

**VILLAGE OF PERRY
ZONING BOARD OF APPEALS MEETING
SEPTEMBER 1, 2020**

Present:	John Czyryca, Chairman	Melissa Hennen, Member
	Joe Rebisz, Member	Don Roberts, ZEO
	James Reynolds, Member	Christina Slusser, Secretary
	Bethany Zerbe, Member	

Guests:	Adam Gullo, Applicant	David Becker
	Michael Weiss, Applicant	Mike Buda
	Beth Dumbleton-Becker	

Chairman Czyryca called the meeting to order at 6:30 PM and led the pledge to the flag.

APPROVAL OF MINUTES – JULY 7, 2020

One grammar correction was made under approval of minutes from “make” to “made.”
Bethany Zerbe made motion to approve the minutes from July 7, 2020 as corrected, which was seconded by Melissa Hennen, and carried with the following vote:

Ayes	5
Nays	0
Abstain	0

Public Hearing notices were published in the August 13th edition of the Perry Herald for an area variance at 81 N. Main Street by Michael Weiss and a use variance at 21 Dolbeer Street by Adam’s Holdings.

PUBLIC HEARING – AREA VARIANCE AT 81 N. MAIN STREET

As advertised, application was made by Michael Weiss of the Baptist Church of Perry for an area variance under Section 490-22 to increase fence height from 3 ft. to 4 ft. in the front yard of property located at 81 North Main Street, Perry, NY. This is a corner lot so there are two front yards. The response received from the Wyoming County Planning Board showed no significant impacts. A letter was received from neighbor, Mildred Mandeville stating no issue with the height requested. Mr. Weiss is the Chairman of the Board of Trustees at the Baptist Church. He informed the group that there is a new, young paster with a family and dogs. A 4-foot-tall fence was requested for protection of the family. Chairman Czyryca made motion to approve the application for an area variance by Michael Weiss, which was seconded by Bethany Zerbe, and carried with the following vote:

Ayes	4
Nays	1

PUBLIC HEARING – USE VARIANCE AT 21 DOLBEER STREET

As advertised, application was made by Adam’s Holdings, LLC for a use variance under Section 490-31 for residential permitted uses to include the following additional uses: Indoor Recreation, Personal Service, Warehousing, Clinic, Printing, Pet Day Care, Workshop, and Medical Office for property located at 21 Dolbeer Street, Perry, NY. The non-conforming use was explained. This business in a residential district was in place before the Zoning Laws of Perry were in place. To add additional uses under a variance, 4 conditions must be met:

1. The application cannot realize reasonable return, which Zoning Enforcement Officer, Don Roberts, confirmed. 2. The alleged hardship is unique. Because the building looks like a manufactured site, it was grandfathered in as a non-conforming structure. 3. The variance will not impact the residential area (noise, lights, etc.), which was the main topic of discussion. 4. The alleged hardship has not been self-created. The property was used for manufacturing in the past and never as a residential unit.

Feedback was received from the Wyoming County Planning Board (WCPB) and reviewed. The WCPB approved the request with comments: All local, county, and state permits must be obtained and must meet local, county, and NY State building codes. A site plan drawing was not provided and the boundaries of the property are not shown. There appear to be no significant county-wide negative impacts related to this proposed project. Questions from WCPB: Do the neighboring property owners have any objections to this project? Have they been notified? What will be the hours of operation? How will the parking be addressed during business hours?

Current uses allowed in this district are residential and bed & breakfast (which is allowed in all “R” districts under a special permit). Descriptions were read aloud for all the following possibilities: Daycare Center, Personal Care Service, Office Space, Recreational Indoor, Medical Office, Workshop, Print Shop, and Retail. It was determined that retail use would not be an option for worry of many people gathering at once, where the other options are planned or scheduled.

Conditions: Must conform to zoning laws for parking for the particular use. No off-street parking should be allowed, but could be made a condition. It is important that parking is controlled due to the building being in a residential area.

Operating Hours of 7am - 9pm were discussed. A day care facility could need earlier hours while a dance studio, which may hold evening activities, could require later hours of operation.

The building cannot extend beyond the current footprint. Chairman Czyryca suggested an additional condition that only one additional use would be allowed, so if, in the future, the

owner wanted to change the use, the previous use would be revoked to consider the addition of another use.

Mr. Gullo has one prospective tenant, Melissa Henchen, who currently has a business on Main Street and is interested in growing her business to a larger space. Mr. Gullo would be interested in renting to Ms. Henchen. Ms. Henchen explained that she has owned her dog daycare business, Paws Perrydise, on Main Street for 5 years with no complaints. She wishes to have a bigger space to help customers and allow for a larger space for training. Her passion is holding dog training classes but she is limited to what she can do in her current space. Her business also offers private lessons, grooming services, and a small retail space. She wishes to be able to hold more inventory, but not more than ¼ of the store. She also holds classes outside but the current property limits this as well. Operating hours are 7am – 6 pm with classes held from 6pm – 7 pm. No one is ever there after 8 pm and there are cameras on site. She must leave lights on according to her lease but would turn them off if able. The potential space at 21 Dolbeer is a sounder structure than she operates in currently.

Chairman Czyryca asked about any parking issues. Ms. Henchen stated that drop offs and pick ups are staggered and late pickup is not allowed because of classes. It was determined that the primary use would be training and daycare, equally, with a smaller retail space. There is a huge need for grooming, but it is not advertised yet – is appointment only. Ms. Henchen has two employees besides herself.

A letter was received from Karl Kelly, a neighbor to the property, and read aloud which stated concerns with noise, lighting, parking, and water run off due to heavy rains. Beth Dumbleton-Becker, another neighbor, spoke about safety concerns because people drive on the wrong side of the road there and there are no lines on the street. She lives in 1 of 3 houses that back up to the building and has noise concerns with barking. The concern is that the neighbor dogs will see and hear dogs at the facility and cause barking. Overall, she thinks this use would negatively impact the neighborhood. There is a dog ordinance already and noise threshold, but it would be hard to control under the nuisance section of the zoning law. Mr. Buda, another concerned neighbor, agreed that a dog daycare would greatly impact the three closest houses and especially if dogs were housed overnight. James Reynolds stated concerns with parking, noting people would be backing out on the street. He could see some conflict with people arriving and leaving.

Don Roberts explained that the board could choose to make the approval based on what the board knows so far or table it 62 days to make a decision. Mr. Gullo stated that he currently has no Plan B for the location. There is a lot of potential, but no other proposed tenant. If this is denied, Mr. Gullo would need to reapply for a different option.

Chairman Czyryca requested a motion from the Board to open the voting process. Bethany Zerbe motioned and James Reynolds seconded.

All in favor of granting a use variance to allow a dog daycare center to the premises with an extension of a caged area off the back of the building for dogs, potentially allowing an impact to the neighborhood as discussed regarding dogs barking:

Those for	0
Opposed	3
Abstained	2

The motion was carried and the variance denied. The Board felt that of the four required conditions, the applicant did not satisfy condition number 3 not to alter the essential character of the neighborhood.

Reasoning:

1. The inevitable noise factor imposed on the neighborhood from a group of dogs that will bark against each other as well as with neighboring dogs.
2. The use extending beyond the perimeter of the building (earlier stated that the use must operate within the existing perimeter of the building).

Mr. Gullo will consider other options if someone else wants to collaborate with him. There are grants out there for the arts and historical uses; many possibilities with minimal impact.

With there being no further business, motion to adjourn was made by Bethany Zerbe at 7:40 pm which was seconded by James Reynolds and carried.

Respectfully submitted,
Christina Slusser, Zoning Secretary