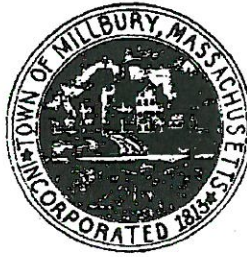


Paul Nigosian, Chairman
Robert Simmarano, Vice Chairman
Ken Perro, Clerk
Harold Proodian
Daniel Mezynski
Anna Lewandowski, Alternate



Town of Millbury
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BOARD OF APPEALS

Meeting Minutes February 22, 2017

7:00pm The regularly scheduled meeting of the Board of Appeals was held on Wednesday, February 22, 2017 in the Municipal Office Building, 127 Elm Street, Millbury Ma. With Chairman Paul Nigosian presiding. All members and alternate were present. (see above)

7:05pm Autumn Gates—Public Hearing

The Chairman stated that the applicant was requesting a variance for frontage on 32 Autumn Gates Circle, the property of Ronald and Martha Bourdeau. Notice of the public hearing was read by Ken Perro, clerk, stating that the board has complied with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, relative to advertising and notifying abutters, and that all decisions of this board are final except as provided in Chapter 40A of the Massachusetts General Laws.

Atty George Kiritsy spoke of the reconfiguration of lots A and B and reviewed the original subdivision plans of May 2005 and the proximity of the current house to the road. A variance had been granted by the board of appeals in 2005 but has since expired. The chair requested a closer look at a map for clarification of what is going on now.

The applicant Ronald Bourdeau passed out pictures of the property in 1999 and reviewed the problems he has had over the last 15 years. The issues have now been resolved with Gallo Builders buying him out and renting him the current house while a new house is being built. The possibility of changing lot lines & having only one non-conforming lot was discussed but dismissed.

-- The hearing was closed on a motion by Harold Proodian, seconded by Ken Perro with all in favor.

After further discussion, motion 1 was made by Harold Proodian with a second from Dan Mezynski to grant a variance to Roland & Martha Boudreau for Lot A for zoning and frontage as required by Section 23.33 of the Zoning Bylaws for property located within the S-3 zone. To construct a single family home on Lot A that has 146.70 feet frontage with a deficit of 3.30 feet. All shown on "A Definitive Subdivision Plan" located in Millbury; Map#48, Lot#88, 30 Autumn Gates Circle duly recorded at the Worcester Registry of Deeds Book #22117 Page #268. The existing house to be razed within 90 days of receipt of occupancy. All in favor.

Motion 2 was made by Harold and seconded by Dan to grant a variance for Lot B for zoning and frontage as required by Section 23.33 of the Zoning Bylaws for property located within the S-3 zone. To construct a single family home on Lot B that has 35.30 feet of frontage with a deficit of 114.70 ft. . All shown on "A Definitive Subdivision Plan" located in Millbury; Map #48, Lot #16, 32 Autumn Gates Circle duly recorded at the Worcester Reguistry of Deeds Book #22117, Page #268. The existing house to be razed within 90 days of receipt of occupancy. **Favorably passed.** The applicant was informed that he had to wait 20 days, the appeal period, after the decision was filed before any work could begin.

RECEIVED
TOWN CLERK

17 MAY -1 AM 11:58

MILLBURY, MASS.

7:40 pm— Kennel on 125 McCracken Road—Public Hearing

The Chairman apologized for starting late for the scheduled public hearing about building a kennel to house up to 12 dogs on the property. This kennel is not to be used for boarding dogs for commercial use. A special permit is needed in the Suburban 1 zone. The Clerk read the notice of compliance with Chapter 40A of the Mass General laws.

Atty. Donald O'Neil was present to represent the applicant Carla Rodrigues who is looking for a special permit of bylaw 23.2. This kennel is to be used by the applicant only and is not a boarding facility. A new house is to be built on the 23-24 acres available. The dogs will be housed in the rear of this 3400 sq.ft. house. There is to be a large fenced in area at the rear of the property and the house is to be about 500 ft. from the road. This is a hobby and not a business. There will be some lab retrievers and the applicant may be breeding European golden retrievers. The kennel will be located far enough away from abutters and the road in a large fenced in about 1 acre area. They will also have to seek Site Plan approval from the Planning Board.

