

A Regular Meeting of the Planning Board was held on Wednesday, December 15, 2021 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 PM

PRESENT: Brent Rosiek – Chair
Earl DeRue
Lauren Smith
Christopher McCourt

ATTORNEY: Donald Young

OTHERS: Town Councilperson, Tom Dubois; Matthew Schwartz; AJ Bellavia; Tim and Katherine Roberts

Minutes were taken by Katrina Allen

Mr. Rosiek began the meeting at 7:00 PM

MINUTES

MOTION

Mr. Rosiek moved, seconded by Mr. McCourt to approve the minutes, as amended, of the November 17, 2021 meeting.

ADOPTED

Mr. Rosiek – aye; Mr. DeRue – aye; Mr. McCourt - aye and Ms. Smith – aye.

LOOMIS SPECIAL USE PERMIT PUBLIC HEARING

Lynette Loomis, 2 Surrey Hill Lane, Pittsford, NY, for a special use permit for a one room bed and breakfast at 2 Surrey Hill Lane, consisting of 1.47 acres. Tax account no. 204.04-1-37.
Zoned RA5

Mr. Rosiek asked who was present to represent Ms. Loomis. Ms. Loomis stated she was there and her neighbor, Matthew Schwartz, was as well.

Mr. Rosiek asked if the applicant’s house was on the left and off of Smith Road. Ms. Loomis replied it is.

Mr. Rosiek and Ms. Loomis discussed her double-wide driveway and mature trees acting as a buffer. Mr. Rosiek asked if the applicant had signage for her bed and breakfast. Ms. Loomis said she does not.

Mr. Rosiek asked if additional lighting would be added. Ms. Loomis stated she has driveway lights and has no plans for additional lights.

Mr. Rosiek inquired how her guests find out about her bed and breakfast. Ms. Loomis stated she uses Air B&B and people can search a geographical area. She has a two-night minimum. She used to only require one night, but she wanted to avoid wanderers though the Town. She advised she often has college students who are home on break with no room at home and people are often long-term at times. They may be waiting for an apartment that has not yet become available.

Mr. Rosiek stated a lot of people look to stay in Mendon. Ms. Loomis agreed.

Ms. Smith asked how long the applicant has had her bed and breakfast. Ms. Loomis said two years prior to Covid she started, but she has not been in business during Covid. She said it has caused a dip in her income. Ms. Smith agreed that Covid would cause Ms. Loomis to lose income.

Ms. Loomis stated Air B&B vets all her guests, and she always lets her brother know when people are staying, so he is aware.

Mr. Rosiek asked the Board if they had any questions. The Board did not.

Mr. Rosiek stated the Code Enforcement Officer (CEO), Corey Gates, found everything to be sufficient.

Mr. Rosiek asked Mr. Young if it is unlisted with SEQR, and Mr. Young replied yes.

Mr. Rosiek stated there is a narrative from the applicant stating it is a one-bedroom bed and breakfast, it maintains the 500-foot guideline of not being within that distance to another bed and breakfast, it is outside of the right of way, and there is not signage.

Mr. Rosiek asked the Board if they needed further discussion before opening the Public Hearing. The Board replied no.

Mr. Rosiek opened the Public Hearing at 7:08 PM.

Mr. Rosiek stated there is a request for a Special Use Permit for a one-room bed and breakfast at 2 Surrey Hill Lane, Pittsford, NY.

Mr. Rosiek said there are many letters from neighbors that were sent in support of the Special Use Permit and one neighbor is present at the meeting, and Mr. Rosiek called him to speak.

Mr. Matthew Schwartz, 8 Surrey Hill Lane, Pittsford, NY, said he has lived on Surrey Hill Lane for six years and has known Ms. Loomis the entire time. He said she is like the mayor of Surrey Hill. She is very helpful and even walks the neighbors' dogs. When he heard Ms. Loomis had an Air B&B, he was surprised, because no one would even know. There is no traffic or extra cars on the street, and he does not even notice the guests. Surrey Hill Lane is a cul-de-sac, and there is no reason guests would go beyond Ms. Loomis's house. He has no concerns. In fact, Mr. Schwartz's parents stayed at the bed and breakfast two years ago though the holidays. Mr. Schwartz has no problem with the applicant.

