

**MINUTES OF THE MEETING
PLANNING BOARD
October 23, 2014
7:00 PM**

MEMBERS PRESENT: Robert Smith, Chairman; Mark Beliveau; Ryan Crosbie; Lou Ann Griswold; Ed Bannister; and David Cedarholm, Selectmen's Rep.

OTHERS PRESENT: Attorney Matthew Whitehead; Robin Wunderlich; Molly Darling; Elaine McLean; Andrew Ward; Attorney Chris Wyskiel; Frank Eitler; Bruno Posset; Jean Benoit; Karen Benoit; Judy Eitler; Rich Sorenson; Town Council, Attorney Sharon Cuddy Somers, DTC Lawyers; & Caren Rossi, Planning & Zoning Admin.

Robert Smith, Chairman opened meeting at 7:10 PM.

○ **Review and Approval of Draft 10/14/2014 Meeting Minutes**

Ms. Griswold stated that she believed Robert Smith, Chairman's word edits were incorrect. She read the original words and she believed they were the correct words, not his recommendations. Ms. Griswold clarified which statement she said and which statement Mr. Beliveau said. Mr. Beliveau agreed with Ms. Griswold. Caren Rossi is directed to make the correction in the minutes.

Other Board members stated that they have not had time to read the minutes and that they would like the approval of these minutes tabled to the next meeting.

○ **Report of officers and committees**

Robert Smith, Chairman explained that the CIP committee met with the Selectmen. He noted that there was a good discussion and progress is underway. Robert Smith, Chairman noted the only additional development this year was the fire departments new scheduled fire truck.

○ **Review any correspondence**

○ **Old Business**

A continued accepted application for a Site Review Application presented by Mike Sievert, MJS Engineering PC, Agent for Molly Darling & Robin Wunderlich. The property is owned by Colleen Latham/122 Mast Road, LLC. The property is located on 122 Mast Road and is known as Lee Tax Map#13-11-0200. The applicant is proposing a Dog Daycare and a Boarding Kennel with support services. This is a possible final public hearing.

Robert Smith, Chairman stated that after last week's discussion and going through the Operations and Maintenance Manuals, he created a chart to help him understand the number of employees for the entire operation. There are things that the Chairman does not know. He did this to help determine the parking needs and the number of employees. He passed his chart around to all the Board members.

Robert Smith, Chairman explained that tonight we are here to discuss waste and noise. Caren Rossi had sent out packets of information from the record that pertains to both topics. He reminded everyone to keep the purpose in mind as they deliberated. He read the Purpose regulation to all members.

Purpose:

The purpose of these regulations is to provide for a balanced, responsible and desirable growth by encouraging the most appropriate use of land, providing safety of its residents. It is the intent of this ordinance to insure that sound site utilization principles be followed to protect abutters against elements of pollution; to afford adequate light and air; and to insure safe vehicular traffic and emergency access.

Mr. Beliveau spoke about management and disposal of animal waste. Mr. Beliveau said, "As we all know, the project evolved from onsite composting of the dog waste to picking it up and putting it in a container then to a dumpster and then it will be removed from the site. Early on there was a lot of concern of the compost operations. The applicants felt the composting would be well managed. Other folks felt if it wasn't, it could leach out into the environment; contaminate ground water and so forth. The applicants then pulled composting off the table and will now put it in a dumpster for removal. While there was still testimony that not all of the dog feces would be picked up, some would be missed permanently and some slow to be picked up. There was also recognition that this was a dramatic improvement over composting. This is his general read of the stack of information. While there was still some concern of any daycare operation at all, with the dogs going on the ground. His read of it is and trying to understand all of the evidence presented. In light of the operations plan and their removal plan, "No less than four times a day" for him, he thinks the plan to both manage and dispose of the feces does not violate the safety of residents or protecting the abutters against pollution. It seems to him that it met the standards. The standard to him is to not allow the possibility of any pollution, if this was the case, Dollar General would not have gotten approved, and nothing would get approved. It is the same way DES regulates things. They are taking reasonable steps to manage this.

Robert Smith, Chairman asked your suggesting since the improvement in their plan they meet our objective?

Mark Beliveau replied yes as it applies to the solid waste.

David Cedarholm stated with respect to the solid waste, the storm water management system that is purposed, is designed to pick up and mitigate the feces that might be inadvertently left behind and carried down slope by storm water.

