



# WINFIELD BOARD OF ZONING APPEALS

## MEETING MINUTES

AUGUST 13, 2020 @ 5:30PM

The Winfield Board of Zoning Appeals held their regularly scheduled meeting on Thursday, August 13, 2020 at the Winfield Town Hall at approximately 5:30 p.m. Those present: Jim Hajek, Mark Nelson, Austin Holtz, and Sash Becvarovski. Also present was Nick Bellar, Zoning and Planning Administrator; and Attorney Ryan Deutmeyer.

**MINUTES: February 13, 2020** – Sash Becvarovski made a motion to accept the February 13th Minutes as written, seconded by Austin Holtz. The motion carried with all in favor 4-0.

### ORGANIZATIONAL MATTERS

**Chairman** – Jim Hajek stated he is going to move to Vice Chairman after this meeting and Mark Nelson will be taking over for Chairman. Sash Becvarovski made the motion to approve Mark Nelson as Chairman. Austin Holtz seconded the motion, the motion carried with all in favor 4-0.

**Vice Chairman** – Sash Becvarovski made the motion to approve Jim Hajek as Vice Chairman. Austin Holtz seconded the motion, the motion carried with all in favor 4-0.

### OLD BUSINESS

### NEW BUSINESS

#### 1. **Public Hearing and Recommendation to the Town Council**

**Docket BZA 2020-01 – Special Exception**

**Owner:**

**Andrew and Susan James**

**Petitioner:**

**Andrew James, Susan James, Ken York**

**Vicinity:**

**10200 Grand Blvd.**

**Request:**

**Special Exception to permit a dog kennel use per §156.131 PERMITTED USES, APPENDIX A: DISTRICT USE TABLE**

Nick Bellar explained the town requires a special exception for this use of a kennel for AG-B zoning. A Public Hearing is necessary for this exception and a recommendation will be made by the BZA to the Town Council for either favorable, unfavorable, or no recommendation. Jim Hajek asked if they could add stipulations to the recommendation. Attorney Deutmeyer stated not for this exception. Attorney Chris Fox representing the owners and petitioners provided background on the project. Attorney Fox explained for the past 15 years they have been using this site to train and work with combat/military service dogs. These are Labrador Retrievers who are training to seek out hidden materials and bombs. They go on to serve with the men and women in the military and are essential to their protection. They are now looking for a safe quiet place for the dogs to sleep at night. They will spend all day off sight training at different facilities and then come back to sleep, the dogs require 18-20 hours of sleep after training. The dogs are usually around 10 months old when they arrive for training and finish training around 20 months old. The number of dogs estimated to be housed onsite at the facility will be around 20 barring any injuries. These are working dogs that will train hard during the days and need a safe, quiet, restful place they can rest and recover after a long day. Andrew James has owned this property for the past 20 years and off and on for 15 of those years he has assisted in the training of these dogs and allowed them the use of his land. Attorney Fox asked Nick Bellar if he has ever received complaints in the past when trainings have been conducted on the property. Nick stated he does not recall any complaints about dogs on that site. Attorney Fox again stressed the safety and quiet of the area. The building is 8,000 square feet, the kennel will be housed within another building inside the overall structure so they can be kept for sleeping; that area is about 2,000 square feet.

Jim Hajek opened up the Public Hearing at 5:41p.m.

Nancy Fargo, 5755 E. 105<sup>th</sup> Ln., asked if they had approval to do training on this site before. Property owner Andrew James answered yes, he gave them his permission. She asked if that was all that was needed. Jim Hajek said yes, he allowed them to train on his private property. Ms. Fargo asked how many have been trained before. Kenneth York, trainer, said for the past

two months up to this meeting they have trained about 20-25 dogs there every day. She asked if they stayed overnight. He said no, once they start living there, they won't be training them on site.

Marek Siczek, 5788 E. 105<sup>th</sup> Pl., asked if there was already a hearing on the use of this land. Attorney Fox stated they were here before the Board for a preliminary meeting as a part of this process. Mr. Siczek also asked if they had permission to use this property for training before, if there is a license required to have 20 dogs in a residential area. Jim Hajek said it was not required to have a license as it is private property. Nick Bellar stated it is an open field in an agricultural area, they had not even been aware of the training prior to this. Jim explained there's no permit that would exist for someone to allow this on 100 acres of land and reminded the audience they are only here to give a recommendation on the use to the Town Council and it will be the Town Council's decision to allow this facility. Mr. Siczek questioned the number of dogs and what category kennel license they are required to apply for. Ken explained they are not required to get a kennel license. They are regulated by the Department of Defense. Attorney Fox said this is completely separate from a standard kennel. Mr. Siczek stated he and his neighbors are concerned over the noise and volume of noise coming from the number of dogs in the kennel. He cited the decibel level of multiple dogs barking in one area. More than 5 dogs can exceed 100 decibels, 72 decibels is the maximum noise level required from an industrial building. Mr. Siczek said something must be done about the noise and he saw an outside fenced-in area on the plans. If dogs are outside, they will hear other dogs and start barking. He said the number of dogs is supposed to be regulated in the town and the town does not have its own animal patrol to enforce it. Ken explained they answer to the Department of Defense it is a high government entity than the town and they do regularly check on them. Mr. Siczek asked if there is recourse for the residents if he is saying it's only going to be 20 dogs and it ends up being 40 dogs there. Ken stated the facility will be large enough to house 60 dogs if they overlap but they do not plan to go over 20 but on the off chance they have to have one more they don't want be over on what they can accommodate.

