



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

July 9, 2013 – Durkin, JPO Dogs

Present

Mark Mulligan, Chairman
Cynthia Maxwell, Member
Robert Cadle, Member
Bruce Eason, Associate Member
Megan Mahoney, Associate Member

Not Present

Alison Manugian, Member
Jay Prager, Member

A quorum was attained. The meeting was called to order at 7:00 pm.

Meeting Minutes

Durkin Special Permit

Chairman Mulligan convened the Durkin special permit hearing by reading the legal notice.

Mr. Durkin, applicant, presented some additional plans further outlining the proposed addition, which will have a 645 square foot footprint with two stories with a garage and two bedrooms and bath. He said one existing bedroom is being converted into living space.

No abutters were present.

Member Cadle asked about septic.

Mr. Durkin said the house has a two-bedroom system with BOH approval.

Chairman Mulligan asked for clarification about the increase in non-conformity.

Mr. Durkin said front setback and lot coverage are the non-conformities.

Discussion ensued regarding the increase in non-conformity.

Member Easom said he sees the increases in non-conformity two ways: closer to the road and longer along the road.

Members Cadle and Mahony said they didn't think the non-conformity increased the long way, along the road.

Member Easom noted that there is an additional 16 feet of non-conformity along the lot line. He then asked why the addition couldn't be set back five feet.

Mr. Durkin said it gives the house more depth, with a larger bedroom and a porch in the front of the house possible.

Discussion ensued regarding whether a variance would have been required prior to the Gale decision.

Member Easom said the board needs to determine whether the alteration is more detrimental to the neighborhood and suggested asking the audience.

No audience members responded.

Member Mahony said she thinks there would only be a positive impact on the neighborhood and the board has historically encouraged this type of development in Lost Lake.

Member Cadle agreed and said the addition is quite far from the closest abutter (60 feet). He noted that the applicant put together a nice package.

Member Cadle made a motion to grant the application for a special permit to construct an addition of approximate 647 sq feet and in accordance with the drawings and plan submitted.

Member Mahony seconded and the motion passed unanimously.

JPO Dogs Comp. Permit Modification

Chairman Mulligan reconvened the GRG/JPO Comp. Permit.

Audience members requested that memos from boards be read into the record, which was done from the Fire Chief, Board of Health, two abutters, PB/Geiger and Ms. O'Brien's response to list of questions.

Member Easom asked for clarification on #20.

Ms. O'Brien said that scooped feces would be double bagged.

Member Easom asked about urine disposal.

Ms. O'Brien said that is why she added an additional enzyme cleaner, as suggested by a PB member.

Member Easom asked how the cleaner works.

Ms. O'Brien said she is not a chemist but understands that the urine is broken down with the enzymes, noting that the enzyme cleaner is safe for pets and kids. She said the other cleaner is somewhat more chemical in nature but is diluted.

Bill Thurston, 513 Main, said the slope of the land lends to have all runoff go into the catch basin. He asked how the runoff going into the catch basin will be totally odor free and how will chemicals be kept out of the groundwater.

Member Mahony said she is concerned about that and wonders whether the board has the knowledge to opine on this.

Patricia Carell said that if the play yard is hosed down, the runoff wouldn't go into the sewer but will go into the groundwater and the river.

Discussion ensued regarding how the runoff could be contained.

Member Easom suggested installing a gutter with a pump-well that puts the runoff into the sewer system, noting that the applicant should check with Pepperell to see if that is okay.

Mrs. Collette said the Town dealt with this with the new fire station and the washing of trucks. She said the kennel/yard needs floor drains connected into either the septic or sewer system, noting that this is required by BOH regulations.

Member Mahony said she thinks that this is the biggest issue, noting that she doesn't want to entertain any kind of approval without a plan and approval from the BOH.

Chairman Mulligan asked whether the applicant is purchasing or leasing the property.

Mr. Bisbane said Ms. O'Brien is leasing from him with the possibility of buying, noting that initially these are her issues, but they could work together with any modifications. He said she is not dumping gallons of dog pee here, noting that he wants to protect his investment and feels she is a good tenant.

Mr. Capes asked why his letter wasn't read into the record.

Chairman Mulligan read the letter into the record.

Ms. O'Brien said she wanted to address some of the issues in Mr. Capes' letter, noting that Mr. Grossman was concerned about potential smell from waste in the dumpster. She said she is willing to compromise but doesn't think this will be as much of an issue as the abutters think it will. She said the lights are off from 10 PM to 6 AM, noting that the dogs are asleep and no one is there. She said the security light and visor both can be directed, noting that the bushes along Anthony Drive are at least 10 to 12 feet high, making it unlikely that the light/s will bother them at 10 Anthony Drive.

