

PRESENT: Brenda Colberg-DiMarco Chairperson, Terrance Wansley, Tanmay Gajjar, and Marquax Miller

CONTENT: American Society for the Prevention of Cruelty to Animals (Area Variance),

Chairperson Colberg-DiMarco opened the meeting at 7:01 p.m. and then led the salute to the flag.

American Society for the Prevention of Animal Cruelty

Area Variance 2020-005

Intersection of NYS Route 22 & Route 55

Pawling, NY 125664

Grid Number: 134089-7056-00-257503

134089-7056-00-110487

Mr. Rick O'Rourke Esq., from the firm of Keane and Beane, Mr. James Caris AICP from JMC Planning Engineering, Landscape Architecture & Land Surveying PLLC, Robert Hesselback AIA, Kristen Collins, Vice President ASPCA Rehabilitation Services. Beverly Jones, Vice President ASPCA Chief Fiscal Officer, and Katleen Oomsbbe from Cerami Company were present.

Chairperson Colberg-DiMarco said the property is located at the intersection of NYS Route 22 and Route 55 in the Mixed Business Industry (MBI) Zoning District. The Planning Board declared a negative SEQRA determination on September 21, 2020. The Board is in receipt of Greg Bolner noise impact study memorandum dated September 16, 2020. Three separate letters were received on the ASPCA application. The letters were from Jane Childs 23 Juniper Lane, Patti Taylor 25 Evergreen Way, Robert & Joanne Ocskasy 14 Timberline Trail.

Chairperson Colberg DiMarco said a letter was circulated to landowners in Cedar Valley development. The Town through the applicant circulated a legal notice providing via teleconferencing information, date and time of the meeting. A number of residents thought the misrepresentation letter came from the Town. The Board felt it was important to clear up any misinformation about the letter portion of the mailing to add into the record that the document containing misinformation was not from the Town.

Mr. O'Rourke introduced the ASPCA team. The area variance is an appeal based upon a determination of the Town's Zoning Administrator. The Zoning Administrator appeals stated the ASPCA requirement is to seek an appeal from Code of the Town of Pawling provision §215-18. The applicant retained the Ceramic Company to perform a noise impact study pursuant to Code of the Town of Pawling regulations §215-35. The applicant understands one of the key elements of this application is noise and that is why Ceramic Company (acoustic experts) were retained. The Planning Board conducted a coordinated Seqra review and then declared this application a Negative SEQRA determination on September 21, 2020.

Furthermore, to clarify misinformation sent out to the landowners at Cedar Valley, the maximum number of dog's onsite is proposed at 88 dogs.

Mr. O'Rourke said the Mixed Business Zone allows for a three story building. It is noteworthy to explain that the ASPCA is proposing a 42,560 square foot building that will occupy 1% of the 3,677,355.20 square feet of the property (84.42 acres x 43,560 square feet = 3,677, 355.20 square feet). As a use permitted by Special Permit as a Multi -Use Center, the property may be developed with a maximum building coverage of 30%. Thus the size of the property provides an enormous buffer for a structure occupying only 1% of the property, when considering the maximum coverage permitted on the property. The applicants have taken into consideration the recommendation of acoustical experts (Ceramic

Company) to implement mitigation measures to address no undesirable noise impact to the neighborhood. Additionally, 56% of property will be left as vegetative landscape.

Mr. Caris said the proposed project is to be developed with a state of the art facility sensitive to the surrounding neighborhood and environment. The facility proposed is a 42,560 square foot Recovery and Rehabilitation Center for dogs to be operated by ASPCA. The two parcels combined consist of 84.42+ acres. The west parcel (110487) is 48.08 + acres, and the east parcel (257503) is 36.34+ acres separated by a 200-foot wide NYSEG cross easement in favor of the subject properties. The access proposed is via a new curb cut on NYS Route 55, aligned with the existing Cedar Valley intersection. The proposed development will include associated parking, landscaping, and utility infrastructure to support the facility. Mr. Caris began the presentation, which included illustrated maps of the site as follows,

- Aerial view location and size of the two parcels.
- Aerial view of the site plan.
- Aerial view of the stormwater management area, parking spaces with 106 spaces, proposed building footprint, outdoor fenced play areas, the building will have green rooftops, not shown, loading area and parking spaces, 360-degree vehicle access, and landscape buffers.
- Recovery and Rehabilitation center, green rooftops, main entrance, and parking area. Western Perspective view ion
- Recovery and Rehabilitation center, ground-level view, western ground-level elevation view.
- Recovery and Rehabilitation center, green rooftops, fenced-in play area, loading area. Eastern elevation perspective view
- Grading plan
- Existing grading proposed grading and site section view.
- Aerial view with green landscape buffers.

