

# **HILLSBOROUGH PLANNING BOARD**

**June 19, 2013**

**27 School Street, Hillsborough, NH**

## **Approved Meeting Minutes**

Present:

Members: Martha Caron (Vice-Chair), Dave Fullerton, Larry Baker, Alan Urquhart, Ann Poole, Denise DeForest, Bill Clohessy (Alternate), Marianne Hammond (Alternate), Bob Eckberg (Alternate).

Staff: John P. Segedy, Recording Secretary

Public: Christine Innis, Tom LeLacheur, Kim Girard, Angela Werner, Pam Doughty, Sandy Vanderpool, Rosemary Urquhart, Susan Veazie, Mathew Aversa, Michael Pon – The Villager

### **CALL TO ORDER**

The meeting was called to order at 7:13 pm by Martha Caron, Acting Chair.

Bill Clohessy was appointed to vote in place of Herm Wiegelman. Chair Caron noted that he had attended the site visit.

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

### **MINUTES**

**June 5, 2013**

**Larry Baker moved: *To approve the minutes of June 5, 2013 as submitted.***

**Dave Fullerton seconded. Motion passed 7-0.**

### **PUBLIC BUSINESS**

**1. Continued Public Hearing - Exemption from Site Plan Review/Change of Use – Site Visit**  
Angela Werner, 27 Poverty Plain Road (M 7, L 99)

Acting Chair Caron opened the continued Public Hearing at 7:15 pm. She noted the site visit had taken place that afternoon as planned.

Chair Caron said that per the June 5, 2013 minutes, Planning Director Robyn Payson had investigated and determined that the hearing had been properly noticed.

Chair Caron acknowledged that the Board had received letters from Attorney Solomon on behalf of Thomas LeLacheur and Christine Innis; from a number of neighbors; and from a number of people in support of Ms. Werner's experience.

Chair Caron said she wanted to summarize some points that were covered during the site visit:

- a) That there would be no planned boarding, but it was included in the application to allow for situations where a daycare customer is unable to pick up their dog.
- b) Daycare dogs would always be supervised.
- c) There will be no employees except for someone to occasionally fill in for the applicant
- d) The dogs will be in fenced area or on a leash.

Chair Caron said that the application was for a home business so the Board would be considering it under Hillsborough Code section 229-83 et. seq.

Chair Caron said she also needed to put on the record that Ms. Hammond has a conflict and while an alternate on the Board, was not appointed to vote.

Chair Caron asked Ms. Werner if she had anything to add to what she had already told the Board about her proposal.

Angela Werner said she did want to respond to and clarify some things that have been said. She said that questions have been raised about her abilities to take care of dogs and she has submitted letters attesting to her qualifications.

Angela Werner also said that her statement that dogs are born to be free had been played up and she wanted to clarify that she did not mean that they should roam unattended, or that she would let the dogs loose. She said she does have fencing.

Angela Werner said she also wanted to address the training that she does. She said that it has been said that she would be taking in troubled dogs, which is incorrect. She said she will work with dogs whose owners need to learn how to work with them.

Chair Caron read Hillsborough Town Code Section 229-84:

***“Purpose.***

*This article is enacted in order to provide opportunities for residents to work from their homes while protecting the rural and residential character of neighborhoods.”*

She said that she hoped that the everyone can approach this issue with this purpose statement in mind and opened the hearing to members of the public.

Tom LeLacheur said he has some concerns to bring to the Board.

He referred to a letter/memo from Robyn Payson to the Board dated June 18, 2013 that said there are only 3 neighbors opposed to the project which he said wasn't true.

Tom LeLacheur said another concern he had was that while Home Businesses can be a good idea, in this case because of the number of dogs it will change the neighborhood. He said he and most of the people in the neighborhood bought in this area because it was quiet. He referred to the fact that during the site visit they were able to hear the birds.

Tom LeLacheur referred to the letter from his attorney saying that another concern was what they called 'business creep'. As an example he pointed out that Ms. Werner said she wouldn't be boarding, yet is advertising on her web site – referenced in ads in a local paper.