Member Mahony said she wants to see mitigation plans in writing, noting that under normal circumstances she thinks the applicant would be required to present a plan to be vetted by engineers.

Member Cadle said that if this was the initial 40b review, the board would get plans reviewed by engineers, but wonders what can be done at this point.

Mr. Capes said the answers he got for the lighting make it less of an issue. He said the shrubs are getting taller but the building has a higher grade so it is not totally screened. He said he feels that getting feedback on storm water management is the most important, noting that covering the pavement with pea stone needs to be addressed and shown as safe. He suggested that an engineer should look at this such that future issues can be avoided. He said noise mitigation/reduction details need to be provided so effectiveness can be addressed.

Ms. Carrell said she wants to know where the dumpster will be located, noting that the dumpster at the current location has broken fencing, etc.

Ms. O'Brien said the fence needs to be repaired and perhaps a new dumpster will be provided.

Ms. Carrell wondered whether the feces could break down chemically and explode the bags.

Chairman Mulligan asked the applicant whether there is a facility being run by her now or whether she is training in peoples' homes.

Ms. O'Brien said she has worked at a day care facility and she is disposing of waste in much the same except taking one it step further. She said that even on hot days, it would not be like restaurant trash where there is a lot of rotting and molding food. She said once the dumpster is shut, there is very little odor, noting that the increased frequency of emptying is a compromise.

Mr. Geiger, PB, said he wants to know if the Gemini facility what Ms. O'Brien is referencing.

Ms. O'Brien said it was.

Mr. Geiger said that facility is in an industrial area with berms and no residential neighbors. He said he thinks it is a poor example to use relative to this property.

Ms. Carrell said she also called around to other dog training facilities and most are on at least two acres of land, noting that this is a small parcel for this.

Mr. Geiger said this parcel is zoned B-1, noting that activities appropriate for a B-1 zone can happen. He said size is not a limiting determination factor.

Ms. Marie said she has run a doggie daycare facility for seven years in Nashua, noting that she shares a wall with an acupuncturist and ambulance service. She said there have been no issues of noise, noting that the dumpster is emptied 2x/month. She said people live nearby and have had no complaints. She said the dogs are playing and not barking.

Mr. Marie said that at his doggie daycare they dump out buckets of enzymes, etc. to clean the yard and stressed that there is not water everywhere. He said the water goes right through gravel, noting that the yard is in a small area right next to houses, condos and EMTs sleeping right next door. He said there are no complaints, noting that there up to 20 dogs in a room right next to an acupuncturist.

An abutter said laws are different in New Hampshire.

Ms. O'Brien said this is being used as a noise comparison.

Discussion ensued regarding the similarities.

Joan Guillmond, abutter, said her number one concern is drainage, noting that once drainage is ruined the Town will have to clean it up.

Mrs. Collette said drain management is not the Town's problem, noting that the condo association is responsible for all maintenance. She also said the State takes care of the State owned drain system.

An abutter said it is not fair for condo owners to have to take care of the results of this business.

Mr. Brisbane said Town Counsel determined that this is a permitted use. He said it is a retail business offering services, noting that it seems to be in the ZBA's jurisdiction to allow with conditions. He said some should be addressed but the permit should not be denied. He said it seems like most concerns are related to fear of the unknown. He said as owner of the property, he wouldn't let gallons of urine be dumped, noting that the feces issues will get resolved. He agreed that the association should not be stuck with a big expense and some mitigation should be required, but not based on a total catastrophic event.

Ms. Carrell said this is one unit in 45 and if everyone else objects the board should consider this.

Member Mahony said there are two water concerns: contamination and drainage/runoff and what modification is proposed.

Ms. O'Brien said she has a question of how the water flows and how it would be interrupted.

Member Mahony said the board doesn't know, noting that this is some of what needs be addressed.

Ms. O'Brien said she doesn't see how the flow will be affected. She said it is just a layer of stone over pavement.

Mr. O'Brien said four to five inches of gravel should only slow down the water if affecting it at all.

Member Easom said he is concerned that the board is about to send the applicant off to spend money on hydraulics when he is inclined to deny the permit. He said he doesn't want them to spend money if the board is just going to deny the application.

Ms. O'Brien felt that they could address the storm water management issues.

Chairman Mulligan said he isn't opposed to the project but wants the issues of abutters addressed.

Member Mahony agreed.

Member Maxwell said she isn't ready to approve.

Catherine Decheevo, abutter, said she is concerned that the association would be responsible for any problem, noting that this is not fair.

Mr. Capes said the noise factor is also a major concern that needs to be addressed. He said the applicant is planning on using a tapestry/acoustic fence, but he needs more info presented.

