

Borough of Kinnelon

Board of Adjustment

April 5, 2016

The regular monthly meeting of the Kinnelon Board of Adjustment was called to order by Chairman John Carpenter at 8:02p.m., Thursday, March 1, 2016 in the Municipal Building.

It was posted that adequate notice of this meeting had been given in accordance with the Sunshine Law by posting a notice on the municipal bulletin board, by publication of a legal notice in the Suburban Trends on January 2016 and by sending the meeting date to the Daily Record and Herald News on January 2016.

Present and answering roll call were Mr. Carpenter, Mrs. Maletsky, Mr. Ruocco and Mrs. Canale. Mr. Diani, Mt. Ott and Mrs. Minett was absent from this meeting.

Application #1419 CC's Canine Care, LLC, 235 Kinnelon Road. The will be heard for waivers only on the application.

The applicant was represented by Larry Calli. Mr. Calli stated that this was a use variance application and there will be no new development or structures that this is a planning case for a K-9 grooming business. Mr. Calli stated there will not be any new lighting, parking or signage proposed. Mr. Calli stated that the Engineer's report may be asking for more then what the Board needs for this application.

Mr. Bacchetta swore in Denis Keenan from French & Parello Associates as an expert witness in the field of Engineering.

Mr. Keenan stated that the waiver items requested come down to the understanding of the application and the use of the property. This is a scaled down version of a commercial development similar to a music teacher or an accountant. There will be a peak of 2 dogs being groomed a day that would be about 10 a week. Mr. Keenan stated that this is key to understanding if the waivers can be granted. Mr. Keenan said that he believed that the waivers can be waived because they have to do with site plan and the elements of the property have nothing to do with being a dog grooming business. Mr. Keenan stated that a plan was provided to the board that lays out that property and is his opinion the board has enough information to make a ruling on this application.

Mr. Calli stated that a 20 page site plan being submitted for this application is just not the case.

Mr. Carpenter asked if that was all they had to say.

Mr. Keenan stated yes.

Mr. Calli stated that the board will hear from our professional planner.

Mr. Boorady stated that the site plan was based on the survey but structures have been moved since then and that there needs to be an updated survey.

Mr. Keenan stated that the structures were removed because of the zoning violations.

Mr. Bacchetta stated that Use Variance and Site Plan Application are hand and hand. If you are going to request items that aren't on the site plane we need to go threw them one by one.

Mr. Carpenter stated that he agreed with Mr. Bacchetta and this way the board will understand what they are voting on.

Mr. Keenan testified to Checklist A. Requirements for all Applications:

A1 – Will provide

A2 – Will submit updated form

A4 – Will complete

A5 – Will complete

A7 – Mr. Calli stated that pictures will go further than plans but we will send plan if the board would like. The Planner will give live testimony at a Public hearing on notice.

A10 – Was provided

A12 – Everything that was encroaching on the adjoining lot has been relocated, there are no easement or deed restrictions.

A13 – Yes

A15- Will submit updated plan with completed zoning table.

A16- Will provide environmental report.

Mr. Keenan testified to Checklist E. Site Plan Checklist:

2(d) Asking for waiver.

2(e) Asking for waiver

2(f) Requesting a partial waiver (not to include within 200 feet)

2(j) Mr. Keenan stated that you wouldn't get out of your car if you were handicap to get you dog and this might be a drop off only at curbside. We are not here for ADA accessibility.

Mrs. Maletsky asked if you can only get to the 2nd floor threw the side of the garage because then you would need an elevator.

Mr. Carpenter stated that we as a board have to consider everything that goes with this application.

Mr. Keenan stated we will provide clarification and additional information.

2(k) Asking for waiver.

2(l) Asking for waiver.

3 Asking for waiver

5 Asking for Partial waiver

5(b) Will provide information

5(c) Will provide information

6 Will provide

7 The Dry well has been removed, the wash area has been connected to the septic system and there is a letter from the Health Department.

9 Asking for waivers

Mr. Keenan stated that no there isn't.

Mrs. Canale asked if there is licensing required from the BOH or the State.

Mr. Keenan stated that whatever is required the applicant will do.

