

**FRANKLIN TOWNSHIP YORK COUNTY PA
BOARD OF SUPERVISORS
CONDITIONAL USE HEARING #2020-1 MINUTES
February 12, 2020 6:00 PM**

ROLL CALL

PRESENT:

Vice Chairman Kevin Cummings
Supervisor Naomi Decker
Supervisor Mark Wenrich

ABSENT:

Solicitor Bret Shaffer
Treasurer/Asst. Sec. Pamela Williams
Eric Stonesifer, Chairman

CALL TO ORDER:

The February 5, 2020 Conditional Use Hearing (CUH) #2020-1 was called to order at 6:00 p.m. by Vice Chairman Kevin Cummings. The meeting was held at 150 Century Lane, Dillsburg, PA. For visitors in attendance, please see attached sign-in sheet.

PLEDGE OF ALLEGIANCE AND PRAYER

The Pledge of allegiance was led by Vice Chairman Cummings and the prayer was led by Supervisor Mark Wenrich.

CONTINUATION OF CONDITIONAL USE HEARING (CUH) #2020-1 from February 5, 2020 at 6:00 PM, James Morrison, 610 Franklin Church Rd. for a kennel

Bret asked Treasurer/Asst. Secretary Pam Williams to swear in and she then presented Exhibits #1 and #2, which were the advertisements in The Dillsburg Banner on 1/23/20 and 1/30/20, and the advertisements in The Sentinel, 1/22/20 and 1/29/20.

Wilbur Slothour from Land and Sea Services, Inc. was sworn in and stated the property was posted. Wilbur then presented Exhibit #3 which were pictures of the posted Notice of Conditional Use Hearing posted at the property on 1/22/20. Bret then explained the rules of the hearing.

The hearing began with an objection by Attorney Baranski. He referred to Jacquelin v. Zoning Hearing Board of Hatboro Borough which is a January 1993 decision. He asked that the board consider the legal action taken in that case.

Attorney Snyder stated this was not the same as the CUH held in October of 2019 as there were changes and upgrades made to the kennels since the last CUH. He said the applicant was again invited to reapply for a CUH with changes/upgrades to the kennel and present his case; Bret confirmed this however he said it is up to the Board of Supervisors (BOS). Jim Morrison is the owner of the property and it is zoned as Agricultural. Bret suggested the hearing proceed.

A motion was made by Vice Chairman Cummings to proceed with hearing CUH #2020-1.

Second by Supervisor Wenrich

Discussion: There was no discussion.

The motion carried.

Attorney Snyder stated there were five witnesses who then were sworn in; they are listed below:
Thomas Engler-Site Design Concepts
Robert Pfromm-Element Environmental Solutions
James B. Morrison III-property owner and applicant

James Morrison III-Kennel Operator
Michael Marante-Kennel Master/General Manager/European Working Dogs

Per Attorney Snyder, the number of dogs on the property are 20 as per the previous CUH meeting/decision and to address concerns of the neighborhood concerning noise. He stated the kennel is allowed in the ordinance as per the Conditional Uses and that the noise is not more than other kennels permitted in that zone.

A minimum of five acres is required; Mr. Morrison, the owner and applicant of the property testified the property is 47 acres divided into two tracts of ten and 37 acres each. Mr. Engler from Site Design Concepts testified regarding a drawing of the site plan. His services were requested following the previous CUH. The setback requirement is 100' from any other properties. To the north, it is approximately 140' from any other property; to the south, over 300'; to the front, 400,' and to the rear, 1000'. The outdoor training area is not within the 100' setback. There are no setback violations with the buildings previously located on the property with the two properties being combined. If one parcel were sold, the use could no longer exist. If that were not acceptable, they would apply for a variance for a Conditional Use through the Zoning Hearing Board (ZHB) and if that was not successful, then they would possibly pursue a Reverse Subdivision. Discussion and testimony were then held on the buildings in the rear yard and if they were adequately screened and covered. Also, the outdoor running areas are secured with various types of fencing.

In cross presentation and examination of Mr. Engler, Attorney Baranski stated at the time of the application, the property is two separate lots which are two separate tax parcels. Structures within the 100' requirement were questioned and the explanation of the rear yard.

The General Manager of the kennels, Michael Marante, stated the employees of the kennel and gave an overview of the daily operations of the kennel. He stated that there are ten dogs at the kennels per day on average. They are what are termed "green dogs" and are screened by the Department of Defense (DOD) and the U.S. Department of Agriculture (USDA) and come from Europe. The dogs consist of German Shepherds, Labrador Retrievers, Golden Retrievers and German Shepherds. The dogs must be social. They move the dogs in and out of the kennel as soon as possible to their buyers as it does not make sense to keep and feed the dogs. The average time any dog is there is two to four weeks. Training is done in the building and occasionally one at a time outside on a six foot or 30' leash. The kennel was previously located in Warfordsburg, PA.

Regarding waste, the kennel has an agreement with York County Solid Waste Authority (YCSWA) for the solid waste to be incinerated. The solid waste is about ¼ of a trash bag per week. For liquid waste, they have four people to walk ten dogs to urinate in the rear of the buildings. If the dogs go in the kennels, they use Simple Green and power wash the kennels. Previously, there were 15 horses kept there and there was no action on liquid waste. If there were any issues with the management of the kennel waste with Franklin Township, the kennel would cooperate to mitigate those issues.

