

**ZONING BOARD OF APPEALS MINUTES  
VILLAGE OF WESTON  
5500 SCHOFIELD AVENUE  
WESTON WI 54476  
MONDAY, MAY 10, 2010 – 5:15 P.M.**

**I. CALL TO ORDER**

Chairman Brent Montague called the meeting to order at 5:15 p.m. Members present were Fred Novak, John Lorge, Joe Barnett, Don Skare, Gilbert Moran (alternate), and Jim Langkamp (alternate). Community Development Director, Jennifer Higgins, Building Inspector, Scott Tatro, and Recording Secretary, Valerie Parker were present. There were 4 audience members present.

**II. OPEN HEARINGS**

**A. JOSEPH AND CATHY ROHLING, 4403 BROOK COURT, WESTON, WI 54476, REQUESTING A SIDE-YARD VARIANCE OF 5 FEET TO ALLOW FOR THE REPLACEMENT AND EXPANSION OF AN EXISTING DECK AT 4403 BROOK COURT (VARI-3-10-1128)**

**1. Open Hearing and Solicit Public Comment**

Joseph Rohling, 4403 Brook Court, was present in support and explained that their request is to expand by bringing out the size of their deck by 5 feet to allow for more seating area on the current deck.

Lorge confirmed that the expansion will be out towards the floodplain and that nothing will ever get built out in that area. Rohling stated that they want to make his deck more usable for family members that are unable to go down the stairs from the deck into the back yard. Higgins displayed different views of the home. It was pointed out that the neighbors are all in support of this request. Montague confirmed that they have not had any flooding issues. Rohling stated it has gotten close in the past, but not all the way to the current deck (within about 35 feet).

**2. Close Hearing**

Montague closed the hearing at 5:25 p.m.

**3. Discussion and Action on Application VARI-3-10-1128**

*\*M/S/P Novak/Lorge: to approve Joseph and Cathy Rohling, 4403 Brook Court, Weston, WI 54476, requesting a side-yard variance of 5 feet to allow for the replacement and expansion of an existing deck at 4403 Brook Court (VARI-3-10-1128).*

*Roll Call Vote: Skare-aye, Barnett-aye, Lorge-aye, Novak-aye, Montague-aye – the variance is granted.*

**B. PUBLIC HEARING ON APPEAL OF VILLAGE BOARD DECISION - CRAIG CZERWINSKI, 8807 SCENIC DRIVE, WESTON, WI 54476 REQUESTING AN APPEAL OF THE FEBRUARY 15, 2010 DENIAL OF THE APPLICANTS REQUEST FOR AN ANIMAL FANCIER LICENSE – NON-FOSTER ANIMAL RESCUE – BREEDER BY THE VILLAGE BOARD OF TRUSTEES FOR THE PROPERTY AT 8807 SCENIC DRIVE (AOD-4-10-1134)**

**1. Open hearing and Solicit Public Comment**

Craig and Jennifer Czerwinski were present in support. Montague clarified that the Plan Commission approved this request, but the Village Board denied the request, so now Czerwinski is appealing the Board's decision which is why this issue is here tonight.

Craig Czerwinski explained that he feels there has been some confusion, where people are getting the impression that this is a kennel with outdoor runs and with dogs outside all the time. He clarified that this is not the case. He stated that they have been breeding dachshunds for a number of years now. He stated that they used to have a kennel license out in Eland where the dogs then were kept, but with the increased gas prices, they decided to bring the dogs all to their home here in Weston. He stated that there are no outdoor kennels and that the dogs stay in the house a majority of the time. When they do let the dogs out, they only let 4 of the dogs outside at a time (in groups of males only or females only). They breed the dogs twice per year. He explained that the intent is to sell all of the newborn dogs. He stated that they also have a daycare that they operate in their home. The breeding of dogs and selling the puppies is their way to supplement the income from the daycare.