Mark Beliveau stated as well there is a business incentive to maintain a clean and sanitary operation. If he owned a dog and brought it there, when he went to pick it up at the end day and it had dog poop on his paws and it wasn't clean, he would be very unhappy and he would not bring his dog back. They will want to keep it sanitary.

David Cedarholm spoke with respect to the urine, you have some waste and urine that will end up in the septic system. You can consider this to be equivalent for any standard development that will happen on this site. The applicant has proposed a Clean Solutions nitrogen type septic system to address all of the urine from the people and the dogs in the kennel as well as the daycare dogs inside the facility and the pee yard. Even the daycare dogs, let's say full facility is 70 dogs, they are not outdoors the whole time and they are only there 5 days a week 10 -11 hours a day so even if you were to look at the total quantity of urine that the dogs release in the woods outside the facility. He would estimate about what half a dog urinates in a day and if they are open 50 weeks a year and 5 days a week that is 250 days they would be open. You could calculate a quantity of urine, he has done this, and then compare to the farm animals in the rest of the watershed, 70 dogs for 250 days a year only increases the input from just urine in the watershed, by less than 1/2 of 1%.

Robert Smith, Chairman stated he recalls it being testified that most of the dogs would come from this watershed. You have a portion of dogs already there.

Mark Beliveau stated that he recalls an email chain where Dr. Tom Ballesteros and Dr. Ben Heiderscheidt went back and forth. He paraphrased and stated that Dr. Heiderscheidt point he was trying to make was that you are bring all the dogs together countering what Dr. Ballesteros was saying. He doesn't recall either one of them having empirical evidence, t hey were just offering their professional opinions back and forth.

Lou Ann Griswold stated that in reading the Dr. Ballesteros comments that they would be coming from the same area, we can assume this but at the same time, she feels it will matter where they work.

Mark Beliveau stated in re-reading the information, what he didn't see was evidence where it takes it to the next step and poses a risk to human health, to abutters, to the general safety of residents or to the groundwater supply. Certainly this allegation was made, but it is very different to say, this is going to poison our environment. You can make the statement but you have to back it up. Certainly in his re-read nothing struck him as compelling. What gives him pause is the logic, if you have 50 – 70 dogs spread out thru the community and then you put

them on 5 acres of land. He knows the total is 7 but you have buildings etc. The evidence we had in this regard was that it was not a problem, and to the extent it moves down gradient the rain garden is going to be more than adequate, which we have a lot of evidence on.

David Cedarholm stated that there is a lot of benefit to leave the trees in place. The plan is to maintain grass. It is a forested area, they plan to leave the trees, and the roots from the trees take up a tremendous amount of nutrients.

Mark Beliveau agreed.

Ryan Crosbie stated he feels that we need to determine if there is a potential impact for the abutters and what this impact might be. He has his own sense of what it would be. He agrees with Mark. We have an argument between two qualified people. His sense is that there is a concentration of dogs; he doesn't think that the use of the yards, in the amount of area they are proposing, will impact the environment, the surface water or the ground water. He doesn't think it will be damaging to the point where it reaches the abutters. He thinks the nitrates will dilute as it goes thru the media as well as some of it will be absorbed and used as nutrients microbes for plants. Some of it may flow downstream and it won't be at such a high concentration at this point. This is just his sense.

Mark Beliveau stated there was testimony to that effect too. This was essentially Dr. Ballesteros message. He spoke that today the facility is down gradient from the road and the roads current contaminates are untreated today. It gets into the gullies and to abutting properties. Hopefully it doesn't affect people's wells. As you go further away from the property, it slopes down and continues topographically on a down gradient slope. He pointed these out as mitigating factors. You have the horse farm on one side; a residence on the other side and the neighborhoods are across the street that are up hill. He doesn't believe or recalls any evidence that the pumping of these area residential wells has a likelihood of pulling the urine that makes its way into the groundwater. There was a very genuine and real concern that we are in a residential area and you are bringing in a bunch of domestic, non-farm animals and you are going to put them all together and keep them there for 10 to 12 hours a day. He understands this and sympathies with this. He hears the concerns of the neighbors but we have to look at what the applicants have presented, listen to the experts, Geosyntec; Dr. Ballesteros Dr. Heiderscheidt and others. Then weigh it all and see if the evidence weighs in favor of finding a violation of this provision. Will this proposed operation pose a safety risk to the Lee residents or pollution risk to the abutters? This is the balancing test that he feels the Board needs to do. In re-reading everything he was very impressed with how articulate everyone was, it was very helpful to go back and read it all together.

