

Community Concerns

**Town of Wawayanda Planning Board**

**Public Hearing, February 8, 2012**

Steven James / Rutgers Creek Kennels is requesting approval of a Site Plan for a commercial use and accessory structure, a Special Use Permit and Lot Line Change for the property located on Gardnerville Road, parcel Section 23 Block 1, Lots 110 and 111.

**Description of Gardnerville Road:** Gardnerville road is a Town road with no divider line. It is not paved, but periodically chip and tarred. In the 1.3 miles between Lime Kiln Road (County Road 93) and Carter Road there are 50 single family residential homes. There are approximately 55 children, most below the age of 10. There are no commercial businesses.

Members of the Wawayanda community present the following concerns

**I. Appeal of the determination of William Bavoso to the ZBA.**

- A. Mr. Bavoso previously proposed that the home would be an accessory structure to the kennel. We were notified of this at the January Planning Board Meeting.
- B. The definition of an accessory structure includes all uses that are customarily incidental to and subordinate to a particular principal use or structure on the same lot.
- C. We submit that Residents are not customarily incidental to and subordinate to a commercial kennel. A commercial kennel is a separate and distinct commercial use and a residential home is a distinct principal use. They are both listed in the zoning table as distinct principal uses.
- D. We respectfully ask that you hold this meeting open until the ZBA can make a determination.

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**II. Possible Conflicts of Interest**

- A. Did the applicant, Steven James, put forth any disclosure information indicating that he has a relationship with anyone on any of the Town boards?

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**III. Concerns about the Conservation Easement.**

- A. Is the board aware of any restrictions in the original conservation easement?
  - B. In accordance with 195. 45 c the minimum lot size for a commercial dog kennel shall be 10 acres. Do the required 10 acres for the proposed kennel including the conservation easement?
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**IV. Other Concerns about Compliance with Existing Zoning**

- A. In accordance with 195.45(4), if approved, how will all facilities be permanently screened from all surrounding properties?
  - B. In accordance with § 195-23 A, if approved, does the Board intend to require that the minimum front, side and rear yards be increased by up to 50%? Further, if approved, will the Board require that a buffer consisting of a solid fence of wood and/or a twenty-foot-wide dense evergreen planting not less than six feet high be maintained?
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**V. Substandard Driveway**

- A. Previously the planning board discussed the 25 foot entrance for both of these lots. This was said to be conforming for residential use. This was designed for residential use not commercial. Is this a substandard driveway for combined commercial and residential use?
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**VI. Accessory Structure Location**

- A. Concerns to be presented pending the ruling of the ZBA
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**VII. Special Use and Site Plan Review Procedures**

- A. The Town of Wawayanda Planning Board shall, pursuant to § 274-a(5) of the Town Law, have the right to disapproval of special use permits and site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of:
  - 1. the public health
  - 2. safety
  - 3. general welfare
- B. § 195-76. Special use review criteria.

1. The Planning Board, in reviewing the site plan, shall consider:
    - a. its conformity to the Town of Wawayanda Comprehensive Plan, laws and ordinances of the Town. Conservation features, Aesthetics, and **impact on surrounding development**
  2. The Board shall further consider the following:
    - a. (L) Adjacent properties. The proposed use should not have a **detrimental impact on adjacent properties**, or the health safety and welfare of the residents of the Town of Wawayanda
    - b. (M) Community impacts. The Planning Board shall consider whether the use will have a positive or negative effect on the environment, job creation, the economy, housing availability or open space preservation.
- C. Considering the above criteria, we feel that the proposed use will have a detrimental impact on our community. Specifically:
1. Public health: research has shown that the noise of a barking dog constitutes a health hazard. Potential Adverse health effects of noise include disruption of the normal functioning of the autonomic and endocrine systems .
  2. Safety: Increased traffic flow on a residential road. Change in nature of traffic flow from residents to those seeking commercial services and those unfamiliar with the neighborhood.
  3. **Decrease in home values.** We have been advised by several real estate agents and certified appraisers that our home values will significantly decrease. We are having home appraisals conducted by Appraisal Specialists and Valuation Consultants and will present exact figures to the board upon completion. (Note: this comes at a time when residents' homes have already lost significant value consistent with national trends. The detrimental impact of another decrease could be financially crippling, and is in the hands of the board).
  4. **This project will not create jobs. Nor will it significantly increase tax revenue, accounting for the depreciation in value of existing homes.**
  5. Aesthetic change from residential and farmland to commercial.
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## VIII. STATE ENVIRONMENTAL QUALITY REVIEW

- A. We would like the following issues to be further examined as there is currently not enough information to fully evaluate their accuracy or impact on the environment
  1. PART I PROJECT INFORMATION
    - a. Maximum vehicular trips per hour : 6
      1. How was this number derived? What if there are more? Does it include training sessions? Weekend / vacation seasons? How will the Board ensure that Mr. James “picks up his clients’ dogs.”
    - b. Surface liquid waste discharge (Pg 6 #12)

1. Will dog excrement enter existing water sources? During flooding?  
Will proposed action affect surface or groundwater quality or quantity?
- c. Will project produce operating noise exceeding the local ambient noise levels?  
(Pg 7#20).  
Exactly how many dogs will be permitted?  
How many allowed on runs at any given time?  
How can this be monitored or enforced?  
What times will dogs be permitted outside?  
Why build such a large structure if not for a large number of dogs?
- d. Pg 10 #12. Will the proposed action result in the generation of traffic significantly above present levels? To the kids playing, people walking and current residents, even 6 cars an hour is significantly above present levels.
2. Part II Project Impacts and Their Magnitude
  - a. Will proposed action affect aesthetic resources? (#11) YES
  - b. Will proposed land use be obviously different from current surrounding land use? YES
  - c. Will the proposed land use eliminate or significantly reduce the enjoyment of the aesthetic qualities of the resource? YES
  - d. Will there be objectionable odors noise, or vibration as a result of the proposed action? YES
  - e. **Will Proposed Action affect the character of the existing community? YES**
  - f. Will Proposed Action affect any threatened or endangered species?  
We are currently investigating this issue and awaiting information from the DEC.

## IX. Summary

On May 7, 2009, new zoning was adopted in the town of Wawayanda. The new zoning expanded the use of agricultural residential lands, to include a number of special uses. These regulations were adopted to promote the growth of the community. They were not adopted to punish its existing members. No set of regulations can fairly address every situation in a diverse town. As such, the zoning law incorporates the added protection of special use and site plan review procedures that allow the Planning Board to examine individual cases and approve or disapprove based on many variables including any detrimental impact on adjacent properties.

We implore the board to consider the many members of community who have already made this town their home. Our children's safety, the character of our neighborhood, and the value of our homes are in your hands.