

ORDINANCE NUMBER 2016 - 02

GRANTING SPECIAL USE AND VARIANCE FOR THE PROPERTY AT
8573 FOX RIVER DRIVE IN FOX TOWNSHIP

WHEREAS, Peter and Mary Bielby, d/b/a Mary's Pooch Pad, have filed a petition for a Special Use and a variance within the A-1 Agricultural Zoning District for a 4.05 acre property located on the northwest side of Fox River Drive, 0.5 mile south of Millbrook Road, commonly known as 8573 Fox River Drive (PIN# 04-16-151-005; 04-16-300-001), in Fox Township; and

WHEREAS, said property is legally described as:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 36 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 21; THENCE NORTH ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER 379.6 FEET; THENCE NORTH 89 DEGREES 41 MINUTES 51 SECONDS EAST ALONG A LINE PARALLEL TO THE SOUTH LINE OF THE SAID SOUTHWEST QUARTER 573.77 FEET; THENCE SOUTH ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SOUTHWEST QUARTER 379.60 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER SECTION; THENCE SOUTH 89 DEGREES 41 MINUTES 51 SECONDS WEST 573.77 FEET TO THE POINT OF BEGINNING; IN KENDALL TOWNSHIP, KENDALL COUNTY, ILLINOIS.

WHEREAS, said property is currently zoned A-1 Agricultural; and

WHEREAS, said petition is to obtain an A-1 Special Use Permit to operate a kennel; and

WHEREAS, section 7.01 D.27 stipulates that kennels must be located at least 250' from residential zoned properties and 150' from non-residential zoned properties; and

WHEREAS, the proposed kennel structure will be located twenty-five (25) feet from a non-residential zoned property; and

WHEREAS, the petitioners have sought relief from this requirement by applying for a variance to the required setback from non-residential zoned properties; and

WHEREAS, the proposed kennel structure meets all other setback requirements; and

WHEREAS, all variance procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.08.J of the Zoning Ordinance, and recommendation for approval by the Zoning Board of Appeals on November 2, 2015; and

WHEREAS, the findings of fact were approved as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. The lot has a narrow width of 265' thus prohibits a new structure from being able to meet the required setback distances to the north and south lot lines.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. The lot size and dimensions of this parcel are not necessarily atypical of other lots zoned as agricultural.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The property was not platted by the petitioner and the existing structure was present on the site when the petitioner purchased the property.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The existing structure, as accessory to the property, does still meet the required setbacks of an agricultural accessory building and should not have a detrimental effect on other properties.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. It does not appear that the existing structure itself currently impairs an adequate supply of light and air to the adjacent property. The proposed variation, along with the change in use of the structure to a dog kennel, will not have any additional impact on the existing structures impairment of the supply of light or air to adjacent property. As part of a special use, the conversion of the structure from storage to a commercial kennel is required to comply with required applicable codes and is subject to a special use approval.

WHEREAS, all special use procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.08.J of the Zoning Ordinance, and recommendation for approval by the Special Use Hearing Officer on February 1, 2016; and

WHEREAS, the findings of fact were approved as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The petitioner has submitted plans, including a waste management plan, indicating that measures will be taken to ensure that the use of the kennel operation will not have a negative impact on public health, safety, morals, comfort, or general welfare.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses

and is compatible with the surrounding area and/or the County as a whole. The location of the structure for the proposed kennel and the location of the outdoor play area for the dogs maintain the required distance from nearby residential districts and structures. Fencing will be provided to enclosure dogs in the play area and a substantial amount of existing landscaping and wooded areas provide screening from adjacent properties and the roadway. No lighting associated with the dog kennel operation is proposed and no signage will be constructed.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. No new points access roads or points of ingress and egress are being provided as they are not necessary for the requested use. The petitioners will be working with the Health Department to ensure all potential plumbing upgrades will comply with Health Department guidelines. No new construction is being proposed on the site for the use and will not require additional drainage or stormwater infrastructure. The structure that is proposed to be used for the dog kennel facility has been determined as an agriculturally exempt structure and will not require a building permit. All ADA parking requirements will be provided.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer. The petitioners have been granted a variance with respect to the setback distance of the kennel structure to the southwest property line. The Zoning Board of Appeals granted the request on November 2, 2015.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. This special use is consistent with the LRMP indicates this property to maintained as open space and no additional development is occurring on the property with the request. The property will still be used as a residence for the owners/operators of the dog kennel.

WHEREAS, the Kendall County Board has considered the findings and recommendation of the Special Use Hearing Officer and finds that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of a special use zoning permit and variance to operate a kennel within a structure located twenty-five (25) feet from a non-residential zoned property in accordance to the submitted Plat of Survey included as "Exhibit A" attached hereto and incorporated herein subject to the following conditions:

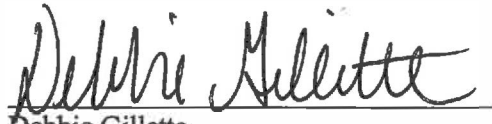
1. No more than twelve (12) dogs associated with the kennel operation shall be kept on the property at any one time.
2. All dog waste shall be kept in a lidded container and shall be removed from the property no less than one (1) time every seven (7) days
3. No exterior lighting associated with the dog kennel operation shall be permitted
4. Six foot fencing shall be maintained around the perimeter of the outdoor play area to enclose all dogs including a six foot privacy fence to be located in the rear of the proposed kennel structure and will span across the width of the property.
5. Employees shall be limited to individuals residing on the property
6. All dogs shall be kept within the kennel between the hours of 6:00pm and 7:00am daily.
7. A reserved parking sign for ADA compliance shall be installed for one parking space on the asphalt parking area.

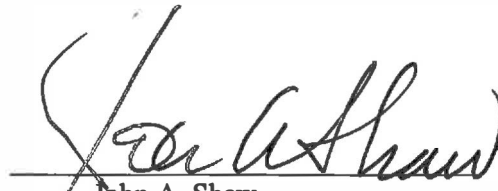
8. No signage shall be permitted on the property
9. The special use is granted for Peter and Mary Bielby only and shall not be treated as a covenant running with the land.
10. The special use shall be subject to an inspection no later than February 1, 2017 by the PBZ Department for compliance with these conditions.

Failure to comply with the terms of this ordinance may be cited as a basis for amending or revoking this special use permit.

IN WITNESS OF, this Ordinance has been enacted by the Kendall County Board this 16th day of February, 2016.

Attest:


Debbie Gillette
Kendall County Clerk


John A. Shaw
Kendall County Board Chairman