

BOARD OF ADJUSTMENT

FEBRUARY 2, 2016

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes until approved by the Board.

Board members present: Chairperson, Susan Chiarella, Bryan O'Day, Rick Corbett, Peter Abair, Justin Hastings, and Alternate, Tamara Butcher.

Others present: Jeff Haley, Doug Gamsby, Bill and Christine White, Pamela Laurie, Judy and Bob Gurka, Marla Binzel, Michael Chiarella, Leigh Callaway, Robert and Carolyn Spano, Judi and Ed Shank, Emily Cleaveland, Laura Heath, Roxanne and Wayne Smith, Mary Bleier, George McCusker.

Minutes of January 5, 2016: Susan clarified the meeting on January 5th was a public meeting and not a hearing and is why she did not allow the public to make comment at the request for a re-hearing. Bryan moved to accept the minutes, seconded by Rick, and unanimously approved.

Minutes of January 21, 2016 – Joint Hearing with Planning Board. Page 2. Bryan moved to accept, seconded by Pete and unanimously approved.

Susan reviewed the rules of conduct for the Public Hearing. She asked that anyone speaking give their identity and show the location of their residence.

The hearing for Special Exception concerning the request by Sue-Ann Connary and Audrius Kazenas to operate a dog kennel on property located at 373 Hogg Hill Road was opened. Sue-Ann explained they are operating a small kennel that does not fall within the State guidelines for a commercial kennel. They have taken measures to move the kennels to minimize noise and will install barriers so the noise will not interfere with neighbors. They do have typical hours when appointments occur, but they do not have a lot of appointments. There are no issues with traffic or parking which can all be done off-road in the driveway. The narrative of the application gives explanation as to what is being proposed. A larger map, as requested by the Planning Board, was not available at this meeting. Sue-Ann showed the Board the location of existing kennels, proposed kennels, and the fenced in area, and the proposed area for Acoustifence.

Sue Chiarella asked what the difference was for a commercial kennel versus what they do. Sue-Ann stated she had been doing rescue for 10 years before she began breeding her own dogs. She has been doing this at her residence for 11 years. There have been many noise complaints and times when the police have shown up, but she has never been issued a citation. Last summer at one time, they had up to 26 dogs there as they were doing rescue care for a friend in need. Sue-Ann has AKC registration, is recognized by the AKC as a breeder of merit, and participates in a breeder referral program. She has sold less than 10 dogs in the past few years and has had no puppies in the past 3 years. She expects to have only 3 breeding females, and no more than 40 pups a year. An average litter is 1 to 11 puppies. Puppies would leave after 3 to 4 months. They did not have any successful breeding this year. They have stud dogs, and were leasing

3 females. The females will be leaving. They will have no more than 15 adult dogs. Audrius stated dog training depends on the aptitude of each dog. Most of the training is done off-site in situations where they are to be used. Dogs are trained for therapy/service, tracking, patrol and protection. Currently, there are no dogs trained for protection. They do not train "high drive dogs" or "attack" dogs, but rather as detection dogs or controlled protection.

Sue Chiarella noted the 5 criteria that must be considered in granting a Special Exception.

The floor was opened for comments from the public:

Concerns were addressed regarding safety issues if trained dogs trained to attack got loose. Audrius commented trained dogs do not "attack" unless given a command to do so.

The general concerns of those speaking involved noise, the amount, times and length of barking. Barking occurs at all hours of the day or night and on weekends. The noise seems to have escalated this summer. The noise is invasive. Sue-Ann questioned if the neighbors had been hearing noise this winter? Most agreed the noise had been less, but their windows are shut and they are not spending as much time outdoors in winter.

Suggestion was made for the Board to please be very clear on understanding the numbers of dogs they are planning for now and in the future.

Sue-Ann stated she has sent several requests to neighbors to get together to work this out. She would like to be able to deal with issues as they occur, but she has never had any direct input from the neighbors. The dogs are now staying inside all the time and they are letting the dogs out one at a time. She would prefer to have the dogs out in the sunshine and fresh air more often, such as three dogs at a time for 4 hours each. The play area is fenced in. The dogs are never tied out. Audrius stated the reason for the change is because of the noise complaints. They want to take whatever measures they have to, to reduce the noise so the dogs can spend more time outside. The Acoustifence, plus limiting the numbers of dogs, and number of hours are all active measures that they can take to reduce the noise, but one dog at a time isn't feasible for the long-term. Audrius takes care of the dogs full-time. Sue-Ann is employed elsewhere, and is currently on a medical leave.

Puppies are not put outside until they have their first shots at 4 months old, and by that time they have been sold and are ready to go to their new homes.

Selectman, George McCusker, asked what measures would be taken if the noise is not reduced by what is being proposed.

Sue Chiarella stated the Board of Selectmen can put conditions in their decision regarding the operations of the business. They can pose limits and address corrective measures. Many present indicated they didn't have an objection to the operation of the business or the number of dogs on site, as long as there is assurance that the kind of noise they were subjected to over this past summer does not happen again.

There were concerns addressed as to how effective the Acoustifence is and what happens if it doesn't work. Audrius stated the product has been installed in dog parks and along highways to reduce the noise. There will be 25' of panels, at 6' tall, and will reflect the sound back toward the house. The location of the "play area" should not cause the same issues. Acoustifence would not be effective because of the large area. The fence reflects the noise and changes the sound waves. Specifics of the product are included in the application packet.

Sue Chiarella read into the minutes a letter from Josh Lizotte on Hogg Hill Road. (Attached).

Mike Chiarella suggested there might be examples of dog kennels who have been through a similar process that could be visited.

Board members then discussed the issues and questioned whether a site visit should be done. Susan reread the Special Exception criteria. Criteria "E" deals with objectionable uses including noise, and appears would be the most problematic in this case. Board noted concerns with the density of the neighborhood, and the number of people who have come consistently to hear this case. The Board needs to determine if this business is compatible within the neighborhood.

At 8:50 p.m., the Board agreed they did not need to make a site visit. Justin moved to close the Public Hearing, and continue this meeting to Wednesday, February 10th at 7:00 p.m. for the Board to deliberate. The motion was seconded by Rick and unanimously approved. Most everyone in the audience left.

At 8:55 p.m. Sue opened the Hearing concerning the request by Victor Rifkin @ Camp Sunapee for a setback variance for an addition to the existing theater. Doug Gamsby from CLD Engineering was the agent representing Victor. Bryan O'Day stepped down, and Tamara Butcher was asked to step in. There were no abutters present. Doug explained the theater was built in the early 70's and is approximately 7' from the property line. The expansion is being requested by the State of NH for health and safety issues with space, egress, and air circulation. There could be as many as 130 campers potentially in the building at one time. There are no bathroom facilities in the building. The camp is opened to campers 4 weeks during the summer. The Board reviewed the proposed plan. Tamara moved to close the public hearing. The motion was seconded by Pete and unanimously approved.

The criteria for approval of a variance was reviewed.

- A. The variance is not interfering with the public interest: The use is not being expanded. There were no abutters present.
- B. The spirit of the ordinance is observed: The theater has a significant role in a camp.
- C. Substantial justice is done: The expansion is helping with egress and making the facility safer.
- D. The values of the surrounding properties are not diminished: No change or increase in use.
- E. Literal enforcement of provisions of the ordinance would result in unnecessary hardship: The addition is not more non-conforming.

Motion by Justin to grant a setback Variance of 31'. The motion was seconded by Tamara and unanimously approved by the Board.

The meeting adjourned at 9:15 p.m.

Submitted by,

Janet Roberts