

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

Present: Chairman Sawyer, Members Belletete, Campbell, Dodge and Webber

Absent:

Staff: Recording Secretary Lemire

MEETING MINUTES APPROVAL

On a motion by Dodge seconded by Belletete, the minutes for the January 3, 2012 meeting were approved as submitted. (5-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:30 p.m. The rules of procedure were read aloud. Notice of hearing for case Nos. ZBA 12-01 as advertised in the *Monadnock Ledger-Transcript*; copies were posted in the Town Office building and the Library; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicants.

Public Hearing - New Items

None

Public Hearing - Continued

1. ZBA 12-01 Denise Mazzola (property of Balentine), 53 Chadwick Rd., Map 225 / Lots 16 & 17; Zone: Rural (w/o town water)

Special Exception – The applicant proposes a dog training center. (Zoning Ordinance, Section IV, 4.3.4 & 4.3.5)

Presentation: Attorney Silas Little, Bill Harper – West Rindge Builders

Appearance: Denise Mazzola

Ms. Mazzola was before the board at the January public hearing however it was discovered that the Rindge abutters had not been notified. The meeting was continued and the Rindge abutters were notified.

Ms. Mazzola distributed to the board a packet of information outlining her business. The proposal is to continue to offer all of the services that she is presently offering which ranges from in-home boarding to obedience classes. The property consists of 107 acres and she hopes to develop a walking/hiking trail system where the dogs at her facility can be exercised as well as being open to the public for a fee.

Across from the house is a 3.5 acre lot (152,460 sf) where it is proposed to construct a 15,000 to 20,000 square foot training facility that will house thirty individual rooms for boarding. In the first year boarding capacity is anticipated at 20% or approximately ten dogs per month. The day care portion for 2012 is anticipated at 20 to 35% or 9 to 10 dogs per day. Dogs coming for the day will be exercised in indoor play areas and on the trails with experienced handlers. The largest part of the facility will be a 100 by 100

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

foot area that will be used for all training classes and Rally Trials. Classes will be held one at a time with three or five dogs per class expected in the first year. Thirty parking spaces have been allocated which would accommodate the maximum number of 10 dogs in a class and arriving for a class. On occasion there will also be speakers and special events; both of which will be held inside the facility.

Ms. Mazzola stated that she has looked at many different properties and what she finds attractive about the Chadwick Road property is the location, the lack of neighbors and the amount of wilderness between her and the neighbors. The Balentine property is the only property on Chadwick road. Ms. Mazzola reminded the board that her background is behavior. She will be closest to any noise and like the neighbors she does not want to listen to barking dogs.

Chairman Sawyer asked if the proposed building would be visible from any other property or road. Ms. Mazzola replied no.

Mr. Bill Harper of West Rindge Builders displayed several different pictures of the property and the road along with a map identifying the location at which each photo was taken. Mr. Harper stated that the closest house in any direction is 3/10 of a mile. The pictures show 1) the road, at one section, measuring at nineteen feet 6 inches with two cars easily passing at the same time, 2) the residence on Peabody Hill Rd. that would be passed, 3) the topography of the road showing a rise in elevation which leads him to believe that any noise would be above the neighboring house and 4) the dense woods that separates the subject property and the nearest residence.

Member Dodge asked if the road (Peabody Hill) was dirt or paved. Mr. Harper replied that it is a little bit of both. Ms. Mazzola was asked if she would be open seven days a week. She replied for boarding, yes. Member Dodge asked how many vehicles could be expected at the property daily. Ms. Mazzola estimated 9 dogs in day care some of which may be transported by the business, boarding would be proposed at 10 dogs per month. Classes would be on Saturday and Sunday estimated at 12 people each day. The estimated numbers are based on the first year. Traffic at one hundred percent is estimated at 50 cars. Member Dodge asked if the training classes would grow. Ms. Mazzola replied that if need be she would increase the number of dogs from four to six or seven per class and perhaps add an evening or two.

