KENDALL COUNTY
ZONING BOARD OF APPEALS MEETING
111 WEST FOX STREET, Room 209 and 210
YORKVILLE, IL 60560
November 2, 2015 – 7:00 p.m.

CALL TO ORDER
At 7:00 p.m., Chairman Randy Mohr called the Zoning Board of Appeals meeting to order.

ROLL CALL
Members present: Randy Mohr (Chairman), Karen Clementi, Donna McKay (Vice-Chair), Tom LeCuyer, and Dick Thompson
Members absent: Scott Cherry and Dick Whitfield
Staff present: John Sterrett, Senior Planner
Public: Peter & Mary Bielby, Atty. Rick Slocum, Nick Bruscato

MINUTES
Ms. McKay made a motion, seconded by Mr. LeCuyer, to approve the corrected August 31, 2015 meeting minutes. With a voice vote of all ayes, the motion carried.

PETITIONS

15-15 Peter and Mary Bielby
Request: Variance from required setback distance of a proposed dog kennel structure
Location: 8573 Fox River Drive, Fox Township
Purpose: To use an existing 2,900 square foot structure as dog kennel that does not meet the require setback distance required for a dog kennel as part of a future A-1 Special Use application

Mr. Sterrett stated that the petitioners, Peter and Mary Bielby, are interested in operating a dog kennel at the subject property and using an existing 2,900 square foot structure to keep the dogs contained in. This type of use is permitted with a special use on an A-1 property with a required setback for the kennel facility to be located at least 250’ from residentially zoned properties and properties identified on the LRMP as residential and located at least 150’ from non-residentially zoned properties and properties identified on the LRMP as non-residential. The petitioners intend to seek approval for a special use to operate a dog kennel; however, current conditions on the property do not meet this requirement. It was the desire of the petitioners to seek a variance to this requirement prior to applying for the special use permit.

The existing structure is located 25’ from the property to the west, which is zoned as A-1 Agricultural and depicted as non-residential on the LRMP, thus encroaching into the required setback by 125’. The structure is located 195’ from the east property line, zoned as A-1 Agricultural and depicted as suburban residential on the LRMP thus encroaching into the required setback by 55’. Mr. Sterrett did clarify that the property to the east is within the
Village of Millbrook and the comprehensive plan for the Village indicates this property to be developed as a non-residential use. As such, staff is of the opinion that the current setback of 195’ meets the required 150’ setback distance from a non-residentially zoned lot and non-residential future land use. It was the preference of the petitioners to seek approval of the variance request for the separation distance of the kennel prior to filing an application for an A-1 Special Use for a dog kennel operation. If approved, the petitioners will be required to apply for a special use subject to a public meeting and public hearing in front of the Plan Commission and the Hearing Officer, respectively, with the County Board taking final action on the request.

Mr. Sterrett indicated that the narrow width of the lot does not allow for any structure, existing or proposed to meet the setback requirements for a dog kennel. While the County’s LRMP identifies the property to the north as future residential and requires a kennel structure to be setback a distance of 250’, the current use is considered governmental as it is the Fox Township building. An extensive amount of wooded areas exist between the proposed kennel structure and the property to the north thus limiting potential impact the distance the kennel structure has on the property. The property to the south is part of the Millbrook South Forest Preserve and is currently being used as farmland. Residential zoning would not be permitted to the immediate west of the subject property since the LRMP does not currently call for residential. Mr. Sterrett further noted that the subject building maintains a distance of 500’ from the nearest residential property line in the Estates of Millbrook development to the southeast.

Staff recommends approval of the variance request with the understanding that the petitioner must apply for an A-1 Special Use and that approval of the special use is required prior to the converting the structure into a kennel. If the variance request is approved by the ZBA, staff recommends a condition be placed on the approval requiring the petitioner to submit an application for an A-1 Special Use to operate a kennel within ninety (90) of the date of approval. Mr. Sterrett stated that comments from the Village, the Township, and Forest Preserve have not been received.

