

**TOWN OF FARMINGTON
ZONING BOARD OF ADJUSTMENT MEETING
Thursday, January 3, 2013
356 Main Street, Farmington, NH**

Members Present: Elmer W. "Butch" Barron III, John David Aylard, and Joe Pitre

Members Absent: Joanne Shomphe

Town Staff Present: Director of Planning and Community Development Kathy Menici,
Department Secretary Bette Anne Gallagher

Public Present: James J. Barry, Denise Stewart, Dennis Allfrey, Lois Munroe, Pattie Look, Harold Butt, George Saco, Rick Lundborn

At 7:12 pm Chairman Barron called the meeting to order.

BUSINESS BEFORE THE BOARD:

- **Review and approve Meeting Minutes of December 6, 2012.**

Joe Pitre motioned to approve the minutes of December 6, 2012 as written; John David Aylard asked for a grammatical change and the motion was changed as follows:

Joe Pitre motioned to approve the minutes of December 6, 2012 as amended; 2nd John David Aylard. Motion carried with all in favor.

- **Any other business to come before the Board.**

None

NEW CASES:

Application for Variance from Section 3.09(E)(2) Off Premise Sign by: ACM Specialized Materials, LLC, Applicant, by Norway Plains Associates, Inc. as Agent, NH Custodial Trust, Property Owner (Tax Map R31 Lot 34): To permit an off-premise sign. Parcel is located at NH Route 11 and Paulson Road in the Industrial Business Zoning District

Rick Lundborn from Norway Plains had called to let the Board know that he was stuck in traffic due to an accident on Route 11 but was on his way. Chairman Barron moved on to the next application.

Application for Special Exception from Table of Permitted Uses by: Lois Munroe, Applicant, Michael Paquette, Property Owner (Tax Map R30, Lot 4): To allow a Canine Training and Kennel Facility. Parcel is located at 302 Pound Road in the Agricultural Residential Zoning District.

(Note: Due to an abutter notification error a new hearing was noticed for and held on Feb. 7, 2013. Please refer to those minutes.)

James Barry, an attorney from Gilford, said he was here as an advocate for Lois Munroe. Mr. Barry said when he retired in 2010 he purchased a Labrador Retriever and based upon a recommendation he hired Ms. Munroe to

train his dog after he was less than successful using a different trainer. He said the dog has won eleven ribbons and has made amazing progress for such a young animal. He added that he has attended shows in which dogs trained by the applicant have competed. Ms. Munroe is well respected and by far one of the most successful in the business. Mr. Barry said the type of activity proposed in Farmington would be the same type of operation she now runs and that Ms. Munroe, along with her Realtor, was prepared to answer any questions the Board might have.

Chairman Barron asked where her kennel is located now. Ms. Munroe said it is in South Hampton, New Hampshire. The Board took a few minutes to consider the application and the Chairman then asked for any comments or questions from the Board.

Chairman Barron asked what was shown on her plan behind the existing log home. The applicant said that would be concrete runs surrounded by chain link fence and would be about five years down the road. In the meantime the dogs would be put in the basement. The Chairman asked Planner Menici if the applicant was required to do Site Plan Review. The Planner said she was required to do so.

Joe Pitre said there could be a problem with egress on Pound Road but the Planner said that is an existing egress.

The applicant showed photos of how the basement will be set up adding that many days the dogs will not be there because she transports them to other properties for training. She said although this property is desirable because of the amount of land she still will conduct some of the training in other locations because it is important for the dogs to become proficient on different terrains.

Chairman Barron asked how the criteria on the application line up with the standards because the narrative was not really clear to him and he was curious why it would be accepted when he would consider it not complete. Planner Menici agreed that the narrative was not in the specified order but contained all the necessary information. She asked if the Board would prefer it more organized. The Chairman said that would make the application clearer and more defensible for all parties and less open to interpretation.

Denise Stewart, the applicant's Realtor, said the criteria were followed in order but the Chairman said it was hard for the Board because they were not labeled. Mrs. Stewart read through the narrative and identified the criteria. All were contained in the third paragraph. The Chairman said that if the applicant had any reason to come back before the Board to make sure the criteria are labeled and in separate paragraphs.

The Board discussed the criteria for a special exception.

Section 2.00(E) (1)

a) Standards

Chairman Barron said the general standards for use are provided elsewhere in the ordinance. The applicant will be going through site plan review before the Planning Board at which time issues such as drainage will be considered and therefore do not have to be addressed by this Board. However, he said in addition to those standards he was concerned about the possibility of a dog running loose and biting someone. He asked the applicant if the property was fenced. Ms. Munroe said it was not. She said she has an "airing" area and that all the dogs are highly trained and each one wears an electronic collar. In response to the Chairman's question, she said she trains dogs for competition and gun hunting but not for police work. Ms. Munroe said she works mostly with Labrador Retrievers but also trains Golden Retrievers, Flat Coated Retrievers and Chesapeake Retrievers.

b) No hazard shall be created to the public or adjacent property on account of potential fire, explosion or release of toxic materials. The Board had no comments.

c) No detriment to property values. The Board did not think there would be any detriment.

d) No traffic hazard or substantial increase in the level of traffic congestion.