There was testimony and information given regarding the comparisons to a standard boarding kennel. The dogs are never off a leash when they are outside, and the kennel has been insulated to mitigate noise. Testimony was given on how audible the noises are at certain distances. Mr. Marante reviewed his knowledge of legal requirements and licenses with the state. They have worked with Mr. Pfromm who is a Certified Industrial Hygienist with Element

Environmental Solutions who evaluates sound levels. It was stated at 50-75', you do not hear the dogs. The kennel has been insulated with ¾" insulation and inspected.

The kennel started operations on 8/20/19. The kennel is licensed via the PA Dog Law (state). They have passed all their inspections except in December 2019. Mr. Marante said their veterinarian was PVC from Fredrick, MD. Discussion was held on the availability of adequate water for the kennel certified by the state, the conformity of the pens with state law, the fire suppression approved by the state and Mr. Marante stated the most recent site visit by the state was January 22, 2020. Mr. Marante said if it gets to 46 degrees, they must provide heat via kerosene heaters. If the temperature reaches 87 degrees, fans and ventilation are utilized. The inspections were on drinking water, safety of the dogs, appearance and quality of kennels and temperature regulations. There has been no problem with inspections (except as mentioned above). Records and all licenses are kept on site. Mr. Marante said the kennel has never not been licensed. Mr. Marante said he's been in the business 14 years.

Attorney Baranski cross-examined and clarified that Mr. Marante did not own the property but is the General Manager. Atty. Baranski confirmed the date that the operation started and that the use has never been approved by Franklin Township. Atty. Baranski reviewed some of the information already provided, confirmed what some of the buildings are and if there was horse boarding going on at the property now. Mr. Marante said the horse boarding was not part of the kennel operations.

Mr. Marante observes the dogs in Europe and tests them for aggressiveness prior to coming to the kennel. As mentioned above, approximately 10% of the dogs are turned down. Discussion was held on the license being for the kennel when it was in Warfordsburg, PA, not in Franklin Township. Mr. Marante said when he checked into it in January 2020, the state said it was in the process of reissuing it with the correct location. PA Dog Law signed off on the Franklin Church Rd. when the operation began. Attorney Baranski reviewed inspection results with Mr. Marante.

Attorney Baranski also reviewed the use of whips and firearms with Mr. Marante as well as types of training. Insulation of the barn was done and was inspected by PA Dog Law and it was signed off on per Mr. Marante. Atty. Baranski questioned Mr. Marante about turnaround on the dogs as well as if any of the dogs have ever escaped. Attorney Snyder then reviewed a few of the issues Atty. Baranski discussed.

Robert Pfromm, Certified Industrial Hygienist with Element Environmental Solutions evaluates sound levels and was retained on or around January 30, 2020. He stated he completed noise evaluations for three hours at a time between 9:30 AM-12:30 PM with approximately ten dogs. There were four locations the test was completed in which is normally mostly ambient background noise. Mr. Pfromm explained where the test sites were located, and distances involved. The result was that traffic was the highest noise and was between 27.1 and 50.9 decibels at Point A (no dogs barking). Site B was a low of 27.7 and a high of 80.2 and a truck was going by at that point. At site C, the low was 29 and the high was 54. Site D was a low of 30.2 and a high of 47.5. All the highs were related to a large box truck passing by. When the dogs were barking, the highest was 51.9 decibels at site A; at site B, the high was 49.2; site C was 48.9 and site D was 38.5 decibels. In comparison, the highest of 51.9 decibels would be the same as a conversation held at home, sounds from a suburb or a transformer at a 100' away. Overall, the highest sound heard and tested was traffic. It is important to remember how close you are to the source. Mr. Pfromm explained noise levels in more detail. Attorney Baranski cross examined Mr. Pfromm on his tests and methods as to how they were conducted.

Attorney Snyder called Mr. James B. Morrison (owner of the property) to testify. Mr. Morrison stated the kennel is no more intensive than an agricultural use and does not detract from the use and enjoyment of surrounding properties. It was confirmed there are other dogs and animals in the neighborhood and that shooting can be heard from other surrounding properties. Mr. Morrison said it was rural in nature and was consistent with the zoning. He said there would be no additional large buildings constructed. Mr. Morrison said it was accessible by police and fire services.

Attorney Baranski called his first objector witness, Tim Stuffle, 625 Franklin Church Road, who gave an objection presentation via testimony and videos. Attorney Snyder then cross-examined Mr. Stuffle. Atty. Snyder replayed some of the videos and questioned him about the noise and the volume of the projector. He demonstrated that by turning the volume up and down and still being able to hear the birds. Attorney Snyder talked about the evergreens, the doors being open, etc. and asked how it is different from a normal kennel. He asked Mr. Stuffle if he ever complained to the owner.

Bret reviewed that the township had four exhibits, the Petitioner had exhibits one through four and the Objector side had one through seven. It was decided that both sides will present their closing arguments at the very end of the hearing. This meeting was given a three-hour time limit as the Board of Supervisors had their monthly meeting scheduled for this evening after the CUH. The hearing is continued until February 19, 2020 at 6:00 PM

A motion was made by Vice Chairman Cummings to adjourn the meeting at 8:50 PM

Second Supervisor Wenrich

Discussion: No discussion was held.

The motion carried.

Respectfully submitted,

Pamela Williams

Pamela Williams, Asst. Secretary