Mark Beliveau mentioned in re-reading the materials, there were several references and quotes from our Master Plan. It is his understanding that the Master Plan is a guide as we develop our regulations and that kind of thing. It is his understanding that it is the law in NH that the Master Plan cannot be used as a basis to deny a site plan or a subdivision. Only the site review regulations or the subdivision regulations are to be used as a basis to deny. People spent a lot of time on it, it is a very important document, but it is not something the board can look to base its decision on. The law is very clear on that.

Robert Smith, Chairman agreed.

Robert Smith, Chairman asked if anyone else had anything relative to waste they wanted to visit?

None, they moved onto noise.

Lou Ann Griswold stated that they have heard 2 different opinions on noise. It makes it difficult for her to determine which one to believe.

Robert Smith, Chairman stated what helps break it for him is that there was a third person who spoke with regards to dog handling. She talked very succinctly about the number of dogs per handler. When a dog acts up they remove it from the pack. The ratio was part of his thinking at the last meeting as that possibly we want to reduce the current proposed ratio of 15:1 to possibly 10:1. It was this presentation that suggested this to him.

Lou Ann Griswold feels that the ratio is tied to noise, but isn't the entire noise issue. She'd like to revisit this. What happens if a handler who is responsible for 15 dogs has to deal with noise, she understands there are other handlers outside but they have to handle their 15 dogs? She has concerns with the handlers and the noise. She feels it goes back to the number of people taking care of the dogs she feels it does go back to noise.

Robert Smith, Chairman stated he agrees and feels the number of dogs to employees needs to be dropped.

Lou Ann Griswold stated that a concern she has is if something is bothering one group of dogs it will spread to the other groups.

Robert Smith, Chairman agreed. If you can nip the noise in the beginning it won't spread. He feels you are more apt to do this with a smaller ratio.

David Cedarholm stated he was impressed with the Wags presentation. He remembers that she explained she figured out what a good balance was. He recalls she has the same staff ratio as proposed and hasn't received a complaint of noise. He feels this is something the owner of the facility will have to deal with if things become a problem. We also have a state law that limits dog barking. We have police in Lee that enforce it. We can put all of these management requirements together but there is a state law. All the neighbors need to do is call and make a complaint.

Ryan Crosbie asked if this is for any dog owner or a facility.

David Cedarholm stated it was any dog.

Ryan Crosbie thought he read that the dog has to be identified as the exact dog that is barking.

David Cedarholm stated he asked the police chief and he explained that if they have a complaint that a dog is barking they will address it. They don't have to identify the exact dog.

Ryan Crosbie stated he agrees we did have a lot of testimony about noise and how to mitigate it. Basically there are two ways to control noise, one is structural controls and the other is management. He didn't see a lot of discussion about the structure controls. There were some issues whether the ship lap would mitigate any noise. He remembers asking Allison Powers if there were any other remedies that she would recommend that haven't been proposed. She replied no. He then asked her what she thought the best way to control the noise was and she replied management. Along with the other testimony, he feels that if you manage the dogs at an appropriate ratio that would be adequate to control the barking. This is a fair way to ensure the folks around them are not going to be disturbed. It's not a guarantee but that is where you need to self regulate. An upset dog or a barking dog is not good for business. As well as we have the evidence/testimony of the other kennels and their abutters stating they haven't had any issues. He feels comfortable with what we have. He feels we should discuss the dog to handler ratio. With regards to the scientific studies, the kennel part, there shouldn't be much of an impact. This speaks well to the application. The other modeling is logical but he feels it is mitigated by management.

Lou Ann Griswold stated that she recalls Molly acknowledging that dogs do bark. If you have a dog, it will bark at some point.

Ryan Crosbie stated that he feels we need to be careful as we do not have any regulations that deal with noise. If the project is approved and we have a noise complaint, how are we going to deal with it?

Lou Ann Griswold stated she feels it is easy to deal with single home dog complaint but how do you deal with a business?

Ryan Crosbie agrees. If there is a complaint, who do they approach, the dog owner or the facility owner?

David Cedarholm felt it was the facility owner.

