

MINUTES
Levy County Planning Commission
July 6, 2015
6:30 p.m.

The Levy County Planning Commission was called to order by Chair Parker. Board members present were:

Thad Barber
Ron Grant
Thomas Harper
Vaughn Lee

Also present was County Attorney, Mrs. Anne Brown , Development Director, Mr. Bill Hammond and Ms. Shenley Neely, Planning Director.

Chair Parker called for a motion to approve or deny the minutes from May 4, 2015 as presented. Mr. Barber motioned to approve the minutes as presented. Mr. Grant seconded the motion. All members voted "aye." Motion carried.

Chair Parker then called for anyone giving testimony to be sworn in by the county attorney. Mrs. Brown officially swore in anyone that wished to speak or present themselves as an expert witness regarding the Special Exception.

Chair Parker called for the board to disclose any ex-parte communications related to the petition being presented. There was none.

Mrs. Brown explained briefly the process of which an item is heard. Mrs. Brown said the type of decision the board is making for this particular item is called quasi-judicial. Mr. Brown said it means the board is limited in what they look at and what they can consider in making their decision.

Chairman Parker stated the first order of business would be a Special Exception (15-02). Chair Parker also stated there was conversation regarding a continuance and asked the Attorney Dwayne Perser, whom was representing Guardian Angels Medical Service Dogs to speak on this request.

Attorney Dwayne Perser said he was recently hired to represent Guardian Angels Medical Service Dogs. Mr. Perser said there were some issues that would require him to request a continuance. Mr. Perser said he had not had enough time to review the application and that the code was quite lengthy. Mr. Perser said the second issue that prompted him to request a continuance was the public notice. Mr. Perser said that F.S. 78.111 stated a notice of 20 calendar days is required prior to a meeting taking place and most of the notifications only gave a 17-day notice.

Chair Parker asked to hear from the audience regarding a continuance for SE 15-02.

In Favor of Continuance:

Carol Borden, Ann Larkin, Cedar Silva, Susan Heath, Chris James Borden, Helen (last name inaudible), Richard Mize, Frank Petrone, Rodolfo (last name inaudible), Pete (last name inaudible), Megan Leitch, Laura Lee.

Not in Favor for Continuance:

Michael Gaither, Patti Gaylyean, Lucille Reese, David (last name inaudible), Lisa Bonno, Sally Ann Collins.

Chair Parker closed the floor for discussion. Mr. Harper asked Mrs. Brown if proper notification was given. Mrs. Brown said the code provides several types of notification and that proper notification was provided. Mr. Harper asked Mr. Hammond how long has the discussion regarding this application been going on? Mr. Hammond said approximately six months. Mrs. Brown said seven months. Mr. Lee asked when the application was filed? Mrs. Romero said the application was stamped received on May 28. Mr. Harper said Attorney Perser pointed out he was brought on late by the applicants and the real reason for the continuance is to give him more time to revise their application.

Chair Parker closed the floor to discussion.

After discussion, Chair Parker called for a motion for the continuance. Mr. Grant motioned to deny the request for the continuance. Mr. Lee seconded the motion. All members voted "Aye." Motion carried.

Chair Parker asked Ms. Neely to begin with her item of business.

ORDINANCE NO. 2015-08 Update to County 5-Year Schedule of Capital Improvements Table.

Ms. Neely provided a brief review of Ordinance 2015-08. Ms. Neely explained that the five-year Schedule of Capital Improvements is just one component of the Capital Improvement Element in the County's Comprehensive Plan. She said Florida Statue requires it to be reviewed on an annual basis and modified if necessary.

Chair Parker closed the floor to discussion. There was no board discussion.

Chair Parker called for a motion to recommend approval or denial of Ordinance 2015-08 as presented. Mr. Harper motioned to recommend approval to the Board of County Commissioners as presented. Mr. Grant seconded the motion. All members voted "aye." Motion carried.

Chair Parker asked Mr. Hammond to proceed with Petition No. SE 15-02.