Mr. Rosiek asked if anyone else wished to be heard. There was no one.

The Board discussed the five letters from neighbors in support of Ms. Loomis. There were no letters or comments against the Special Use Permit.

Mr. Rosiek asked the Board if there were any additional questions. The Board had none.

MOTION

Mr. DeRue moved, seconded by Mr. McCourt, to close the Public Hearing at 7:12 PM.

ADOPTED

Mr. Rosiek – aye; Mr. DeRue – aye; Mr. McCourt - aye and Ms. Smith – aye.

Brent Rosiek stated the one-bedroom bed and breakfast is within the character of the neighborhood.

Ms. Smith said the idea is wonderful, and all the neighbors are in favor of the Special Use Permit.

Mr. Rosiek said the CEO had no concerns with traffic, waste water, or the septic.

Mr. Young said there is no formal determination as it is a straight forward request.

Mr. Rosiek stated it is a negative declaration on SEQR. He advised the applicant this is good, as there is no impact on the environment. Mr. Rosiek also said the Town has a complete application from Ms. Loomis, and all the water and traffic are spelled out.

Mr. Young advised the applicant meets chapter 260-52 of the Mendon Town Code as it is only one bedroom and the home is owner occupied and not a tourist home.

Mr. Rosiek made a motion for negative declaration and approval of the Special Use Permit for a One-Room Bed and Breakfast and Site Plan as there has been positive testimony - both written and verbal - and there are no issues with the character of the neighborhood or a negative impact. There is off-street parking and does not interfere with the Right of Way.

MOTION

Mr. DeRue moved, seconded by Mr. McCourt to approve the Loomis Special Use Permit and Site Plan, as submitted.

ADOPTED

Mr. Rosiek – aye; Mr. DeRue – aye; Mr. McCourt - aye and Ms. Smith – aye.

JOHNSON SPECIAL USE PERMIT PUBLIC HEARING

James Johnson, 1300 Honeoye Falls Five Points Road, Honeoye Falls, NY, for a special use permit for a dog daycare/dog boarding at 1300 Honeoye Falls Five Points Road, consisting of 1.37 acres. Tax account no. 221.03-2-36.12. Zoned RA1.

Mr. Rosiek asked who is representing the applicant. Mr. James Johnson stated he was present with his fiancé, Alla Myzelev.

Mr. Rosiek asked for clarification on who owns the property, and who applied for the Special Use Permit for a dog daycare. Mr. Johnson said Ms. Myzelev owns the property, but she has written a letter authorizing Mr. Johnson to be the applicant.

Mr. Rosiek asked to confirm the applicant’s driveway is on Winmark Way. The applicant said yes.

Mr. Rosiek stated the property is unlisted SEQR and asked what is the applicant’s business plan. The applicant said he wants to run a dog daycare Monday through Friday and would be up to, but not exceed, five dogs. It would be from 7 am to 7 pm and run primarily out of his garage. He has a dog door leading to a fenced yard, and the garage is climate controlled.

Mr. Johnson further explained he would like to board a maximum of two dogs at one time. The dogs would come into the house and fall into the homeowners’ and their dogs’ routine. They would allow the dogs out mainly when people are at work, and they have mature trees all around that offers a buffer. Mr. Johnson would be in the garage and outside with the dogs.

Ms. Myzelev stated the dogs will be supervised at all times. Mr. Johnson said he has always wanted to have this business.

Ms. Myzelev said prior owners had bred dogs, and the structure was all set up for dogs when they bought the property.

Ms. Smith asked how many dogs the applicants own. The applicants replied two.

Mr. McCourt inquired how many pens are in the garage and if there are five. The applicants replied the dogs will each have crates. The dogs will come inside and have free time, and Mr. Johnson will work one-on-one with each dog and give the other dogs time to rest inside the garage.

Mr. McCourt stated the picture show cages. Ms. Myzelev said the cages are from the previous owner. There is an existing dog door for the dogs to go outside from garage.

Mr. Rosiek asked if Mr. Johnson had worked with dogs before, and what is his background. Mr. Johnson replied outside of owning dogs, he has trained mainly aggressive dogs who have failed the training programs at Petco or PetSmart. He stated the dogs need one-on-one time. He is not currently training. Mr. Johnson said his fiancé currently teaches at SUNY Geneseo, and he stays home and takes care of the house.