Chairman Mohr opened the public hearing at 7:11pm. Rick Slocum, attorney for Peter and Mary Bielby, explained the variance request to the Zoning Board of Appeals. Attorney Slocum agreed with staff’s recommendation and findings for the variance. Mary Bielby explained the existing conditions of the property to the southwest of the subject property and that there are grain bins and ag buildings located on the southwest property. The property is currently engaged in agricultural production. The Bielbys maintain a privacy fence between the subject property and the Forest Preserve property. Ms. Bielby pointed out that the operation will include boarding and daycare for dogs on a small scale with no more than 10-12 dogs boarded. The daycare component will have a few more. No breeding will occur. Ms. Bielby went onto describe her history with working at various dog boarding facilities. Modifications will be made to the existing building to convert it to a dog kennel. The operation will have no outdoor runs for the dogs but will have an outdoor play area behind the building towards the railroad tracks. All dogs will be kept inside at night. There were some concerns raised over the future use of the Forest Preserve property. Ms. Bielby stated that if a portion of the property adjacent to them
were available for sale they would explore purchasing it to create an additional buffer between the kennel and the nearest property.

Nick Bruscato of 21 Foxhurst Drive had initial concerns regarding the well-being of the dogs and stated many of his concerns were addressed previously by the petitioner during their testimony, including no breeding of dogs and the limit of dogs. Mr. Bruscato also had concerns regarding required shots the dogs must have to prevent diseases being spread to other dogs. Ms. Bielby stated that all dogs will be required to have a current distemper shot, a current negative fecal, a current rabies shot, and will be checked for fleas. Ms. Bielby also stated that regarding fecal, this will be a requirement every 6 months rather than the standard of every year. Mr. Bruscato’s concerns were addressed by Ms. Bielby’s responses.

Ms. McKay made a motion to approve the findings of fact along with the conditions recommended by staff. Mr. Thompson seconded. The findings of fact are as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The lot has a narrow width of 265’ thus prohibits a new structure from being able to meet the required setback distances to the north and south lot lines.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. The lot size and dimensions of this parcel are not necessarily atypical of other lots zoned as agricultural.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The property was not platted by the petitioner and the existing structure was present on the site when the petitioner purchased the property.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The existing structure, as accessory to the property, does still meet the required setbacks of an agricultural accessory building and should not have a detrimental effect on other properties.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. It does not appear that the existing structure itself currently impairs an adequate supply of light and air to the adjacent property. The proposed variation, along with the change in use of the structure to a dog kennel, will not have any additional impact on the existing structures impairment of the supply of light or air to adjacent property. As part of a special use, the conversion of the structure from storage to a commercial kennel is required to comply with required applicable codes.
Chairman Mohr called for a vote. Mr. Sterrett called the roll: Ms. McKay – Yes, Mr. Thompson – Yes, Mr. Mohr – Yes, Ms. Clementi – Yes, Mr. LeCuyer – Yes. The finds of fact were approved 5-0.

Ms. Clementi made a motion, seconded by Ms. McKay, to approve the variance request subject to special use approval with applicable conditions placed on the special use ordinance. Chairman Mohr called for a vote. Mr. Sterrett called the roll: Ms. Clementi – Yes, Ms. McKay – Yes, Mr. Mohr – Yes, Mr. Thompson – Yes, Mr. LeCuyer – Yes. The motion carried 5-0.

**REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES**
None

**NEW BUSINESS/OLD BUSINESS**

2016 Meeting Schedule
Mr. Sterrett reviewed the 2016 meeting schedule with the ZBA. The Board stressed the importance of having the Board Room available for when ZBA meeting are scheduled to reduce any potential conflicts.

**PUBLIC COMMENT** - There were no additional comments by members in the audience.

**ADJOURNMENT OF THE ZONING BOARD OF APPEALS**
Ms. McKay made a motion to adjourn the Zoning Board of Appeals meeting, Ms. Clementi seconded the motion. Chairman Randy Mohr adjourned the Zoning Board of Appeals meeting at 7:50 p.m.

Respectfully Submitted,

John H. Sterrett
Senior Planner