Attorney Little distributed copies of his argument for granting the special exception. In summary they believe the location is an appropriate location because it is secluded with dense forest and the nearest neighbor is approximately 1,000 feet away. The closest resident would actually be Ms. Mazzola as she will reside on the property as required. They do not believe the proposed use is detrimental to the neighborhood nor does it significantly alter the districts characteristics because the immediate neighborhood to the location is undeveloped land and the proposed structure is in keeping with a rural or farm structure. The location is sufficiently removed from existing traffic pattern so that the kennel's presence will not be known to the casual passerby. The principal travel route for the property is adequate for the traffic load. As demonstrated in the photos submitted the road is wide enough and has a sufficient travel surface area to permit cars to pass. The road is a Class V town road and has good horizontal and vertical alignment. The issue of barking dogs has been raised and they believe that any noise heard will be well within acceptable background noise levels for rural areas. The site has been preliminarily examined and the determination is made that a septic system can be placed upon the site with appropriate related tanks to handle any wastes.

The site is within the middle of the rural district substantially removed by distance from any other district in the town. This particular standard in the Special Exception criteria addresses "spill over" effect of a Special

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

Exception granted in one district which may be detrimental to the immediate adjacent district. That situation does not exist because of the location of the site. A letter from local Realtor, Ms. Anna Schierioth addressing the possible impact on the proposed use was submitted into the record. In brief Ms. Schierioth feels that the property is ideally suited for dog training and boarding without affect on the values of the surrounding properties.

Member Dodge addressed the letter from Ms. Schierioth which stated that previous activities at this property included a Christmas tree farm, saw mill, maple sugaring, ponies, sheep, gardening and an apartment. To the best of Attorney Little's knowledge he believes the use was dependent upon the time of year. Member Dodge asked about noise from the dogs. Attorney Little stated that the dogs will not be let out and left to bark; that is not the nature of her operation. There is no doubt that the neighbors may hear barking on occasion but it will not be at a dangerous level.

Ms. Mazzola stated that she has looked at many facilities to gain ideas and has not found one that is satisfactory to her. Daycare is not a room filled with barking dogs. What is attractive about this location is the 107 acres. All dogs will bark first thing in the morning when they are let out for a potty break and brought back in to feed followed by inside play time; they will not be left outside. Eight or ten dogs will go out with a staff person to hike and walk the trails. She hopes to have on the trails fenced in areas where the dogs can be off leash to explore the leaves, trees and rocks which is enriching, stimulating and tiring for dogs.

Member Dodge asked how many employees there would be. Ms. Mazzola stated that in the first year (2012) there could possibly be two and the third year could be as many as four.

Abutter Mr. Bill Royce asked how close the proposed building would be to his property line. A distance was not given however Mr. Harper did say that it would be placed in the center of the lot.

Abutter Mr. Jim Bearce submitted a letter to the board opposing the request for a special exception. Issues outlined in the letter are 1) he believes the condition of both Chadwick Road and Peabody Hill Road is inadequate for the amount of traffic being proposed by this project, 2) the amount of noise generated by the potential of 100 dogs at one time would result in a very significant lowering in their quality of life and placing a business of this size and type in a very quiet neighborhood cannot possibly fail to significantly alter the characteristics and negatively affect nearby property values, 3) what plans are in place for dealing with the waste generated by this number of dogs, 4) the application is to allow a large commercial operation in a rural neighborhood. Mr. Bearce also stated that he has lived at his property off and on for fifty years and he does not believe there was ever an operating sawmill at the Chadwick Rd. property except perhaps when the house was being built.

A representative from Franklin Pierce University was present to state that they are also opposed to the project with their main concern being noise.

Mr. Tom Smith resides at 97 Peabody Hill Rd. He is opposed to the proposal and supports the issues raised by Mr. Bearce.

Ms. Linda Bearce submitted a letter into the record opposing the project. As with the other neighbors she too is concerned about the noise and traffic and the potential for this to open the door for other such requests.

