

MACON COUNTY ZONING BOARD OF APPEALS

HEARING MINUTES – November 1, 2017

MEMBERS PRESENT

Barb Lamont, Chairman
Bill Koretke, Vice Chair
Blake Noland
Dennis Hughes, Alternate Member

COUNTY PERSONNEL PRESENT

Jennifer Gunter, Planning & Zoning Director
Tracy Sumpter, Planning & Zoning
Michael Baggett, Assistant States Attorney

MEMBERS ABSENT

Andy Freeland
Ed Leonard, Alternate Member

Chair Lamont called the meeting to order at 8:30.

MINUTES

Bill Koretke made the motion to approve the October 4, 2017 minutes, seconded by Blake Noland. All members present answering, Aye. Motion Carried (4-0).

OLD BUSINESS:

- 4.1 V-01-10-17 a petition filed by Jeffrey Stein requesting the required front setback be changed from 35 feet to 25 ½ feet and the required side setback be changed from 10 feet to 4 ½ feet in (R-1) Single Family Residential Zoning. This property is located on Rocket Drive, Mt Zion, IL 62549
PIN 12-17-03-232-008

Mrs. Gunter stated this was approved by ZBA October 4, 2017.

- 4.2 S-02-10-17 a petition filed by Michael & Susan Reynolds requesting a Special Use permit to operate private dog training, consultation, voluntary non-profit dog training and recreational dog training facility in (R-1) Single Family Residential Zoning. The property is located at 1395 Noble Drive, Mt Zion, IL 62549
PIN 12-17-02-154-001

Mrs. Gunter stated the Petitioner withdrew the case.

Chair Lamont asked for any persons wishing to speak today to please stand so she could swear them in.

NEW BUSINESS:

- 5.1 S-01-11-17 a petition filed by Hollie Burns for the renewal of a Special Use Permit to operate an animal grooming and pet photography business in (R-1) Single Family Residential Zoning. This property is commonly known as 2727 W. Rock Springs Road, Decatur, IL 62521
PIN 17-12-29-100-006

Roger Majors
2727 Rock Springs Rd
Decatur, IL

Mr. Majors stated he would be representing Hollie today.

Mr. Majors stated they are just asking to renew the permit they have in place now. He stated it has been 3 years now and they would like to go for the 10 year permit.

Mr. Noland asked if there has been any complaints.

Mr. Majors stated not that he knows of.

Mrs. Gunter stated there have been no complaints turned in to her office.

Mr. Koretke asked Mr. Majors if they are living at the property.

Mr. Majors stated yes they are.

Mr. Koretke stated that on the original application it was said they would be building a new residence in 3 to 5 years.

Mr. Majors stated yes.

Mr. Koretke asked if they had plans.

Mr. Majors stated no, the board shut them down for 3 months and that took most of their savings to survive that and then they were made to build the little house they are currently living in now and they are just going to go with that. Tiny house living.

Chair Lamont asked if the horses are at the property.

Mr. Majors stated they have one horse there, the rest are at stables.

Mr. Hughes stated to Mr. Majors that on his application they have a purpose dog grooming/boarding/kennel. He asked if they board dogs there.

Mr. Majors stated in the permit they currently have, the board gave them a kennel license and

they keep dogs for customers when they go on vacation. He said a couple of dogs here and there. That is all they are doing. They do not have a kennel and they do not have a bunch of dogs on the property at any time.

Mr. Koretke asked if they have an Illinois Ag Department license...

Mr. Majors stated no, nobody has ever said anything about that to them.

Mrs. Gunter stated it is something new that has come up because another person applied for something kind of like this and she didn't know anything about it from the Animal Health and Welfare Act and so Animal Control got involved and she found out these are supposed to be licensed. She stated this is something that has just come up in the last 2 months. She stated nothing against them, she didn't know about this before.

Mr. Koretke stated yes, but it does state in the Special Use permit that you will comply with all State, local...

Mr. Majors stated yes, if he had known about it, he would have done it.

Chair Lamont asked if this is something new.

Mrs. Gunter stated no, the Animal Health and Welfare Act has been around for a while but we just never really knew about this.

Mr. Majors asked is this for the kennel.

Mr. Baggett stated yes, it is a kennel operator license with the Department of Agriculture. It is a state license. It is required in order to operate any type of kennel anywhere by anyone. He stated he is not Mr. Major's lawyer and he is not going to give him legal advice but it may be something he wants to look into because as Mr. Koretke said, the special use permit that exists, which may exist beyond today, does require compliance with any state laws or regulations. It could be a violation of both state law as well as the special use permit if you are operating any kind of kennel without a license from the state.

Mr. Majors stated it is not a kennel per say.

