

HILLSBOROUGH PLANNING BOARD
May 15, 2013
Town Offices, 27 School Street, Hillsborough, NH
Approved Meeting Minutes

Present:

Members: Herm Wiegelman (Chair), Dave Fullerton, Larry Baker, Ann Poole, Alan Urquhart, Denise DeForest, Bob Eckberg (Alternate), Bill Clohessy (Alternate), Rachel Hawkinson (Alternate) (Arrived 7:08 pm).

Staff: Robyn Payson, Planning Director; John P. Segedy, Recording Secretary

Public: Kim Girard, Shawn Girard, Pam Doughty, Angela Werner, Thomas LeLacheur, Christine Innis, Fred Sprague (Arrived 7:50 pm), Ed Tasker arrived (8:00 pm)

CALL TO ORDER

The meeting was called to order at 7:00 pm by Herm Wiegelman, Chair.

Bill Clohessy was appointed to vote in place of Martha Caron.

A packet of information regarding agenda items was provided to Board members by Robyn Payson, Planning Director.

MINUTES

May 1, 2013

Larry Baker moved: *To approve the minutes of May 1, 2013 as submitted.*

Alan Urquhart seconded.

Motion passed 6-0-1 (Bob Eckberg abstained).

PUBLIC BUSINESS

1. Public Hearing - Request for Exemption from Site Plan Review/Change of Use/Home Business

Angela Werner, 27 Poverty Plain Road (M 7, L 99)

Chair Wiegelman opened the Public Hearing at 7:02 pm.

Angela Werner addressed the Board to explain her proposal. She has run a full kennel before and has done grooming. She said she now is interested in the psychological training end of the field helping dogs that may have issues and may need training in order to be adopted. She said she wanted to have a home business for training dogs. She said that although the business will be a kennel in name, her focus will be on the training and rehabilitation of 5-10 dogs. She said there will be a small amount of daycare in conjunction with the training as well as some overnight boarding.

Chair Wiegelman asked the Board if they had any questions.

Alan Urquhart asked if the boarding would just be for one night?

Angela Werner answered sometimes but could be for a week. She said that boarding was not the main purpose of her business, but if people wanted that she wanted to be able to do it.

There was discussion of the road being a private road.

Herm Wiegelman recalled that it had been a class IV road and they had come to change it to a private road.

Alan Urquhart asked if any abutters had called about the proposal.

Robyn Payson said she had received one call from an abutter and he was not in favor of the business.

Thomas LeLacheur noted he was here. He also said that not all of the abutters got letters.

Alan Urquhart referred to Sec 123-2 of the Town code titled Dogs causing nuisances (Appendix 1)

He asked the applicant if she was familiar with it.

Angela Werner answered that yes she was.

Ann Poole asked if this was a permitted use.

Robyn Payson said that the Zoning Ordinance is silent about dogs except that in the Central Business District kennels are not allowed.

Ann Poole asked the applicant how she was intending to handle the dog waste.

Angela Werner said she had asked the town and understood there are no rules. She said she was considering a pit that would be 'limed'.

Ann Poole asked then if she would be composting it.

Angela Werner answered yes.

Ann Poole asked if the pit would be 'designed' or if she was familiar with them.

Ann Poole said that it could be flushed if there was the capacity in the septic system. She said that there was also the paper waste - newspapers as well as paper towels from cleaning.

Angela Werner said she would take it to the dump as she does now for her own dogs.

Ann Poole said she also had concerns about noise for the neighbors. She asked what the hours would be.

Angela Werner said the hours would be 7:00 am to 5:00 pm for people to come.

Ann Poole asked if during the hours of operation the dogs would be in runs?

Angela Werner said she had a couple of fenced areas. She said that in the 'sugar shack' there is an inside run and a cement floor.

Ann Poole asked if she would be hosing that off,

Angela Werner answered yes.

Ann Poole asked where the run-off would go.

Angela Werner said that on one side it could go onto the ground. She said that she would have spot cleaned it first.

Ann Poole asked if the dogs would be able to go in and out of there holding areas by themselves.

Angela Werner answered no.

Ann Poole asked if there would be any lighting.

Angela Werner answered that she had two spotlights for when she goes out at night but she turns them off when she goes in.

Ann Poole said she was still concerned about the waste and noise.

Larry Baker said he shared those concerns.

Alan Urquhart asked if she had purchased the property in 2009.

Angela Werner answered yes.

He asked if the 'sugar shack' was there when she bought it.

Angela Werner answered yes.

Alan Urquhart asked if the building size was 12' or 16' as he saw both dimensions on the plans?

Angela Werner answered it was 12' x 20'.

Ann Poole asked about the size of the individual cages.

Angela Werner said they were 4' x 4'.

Ann Poole asked if the size comply with any state or industry standards or recommendations.

Angela Werner said that she didn't know of any, but that they were bigger than the 1.5' x 3' crate/cages that people use.

Denise Deforest asked if there would have any assistance working with her.

Angela Werner answered no.

Ann Poole asked if she would be doing grooming.

