

# **UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT MEETING MINUTES APRIL 11, 2019**

The regular meeting of the Upper Township Zoning Board of Adjustment was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey. The meeting was called to order at 7:30 p.m.

## **SUNSHINE ANNOUNCEMENT**

## **SALUTE TO THE FLAG**

## **ROLL CALL**

Present: Joseph Healy, Richard Mashura, Lynn Petrozza, Christopher Phifer, Andrew Shawl, Larry Trulli, Matthew Unsworth, Paul Casaccio.

Absent: Sherrie Lisa Galderisi, Ted Klepac, Karen Mitchell.

Also, in attendance were Jeffrey Barnes, Esquire, Board Solicitor; Paul Dietrich, Board Engineer; Shelley Lea, Board Secretary and Zoning Officer.

## **APPROVAL OF THE MARCH 14, 2019 MEETING MINUTES**

A motion to approve the minutes was made by Mr. Unsworth and seconded by Mr. Healy. In favor: Healy, Petrozza, Phifer, Shawl, Unsworth. Abstain: Trulli, Casaccio.

## **APPROVAL OF THE APRIL 2, 2019 MEETING MINUTES**

A motion to approve the minutes was made by Ms. Petrozza and seconded by Mr. Unsworth. In favor: Petrozza, Phifer, Shawl, Trulli, Unsworth, Casaccio. Abstain: Healy.

## **SWEAR IN PAUL DIETRICH AND SHELLEY LEA**

## **TABLED APPLICATIONS**

1. KAROLANN KEMENOSH – BLOCK 723 LOT 56 – BA 18-18

A letter from Jon Batastini, Esquire, requests to table this application until May 9, 2019. He agrees to waive the tolling of time. No further notice is required.

## **APPLICATIONS**

1. BRUCE W MYERS JR – BLOCK 548 LOT 10 – BA 02-19

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Applicant is requesting a site plan waiver and a use variance to operate a dog grooming business at 60 Tyler Road in Seaville.

Bruce W. Myers Jr., 60 Tyler Road, Seaville, was sworn. He submitted 3 photos that were marked A-1, A-2 and A-3 that were taken by him. He testified that he took the photos and that they accurately depict the area as it exists today. The photos show that the road is not visible from the proposed location of the new structure. He testified that he has been in law enforcement for 18 years. Fifteen of those years have been spent on the K9 unit. He has been training dogs professionally for 15 years. He has formed a non-profit where they train dogs for police departments, veterans and disabled individuals who need dogs almost free of cost. He proposes to operate a small grooming area on the property mostly for the people that he has trained the dogs for. The grooming would help generate money for the dog training. He purchased this 22.18-acre property in hopes of training his dogs and performing grooming services here. He testified there would be little or no impact on the community. The proposed structure that the dogs will be housed in will be well insulated and sound proofed to help with noise and the runs will be secured. He has the permits for the structure and has begun building. He proposes a 6 ft. high chain-link fence around the property. There was discussion regarding the height of the proposed fence in the front yard. The setback in the front is 200 ft. so the fence would have to be moved further from the road to meet the setback or it would have to be lowered to 4 ft. without the need for a variance. Grooming would be done between 9 am and 5 pm. The training would be done inside the fence attached to the proposed structure. Not counting his own dogs there would be no more than 5 dogs on the site being trained at one time. He anticipates grooming 4 or 5 dogs per day. He does not propose any boarding of dogs on site. Training is done daily. He stated the proposed business would not have a negative impact on Tyler Road. With the exception of the police dogs, the dogs being trained are his dogs until they are done being trained and ready to be rehomed. He saves as many animals as he can from animal shelters and trains them to be service dogs or police dogs.

Mr. Myers testified the proposed structure is 12 x 50 and would have a total of 10 dog runs. He would be doing the grooming himself. He would not groom any dogs past 5 pm. He proposes one 2' x 2' sign along Tyler Road.

The meeting was open to the public.

Karl Veit, 69 Tyler Road, was sworn. He is concerned about safety, noise and opening a pandora's box for other businesses in the conservation zone.