Higgins stated that Czerwinski's property is zoned R1, and is adjacent to RR and across the street is RE. The Village allows 3 dogs and Czerwinski's currently have 8 dogs. They were grandfathered in 2008 when the Village revised the animal ordinance. She then explained the ordinance revision process that occurred in 2008, and how Czerwinski's have been allowed to keep all 8 dogs due to their being grandfathered in. She stated that for the last two years they have had all 8 dogs licensed. *[Clerks Note for Clarification: With the current situation, they are allowed to keep all 8 dogs, but as the dogs age and pass away, Czerwinski's would not be allowed to add anymore dogs, they would then be in compliance once they are down to the allowable 3 dogs. If they are able to obtain an animal fancier license, they would be allowed to have up to 10 dogs in their home.]*

Jennifer Czerwinski stated that their dogs are all kept in a separate room, and that the day care is in its own room as well. The yard is fenced in and there are separate fenced off areas within the fenced in yard for the day care and for the dogs. She pointed out that when they were initially grandfathered in, they had a total of 13 dogs, and now they have 8 dogs. She stated that the animal fancier license allows 4 – 10 dogs, and that they are not looking to go over that number, but to be able to have a couple of litters per year, and continue to license the dogs that they do have without going over that number.

Higgins pointed out that the Humane Officer reviewed and put some contingencies on the approval *[01/19/10 approval from Humane Officer: Must stay within 4-10 dog limit and continue with up-to-date vaccines and licensing. Spayed pet-only dogs are included in the count]*. Higgins stated the issue that the Village has is that there are a lot of other people who breed and show dogs, and those people tend to have more than the 3 dogs. She stated that the most important reason for having them licensed is that it proves they are all vaccinated. She commented that most of the neighbors are okay with this. She stated this license is generally for people who have show dogs and hunting dogs, and to have them legally. It used to be that these were only allowed in RR and AG-zoned land. Higgins pointed out that kennel license is very different from an animal fancier license. Higgins explained to Lorge that Plan Commission approved the fancier license (on a 3-2 vote), but then the Village Board denied it. Montague read the letter submitted by Zuleger which stated *"The Board of Trustees felt that coupled with the child care facility already granted at this site under a home occupation permit, a fancier's license to expand the number of dogs beyond the (8) that currently reside at this facility, could create a neighborhood nuisance"*. Lorge questioned Barnett's letter, dated February 8, 2010, in opposition. Higgins clarified Barnett's letter was based on experiences that he had with his property over on Willard Lane. Higgins clarified that neither she nor Renee Hodell, Taxpayer Relations Coordinator, have ever received any complaints on the Czerwinski property. She pointed out that the police chief, Chief Wally Sparks, has approved this fancier request also. Higgins pointed out that this fancier license would get renewed on an

annual basis, and that if staff received complaints during a given year, Czerwinski's could lose their license. This is only our second request for an animal fancier license; however the first request was a non-resident looking at 2 locations to buy a home in Weston. Montague asked about their childcare license. Jennifer Czerwinski stated that they have to follow strict guidelines with their daycare business, which is licensed by the State of Wisconsin. There are periodic checkups done by the State to make sure the daycare is in good order and up to standards (cleanliness, children's records, etc.). Craig Czerwinski stated that they have an electronic bark control device set up in their back yard that sends out an ultrasonic tone that dogs do not like, if ever the dogs start barking. He pointed out that this even works on neighbor dogs that are within 50 feet of this device. It was pointed out that all neighbors were notified of this hearing, and we received two comments from neighbors in support; Barnett is the only neighbor who is opposed; and the others had not responded one way or another.

Barnett stated he is in opposition. He stated that he has had bad experiences with these dog kennels. He feels they are a nuisance with their barking. He stated that he listed his main reasons for objection on his letter (dated 02/08/10) submitted to Plan Commission. He discussed the issues he had over on Willard Lane with neighbor's dogs going onto his rental properties and causing a nuisance. Higgins called a point of order, and explained to Barnett that he should not be discussing this from the Board, and then pointed out to the Board and the audience that Barnett is speaking as a citizen and not as a Board member on this issue. Barnett continued on to say that he has spoken to his renter who lives next door to Czerwinski's and that Barnett's renter told Barnett that he is not happy with barking dogs either.