Angela Werner answered no.

Alan Urquhart noted that nuisance is defined in the state law.

Herm Wiegelman asked what the RSA said.

Alan Urquhart read RSA 466-31 II b & c aloud:

(b) If it barks for sustained periods of more than 1/2 hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4);

(c) If it digs, scratches, or excretes, or causes waste or garbage to be scattered on property other than its owner's;

Ann Poole asked if the outside play area is as indicated on the drawing.

Angela Werner said it extended further off the drawing.

Ann Poole asked what type of fencing was used.

Angela Werner answered it was 6' tall chain link.

Ann Poole asked about the doors .

Angela Werner and Ann Poole discussed the doors, rooms and play areas while examining the drawings.

Ann Poole noted that she had said that she would have 10 dogs but that there were only 6 individual cages.

Angela Werner responded that smaller dogs would be in her house in crates.

Denise Deforest asked what kinds of dogs she would have.

Angela Werner answered that they would be whatever kind people brought.

Chair Wiegelman opened the hearing for public comment.

Tom LeLacheur said that he lived across the street from the applicant and he had concerns about the proposal. He said his first concern was that the road was a private road and this would add additional maintenance costs and liability.

Herm Wiegelman said that he didn't see that affecting the Boards decision.

Tom LeLacheur said that if there was a business they should consider it (access).

There was discussion with various public & board members regarding road maintenance.

Tom LeLacheur said that because it is a private road it is not an appropriate place for a business.

Larry Baker noted that it is a home business that will generate some increased traffic.

Tom LeLacheur said his second concern was with the additional noise. He said his third concern was with the type of dogs – in that the applicant had referred to 'troubled dogs'. He also noted that a couple of times the applicants own dogs were loose and ran up his driveway charging at them barking.

Alan Urquhart said that RSA 466 should cover those issues.

Denise Deforest said that she thought there was a leash law in NH.

Ann Poole said that it wasn't required to be by leash, but that dogs must be under the control of the owner.

Alan Urquhart said he still thought it was covered by (RSA) 466.

Herm Wiegelman said that if someone else like a guest was driving on the road then there would be the same possibility of liability.

Rachel Hawkinson reread part of RSA 466:31 II. She said there was nothing about needing a leash. She said she wasn't sure about any liability, but asked if the applicant would be getting additional insurance for her business.

Angela Werner answered yes.

Tom LeLacheur said that this application was for an exemption (from site plan review) for a change of use and that in the application (question #5) there are 6 items she (the applicant) checked no to including no traffic increase, but there clearly will be. He said also that an open pit will smell so clearly there are fumes or odors.

Christine Innis noted that these are thin lots so the effects will reach (the neighboring properties).

Ann Poole said she was familiar with the area and that she thought that the Board might want to have a site visit. She said that this proposal maybe needs a site plan review. She said she was concerned about the waste and the noise.

Dave Fullerton said she has 4 dogs and brings the waste to the transfer station. He said she (the applicant) could do that.

Alan Urquhart asked what the requirements are (for waste disposal).

Ann Poole said the (UNH) Cooperative Extension Service may have guidelines.

Christine Innis said that if people are just dropping dogs off, that is 2 trips daily each.

Kim Girard said she is not an abutter but lives next house up and that Pam Doughty was not noticed of the hearing. She noted that the application is for 10 dogs, but the applicant has 4 dogs of her own, so there would actually be 14.

Kim Girard said that there have been problems with the applicants dogs trying to get at her rabbits, chickens and goats. She said that they have not always been attended, and she was concerned because there are children and also because of the possibility of there being 'troubled animals'. She said they shouldn't have this business here.

Shawn Girard said that her (the applicant's) dogs have knocked down their rabbit cages.

Denise Deforest said that she was concerned about the existing dogs being loose and not in control. She said she couldn't imagine controlling this many dogs without help.

Larry Baker said that because it is a training facility then we should expect they will not be in control at all times as that is why they are there.

Angela Werner said that training is done on a leash. She said that her dogs are in a fenced in yard, although she noted she had had a boxer there that did get loose a couple of times.

Ann Poole moved: *To close the public portion of the hearing.*

Alan Urquhart seconded. Motion passed 7-0.

Larry Baker said he was concerned about noticing.

Robyn Payson said she would have to check on the noticing to see if it was done properly.

Ann Poole said that if this was a private road they may have to notice all on it or an association if there is one.

There was discussion of continuing the hearing, a site visit and when.

John Segedy pointed out if they continued the hearing to the second June meeting then if it turned out that there was a noticing problem, that it could be re-noticed.

Denise Deforest moved: *To continue the Public Hearing until June 19, 2013 at 4:30 pm at 27 Poverty Plain Road for a site visit.*

Ann Poole seconded. Motion passed 7-0.

Most of the public left at this time.

2. Conceptual Review - 3 lot Subdivision - Katherine Anderson, Bear Hill Road (M 12, L 136).

Robyn Payson explained that this subdivision proposal crosses the Henniker Town Line. She said that the Henniker Planning Board has approved it and that it will come to this Board at the next meeting.