Mr. Keen testified to Checklist F. Variance Checklist:

4 Has been provided

5 a-d Will be testimony from Planner

A motion for a partial waiver for 2(d) not to show the utilities within the 200 feet was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion for a partial waiver for 2(e) to exclude 200 feet around the property was offered by Mrs. Maletsky, second by Mrs. Canale with the affirmative "yes" vote of all on roll call.

A motion for a partial waiver for 2(f) as to the 200 foot requirement was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

2(g) (h) (j)

Mr. Carpenter asked the board if they would like to see on the plans where handicap parking will be.

Mrs. Maletsky that there was enough space in that area to get out into a wheel chair if need be.

Mr. Calli stated that the idea wasn't to turn the place into a parking lot.

Mrs. Maletsky asked if a movable sign could be put up that way if someone would show up who was handicapped. Mrs. Maletsky also stated that she was more concerned about the steps.

Mr. Boorady asked if the plans could be updated showing the stripping for the parking lot and the dimensions of the driveway that way the board could get a better sense of how the cars would fit there.

Mr. Calli stated that he encroaches the board to visit the property.

Mr. Carpenter stated that he was at the property.

2(g) (h) (j) Will be provided.

Mr. Boorady stated that he had no Engineer objections to a waiver for 2(i)

Mr. Calli stated that the applicant doesn't want a business sign on Kinnelon Road and they are not proposing a sign.

Mr. Boorady stated that he recommends a checklist waiver that way during the course of the application if someone from the board feels it necessary to have an identification sign they reserve the right to request that information during the public hearing.

Mr. Cali stated that any of these items that are waived the board can come back to them down the road.

A motion for a checklist waiver for 2(i) was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

2(k) Mr. Boorady stated that he had no Engineer objections and the County has issued a letter of no concerns.

Mr. Carpenter stated that he would like a letter from the Police Department.

Mr. Calli stated that we will provide an overlay of the driveways within 200 feet.

A motion to waive 2(l) was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion for a partial waiver on 3 was requested to show only existing lighting was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion for a partial waiver on 5 (a-d) to show area of only proposed work was offered by was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion to waive item 9 but will request testimony on solid waste was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion to waive F. 5 (a-d) and hear live testimony from the Planner was offered by Mrs. Maletsky, second by Mr. Rocco with the affirmative "yes" vote of all on roll call.

Application #1436 80 Fayson Lakes Road, Bryan Flynn & Chelsea Trump. The applicant is seeking approval to construct an “L” shaped second story addition. The applicant is requesting various variances.

A motion to deem the application complete was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative “yes” vote of all on roll call.

Mr. Boorady read his Engineers report into the record.

Mr. Bacchetta swore in Scott Munro, Bryan Flynn and Chelsea Trump.

Mr. Munro was accepted as an expert witness in the field of architecture.

Ms. Trump testified that she was the owner of 80 Fayson Lakes Road the lovely eye sore in town. Ms. Trump stated that the improvements that are being asked for is so this could be out forever home. Ms. Trump is asking the board to consider this modest 1 bedroom and 1 bathroom addition.

Mr. Munro stated that he would like to address Mr. Booradys letter and would like to start with the Bulk Zoning Chart. Mr. Munro stated that there are 3 variances being asked for. The first is the front yard variance of 32.1 feet, a rear yard variance of 46.5, min floor area because the house is too small. The house is only 1384 square feet where 1850 square feet is required.

Mr. Munro then went over Mr. Booradys Engineer’s report:

#1 Applicant will comply with

#2 Applicant will comply with

#3 Will discuss later

#4 Would like guidance from the Board

Mr. Munro stated that his clients tried to get gas line run but they were denied and because the road has been recently paved and the road can’t be opened for 3 year, not until Oct of 2016. Mr. Munro stated that his clients had to sign a 3 year contract with the propane company and they have every intention of paving the driveway. His clients just don’t want to tear up the driveway just to run the gas line. Mr. Munro stated that he would like to agree to set up a schedule as part of conditions of a resolution.

Mr. Flynn stated that he plans on leveling out the driveway with the gravel.