PETITION NO. SE 15-02 Chris and Carol Borden (applicants), petitioning the board for a Special Exception to bring into compliance an existing establishment known as "Guardian Angels Medical Service Dogs, Inc." to allow a dog kennel for raising, training and the donating of service dogs to people with mental and physical disabilities. The parcel of land being the South 303.67 ft. of the NW 1/4 of the SW 1/4 and the N 1/2 of the N 1/2 of the SW 1/4 of the SW 1/4 in Section 1, Township 13S, Range 18E, in Levy County. Said parcel contains 19.4 acres and is located within an "FRR" Forestry/Rural Residential zone

Mr. Hammond briefly reviewed the staff report pointing out the staff conditions.

CONDITIONS

1. The kennel facility shall be located as shown on the site plan provided with application SE 15-02 and shall be designed as indicated in the supporting documents.
2. The special exception use shall be operated in a manner consistent with the application and supporting documents.
3. The kennel facility shall be cleaned on a daily basis in the manner described by the applicant in the supplement document provided with application for the special exception use.
4. Upon reasonable notice, the owner, applicant or their assigns shall grant Levy County Animal Control Services personnel access to the kennel facility during normal business hours to inspect the kennel facility.
5. Any expansion of the kennel facility will require the applicant to submit an application for an amendment to SE 15-02, which shall be processed in the same manner.
6. Provide written assurance all dogs will be kept within an enclosed building between the hours of 6:00 p.m. and 7:00 a.m. each day, as a means of protecting nearby residences from disturbance by barking.
7. Provide written assurance that each dog will be provided access to dry shelter at all times.
8. A yearly inspection by the office of Environmental Health for compliance with the agreed waste disposal plan as submitted as part of this application.

Chair Parker called for any discussion from the audience.

Attorney Duane Perser said the first item he would like to address is to orally amend the application as to dog kennels. Mr. Perser referred to staff report, second to the last page as follows.

- (1) (a). All dogs will be kept within an enclosed building between the hours of ~~6:00 p.m. to 7:00 a.m.~~ 10:00 p.m. to 7:00 a.m. each day, as a means of protecting nearby residences from disturbance by barking.
- (2) A security fence shall completely enclose all areas containing dog runs and/or kennels. Each such fence shall be a minimum of six feet in height.
~~The site plan provided indicates that a six-foot high fence will enclose the area of the kennel facility and dog yard areas.~~
- (3) Any proposed kennel and enclosing fence shall be located at least 200 feet from the property line.
~~The site plan submitted indicates the kennel facility, including the dog yard areas meet the 200 foot setback from all property lines as required.~~

In addition to the above amendments, Attorney Perser stated Guardian Angels are objecting to any and all Code Enforcement recommendations. Attorney Perser also said that Guardian Angels

Medical Service Dogs is not operating as a “commercial” dog kennel. He said there are no rentals, sales or distribution of products, therefore is not a commercial kennel.

Carol Borden, of “Guardian Angels Medical Service Dogs” said they are a nonprofit organization regulated by state and federal regulations. She said they did not understand why they were pressured into doing the special exception. She said they do want to be good neighbors. She said they submitted the application because they were told they would not be able to do it again, so she was not sure what they needed to do because they are a nonprofit organization not a commercial dog kennel.

Mr. Grant asked if there was an evacuation plan? Will be registered with the EOC? Mrs. Borden stated they do in fact have an evacuation plan and it will be registered with the EOC. Mr. Harper asked regarding Section 50-718 (1) (a) All dogs will be kept within an enclosed building between the hours of 6:00 p.m. to 7:00 a.m. Why is this an issue? Mrs. Borden said their dogs have been trained with certain bathroom habits and asking them to keep them in for that amount of time could be detrimental to their health. Mr. Harper asked when they do go out, are they still confined within a fenced in area? Mrs. Borden, yes they are. She said the reason for amending the 6' fence is that during their time there they have never had a dog leave their property. Mr. Harper asked if they have a perimeter fence? Mrs. Borden, said yes they do. Mr. Parker, as far as dog kennels, item #three and the 200' setback? Mrs. Borden, said they're currently 20' from the closest property where there are chickens, cows, pigs, would graze and the dog kennels is actually further away then their horses are. Mr. Parker asked about #1d regarding the removal and disposal of the solid waste. Did they provide written assurance to the Health Department? Mrs. Borden said they have complied with the Health Department requirements.

