

BIRCH RUN TOWNSHIP BOARD OF APPEALS
SPECIAL MEETING
JULY 6, 2017

CALL TO ORDER: Chair Mike Musial called the meeting to order at 7:00 p.m. There were five (5) people in the audience.

ATTENDANCE: Mike Musial (Chair) present; Dale Trinklein (Vice-Chair) present; Kurt Kiessling (Secretary) present; Brett Polley (Member) present; remaining Member position is vacant.

APPROVAL OF MINUTES: Motion by Kiessling seconded by Polley to approve the April 25, 2017 meeting minutes as amended. Amendment is to correct the spelling of Brett Polley in the minutes. Passed all aye.

PASSED: Motion by Trinklein seconded by Polley to approve the agenda as presented. All aye.

PUBLIC COMMENT: 7:02 to 7:07 pm. Deb Fallon commented on Kennel Requirements from 20 years ago.

PUBLIC HEARING: Mark and Cyndi Major are requesting a variance from the set-back of one-hundred feet (100) from property lines and a variance from the five (5) acre standard for a kennel. Public Hearing opened at 7:07 pm. Heard comments from Mark and Cyndi Major as well as Doug and Melinda McElyea who wish to purchase the property. Closed Public Hearing at 8:17pm.

PASSED: Motion by Trinklein and seconded by Polley to deny the variances requested from Mark and Cyndi Major for operation of a Kennel on a parcel of land 1.79 acres in size and set back variances of 20' (west), 60'(east), 20'5"(north), in the C-1 (General Commercial) Zoning District identified as 11900 S. Gera Rd. Parcel ID # 05-10-6-22-4025-000. My basis for denial is founded on non-compliance with the findings of Article 6, Section 6.07-B as noted herewith. Non-compliant with the following standards: 1,5,6 and 7.

1. That there are practical difficulties which prevent the carrying out of the strict letter of this Ordinance. These hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of use of a particular parcel of land. The applicant states that the parcel is physically too small to comply with the Kennel Ordinance of five (5) acres. They have been approached from a buyer interested in purchasing the property and opening a Kennel. The variance, if approved, would create a non-conforming business operation as it pertains to the setbacks and lot size. The applicant has not provided enough information showing a practical difficulty addressing the necessity for the variance. There is no evidence that this particular business would not cause any interruptions or bothering of neighbors. The variance request DOES NOT satisfy this requirement.

2. That a genuine practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property, that does not generally apply to other property or uses in the same zoning district, and shall not be recurrent in nature? We agree with the applicant that the target parcel is obviously narrow and shallow. The other issue is that there is another building on this particular parcel of land. Furthermore, the intended use of the property in this area is for commercial uses and the granting of the variances

would not appear to be recurrent in nature as the other parcels in the area are larger in size. The variance request DOES satisfy this requirement.

3. That the practical difficulty or special conditions or circumstances do not result from actions of the applicant? The Township adopted the Zoning Ordinance after the structures were constructed. There is no evidence of practical difficulties or special conditions resulting from the actions of the applicant. The variance request DOES satisfy this requirement.

4. That the variance will relate only to the property described in the variance application. The request will only relate to the property described in the variance application. The variance request DOES satisfy this requirement.

5. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial and adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. The purpose of the ordinance is very specific and states: The minimum lot size shall be five (5) acres and the setback for buildings runs and exercise areas shall be a minimum of one hundred (100) feet from all lot lines. The applicant has not demonstrated that the animals will not cause an adverse effect upon surrounding property, property values and the use and enjoyment of property in the neighborhood or district. The variance request DOES NOT satisfy this requirement.

6. That strict compliance with the area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome. Strict compliance with setbacks and lot size standards will not prevent the applicant from using the property for a permitted purpose. The current building proposed to be sold is operating as a permitted use; with other uses permitted as well. The applicant has not provided enough information and testimony that conformity would be unnecessarily burdensome. The variance request DOES NOT satisfy this requirement.

7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship. The proposed business has discussed installing a privacy fence around the building to provide an outside area for the animals (dogs). This would show that they are requesting more of a variance rather than the minimum the Ordinance states. The variance request DOES NOT satisfy this requirement.

YEAS: Musial, Trinklein, Kiessler and Polley.

Nays:

OTHER: None

ADJOURNMENT: Motion by Kiessler seconded by Trinklein to adjourn at 8:39 pm. All aye.

Respectfully Submitted by
Kurt Kiessler
Recording Secretary