Mark Beliveau stated that he found the two experts, with the exception of the indoor modeling; both experts neither helped him that much in terms of any clear information. He recalled HMMHs first or second time speaking that they modeled the sound at the property boundary. Their testimony was that at the property boundary it exceeded a reasonable amount. The idea that no property owner can create noise on their property that exceeds some magic decibel level, #1 it's not in our regulations and he has a problem with this as we all at one time or another generate enough noise to probably reach 60 to 70 decibels. Several charts were submitted showing different decibel levels from things. He recalls that HMMH were limiting it to the property boundary. This would be more meaningful to him if we had a regulation or a standard. He does know sometimes when a large industrial facility, such as the racetrack, the planning board can impose that as a condition. For a particular

activity that can be noisy. We can make it a condition; it would involve testing and monitoring etc. For him, he doesn't necessarily subscribe that it is unreasonable for neighbors to hear each other. He is not minimizing dog barking, that can be come obnoxious. This is a highly technical area and neither expert got thru to him. Possibly this is why several members are relying on experience testimony. The experts did acknowledge there are no standards and not a lot of data on barking dogs.

Lou Ann Griswold stated she had a hard time with the graphs, specifically where barking dogs is less noisy than insects. The spike noise of the dogs never got above the insects. The noise issue baffles her. When you compare the official graphs to a graph submitted by Dr. Jean Benoit, to me his graph logically makes more sense. But she does hear her neighbors mow, but then it also depends on the time of day. She doesn't mow her lawn at 8am. The noise bothers her. It isn't just conventionally between 1pm and 4pm.

Mark Beliveau stated there is a maximum of 40 dogs outdoors at one time- Monday thru Friday from 8am to 5pm, in three pens.

Lou Ann Griswold clarified that there are a total of 6 pens that they will be rotating around. This is with the handler to dog ratio of 15:1.

Mark Beliveau recalled testimony that multiple dogs did not go louder than one dog.

Lou Ann Griswold stated when you have a group of children outside playing it doesn't get louder; there is just more of it. When she hears dogs across the way from her barking, it's different when it's just one than when it's all four barking.

Ryan Crosbie stated that even though the applicants can't militate against every barking dog, his comfort level is high because they have a pretty good plan to mitigate. They have the ratio and the pack leader model and then they have the backup plan of removing a dog that has a barking issue. Whether it's sending the dog to training or not allowing it back. The most controversial issue in his mind is trying to understand what the effect would be on the neighbors and it's unclear. It gives him comfort that they have a plan to mitigate. As long as the Board is clear as how complaints will be dealt with. He thinks there will be dogs' barking as long as it isn't incessant and not repeated day after day. He doesn't think it will get to that level as they have a lot of mitigation.

Lou Ann Griswold feels the morning hours would be key, if she was a neighbor that would be hearing the dogs. If she lived in that area she would not want to hear it at all. She doesn't worry as much about the afternoon.

Ryan Crosbie asked even though they have a plan for this, that isn't enough? It's a judgment call.

Ed Bannister stated the closest neighbor is across the street. He asked if anyone recalled what the road noise is at 8AM. He reviewed the graphs and the road noise is above the dog barking.

Robert Smith, Chairman read part of the daycare discipline procedures from the Operations and Maintenance Procedures.

DAYCARE DISCIPLINE PROCEDURES:

- Inappropriate dog behavior will be dealt with immediately, humanely and without harsh corrections. Dogs are redirected without punishment or yelling.
- Dogs may be squirted with a spray bottle of water, moved to another group, to
- Persistent inappropriate behavior will be reported to the dog's owner daily and may become grounds for dismissal from daycare.

Mark Beliveau read a blurb from the March 5, 2014 letter from HMMH.

- *Barking dogs in the area behind the kennel (Yard 2 on the site plan of the dog kennel) are predicted to be clearly audible at the closest locations along the bridle trail even with a well-designed noise barrier.*
- *There appears to be a high potential that horses on the bridle trail will be startled by barking dogs, given the predicted audibility of dog barks on the trail combined with the high onset-rate (increase in sound level over a given amount of time) associated with dog barks and the general observations about horses.*

Mark Beliveau then read a blurb from a letter dated June 6, 2014 from HMMH.

Based on the calculations in my March 5th letter report, noise levels from barking dogs would be 20 to 30 decibels higher than ambient sound levels on the bridle trail. A sound barrier wall that just breaks the line of sight between a source (dog) and receiver (horse) would provide only 5 decibels of noise reduction. In my opinion, dogs will still be audible along the bridle path, even with a well-constructed and sufficiently tall sound barrier wall

Mark Beliveau commented that there is also the noise issue on the bridle trail. Early on there was a lot of testimony of how the barking will affect the horses on the bridle trail.

Robert Smith, Chairman stated that as a result of this the daycare pens were moved.