There was discussion of the lots and boundaries.

PLANNING DIRECTOR UPDATE

1. Master Plan Sub-Committee

Robyn Payson reported that the sub-committee had their first meeting.

2. Sanel Lot

Robyn Payson said she had begun discussions with the owner about possibly raising both buildings and re-doing the site.

3. Downtown Parking

Robyn Payson reported that she will be doing a sitewalk of the downtown with Central New Hampshire Planning tomorrow (May 16, 2013) at 10:00 am regarding parking.

PUBLIC BUSINESS

3. Fred Sprague

Fred Sprague said he was concerned regarding his abutter who has been working on the Restaurant/former medical building. He said that there has been construction going on at times and there is a current building permit, but that nothing had been done on the landscaping yet. He said he thought that landscaping was part of the plans.

Ann Poole suggested putting this on the agenda for the next meeting.

There was discussion of landscape requirements and bonding.

Fred Sprague asked what the landscaping conditions are.

OLD BUSINESS

1. Rules of Procedure

Alan Urquhart said that he had reviewed them as the Board had discussed and his first concern was regarding grammar – particularly capitalizations. He pointed out a few examples.

Rachel Hawkinson stated that the convention was to capitalize in the way that they were.

Chair Wiegelman asked that they address matters of substance.

Alan Urquhart said he was on the record that he believed the writing wasn't correct as to common reading.

Ann Poole said she would like to see dates and type (i.e. – proposed revision) put on all copies of the rules circulated.

Alan Urquhart said he wanted section 2.4 combined. It was pointed out he had been working from an older version.

Larry Baker pointed out the current change they were reviewing was section 5.9 on page 4.

Herm Wiegelman said that Martha Caron had wanted to review sections 2.6 & 2.7, but she was not at meeting.

John Segedy pointed out what he thought was a possible conflict between sections 3.6 and 5.8. It was pointed out that 3.6 was referring to storage of the minutes. John Segedy said he stood corrected.

There was further discussion of the version dates.

Robyn Payson said she would fix the dates and issue copies with the revised date.

Robyn Payson said she wanted to go back to putting the Draft Minutes on the web site.

Herm Wiegelman asked why.

Robyn Payson said that because they are the minutes and it is another way of getting accurate information out there to the public.

Larry Baker said they would need to vote on that. He said that while he had previously been against putting them on-line, since he now understands that the Draft minutes are the official minutes unless they are later amended he was now in favor of them being on-line.

John Segedy said that Robyn Payson had brought this up after the Michael Black decision as there had been a lot of inquiry regarding the decision.

Larry Baker moved: *To post Draft minutes marked as Draft on the web site.*

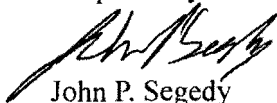
Ann Poole seconded. Motion passed 7-0.

Adjournment

Larry Baker moved: *To adjourn.*

Ann Poole seconded. Motion passed 7-0 at 8:37 pm.

Respectfully Submitted:



John P. Segedy
Recording Secretary
Approved June 5, 2013

Appendix 1:

Sec123-2

A. No dog, whether licensed or unlicensed, shall run at large or in any other way make a nuisance of itself within the limits of the Town of Hillsborough.

B. The term "nuisance" as herein used shall be considered to be as defined in the New Hampshire Revised Statutes Annotated, Chapter 466, Section 31, Paragraph II.

C. Any dog who is found to be running at large or to be causing a nuisance in violation of this chapter may, at the discretion of the Police Chief of the Town of Hillsborough, be impounded or otherwise restrained at the expense of the owner.

Appendix 2

RSA 466-31 II

"II. Under this section, a dog is considered to be a nuisance, a menace, or vicious to persons or to property under any or all but not limited to the following conditions:

(a) If a dog is "at large," which means it is off the premises of the owner or keeper and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner or custodian. This subparagraph shall not include a dog which is being used for hunting, supervised competition, exhibition, or training for such activities if accompanied by the owner or custodian, or a dog which is guarding, working, or herding livestock, as defined in RSA 21: 34-a, II(a)(4), meaning that the owner or custodian must be able to see or hear the dog, or have reasonable knowledge of where the dog is hunting or herding, or where training is being conducted or where trials are being held, provided that such dog does not have to be within sight at all time;

(b) If it barks for sustained periods of more than 1/2 hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4);

(c) If it digs, scratches, or excretes, or causes waste or garbage to be scattered on property other than its owner's;

(d) If any female dog in season (heat) is permitted to run at large or be off the premises of the owner or keeper during this period except when being exercised on a leash by a responsible adult. At all other times such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog. A female dog in heat shall not be used for hunting;

(e) If it growls, snaps at, runs after, or chases any person or persons not on the premises of the owner or keeper;

(f) If it runs after, or chases bicycles, motor vehicles, motorcycles, or other vehicles being driven, pulled or pushed on the streets, highways, or public ways;

(g) If, whether alone or in a pack with other dogs, it bites, attacks, or preys on game animals, domestic animals, fowl or human beings. "