The zoning setbacks for the Mixed Business Industry (MBI) Zone is 250 feet. Currently, the setbacks are 381 feet from property line, 445 from the rear property line, and 1000 feet from Cedar Valley residents. Some of the design features include a state of the art facility, green roof, fenced in training areas, tree and shrubs will remain around the site. To provide further coverage, we recommended that a portion of the 690' elevation be provided with earth berms to raise the elevation to 700', for a reduction in noise impact to the southern portion of the site. Mr. Caris presented an illustrated site map of the existing and proposed grade. The proposed one (1) story building is marginally higher than the existing grade. All proposed buildings require a cut and fill to achieve the bottom of the footing elevation.

Ms. Katleen Oomsbbe said their review was completed for the project noise impact from the proposed ASPCA facility operations to the adjacent residential areas. We understand that animals will use outside play areas. Since the residents located to the North and East have major roads between them and the proposed facility, they considered the south most residents to be the most sensitive to animal noise. By approximating the maximum noise levels that will be produced by animal noise at the facility, they completed an assessment to determine the extent of the mitigation required to achieve compliance pursuant to the Code of the Town of Pawling, Performance Standard ordinance.

Mr. Caris said outdoor activities with the dogs will be scheduled during regular hours of operations between 7:30 a.m. and 6:00 p.m. The outside activities will consist of three components, leash walks, playgroups, and individual dog pens.

Ms. Oomsbbe said they are proposing the animal noise projected is towards the nearest residence to the south of the property, 37 Fenwood Drive. There is a significant change in elevation around the ASPCA property and the residential properties, so the topography was analyzed as well. Based on elevations, the existing conditions provide a natural barrier between the ASPCA facility and 41

Fenwood Drive. The estimated highest elevation of 700' is sufficient to block noise from 37 Fenwood Drive, and the topography is expected to reduce noise levels at least 10db below maximum allowed levels. The levels are expected to approach inaudible sound most of the time based on ambient measurements. As the elevation decreases to the East, the natural barrier effect is reduced. Where the elevation changes to 690', there is about a 5-10db increase in predicted noise levels from the near training areas and the dog walks. While still below the maximum noise levels, animal noise approaching ambient may result in inaudible barks. They noted that the calculations are still conservative, using multiple animals barking at once at very high levels. It is very unlikely that most animal noise is significantly lower. To provide further coverage, we recommended that a portion of the 690' elevation are provided with earth berms to raise the elevation to 700'. We estimate the additional elevation would minimize animal noise from approaching inaudibility. With the effective measures in place and consideration taken for time of day in which dog activities are to occur, the animal noise should comply with the noise ordinance stipulations in Section 2.0. It should not be objectionable to nearby neighbors. The noise impact study from the Route 55 side was performed 200 feet into the Cedar Valley.

Chairman Colberg-DiMarco asked if the applicant chooses to expand the facility, what are the procedural steps required pursuant to the Code of the Town of Pawling.

Mr. Liquori Esq., responded that if the ASPCA expanded the facility they would be required to submit a complete application for Amended Site Plan for Planning Board approval and if the outdoor areas were proposed to be expanded additional area variances would be required by the Zoning Board of Appeals.

Chairman Colberg-DiMarco asked which Town department performs inspections to ensure the facility is constructed according to Site and Building Plans.

Mr. Liquori Esq., responded that it would be under the jurisdiction of the Town's building department. The building inspector and /or Code Enforcement Officer issues building permits and performs all associated Town environmental, building, fire and energy inspections.

Mrs. Miller asked what are the dogs scheduled times for outside exercise in the fenced in play areas.

Mr. Caris responded that the Outdoor activities with the dogs will be scheduled during regular hours of operations between 7:30 a.m. and 6:00 p.m. The outside activities will consist of three components, leash walks, playgroups, and individual dog pens. The dogs are never outside without an employee or on a leash. The dogs are separated by size and numbers while out in play groups.

Mr. Wansley reviewed the external dog walking paths and outdoor play areas. He asked how close the dog are to the walking paths in proximity to Route 22 and 55.

Mr. Caris said the dog walking paths are estimated over 100 feet from Route 22 and 55 property boundary.

Mr. Gajjar asked how many dogs would be allowed outside at one time.

Mr. Caris said the play groups are based on the dog's behavior, temperament and dog's size. These groups are exercised periodically throughout the normal hours of operation.

Chairperson Colberg-DiMarco opened the meeting to the public.