Mr. Myers testified the building he is constructing will be double insulated. The boxes inside the shelter will be climate controlled and insulated. He will use 5/8 plywood rather than sheetrock for sound deadening. The kennels will be covered on all three sides. At night the dogs would be brought inside. He is currently putting some of his dogs inside the garage at night. The fence around the training area will be 6 ft. high and will have

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electric in three different levels, 8 inches, 3 feet and 5 feet. Although he finds the 6 ft. high fence is more than sufficient, he is taking as many preventative measures as he can.

Michael Kalin, 63 Tyler Road, was sworn. He would rather see the fence in the front remain 6 ft instead of 4 ft. He stated that the noise has gotten better. He is ok with a maximum of 10 dogs. He is concerned since the dogs are taken from shelters sometimes without any background knowledge. He also expressed concerns about wells and septic.

Mr. Myers asked that the dogs be allowed out of the shelter from 7 am until 9 pm. He stated that his police dog is the one that barks the most since he is trained to bark. He built a kennel inside his garage, so he can be inside at night. The dogs being trained on site are not trained to bite. They are single purpose scent dogs meaning they are trained on specific odors such as narcotics, explosives, arson or cadaver. He does not train apprehension dogs. His police dog is owned by the State of New Jersey. He has trained 47 police dogs that were on the verge of euthanasia.

Michael Malinsky, Esquire, representing James and Heather McMaster, owners of 203 Route 50. He clarified the hours of operation for the grooming business is 9 to 5 and 9 to 7 for training. His clients are concerned about noise. Mr. Myers testified there would be 10 dogs and 10 inside/outside dog runs for his business. His police dog and personal dogs are not included in this number. He agreed to plant trees between his property and the McMaster's property. Mr. Malinsky asked about storm water management due to millings that were placed on the property. Mr. Myers agreed there would be no breeding of dogs. Any lighting associated with the dog training and grooming would be kept on site.

Mr. Myers testified there would be 10 kennels. He would have no more than 10 dogs on site at one time that are associated with his business. He has 2 police dogs and 1 personal dog. His police dogs and personal dog are in a kennel inside the garage, however they will occupy the new kennels when there is room.

Thomas Jones, 211 Route 50, was sworn. Mr. Jones concurs with the comments made by his neighbors. He stated his biggest concern is noise.

Edward Davies, 67 Tyler Road, was sworn. He is concerned about noise and safety.

Karl Veit, previously sworn, asked what the neighbors can do if the dogs are barking after the hours of operation. Mr. Dietrich directed them to call animal control or the state police. The county health department can do decibel readings for sound. If noise is heard after the permitted hours of operation they could also call the zoning office. He is concerned about safety and dogs getting loose.

Mr. Myers testified there are other businesses that operate in the area. Mr. Dietrich agreed there are some contractors working from their properties in this area. He is not

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sure if they predate the zoning changes. Mr. Myers testified there are tractor trailers and dump trucks driving down Tyler Road and heavy equipment being run.

Hearing no further comment the meeting was closed to the public.

There was lengthy discussion concerning the noise and possible solutions. There was a five-minute break.

Mr. Myers proposed enclosing the outdoor runs so that they are three quarters of the way closed in. He would insulate the sides and the roof and all that would be exposed is the front to make an indoor kennel. The outside runs are 5'x10'. The runs face Tyler Road. It is his opinion the proposed commercial use on this property would not impact the public health or welfare since the traffic onto the site would be minimal. The proposed use would not have a detrimental effect on the neighborhood due to the large size of the lot and the vegetation. The barn is located a great distance from the neighbor. There are other home-based businesses in the area and only a small portion of the lot is being used. The proposed use would not be detrimental to the zoning ordinance or zoning plan since this is a large wooded lot and the area being used is already cleared.

The board gave their findings of fact.