Chairman Barron asked what kind of traffic the applicant would expect on the busiest day. Ms. Munroe replied there would be maybe three cars.

e) No excessive demand on municipal services. Chairman Barron said there would be none as this property has private services.

Denise Stewart answered Mr. Aylard's question about driveway length stating that it is about 250 feet.

Chairman Barron asked if any abutters would like to speak.

Harold Butt asked what kind of hunting the dogs are trained for. Ms. Munroe said they are trained for bird hunting. Mr. Butt said geese nest along the river every spring and asked if the dogs get loose what will stop the animals from taking off after the geese. Ms. Munroe said that the dogs are trained one at a time and their collars are kept at full charge. The dogs are trained to do what is asked of them. Mr. Butt said it must still be tempting for the dogs. The applicant said that where she lives now there are geese and on one occasion there were five deer on the property when she had five dogs out and all came back. She explained that if the dogs are not at that level of training they are kept on a lead.

Mr. Butt said traffic might also be a concern because the street is narrow but his biggest concern is the animals getting loose with so much wildlife in the area but he is okay with the applicant's answers.

The Chairman asked if there were any other questions. Planner Menici said she would like some clarification regarding group training mentioned on the second page of the narrative in the last sentence in the second paragraph. She asked if this is something separate from the usual training and the kennel. Ms. Munroe said these are people who come in with their dogs on a daily basis.

Planner Menici said the narrative limits participation to six however a separate training activity would be limited to a maximum of five. The Chairman said that would also be a little bigger group than the applicant just described.

The Planner told the applicant that as a condition of approval the Board would be limit her to a maximum of five animals unless she applies for a variance. Ms. Munroe said that would not be a problem.

Joe Pitre motioned to grant the special exception and as a condition limit the number of animals to five for group training; 2nd John David Aylard.

Discussion: Chairman Barron said that the motion is sufficient because site plan review will address parking etc. and he said to Mr. Butt that he could address any road issues at that time.

Planner Menici suggested that the Board might want to address the issue of approval as a kennel and read from her memo to the Board: "The applicant limits boarding services to those dogs enrolled in her specialized training program. No overnight boarding or breeding of dogs is planned. The Board may require as a condition of approval the boarding is limited to dogs enrolled in the specialized training program described in the narrative portion of the application and that no breeding of dogs will take place on the site. If the Board grants the Special Exception without these conditions, a future owner of the property would then be able to provide overnight boarding services to the general public and would be able to breed dogs without further review by the ZBA."

The Planner said she suggested this because if approved as a kennel the special exception runs with the land and down the road someone else could come in with breeding and overnight boarding for the general public which

would create a different impact on abutting properties. Chairman Barron said it could also become a doggie day care.

Chairman Barron said that the Planner's point is if the Board does not stipulate restrictions then they are opening the door. Ms. Munroe said she planned on boarding only those dogs being trained.

Planner Menici said the applicant's business plan for a kennel and training facility as presented will have a certain level of impact but if the Board grants the special exception without restrictions then someone else could expand without coming back to the Board.

Chairman Barron said that the applicant's intentions are one thing but it could be different for someone else. Ms. Munroe said she has no interest in boarding other dogs but understands.

Joe Pitre said he had no problem with putting in the restriction. James Barry asked if the applicant wanted to breed her dog once or twice a year would that be acceptable.

The Planner said her responsibility was to bring to the Board's attention that the application states no breeding, overnight or daycare. If the Board moves to approve the special exception, the conditions must reflect what is presented tonight. If the applicant wants to expand then she would need to come back before the Board. Joe Pitre said the approval could be limited to overnight boarding only for dogs enrolled in the specialized dog training program and breeding would not exceed one litter per year.

Ms. Munroe asked if she would come back for a variance. The Planner said it would be another special exception. The applicant explained that her dog is worth about \$23,000 and she would like to breed her once every two years to keep the animal's genetics. The Chairman said that is not what the Board is talking about. They are concerned about a kennel coming in and the breeding of maybe six dogs. Denise Stewart suggested adding something about the applicant breeding her own dog.

Joe Pitre modified his motion as follows:

Joe Pitre motioned to grant the special exception with the following restrictions:

- 1. Group training is limited to five animals;*
- 2. No overnight accommodations except for the purpose of advancing training;*
- 3. Breeding is limited to one litter per year.*

2nd John David Aylard. Motion carried with all in favor.

Application for Variance from Section 2.01 Setbacks by: Dennis Allfrey, Applicant, Lunn Living Trust, Property Owner (Tax Map R29, Lot 4): To permit a reduction in the front setback from 50 feet to 26 feet. Parcel is located at 609 Ten Rod Road in the Agricultural Residential Zoning District.

Dennis Allfrey said he represents the current owners. He explained that this is an oddly shaped parcel of land that is very steep at the back where the elevation inclines about 20 percent. There was a mobile home on the parcel at one time that has been removed although he does not know the exact date. The owner is proposing to put in a new double wide mobile home in the same general footprint as the former mobile home.

