

**TOWN OF FARMINGTON  
PLANNING BOARD MEETING  
Thursday, February 7, 2013  
356 Main Street, Farmington, NH**

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

**Members Absent:** Joanne Shomphe

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

**Public Present:** Robert Gray, Denise Stewart, James Barry, Jeff Catlin, Colette Catlin,  
Harold Butt, Jill Tozier, David Tozier

**At 7:07 pm Chairman Barron called the meeting to order.**

**BUSINESS BEFORE THE BOARD:**

- Review and approve Meeting Minutes of January 3, 2013.

*Joe Pitre motioned to approve the minutes of January 3, 2013 as written; 2<sup>nd</sup> John David Aylard. Motion carried with all in favor.*

**NEW CASES:**

**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.**

Chairman Barron said that due to circumstances beyond the Board's control the January 3<sup>rd</sup> hearing for Lois Munroe was null and void because two abutters were not notified.

Jill Tozier said she did not have an opportunity to review the file and did not receive the minutes of the prior ZBA meeting. Planner Menici said that opportunity was offered if there was not going to be a second public hearing. However, because the abutters wanted a second hearing the Board was starting from scratch tonight.

Jeff Catlin said he was not officially notified and questioned whether all other abutters had been notified. Chairman Barron said that all other abutters had been notified but it appeared that he had not been explaining that the tax maps are difficult for an applicant to read and mistakes are sometimes made but he said that everyone was here tonight for the public hearing. He apologized for the fact that Mr. Catlin was not notified but pointed out that he, as well as the other abutters, was here and the Board could proceed.

It was explained to Mr. Catlin that the notice for the second hearing tonight was inadvertently addressed by the applicant to the correct post office box but in Farmington instead of Rochester. Planner Menici said that Town staff is not responsible for preparing the abutters list or mailing labels. The Chairman again apologized but said this was not within the Town's control but noted again that everyone was here for this second hearing. He asked if anyone was aware of any other abutter that had not been notified. Mr. Butt said one person was missing but he was notified. Chairman Barron said some abutters choose not to attend and in fact often there are no abutters at all present at a hearing.

Mrs. Tozier did not feel her notice was sufficient. Planner Menici explained that since 1987 State statute has required a five day notice for a ZBA hearing. She added that the notice must be mailed five days prior to a hearing not including the day of mailing or the day of the hearing.

The Chairman said the application being considered tonight was the same as last time. Planner Menici said that at the initial hearing the Board expressed concern over the way the criteria for special exceptions was addressed so the applicant now has separate sections instead of a paragraph. Chairman Barron said he was looking for the article and section for each section. The Planner said the special exception is only from the Table of Permitted Uses and referred to the Zoning Ordinance on pages 33 and 35 that list both a dog kennel and a dog training facility as permitted uses in the agricultural residential district with a special exception. She explained how the proposal met the special exception criteria.

Chairman Barron said that the applicant should have referenced the article and then the criteria. He said that the application is for a special exception for uses permitted with a hearing for special exception and that he would read the applicable standards.

Chairman Barron noted that Lois Munroe's representatives tonight were the same as the last time and asked them to come forward.

Denise Stewart said she was representing Lois Munroe as agent and had provided the applicant's letter of authorization to the Planner. She said that Ms. Munroe wanted to operate a training facility for dogs and at the start would be kenneling the dogs in the walk out basement. Photos were provided by the applicant showing a similar setup. The 75 foot x 150 foot airing yard will be accessed directly from the walk out basement. Mrs. Stewart said during this intensive training the dogs are trained one at a time and they stay for approximately a month at a time. She explained that the training is so intense that the applicant has to be their sole caregiver. They recognize Ms. Munroe as the "lead dog" and must know that she is in charge and is with them 24/7. She said that this is serious training and it is not a drop off kennel where dogs bark constantly. Additionally, bark control collars are used if necessary.

Mrs. Stewart said that group lessons are usually for three to five dogs and they are not allowed to run as a pack. The group lessons may not take place every week and may not be at this location since the dogs need to be taught in unfamiliar locations. She said that for the group lessons the owners often car pool and an owner may have more than one dog. While one dog is training the other animals are restrained by electronic collar or leash. She said that the electronic collars are highly effective and specific to this type of training. Ms. Munroe occasionally uses a blank pistol when training not unlike someone who target practices but the difference is that she uses blanks. The current owner of the property, Michael Paquette, has visitors as do the other residents on Pound Road and Ms. Munroe does not anticipate additional traffic over what other residents have.

