

ZONING HEARING BOARD: March 8, 2022

**Samuel King
Special Exception**

The Providence Township Zoning Hearing Board was held on Tuesday, March 8, at 7:00 p.m. Members present were Omar Smoker, Chairman, Albert Warfel and Bradford Duvall. Thomas Goodman, Zoning Hearing Board Counsel, Heidi Martinez, Secretary/Zoning Officer, Melissa Anderson, court reporter and twenty-two (22) observers were present. Mr. Smoker brought the hearing to order at 7:00 p.m. Mr. Smoker announced that there were three hearings. The first hearing is a request by Samuel King for a special exception to allow a kennel at 114 Miller Road. The property is owned by Samuel S and Rachel Ann King and is zoned Agricultural. Mr. Smoker turned the hearing over to Mr. Goodman. Heidi Martinez was sworn in by the court reporter. Upon questioning from Mr. Goodman, Mrs. Martinez confirmed the hearing was advertised in the Lancaster Newspapers on February 21, 2022, and February 28, 2022. The proof of publication was marked as ZHB Ex. #1. The list of adjoining property owners was marked as ZHB Ex. #2. Mrs. Martinez confirmed the property was properly posted and a copy of the posting was marked as ZHB Ex. #3.

Samuel King was affirmed by the court reporter. Upon questioning from Mr. Goodman, Mr. King explained the property, the kennel and the distances from the kennel to neighboring properties. Mr. King stated he has 8 adult dogs, his plans for the animal waste and for deceased animals. The Zoning Hearing Board Application was presented and marked as App. Ex. #1. The sketch plan dated February 14, 2022 was marked as App. Ex. #2. Mr. Smoker asked about the compost pile and regulations of the dog law. Mr. Duvall asked average litter size. Mr. Warfel asked if the outside runs are fenced in. Mr. Goodman asked about a visual barrier. There were two public questions. Barbara Maher, 67 Herr Road, asked how many dogs are on the property now. Christopher Maher, 67 Herr Road, asked about sound protection for the kennel. There were no public statements.

Mr. Duvall made a motion to close testimony. Mr. Smoker seconded the motion and the motion carried unanimously. Mr. Duvall made a motion to grant the request for a special exception pursuant to Section 200.4.14 and Section 443 of the Ordinance subject to the following conditions:

- a. The Applicant shall comply with his plans and promises as presented to the Zoning Hearing Board.
- b. There shall be no more than eight adult dogs in the kennel.
- c. The Applicant shall obtain any necessary dog license from the Pennsylvania Department of Agriculture.
- d. The Applicant shall plant a row of shrubbery on the south side of the fence up to the pole barn.
- e. A violation of any of the conditions of this Decision shall constitute a violation of the Ordinance.
- f. This Decision shall bind the Applicant, his heirs, successors, grantees and assigns.

Mr. Warfel seconded the motion and the motion carried unanimously. The hearing adjourned at 7:39 p.m.

PROVIDENCE TOWNSHIP ZONING HEARING BOARD

Omar Smoker, Chairman

Heidi Martinez, Secretary

Albert Warfel, Vice Chairman

Bradford Duvall, Member

ZONING HEARING BOARD: March 8, 2022

**Andrew Beiler Jr.
Special Exception**

At 7:40 p.m. Mr. Smoker introduced the second hearing, a request by Andrew Beiler Jr. for a special exception to allow a kennel at 539 Clearfield Road. The property is owned by Andrew L and Ada S Beiler and is zoned Agricultural. Mr. Smoker turned the hearing over to Mr. Goodman.

Upon questioning from Mr. Goodman, Mrs. Martinez confirmed the hearing was advertised in the Lancaster Newspapers on February 21, 2022, and February 28, 2022. The proof of publication was marked as ZHB Ex. #1. The list of adjoining property owners was marked as ZHB Ex. #2. Mrs. Martinez confirmed the property was properly posted and a copy of the posting was marked as ZHB Ex. #3.

Andrew Beiler Jr. and Andrew Beiler Sr. were affirmed by the court reporter. John Coldiron was sworn in by the court reporter. Upon questioning from Mr. Goodman, Mr. Beiler explained the details of the property including the current buildings. Mr. Coldiron presented the LancCo View depicting the proposed location of the kennel and it was marked as App. Ex. #1. The Zoning Hearing Board application was marked as App. Ex. #2. Mr. Coldiron presented a detailed plan of the kennel with elevations; it was marked as App. Ex. #3. Mr. Beiler stated he plans to have 74 adult dogs with approximately 50 breeders. Mr. Beiler explained his closest neighbor, plans for the kennel and how he will market the puppies. Mr. Smoker asked about the comfort of the dogs, the outside runs, the PAWS organization, and compost. Mr. Duvall asked about the type of kennel license, current number of adult dogs on the property and if there is another business on the property.

