

BOARD OF ADJUSTMENT

May 2, 2023

MEMORIAL BUILDING

7:00 P.M.

Zoning Members present: Tanner Jacques, Rob Thorp, Luke Gorman, Cody Patten, and Steve Dzubak

Also present: Timothy Bray, Jim Bednar, Amy Lewis, Marla Binzel, Christine White, Wayne Smith, Poul Heilmann, Whit Smith, Gene Hayes, Pamela Laurie, Jocelyn Colena, R. Scott Bodwell (on behalf of Sue-Ann and Audrius Kazenas), Sheridan Brown (on behalf of Sue-Ann and Audrius Kazenas) Audrius Kazenas, Aileen and Steve Rutledge and Christine Johnston

7:00 pm Tanner opened the meeting, asked if there were comments or corrections of the April 4th minutes hearing none Luke moved to accept the minutes as written, Steve seconded Board approved unanimously

7:05 pm Tanner opened the hearing for a Special Exception request from the Historical Society/Town of Springfield. Applicant is requesting approval to (1) construct a path from museum building to the barn, (2) build a patio in front of barn, (3) build a lean-to storage unit on the rear of the museum barn (4) steps down the hill to the Meeting House. The property is a pre-existing non-conforming .92-acre lot. The property is located at 43 Four Corners Road. Tax Map 29, Lot 304-108.

Tanner asked who would be speaking to the application and recognized Mr. Jim Bednar. Mr. Bednar spoke that this was a follow-up application from the original barn application and would be to finish the landscape area surrounding the barn, a brick pathway from the front and rear of the museum to the barn, a brick patio in front of the barn and 15 steps leading from the museum lot down to the Meeting House. The thinking in doing this would be a “beginning of an informal Historic District”.

Tanner recognized Whit Smith who shared that the original approved application for the barn allowed for construction 15’ from the property line or 20’ of relief and this would be reducing that to 10’ from the property line and adding 5’ additional to the amount of total relief.

The patio and paths would be constructed with a gravel and sand base with pavers the Society is selling to not only construct the patio but also to increase the scholarship fund. The lean-to will have a door at the end closest to the museum.

Rob Thorp moved to close the hearing, Luke Gorman seconded, and the Board voted in favor. Tanner asked if any Board members had issues or concerns, hearing none he moved through the 5 criteria, finding all conditions were being met Steve moved to grant the Special Exception giving 5’ of relief stating the lean-to could be no closer to the property line than 10’, construction of a 10’x16’ patio and steps leading from the museum down to the Meeting House. Rob Thorp seconded; the Board voted unanimously in favor.

8:05 pm Tanner re-opened the continuation of an application by Sue-Ann, Audrius Kazenas, and Select Shepherds, LLC for a Special Exception to use their property as a location from which to sell dogs and offer one-on-one and small group dog training classes. The property is located at 373 Hogg Hill Rd in the Rural Residential Zone. Tax Map #10 Lot 098-189

Tanner recognized Sheridan Brown to speak to the application, also announcing that the hearing would be recorded for assistance in record keeping and for accurate minutes. Sue-Ann Kazenas purchased the property in 2005 at the time having 19 dogs, she has been breeding and training dogs for many years. The Kazenas consider the kennel to be a “hobby kennel” because of its size. The reason there is an application before the Board is that Mrs. and Mr. Kazenas now realize the sale portion of their activity changes the activity to a business as defined by the Springfield Zoning Ordinance. They do have some training off-site. They have an extensive reputation for breeding and training high quality dogs. In the past there has been concern about noise. There has not been quantifiable levels to measure noise against. In July 2020 Scott Bodwell was hired to perform a survey on the property. There is not a NH Law or local measurement of decibels Scott used one from Maine which is quite stringent. A map of the property with neighboring properties is included in the study. The goal tonight is to have a conversation about noise and how other places have come up with something that can be enforced as this moves forward. Mitigation and monitoring as moves forward.

Tanner asked if on-site training is happening currently, Sheridan responded that training is at a location in Grantham. Scott will talk about, and the report will show different scenarios – a normal scenario of bringing dogs in and out, a high-play scenario where the dogs were intentionally excited, and a scenario of male dogs barking in reaction to a female in heat. The latter two scenarios are designed to create a worst-case scenario.

Scott passed the study report out to the members of the Board, and placed a sound measuring device on the table stating that the device is the same one he used during the study. The property is 8.787 acres with a combination of forest and lawn. The dogs are kept in the basement of the home during the nighttime hours, they are taken out to the pens in the morning at 9:30 and taken back into the basement at 8pm. When training occurs on-site there are only a few at a time, if they become agitated, they are returned to the crate they arrived in.