Lou Ann Griswold asked when they moved the pens, after the letter or before.

Caren Rossi researched the minutes and found that they moved the pens at the July 9, 2014 meeting. She read the following from the minutes.

Reduced dog yards, further away from abutter bridle trail. This will eliminate the issue with the ledge outcropping. As well as it all the yards are smaller and more manageable

Mark Beliveau stated the testimony about the increase number of dogs, three locations were monitored. At the first location the ambient level was 34, and then with a single dog bark it's 54, with 40 dogs it went to 67. This if all 40 dogs are barking at the same time. This

information is from HMMH. If you look a list submitted by a resident, they had a barking dog at a 100 or 130 [decibels] and here in this report it's much lower. The distance on the list submitted by a resident was 10 meters and here it is different because of the distance. HMMH did the distances to the bridle trail. What this tells us is that the further away you are from the noise, it is lower. The receptors are the horses on the bridle trail and the neighbors. The noise sampling by HMMH was only done from the bridle trail. What this tells him is folks beyond this location are unlikely to be adversely affected. We don't have any data on the ambient noise for the local neighbors.

The Board reviewed the maps with sound distances shown submitted by the applicant.
(Reuter)

Mark Beliveau stated the Reuter evidence has a vast majority of houses at ambient. They will not be impacted. This is the evidence we have.

Robert Smith, Chairman reviewed the outstanding items from the last minutes. Training classes. How many animals will be in these classes and how many employees? He doesn't see this as a big parking issue as the day activities will be done. He reviewed the chart he had done to determine the number of parking spaces needed for the operations.

Ed Bannister read the parking requirements from the plan. They are: dog daycare 3- kennel 2- apt. 1. Our regulations require 2.5 for the apt. They have 5 employees listed and we are reading possibly 13. We are not sure what is accurate.

Ryan Crosbie stated that we have two documents from the applicant that say different things. He thinks it's appropriate for the applicant to account for this.

Robert Smith, Chairman stated that section 4 in the Operations Manual explains staffing. That is how he came up with his numbers. He isn't sure if there is a manager for the kennel and the daycare, or just one.

David Cedarholm suggested we review the parking based on our regulations.

Ed Bannister stated according to the plan they are required to have 37.

Ryan Crosbie stated that for an example. The kennel we say is either 5 or 3 employees they say 2 on the plan.

Robert Smith, Chairman we will say this is what the number is and this will have to be met.

Ed Bannister stated we can agree on the other requirements but not the requirements for the operation.

Ryan Crosbie stated that if we start playing with dog to trainer ratio the parking will change for this too.

Robert Smith, Chairman stated he doesn't know how to deal with the grooming parking needs.

Caren Rossi referred everyone to page 3 of the last item she emailed them, titled Request for Findings. They addressed the parking needs.

- *Except for the above class, parking needs are expected to be:*
- *Current UNH staff: 3 — 8 cars between 8 AM and 5PM*
- *Kennel/daycare staff: Up to 10 cars at maximum capacity during week Kennel drop off/pickup: 1 -2 cars at a time largely during weekend hours Daycare drop off/pickup: 3 — 5 cars in lot at a time*

Mark Beliveau stated the key item is *Up to 10 cars at maximum capacity*. The other car numbers are the UNH staff or pickup and drop off.

Caren Rossi continued to read.

The only time the current parking lot is anywhere near maximum capacity is on Tuesday and Thursday from 9am to 11:30 AM when approximately 30 marine docents receive training at the site. Daycare drop off will be largely complete by the 9 AM class.

Lou Ann Griswold stated that you can't count on the daycare drop off of being complete.

Mark Beliveau counted the spaces and stated possibly that is how they got to the 53 spaced originally planned.

Robert Smith, Chairman stated that you can't count on people coming and going because that doesn't work. That is why he took it to the max on his graph.

Mark Beliveau stated that if this applicant was to get a favorable vote, one of the conditions precedent, is that the applicant would need to come back and clarify in crystal clear terms the number of employees and show us how their parking complies with our requirements. This would be a compliance hearing item. He feels Attorney Somers could help guide the Board how to clarify the condition. If it changes the current site plan configurations that will need to be part of the compliance hearing. The Board will need to review the changes. It's only relevant if there is an approval.

Robert Smith, Chairman stated also in the minutes to be discussed is training. He feels we have essentially no information on training.

Mark Beliveau read the ZBA decision. *To allow for a Dog Daycare and a Boarding Kennel with support services as well as the existing Profession Office Use currently on sight.* He asked if the grooming and training classes were articulated to the ZBA.

