

Zoning Board of Appeals Minutes

Meeting Date: October 26, 2022

Present: Michael Keupp, Chairman
Freddy DiVitto, Member
Ann Hardeman, Member
Nicholas Vorolieff, Member

Recused: Tom Zarecki, Member

Also Present: Bob Lusardi, Village Counsel
Rob Apple, Applicant's Attorney
Joe Zarecki, Zarecki & Associates
Lorraine & Roy Foster (Applicant)

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VILLAGE CLERK

On, *Wednesday, October 26th, 2022 at 7:00 PM*, the **Zoning Board of Appeals** met in the meeting room at the Village Hall on 9 Memorial Avenue, Pawling NY. The Meeting was called to order by Mike Keupp, Chairman and began with Roll Call as indicated above and The Pledge of Allegiance.

Approval of Minutes

Chairman Keupp made a motion to approve the minutes from the June 22nd, 2022 ZBA meeting. Member Vorolieff seconded the motion. The motion passed with all present members in favor.

Sketch Conference

Lorraine & Roy Foster

550 Route 22/Grid#: 7057-17-229013/R1 Zoning District

Happy Life Animal Rescue

Discussion: Interpretation/Change of Use from Animal Hospital to Animal Rescue

Chairman Keupp commented that he was happy with services provided by Happy Life Animal Rescue when he called them a couple of years ago to catch and remove a feral cat and its kittens from his property. They altered the cat and adopted out its kittens. The Chair explained that the Planning Board referred the applicants to the ZBA to determine whether or not their proposed use as an 'Animal Rescue' falls under the same category/use as 'Veterinary Clinic' as stated in the Village Code Section 98-5 Definitions of (Clinic, Veterinary). If the Board determines the proposed use falls under the same use as veterinary clinic, then the applicants will not need to seek a change of use variance.

Joe Zarecki, representing applicants Lorraine and Roy Foster (Happy Life Animal Rescue), said Happy Life Animal Rescue took over the facility located at 550 Route 22 formerly known as Pawling Animal Hospital and has been operating at that location as an animal rescue facility. They are interested in purchasing the property but before doing so, Mr. and Mrs. Foster would like make sure they can continue the operation of Happy Life Animal Rescue under the current use variance which was granted in 1961 to operate and an animal hospital. Since that time, there's been no changes to the original site plan and an updated survey was provided. There's about 10 or 15 animals temporarily sheltered there with 20 indoor kennels and four outdoor runs.

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Chairman Keupp referred to the Board for any questions or comments. Member Vorolieff said although I wasn't on the site visit, I am very familiar with the site. I used to bring my pets there years ago so I know the property well and I go to some of the nearby businesses and I'm familiar with its location and what's around it.

Member Hardeman commented that she was on the site visit and also used the medical services for her pets.

Chairman Keupp said I never understood why that area on Route 22 is zoned R1. It never made any sense to me because there are several commercial businesses there. There was an effort several years ago to come up with a new plan for Route 22 to change the zoning but it never went anywhere. Discussion ensued regarding the commercial nature of the businesses in that area. The Chair commented the property behind this subject property is part of the Smith Johnson Scout Cabin with a lot of vacant land there that goes up the hill to where the scout cabin is. He asked Mr. Lusardi if the Board has to go through the variances questions being that it's just an interpretation at this point.

Mr. Lusardi replied, the Board does not need to go through the variance questions and asserted that the Board must decide whether or not 'animal rescue' is a change of use from 'veterinary clinic.' He presented the Board with the definition stated in the Village Code Section 98-5 Definitions of (Clinic, Veterinary) which reads as follows: *"An office designed for the care and treatment of animals which may also provide for the boarding of animals."* He commented that the 'boarding of animals' is what the rescue does. There's no in-house medical treatment of animals. Essentially, the vet comes in to treat the animals then leaves. The question for interpretation is whether or not there is any change of use here.

Chairman Keupp referred to Village Planner LoBrutto for comments. She said I think the task at hand is to consider whether the veterinary hospital in the area variance granted in 1961 is similar to the proposed use (Animal Rescue). I think the key phrase is that veterinary clinic in the Village Code includes kenneling and I think that speaks for itself.