Mrs. Stewart said that kennels and dog training facilities are allowed in this zoning district with special exception. She said that if the parcel was only three or five acres the impact would be greater. If this is not allowed on a fifty acre property that has very few abutters who also own pets then where can the applicant operate her business.

Chairman Barron asked for questions from the Board and also opened the hearing to public comment.

Jeff Catlin said he had reviewed the application and heard the presentation on Monday at the Planning Board hearing and had concerns. He said that the first is putting a commercial business on a Class 6 road that by recorded agreement is maintained by some of the residents at their own expense. He said the Town does not guarantee emergency services due to the private road maintenance. Mr. Catlin said the application does not provide for any kind of fencing or animal restraint during training and the children, pets and abundant wildlife in the area could be impacted by the dogs. He said the number of dogs on the property in Phase 1 will be 16 dogs boarded full time with the opportunity for 12 more dogs on a daily basis for group training three times a week. Therefore the total could be 28 dogs per day on the property so he is concerned about fencing and restraints.

Mr. Catlin said he was also concerned about traffic on Pound Road as there is the potential for 28 cars per day in addition to the 7 cars for other residents. He said that the noise from increased traffic, 28 dogs, guns and whistles in a residential zone will be disruptive. He said that in Phase 2 there will be additional boarding and airing yards but the application does not state how many additional dogs there will be.

Mr. Catlin said he was also concerned moving forward that if the special exception is granted and the business sold in the future there are no state or local regulations and there could be a greater impact. His property abuts directly across Pound Road and he said he was concerned his property would be devalued due to noise and traffic and the use of the land as proposed is not consistent with the uses of surrounding land.

Jill Tozier said her property is on the corner of Ten Rod Road and Pound Road. She wanted to reiterate what Jeff Catlin said because she is also concerned about commercial development on a Class 6 road since even residential development has in the past been denied. She said that safety is a concern because today it could be Labradors and Golden Retrievers but it could end up with Pit Bulls or Rottweilers and her grandson plays outside. She was also concerned with the devaluation of property. She said this would be a change in atmosphere on one of the prettiest roads in Town and asked who would regulate the business once it starts.

Harold Butt from Pound Road said others already touched on the devaluation of property. He said he was the first one out there and it was wilderness. When people moved in he welcomed them but wouldn't want to live next to a kennel with dogs barking. He said it would be hard to sell his property because the value would go down.

Mr. Butt said Pound Road was supposed to be widened and he also was not sure whether this property should be accessed from Pound Road or from Ten Rod Road. He also said there is another building on the parcel that is just off the road and the applicant has said it would be used for storage but he questioned who would police that. He added that there were supposed to be only two houses on Pound Road and now there are four.

Jim Barry said he is a client of Lois Munroe and that she is a professional and has been in the business for 18 years. He said Phase 2 is not for additional boarding but so the dogs can be housed separately from the house and the maximum number would still be 16. He said that training would not take place on the property every day because the dogs needed to be trained at different locations including one with a water source for retrieving. He added that to request the fencing of approximately 48 acres was unreasonable. There are not vicious animals and the business is not for the training of attack or service dogs.

Mr. Barry said the dogs respond to voice, hand and whistle signals and they are valuable dogs that increase in value as they progress through the training levels. He said that with regard to the Class 6 road maintenance the applicant has indicated that she would contribute to maintain the road. He concluded by saying that the business will not be disruptive to the wildlife and that a commercial agricultural enterprise with greater impact could be run on this parcel.

Joe Pitre said the Board must decide whether the business would diminish property values and whether a commercial venture on a Class 6 road is appropriate. Chairman Barron said this parcel being on a Class 6 road had no bearing because the use is allowed and that part of the discussion should be taken off the table so the Board does not waste time on something over which they have no control.

The Chairman said there are other issues. He said it appeared that Mr. Paquette, the property owner, had agreed to put his driveway on Ten Rod Road and this had not been done and he is therefore not in conformance with his agreement with the Town. He said from his standpoint one of the conditions will be to resolve the driveway issue with the Town by getting permission to use the Class 6 road or by building a driveway to Ten Rod Road.