Chairman Sawyer reminded the audience that each case is on its own merit, they do not set precedent.

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

Mr. Ian Ferguson of 482 Gilmore Pond Rd. agrees that the roads to be used by this facility will not handle more traffic than they already are.

Ms. Carla Bradley expressed concern about the increased traffic and the additional noise associated with it. 100 extra cars per day would be unbearable.

Mr. Jim O'Neil has used Ms. Mazzola's services and knows her training methods first hand. He spoke in favor of her character and the project.

Ms. Julie Bell is opposed to the project because of the noise and traffic issues.

Realtor Ms. Shirley Despres is representing the Balentines in the sale of Chadwick Rd. Some of the people who have contacted her about the property have done so with interest in development. In her opinion what Ms. Mazzola is proposing would have much less impact with regards to traffic than a residential development.

Mr. Steven Sears feels that Gilmore Pond itself will be affected by the noise because of the elevation and agrees that traffic will be an issue. People can do what they want with their property however there are zoning rules and residential homes in this district are allowed. It's a great idea but it belongs in the commercial district, not the rural district.

Ms. Elizabeth Webster thinks the idea is great but not at this location. The noise from one hundred or even sixty dogs at feeding time, twice a day would lend a great deal of pressure to the neighbors.

Attorney Little reiterated that many people think of a kennel as dogs in outside runs; this will not be the case at this facility. The dogs will be housed inside and fed inside.

Although not an abutter Mr. Charlie Palmer is a resident and is very familiar with the Balentine property. He has no bias in the proposal however he is curious. He commented that he had just read an article about running a kennel and the advice given was that if you are going to run a kennel be prepared for a lot of noise. This will not only be a burden on the owner but on the town officials as well because they will be the ones receiving the complaints.

Member Campbell asked if there is a facility that she could refer the board to as an example of what she is proposing. Ms. Mazzola stated that one closest to what she has in mind would be the Monadnock Humane society; the rooms are cinder block with separation. All other kennels that she has visited are unacceptable.

Mr. Harper made a final comment stating that the condition of Chadwick Rd., (ie: width, access, turning radius) if the special exception is granted, will be dealt with by the Planning Board and the Fire Chief. It is not an issue dealt with by the Zoning Board. He also agreed with Ms. Despres, an open space subdivision has the potential for sixty homes. That would equate to much more traffic than what is being proposed. Mr. Harper asked that Ms. Mazzola not be placed in the same box with every other kennel operator; she is not proposing what most people view as a kennel. He encouraged everyone to look at her credentials.

Chairman Sawyer stated that the board would make a site visit. Member Campbell expressed an interest in making a site visit at Ms. Mazzola's home in Keene, where she keeps dogs currently. He would like to see first hand how she handles the dogs. He will speak with Ms. Mazzola and arrange a visit.

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

The board will conduct a site visit at the Balentine property on Thursday, February 16, 2012. Members will meet at the Town Office at 3:00 p.m.

There being no further comments, Chairman Sawyer continued the public hearing for this item.

On Thursday, February 9, 2012 Member Campbell made a visit to Ms. Mazzola's home in Keene. Minutes outlining his visit were e-mailed to the board and a copy was placed into the record.

Deliberations – Thursday, February 16, 2012

At approximately 3:54 Chairman Sawyer called the meeting to order. He stated that due to his error on Tuesday evening he continued the hearing instead of closing the hearing. Since there was no additional testimony he would close the hearing at this time.

Prior to deliberations Chairman Sawyer stated that there seemed to be some confusion as to what the Zoning Board's job is and what the Planning Board's job is. Some of the issues raised at the public hearing, for example monetary values and the condition of the roads, are not within the jurisdiction of the Zoning Board; they may however be Planning Board issues.

The board reviewed each of the criteria for a special exception.