Chairman Barron asked how long ago the mobile home was removed. Mr. Allfrey stated that it was gone before he became involved but he knows it was longer than one year and outside of grandfathering.

Mr. Allfrey said that to meet the 50 foot setback an excessive amount of earth and trees would have to be removed and then dealing with drainage would be impractical. The Planner said when the slope is scaled it

appears to be 20 to 25 percent. She said for the owners to comply with setback requirements would result in a pretty significant disturbance. Chairman Barron said it would also require a large retaining wall.

The Chairman asked if the new home could be sited back toward leach field. Mr. Allfrey said that area has a pretty steep drop off. He explained that the test pit off to the left of the proposed home is where the replacement system will go because no State approval is on record and that is the best location to accommodate the leach field.

Chairman Barron asked if there were any questions on the plan or the location. Planner Menici asked how this property compares with other properties in the area. The Chairman said he is fairly familiar with the area and there are several homes that are closer to the road than 50 feet.

Mr. Allfrey explained that the building envelope is pretty well defined and although it needs some improvement you can see where the prior home stood. The new home will actually improve the appearance of the lot.

The Chairman said that this is not a small change, they are asking for almost a 50 percent change in the setback requirement from 50 feet to 26 feet. The Board members discussed the request and agreed that this is a tough lot, that the new home would be no closer to the road than the old one, the value of the lot would be improved and that to deny the request would turn a moderate project into a big one.

Chairman Barron asked for comments from any abutters but there were none.

Joe Pitre motioned to grant the Variance to permit a reduction in the front setback from 50 feet to 26 feet as proposed; 2nd John David Aylard.

Discussion: John David Aylard asked if the Board should require the foundation to be certified. The Chairman said that would be the CEO's job and Planner Menici confirmed that CEO Roseberry would require this be done.

Motion carried with all in favor.

Application for Variance from Section 3.09(E)(2) Off Premise Sign by: ACM Specialized Materials, LLC, Applicant, by Norway Plains Associates, Inc. as Agent, NH Custodial Trust, Property Owner (Tax Map R31 Lot 34): To permit an off-premise sign. Parcel is located at NH Route 11 and Paulson Road in the Industrial Business Zoning District.

Rick Lundborn from Norway Plains was presenting on the applicant's behalf.

Chairman Barron said that although he did not view it as a problem in the interests of full disclosure he would like it on record that in the past he did some work for Rick Lundborn's mother. The other members did not have any issue with this.

Chairman Barron read the variance request. He said that this is on the old Davidson Rubber site and he noticed that the sign actually went up about a week ago. The applicant said it was put up temporarily.

The Chairman asked if the old sign would be taken down. George Saco said he might move it if he can. The Chairman said that the Zoning Ordinance limits both the number and size of signs and the applicant has only asked to reuse the existing sign. He added that a sign can also be put on the applicant's own property in accordance with regulations and with the CEO's approval.

Mr. Saco said he was planning to use the old lighted sign. Rick Lundborn, applicant's agent, said it makes a lot of sense to use this sign because it is adjacent to the entrance that will be used for the business. Joe Pitre established that the current sign is on the parent parcel not on the applicant's property.

Chairman Barron stated that the problem comes in because the parcel where the sign is located is not the parcel owned by the applicant. The Chairman reviewed the application with the Board.

1. The Variance will not be contrary to the public interest: The sign will have the same dimensions and will be lighted as it originally was. All members were okay with this.
2. The spirit of the ordinance is observed: All members agreed.
3. Substantial justice is done: All members agreed.
4. The values of surrounding properties are not diminished: All members agreed. The Chairman clarified that the parcel is zoned Industrial Business.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: Joe Pitre commented that it would create a hardship because confusion would result if there were no sign where the entrance is located.

Planner Menici said that the balance of the Collins Aikman property is the subject of an application for the national superfund list so it would probably be a number of years before another business locates on this site and needs to use this sign location.

Chairman Barron said the Board needs to keep in mind the future impact of a decision. The Planner said the Board might want to see one sign for all businesses instead of multiple signs. The Chairman said that would be the job of site plan review and that people would have to get together on the issue. The Planner recommended that the record should indicate the Board recognizes future possible use.

Chairman Barron said this Board should not discuss the superfund site but focus on this one existing off site sign. He said there should be a letter on file with the paperwork giving the owner's permission. He acknowledged that the owner had given permission to Mr. Saco to submit the application; however, he said it should be clear that the Zoning Board did not give permission for use of the sign but that the owner did.

The Planner said when the applicant applies for his sign permit he will need the letter and added that as part of a new proposed sign ordinance that permission will be required.

Joe Pitre motioned to grant the Variance from Section 3.09(E)(2) to permit the use of the existing sign on R31 Lot 34 with the stipulation that the applicant submit a letter from the property owner giving permission to place the sign on his property; 2nd John David Aylard. Motion carried with all in favor.

At 8:23 pm Joe Pitre motioned to adjourn; 2nd John David Aylard. Motion carried with all in favor.

Respectfully submitted,
Bette Anne Gallagher, Department Secretary

Elmer W. "Butch" Barron III, Chairman
Zoning Board of Adjustment

Date