Two locations on the property were used to test levels of noise, depicted at A and B on the map. Ambient levels were tested with no dogs in the yard/pens. The only noise heard were regular outdoor noises; birds, some ducks, and the highway noise from i-89. The next test was when the dogs were moved from the house to the outdoor pens, they made regular barking noises. The next test was high activity; playing type barking followed by highest level of activity such as when a female is in heat to register the male barking noise level.

Tanner recognized Whit Smith who shared that his 8th grade science teacher told him that the increase of 10 decibels is perceived at twice as loud to most individuals. Mr. Bodwell confirmed that is true and stated that if nighttime measurements are 40 a measurement of 50 will be perceived at twice as loud. Mr. Bodwell explained that the methodology for noise ordinance is to have a 10dB difference between day and nighttime limits due to the increased amount of activity. Tanner asked if any measurements were taken off the property? Mr. Bodwell stated that all measurements were done on the property because isolating the source of the noise is harder as the distance from the source increases. Luke Gorman asked how topography, line of sight and vegetation affects the noise. 100 yards of vegetation can cause a 2-3 decibel reduction. The tests conducted were all done with a clear line of sight.

Results of the tests:

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| Location A | measured 45.9 | regular out in the morning/in at night activity |
| | measured 57 | high energy play/activity |
| | measured 50.7 | male response to female in heat |
| Location B | measured 44.1 | regular in at night |
| | measured 43.2 | regular out in morning |

measured 43.7

moderate play activity

Wayne Smith stated that humidity levels play a role in the noise levels. Mr. Bodwell shared that humidity doesn't actually play that much of a role in changing the level of measurement. Mr. Smith also asked why measurements were not taken across the street in the drive way of the neighboring house. Mr. Bodwell responded that the client's driveway was the closest and would report the highest measurement of noise.

Tanner repeated his earlier requirement that anyone wishing to speak need to be recognized by him prior to speaking.

Steve Duzbak asked if any training was currently happening on site. Audrius responded that training is currently done with 3-5 dogs at public locations in Grantham. When asked about puppies and how many litters they have a year, Audrius stated that they had 1 litter last year and there will be 2 this year.

The question about installing cameras and sound recording devices was asked. Mr. Bodwell felt those devices could work but are better suited for locations such as rentals for parties and the like. He feels that his clients are committed to managing the sound for the neighborhood.

Tanner asked if anything had changed since the last site visit, Audrius shared that nothing had changed. Rob asked if any thought had been given to other methods of mitigation such as Acoustifence or even put up a building. Scott stated that the Acoustifence is very effective and could cut sound by 10 decibels or 50%.

Tanner read 4 letters received by the Board from abutters/neighbors of applicant.

*May 2, 2023
230 Hogg Hill Road
Springfield, NH 03284*

Town of Springfield,

After all of these years, I thought the Hogg Hill saga of Select Shepherds would have been settled by now. Hogg Hill Rd is more residential than ever with new homes being built, and many young families with children making their home here.

This area should be kept residential, so everyone can enjoy the quality of life that living in a rural residential area brings. I am all for "in home" business, meaning, in the home, and not businesses that are primarily outside that would be detrimental to the quality of life to the neighboring residents.

I enjoy the quality of life we have here, and have enjoyed for the past 30 years. Let's keep it this way!

Sincerely.

Christine White

May 2, 2023

Town of Springfield
Zoning Board of Adjustments

ZBA Board:

The decision by the ZBA to hear the Select Shepherds most recent application for Special Exception based on commentary from an outside noise specialist of the applicant is contrary to the 5.20 Home Business definition.

In section 5.20 Home Business, it's clearly states under F and H, that outside businesses are not allowed. The "home business shall be conducted within the dwelling unit."

Further, in paragraph 5.20 J and K, the reference to 6.10 Obnoxious Use conformity is not being met. The "noise, safety, peace, enjoyment" of Select Shepherds operation is impacting an entire neighborhood not just the immediate abutters.

Additionally, Select Shepherds use of the property is not in character with the neighborhood as referred to paragraph 5.20 M and is a serious "detracting" factor.

The Hogg Hill Neighborhood has spoken out loud and clear for the past eight years regarding our concerns and continued opposition to granting permission to Select Shepherds. The community has let this board know the situation at its current level of operation is untenable, and by granting the Special Exception will only make it worse as they expand to the next level of operation.

Over the course of this debacle the one thing that has remained constant is the participation and solidarity exhibited by the Hogg Hill community, and our commitment to resolving this oppressive situation.

Abutter,

Gene Hayes

May 1, 2023

TO: Springfield Zoning Board of Adjustment FROM:

Marla Binzel, 511 Hogg Hill Rd

I am writing in regard to the request for a Special Exception to allow Select Shepherds to operate in a rural residential zoned area. I am not an abutter of this business, my driveway is approximately 500 yards from their driveway (yes, the equivalent of five football fields away). I not only hear the dogs when trying to enjoy my yard, I can hear the dogs from inside my house with the windows closed.