*** 8:55 p.m. 10 minute break ***

*** 9:05 p.m. reconvenes ***

Mr. Parker asked Mr. Hammond to make comments on how the BOCC will be able to accommodate for this item. Mr. Hammond said the scheduled meeting for this item that was going to be heard by the BOCC, would need to be postponed since the board cannot accommodate for the large public participation at such a short notice.

Mrs. Brown explained that a new legal ad would be placed in the Levy County Journal. Mrs. Brown said it will also be on the County website.

Chair Parker called for any support or opposition to this item. Chair Parker also asked that all comments me a maximum of 3 minutes.

SUPPORT:

Laura Lee, Brian Yarusevich, Helen (last name unknown), Joe Washington, Chris Borden, Donald Hoose, Richard Mize, Ann Larkin, Casey Kelly, Rodolfo (last name unknown), Lauren Oney, and Frank Petrone.

OPPOSTION:

Barbara Snow, Priscilla Reese, Sally Ann Collins, David Elliot, Albert Reese, Michelle Zimmerman, Lisa Bonno, Michael Gaither

After hearing all support and opposition, Chair Parker closed the floor to discussion.

BOARD DISCUSSION:

Mr. Harper suggested modifying condition # 6 to read “*Provide written assurance that all means of protecting near by residences from disturbances by barking by all dogs being kept within an enclosed area between the hours of 6:00 p.m. and 7:00 a.m. each day.*”

Mr. Harper said his intentions is to find a way that we can form jointly to protect the zoning code. Mr. Harper also said he was looking for ways to get past the past barking issues, 6' fence issue and the 200 ft setback. Mr. Lee said a variance would be needed for the setback.

Chair Parker stated that it all comes down to whether or not it is a commercial kennel. Mrs. Brown said as she has mentioned before, this was the Zoning Official's call and he has made that call, and has done so some time ago.

Chair Parker said Mr. Hammond has made the decision that it is a dog kennel, then there are certain stipulations that are required in the code and the code cannot be modified. Mr. Harper said the board can recommend certain variances to the conditions. Mr. Harper said they would need an application for a variance for the setbacks, an application for a variance from the barking ordinance. Mrs. Brown said the barking and time frames are not a variance issue.

After all discussion, Chair Parker called for a motion to recommend approval or denial for SE 15-02. Mr. Harper motioned to recommend approval for SE 15-02 to include conditions with addendums as follows :

1. The kennel facility shall be located as shown on the site plan provided with application SE 15-02 and shall be designed as indicated in the supporting documents.
2. The special exception use shall be operated in a manner consistent with the application and supporting documents.
3. The kennel facility shall be cleaned on a daily basis in the manner described by the applicant in the supplement document provided with application for the special exception use.
4. Upon reasonable notice, the owner, applicant or their assigns shall grant Levy County Animal Control Services personnel access to the kennel facility during normal business hours to inspect the kennel facility.
5. Any expansion of the kennel facility will require the applicant to submit an application for an amendment to SE 15-02, which shall be processed in the same manner.
6. Dogs will be kept within an enclosed buildings between the hours of 6:00 p.m. and 7:00 a.m. each day to protect nearby residences from disturbances by barking with dog houses on subject property as qualifying buildings.

7. Provide written assurance that each dog will be provided access to dry shelter at all times.
8. A yearly inspection by the office of Environmental Health for compliance with the agreed waste disposal plan as submitted as part of this application.
9. Applicant to apply for and receive a variance to reduce the fence height from 6' as required in Section 50-718 to 4' and a variance to reduce the setback from 200' as required by Section 50-718 to 20'. Variances must be obtained prior to Order to Approve being effective.

Mr. Barber seconded the motion. All members voted "aye." Motion carried.

There being no further business for the Levy County Planning Commission, the meeting was adjourned.

Chairman