

ZONING HEARING BOARD: June 13, 2017
Daniel Lapp
Special Exception and Variance Request

The Providence Township Zoning Hearing Board was held on Tuesday evening, June 13, at 7:00 p.m., in the township municipal office. Members present were James Hess, chairman, Bradford Duvall and Albert Warfel. Tom Goodman, Zoning Hearing Board Counsel, Connie Peiffer, Secretary/Zoning Officer, Melissa Anderson, court reporter, and nineteen (19) observers were also present.

Mr. Hess brought the first hearing to order at 7:00 pm. The first hearing is a request for a special exception to allow a kennel at 656 Hollow Road and a variance request to allow the kennel to be closer than 150 feet to one property line. Zoning Officer, Constance Peiffer, was sworn in by the court reporter. Upon questioning by Mr. Goodman, Mrs. Peiffer confirmed the hearing had been legally advertised in the Lancaster Newspapers on May 28, 2017 and June 5, 2017, with proof of publication being displayed and marked as ZHB Ex. #1. A list of adjoining property owners who were sent notice of the hearing was confirmed by Mrs. Peiffer and marked as ZHB Ex. #2. Zoning Officer, Mrs. Peiffer read an email from Township Manager, Vicki Eldridge on behalf of the Providence Township Board of Supervisors stating the supervisors are opposed to the granting of a variance to allow the kennel closer than 150 feet to one property line at 656 Hollow Road. The email was marked as Township Ex. #1.

Daniel Lapp was affirmed by the court reporter. Mr. Goodman questioned Mr. Lapp about the property. Mr. Lapp stated the property is 10 acres and is zoned agricultural. The property contains a dwelling, barn and garden shed. The barn is 36'x60' and used for horses, cows and the kennel is upstairs. The Goff Run Stream runs behind the property. Mr. Goodman presented the Zoning Hearing Board application. The application was marked as App. Ex. #1. The sketch plan that accompanied the application was presented by Mr. Goodman and corrected by Mr. Lapp in regards to the side property line setback change from 120 feet to 115 feet. The sketch plan was marked as App. Ex. #2. Mr. Goodman presented the GIS parcel viewer for 656 Hollow Road to question Mr. Lapp about the 25 feet strip of land that connects to Barr Road. Mr. Lapp stated that strip of land is wooded. The parcel viewer was marked as ZHB Ex. #3. The application for a noncommercial kennel license was presented and marked as App. Ex. #3. Mr. Goodman questioned Mr. Lapp whether the kennel has a license. Mr. Lapp stated a kennel license was received in the middle of May. The inspection checklist dated May 12, 2017, was presented and marked as App. Ex. #4. Section 443, Kennels, of the Zoning Ordinance with Mr. Lapp's notations was presented and marked as App. Ex. #5. Mr. Goodman questioned Mr. Lapp on how many dogs he currently has on the property and the type of dogs. Mr. Lapp stated he has eight (8) adult dogs and the dogs are cocker spaniels, welsh corgies and a poodle. The dogs have been on the property since 2014. After further questioning by Mr. Goodman, Mr. Lapp stated the marketing of the puppies is online through website ad Greenfield Puppies and Keystone Puppies. There is no sign at the property stating the kennel name, Misty Hollow Kennel. Mr. Goodman questioned Mr. Lapp on the care of the dogs. Mr. Lapp said that each dog has a pen. There are six (6) pens with outside runs and two (2) inside pens. According to Mr. Lapp the dogs are fed once a day and watered by a pan. The diesel room provides heat, but there is no air conditioning. Mr. Goodman asked Mr. Lapp how close the nearest dwelling was from the kennel. Mr. Lapp said the nearest dwelling would be Samuel Lapp, 700'-800', then corrected himself and said Susan Mace's dwelling was closer at 500'. Mr. Goodman questioned Mr. Lapp on the number of dogs he plans on having at the property at one time and per year. Mr. Lapp replied that he would have a maximum of 100 dogs a year and a maximum of 50 dogs at one time. The amounts included adult dogs and puppies.

Mr. Goodman opened the hearing to public questions and comments from close proximity residents only. Melanie Munro, 619 Hollow Road, questioned Mr. Lapp about the type of license he received and the plan on waste disposal. Mr. Lapp stated the waste will be mixed with other manure and spread on the grounds. Brian Longenecker, 163 Sawmill Road, wanted to ask a question of Mr. Lapp, but based on the distance from his property of five (5) miles he was not considered a party by Zoning Hearing Board counsel, Mr. Goodman. Barry Longenecker, 315 Fairview Road, did not agree with the decision made by Mr. Goodman in regards to who could question and comment at the hearing based on