Mr. Baggett stated he understands, he thinks it's just the boarding of dogs, it is defined pretty broadly by the state. It is not that you are running a kennel, that you are holding yourself out as this is what we do and this is what we will make ourselves available for any customer who is willing to pay. It is if you are keeping dogs for other people, it falls within the definition of a kennel operator. It is something they should look into. Mr. Baggett stated he does not have all the information in front of him and so he will not try to tell him everything that is required.

Mr. Majors stated he would get it done if it is required.

Mrs. Gunter stated yes it is a state requirement.

Mr. Baggett stated the law has been on the books for a while, we were not aware of it. It came up in the context of a different special use permit that was applied for recently for a situation where the applicant was holding himself as a kennel operator. He was investigated by the Department of Agriculture and that is when we became aware of it. The fact that it may not have been done to date, he does not think anyone is holding that against him or Hollie Burns. It is just something they may want to look into.

Chair Lamont asked so we don't know how many around the area that do not have everything.

Mrs. Gunter stated correct, she does not know.

Mr. Baggett stated it is not up to this board to enforce.

Chair Lamont stated it is good that we all learned something in this.

Mr. Baggett stated it is definitely an area to be aware of and concerned with if this is the kind of business you are operating.

Mr. Majors stated ok, he will look into it.

Mrs. Gunter was called on to present her finding of facts.

Petition: For a Special Use permit to operate an animal grooming and pet photography business in (R-1) Single Family Residential Zoning.

Parcel Number: 17-12-29-100-006

Location: This property is commonly known as 2727 W. Rock Springs Road, Decatur, IL 62521 in South Wheatland Township.

Acreage: 4.0 acres

Zoning: R-1 Single Family Residential

- The landowner needs to renew the special use permit to conduct a dog grooming business/ pet photography on the property.
- The Macon County Zoning Ordinance (Section 155.008) defines a special use as a use, either private or public, which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts. Therefore, the Special Use Permit is needed to conduct a dog grooming/ pet photography business on the property.

- The Special Use Permit was first issued in 2014 and renewed in 2015 and now up for renewal in 2017.

EFFECTS ON GENERAL WELFARE: The noise factor of barking dogs could be considered a nuisance under the Animal Control Ordinance, which is handled at Macon County Animal Control.

EFFECTS ON NEARBY PROPERTY: The Special Use could be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair property values with the neighborhood.

EFFECT ON DEVELOPMENT OF SURROUNDING PROPERTY:
The establishment of the Special Use Permit could impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

ADEQUACY OF UTILITIES & FACILITIES: No known problems with required utilities and facilities.

INGRESS & EGRESS: No known problems with ingress and egress.

CONFORMITY TO REGULATIONS: With the passage of the Special Use Permit by the Macon County Board the property will conform.

STAFF RECOMMENDATION: You may vote to approve or deny this petition, or amend as appropriate. Staff has inspected the property and staff recommends **Approval** of the special use permit to operate an animal grooming and pet photography business in (R-1) Single Family Residential with the following stipulations:

1. This special use permit constitutes a license issued to the named Petitioners only. This special use permit is not property nor does it convey any property right. This special use permit is, therefore, not assignable or transferable.
2. This special use permit is subject to regulation and/or revocation by Macon County for violation of the stipulations set forth herein.
3. The number of animals kept at the kennel at any one time shall not exceed 10 animals, inclusive of Petitioner's personal pets.

4. Employees shall be limited to owner, immediate family members of the owner, or person(s) living on the premises.
5. The wholesale, retail, and/or manufacturing of goods related to animal grooming on the subject property is allowed.
6. Advertising sign regulations on the subject property shall comply with Macon County Zoning Ordinance.
7. Normal hours of operation shall be limited to 8 AM to 5 PM Monday thru Saturday.
8. Said property and all operations shall remain subject to all other applicable local, county, state and federal regulations including, but not limited to, the Macon County Zoning Ordinance, the Macon County Nuisance Ordinance, and the Macon County Subdivision Ordinance.
9. Special use permit shall be for a 10-year period beginning December 14, 2017 and ending on December 9, 2027.

Mr. Hughes made a motion to amend the special use permit to a 5- year period instead of 10 years.

Mr. Majors stated they have been through this process 4 maybe 5 times and the way he understands, the permits are 2 year, 5 year, and 10 year. They have been 1 year, 2 years and now they are being asked to do a 5-year permit. He stated there is no reason why the board should not give them the 10-year permit and let them go on about their business.

Mr. Hughes stated his reasoning is in light of the Department of Agriculture requirement.

Chair Lamont stated that has nothing to do with us, nothing.