Section 6.1. Unless otherwise specifically provided, the Board of Adjustment shall, before granting a special Exception, find that, in their judgment, all of the following conditions are met:

6.1.1 The specific site is an appropriate location for such a use, structure, or condition;

Since kennels are, by the Zoning Ordinance, allowed in the rural district the members agreed that with 107 acres in the rural district the site is an appropriate location.

There were no issues.

6.1.2 The use, structure, or activity will not be detrimental to the neighborhood nor significantly alter the characteristics of the district;

All members have some concern about traffic. With a focus on traffic Member Belletete asked for clarification on the maximum number of dogs that will be on that property at any one time. Ms. Mazzola went over the breakdown of boarding and day care dogs and added that a transportation vehicle is in her business plan; this would reduce the number of people coming to the facility. The number of dogs stated in her application is the number used for her business plan and based on the maximum number of dogs for any aspect of her business. (ie: 45 dogs in day care, 60 dogs boarding); she does not expect this to happen immediately. Ms. Mazzola could see having 30 boarding rooms occupied (30 dogs) during peak times (Christmas and during the month of August). A number certain is difficult to project because boarding is a fluctuating business. Daycare is more predictable.

Member Dodge commented that he is focusing on the traffic and that the roads are not in good condition; regardless of a pick up vehicle or customers dropping off their dog it is still vehicle traffic. Chairman Sawyer reminded Member Dodge that the condition of the road is not the purview of this board. Member Dodge recognized that the Planning Board could place conditions in a

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

decision requiring upgrading by the applicant or this board could place a maximum number on the number of dogs on the property.

Member Belletete stated that the ordinance allows this type of operation in the rural district. With his concern for the traffic he feels a maximum number of dogs should be considered. Member Dodge stated that he is not hung up on the noise issue but shares the concern for traffic and would entertain setting a maximum number of dogs.

- 6.1.3 Adequate and appropriate facilities will be provided for the proper operation of the proposed use; and

It was acknowledged the argument submitted by Attorney Little stated “the site has been preliminarily examined and the determination is made that a septic system to service the needs of the site can be placed upon the site with appropriate related tanks to handle any wastes.” Member Belletete stated that if approved the Planning Board will address this during their site plan.

There were no issues.

- 6.1.4 Such exception, if granted, will not adversely affect any other district or portion thereof;

It was determined that a change in district was quite a distance away.

There were no issues.

Member Webber made a motion to approve as submitted and per testimony given. Member Dodge made the second.

Member Campbell amended the motion to limit the number of dogs to 85. Member Dodge made the second.

The board members agreed that a cap should be placed on the number of dogs. Based on conversation with Ms. Mazzola there were estimates of 45 dogs in day care and 40 in boarding at any one time for a total of 85 dogs and a maximum over a five year period estimated at 60 dogs in day care and 45 in boarding. Member Campbell asked Ms. Mazzola if 85 was a reasonable number for her business. Ms. Mazzola indicated that 85 dogs would be doable for her business. Through the deliberations it was agreed that eighty-five dogs would be the maximum number of dogs and how that number is divided up between boarding, day care or events will be up to the applicant.

DECISION

1. ZBA 12-01 Denise Mazzola (property of Balentine), 53 Chadwick Rd., Map 225 / Lots 16 & 17; Zone: Rural (w/o town water)

Special Exception – The applicant proposes a dog training center. (Zoning Ordinance, Section IV, 4.3.4 & 4.3.5)

On a motion by Belletete, seconded by Dodge the application for a special exception to allow a dog training center was approved with the following condition: (5-0)

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
February 7, 2012

Condition:

1. Maximum number of dogs to be at the facility is 85

OTHER BUSINESS

None

ADJOURNMENT

The meeting recessed at 9:05 p.m., reconvened on Thursday, February 16, 2012 at 3:00 p.m. and adjourned at 4:38 p.m.

Submitted:

Attest:

Erlene R. Lemire
Recording Secretary

Lee A. Sawyer
Chairman
Jaffrey Zoning Board of Adjustment

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.