Jill Tozier asked why there would be a person other than the property owner applying. Chairman Barron said it is not uncommon and many times a Purchase and Sales Agreement depends upon an approval however that is not the Board's concern. The Board can only consider whether the proposed enterprise is permitted in this area by the Zoning Ordinance.

Denise Stewart said she spoke to Mike Paquette before tonight's meeting. He told her that there was a farm access to Pound Road since 1950 and that it had always been used as a driveway by the prior owner. He said that when he pulled the building permit in 1996/97 it was with access from Pound Road and that Mr. Gilbert was the building inspector at that time.

The Planner said she had the original building file and everything including the plot plan clearly showed that the first driveway was off Ten Rod Road and in fact the property address was shown as 597 Ten Rod Road.

Chairman Barron said that someone is going to have to jump through hoops to use the Class 6 road or bring the property into compliance with the building permit by using Ten Rod Road. He said this is where the issue will end up and there are criteria if the owner wants to use Pound Road.

Planner Menici explained that the process begins with an application made to the Board of Selectmen who refer it to the Planning Board who in turn must have input from the Police Chief and Fire Chief at a minimum and also the Public Works Director. A public hearing would be scheduled at which the Planning Board deliberates their recommendation back to the Board of Selectmen. Finally the Board of Selectmen would make a decision whether to grant the request.

Chairman Barron said none of this was done because the owner chose to just put the driveway on Pound Road and now it is a problem that the owner will have to address.

Planner Menici said because of the concerns about traffic and noise and to give the abutters an idea of what else could occur on the property she looked through the Table of Permitted Uses in the Zoning Ordinance for the agricultural residential district and some other permitted uses include commercial processing of wood, mineral extraction, excavation, campgrounds, parks and outdoor recreation, retail stores, veterinary clinic and grooming. All of these require only Planning Board review.

Mrs. Tozier commented that her property would be worth nothing if any of those went in. The Chairman said that was not exactly true.

Chairman Barron asked the Planner about a listing of the criteria on the application. The Planner said the special exception criteria are included in the Zoning Ordinance on page 31 Section 2.00 (E) General Standards. The Chairman read them for the Board's consideration:

***(E) SPECIAL EXCEPTION GENERAL STANDARDS.*** *The ZBA shall only grant requests for Special Exceptions that are in harmony with the general purpose and intent of this Ordinance AND which meet the general standards set forth below:*

*(1) Special Exceptions shall meet all of the following standards:*

- a) standards as provided elsewhere in this Ordinance for the particular use allowed by Special Exception. In addition to other specific standards for a use delineated in the Table of Uses as SE, items (b) through (f) of this Section shall apply.*
- b) no hazard shall be created to the public or adjacent property on account of potential fire explosion or release of toxic materials.*
- c) no detriment to property values shall be created in the vicinity or change in the essential characteristics of any area including residential neighborhoods or business and industrial districts on account of the location or scale of buildings and other Structures, parking areas, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment or other materials.*
- d) no traffic hazard or substantial increase in the level of traffic congestion shall be created.*
- e) no excessive demand on municipal services, including but not limited to, water, sewer, waste disposal, police and fire protection and schools.*

*f) no significant increase of storm water runoff onto adjacent property or Streets shall be created.*

*(2) Special Exceptions may be subject to appropriate conditions, including but not limited to:*

- a) front, side, rear yards in excess of the minimum requirements of this Ordinance.*
- b) screening of the premises from the Street or adjacent property.*
- c) landscaping as contained in Appendix 1.*
- d) modifications of the exterior features, buildings or other Structures.*
- e) limitations on the size of buildings and other Structures more stringent than the minimum or maximum requirements of this Ordinance.*
- f) limitation on the number of occupants and methods and times of operation.*
- g) grading of the premises for proper drainage.*
- h) regulation of design of access drives, sidewalks, crosswalks and other traffic features.*
- i) off-street parking and loading spaces in excess of the minimum requirements of this Ordinance.*
- j) regulation of the number, size, lighting of Signs more stringent than the requirements of this Ordinance,*
- k) other Performance Standards as may apply at the discretion of the ZBA.*

*(3) Before approval by the ZBA of any Special Exception, a public hearing shall be held after public notice as required by town policy. All abutters shall be notified by the ZBA by certified mail at least five (5) days prior to any public hearing regarding said site. The names and addresses of the abutters shall be supplied by the applicant on a plot plan to be submitted to the ZBA.*

*(4) Before approval by the ZBA of any Special Exception, in the event that the ZBA grants a Special Exception subject to conditions, the Planning Board shall not waive or modify such condition(s) without concurrence, by vote, of the ZBA.*

Joe Pitre said that there are permitted uses that could be a lot worse such as metal extraction and excavating.