Caren Rossi replied that she didn't remember.

Mark Beliveau stated that grooming he feels can be an element to the daycare and boarding. He feels the training isn't, he isn't necessarily opposed to it, just doesn't think it's a part of it.

Lou Ann Griswold agreed that grooming for dogs that are there; she is ok with, but not bringing them in for just grooming.

Attorney Somers stated she felt they should look at the application to the ZBA and what was presented to the ZBA to understand what was meant for support services.

Caren Rossi is going to send the Board the ZBA file to see if this was discussed. She will scan and send it to the Board members.

Mark Beliveau read from Attorney Hildreths September 11, 2014 where he raises the conflict of interest of Geosyntec. See the section of the letter.

At the planning board hearing on August 2L, one member of LRTN, a professor in the Department of Civil Engineering at the University of New Hampshire questioned why the planning board had selected Geosyntec for the independent environmental review. Based on the relationships described below, we do not believe it is possible for Geosyntec to provide an independent, impartial assessment of the applicant's proposal. Accordingly, we object to the planning board's use of Geosyntec for that purpose. Tom Ballestero, a member of the faculty at IINH, is the applicant's waste water system design engineer. Robert Roseen, an employee of Geosyntec, was a doctoral candidate under the supervision of Tom Ballestero. More recently, Mr. Director of the IINH Storm Water Center. Although the young man from Geosyntec who presented the Geosyntec report to the planning board said that Mr. Roseen was not involved in this project, it is difficult to believe since Roseen likely trained him in the area of storm water. Moreover, the local office of Geosyntec is not so large that anyone working in the office would have to be aware of the close connection between current staff and the designer of the plan to be scrutinized.

Mark Beliveau stated that he just wanted to add that when the Board hired Geosyntec he was on the call with Caren and we made it very clear that we did not want Roseen involved because of this. Roseen did not feel it was a conflict, but we said we did and we don't want you involved. We asked him if he had other competent staff that could do the work and he did.

Mark Beliveau stated he feels very confident that there is no conflict with the Geosyntec project. He doesn't feel it is tainted at any way. He is not concerned at all.

Lou Ann Griswold stated she recalls a letter from an abutter with regards to property value. The project doesn't change the visual view. Not sure how it will change auditory.

Mark Beliveau recalls an article from the New York Times too.

Robert Smith, Chairman stated it is already commercial and you change use, how does this work.

Lou Ann Griswold stated yes but it is a change in use. But if a Dr. Offices goes to a McDonalds how does this work?

David Cedarholm stated this is not the first time this property has had a change of use. Before the brick building was built it was a machine shop and before that it was a sawmill. It has been a commercial property for quite a while.

Robert Smith, Chairman stated it was commercial before the regulations went in.

Mark Beliveau stated he realizes that people have spoke about the diminution of property values but he struggles if it is a criteria for us to consider. If it is anywhere it is in the purpose clause. When he reads the Purpose clause it doesn't say it expressly. To him it is a stretch to find this as part of this Boards charge. It is clearly a charge of the ZBA. He read the line from the ZBA's decision.

Whereas there will not be a diminution in value of the surrounding properties as a result of the granting of this variance and;

Lou Ann Griswold stated that she agrees, she doesn't recall ever looking at values but she does recall looking at "fit". We have had applicants argue that their proposed use is a good fit when the Board has felt it wasn't.

Mark Beliveau stated we see if it fits classic planning board issues, traffic, storm water etc. The use is clearly zoning. How they implement this is all planning board. He believes you can have a use that is permitted doesn't meet the planning boards regulations.

David Cedarholm stated if you look at the first line of the Purpose *The purpose of these regulations is to provide for a balanced, responsible and desirable growth by encouraging the most appropriate use of land.* This property has struggled to find a commercial entity that really helps some growth happen there and this is the first applicant that has really come forward to encourage some reasonable and desirable growth there.

Lou Ann Griswold stated while it meets growth, we need to decide on the other.

David Cedarholm stated he has been approached by many people that we could really use this facility in this town.

Ryan Crosbie stated as far as the property values it is his understanding of the process is this was covered under the variance discussion. If he is not mistaken the ZBA said it was an issue the planning board had to address. It didn't make sense to him when he read this.