Tom LeLacheur said that another concern was the measurements viewed during the site visit weren't correct. He said he has provided pictures from Google earth that show the road distance is closer to 150'.

Tom LeLacheur referring back to Robyn Payson's memo and that she had made a point that some of the objectors while neighbors, weren't abutters (and implicitly there objections carried less weight). He said by that argument, the letters submitted on behalf of Ms. Werner weren't from abutters or even residents and thus should be given less weight.

Tom LeLacheur said that regarding the road issue, he wanted to point out that with the application asking to allow 10 dogs for daycare, and her statements that there wouldn't be regular boarding, that means 4 trips up & down the road times 10 dogs makes for a total of 40 trips a day which he said he doesn't see how that wouldn't have an effect on the road.

Martha Caron said that Robyn Payson's input would be looked at, but that she wasn't a Board member. She also noted that if the Board does approve the application it can impose conditions to address some concerns.

Dave Fullerton said that he had paced the measurement to the 250' mark and that he estimated it as 220'.

Tom LeLacheur said that Google Earth uses GIS. He said that there may be a possible concern about character.

Martha Caron said that character isn't really a part of the hearing.

Tom LeLacheur said this issue may affect the accuracy of other information that has been provided. He said that he wasn't questioning Ms. Werners qualifications, but that this wasn't an appropriate place for this business.

Alan Urquhart asked if Tom LeLacheur had read Town Ordinance 185-5 or RSA 466-31. Tom LeLacheur answered no.

Martha Caron read from Hillsborough Code section 229-86 A:  
**229-86. Standards.**

*A. General. All home businesses and home occupations must comply with the following provisions:*

- (1) Not more than one commercial vehicle that will be used for the home business or occupation shall be stored on the premises.*
- (2) There shall be no outdoor storage of any material related to the home business or occupation except for one commercial vehicle in accordance with this article.*
- (3) No more than 40% of the existing net floor area of the primary residence shall be devoted to such use, except for permitted rooming houses or tourist homes.*

She said that since the daycare would be outside the square footage wouldn't apply.

Tom LeLacheur pointed out that Ms. Werner had said that she would have smaller dogs inside the house, so it should apply.

Martha Caron continued:

- (4) Before commencing any home business or occupation that will be served by a septic system and will generate large wastewater volumes, such as day-care facilities, hair salons and catering services, a report prepared by a licensed New Hampshire Septic Designer shall be submitted to the Planning Board that verifies adequate design and capacity of the existing septic system for the proposed use.*
- (5) The building and premises used for the home business or occupation shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emissions of odor, smoke, dust, noise, electrical disturbance, on-site storage of hazardous materials as determined by the Hillsborough Fire Department or in any other way. Examples of home businesses and occupations that would be objectionable or detrimental to the residential character of the neighborhood are automotive repair garages, sawmills and slaughter houses.*

Martha Caron said that these are the criteria the Board needs to consider.

Christine Innis asked how can one say that there won't be noise?

Martha Caron said it wasn't just noise, but noise that is objectionable or detrimental to the neighborhood. Christine Innis said it was objectionable to her.

Denise DeForest said that she lives on a dirt road and any problems are usually from 4 wheelers. She said she doesn't think the cars will be a problem.

Tom LeLacheur said that 40 trips a day has to affect it.

Martha Caron said there will be added traffic, but the question is whether it would be objectionable.

There was discussion of a recent accident on Gleason Falls Road.

Mathew Aversa said he had been on the road today and there are a number of potholes.

Martha Caron noted for the record that during the site visit they had looked at the road.

Christine Innis said she has worked with the SPCA & knows about dogs. She said that when dogs are kept separate they bark to communicate with each other. She said the dogs are going to bark.

Shawn Girard said he was a neighbor and they have had trouble in the past with her (Angela Werner) dogs. He said he was concerned about the noise.

Martha Caron said that the voters have enacted the ordinance encouraging home businesses, Tom LeLachuer clarified that the ordinance says businesses that won't affect the residential character of the neighborhood.

