

TOWNSHIP OF WATERFORD 2131 AUBURN AVE., ATCO, NJ 08004

LAND USE BOARD

MINUTES FOR OCTOBER 17, 2016

The October 17, 2016 Joint Land Use Board Meeting of the Township of Waterford, was called to Order at 7:00pm by Chairman Ralph Condo.

SUNSHINE STATEMENT: In accordance with Chapter 231, Public Law, 1975, *Open Public Meeting Act*, notice of time, date and place for this meeting was sent as part of the annual notice to the Courier Post and Record Breeze, and is posted in the Municipal Building.

SALUTE TO THE FLAG:

NOTICE:

The Planning Board reserves the right to change the order of the published agenda. All changes will be announced at the start of each meeting.

It is the intent of the Board to not begin a new application after 10:30 PM and take no testimony after 11:00 PM.

For those of you in attendance with a cell phone, please turn it off or put in on silent mode. Also, if it is necessary to have a conversation with the professionals involved with your application please do so outside the meeting room.

ROLL CALL:

Members responding to the roll call were Ms. Illes, Mr. Jacoby, Ms. Ferguson, Mr. Becker, Mr. Russomano, Mr. Achey, Mayor Richardson, Mr. Hanna and Chairman Condo. Councilman Giangiulio was absent.

OTHERS IN ATTENDANCE: Mr. Richard Wells, Esq., Township Solicitor and Mr. Jeff Hanson, Township Engineer

PUBLIC ATTENDANCE:

SWEARING IN OF PROFESSIONALS: Mr. Wells swore in Mr. Hanson, Township Engineer

MOTIONS OF ADJOURNMENTS OR OTHER MOTIONS: None

OLD BUSINESS: None

NEW BUSINESS:

1. Barbara Kenny, 706 White Horse Pike, Block 2309 Lot 2, Use Variance for a Dog Kennel Operation.

Ms. Kenny was sworn in by Mr. Wells prior to her testimony.

Mr. Craig Larsen, Esq., 211 Cross Keys Road, Berlin, NJ 08009 presented himself as representing Ms. Kenny. He related that Ms. Kenny would give a history of her presence in the township and about her business. She is requesting approval of a variance to operate a dog kennel operation at 706 White Horse Pike, Atco, NJ.

Ms. Kenny began her testimony by stating her name is Barbara J. Kenny of 7014 Shelf Road, Marshville, NC 28103. She stated the property has been used as a dog kennel and residence for almost fifty years. She continued that to her knowledge several owner operators have used the property as a kennel business for many years. She has owned the property since 1995. The last tenants on the property allowed the kennel license to lapse in 2013. Upon learning the license lapsed she is requesting approval to bring the license to current status and operate the kennel business herself. Current zoning does not permit a kennel in the area therefore she is requesting approval of a variance. She stated she is not planning to make any outside improvements or changes to the property. Ms. Kenny related to the Board that she is planning to move back to New Jersey as soon as possible. She has made arrangements with a friend to operate the kennel business until she is able to be in New Jersey fulltime.

Ms. Kenny answering to a Board member's question related the hours of operation of the kennel. She also stated the kennel boards a maximum of twenty dogs and twenty cats. Because she lives on the property (or her operator will be in residence) the animals will have supervision at all times. She intends to spruce up the kennels with paint and any other repairs that may be needed.

She says she is fully insured. The residence on the property is separated from the commercial area. A site plan was shared with the Board. Ms. Kenny answered questions regarding the location of the residence and the kennels. She also described the buildings and fencing and recreation area for the animals. There is signage and lighting that is being upgraded now. The lights are on timers and light the property for pet owners who arrive late to pick up the pets.

Mr. Hanson stated the property was constructed many years ago to be used as a residence and dog kennel business. No changes have been made since the kennel license expired. To the east of the property is an empty wooded lot, undeveloped woods and a vacated street is to the rear. To the west is a boarded up abandoned business.

Mr. Toussaint explained the license lapsed in 2013 which resulted in a zoning infraction. He stated Ms. Kenny received notification that the license had expired in 2013 by mail. Ms. Kenny was told if the license was expired for more than one year it was considered abandonment. He also mentioned that the Master Plan prohibits the kennel from operating in the Township. This case falls under the pre-existent non-performance use provision.

A member of the Board asked under the use variance grant, does the variance stay with the land? The attorney responded, yes it does. Conversation continued, with another member stating, that being the case, the kennel would not be able re-open – is that right? Chairman Condo asked, can a condition be put on the approval of the use variance? Mr. Wells explained the approved variance, with the condition, will expire upon the sale of the property.