MR. SHAWL – Bruce Myers Jr. is the owner of 60 Tyler Road in Seaville. He is requesting a use variance to allow a use that is not permitted in the conservation zone and a site plan waiver. The applicant proposes to use a barn on the property for grooming dogs. There will not be any employees. There will be minimal traffic, roughly 4 or 5 trips per day. The training and grooming area is setback 600 ft. from the road and is not visible from the road. The kennel area is 80 ft. from the common property line. The property is almost 22 acres and is wooded. Frontier Campground is on one side and a new church is being built on the other side. The applicant does not propose to board dogs on the property. There will be no breeding dogs and no dogs for sale. Grooming will be available to the public by appointment only and the hours of operation would be 9 am until 5 pm five days a week. The applicant testified that this service would promote the public health, safety and general welfare by providing a service to the community and that the proposed use would not have a detrimental effect on neighborhood due to the large size of the lot, the vegetation and the distance between the structure and the neighboring property line. The proposed use would provide light, air and open space. Testimony was given that having this type of home-based operation would not be a detriment to the zoning ordinance or the general welfare. This area requires 10 acre building lots. There are no bulk variances required. The applicant proposes to enclose the outdoor kennels on three sides and to insulate the structure to mitigate the sound. The front of the structure would be open for ventilation. The training would be done between 9 am and 8 pm. There would be a maximum of ten dogs and ten runs. There will be a 6 ft. high fence around the training area. The applicant also proposes a secondary fence as a second means of security. No spotlights will be used that would shine onto adjoining neighbors. All noise ordinances would be applicable. Members of the public had safety

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and noise concerns. Other concerns were chemicals used for grooming and traffic. The neighbors agreed that the noise has gotten better.

MS. PETROZZA – She concurs. She finds this application satisfies special reason ( i ) She finds the burden of proof has been satisfied and this application could be granted without substantial detriment to the public good and that the proposed use would not substantially impair the intent and purpose of the zoning plan and zoning ordinance.

MR. PHIFER – He finds that what the applicant is doing is beyond admirable, however he feels the proposed use would be a detriment to the public good.

MR. MASHURA – He stated that he is struggling with the application and had no comment at this time.

MR. UNSWORTH – He concurs with the findings made by Mr. Shawl and Ms. Petrozza. He finds the applicant has made every effort to alleviate the concerns of the neighbors. There is an enforcement mechanism. He finds the applicant is doing everything possible to alleviate the noise. He would be in favor of granting the application with the caveat that the noise is kept tolerable.

MR. HEALY – He concurs with the facts presented by Mr. Shawl and Mr. Unsworth. He is in favor of the application with the changes agreed to by the applicant.

MR. CASACCIO – He concurs with the findings by Mr. Shawl. He is in favor of the application subject to the noise being kept under control.

A motion was made by Mr. Unsworth and seconded by Ms. Petrozza to grant the application with the following conditions: the hours of operation for grooming will be 9 am until 5 pm, the hours of operation for training of any dogs that are not his personal dogs are 9 am until 8 pm, there will be no more than ten dogs on site at one time for grooming and training. The applicant agrees to install an electric fence. Board approval will be required to allow a 6 ft. high fence if the location does not comply with the ordinance, there will be ten runs inside of the pole barn and ten runs outside of the pole barn, the kennels will be constructed so there is a roof and three sides with the front being open, the additional landscaping will be approved by Mr. Dietrich, there will be no breeding, there will be no lights directed onto any neighboring properties, there will not be any employees and there will only be one sign by the driveway. In favor: Healy, Mashura, Petrozza, Shawl, Unsworth, Casaccio. Opposed: Phifer.

**RESOLUTIONS**

1. JAMES SCHRODER AND AFFORDABLE CONCEPTS INC – BLOCK 811 LOTS 4, 5, 6 & 7 – BA 03-19

A motion to adopt the resolution was made by Mr. Unsworth, seconded by Mr. Phifer, and approved. Abstain: Healy.

2. HARRIET LANE – BLOCK 567 LOT 24 – BA 25-18

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A motion to adopt the resolution was made by Mr. Shawl, seconded by Mr. Mashura, and approved. Abstain: Casaccio.

**BILLS**

A motion to approve the bills was made by Mr. Shawl, seconded by Ms. Petrozza, and approved.

**ADJOURNMENT**

A motion to adjourn the meeting was made by Mr. Shawl, seconded by Mr. Unsworth, and approved. The meeting was adjourned at 9:24 p.m.

Submitted by,

Shelley Lea  
Board Secretary