A Regular Meeting of the Zoning Board of Appeals was held on Thursday, April 11, 2019, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Daniel Bassette

 Clayton Lacey

 Liz Sciortino

 Stephen Maxon

 David Cook

ATTORNEY: David Hou

OTHERS: Councilperson John Hagreen

Minutes were taken by Michelle Booth.

Mr. Bassette opened the meeting at 7:00 p.m.

**BELMONT USE VARIANCE PUBLIC HEARING**

Diane and Johnny Belmont, 61 Elmford Road, Rochester, NY, for property located at Mendon Pet Supply, 11 Mill Road, Mendon, NY, consisting of 0.50 acres, bearing Tax Account No. 216.07-1-13, located in a Business Zone, to add cat boarding, which is not an allowed use, to the existing retail pet supplies sales.

Mr. Bassette acknowledged the affidavit of posting of the sign and waived the reading of the public notice.

Mr. Bassette discussed the difference between an area variance and a use variance.

Ms. Belmont explained the need for this variance. She would like to partner with Pet Pride and Lollipop Farm with boarding and adopting out cats. She is hopeful that between the new boarding fees and increased foot traffic that her rate of return for the year would become more profitable.

Mr. Lacey asked how many cats she plans on boarding at one time. Ms. Belmont says approx. ten.

Mr. Maxon asked the rate per night to board a cat. Ms. Belmont stated $20.00 - $25.00 per cat, per night.

Mr. Maxon asked if there are any financial statements to show what her rate of return is on the business now and what she would anticipate by having this approved. Ms. Belmont stated that this is an LLC and the tax returns include another business that she owns also, so they would not show the pet store only.

Mr. Maxon explained that those numbers would be needed to approve this use variance in his opinion.

Ms. Belmont stated that boarding cats will not affect the neighborhood. The Vet across the street does it and they will not be making any changes to the outside of the building.

Mr. Maxon asked how many cages will be used. Ms. Belmont stated about 5.

Ms. Belmont was asked if she will be charging Lollipop for boarding their cats. Ms. Belmont stated no, but she is hoping that it will increase foot traffic and sales from the increase in people in the store. She hopes that it will help get the word out that they are there.

Mr. Cook asked if she is located behind the hotel. Ms. Belmont stated yes.

Mr. Bassette reviewed the proposed floor plan.

Mr. Hou asked if there would be multiple cats per cage. Ms. Belmont stated yes, if they were from the same family.

Mr. Bassette asked if they had any financial information from March, as the Board was only given through February. Ms. Belmont says she did not bring that. She could provide it, but sales were down even more in March than February.

Ms. Sciortino asked if she has a mortgage on the building. Ms., Belmont stated that she leases.

Mr. Maxon asked if there is a mortgage on the business. Ms. Belmont stated no, she and her husband funded the business.

Mr. Hou asked about signage. Ms. Belmont stated that the sign would stay the same, she will use the internet to advertise more.

Mr. Hou asked how the business will change with this added use variance. Ms. Belmont stated that she is unclear, but hopefully she will have more sales with the increase of people.

Mr. Maxon stated that in order to make a profit, from the information shown, the boarding would need to be at full capacity each and every night. He wonders if this is realistic and if it would be enough to actually help. Ms. Belmont stated she hopes that the increased people in the store will increase sales more also.

Mr. Maxon asked if she had considered a cat grooming service. Ms. Belmont stated no, there is one across the street. This would be a very large expense.

Mr. Maxon stated that in his opinion, no determination can be made without an accurate profit statement from the pet store. The financial paperwork submitted does not show a rate of return.

Mr. Hou asked if she had thought about offering internet sales herself. Ms. Belmont stated that the cost outweighs the reward in her opinion.

Mr. Bassette asked if she could achieve a reasonable return any other way? Ms. Belmont stated no.

Mr. Bassette asked if this situation is unique to her? Ms. Belmont stated yes.

Mr. Bassette asked if this would alter the neighborhood in any way? Ms. Belmont stated no.

Mr. Bassette asked if this problem is self-created? Ms. Belmont stated no.

Mr. Bassette opened the Public Hearing.

Mr. Belmont stated that this is important and they would really rely on the extra foot traffic to make the business succeed.

Mr. Hou asked if the boarding would limited to cats only. Ms. Belmont stated yes.

Ms. Sciortino asked what hours people would actually be there with the cats. Ms. Belmont stated that their hours would stay the same.

Mr. Hou asked if the boarding would change any of the sanitary measures. Ms. Belmont stated that there wasn’t anything she could think of.

Mr. Hagreen asked if the building is equipped with a sprinkler system. Ms. Belmont stated no.

**MOTION**

Mr. Cook moved, second by Mr. Maxon, to close the Public Hearing.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – aye; Mr. Lacey – aye; and Mr. Cook – aye.

**MINUTES**

**MOTION**

Mr. Lacey moved, second by Ms. Sciortino, to approve the March 21, 2019 minutes as submitted.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – aye; Mr. Lacey – aye; and Mr. Cook – aye

**GENERAL DISCUSSION**

There was some discussion about sprinkler systems and safety measures.

Mr. Maxon stated that a use variance holds a much higher standard than an area variance. There is no proof of any rate of returns.

Mr. Lacey stated that this is an LLC combined with another business and it would be hard to show the pet store vs. the other business by the tax information. Mr. Maxon stated that is not the Board’s problem, it is up to the applicant to provide that information.

**BELMONT USE VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Cook, that the use variance requested by Diane Belmont, 61 Elmford Road, Rochester, NY, for property located at Mendon Pet Supply, 11 Mill Road, Mendon, NY, consisting of 0.50 acres, bearing Tax Account No. 216.07-1-13, located in a Business zone, to add cat boarding, which is not an allowed use, to the existing retail pet supplies sales, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Diane and Johnny Belmont, the business owners appeared before the Zoning Board of Appeals at the public hearing on April 11, 2019.
2. The applicant has requested to board cats on site. Section 260-17 of the Mendon Zoning Code lists all the permitted uses in the Business District.
3. The applicant intends to convert an existing space, approximately 11 x 22, in order to house cats. No external modifications would be needed.
4. The applicant provided sales figures showing they were averaging $24640 per month in 2017, and are currently averaging $18351 per month for the year to date. They attribute this ~25.5% decrease to customer purchases being made through the internet instead.
5. The applicant explicitly stated there will be no dogs, only cats.
6. Across the street from a veterinary and pet grooming service.
7. The applicant expects increased revenue from the boarding directly, and hopes traffic will improve other sales.
8. Members of the public where given the opportunity to comment during the public hearing.
9. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The request will **not** have an undesirable change in the neighborhood, as there will be no external changes to the property and people in the area are already engaged in similar activities.
2. The difficulty was **not** self-created, as the internet continues to disrupt previous business models, requiring us all to adapt.
3. The business owner can**not** realize a reasonable return on investment, as demonstrated through the financial records provided. In addition, the cost of converting to any of the other allowed uses would be significant.
4. The alleged hardship does **not** apply to a substantial portion of the neighborhood, as there are no other pet stores in the area.
5. This is a Type II action under SEQR

**CONDITIONS OF APPROVAL**

1. Subject to compliance with building code, as determined by Town Code Enforcement Officer.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – abstain; Mr. Lacey – aye; and Mr. Cook - aye

**MOTION**

Mr. Lacey moved, second by Mr. Maxon, to adjourn.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – aye; Mr. Lacey – aye; and Mr. Cook - aye