Mr. Rosiek inquired about problematic dogs. Mr. Johnson said the only problematic dog he had taken care of was his mom's, and he made his mom take her dog back home.

Ms. Myzelev said they get that question regarding problematic dogs a lot. The applicant wants to find five regular customers and usually, people needing dog daycare, have older dogs or puppies that need medicine or multiple meals a day. This gives his customers an opportunity to work and not have the guilt of leaving their dog(s) home alone. He is helping dogs not have aggressive behavior by being left alone. He also said there are not a lot of dog places around and those that are, pay minimum wage, and the dogs do not get any personal time.

Mr. Rosiek confirmed the dogs will have free range, but Mr. Johnson will be with the dogs. The applicant stated yes.

Ms. Smith asked Mr. Johnson if he is helping the same families every day and not revolving families. Mr. Johnson said that is what he prefers. He is passionate about this business, and it is not about the money to him. He often hears people need half-day coverage, or the same days each week. It necessarily will not be five days a week.

Mr. Rosiek asked if Mr. Johnson planned on screening the dogs for temperament. Mr. Johnson said he has a Labradoodle and Bullmastiff. They are not crazy dogs and they are all up-to-date on shots and vet checked, etc. Mr. Johnson also stated his home is across the street from the Honeoye Falls Vet, if any issues arise.

Mr. Rosiek asked if the applicant was looking at dog liability insurance. Mr. Johnson said yes, he had looked into the coverage, and it is \$400 a year. It is all ready to go.

Mr. Rosiek inquired about animal waste and if it would be a small lined bin and removed each day. Mr. Johnson said yes.

Mr. Rosiek asked if there were any breeds Mr. Johnson would avoid or have any concerns about and if the insurance had restrictions. Mr. Johnson stated he would not work with any company with breed restrictions, because it is not the dogs and it is never the breed. He also said he has no children.

Ms. Smith asked the applicant if he would take the dogs for walks. Mr. Johnson said no, because he has a large fenced-in area that is the dogs' run. He stated the only dogs that are the problem are his own.

Mr. Rosiek inquired about the driveway and if it can accommodate two or three people at once. Mr. Johnson said a total of eight cars can fit; six cars in the driveway and two on the pull-off.

Mr. DeRue asked if the dogs are always in the enclosed area and with the applicant's two dogs, the five daycare dogs, and the two boarding dogs, he could have nine dogs at one time and if the applicant thinks nine is a good number of dogs. Mr. Johnson replied yes, but it is unlikely to have the max number. He knows from experience for what he has the space.

Mr. Rosiek said when the Board looks at the numbers, including the applicant's dogs, nine is a large number of dogs. Mr. Johnson replied that with other places, there are runs with 20 dogs.

Mr. Rosiek informed the applicant this is a Special Use Permit in a residential neighborhood, and if a homeowner has four dogs of his own, he would need a Special Use Permit. The applicant stated there are loud roosters and dogs. He said he is from Honeoye and this is as city as he gets. His fiancé is from Toronto and thinks that roosters are exotic. They have not met any of their neighbors either.

Mr. Rosiek stated he highly recommends the applicant talk to his neighbors. There are several of Mr. Johnson's neighbors at the meeting, and they are not happy. Mr. Rosiek stated the public hearing would be coming up for the neighbors to speak.

Mr. Rosiek asked the Board if they had any additional questions before he opened the Public Hearing. He advised the submitted application is complete. The Board had no further questions.

Mr. Rosiek opened the Public Hearing at 7:38 PM.

Mr. AJ Bellavia, 27 Winmark Way, said he lives two houses to the North of the applicant and wanted to shed some light on the neighborhood. He has lived there 19 years and the previous owners had bred Shelties. The owners had the vocal cords of the dogs removed because of the barking. He asked that the Board reject the application without any conditions. The site is on a small street and this should not be approved for a Special Use Permit. He said he thinks that looking at RA1 Zoning, and it is not an isolated area, it will change the character of the street. There is limited traffic and if it is approved, there would be an increase in traffic, both in the morning and evening. Mr. Bellavia stated the applicant said his driveway can fit eight cars, and Mr. Bellavia said the cars will end up taking a tour around the circle of Winmark Way. Mr. Bellavia stated he has spoken with Town Supervisor, John Moffitt, about the conditions of the

street. Mr. Bellavia said he has concerns with barking, because dogs bark, and once they start barking, they do not stop. If dogs get out, especially with aggressive breeds, he worries.