Attorney Somers stated she thinks he is referring to when the ZBA had a chance to discuss some of the issues after they made their initial decision. During one of the more recent hearings they specifically indicated it would be in the planning board's purview to look at the use of the site. What they suggested it was the planning boards purview to consider the

tangible results of the use of the property. They did not mention property values. You are correct that they suggested to the abutters that the planning board would be looking at the day to day operations of the site.

The Board agreed they were not going to consider property values.

David Cedarholm stated although the driveway is the state's authority, he has serious issues with the potential for conflicts with traffic entering and going down Rt. 155. Looking at the distances, the entrance is 135 ft from the centerline of the south bound lane of Rt. 155a. It would only take five cars stacked up in either direction to turn that intersection into gridlock. Although we had a traffic study, a third party review of the traffic study, DOT is fine with it. What traffic studies do is they look at the number of cars during a peak hour. Grid lock happens in two minutes. Traffic studies are not designed to look at the worst case scenario; it just looks at traffic movement at the worst hour or apparent peak hour. It could be a handful of cars or one car and a tractor trailer that causes the problem. It is a left hand turn across two lanes of traffic. He can't think of another spot in the area this happens. He is so uncomfortable with this intersection he might actually be inclined to vote against this application. But, it's not really his place. It is a DOT road with two traffic studies that say it is fine. He is very conflicted with this.

Mark Beliveau asked how far the actual turn is from the intersection, is it the five cars.

Robert Smith, Chairman explained that the entrance to the property does not line up with the Dover Rd.

The Board members agreed.

David Cedarholm explained that the only reason NHDOT approved the access is because it is Grandfathered. Their other choice for a driveway is being used as a temporary/construction driveway. This would be a better place to have an in and out but it is somewhat out of our hands.

The Board discussed other options the applicants have for the entrance/exit.

Lou Ann Griswold stated a possible condition of approval, going back to the ratio; the hours dogs can be outdoors and the maximum number of dogs. She had asked the applicants in the past about the number of dogs, and the answer was for us to make the judgment call, and she asked about the outdoor hours and if they would be willing to decrease the hours of outdoor time specifically afternoon while riders are on the trail. And now with the noise discussion, possibly decrease the morning hours too. *****

Ed Bannister asked if she will feel better with four employees outside instead of three.

Lou Ann Griswold stated she would feel better with thirty dogs outside not forty. She feels if you decrease the number of dogs will help reduce the potential for noise.

Mark Beliveau stated if you believe the Reuter evidence it won't impact the neighbors whether you have one, ten or forty dogs.

Lou Ann Griswold stated that the difference between thirty and forty is ten more dogs that could initiate the barking.

Mark Beliveau stated that he read from Attorney Wyskiel, dated September 11, 2014 letter.

Applicant has repeatedly explained how its staffing ratios, staff training and staff oversight of dogs is the best means of controlling and keeping dogs quiet. ZBA Member Craig Williams acknowledged this in the deliberation minutes of the ZBA of July 31 (submitted to the Planning Board on August 21 - further discussed below). At page 5 of the Planning Board's July 9 meeting minutes, Allison Powers also stated that management can control dog barking. In response to Member Ryan Crosby's question to Allison Powers, "if there are any control measures she can suggest for the project," Ms. Powers stated: She can't say the dogs won't bark. They can institute training mechanisms, etc. This can only be done with management.

The applicant feels that the ratio is appropriate. They agreed management is the key to keep the barking down. That is the bulk of the evidence. It is not necessarily that you are going to have a quieter environment with fewer dogs. He understands the reasoning to reduce the number of dogs for better control. You keep the dogs quieter with good management. Their ratio is the 15:1. To address management, maybe the way is the ratio as this is what the evidence is saying.

Ryan Crosbie asked if the shiplap fencing is proposed for the entire perimeter. It is not clear on the plan set to him.

This was unclear to the Board; several had different opinions as to where it was going to be installed.

Caren Rossi read from the narrative.

The 6ft high chain link fence will be screened with solid shiplap wood on all sides on the exterior for sound absorption and interior divisions will allow play groups to rotate and yards to recover from usage.

David Cedarholm stated it appears the fencing along the south property boundary does not have shiplap.

Ryan Crosbie stated that yes, he remembers this is the extra fencing in case a dog escapes. He wanted to make sure for a visual barrier for the horse trail, shiplap is installed.

Robert Smith, Chairman asked if shiplap installed on the interior fencing would help reduce the dogs barking? Is it worth considering this as a condition?