Marty Keaveney, 5520 E. 105<sup>th</sup> Ln., stated he moved out to this area for the peace and quiet not to live next to a dog kennel that now they are being told could have up to 60 dogs. He said it was misleading they said 20 dogs in their presentation. He asked if any studies had been done about what the decibel readings of 60 dogs in that facility would be, because he does not believe for one instance that they will not hear dogs barking. He stated this is a residential area and he does not think it is fair to put that next to these people's properties.

Steve Fairchild, 10477 Floyd St., stated he is also concerned about the noise and does not know the exact location of this facility and is worried this will decrease property values. He is unsure what the rezone process will allow and asked if other businesses will be allowed to go on to this property now. Jim Hajek explained this is not being rezoned as commercial it is only going from AG to AG-B which allows slightly more leeway in use. Attorney Fox showed Mr. Fairchild a map and aerial view of the property and the facility in proximity of his property which is a little more than three quarters of a mile away. Mr. Fairchild again asked if any noise studies have been done on this type of facility for 60 dogs. Attorney Fox stated the building can house up to 60 dogs but they will only have 20 there at a time. Ken York said this is located closer to the Merrillville border. Attorney Fox said he is sure studies have been done but he does not have that information, and showed the kennel is within the building. He pointed out that no complaints about noise have ever been made by the residents when they have had 20 dogs on the property together before. Mr. Fairchild claimed they have heard noises but they did not call on it before. A discussion was had amongst the audience on if they will have to start calling if they constantly hear dogs barking, another noted there's nothing to stop the property owner from putting other animals, like pigs, on the land that would also make noise.

Andrew James, 14519 Clark St., is the owner of the property. He purchased this land 20 years ago and kept it wild. He's let others use it including neighboring children from the Trees subdivision to fish in his pond and build forts on his property. He has always wanted to keep its natural beauty; he does not want to sell it to a developer. He supports Ken in his work with these dogs and is glad to let him use the land. He said this property is well insulated by trees from the subdivision. He even lands his own plane on this property and has not had anyone complain about the noise from that. He said it is a big piece of property and he does not believe it will affect the neighboring area. No one is guaranteed to go outside of their house and not hear any noise, other people have dogs you can hear barking, this is not presenting an unreasonable situation. The building will be insulated and the dogs will be monitored. These are highly trained dogs; Ken's company is the preferred vendor of the Pentagon. They are not doing this to ruin the neighborhood or destroy the peace and quiet. He does not want to be a bad neighbor. This is not a puppy mill or standard kennel; these are working dogs that serve in the military. Another member of the audience asked how they would respond if a dog was constantly barking. Andrew stated if one the dogs is constantly barking it means there is probably a problem with the dog and they will be removed from the training program. These dogs have to be of the best behavior, it is a part of their training. Another audience member interjected asking what happens if

down the road this business leaves and that opens this area up to other commercial development. Jim Hajek explained this exception is only for this petitioner and it is not being zoned commercial. If a commercial development would want to come in later, they would have to go through their own approval process and public hearing.

John Pistro, 5898 E. 105<sup>th</sup> Pl., stated he has 10 acres of land and his property backs up to the field. He said noise carries across the field and he has often seen coyotes and other animals that will make the dogs in the kennel bark. He also believes that because this is a business and they are doing well they will end up expanding to have over 100 dogs. He recently renovated his back patio and they enjoy sitting outside and does not want to hear dogs barking. He thinks what they are doing is noble but this is not the right place for it.