Chairman Barron said that the Zoning Ordinance does not attempt to deny other uses which have always been pretty mixed. He said his business is on Ridge Road which is residential as well as Route 11 and he was sure he had inconvenienced his neighbors at some point.

The Chairman said that for the criteria:

(E) (1) a - he believes that the application will meet all standards as provided elsewhere and will have to go to the Planning Board for site review.

(b) - not an issue.

(c) - no detriment to property values. Joe Pitre said that could be a problem but no more than other permitted uses and if those uses are considered as a group this proposed use does not come to that level. Mr. Pitre asked how far the nearest neighbor would be. Mr. Barry said about 100 to 150 yards. The Planner said the driveway off Pound Road is 250 to 300 feet in length and the proposed kennel is to the side and behind the existing house.

Jeff Catlin said his house is back 300 feet but he owns parcels that are directly on Pound Road and he said the entire field that will be used for training abuts Pound Road as well.

Mr. Barry said that where Ms. Munroe is now there are much closer abutters and no complaints. Chairman Barron said that has no bearing on this application and he is just trying to get a feel for how far this is from abutters. Mrs. Stewart said there are fields both in front of the home and behind and Ms. Munroe plans on using the entire parcel but would not be in the front field every day. Mr. Butt said that Mr. Keefe would be the closest, probably within 400 feet, then Jeff Catlin's and without leaves on the trees they could see one another's houses.

Chairman Barron asked what the hours of operation would be and questioned whether Ms. Munroe conducted training extremely early or late at night in the warmer months. Mr. Barry said the hours were about 9:00 am to 4:00 or 4:30 pm. Denise Stewart said Ms. Munroe trains the dogs in Georgia during January, February and March every year.

It was stated that Ms. Munroe typically had about six dogs in a group with each dog trained one at a time for maybe one hour. Colette Catlin commented that maybe one was trained at a time but there could be up to 16 dogs on the property at one time. Chairman Barron said there may not be as many as 16. Jeff Catlin said there was the potential for 28 during any one day. Jim Barry said he had actually never seen more than three in a class but Jeff Catlin said he was just going from the application.

Chairman Barron said the number the application asks for was not allowed at the initial hearing and asked why there is a group if the dogs are trained one at a time. Mr. Barry answered that this is so the dogs get acclimated to a group.

At this time Joe Pitre asked if a motion was appropriate but the Chairman said there were still criteria to satisfy. He said this is definitely a permitted use but said the Board still needed to determine if it would be a detriment to property values.

Joe Pitre repeated that the group of other uses not needing ZBA approval such as wood chipping, mining and excavation could have more impact. Mr. Pitre said at the last hearing the number for group training was limited to five. Chairman Barron said the potential was for boarding 16 but they would not be training at one time. He asked if the dogs were housed in the outside runs. Denise Stewart said they are boarded in kennels in the basement and are exercised in the fenced 75 foot x 100 foot airing yard that is accessed directly from the walkout basement so at no time can the dogs get loose. Chairman Barron asked how many are exercised at a time. Mr. Barry said in his experience it is three or four at a time.

The Chairman said last time the Board restricted the number to 16 for advanced training so the facility doesn't become a hotel or doggie day care and also limited breeding so it would not be a puppy mill and can consider these restrictions this time as well. He asked the other members for their input on property values and said the only effect he can see on value is the disturbance they may or may not cause. Mr. Barry said bark control collars are used when necessary.

Planner Menici said the Board can grant the special exception but allow a lesser number of dogs than what is specified in the application. Chairman Barron said that is why he is trying to find out how many dogs are outside at any one time.