Chairman Keupp stated that we also have a memo from the building inspector that goes through a whole page of the code and the key point in his interpretation at the end of the memo states "It's the opinion of the Code Enforcement Official that there is no difference in use designation under NYS regulations between an animal hospital and animal rescue. Therefore, the proposed use of the property remains consistent with the existing use and the existing approvals."

Chairman Keupp made a motion to open the public hearing. Member Vorolieff seconded the motion. The motion passed unanimously with all present members in favor.

Pawling resident, Dan Welsh, stated he's knows Lorraine and Roy Foster for quite some years and not only do they provide a service where they're rescuing these canines and felines; but the way they handle their operation is relevant to the clinic because I too have canines that were visited by Dr. Schutz way back when. The transforming from a "take care of the dogs" to "take care of the dogs" is consistent with everything we've heard tonight. Just to let you know that their operation is top notch, yours truly has adopted two canines from them. Lorraine knows how to match people with their animals. It may sound a little weird but if you're a dog lover or cat lover and you're seeking to either add to or just have a

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brand new pup to start with, they advise in such a way that they would not allow an end user to take an animal and put it in a home that's not appropriate. They know their stuff, they know their craft and they know what they're doing. If you love dogs and cats, it's a service that works. I've been there inside its clean and well maintained. Having that facility there, I think, is a public service of sorts because they have found hundreds of homes for these wayward creatures who deserve a home. So, I think in difference to what they want to do versus what they're doing presently will be consistent with the use of the building. The way they run the ins and outs of the business, I think would be a benefit to Pawling. So I just wanted to make that clear that I know them and I felt that you guys should know that what they do is a valid and valuable service.

Applicant attorney, Rob Apple said I just want to point out that as an additional service to the community, they've been approached to assist the town's Animal Control Officer in the placement of dogs, cats and possibly other animals and they've been reluctant to do so because they were concerned that this would not be a permitted use. They would be happy to take on that responsibility for the Village and the Town if you rule in favor.

Chairman Keupp made a motion to close the public hearing. Member Vorolieff seconded the motion. The motion passed unanimously with all present members in favor.

Chairman Keupp referred to the Board for comments. Member Vorolieff said my thought on this is that the use is consistent. I agree with Mr. Kenney's (Code Enforcement Official) interpretation. It seems pretty clear that, if anything, what they're doing is less of an operation than what had been there previously in the way of full veterinary services. There seems to be no residents nearby that would have any issue with noise or sound emanating from the facility whether it was barking dogs or yelling cats. I think that this use is definitely consistent with its previous use. I would be very favorable in granting the applicants a continuance of this slightly different albeit very consistent use.

Member DiVitto and Member Hardeman both are in agreement with Member Vorolieff. Member Hardeman states that given the information provided by Mr. Kenney, I find that there is a consistency of usage.

Chairman Keupp said when we were there on Saturday morning everything was in top shape. I think it's less of an impact now than it was before, certainly not more so. The number of animals might rise and fall but it's something that's been a service to the community. They've been taking care of animals for a long time and it's good that it can continue. This is an excellent use of the property continuing in the same tradition.

Mr. Lusardi said to clarify on the initial request for an interpretation, if there's no change of use between the one that was approved in 1961 and the proposed use. If you take a vote on that particular issue and your determination is that there's no change of use, there's no need to deal with any variances.

Chairman Keupp replied, yes.

Chairman Keupp made a motion that there is no change of use, the interpretation is that the proposed use is an allowable use under the current use variance. Member Vorolieff seconded the motion. The motion passed unanimously with all present members in favor.

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Mr. Apple said just for clarification in furtherance of what your council just mentioned to you, I want to be clear for my clients purposes, and any future owner of the property, that it's the Board's determination that the current use as an animal rescue is permitted under the existing use variance and that no further action will be required on the applicant's part.

Member Keupp replied, yes, that's correct.

Adjournment

Chairman Keupp made a motion to adjourn. The motion was seconded by Member Vorolieff. The motion passed unanimously with all present members in favor.

Submitted by:



Vivian Nikolatos, Secretary

All submission applications, documents and consultant reports can be found on file at the Village Hall.