

ZONING BOARD OF ADJUSTMENT

DECEMBER 3, 2019

MEMORIAL BUILDING

7:00 P.M.

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

Present: Susan Chiarella, Chair; Justin Hastings and Alternate, Tanner Jacques. Absent: Peter Abair, Bryan O'Day and Cody Patten. Susan appointed Tanner to sit in for an absent member.

Others present: See sign-in sheet attached to the end of these minutes.

Minutes from November 6, 2019: Justin moved to approve the minutes as written, seconded by Tanner and unanimously approved.

Susan recognized Steven Albrecht who has an interest in serving as an alternate on the Board. She asked him to tell a little bit about his interest. Steven stated he has attended a couple of ZBA meetings and is interested in serving the town. He moved here about 8 years ago and loves the community and getting to know the town and his neighbors. He is a recently retired businessman who would now like to do something to support the town. Justin Hastings had mentioned to him the Board needed alternates. Susan decided to table appointing Steve due to the absence of active members.

At 7:05 p.m. Susan reviewed the application and opened the Public Hearing concerning a request by Robert and Sharon Farrenkopf for a Special Exception from Article 3, Section 3.13B of the Zoning Ordinance. Mr. Farrenkopf presented his proposal to install a 20' x 14' shed, built and to be delivered by The Carriage Shed from White River Junction. His property is in Eastman, on Winding Wood Road. Most of the properties abutting him are owned by Eastman, pretty much unbuildable. It is his understanding that Eastman is not trying to sell those lots, so there is no impact to abutting property owners. He is seeking 23' of relief to locate the shed 12' from the property line. The lot is non-conforming. The Board reviewed the plan. There were no abutters present, and no comments from the audience. Tanner and Justin saw no issues with the request. Tanner moved to grant the Special Exception for 23' of relief where a 35' side-yard setback is required, on the Westerly property line, as per the plan presented at the hearing on December 3, 2019. Justin seconded the motion. Tanner, Justin, and Susan all voted in favor. The hearing was closed at 7:14 p.m.

At 7:15 p.m. Susan reviewed an application from Sue-Ann Kazenas for a Special Exception to operate as a "pet vendor" as defined by NH State law, meaning the sale or transfer of more than 25 puppies in a 12-month period. Sue-Ann was represented by Attorney, Sheridan Brown. Attorney Christine Filmore was present to represent the Town. Susan reported the Zoning Board previously acted upon this case, and the case was denied. The Board needs to see if the new special exception application is affected by the "second application doctrine" and determine if there has been a change in circumstances giving them jurisdiction to rehear this case. The Board members reported they have reviewed the first and second applications. Susan stated she found there was nothing factually different from the first one to the second one. Tanner and Justin agreed. There was further general discussion among the Board members regarding the

two applications. Susan reviewed the following questions with the Board for the purpose of determining if the Board has jurisdiction to hear and decide on the application:

1. Has the Zoning Ordinance been amended since 2016 in a way that changes the criteria required for a special exception? Answer: NO
2. Has the Zoning Ordinance been amended since 2016 in a way that changes the way this type of proposed use is regulated by the Town: Answer: NO
3. Has the applicant identified any other state law that has been amended since 2016 in a way that affects the standards by which the ZBA is required to evaluate this application for a special exception? Answer: NO
4. Does the second application propose a use that is factually different from the first application? Answer: NO
5. If the answer to # 4 is yes, do the differences meaningfully address the reasons the ZBA denied the first application? NOT APPLICABLE

Susan stated if any of the answers to the above questions had been yes, the Board would accept and hear the application. Seeing as there are no substantial changes in the application the Board is safe in rejecting the application.

Attorney Brown questioned whether the ZBA did have jurisdiction to decide whether to hear the application. The state law has been amended with different licensing requirements for pet vendors. The application before was based on a kennel. The State has now reduced the numbers required for licensing. Licensing was not required under their prior application. His clients have been on the site since 2005. They didn't feel they needed a special exception to continue what they have always been doing. They have never received a notice of violation in the ten years they have been doing business. The Kazenas need this permit to complete state licensing which puts an obligation on the Town as far as the Town goes. Their options were to go to the Board of Selectmen or seek a special exception due to the state law change. They chose to seek a special exception.

Justin stated he is not seeing anything different than was proposed before. The proposed numbers are the same as previously. There is no difference in the numbers of pens, dogs, etc. The definition of a kennel or pet vendor is the only difference.

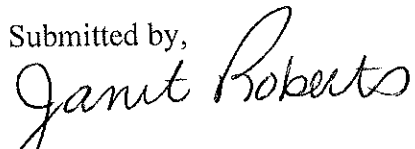
Attorney Fillmore asked whether a change in the way the state regulates this business is a change in the way the Zoning Ordinance would view this business. The Board agreed there doesn't seem to be anything different.

There was further discussion regarding the origination of the law (RSA 437:4), the number of pets, and the difference between a kennel and a pet vendor. Susan stated there is no jurisdiction for the Board to hear this application. The test questions for the second application doctrine were all answered no. Susan stated she would accept a motion to not accept the application. The motion was moved by Tanner, seconded by Justin. Tanner, Justin and Susan all approved the motion.

Gene Hayes asked what is the enforcement? Susan stated this was not within the Zoning Board's jurisdiction.

Justin moved to adjourn the meeting at 7:40 p.m.

Submitted by,



Janet Roberts,
Administrative Assistant

ZONING BOARD SIGN IN SHEET/DATE: 12/3/2017

PRINTED NAME	ADDRESS	ABUTTER? YES/NO
Gene Hayes	1260 Stoney Brook Rd.	Yes
Susan Isbell	287 Hogg Hill Rd.	
Robert Spaw	1045 Stoney Brook Rd	Yes
Scott Knabb	928 Stoney Brook Rd	Yes
Sharon Farrenkopt	29 Winding Wood Rd	No
	29 Winding wood Rd	No
Robert Farrenkopt		
Judi Shank	457 Hogg Hill	No
Marla Binzel	511 Hogg Hill Rd	No
Emily Cleveland	256 Hogg Hill Rd.	No
Pam Laurie	542 HOGG HILL RD	No

ZONING BOARD SIGN IN SHEET/DATE: 12/3/2019

PRINTED NAME	ADDRESS	ABUTTER? YES/NO
WAYNE SMITH	360 HOGG HILL RD	YES
Roxanne Smith	"	"
WILLIAM WATTE	230 HOGG HILL RD	No
Christine White	230 Hogg Hill Rd.	No
Judy Hunka	542 Hogg Hill Rd.	no
DICK HENDL	103 WOODCREST	No
George McCusker	Old Boston Rd	NO
STEVEN ALBRECHT	2291 GEORGE HILL RD	NO