Mr. Hanson summarized the issues of the petition re: variance, lighting on the property,

number of people (employees) who will be on the property and the types and maximum number of pets who are boarded at the kennel. He also noted the type of crates the pets are housed in and the hours of operation. Mr. Hanson felt that Ms. Kenny responded to all of his miscellaneous items during her testimony.

Chairman Condo reiterated that Township Ordinance prohibits dog kennels and pet shops and that the intent of the Master Plan should be followed.

Other members of the Board also shared their concerns that three years have passed and an effort was not made by Ms. Kenny to address the issue of the lapsed license. Further discussion stated that if she tried to start a new kennel today it would not be permitted.

Ms. Iles asked Ms. Kenny, will you operate it and not let the license lapse in the future? Will the kennel and the property be kept up? Ms. Kenny responded she will and she intends to have a caretaker who lives in Lindenwold take care of the property and business until she can be living fulltime on site. "She intends to be in Waterford for many years".

Chairman Condo stated he has concerns with the time frame of the request, ordinance requirements and that the variance will run with the land. Also he is concerned about the value of the property with the kennel and a residence on it.

Mr. Jacoby stated the stipulation in the variance and license should state the owner must live on the premises.

Mr. Condo open the meeting to the public for comments. Hearing no comments from the public, he closed the meeting to the public.

He asked the Board if they had any further questions. Hearing none he asked Mr. Wells for clarification of the vote.

Mr. Wells summarized the discussion re: the variance and the township ordinance prohibiting dog kennels. He stated the applicant is asking relief and has presented special reasons for such relief. She showed positive criteria in her testimony. Negative criteria was stated by the engineer and Mr. Toussaint and must be addressed by the applicant. The Board members should take all of this testimony into consideration when voting. A yes vote will indicate you are satisfied; a no vote will indicate you are not satisfied. The exception in the variance will be limited to this appeal and will expire upon the sale of the property.

On a motion by Ms. Iles and seconded by Mr. Becker approval was made to approve Barbara Kenny's request for a variance for a dog kennel operation at 706 White Horse Pike, Block 2309, Lot 2 with the exception that it will expire upon the sale of the property.

ROLL CALL: Ms. Iles, Aye. Mr. Jacoby, Aye, Ms. Ferguson, Aye, Mr. Becker, Aye, Mr. Russomano, Aye, Mr. Achey, (with the stipulation) Aye, , Mayor Richardson, No Vote, Chairman Condo (with the stipulation) Aye, Mr. Hanna, (with the stipulation) Aye
8 ayes, 0 nays, Councilman Giangiulio – Absent Motion carried.

Chairman Condo called for a five minute recess at 8:12PM. Mr. Condo called the meeting to order following the recess at 8:17PM.

SECOND ROLL CALL:

Members responding to the roll call were Ms. Illes, Mr. Jacoby, Ms. Ferguson, Mr. Becker, Mr. Russomano, Mr. Achey, Mayor Richardson, Mr. Hanna and Chairman Condo. Councilman Giangliulio was absent.

CONTINUED NEW BUSINESS:

2. Jay and Heike Miller, 1117 Chew Road, Block 7101 Lot 34, Bulk variances for a detached accessory building.

Mark Rinaldi, Esq. 155 S. White Horse Pike, Berlin, NJ represented Jay and Heike Miller who are making an application for relief from Code Section 176-118E.4.

The applicants are proposing to construct a pole barn style detached garage on their property at 1117 Chew Road, Waterford Township. The applicants further request a side yard variance and a variance from the maximum allowable height of the proposed height. Testimony will be given by the applicants.

Mr. Wells swore in Jay Miller and his testimony began with questions from Mr. Rinaldi and the Board.

Mr. Miller testified that he lives at 1117 Chew Road, Waterford Twp. He is a plumber and is applying for three bulk variances; one is for a large pole barn, one is for height variance and the third is for approval of a side yard setback. Mr. Miller stated he is putting in a swimming pool and requires a large pole barn structure to house all of the equipment and cars he presently has on his property. He owns heavy equipment for farming the fifteen acres of property; he also has cars, a camper, a pick-up truck, quads, tools, lawn furniture and other items that will be stored in the structure. The barn is to be used for personal use only. The barn will not be used as a living space.

Mr. Rinaldi asked about a large sign on the property advertising a plumbing business. Whose business is it he asked? Mr. Miller stated it is advertising his boss's business and he is paid \$200.00 a month to have it on his property. He will remove the sign.

Mr. Rinaldi questioned Mr. Miller to give a description of the property. The property backs onto trees and woods. There are apple trees on the side of the lot that blocks the view and there will be shrubbery planted that will screen the pole barn. The whole back field is farmed. The pole barn will be built closer to the house. There is a ten foot stone driveway. Outside lighting will be added for safety.