There were a few public questions. Angela Murray, 484 Clearfield Road, asked about the deceased dogs, sound proofing and electric. Sherri Spearing, 488 Clearfield Road, asked about the gestational period of the dogs and scaling back the business. Lori Fiorentino, 500 Clearfield Road, asked about the outside runs and the age of the breeding dogs. Carol Fryberger, 575 Sawmill Road, asked about requirements for heating and air conditioning, requirements for vaccination, disposal of pine shavings and puppies that are over 6 months of age that have not sold. Richard Spearing, 488 Clearfield Road, asked about the welfare of the dogs and noise. David Beiler, 278 Pennys Road, stated the bigger the operation gets the more regulations there are.

Mr. Smoker made a motion to close testimony. Mr. Duvall seconded the motion and the motion carried unanimously. Mr. Duvall made a motion to continue the hearing to render a decision at the April 12, 2022, Zoning Hearing Board hearing. No further testimony will be heard. Mr. Smoker seconded that motion and the motion carried unanimously. The hearing adjourned at 8:42 p.m.

PROVIDENCE TOWNSHIP ZONING HEARING BOARD

Omar Smoker, Chairman

Heidi Martinez, Secretary

Albert Warfel, Vice Chairman

Bradford Duvall, Member

ZONING HEARING BOARD: March 8, 2022

Jonas A and Linda S Esh

Special Exception

At 8:48 p.m. Mr. Goodman introduced the third hearing, a request by Jonas A and Linda S Esh for a special exception for the adaptive reuse of an existing agricultural building to be used as part of the applicants' silo construction business at 557 Sawmill Road. The property is owned by Jonas A and Linda S Esh and is zoned Agricultural.

Upon questioning from Mr. Goodman, Mrs. Martinez confirmed the hearing was advertised in the Lancaster Newspapers on February 21, 2022, and February 28, 2022. The proof of publication was marked as ZHB Ex. #1. The list of adjoining property owners was marked as ZHB Ex. #2. Mrs. Martinez confirmed the property was properly posted and a copy of the posting was marked as ZHB Ex. #3.

Jason Hess, Morgan, Hallgren, Crosswell & Kane, P.C., was present to represent Jonas Esh. Jonas Esh was affirmed by the court reporter. Upon questioning from Mr. Hess, Mr. Esh explained the property, when he moved in and the previous veal business. Mr. Hess presented a LancCo View aerial photograph of the property and it was marked as App. Ex. #1. A topographical map was presented, and it was marked as App. Ex. #2. Mr. Hess presented a series of photographs labeled A-G and they were marked as App. Ex. #3. Mr. Esh explained the veal barn and the silo business. A site plan was presented and marked as App. Ex. #4. Mr. Hess presented photographs of the shared driveway and they were marked as App. Ex. #5. Mr. Smoker asked about the tire chain business, the proposed silo business and the width of the driveway. Mr. Duvall asked about transporting materials and the outdoor storage. Mr. Warfel asked about the current location of the business.

There were public questions and public statements. Carol Fryberger, 575 Sawmill Road, was sworn in by the court reporter. Mrs. Fryberger asked about the shared driveway, previous violations and civil action, traffic, noise, and if Mr. Esh owns a tractor trailer. Mrs. Fryberger stated there are health and safety issues and consequences of the use of a business on this property. Alvin Lapp, 305 Pennsy Road, was affirmed by the court reporter. Mr. Lapp stated his support of the request.

Mr. Goodman requested the applicant's attorney submit a memo to the Zoning Hearing Board for compliance with the ordinance.

Mr. Duvall made a motion to close testimony. Mr. Warfel seconded the motion and the motion carried unanimously. Mr. Smoker made a motion to continue the hearing to render a decision at the April 12, 2022, Zoning Hearing Board hearing. No further testimony will be heard. Mr. Warfel seconded the motion and the motion carried unanimously. The hearing adjourned at 10: 12 p.m.

PROVIDENCE TOWNSHIP ZONING HEARING BOARD

Omar Smoker, Chairman

Heidi Martinez, Secretary

Albert Warfel, Vice Chairman

Bradford Duvall, Member