

**ZONING BOARD OF APPEALS**  
**Ross Township**  
**February 1, 2005**

The Ross Township Zoning Board of Appeals held its regular meeting on **February 1, 2005 at 4:15 P.M.** at the Ross Township Hall. Chairman Carpenter called the meeting to order and noted those present.

Present were:           D. Carpenter  
                              A. Harmon  
                              J. Scott

Also present was:      G. Webster, Building Department  
                              C. Rolfe, Township Attorney

**APPROVAL OF AGENDA** On motion by Harmon seconded by Scott the agenda was unanimously approved.

**APPROVAL OF MINUTES OF December 7, 2004**

On motion by Scott seconded by Harmon the Minutes of **December 7, 2004** were unanimously approved.

OLD BUSINESS – None

NEW BUSINESS

**Battle Creek Hunt Club/Robert Carr**

**Property tax I.D. #:           3904-16-330-011**

**Proposed is the removal of an existing dog kennel (approximately 50' X 28') and the construction of a new dog kennel (52' X 24'8"), which is permitted by Special Exception on this legal existing, conforming, waterfront parcel located in the Rural Agricultural (RA) Zoning District. Also proposed is the construction of a new fenced, concrete dog run. The new kennel will be located 290 feet from the south side lot line where 500 feet is required by Section 11 (30) (C).**

Mr. Robert Carr, representative of the Hunt Club, was present to explain his proposal. He said that the proposed location for the new kennel building is optimal for creating the fewest nuisances such as odor, noise, etc.

In response to Scott, Webster explained the specific Ordinance provisions in this case. The Special Exception Use for non-enclosed kennels with outside dog runs requires a 500-foot setback from properties containing residential structures. Additionally, an overriding Ordinance provision requires accessory buildings to be in the rear or side yard of the primary structure. However, in this case the primary use of the property is commercial making the residential structure on the property accessory to the commercial use. This is important since the new kennel would otherwise be in its the front yard.

Scott asked how far the kennel would be from the residential building on the Cheff Center lot, and Carr said it is approximately 600 feet from that building.

Answering Carpenter, Carr explained that to locate the kennel in any other location on the property would create a conflict with horses and would increase the opportunity for nuisances. Carr also said that there are no residences directly north of the property.

Harmon noted that the riding arena is to the north and to locate a kennel there would certainly create annoyance between dogs and horses thereby creating higher noise levels. There do not appear to be other good locations on the property. Harmon also asked whether an enclosed kennel could be built on the property.

Rolfe said that there is a capacity for 25 dogs on the property, but he asked Carr if the dogs can go from the interior of the building to the outside at their will. Carr answered that this can be controlled by the owners. Outside are dog runs and exercise areas.

Carr explained that the old structure is wood and is very difficult to keep clean. The new building would be concrete and more easily sanitized.

Harmon commented that the Cheff Center adjacent to the kennel is primarily a commercial use as opposed to a primarily residential use.

No one being present to comment, Scott moved to close the public hearing portion of the meeting. The motion was seconded by Harmon and unanimously approved.

Before the ZBA began deliberations, Rolfe drew the member's attention to the possibility that the situation necessitating the variance may be self-created. He also noted that the Planning Commission and the Township Board put this new Special Exception Use category for kennels into the Ordinance with the idea that kennels would most probably be located near residential properties. In this case the adjacent properties are not typically residential rather they are commercial, and the separation distance of 500 feet may not nearly be so critical here as in the other contemplated circumstances.

Harmon suggested considering this as an enclosed kennel with exercise areas associated with the indoor areas. This would eliminate the need for the separation distance.

Joe Sikkema, nearby resident, arrived late, but Carpenter allowed his comments. He stated that only 3 times a week is the barking limited to the extent that neighbors can sleep with their windows open. He is opposed to the proposal. He finds the barking dogs obnoxious. He says that the barking is beyond the normal tolerance level. There is apparently one dog that is so loud that it can not be controlled.

Carr responded to Sikkema by saying that they are not proposing any more dogs. They are only replacing the kennel building.

Webster responded to the question regarding this being an enclosed kennel or an outside kennel by saying that the Zoning Administration always makes the most restrictive interpretation, and in this case the outside dog runs and exercise area do not qualify it as a fully-enclosed kennel.

Scott observed that to place the kennel anywhere further north on the property would move the building closer to the residences in Stoney Lake.

Harmon said that he may not be able to support a variance, since it is possible to construct an enclosed kennel with outside exercise areas on this property without variance relief. He suggested further that the ZBA determine that this is an enclosed kennel with outside exercise areas. If it is then necessary for the owner to make additional improvements to comply with the Special Exception requirements, those will have to be made.

Rolfe observed further that there is a 4 dog limit outside at any time.

Scott does not believe that only allowing 4 dogs outside at any one time is feasible, and Mr. Carr said that they have no intention of keeping the dogs inside the building for any extended period.

Carpenter mentioned that the applicant could move the building further north on his property and be compliant with ordinance, however it would then be closer to the Stoney Lake residences. The present location is probably the best. He then drew the board's attention to the provisions of Section 6.9. He said he is having trouble finding an undue hardship associated with the property.

Harmon said that the only level area to place a kennel is the area where horses must exercise. He said that this proposes a practical difficulty, since it would generate noise at greater levels than at present. He also believes that it is not detrimental to adjacent properties, since they are keeping it away from Stoney Lake. It does not more greatly impair the Ordinance with respect to health, safety, and welfare, since the use is already in existence.

Carpenter concluded that the provisions of Section 6.9 A have been met. With respect to extraordinary circumstances there are no other hunt clubs in the Township.

Harmon said that the variance is necessary to preserve the enjoyment of the property.

Scott said that the nature of the property, being adjacent also to the Cheff Center commercial uses indicates that this is not a recurrent condition.

Harmon then moved to approve the variance as requested based on the discussion and findings just made. The motion was supported by Scott and unanimously **APPROVED.**

PUBLIC COMMENT - none

OTHER BUSINESS

The ZBA approved the first Tuesday of each month for its upcoming meetings with the exception of the scheduled July 5 date. It will be moved to July 12, and the April date coincides with Gull Lake School's spring vacation. It is moved to April 12. The motion was made by Harmon, seconded by Scott and unanimously approved.

Harmon then moved to reappoint Carpenter as chairman. The motion was seconded by Scott and unanimously approved.

ADJOURNMENT

On motion by Harmon seconded by Scott and unanimously approved the meeting was adjourned.

Respectfully submitted,

Gary Webster  
AGS