Jennifer Czerwinski addressed Barnett's concerns by stating that the first letter that Barnett submitted was because of renters that were on Willard Lane (which she is not familiar with those people or that particular issue). She stated that some time after their request was denied by the Village Board, she did go and personally speak with Barnett. She stated that she thinks part of Barnett's understanding was that they were trying to open up an indoor/outdoor kennel. She explained that they would never have a cement slab with runs for the dogs (that it is not her type of style), and that she explained that to Barnett. She stated that she also spoke to Barnett's tenant (Mike), who was home that same day and that Mike told her that he did not have a problem with that since there is a big building that is right directly behind their fence. She said that unfortunately, Mike did not write in and he is not here tonight to support them. She then pointed out to Barnett that when they talked to him (Barnett) that he told them that he would not oppose this that he would support this request. She stated that as far as the barking dogs, everyone seems to think that they are the only ones in the neighborhood that have dogs that bark. She feels that nuisance barking is 15 to 20 minutes when no one is paying attention to the dogs. She said that she is home all day; there are a couple of dogs out at a time; there is plenty of area for them to run; they are kept separate from the daycare; and in the 10 years that they lived there, they have never had any issues with Barnett. She stated that they have told all of their neighbors that if they ever have a problem with their business, to come to them directly and let them know and they will address it. She said that she has never had any issues with their neighbors. Barnett stated that he and his tenant do not have problems with the idea of Czerwinski's only having 3 dogs. Barnett pointed out an issue he had with a lady who use to walk her dog past his home and she would let her dog do his business on Barnett's yard, until he finally caught her in the act and confronted her.

Lorge confirmed there is just over ½ acre there. Craig Czerwinski confirmed there is about .65 acres.

**2. Close Hearing**

Montague closed at 5:50 p.m.

**3. Discussion and Action on Application VARI-3-10-1128**

It was clarified that neighbor's did not have any issues. Higgins pointed out the neighbors that have given their support on this request which were 8802 Scenic Drive, and 9010 Scenic Drive. Craig Czerwinski stated that he would never tolerate his own dogs outside barking. Lorge questioned if they get the animal fancier license, and if Czerwinski's moved, if the new owners would be allowed to operate under that license. It was explained that the fancier license stays with the owner and clarified that it would get renewed annually. Langkamp questioned what our guarantees are that if we grant the fancier license that Czerwinski's do not go and change the breed of dogs that they raise to German shepherds or huskys? Lorge added, possibly pit bulls. Craig and Jennifer Czerwinski stated that they would have absolutely no problems if Zoning Board of Appeals would want to stipulate in the decision to limit the breed to dachshunds. Montague stated that he understands the concerns, and pointed out that most of the concerns brought up were not to this specific situation. Montague stated that part of the Village Board's concern was the childcare facility, which Czerwinski's also have strict regulations to follow on that (day care). Craig Czerwinski reiterated that their back yard is fenced in. Barnett brought up the fact that one of Czerwinski's dogs got out and were in his yard last year. Craig Czerwinski clarified that it was actually two years ago that one of their dogs got out and into Barnett's yard, and it was after that occurrence that he went around and put in place boards in the ground along the entire bottom of the fence to keep the dogs from digging and getting underneath the fence. Jennifer Czerwinski clarified that she thinks what happened on that particular day is one of the kids kicked a ball over the fence and when they opened the back gate, one of their dogs got out and into Barnett's yard. Jennifer Czerwinski insisted that their dogs would not have eliminated in his yard. She pointed out that their fence is a privacy fence.

Montague stated that based on the information discussed tonight, that he is in favor of granting the license.

***\*Motioned by Montague: to approve the applicants request for an Animal Fancier License – Non-Foster Animal Rescue – Breeder for the property at 8807 Scenic Drive (AOD-4-10-1134). Due to the lack of a second to the motion, the motion died.***

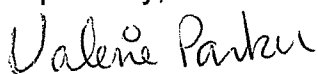
***\*M/S/P Lorge/Langkamp: that we follow the recommendation of the Town (Village) Board and that we deny the request for an Animal Fancier License – Non-Foster Animal Rescue – Breeder for the property at 8807 Scenic Drive (AOD-4-10-1134). Skare and Barnett abstained due to conflicts of interest.***

***Roll Call Vote: Langkamp-aye, Moran-aye, Lorge-aye, Novak-aye; Montague voted nay – the motion to deny passes.***

**V. ADJOURN**

***\*M/S/P Skare/Barnett: to adjourn at 6:10 p.m.***

Respectfully,



Valerie R. Parker  
Recording Secretary