Darin Haig of 92 McCracken Rd. questioned where the house and kennel were to be constructed. He was concerned about the noise factor with the barking. The atty. responded that if there was no kennel approval, there would not be a house. The issue of two frontages was brought up and the realtor said that this was to avoid wetlands crossing.

Andrew Lavoie of 46 McCracken Rd. was concerned about the traffic already existing, bringing more in and what would happen if the dogs should get out. The atty. stressed that this is not to be a "Puppy Mill". It was brought out that the number of dogs on site would change once an animal has a litter. They would remain puppies for about 8 weeks and then would be sold. The applicant has 9 dogs at present, in Florida, and they would be brought up once the house/kennel was built.

Carla Rodrigues. The applicant reviewed the cycle of breeding, stating that currently she has only 3 females. Someone watches the animals when she leaves and her daughter is in training to become more knowledgeable. The animals she currently owns are unique and there are people on a waiting list to buy them. The dogs are imported from Austria and Sweden and are very expensive. The dogs have a litter of 6 to 8 puppies and she planned to max the cycles to 2 a year. She stated that the dogs don't get "rowdy". They may get excited when playing but she doesn't plan on them being a nuisance to the neighborhood.

Darin Haig questioned the number of dogs on hand and with puppies, how many will be on hand at 1 time. Puppies for 8 weeks but could still cause barking noises and traffic with people coming in to view the dogs.

—The hearing was closed on a motion by Harold Proodian, seconded by Dan Mezynski, with all in favor.

The board members discussed the various issues associated with the permit. Namely the questions of noise (barking), traffic and the number of dogs that will be on the property once there is a litter. It was brought out that this was an ideal location for the kennel but it also might be a detriment to the neighborhood. A reminder was given to the board that a permit, if issued, was given to the applicant and not to the land, therefore if the land was sold to someone else, the permit was not valid.

--A motion was made by Harold Proodian seconded by Dan Mezynski to grant a Special Permit to Carla Rodrigues to construct a kennel at 125 McCracken Road that will house up to twelve (12) dogs as permitted in the Millbury Zoning Bylaw Sec. 23.2 Suburban 1 Zone, property at Lot 2 Plan Book 919 Plan 125 McCracken Rd, Millbury, MA, Map #34, Lot #30 Book #55550 Page #188. Further, All dogs will be licensed in the Town of Millbury, there will be NO boarding of dogs and a fence of 6 to 8 feet in height to surround the dog play area. Also the kennel to be built after the house is built. The permit is for this property and this applicant only. The motion passed on a vote of 4 to 1, with Paul Nigosian opposed. The applicant was reminded of the 20 day waiting period.

8:30pm—Clearview Country Club—Public Hearing

Once again Paul Nigosian apologized for the late start and opened the public hearing regarding appeal of a decision by Millbury Town Inspector and Zoning Enforcement Officer, Robert Frederico to have netting and signage installed or close the golf course. Ken Perro read the notice of compliance of Chapter 40A of the Mass General Laws.

Neil Loomis, as manager of Clearview, gave his background and repeated his solutions to the problem as stated in a letter to Mr. Frederico, Zoning Enforcement Officer, dated December 1, 2017. (See attached) He wants to be a good neighbor and come to some agreement. He stated that 3 signs and a notice have been posted. He has implemented zero tolerance policy with staff to ensure correct marker placement. He stressed his continued operation as a recreational staple within the community.

Robert Frederico, town Zoning Enforcer, stated that he had received a complaint in the fall of golf balls landing in the yard and on personal property. Also of people on golf carts trespassing on the property. The individuals were instructed to get pictures of the violations. An agreement could not be reached with Loomis about the situation. It was mentioned that this complaint was under the jurisdiction of Section 35.5 of the Millbury General Bylaws. The proposals presented by Loomis were not really viable solutions and he must enforce the bylaw.