This activity is a business, not a hobby. A business does not have to be profitable to be acknowledged as a business by the IRS. Select Shepherds is advertised as a business and has space in a commercial business location in Grantham.

The State of New Hampshire has chosen NOT to define what are acceptable/unacceptable levels of noise

for a business in a residential zone. Standards established by the State of Maine are irrelevant to the issue before the board. Whether or not the disturbance created by the business is similar to the sound of a chain saw or other activities pursued by homeowners is not a justification for the business to be allowed. Those activities are allowed by default in a residential zone. A commercial business is not a default right in a residential zone.

The land area comprising the Hogg Hill community has significant topography. A vertical acoustical fence will not prevent the noise created by this business from traveling vertically before being carried beyond the scope of the property where the business is located.

Springfield's zoning ordinance permitting a Special Exception for a business to operate in a residential zone was created to address those unique situations where a business would create NO harm to the neighborhood. In the minutes of a prior hearing on this issue, the owners are on record acknowledging that they are aware of the complaints filed with the police and Select Board about the problems their business is causing to residents of the neighborhood.

It is clear that this business is not one of those rare situations where a Special Exception is warranted. The business does cause harm to the neighborhood; the Special Exception should be denied and the zoning ordinance enforced. To permit this business to continue operating in the neighborhood makes a mockery of the Springfield Zoning Ordinance, and encourages other individuals to disregard the zoning ordinance.

I am asking that the ZBA consider the facts and act according to the intent of the residents of Springfield when they voted in these ordinances to control land use in the town.

END OF LETTERS

Tanner recognized Steve Rutledge who share his property location on the map and his house being 1138' away through trees and vegetation. He has lived there for 25 years, the noise in the afternoon is a nuisance.

Tanner recognized Jocelyn Colena who shared she has lived in the neighborhood since 2007, and that she has 2 dogs who bark/talk to everyone and anyone. They talk to all the other dogs in the neighborhood as she feels do all the other dogs in the neighborhood.

Tanner recognized Pam Laurie used to live at 542 now lives at 652, stated she disagreed with

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Jocelyn and that the barking is not a normal bark, instead it sounds like there is a piece of meat they want, a coyote kind of sound, it is constant. She calls out the attorney for calling the activity a hobby, the report was paid for by the applicant and is not an unbiased report. Tanner asked Pam if she has called to report the noise, she did in the past but hasn't been now.

Tanner asked Audrius if the dogs were out in the afternoon. Audrius replied yes. Tanner asked if there was any sort of activity that would cause the dogs to make noise, and Audrius responded no. This was in response to Pam Laurie's comments about afternoon barking.

Gene Hayes spoke up that the main reason for the applicant is to increase the size and activity and wanted to know when this was going to stop, and he has been asking this for 8 years. Gene Hayes said there is a safety issue because the woman is not home during the day. He was referring to Jocelyn colena (who testified how the dogs all talk to each other in the neighborhood) not being home during the day. Tanner reminds Mr. Hayes that if he would like to speak, he needs to be recognized.

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Tanner recognized Pam Laurie who thinks it would be difficult if the Board puts in place something that can't be enforced and who would be the enforcement.

Tanner recognized Ms. Rutledge who stated that she doesn't know the applicant and are they running a home business. Tanner responded that there is a difference between a home business and a commercial business of which this type of activity would be due to the outdoor portion of the business. Home businesses are entirely indoors.

Tanner asked for clarification of Audrius of the number of dogs currently on the property. Audrius responded that there are currently 11 they allow a max of 13, if they have visitors for training there will be 3-5.

Tanner recognized Wayne Smith who stated he left Springfield 11 years ago; barking would go on for 3 hours. The Springfield Charter says can't affect property value by what happens on your property, his realtor told him his property values were reduced because of the noise. At one time there were audio tapes of dogs barking but those are destroyed now. He asked if there was a possibility of putting limitations if the Special Exception is approved because a couple of summers prior there were 29 dogs on the property. Applicant shared that there have never been that many dogs on the property. Tanner stated that the Board can impose limitations if/when they approve all Special Exceptions. A follow-up question was asked concerning who the enforcers of the conditions would be. Enforcement falls to the Select Board.

Tanner asked Audrius when the dogs go out and when they come in, also do they go out at night. Audrius responded that the dogs go out at 10 am come in at 8pm and never go out in the middle of the night. Tanner asked if he had considered an indoor facility, Audrius said they had not. Sheridan stated that this is a small-scale hobby, and that type of expenditure isn't something they want to do. The sale portion of the activity is what is requiring them to seek a Special Exception.

Rob moved to continue hearing to June 6th at 7pm, Luke seconded, Sheridan confirmed that he and his clients were agreeable the continuance, Board unanimously agreed.

Meeting adjourned at 9:15pm
Respectfully submitted,

Tamara Butcher