Ryan Crosbie stated for him it serves as a barrier for the trail, which to him is the most important thing. He doesn't think putting it on the inside fence would be affective. It might impede the ability of the employees to communicate effectively.

David Cedarholm & Mark Beliveau agreed.

David Cedarholm recalls that Waggs doesn't have anything around their fences.

Lou Ann Griswold asked if anyone knew where Attorney Hildreth got the grooming of 16 dogs per day.

Caren Rossi stated she believes he got this from Allison Powers report. She read from Allison's report.

The business proposal listed one groomer will be hired to potentially groom 16 dogs per a day.

Where Allison got this number is unclear to her and she doesn't ever recall a number being mentioned.

Lou Ann Griswold stated she doesn't know either, she doesn't recall hearing a number of grooming dogs either.

Robert Smith, Chairman stated the only difference it would make to him, is in the parking. He also agreed that he doesn't have the grooming dogs in his numbers either.

Lou Ann Griswold stated and the number of dogs on the property. They don't go outside but it is still the number that keeps fluctuating.

Mark Beliveau asked if we had considered all of the evidence and gone thru all of the topics.

Robert Smith, Chairman stated that he isn't sure if we have gone thru all of the drawings and plans?

Ryan Crosbie stated that there will definitely be edits.

Mark Beliveau stated what he is wondering is; we have had some number of sessions talking about the evidence, kicking it around, gone thru our regulations section by section, made notes of issues/potential conditions. Last time we decided tonight we would give focus on waste and noise. We have done that. Are we at the point where we have considered the evidence and we are ready to make a decision on whether the evidence supports a condition of approval or a denial? To him the grooming and the training classes are a separate piece. Were they included in the variance? We do need to answer this, see if it is permitted here. If a majority of the Board felt that the evidence we have covered supports conditions of

approval we can ask Attorney Somers to start helping with conditions of approval based on everything she has heard.

Attorney Somers stated that as a Board you have gone thru all of the site review regulations. You went thru in great detail the operations manual and again measured the evidence and pointed out discrepancies. Tonight's focus was on the noise and the waste. It's the Boards decision but she feels we have examined all of the evidence. She doesn't know what the conclusion will be, but as far as the sequence, we have done it all. She can assist with conditions of approval for discussion if the Board would like.

Robert Smith, Chairman feels we have covered everything. He doesn't feel possibly everything has been discussed thoroughly. He explained that he has a list of outstanding items that have not been met.

Mark Beliveau stated he feels we have discussed everything thoroughly.

Lou Ann Griswold stated that we can make some of those items conditions of approval.

Mark Beliveau stated we have had numerous public hearings, we have had a mountain of evidence come in, we have closed the record, and we have reviewed the evidence. The Board needs to let the Chairman know if we have sufficiently reviewed all of the evidence. If the answer to this is yes, then the Chairman may say that yes, we have but when we put it under the microscope, we come up with a long list of questions. If this is so and we feel as though we have combed thru everything and we are not going to get any more answers that are here, we then need to move forward with either a denial or an approval. If it is an approval, it would have a long list of conditions. This is not ideal, but that isn't this case. It is very apparent to him if there is an approval here, the list of conditions will be very long. If the vote is in favor the conversation will be lengthy discussing the conditions.

Attorney Somers stated some of the stuff is administrative in nature and that is perfectly appropriate as a condition of approval. That is done in a lot of communities.

Robert Smith, Chairman asked the Board if they felt they were ready.

Ed Bannister stated he doesn't feel we will pull any more out of the evidence.

David Cedarholm stated he was ready.

Ryan Crosbie stated he feels comfortable that the issues raised have been addressed.

Mark Beliveau stated he is ready.

Attorney Somers is going to go thru the minutes of the last couple meetings, the list and do her best, where it is reasonably clear, and frame the issues that she has heard are possible conditions.

Ryan Crosbie has kept his own list and will send it along for Attorney Somers to review.

Mark Beliveau stated that Attorney Hildreth has also submitted a list of conditions too.

Attorney Somers will review these as well.

The next meeting date for this application is on Thursday, November 6, 2014 at 7:00PM.

Robert Smith, Chairman stated at the next meeting the Board will go over the ZBA approval and the proposed conditions.

Meeting adjourned at 10:12 PM.

MINUTES TRANSCRIBED BY:

Caren Rossi, Secretary

MINUTES APPROVED BY:

Robert Smith, Chairman

Lou Ann Griswold

Ryan Crosbie

David Cedarholm, Selectmen Rep

Ed Bannister

Mark Beliveau