Ms. Elizabeth Gipson, 9 Evergreen Way from Cedar Valley spoke. Ms. Gipson said if any employees will be at the facility after normal business hours (i.e. 6:00p.m)?

Mr. Hesselback responded that no employees will be at the facility after hours.

Mrs. Gipson asked if a perimeter fencing would be installed around the perimeter of the building and outdoor play areas.

Mr. Caris presented the site plan to illustrate the exterior perimeter fencing around the building and outdoor play areas to contain the dogs.

Mrs. Gipson asked how the build-out of the ASPCA facility would affect the property values.

Mr. O'Rourke explained the zoning regulation for these parcel has been non-residential since the 1990's. The Mixed Business Industry zoning district allows for a building height of 35 feet, with mixed uses. In terms of property values, another larger development project could result in a 1,000 car parking lot, several buildings 35 feet in height, with reduced open space. For example retail shopping or an Amazon warehouse would generate a greater visual and traffic impact. Relatively speaking the ASPCA is proposing a 1-story building, far less intrusive, while maintaining open space and landscape buffers, on 84.42 acres. This facility is occupying less than 1% of the property.

Mrs. Maris Henderson, 8 Evergreen Way from Cedar Valley spoke. She asked several questions, if the dogs would be contained safely in the kennel after hours, will the dogs be walked along Route 55 and is a fence being installed around the dog walking path?

Mr. Hesselback responded that all the dogs are kept in individual kennels during the evening hours. There are no plans to install fencing around the dog walking paths, the dogs are only allowed to be walked on leash using the walking paths with an employees and/or trainers.

Mr. Williams Owens, 44 Evergreen Way from Cedar Valley spoke. He began by saying he is not opposed to the ASPCA facility. Mr. Owens previously lived and worked at a kennel, he understands how much noise can be generated. Additionally, kennels lend itself to increased traffic. There is a concern that no employees will be onsite during the evening hours. The aggregate number of dogs shall add the noise decibel amplified. In his opinion additional berms should be installed around the facility. Dogs bark all night long. The ASPCA should not build in a residential area, there is other parcels in Pawling to consider.

Ms. Oomsbbe said there is a significant change in elevation around the ASPCA property and the residential properties, so the topography was analyzed. Based on elevations, the existing conditions provide a natural barrier between the ASPCA facility and 41 Fenwood Drive. The estimated highest elevation of 700' is sufficient to block noise from 37 Fenwood Drive, and the topography is expected to reduce noise levels at least 10db below maximum allowed levels. The levels are expected to approach inaudible sound most of the time based on ambient measurements. As the elevation decreases to the East, the natural barrier effect is reduced. Where the elevation changes to 690', there is about a 5-10db increase in predicted noise levels from the near training areas and the dog walks. While still below the maximum noise levels, animal noise approaching ambient may result in inaudible barks. They noted that the calculations are still conservative, using multiple animals barking at once at very high levels. It is very unlikely that most animal noise is significantly lower. The property to the north is over 1000 feet from the facility. The highway noise established a base ambient noise tested, with the benefit of the elevation for the study. They did account for numerous dogs' noise along with the ambient highway noise. The test along Route 55 was done entering 200 feet off of the highway towards the Cedar Valley homes.

Mr. Owen said 88 dogs will be barking at one time, which should be accounted for the noise study testing. .

Mr. Hesselback explained the 88 dogs will not be outside at the same time. The dogs will be inside the building contained in their kennels. The proposed kennels design does not allow the dogs to look at each other creating arousal to result in barking at one another.

Mr. Owen said he is not against the facility. The best scenario is for the ASPCA to make every effort to minimize the aggregate dog noise.

Mr. Gajjar asked if noise complaints are filed with the Town what are the contingencies measures.

Mr. Caris said if the ASPCA had complaints filed at the Town. The Code Enforcement Officer would issue violations, thus resulting in the ASPCA responding to address additional mitigating measure to reduce noise impacts from the dogs.

Ms. Eileen McFadden, 11 Timberline Trail from Cedar Valley spoke. Ms. McFadden asked if a traffic light will be installed at the junction of Cedar Valley and NYS Route 55.

Mr. Caris responded there is no plans for a traffic signal. The NYSDOT does recommend a dedicated right hand turn acceleration lane on NYS Route 55. The plans are under preliminary review.

Mr. John Conti, 8 Westwind Road spoke. Mr. Conti said his question is a subject normally people do not like to ask, what is the disposal process when a dog dies or is euthanized.

Mr. Hesselback responded that when a dog dies or is euthanized, the animal is kept onsite held in a large freezer until a third party can come to remove the animal.