Mr. Hughes stated he understands that, but he would just like to see that the rules are adhered to, that is why he is asking for 5 years.

Chair Lamont stated Mr. Majors knows what he has to do and he knows if he does not do it...

Mr. Majors stated when he gets it done; he will bring it up here and show it to them.

Chair Lamont stated if he does not adhere to it, he is in violation.

Mr. Hughes stated being in violation does not necessarily mean that it is taken up.

Mr. Baggett stated there is a motion on the floor to amend he does not know if there is a second.

Mr. Koretke asked how long it would take them to get this license.

Mr. Baggett stated he was looking on the Department of Agriculture's website to get a web address for Mr. Majors before he leaves to point him in the right direction. In a letter from the Department of Agriculture that they send out to prospective licensees, it has in it "be advised your facility must be in compliance for licensure within 60 days of receipt of the application in order to avoid forfeiture of the application fee", Mr. Baggett thinks it is a \$25 application fee, it is an annual license and has to be renewed. So according to the Department of Agriculture, they have 60 days to process the application. That is what they say they have, it is the State. He has never trusted their estimation on time. As far as the concern, he does not know how long it would take to become licensed with the Department of Agriculture, and obviously, there is some consensus among the board that they should be given some time in order to become compliant with a regulation they were not familiar with prior to today.

Mr. Koretke stated that by December 14th for full County Board that is approximately 45 days...

Mr. Baggett stated true, and it may or may not have been issued by then and he does not know if Mrs. Gunter would have the ability to confirm or not and whether the county board is going to concern itself with it before they vote on it.

Chair Lamont stated so they might take into consideration if Mr. Majors has proof that he applied for the license but we know how the state works.

Mr. Baggett stated he would think so, if it is made an issue before the board, again, the board has never concerned itself with...

Mr. Majors stated he does not know why they would deny them.

Chair Lamont stated that permit does not have anything to do with us.

Mr. Baggett stated what he is understanding to be the consensus of the board here is that they would be given some time to be licensed with the state if they are required to do so. Again, he doesn't know, based on what has been described, if this would fall within the pervue of being a kennel operator. That would be the Department of Agriculture's determination. It may be that they do not have to be licensed, he does not know. He thinks it is something they should look into. However, he is not trying to sit here today and tell them they have to be licensed, nor is he trying to convey to the board that it should be a condition. A condition of any special use permit is that they comply with any and all state, federal and local laws, ordinances and regulations. If they ultimately are required to be licensed and are not licensed, that could be brought up at any time between now and the end of their permit. Whether that is in 5 years or 10 years.

Mr. Koretke stated if the State of Illinois says they denied them...

Mr. Baggett stated it is an annual license so regardless of whether it is a 5-year special use permit or a 10 year, if they are required to obtain it, they will have to obtain it from year to year.

Mr. Noland stated this is based on the kenneling, so they could choose to no longer kennel. It is

technically his choice to continue to kennel.

Mr. Baggett stated if what they are doing is considered kennel operation by the Department of Agriculture, then they could cease doing whatever constitutes kennel operation and sure, they would not have to abide by or comply with that statute. It would not apply to them anymore.

Mr. Majors stated the kennel part that was put into the special use permit was never asked for, it was just put in there at the last hearing they had.

Mrs. Gunter stated the main reason why it was put in there was when Hollie and Roger stated someone brings their dog in the morning and then leaves it until they get off work of course, so 5:00 p.m. or so, she thinks that is what a lot of that was. She remembers they talked about how many dogs she could do a day and so on. She stated it was so they did not have like 20 dogs out there.

Chair Lamont stated this is a non-issue to her because it does not concern us whatsoever. If they fail to comply, they know we can come in take it, revoke their permit.

Mr. Baggett stated yes, but he would not go so far as to say it does not concern the board....

Chair Lamont stated ok yes a portion of it does but them getting a license through the state is not our thing.

Mr. Baggett stated it is not something the board has any power or control over.

Mr. Koretke would ask Mr. Hughes to re-consider his motion.

The motion to amend was not withdrawn; it failed to receive a second.

Bill Koretke stated he would reluctantly make a motion to approve the petition for a 10-year period, seconded by Blake Noland. With Lamont, Koretke and Noland voting Aye and Hughes voting Nay. Motion carried (3-1).

Chair Lamont asked Mrs. Gunter if the board has anything for the next scheduled meeting. Mrs. Gunter stated as of right now, we have nothing for next month.

ADJOURNMENT: Blake Noland made the motion to adjourn; Bill Koretke seconded. All members present voting, Aye. Motion Carried. (4-0). Meeting adjourned at approximately 8:50 A.M.

Minutes submitted by Tracy Sumpter, Macon County Planning and Zoning Dept.