

Members Present: Sue Chiarella, Peter Abair, Bryan O'Day, Justin Hastings

Others Present: George Mccusker, Wayne Smith, Jennifer Hartmann, Geoffrey Vitt, and Mike Chiarella

These minutes are to be considered draft minutes only, until approved by the board at their next meeting.

Susan called the meeting to order at 7:00

Susan explained this was a hearing for the board only even though it's a public meeting to decide whether they are going to re-hear the appeal for Sue Ann Connary and Adrius Kazenas. Attorney Geoffrey Vitt and Jennifer Hartmann were in attendance representing the applicants. Susan explained that the board will be deliberating and no comments will be taken from the public.

Susan explained to the attorneys that there are only four board members and asked if they would like to move forward and they had said yes.

Susan explained to the board that one thing to consider when making a decision to rehear is new evidence being brought forward.

The board went through the motion given by the attorneys and addressed them one by one.

1. The board did not follow proper procedure by giving the applicant the board's decision in writing, with reasons for disapproval: ***The board felt the Applicants were here and it was posted the day after. Mailed, not certified***
2. As of March 3, 2016 the minutes of the ZBA from February 10, 2016, and the Notice of Decision were not in the notebook at the town clerk's office which contains all of the board meeting minutes. In order to file the decision and minutes, they need to be filed with the town clerk: the decision was filed the day after with the town clerk:
Excerpt from Town Council's opinion given on March 18th: "Does it matter when the meeting minutes and Notice of Decision were placed on file with the Town Clerk? No. This exact issue was decided by the New Hampshire Supreme Court in 2012. It is clear from the decision in Bosonetto v. Town of Richmond that the filing period runs from the date on which the ZBA vote was take, regardless of when the minutes and notice of decision are filed with the ZBA office or town clerk."
3. The minutes and decision could not have been filed until at least February 11, 2016 because town offices were not open when the ZBA meeting ended: ***This was true but the board felt that this issue was addressed in the previous statement***
4. Sue-Ann connary and Audrius Kazenas have had a group license for all of their dogs, issued by the town of Springfield, NH as required by RSA 466:6: ***The board felt that this may be true,***

however the applicants did apply for a special exception to run a business and that has nothing to do with dog licensing.

5. The Town of Springfield, NH has no regulations about the number of animals a homeowner has on his or her property: ***This is true, however running a business out of the home requires a special exception according to the Zoning Ordinance***
6. In order to grant a special exception, the board must find that, in part “(e) The operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, odor or vibration than would be the operation of any permitted uses in the District which are not subject to Special Exception procedures.” This was the only ground specifically set forth by the board for denying the special exception. ***The board felt that one of the criteria that needs to be met is Letter A. on the special exception which talks about the character of the neighborhood, it being detrimental, etc... There were abutters and surrounding neighbors that came forward complaining about the noise, and it was hard for them to enjoy their own property because of it***
7. The use of 373 Hogg Hill Road as a non-commercial kennel is no more objectionable than the following permitted uses which would not require a special exception: A. having dogs on the property without operating a kennel or breeding service; and B. Other agricultural uses such as raising and sale of livestock and the breeding and boarding of equines: ***The board stated that dogs are not considered agriculture***
8. Ms. Connary and her late husband, began using the above property as a kennel in 2005 when they bought the property. Since that time, they have never received a noise violation from the Springfield Police Dept. Neighbors have complained of barking when no dogs have been outside: ***The board stated that Mike Bealieu, the town police office had copies of the call logs from the complaints of the barking dogs. The board was not sure about actual citations given or not.***
9. There is another dog kennel on the same road that is not required to go through the special exception application process. The same standard needs to be applied to all residents of Springfield. ***The board said that nothing has been brought before them, and that Sue-Ann and Adrius has come before them and applied for a special exception to run a business. The other kennel is owned by an elderly couple who is not breeding, selling, etc....***
10. In seeking the application for a special exception, Mr. Kazenus and Ms. Connary stated that they were willing to put up a noise-protecting fence “Acoustifence” at a great expense in hopes of resolving any issues with their neighbors: ***The board felt there wasn’t enough information presented at the time of hearing regarding the Acoustifence system, for them to make a fair judgment on how it would mitigate noise***
11. In the alternative, they suggested limiting the hours the dogs would be outside or limiting the number of dogs outside at one time: ***The board felt that this wasn’t being done at the time of the hearing***
12. All of these protective measures would greatly reduce noise issues for the neighbors well below those of other uses that do not require a special exception. ***The board felt there was no real evidence proving that the noise could be eliminated or reduced.***
13. Additionally, if Mr. Kazenaas and Ms. Connary did not provide services to other but instead, trained dogs for themselves and gave the dogs away to others, they would not be forced to go through this process. There would be no less noise coming from their property. The same group license for their dogs would apply. Nothing would change on their property, no special

exception would be needed: ***The board said that may be so, however they did apply for a special exception to run a dog kennel***

- 14.** The only reason the town is potentially able to require a special exception is because their neighbors believe they operate a kennel as a business. It is, however, not registered as a business with the NH Secretary of State. It is not a commercial kennel and it is not required to file with the NH Dept of Agriculture. There is no separate tax return filed for a business. They have adoption fees for dogs because of the expense of caring for and training the dogs. It does not, however, result in a profit. Most of the training work is off-site. Although their hobby of training, breeding and rehoming dogs should not even be subject to a special exception requirement, a special exception should be granted: ***The board felt that it is true they may not be registered with the state as a business but according to our Zoning Ordinance they are running a business in a rural residential area which requires a special exception. The applicants did apply for a special exception to run a business. They have a website stating they sell and breed dogs and did mention that it was their livelihood.***

Based upon what the board had just discussed, Justin makes a motion to deny the request for a rehearing, Peter Abair seconds, Susan Agrees, Bryan agrees, all in favor, unanimous vote. Request for a rehearing is denied.

Minutes submitted by,

Susan Abair