Kathy Walsh, 5809 E. 105<sup>th</sup> Pl., stated she loves dogs but she is concerned about the noise. Dogs bark for many reasons and start a chain reaction of barking. She does not want the barking of the kennel dogs to trigger her or her neighbors' dogs to bark and cause complaints against them. Noise travels in their cul-de-sac and they can hear animals and traffic from all major roads around them. She enjoys the sounds of nature in her own backyard and has a right to continue to enjoy her life, this is why she moved out here. She believes this facility might lower property values. She recently drove by the area and there is now a road and gate that was not there before, the gate has cut out of dogs on them and doesn't understand why they would do that if they were not trying to advertise what the facility is for. She said work has begun on this project without approval or a permit making her question the integrity of this project. She continued that according to the published notice these dogs serve as military and police dog with special training around guns and bombs so now they will also be hearing barking dogs along with gunfire and explosions. She does not see how they can feel safe with that happening around them, hearing their community come under siege. She believes riots and looting could happen in this small town too as she has seen on the news recently of planned and encouraged lootings of other areas. She has concerns about this being open to the public and other dogs being allowed to be trained here as well as the breeding and selling of dogs. People seem to do whatever they want here and they do not have their own animal control officers to turn to. She does not know what they can do if they need to complain to have the town do something about this and believes by that point it will be too late. Mrs. Walsh also noted the property owner owns a fireworks store and is constantly setting off fireworks. Recently, she does not know if it is the owner, but someone has been shooting off fireworks every night and disturbing her dogs. She believes this will open up to other businesses coming into the area. In conversation with her neighbors they are also fearful the dogs will get out and attack them and their children. She spoke about her own rescue dog she retrained to be a service dog and doesn't see how if she can train her dog to do something these dogs won't mistake them as the bad guy from their training and attack them. She is also concerned about the dog waste and wants to know if they will be disposing the waste in a way so they will not smell it from the number of dogs at the kennel. She stated this is also zoned X on the FEMA website. They already experience flooding on their properties, this development could add to the flooding and destroy the homes that border the property. Mrs. Walsh also thought it was also unfair that this public hearing was not broadcasted in some way for those who did not feel safe attending this meeting due to the Covid pandemic. She is also worried this kennel will get a tax break and that will hurt the town. She presented the FEMA map to the Board, Jim Hajek informed her they already have it.

Dave Fargo, 5755 E. 105<sup>th</sup> Pl., addressed the petitioner and said they stated the dogs are trained to find hazardous material, he asked if they have proper permitting to use hazmat material on the property. He asked how do you train a dog to find hazmat materials without hazmat materials. Andrew James said he does have a hazmat permit he is a licensed explosives dealer. He explained they are not trained here for hazmat training; they are taken offsite for that to industrial parks and other areas specifically designed for the dogs for that, there will be no hazmat training here.

Marek Siczek, 5788 E. 105<sup>th</sup> Pl., spoke again about studies he found about noise levels and believes this facility needs to go somewhere else. He submitted his findings to the Board in an email to Nick Bellar that included signatures from neighbors against this facility and their list of objections. He then read his submitted email. He also stated in his first inquiry of the development Nick Bellar told him it was a development for 12 dogs now he has heard it could be 20, 30, or 60 dogs. He wants to know what is the limit to be allowed. He also thinks more people should have been informed of this and also received notice including all surrounding neighborhoods not just those within 300 feet. Andy James said the dogs are going to be inside and he does not believe the noise inside will carry that far. Mr. Siczek answered when the dogs are outside they will hear and see things that will make them bark. Attorney Fox explained again the whole reason they chose this location was because it was quiet and peaceful for the dogs that will want to sleep after they return from their training. Mr. Siczek does not think just monitoring them through a camera will keep them quiet.

Raymond Sutton, 10460 Floyd St., stated he just moved to the area and just wanted to say he moved to Winfield from Crown Point and always wanted to live in the Trees subdivision. He loves the neighborhood because it is quiet. He just wanted to state that he opposes it. He did not want to move next to a business. He works in the city and that's why he drives over an hour a day to live out here.

Mary Brown, 5889 E. 105<sup>th</sup> Pl., had a number of questions for the petitioners. She asked when the training is finished, Ken York stated it will vary based on the training but the earliest it would be is 5p.m. She asked how or when they will be let out side to do their business. Ken stated they will not be out at the same time to do their business; the fenced yards are only for doing their business in and they will not be out there all day. They will be let out a couple at a time in the individual yards after they are feed and then let back inside after about 15-20 minutes. Their waste is picked up right after they go. Ken stated they do not respond to wild animals or other dogs; they train all over different areas where they are used to that and it's a part of their basic training to not bark at other animals. Mrs. Brown asked what would happen if one of the dogs were to get out of the facility. Ken explained by the time they come to him they have already gone through a basic training and off leash training; they do not run when off the leash or wander off. Mrs. Brown asked if they happen to wander off, are they a danger to other people. Ken stated these are Labrador Retrievers and they go through a socialization training before they come to him. They are all exposed to children and other people running up to them and must pass that training before they can be accepted into the program. Another resident interjected that no one here wants this kennel and it needs to be moved to another location. John Pistro found Ken's statement on the dogs' behavior when they are let outside contradictory when he said the dogs that get along will go out together. Ken clarified that he meant keeping the males and females in heat separated to prevent breeding attempts as the females are too young to be spayed.