Mr. Johnson asked to what breeds Mr. Bellavia was referring.

Mr. Rosiek advised there is no back-and-forth in a Public Hearing.

Mr. Bellavia continued and said he agrees with Mr. Johnson that the issue is not the breed, but the owner; however, he still has concerns. Mr. Bellavia said he also has concerns about their property values on their street. He asked if there would be signage and is worried about the smell, if it is not cleaned up in a timely manner. He offered his congratulations on the applicant's upcoming wedding. Mr. Bellavia was concerned that the applicant is not an owner of the property, but understands that is not an issue now. Mr. Bellavia concluded it is a small residential street and is worried about the character of it.

Tim and Katherine Roberts of 19 Winmark Way addressed the Planning Board. They said they understand the application is a great plan, but it should not be in a residential area. They have two small children, and Mr. and Mrs. Roberts work random shifts. They often need to sleep during the daytime. They stated the trees that were mentioned as a buffer are spruce trees and are thinning at the bottom. When they walk to the mailbox, the applicant's dogs bark at them. Mrs. Roberts said that nine dogs is a lot, and she and Mr. Roberts have a two and six-year-old. They had just made a huge investment with a pool, and barking dogs would ruin their quality time with their kids. Mrs. Roberts said she agrees with Mr. Bellavia regarding aggressive dog breeds, and is worried with kids, if one dog were to get out. She also stated the dynamics of dogs together and they get excited, so there is more barking and more aggressiveness. She and Mr. Roberts bought their house, because there were only five houses on Winmark Way, and they are not huge lots. She said they are about one acre, so there is not a ton of privacy, but they love it there. She wants their concerns answered. Mrs. Roberts is concerned with vaccinations, ticks, and deer parasites. She says she fights enough trying to keep her kids tick-free. She understands the application is a great idea, it is just in the wrong space and should not be in a quiet neighborhood.

Michael Penders of 35 Winmark Way addressed the Board next. He is concerned with the negative impact on the character of the community.

Mr. and Mrs. Roberts asked to speak again. They said the applicant did not correctly describe the property. The outdoor area for the dogs does not back up to 15A; it backs up to their house, and the side where the kids sleep. Although they are newer houses, they are not soundproof. They are home a lot during the day, because she is a nurse, and he is a firefighter.

Mr. Bellavia asked to have a follow-up statement. He said that his experience with kennels is you can hear dogs barking at night.

Mr. Rosiek asked if anyone else wanted to be heard. There was no one.

MOTION

Mr. Rosiek moved, seconded by Mr. DeRue, to close the Public Hearing at 7:53 PM.

Mr. Rosiek went through the comments regarding the Johnson Special Use Permit from the Town of Mendon Highway Superintendent, Andy Caschetta, and Mr. Caschetta had no concerns with traffic.

Mr. Rosiek asked the applicant if he will have one dog at a time during exercise. Mr. Johnson said yes, there are two gated areas. The open area will have one dog at a time, and the smaller area is the one most adjacent to the Roberts' property.

Mr. Rosiek asked for clarification for the run and the smaller area. The applicant stated the run is for one-on-one time to play fetch, work with the dog, and let them run or walk or stretch their legs.

Mr. Rosiek asked if the other dogs would be in crates or in their house. Mr. Johnson said his own dogs have the reign and would be in the house at that time.

Mr. Rosiek asked what the applicant would do with problematic dogs. Mr. Johnson asked what is meant by problematic. Mr. Rosiek said it would be an instigator; a dog that riles up other dogs, and barking. The applicant said the solutions would be to put the dogs in the basement. If a dog is a nuisance, it can go to the basement. Ms. Myzelev said the outside of the basement faces Honeoye Falls Five Points Road and is away from the other residences on Winmark Way.

Mr. Johnson said in his experience, when dogs bark, it is because they want attention or something they cannot get. Dogs in kennels bark. Dogs with other dogs will bark. He said his dogs only bark at deer or if someone is on the property, which is what dogs are supposed to do.

Ms. Myzelev said she works full time and if dogs bark at 2 am, they are going back to the owner. She is the Chair of her department.