Mr. Conti asked if the public is allowed at the facility.

Mr. Hesselback said the ASPCA has partnership with New York City Police Department providing victims of animal cruelty and neglect. Many of the animals rescued through the partnership require targeted medical and behavioral intervention, before successfully placed for adoption and rehomed. The facility is not a public facility.

Mr. Conti said the ASPCA is a non-profit organization. He asked if the ASPCA plans on hiring local individuals.

Mr. Hesselback said they are considering up to 80 employees ranging from veterinarians to clinical, animal technician, behavioral, office administration, employee staffing etc. The staff could be transferred from other ASPCA locations and/or hire new individual employees.

Mr. Conti said hypothetically the noise study test did not include a large number of dogs. Could a trial test be performed with many individuals coming to the site to allow dogs barking resulting in a different type of analysis?

Mr. Liquori Esq., responded typically what a Board relies upon are the Engineers visual onsite analysis perspective. The sound mitigation portion of a site plan relies upon a sound engineer certified for the Board. ASPCA has performed the noise study impact report by Ceramic Company a qualified sound engineer company and the report was reviewed by the Town's Engineer and Planning Board. The Board has performed its due diligence.

Mr. Michael Martin 28 Timberline Trail from Cedar valley spoke. He said a sound study test was performed with Daryl's House and he asked why a hypothetical test isn't being performed for the ASPCA.

Mr. Liquori Esq., said he was not the Counsel for the Town of Pawling during the Daryl's House application

Mr. Martin asked what will happen with increased traffic in relation to the number of cars during shift changes at the ASPCA facility junction of Route 55 and Cedar Valley.

Mr. Caris presented the illustrated plans showing the access road, with right and left hand turn lanes into the site. The NYSDOT has not proposed a light due to the proximity of the on and off ramps. The ASPCA follows the guidelines for combined total cars by NYSDOT rules and regulations for access drives. There will be no public access to the site only ASPCA employees.

Mr. Robert and Judy Sherlach, from 4 Fenwood Drive spoke. Mr. Sherlach said one important point is sound of other dogs barking in the local area responding to the ASPCA dogs. When dogs bark other dogs in the area will bark back, was that scenario ever factored into the noise study. Mr. Conti had an important point about hiring local individuals. He suggested to Mr. Hesselback to hold a job fair in Pawling bringing in local people. It is good will, and business for the local economy.

Mr. Hesselback said they are in the development stage of projected number of employees. The upper projection is 80 employees. It is a point well taken to hire local individuals. The ASPCA employees will bring economic growth for local business as people will buy meals and other products from local merchants.

Ms. Oomsbbe explained the noise study relating to outer lining areas for sound of ambient noise, dba for audible noise. The dogs inside the kennel will be placed inside a sound proof facility.

Mr. Hesselback said the ASPCA has been designing placement and sound proofing of the building. A large dog population can be noisy, the building will be a closed building with kennels placement to reduce dogs barking at one another.

Mr. Sherlach thanks Mr. Hesselback for addressing the sound proofing of the building and local employment opportunities.

Ms. Valerie Lidsay, 8 Aspen Court from Cedar Valley spoke. She asked what is the time frame and Towns perspective to the type of industry proposed.

Mr. Liquori explained the Planning and Zoning Board of Appeals procedural application steps required per New York State and Town code. The Board reviews initial applications for a certain completion level of a project before sending the documents to outside agencies for a SEQRA determination. The Planning Board made a referral to the Zoning Board of Appeals for necessary area variances. The Site Plan and Special Use Permit could be issued within the next few months. He cannot speak directly to the ASPCA's build out time frame.

Ms. Lidsay said she has worked with dogs for 8 to 9 years. No one has mentioned smell from the animals. What is being done to contain the animal smells? Additionally, fireworks and gunshots cause dogs to bark, has anyone taken into account loud noises that will occur during summer months and people shooting.

Ms. Oomsbbe explained that gunshots and fireworks have a larger dba sound level. She then re-explained the proposed berm areas to address noise.

Mr. Hesselback said they have a waste management plan, no waste will be left out, and it will be cleaned immediately and disposed at waste stations. The dogs will not be left out alone and will be monitored closely.

Mrs. Kim Rives, 8 Timberline Trail from Cedar Valley spoke. She asked what type of material will be used for sound proofing the building and if site inspection would be held during construction? Will additional meetings be held to approve the sound proofing of the buildings?

She stated that remains concern with no employee onsite during the night for multiple reasons and obviously the noise is also a concern. She asked why was 'Pawling chosen.