Krste Muvceski, 5810 E.105<sup>th</sup> Pl., stated he is a construction manager and asked legal if they checked all the boxes to see if this meeting can legally proceed. Attorney Deutmeyer confirmed that required notifications were sent out and received. Nick stated it was properly advertised. Mr. Muvceski said the trees on the property do block the area from their section of Trees subdivision but there is no buffering or screening to the residents in the Doubletree West subdivision, he wanted to know if those residents were notified and legal reviewed everything. Attorney Deutmeyer clarified that the notice requirements are set at 300 feet by the boundary lines of the property. He explained that they were notified because the petitioner is also subdividing the property along with this request. If the petitioner had done this in several phases instead of all at once they would not have even needed to be notified. Mr. Muvceski asked the engineer of the project if the master plan has been issued. The project engineer answered this is the master plan and explained 5 acres of the 109 acres is being allowed by the property owner to be used for this kennel. The town instructed them to do a two lot subdivide for the structure and there are no plans for the rest of land currently. Mr. Muvceski recommended there is some sort of stipulation on expansion with this approval. Jim Hajek explained that is not what they are doing here tonight, they are only here to send a favorable or unfavorable recommendation to the Town Council. The engineer further explained only the lot with the kennel is being rezoned for the structure, the other lot is remaining AG so if that land were to be developed further in the future, they would have to come back and do this process all over again. Mr. Muvceski asked if there was any communication between the Board and the Lake County Drainage Board, Jim Hajek stated there is no need for that. Mr. Muvceski stated Doubletree West still should have been notified and while he thinks this is a noble cause he does not think this is the right spot for it.

Jim Hajek closed the Public Hearing at 6:40p.m.

Sash Becvarovski had a few questions for the petitioner. He asked for details on the building and the structure within a structure they described for the kennel portion of the building. Andy James said the building will be fully insulated with spray foam. Ken York stated the kennel portion is 2,500 square feet of the building, framed in walls with sprayed in foam. Sash asked if there was going to be any training on the property. Ken answered yes, like they have done the past 15 years. Sash asked about breeding, Ken said no. Austin Holtz asked if this will ever be open to the public for boarding, Ken answered no. Mark Nelson asked about the basic training they go through first. Ken explained they go through a basic training for 8-10 months before entering into the program. Mark Nelson confirmed these dogs will mostly be off site for training, Ken stated that is correct. Mark asked if they function like a K9 units and do not engage unless told to do so. Ken explained they are all single use dogs; they are not trained to attack. They are not bite dogs, none of the dog are aggressive. Mark also confirmed Ken's early comment on making sure the dogs getting along was in regard to avoiding males being around females in heat, he did not mean the dogs are aggressive towards each other. Ken stated that is correct. Mark noted for the recorded and to those present that the town also received emails from residents who were in support of the kennel including the resident directly across the street from the property. Austin Holtz confirmed there will be no hazardous materials or explosions going off for training on the property. Ken stated there will not, they would not do that on the same property they are bringing the dogs

back to rest. Austin asked if there was a certain place they get the dogs from. Ken stated they use a licensed breeder. Austin asked what their weekly training schedule is like. Ken stated they usually have one day of rest but are also taken off site for that to run them with ATVs. Sash asked how do they train for finding bombs if they are not allowed to use bomb material on the property. Ken explained they do training to get them into a search pattern, they use other things like a ball as a reward object and get them used to searching in cars. Austin asked how long he's been doing this, Ken answered since 2002, training on this property for the last 15 years. After no further comments from the board, Jim Hajek entertained a motion for a recommendation to the Town Council. Attorney Duetmeyer noted each Board member was provided with a packet including letters from residents of some in favor some opposed, he wanted it noted for the record that all members had the time to review and consider those letters and they will be included into the record as this matter proceeds. Mark Nelson made the motion to send a favorable recommendation to the Town Council for Docket BZA 2020-01, Special Exception, for the dog kennel use. Austin Holtz seconded the motion, the motion carried 3-0-1 with Sash Becvarovski voting indifferent.

**STAFF/ATTORNEY REPORT:**

No report.

With no further business before the Board, Jim Hajek made a motion, seconded by Mark Nelson to adjourn. The motion carried with all in favor 4-0.

**ADJOURNMENT:** 6:49 pm

Attest:

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Board of Zoning Appeals Chairman

Transcriber: Kim Wachowski  
Administrative Assistant

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Board of Zoning Appeals Secretary