Ms. Smith asked if the applicant had run a business like this before. She said the dogs could be quiet and perfect or the applicant could be working one-on-one with a dog, and the other dogs are in their crates and are barking. She also asked if the applicant thinks one person with nine dogs is a good ratio. The applicant said yes. He also stated he understands the concerns with the driveway, but they are at the end of the road, and people going all the way down to the other end is not realistic.

Ms. Smith asked about the number of dogs. Would it be better to start at seven dogs?

Mr. Rosiek said that nine is a lot. The applicant said he spoke with Lynda Kabes, who has the same business he is perusing, and she explained it is a process. The applicant thinks there is more of a need for boarding dogs than the daycare. He said people can hire a dog walker, but boarding is hard. They have boarded dogs for friends, who had no other alternative, but they have never done a daycare for dogs.

Ms. Smith said that nine is a lot of dogs and believes that is the concern of the neighbors. There are cars going in and out and nine dogs. Mr. Johnson said in his experience, it just takes one dog, if you know what you are doing. All the other dogs will follow suit. He had one friend's dog for four days. It was not a good fit, so the friend had to find someone else.

Mr. DeRue asked where the boarded dogs go at night. Mr. Johnson said the dogs will be in the house with them. They would be part of the family.

Mr. DeRue asked if the applicant was inside and if the dogs would be outside. Mr. Johnson said there is no barrier between the house and garage. They leave the door open, and the dogs go in and out as they please. The only way a dog goes inside is if it is tired. The dogs will go where other dogs go and the dogs go where Mr. Johnson goes.

Mr. Rosiek asked the Board if they had any other questions. They did not.

Mr. Rosiek said as a Special Use Permit, the Code Enforcement Officer would say if it was not allowed and the applicant would be before the Zoning Board of Appeals. For a Special Use Permit, you have considerations. You have been given thoughts by your neighbors and they have concerns with the house, safety, and insurance in order. Ms. Myzelev said all the dogs are vetted. Mr. Johnson said they are all up to date with kennel cough, and fleas and ticks are not coming from their dogs. Most dogs are on a flea and tick regimen and the applicant does not know of any dog that is not. It is not dog ticks, but deer ticks. Ticks bite the dog and die, so it is better to have dogs than be off by yourself and get bit. That is what makes fleas and ticks worse, it seems.

Mr. Rosiek said the concern is the number of dogs. He asked the Planning Board for its thoughts. He said that he thinks nine is too many, considering the daycare, boarding, and the applicants own dogs. Mr. Rosiek said the Planning Board had been through this with the Kabes Special Use Permit, and the Town has a noise ordinance.

Ms. Smith said she can tell the applicant is passionate and loves dogs.

Mr. Johnson asked if he could make a proposition. He said he is willing to drop the dog daycare and only keep the boarding part. He said he would board two dogs and with his two, that would only be a possibility of four dogs. It would fill a need more than a daycare. It would eliminate the noise, as it drops the number in half, and it would not be every day. All the dogs would have the run of the house, and the Board can even make it condition.

Mr. Rosiek said what the Board has done in the past and with the Kabes Special Use Permit, is rely on the noise ordinance, leash law, and the applicant must have control of the dog. If there is an issue, we have a Dog Control Officer, Joel Taylor, and he will talk to both the Code Enforcement Officer and the applicant.

The Board explained to Mr. Johnson once he has a track record, he can amend his Special Use Permit in the future.

Mr. Johnson explained his dogs bark when there are deer out back. Mr. Rosiek said the Board understands that dogs do bark.

Mr. Rosiek asked Mr. Young about amending the determination draft. Mr. Rosiek stated they will follow the leash law and noise ordinance. He confirmed the applicant would board two dogs and has two dogs. Mr. Johnson said if his dog gets pregnant, they will consider keeping one of the puppies.

Mr. Johnson explained with Covid, the concern with puppies is they need kids to socialize them. Dogs become shy and he fears aggressiveness if they are not socialized. Mr. Johnson was hoping some of his neighbors will come visit as the applicants do not have children of their own.

Mr. Johnson said they will have a total of five dogs. Their three and then the two they will board. Mr. Rosiek and Ms. Smith said it is a great compromise.

Mr. Rosiek asked Mr. Young if he was ready to review the draft of determination with the Planning Board.