Alan Urquhart referred to RSA 461. He said they have to follow the laws.

Martha Caron said that the statute that governs dogs being nuisances is the remedy for the issues being brought up.

Susan Veazie said she was in support of the proposal.

Mathew Aversa said he thought that she (Angela Werner) should be allowed to have her business. He said she is trying to address all of the concerns.

Chair Caron asked Ms. Werner if she would like to address the concerns that were raised, in particular noise and traffic.

Angela Werner said there would not be 10 dogs every day. She said she had requested from 5-10 to give some flexibility.

Angela Werner said that Tom LeLacheur had said he was concerned about paying for the road maintenance, but she said that he (Tom) had stated he made an agreement regarding some tree's so he doesn't have to pay.

Tom LeLacheur said that wasn't true. He said he pays \$100 a year like everyone else.

Angela Werner said that she also pays to have the road maintained. She said she knows people race up and down it.

Angela Werner said that regarding barking, she said that she had woken up to barking that morning not from her dogs, but from others in the neighborhood.

She said she just wants to have a place dogs can come and be happy.

Angela Werner said in response to the person who had worked at the SPCA and said that dogs kept apart bark that she wants to have a place where the dogs can play and be happy.

Martha Caron asked if someone brought a dog that barked (a lot), would you tell them not to bring it back?

Angela Werner answered of course she would because it is her responsibility to keep them safe.

Bill Clohessy said he needed some clarification. He said that as he understands it, that most of the time it will be the daycare. Bill Clohessy said now it might be overnight for emergencies, but at the May 15<sup>th</sup> meeting she (Angela) had said they might stay for a week. He said that originally he thought she said that it was a place for helping to train dogs.

Bill Clohessy said that since she has 4 dogs, they should be talking about 14 dogs.

Angela Werner said that her dogs have nothing to do with this application. As for the overnight situation, she didn't want to mislead the Board and cover her for when a friend wants her to keep a dog while they go on a vacation.

Angela Werner said that since her 95 year old mother lives with her, she isn't going to have dangerous dogs. She said she has a friend who trains aggressive dogs that she would send people to who needed that.

Martha Caron said that the personal dogs have no relevance.

Alan Urquhart requested Ms. Werner to clarify if she was going to have dogs for a week or so.

Ann Poole said that the application says that she could. She said that the Board could have a condition that their won't be boarding.

Tom LeLacheur said Ms. Werner has been advertising in a local paper under the name "Promise Kept Kennel" which includes a link to a web site. He said that on the web site she (Angela) has Boarding and lists prices. He said this is another example of his concern about 'business creep'.

Martha Caron said that if she were to not follow what was approved, there are remedies for that.

Dave Fullerton said that while the code enforcer position is vacant, that they do have a mechanism in place to handle those situations.

Christine Innis said that the plans say the dogs will be in separate pens, and she has dogs in the house, so they will be separate and they will bark.

Martha Caron said that there are remedies to deal with these concerns.

Tom LeLacheur said that those remedies put the burden on him. He said he shouldn't have to do that.

Martha Caron said the Boards job is to balance all of this.

Sandy Vanderpool said that she lives in Hillsborough and has known Angela for 48 years. She said that if she isn't going to be boarding, then there won't be barking all night. She also said that there was mention of barking when a car pulls in, but that is just what they do and isn't an all the time problem. She said she should be allowed to do this.

Mathew Aversa said that Angela's whole reason for doing this is so she can stay here in her home.

Angela Werner said that the reason she has the boarding rates on her web page, was because she has the rate for late pick-up and she has to let people know that there is a cost if they don't pick up their dogs when they are supposed to.

Dave Fullerton said that he just would like to see them get along. He said he lives in town and had had numerous animals, including a pig and chickens, and the neighbors were fine with it. They just got along.

Dave Fullerton said that the people at 108 Gleason Falls Road said they have had problems in the past, but he said he wondered why there are no police reports.