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the public notice advertised. Mr. Goodman explained that residents not adversely affected by the hearing could not be a party to the hearing. After a brief discussion, regarding previous hearings and party status, Mr. Duvall explained party status and other residents could comment at the end. Dick Turner, 49 Pennsy Road, questioned if the hearing was for a variance request or special exception. Mr. Goodman confirmed the hearing is for both a special exception and a variance request. Mrs. Munro questioned Mr. Lapp on parking for his clients. Mr. Lapp stated the clients' park in front of the barn and normally they have three (3) or four (4) clients a week. Tony Nardella, 132 Hollow Road, questioned the validity of the license application because of not first obtaining approval from the Township. Barry Longenecker, 315 Fairview Road, questioned Mr. Lapp on the class of license he has obtained, whether it is a K1 or K2. Mr. Lapp stated he presently has a K1 license and the dog officer, Travis Hess will let him know if he needs to apply for a K2 based on the number of dogs per year. Mr. Longenecker continued to question Mr. Lapp in why now he wants to be legal and how many dogs he plans on having at one time on the property. Mr. Lapp stated he spoke to John Esch about being legal and that he plans on having fifty (50) dogs at any one time. Mr. Turner questioned what the structure to the south of the kennel is and how close it is. Mr. Lapp stated the structure to the south is the Sportsmen Club and it is 1000 feet from the kennel.

After public questioning, public statements were then heard. Brian Longenecker, 152 Sawmill Road, stated he believes that a variance request should not be granted along with a special exception especially since Mr. Lapp did not present a hardship required for a variance request. Mrs. Munro requested and was granted party status and then affirmed by the court reporter prior to her statement. Mrs. Munro stated she was not in favor of the kennel because of the noise and was upset that Mr. Lapp did not first obtain approval and proper licenses prior to operating the kennel. David Beiler, 278 Pennsy Road, five (5) miles away from Mr. Lapp's property stated the dogs are okay. Mr. Nardella stated he was against the variance request. Barry Longenecker's statement was that the Zoning Hearing Board in granting the special exception and variance request would be setting a precedent for kennels and request that the Zoning Hearing Board reject the application. Ann Johnson, Humane Society Police Officer, made a statement in regards to Mr. Lapp's plan for waste disposal with mixing it with the manure. Jesse Esh, 121 Pennsy Road, made a statement explaining how Mr. Lapp could have ended up with eight (8) adult dogs. Mr. Duvall explained that each application presented to the Zoning Hearing Board is separate.

Mr. Hess made a motion to close testimony. The motion was seconded by Mr. Duvall and carried unanimously. Mr. Duvall made a motion to continue the hearing until July 11, 2017 to render a decision with no more testimony being heard. Mr. Warfel seconded the motion and the motion was carried unanimously. The hearing was adjourned at 8:29.

PROVIDENCE TOWNSHIP ZONING HEARING BOARD

Constance Peiffer, Secretary

James Hess, Chairman

Bradford Duvall, Vice Chairman

Albert Warfel, Alternate Member

ZONING HEARING BOARD: June 13, 2017
Howard J Mundorff II
Variance Requests

At 8:32 p.m. Mr. Hess introduced the second hearing, a variance request to allow the installation of a second driveway at 264 Sawmill Road. A second variance request to allow a proposed addition to the existing nonconforming dwelling at 264 Sawmill Road, which would exceed the 50% maximum area limitation. The property is zoned agricultural and is owned by Howard J. Mundorff II.

Mrs. Peiffer confirmed the hearing had been legally advertised in the Lancaster Newspapers on May 28, 2017 and June 5, 2017. Proof of publication was presented. Mrs. Peiffer stated the property had been properly posted and surrounding property owners were notified. An Entry of Appearance form was presented for Howard J. Mundorff II.

Mr. Mundorff II was sworn in by the court reporter. Mrs. Peiffer read Article Five (5) of the Zoning Ordinance, Nonconformities. The existing dwelling is too close to Sawmill Road. Upon questioning from the Zoning Hearing Board, Mr. Mundorff II stated his parents still reside there. Mr. Mundorff II explained he plans to build an additional 880 square feet. The addition includes a 20'x24' ground level garage and a 20'x20' master bedroom with a crawl space. Mrs. Peiffer stated the second request is to allow the installation of a second driveway. Mrs. Peiffer read from Section 303.1 from the Zoning Ordinance, Driveway Requirements (Single Family Dwellings and Farms) Number Per Lot. Upon further questioning, Mr. Mundorff II stated the project has not been started and the current driveway stays because it leads to the existing garage. The sight distance for the second driveway was also a question presented by the Zoning Hearing Board. Mr. Mundorff II stated that sight distance is not an issue.

There were no public questions or comments.

Mr. Duvall made a motion to grant the variance request for the installation of the second driveway and the variance request to allow a proposed addition to the existing nonconforming dwelling at 264 Sawmill Road, which would exceed the 50% maximum area limitation, with the following conditions:

- a. The applicant shall at all times comply with and adhere to the evidence presented to the Board including, but not limited to, the plans, materials and testimony submitted at the hearing.
- b. The applicant must obtain all other permits, licenses, and approvals pursuant to any and all applicable federal, state and local laws, rules and regulations.
- c. Any violation of the conditions contained in this decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies contained in the Zoning Ordinance and the Municipalities Planning Code.
- d. This Decision shall bind the applicant, his heirs, successors, grantees and assigns.

Mr. Warfel seconded the motion and it was carried unanimously. The hearing was adjourned at 8:44 p.m.

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