Mr. Carpenter stated that he has a problem granting applications with open ended time limits.

Ms. Trump stated that she wrote a letter to Mr. Whitehead.

Mrs. Canale asked why you would sign a 3 year contract when you can open the road in October.

Ms. Trump stated that she found this out after she signed the contract.

Mr. Munro stated that his clients are looking to break the contract.

Mr. Munro stated to table item #3 for now.

#5 Applicant will comply

#6 Applicant will comply

#7 Applicant will comply

#8 Applicant will comply

Mr. Munro stated that #3 his clients are trying to figure a solution to approach these because there is a finical difficulty doing them at once.

Mr. Carpenter stated that unfortunately our concern is with compliance and we can't help with financials.

Mr. Munro stated that the retaining wall that needs to be replaced is not on their property it's in the public right of way.

Mr. Boorady stated that the wall is holding up the septic system.

Mr. Munro stated that the closest corner to the wall is 8 feet and that's not holding up the system.

Mr. Boorady stated that wall is holding up the horizontal area that holds up the septic system.

Mr. Carpenter asked what kind of work was done and where.

Ms. Trump stated that she has a letter from the excavating company with the weight of the machine up there replacing the septic system.

Mr. Flynn stated that he wasn't completely opposed to replacing the wall if it happens to fail but was approval ever given to put it in that spot.

Mr. Carpenter said that he drives by their everyday and it doesn't look good to the naked eye and it's not structural sound. The way you are talking right now as if you are planning on not doing anything until it falls on the street.

Ms. Trump said in the letter is says how much weight was pushed on the wall and it wasn't moving or shifting. Ms. Trump stated that she has pictures from 2012 and the wall still looks the same since then. Ms. Trump said if she had a gazillion dollars she wouldn't be here speaking and would be happy to submit this letter of the machines putting stress onto the wall.

Mr. Munro stated that the pictures show that all the vegetation has been removed for sit distance.

Mr. Boorady stated that you might be able to grade some of it and remove some of this wall.

Mr. Munro stated that this would be a much less expensive task for my clients and it's also not even on their property.

Mr. Boorady stated that regardless if it's in the Borough's right of way or not it's the home owner's responsibility to repair it.

Mr. Bacchetta marked the email as Exhibit A1, the picture of the front house A2 and the picture of the wall A3.

Mr. Carpenter stated that we rely on our Engineers and his expertise and very reluctant to allow any variance to be approved without his recommendations attached to it.

Mr. Munro asked if he could quote the Engineer from item #3, A wood pole wall exist within the Borough's right-of-way and appears to be leaning which is a sign of failure.

Mr. Munro asked if Mr. Boorady was a Structural Engineer.

Mr. Boorady stated that retaining walls on Route 23 is his work and yes he is.

Mr. Boorady said that it might be an option not even to have a wall if it's graded properly but it's not the Borough's responsibility to repair the wall.

Mr. Flynn said if it isn't holding up our septic is it still our responsibility to remove it.

Mr. Bacchetta said the Borough could probably make you remove it.

Mr. Munro asked for a short break to speak to his clients.

Mr. Munro stated that in speaking with his clients they will agree to comply with both comments #3 and #4.

Mr. Bacchetta asked if you are agreeing with #3 & #4 and the paving of the driveway before a CO is issued.

Ms. Trump said if that's what we have to do so we can move in then we will.

Ms. Trump asked if we have never applied for a variance would any of this ever come up.

Mrs. Maletsky stated no.

Mr. Carpenter opened the meeting to the public and hearing no one from the public opened the meeting back to the board.

A motion to approve the application with Mr. Boorady's 8 comments and no CO until the Borough Engineer is satisfied was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative "yes" vote of all on roll call.

A motion to approve the Bills was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative “yes” vote of all on roll call.

A motion to approve Resolution No.1433 Urban and adjourn at 11:06 pm was offered by Mrs. Maletsky, second by Mr. Ruocco with the affirmative “yes vote of all on roll call.

Submitted by:

Jennifer Highers
Board of Adjustment

Cc: All Board Members
Board Attorney