Mr. Hesselback responded that the ASPCA remains in the design stage of the project, therefore, no decision have been made on sound proofing material.

Mr. Liquori Esq., said the applicant will develop plans for submission to the Building Department. The plans must meet NYS building, fire and energy code and then approved by the building inspector before permits are issued. The town's building inspector and/or Code Enforcement Officer performs all compliance inspection during construction. If the construction is completed to code the ASPCA will be

issued a certificate of occupancy and if not, they will not be issued a certificate of occupancy. If the ZBA grants an Area Variance, they do not have to appear before this Board. The Planning Board process will engage a Public Hearing on the project.

Mr. Hesselback said they looked at a number of sites and opportunities in the upper regions around Pawling. This site lends itself to the function for the ASPCA to achieve animal recovery and rehabilitation work to be successful for the dogs. They choose Pawling as the site consist of a bucolic wooded setting.

Chairperson Brenda Colberg read the comments listed on the Zoom meeting.
There were no additional comments from the Public.

Motion by Mr. Wansley to close the Public Hearing.

Second by Mrs. Miller. Chairperson Colberg-DiMarco asked for discussion.

All in favor the Motion was carried.

Chairperson Colberg-DiMarco said the Zoning Board of Appeals in making its determination shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Mrs. Miller read the first factor, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Mrs. Miller said the ZBA analysis of the area variance and supporting documents, illustrates there would not be an undesirable change to the neighborhood. The noise impact study was discussed amongst the Board. Ceramic Company submitted a depth noise study report. If complaints are made in the future the ASPCA will address additional noise mitigation.

Mr. Gajjar said he airs on the side of the study, where a certain level of comfort does come out of the report. If complaints are received, then additional measure will be installed to mitigate noise. Any future mitigation is to be determined.

Mrs. Miller read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Mrs. Miller said the applicant have no alternative other than seeking an area variance.

Mrs. Miller read the third factor, is the variance substantial?

Mr. Gajjar said the comparative analysis illustrates that the ASPCA is proposing a 42,560 square foot building that will occupy 1% of the 3,677,355.20 square feet of the property (84.42 acres x 43,560 square feet = 3,677,355.20 square feet), therefore, the variance is not substantial.

Mrs. Miller read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Mrs. Miller said the ASPCA has completed detailed studies, reports on the proposed project to create a state of the art facility by blending into surrounding neighborhood, therefore, not creating an adverse impact to the neighborhood or district.

Mrs. Miller read the fifth factor, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Mr. Gajjar said the alleged difficulty is self-created. Nonetheless, that does not preclude granting of an area variance.

Mrs. Miller read into the records Resolution #2 of 2020 – Area Variance for American Society for Prevention of Cruelty to Animals located at the intersection of NYS Route 22 & 55. (copy in file). Grid Number: 134089-7056-00-257503, 134089-7056-00-110487subject to;

- The Zoning Board of Appeals conditions the grant of the variance on (i) the Planning Board confirming as part of the Site Plan Approval that the building plans include the required soundproofing in the areas of the buildings that are required to be soundproofed (as determined by the Building Inspector); and (ii) that the Special Use Permit contains an ongoing condition that the applicant is subject to being required to provide additional noise mitigation in the event that the noise from the outdoor use exceeds the limits permitted under Zoning Code

Motion by Mr. Wansley to grant American Society for Cruelty to Animals located at intersection of NYS Route 22 and Route 55 for an area variance, §215-18(B) “Work spaces, runs, pens or other facilities shall be located within a completely enclosed soundproof building: and such hospital or kennel shall be operated in such a manner as to produce no objectable noise, orders or other nuisances beyond the boundaries of the site on which it is located. Such facility shall assure a buffer zone sufficient to prevent increase in average preexisting background noise levels on the site”.

Second by Mrs. Miller. Chairperson Colberg-DiMarco asked for a second
All were in favor and the Motion carried.

MINUTES

Motion by Mrs. Miller to approve the Minutes of August 24, 2020 as read.

Second by Mr. Wansley. Chairperson Colberg-DiMarco asked for discussion.

Role Call:

Chairperson Colberg- DiMarco, aye.

Terrance Wansley, aye.

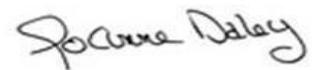
Tanmay Gajjar, aye.

Margo Miller, aye.

ADJOURNMENT

On a Motion by Mrs. Miller and seconded by Mr. Wansley to adjourn the meeting at 9:10p.m. All were in favor, and the meeting was adjourned.

Respectfully submitted



JoAnne Daley
Recording Secretary

non - approved minutes