Tom LeLacheur said that if you live downtown you expect some noise, but they don't out there. He said that 10 dogs are going to be heard.

Alan Urquhart asked how he (Tom) would solve this.  
Tom LeLacheur said she could start another business.

Sandy Vanderpool said that Angela is not just moving in and starting this up. She said she is a peaceful person who has lived there with her animals and 95 year old mother. She said this will not be bedlam. Tom LeLacheur said that in response to the remark that there won't be bedlam, he said there have been problems and he can't see how adding these dogs won't have more.

Chair Caron closed the Public Hearing at 8:17 pm and invited the Board to discuss the application.

Larry Baker said it was hard to imagine that this won't affect the character of the neighborhood. He said that the corner of Gleason Falls Road with Route 31 is not a good corner. He said while that wasn't necessarily her problem it is something to be aware of. Larry Baker said he thinks there will be some traffic and some noise with this proposal.

Ann Poole said that she is familiar with the area as she rides her horse in the area because it is lightly traveled. She said that Poverty Plains Road is a single lane road and she wonders if fire equipment could get through if needed.

Ann Poole continued, saying that although they haven't formed a formal Road Association, they have in effect formed one and the Board may want to look at that.

She said her main concern was looking at it from the issue of traffic.

Ann Poole said she also hadn't heard consistency from the applicant in terms of how many dogs and how long they would be there.

Bill Clohessy said he had already expressed his concerns.

Bob Eckberg said that the traffic on the private road doesn't affect the town's maintenance, but traffic on Gleason Falls Road would which he said the town does maintain although not that often. He also questioned whether putting limits would work as that leaves it up to enforcement which doesn't always happen which just leaves time as a cure.

Ann Poole said maybe but maybe not as the approval would run with the land.

Martha Caron said they couldn't assume that the town will not enforce.

Bob Eckberg said they can't assume it will.

Denise DeForest said that her dog barks and nobody complains, in fact it howls when she comes home.

Alan Urquhart said that he is hoping to see more of a balance.

Dave Fullerton said the Town has new administrator and a new planner. They have lost their code enforcer, but things are in place to deal with that. He said things are different than in the past, and he is sure that if someone calls with a complaint it would be looked at. He said they could also call him.

As far as the waste goes Dave Fullerton said that dogs are no different from other animals and she can bring it to the transfer station. He also said as far as the road goes his biggest concern was speeding up and down them and there was an accident. He said that he would like to see the proposal approved.

Martha Caron said she was starting from the presumption that the ordinance allows and encourages home businesses. She said she would approve it subject to: no planned, advertised, paid boarding; the daycare being supervised at all times; the number of dogs be limited to somewhere south of 10, dogs

would be in a heated or fenced in area, and chronic barkers will be declined. She said that the road will be impacted but it is a judgment call as to how much.

Denise DeForest said that no state law says how many dogs one can have.

Martha Caron said that they can put conditions on businesses.

Dave Fullerton said in the note from Robyn Payson she notes someone could have 20 dogs (of their own).

Martha Caron said that her own dogs is not what we are here for.

Dave Fullerton said it was not clear what supervision would be.

Ann Poole said that going back to the road agreement the business is going to generate additional traffic on what is essentially a common driveway.

Martha Caron said that the voters could have exempted properties on nonpublic roads from eligibility to establish home businesses, but did not.

Ann Poole said that the ordinance does say that they have to consider the effect of the traffic on the character of the neighborhood.

Dave Fullerton said that some people have kids, some people have more cars – different property owners will use the road more than others.

**Martha Caron moved: *To deny the application for exemption.***

**Larry Baker seconded.**

Denise DeForest asked Bill Clohessy to recuse himself due to his showing dislike of dogs at Emerald Lake.

Bill Clohessy said no.