John David Aylard said Ms. Munroe did not plan on keeping the dogs in the cellar forever and at some point they would be outside. Mrs. Stewart said within two to five years Ms. Munroe would build a separate building to house the dogs instead of using the basement but they would not be kept outside. Chairman Barron said the dogs are there for training and then they go home and are not there forever.

Jill Tozier asked if the Board of Health approves that many animals in the basement. The Chairman said that is not for the Board to consider and asked the members for any other comments on property values. Joe Pitre said they have to look at the other permitted uses such as wood chipping or excavation and this use would not impact value more than any other use. Mr. Aylard said the other permitted uses would be more detrimental to value.

Mr. Butt asked if two businesses would be allowed. The Chairman answered that two would not be allowed but the Board was discussing other businesses that are allowed in this zoning district. Mr. Butt asked if they were allowed on a Class 6 road and the Chairman answered that the road has no bearing.

The Board considered the rest of the criteria. The Chairman said there might be a day here or there with extra traffic, but most days there would not be an increase. Joe Pitre said there would have to be a clarification on access from Ten Rod Road. Sections (E) (1) e and f were okay.

Joe Pitre said they were still hung up on valuation. The Chairman said if the facility is properly run it would not be a detriment but if not run properly then it would definitely be a detriment. He said that Stillwater Kennels just around the corner on Meaderboro Road had been there for 30 years and was not detrimental to values.

Chairman Barron asked for a motion.

***Joe Pitre motioned to grant the special exception to allow a Canine Training and Kennel Facility at 302 Pound Road with the following conditions:***

- 1. Group training is limited to five animals;***
- 2. No overnight accommodations except for the purpose of advanced training;***
- 3. Breeding is limited to one litter per year;***
- 4. Resolve the driveway access to the satisfaction of the Code Enforcement Officer or go through channels for a Class VI road access and maintenance agreement;***
- 5. Hours of operation are between 8:00 am and 5:00 pm;***

John David Aylard suggested 8:00 am to 6:00 pm.

Colette Catlin said she was very upset because in the past nothing had been done to police decisions and asked what would be different now. The Chairman said complaints that come in are being checked. He said the Board was in the middle of a motion and he would close public comment if necessary.

The members discussed limiting group sessions to twice a week and days of operation to Monday through Saturday.

- 6. Group training to take place no more than two times a week;***
- 7. Days of operation are Monday through Saturday;***

The conditions were read back and the Chairman said the only other condition would be to limit the total number of dogs. He said the total number of dogs would be 21 broken down to 16 staying overnight or long term and five for group training during the day and asked the members if that was a comfortable number.

Jill Tozier said the Board was taking hearsay from the applicant's representatives. Chairman Barron said the applicant was not present and the Board was imposing numbers that she could not change. The Chairman added that Ms. Munroe had a right to use the land as permitted and the abutters had the same rights. The Board was trying to stipulate conditions so that the noise level intrusion is minimized. He added that the way to change the permitted uses in a zoning district is not at a ZBA hearing but to change the Zoning Ordinance.

- 8. Boarding for long term training is limited to a maximum of 16 dogs at any one time;***

The conditions were read again and the Chairman suggested some clarification and reorganizing the order. The final format of the motion read:

***Joe Pitre motioned to grant the special exception to allow a Canine Training and Kennel Facility at 302 Pound Road with the following conditions:***

- 1. Group training is limited to five canines;***
- 2. Group training to take place no more than two times a week;***
- 3. Canines may stay on site only when enrolled and participating in the extended training program;***

4. *No more than 16 canines may be enrolled and participating in the extended training program at any one time;*
5. *Hours of operation are between 8:00 am and 5:00 pm;*
6. *Days of operation are Monday through Saturday;*
7. *Breeding is limited to one litter per year; and*
8. *Driveway access to be resolved to the satisfaction of the Code Enforcement Officer or the owner is to go through channels for a Class VI road access and maintenance agreement.*

*2<sup>nd</sup> John David Aylard. Motion carried with all in favor.*

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

Chairman Barron asked if there was any other business. There was none.

*At 8:53 John David Aylard motioned to adjourn; 2<sup>nd</sup> Joe Pitre. Motion carried with all in favor.*

Respectfully submitted,  
Bette Anne Gallagher, Department Secretary

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

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Date