Mr. Young confirmed there are two dogs being boarded and asked where they will sleep. The applicant said it would be like they had two more dogs. There are no kennels in the garage, so the dogs would have beds in the house.

Mr. Young said the application will be for five dogs, including the owners' own dogs. SEQR is negative declaration, and there will be no construction.

Mr. Rosiek said the yard shall be kept clean.

The Board reviewed the determination.

Resolution Approving Major Home Occupation Special Use Permit and Site Plan for 1300 Honeoye Falls Five Points Rd.

WHEREAS, an application was received from James W. Johnson, resident (the "Applicant"), with permission from Alla Myzely (the "Owner") for the operation of a Major Home Occupation at the property at 1300 Honeoye Falls Five Points Rd., Honeoye Falls, NY (the "Property"), comprising the keeping and care of (boarding) up to a total of five dogs at this Property, including their own dogs; and

WHEREAS, the Planning Board has reviewed the application and considered the required criteria at Section 260-35 of the Town of Mendon Code; and

WHEREAS, the application is an unlisted action pursuant to SEQR.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds that, specifically given that the application will include no construction and comprises a proposed use consistent with the residential nature of the area that is permitted with a special use permit, the attached EAFs Part 2 and 3 are approved, and a negative declaration based thereon is hereby issued; and

BE IT FURTHER, RESOLVED, that the Planning Board finds that the application satisfies the criteria at Section 260-35 of the Town Code, as discussed and assessed by the Planning Board, including, specifically, that:

- The Property is in compliance with the Mendon Code,
- The Property is greater than one acre in size,
- The proposed use, the keeping of up to five total dogs at the existing home (which includes the dogs of the owner), is clearly subordinate to the residential use of the property,
- The only employee for the proposed use will be the resident of the Property, the Applicant,
- The proposed use involves only the existing structure, as well as a small pre-existing fenced in area,
- The outside area to be used is substantially screened by existing vegetation,
- No significant traffic will be associated with the application,
- The Property is at two intersections of public roads,
- The Property appears to have been historically used for the keeping of dogs, per the testimony of the Owner/Applicant and neighbors and the apparent condition of the Property, and
- No other major home occupation is conducted at the Property; and
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BE IT FURTHER, RESOLVED, that a Special Use Permit and associated Site Plan for the specified Major Home Occupation, that is, the keeping and care of (“boarding”) up to five total dogs, is hereby granted to Alla Myzelev for the property at 1300 Honeoye Falls Five Points Rd., Honeoye Falls, NY, subject to the following conditions:

1. No more than five dogs shall be kept at the Property in total, inclusive of dogs owned by the owner/resident and dogs being boarded.
2. No business signage shall be present at the Property.
3. That dog waste shall be removed daily.
4. The vegetative buffer present at the northwest corner of the Property shall be maintained.
5. No more than two dogs may be boarded overnight (exclusive of the owner’s dogs).
6. Dogs must be securely contained, whether by keeping indoors, or secure fencing outdoors, leash or otherwise.
7. Dogs which are outside, even if within a fenced area, may not be left unsupervised.
8. The Owner must provide a certificate of liability insurance to the Town, and proof of the same must be provided yearly to the Town.
9. The home occupation may not result in a noise nuisance, including that it shall be operated in accordance with Chapter 184 of the Mendon Town Code, relative to

noise. Should the Property/Owner be the subject of a guilty verdict for an offense of the Noise Chapter, that shall be prima facie proof of violation of this condition.

MOTION

Mr. DeRue moved, seconded by Mr. McCourt, to approve the Johnson Special Use Permit and Site Plan as amended.

ADOPTED

Mr. Rosiek – aye; Mr. DeRue – aye; Mr. McCourt - aye and Ms. Smith – aye

PUBLIC COMMENT

There was no public comment.

GENERAL DISCUSSION

Mr. Rosiek thanked the Planning Board and said it had been a pleasure to serve with them. The Board discussed upcoming meeting date, and the Mendon Green subdivision.

MOTION

Mr. McCourt moved, seconded by Mr. DeRue, to adjourn the meeting at 8:37 PM.

ADOPTED

Mr. Rosiek – aye; Mr. DeRue – aye; Mr. McCourt - aye and Ms. Smith – aye