Francis DeSimone, of 1 Weldon Drive, stated that the people need to work together and if there is some damage, proof must be given that the golf course is to blame. His property is not affected by the problem. He would look to the Board of Appeals to provide some guidance. It would be expensive to put in netting and as a small town there is the need to help businesses thrive. It would not be a good idea to see the golf course closed.

Joseph Messier, 67 Park Hill Ave. stated that hundreds of golf balls enter his property, enough to fill a 5 gallon bucket, pictures provided. There is damage to cars, his deck and some balls go high over the house. He questioned the liability of people getting hit. Nips, bottles and other debris is found on his property. He is directly across from hole #3. After a window was broken, and his talk to Loomis, he was instructed to approach the golfer for satisfaction. The posted signs are not working, the town has been contacted and has not been responsive. The possibility of re-designing the hole on the course was suggested. The question of legal issues was mentioned.

Matt Ashmankas, 5 Millbury Terrace stated it would probably be difficult to prove the owner of the golf ball that did damage and who did not own up. High netting may not be the perfect solution as the balls go over the net as well as through the trees. There is an advantage to living near the golf course, one being the trail that surrounds it.

Fran DeSimone does not want to shut the golf course down as it is the only thing in town for recreation. He stressed getting together to try to resolve the problem. The golf course was there before many of the people moved into the area and he couldn't recall if there was ever a net there. There may have been with a previous owner.

JoAnn Luikey, 71 Park Hill Ave. had a problem with broken windows and a broken picture window to the tune of \$200. She was given a gift certificate for compensation, not paid for the damage. She stressed getting together to try to resolve the issues.

Mr. Kelly, 2 Weldon drive, stated that his property abuts the golf course and he has a minimum of problems. There may be some golf balls hidden in the brush but he has not experienced any broken windows. The players should take some responsibility to see if any damage has been done.

The Chairman mentioned that the biggest problem appears to be the hitting of the golf balls, even air borne, across the street.

Mr. Frederico stated that he had no specs for the netting. The goal is to stop the golf balls which could go higher up than forward. What is to be done if the netting doesn't work? He is looking for some direction from the board and is willing to meet with a representative of the neighborhood to try to resolve the situation. He will not meet with a crowd.


Jon Adams 67 Davis Road, suggested looking at some options and coming to some agreement. Do the people want to live there or is the golf course in jeopardy if not supported and possibly going up for sale.

--The hearing was closed on a motion by Harold Proodian, seconded by Dan Mezynski, all in favor.

Further discussion by the board members suggesting trying signage and a "T" box. Also the possibility of shutting down that one hole; putting in a camera to track down who did any damage; follow up on who rented a golf cart. Regardless of what decided, some people will violate any rules established and some things will have to be tolerated.

A motion to DENY the proposal by the Building/Zoning Inspector for the complaint about Clearview Country Club, 66D Park Hill Avenue referring to Section 35.5 of the Milbury Zoning Bylaws, but have the Inspector and a representative from the neighborhood get together to try to resolve some of the issues. -- To better control the golf cart users and golfers entering the grounds and any damage ensued.-- Have marked placement setting aligned and perpendicular to target areas and greens central location.-- The management of the club to measure the success of these measures and track any incidents. The motion was made by Dan Mezynski and seconded by Harold Proodian. The motion passed on a 4 to 1 vote, with Paul Nigosian opposed. Reminder of the 20 day waiting period was given.


A motion was made by Ken Perro, seconded by Robert Simmarano to adjourn, all in favor.




Paul Nigosian, Chairman



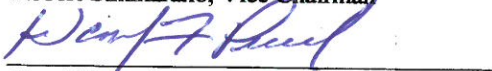
Kenneth Perro, Clerk



Daniel Mezynski



Robert Simmarano, Vice Chairman



Harold Proodian

Anna Lewandowski, Alternate