they are hoping to keep traffic and parking at a minimum.

Chairman LaFountain asked for comments from the public.

Spencer and Sandra Baldwin, 432 Dean Road and Karla Buettner, ESQ, Bartlett, Pontiff, Stewart & Rhodes, P.C., who will be representing the Baldwin's.

Ms. Buettner stated the Baldwin's live to the south of Mr. Fowler's property and presented the Board with pictures of the Baldwin property looking at Mr. Fowler's property from the back of their property. The Baldwin's purchased their property in 2011. There are items they would like to present to the Board tonight. They do not believe there is enough information being presented on this project for the Board to grant the Special Use Permit. They understand according to the Town of Kingsbury Code the ZBA Board has that option. Mr. Fowler indicated in his application this would be a home occupation. According to the definition of a Home Occupation in the Town of Kingsbury Code Book, a home occupation "is entirely within a dwelling". This proposal is not by Mr. Fowlers own admission going to be entirely in his structure nor are the dogs.

The definition also states "it may include but need not be limited to such enterprises as the refinishing of antiques, repair of furniture, ceramic manufacturing and decoration, repair of household articles or motor vehicles, rug weaving, manufacture of various articles, and home baking. All storage of materials and equipment shall be indoors". None of the ones listed are service orientated such as a salon and things of that nature. They believe this proposal sounds more like a home occupation than a special permit use.

Mrs. Buettner stated there are three different things you can look at in the code. The first item is the noise. This area is a tranquil area in the Town and the houses are not on top of each other but are close enough together. One of the Baldwin's concerns is that there will be noise.

If the Board decides to grant this proposal there should be some kind of mitigating factor for the comfort factor with the noise.

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Mrs. Buettner stated with regard to the parking for this proposal. Mr. Fowler's indicated he will have up to six dogs that would stay overnight and up to fourteen dogs per day at this location. This would also make fourteen people and there are only four parking spots. Where are these other people going to go?

There is a traffic concern as well. There will be a lot more people traveling on this road to drop off their dogs in the morning and then return to pick them up at night. Where is Mr. Fowler going to put all of the vehicles?

Another concern they feel needs to be addressed which is not addressed in the proposal is the fact he would like twenty dogs. At the present time Mr. Fowler has three dogs on the property that bark a lot.

Mr. & Mrs. Baldwin have not filed any complaints, but three of his own dogs are barking plus he wants to add another twenty dogs every day, the dogs will be social and adding to the noise. This will be detrimental to the neighborhood.

Mr. Fowler indicated there will be a septic for bathrooms and washing. There is no information before the Board tonight as to what kind of chemicals will be used in the wash area. Will there be drainage in the pole barn to go into the septic?

With regard to the lighting, this area will be lit and how many dog runs will have lighting?

Mrs. Buettner stated she understands Mr. Fowler is looking to see what he can do for a business model. This is a completely reasonable and respectable way of looking at it however; he has not taken into account the code or the neighbors that are nearby.

Mrs. Buettner stated at the end of the day this Board has the right to approve this proposal with conditions. After hearing her presentation tonight she is requesting the Board table this application until they have more information and look at the conditions and she believes there are other neighbors here as well.

Mrs. Buettner stated this is not a "not in my backyard" situation. This is not a "we don't like dogs" situation. This is a quality of life issue that affects the neighborhood. She would like to be able to work together as a neighbor situation.

Jerry McKenna, 399 Dean Road, stated he likes dogs. He is a retired postal worker. The first thing he learned in this profession is all dogs bark and all dogs bite. There is no one who can tell him that their dog does not bite. He bought his home many years ago for various reasons.

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One of the reasons the location, the proximity to the town and to work as well as the country feel. He does not want a store or business next door to him. He does not feel this is the place for a business in a residential area. He does not want a neon sign saying "Doggy Day Care" flashing for hours and hours in a residential neighborhood. He does not feel this fits in the area.

Mr. McKenna stated there is a vacant building on Dix Avenue that was a Laundromat that would be a great location. There is a lot of traffic and you wouldn't hear the dogs barking with the amount of cars, truck and motorcycle traffic. There are trees there for shade at this location. This just is not something that fits the character of the neighborhood.

Vanessa Proulx and James Dewar, 24 Bardin Road, stated they live right next door to Mr. Fowler. They have nothing against dogs but feel a one acre lot is not appropriate for a doggy day care. They sleep during the day and odd hours. With a lot of dogs barking it will interfere with their sleeping pattern. Dog barking is already an issue for them with Mr. Fowlers 3 dogs he owns.

They built their home about fourteen years ago for the tranquility of the area and do not want the tranquility taken away from the neighborhood. The traffic and the people in and out will be too much and they do not feel this is a good fit for this area.

Brooke Witham, 422 Dean Road, stated she works out of her home office for her business. She works long hours and cannot have barking dogs while running a business. When she is home she is out on her deck and loves the peace and quiet. Her neighbors have three dogs that are in the house. In the winter and she can hear them barking through her closed winter windows.

Ms. Witham stated this is an unacceptable use for the property being the size of the property, location of the property, the amount of dogs in question going in and out of the property. She has enough problems with the motorcycles going in and out of the industrial park, zooming up and down constantly and it is noise. This is noise pollution and there are many articles out about it and the damage it does. She lives here for the tranquility and quiet and feels that people moving into this area have to accumulate to the surroundings they come into and not to change the area.

Mr. McKenna stated he would like to add to his statement that they already have coyotes in this area and at 2:00 in the morning they are howling. He doesn't know much about them but is wondering if fifteen dogs running around in a yard is going to attract coyotes closer to the home. If there is a five year old child outside playing and 2 or 3 coyotes come along there are opportunities they may get attacked. It is rare but it still can happen. Will this bring the coyotes closer to the neighbors?

Mr. Whipple questioned Mr. Cortese if there is a code as to how many dogs you can have on a residential property being it was said Mr. Fowler has 3 dogs of his own.

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Mr. Cortese stated they are Mr. Fowlers dogs not part of the doggy day care proposal.

Ms. Witham questioned if this is approved are the dogs required to be licensed that come into his property and how do you prove they are already licensed? Who regulates the rules of a doggy day care operation?

Mr. Winchell stated other people have dogs in the neighborhood as well. There is a farm an active down the road that he believes makes noise to some extent.

Mr. Cortese stated the Town of Kingsbury does have a noise ordinance. Within this ordinance there is a section pertaining to dogs barking that reads "A noise disturbance is created by a dog barking, howling, crying or whining continually for 10 minutes or intermittently for 30 minutes".

Attorney Buettner gave Chairman LaFountain a letter from Roz Nola, Assoc. Broker, Howard Hana Real Estate Services stating in her past experience she has found that there will be an adverse effect on the value and marketability of homes nearby a Dog Boarding Business due to the noise and the increased traffic to the area.

ON A MOTION BY RANDY GETTY, and seconded by Mr. Fehl the Kingsbury Planning Board declares lead agency status and having reviewed the short form SEQRA submission and having taken a hard look at the potential environmental impacts finds that there are no potential negative environmental impacts anticipated from this project and the Board issued a negative declaration on the project.

Discussion ensued among the Board with questions address by the Applicant and the Applicants Representative.

ON A MOTION BY MR. WHIPPLE, seconded by Mr. Winchell this Application was tabled so that the Applicant can provide the Board with more information as discussed.

ON A MOTION BY MR. HEASLEY, seconded by Mrs. Wood all in favor, the meeting was adjourned at 8:00 P.M.

Michelle Radliff
Secretary