Mr. Hanson summarized the request re: the pole barn request and the three variances. The barn will not be used for a business. Natural vegetation will buffer the structure so no fencing is needed. Regarding the stone driveway, a statement is needed from the Fire Marshal re: access. Lighting is also needed for safety and a drainage pond should be considered.

Mr. Rinaldi stressed the importance by the applicant to ensure that he is not running a business from the property.

Mr. Condo stated that this is an overall concern for the community. Several other Board members asked questions re: have the neighbors been notified. Mr. Toussaint said yes they were. Ms. Ferguson wanted to know why the barn had to be so tall. And, the Mayor asked if the garage is taller than the existing house. Mr. Miller responded to all their questions satisfactorily.

Mr. Toussaint stated there is enough access to the property and pole barn. He also said that water can dissipate from the property which will eliminate a seepage pit.

On a motion by Mr. Jacoby seconded by Mr. Becker approval was made to approve the variances for a detached accessory building at 1117 Chew Road in accordance with the recommendations made by Mr. Toussaint and Mr. Hanson.

ROLL CALL: Ms. Iles, Aye. Mr. Jacoby, Aye, Ms. Ferguson, Aye, Mr. Becker, Aye, Mr. Russomano, Aye, Mr. Achey, Aye, , Mayor Richardson, Ayes, Chairman Condo Aye, Mr. Hanna, Aye 9 ayes, 0 nays, Councilman Giangiulio – Absent Motion carried

COMMUNICATIONS/DISCUSSION: No communications

RESOLUTIONS: Approval of 16-13 – Mathew Vitagliano, 121 Joyce Way, Block 102, Lot 9

On a motion by Mr. Becker, seconded by Mayor Richardson approval was made of resolution 16-13.

ROLL CALL:

Ms. Iles, Abstain. Mr. Jacoby, Abstain, Ms. Ferguson, Aye, Mr. Becker, Aye, Mr. Russomano, Aye, Mr. Achey, Aye, , Mayor Richardson, Ayes, Chairman Condo Aye, Mr. Hanna, Aye 7 ayes, 0 nays, 2 abstentions, Iles and Jacoby, Councilman Giangiulio – Absent Motion carried.

MINUTES: On a motion by Mayor Richardson seconded by Mr. Jacoby the minutes were approved as presented.

ROLL CALL: Ms. Iles, Aye. Mr. Jacoby, Aye, Ms. Ferguson, Aye, Mr. Becker, Aye, Mr. Russomano, Aye, Mr. Achey, Aye, , Mayor Richardson, Ayes, Chairman Condo Aye, Mr. Hanna, Aye 9 ayes, 0 nays, Councilman Giangiulio – Absent Motion carried

CLOSED SESSION: RESOLUTION 16-14

RESOLUTION OF THE TOWNSHIP OF WATERFORD AUTHORIZING THE TOWNSHIP AND USE BOARD TO GO INTO CLOSED SESSION PURSUANT TO N.J.S.A. 10:4-12.

Related to: 1) Pending Litigation

On a motion by Mayor Richardson seconded by Mr. Becker approval was made to move to closed session. Motion carried.

CHAIRMAN RECESSED MEETING FOR CLOSED SESSION AT 9:03 PM.

CHAIRMAN RECONVENE MEETING AT 9:20 PM.

ROLL CALL: Ms. Iles, Aye. Mr. Jacoby, Aye, Ms. Ferguson, Aye, Mr. Becker, Aye, Mr. Russomano, Aye, Mr. Achey, Aye, , Mayor Richardson, Ayes, Chairman Condo Aye, Mr. Hanna, Aye 9 ayes, 0 nays, Councilman Giangiulio – Absent Motion carried

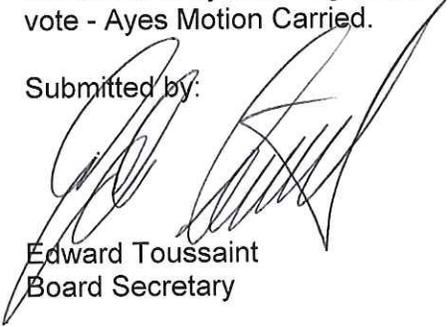
OPEN TO THE PUBLIC: NONE

BOARD COMMENTS AND QUESTIONS: NONE

ADJOURNMENT:

On a motion by Ms. Ferguson seconded by Mr. Hanna the meeting adjourned at 9:21PM. Voice vote - Ayes Motion Carried.

Submitted by:



Edward Toussaint
Board Secretary