**Motion failed 3-4 (Martha Caron, Dave Fullerton, Denise DeForest & Alan Urquhart voted no)**

**Alan Urquhart moved: *To approve the application as is.***

**Dave Fullerton seconded.**

**Martha Caron moved: *To amend by adding the following conditions:***

- 1. There shall be no planned, solicited or advertised boarding overnight; but not to include emergency situations.***
- 2. The business shall be limited to daycare and associated training.***
- 3. Someone will be on site at all times to supervise the dogs.***
- 4. A heated, fully enclosed building shall be provided for the daycare.***
- 5. The daycare dogs\, when outside shall be in a fenced area or on a leash.***
- 6. The maximum number of dogs at a time on any day shall be limited to 6.***

Ann Poole said she thought it was vague - that they should either allow boarding or not.

Martha Caron said that it is clear it isn't part of the business plan or advertised.

**Alan Urquhart seconded. Motion to amend passed 7-0.**

**Chair Caron called a vote on the amended motion. Motion passed 4-3 (Larry Baker, Bill Clohessy & Ann Poole voted no).**

Tom LeLacheur asked who he should contact with any concerns.

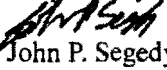
Dave Fullerton answered Robyn Payson, if not satisfied then Laura Buono and then the Selectboard.

**Adjournment**

**Larry Baker moved: *To adjourn.***

**Ann Poole seconded. Motion passed 7-0 at 9:10 pm.**

Respectfully Submitted:

  
John P. Segedy

Recording Secretary

Approved July 17, 2013

**Appendix 1:**

See attached memo of Planning Director Robyn Payson dated 6/18/2013.

**Appendix 2:**

Poverty Plains Road's "Road Agreement" does not meet the legal criteria for a "Road Association" per LGC Staff Attorney report to Robyn Payson, Planning Director.





## TOWN OF HILLSBOROUGH

### Planning Department

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### MEMORANDUM

**TO:** Planning Board  
**DATE:** 6/18/2013  
**FROM:** Robyn Payson,  
**RE:** Planning Board Memo

**Public Hearing-**Requested Exemption from Site Plan Review  
Angela Werner 27 Poverty Plain Rd. Map 7 Lot 99

As I am not going to be at the Site Walk or the meeting tomorrow, I am going to leave you with this memo with some final input. There are three residents of Poverty Plain Rd. against this application, only one of whom is a legal abutter. I am sending you a map showing who is where.

It is certainly important to consider the concerns of the residents of a road, especially a private, dirt road when considering an application such as this one but there are some aspects of the complaints that I find troubling.

These incidents of Ms. Werner's dog's getting out have no period attached to them. They seem to apply to before Ms. Werner was divorced three years ago because her ex-husband is mentioned in many of them. Many of them also refer to animals that no longer exist or are no longer kept. Are we talking about three incidents over five years? On the other hand, is this a real habitual problem? Without more details or a time period, this is very difficult to ascertain.

I understand the concern people have over dog businesses, and although I did advise Ms. Werner to talk to her neighbors before coming forward, I had no particular concerns per-se with this home business. Ms. Werner is extremely experienced in dog care and since the town of Hillsborough Zoning and Site Plan Regulations do not address dog businesses, in general there is not a lot that can be said from a regulatory perspective. I have spoken to Christine Fillmore at the LGC about dog feces, and it falls under the same category as pigs, goats chickens cows etc. There are no specific rules unless it is near a wetland, which this is not. Dog businesses are left to the towns to regulate, which Hillsborough to date has not addressed beyond prohibiting kennels in the Central Business District.

Requiring the applicant to go through Site Plan Review is of no value to the town, or the abutters. There is no new construction or land disturbance.

I do not believe this dog daycare/training and occasional boarding kennel will cause an undue traffic burden on Poverty Plain Road. The regulation does not prohibit an increase in traffic it just prohibits traffic that causes adverse impacts.

I suggest a compromise would be limiting the number of dogs Ms Werner care for be up to a total of 10 including her own.

The Lelacheur's have retained an attorney, who will be submitting a letter on their behalf, it is therefore extremely important that the Board be mindful that counsel will most likely review the process of this application.

The Board is under no obligation to make a decision tomorrow night.