Ms. O'Brien submitted Acoustifence paperwork.

Member Cadle said he is on the same track as Mr. Bisbane: the comp. permit says this building can house a business and it is zoned B-1. He said the board needs to look at what conditions are appropriate rather than just denying. He said he feels it is important to know how the gravel and chemicals will affect the Nashua River and that needs resolution. He said he doesn't know about the noise factor and how much that needs to be addressed.

Ms. O'Brien said the dogs would only be playing outside after 8 am and before 7 pm.

Mr. Capes said he doesn't know how big a deal the sound issue would be, and if the board permits this without knowing and sound is an issue, he felt he has no recourse. He said the not knowing is part of the problem.

Member Cadle asked how would the ZBA would know.
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Ms. O'Brien said she wouldn't know until the business is there and running.

Member Mahony said that is why conditions are so important, noting that she wants more information on the water.

Member Easom said the board should explain to applicant what it is looking for.

Member Mahony said the board has heard a lot of discussion and she doesn't know where this falls in between extremes.

Member Cade said that according to the PB it seems that the runoff will be likely going across the parking lot where kids are playing, etc.

Mr. Bisbane said he would work with the applicant to get a study with a concept plan for a reasonable price. He said he wants the hearing to be continued to a short period.

Ms. Carrell said that the BOH said all runoff needed to go into a sewer. She said hosing off the gravel doesn't make it go into the sewer.

Discussion ensued regarding how to manage the runoff.

The resident of 501B said he wants an independent engineering study done.

Mrs. Collette said that it is up to the owner/applicant to provide engineers and this seems like a reasonable offer. She said then the ZBA could have a peer review done of that study by the town engineer via a 593 escrow account, noting that that is standard practice.

Member Easom asked whether the plan submitted should show the runoff going into a sanitary collection system.

Member Mahony said the plan needs to address what happens to the runoff and then the board can condition as such.

Discussion ensued regarding how to facilitate engineering reviews.

Member Cadle said that Mr. Grossman wants all runoff to go into a sanitary sewer.

Ms. O'Brien said the kennels are indoor crates and the outdoor area is a play area.

Discussion ensued regarding grooming and the applicant said she might do grooming at a later date.

Member Cadle noted his concern about the outdoor runs.

An abutter asked about diarrhea disposal.

Ms. O'Brien said she addressed that in the letter.

Chairman Mulligan said he needs clarification on how to channel the runoff from cleaning.

Mrs. Collette said that under Chapter 279, floor drains are BOH purview, to deal with discharge, etc. She said she respectfully submits that all issues Mr. Grossman raised be addressed by the BOH, noting that the Nashoba Boards of Health have a technical expert to help with these issues.

Ms. O'Brien said she is concerned about rainwater filling up the system.

Mr. Brisbane asked about the cars being parked in the residential units, noting that the cars cause much more pollution than dog pee.

Phil Van Hoogan, 505c, asked about Ira Grossman's memo and whether it was read into the record.

Chairman Mulligan said it was read into the record at the beginning of the evening and is what is under discussion now.

Chairman Mulligan asked whether the applicant has gone before the BOH.

Ms. O'Brien said she spoke to Mr. Grossman yesterday and his only issue was with the dumpster.

Mr. Brisbane said the applicant doesn't have an engineered plan yet but they will work on that.

Chairman Mulligan said the applicant should meet with the BOH.

Mr. Geiger said he feels the BOH has not seen the whole picture and it needs to be presented to them.

Ms. Carrell asked whether the abutters could talk to the BOH.

Chairman Mulligan said he feels that the public can speak to the BOH at any time. He then said the applicant should make an appointment with the BOH.

Discussion ensued regarding noise and how to factor it. Ms. O'Brien said Rt. 119 noise needs to be factored in and noted that the operation is a very individual thing, with each dog requiring different things.

Member Mahony suggested discussing what mitigation would be put into place if noise is an issue. She suggested a business best practices condition.

Mr. Capes said he wants to cover one additional thing, noting that Groton doesn't have kennel regulations but he would like to get an idea of what other town's regulations might be for a frame of reference. He said he feels that most kennels aren't as close as his house would be to this one and then read from regulations from other parts of the country. He said he feels those regulations are stringent related to noise.

An abutter asked about staffing and what happens to the dogs overnight when no one is present.

Ms. O'Brien said that most kennels don't have overnight staff and often have outdoor access at all times. She said there are security cameras present already and a connection to police dispatch. She said there will be one staff member for every 12 daycare dogs, noting that regulations allow up to 15 and they have 12. She said no experience is required in hiring staff, but is preferred.

Member Cadle said that clarification of the Fire Chief's memo is required per the PB.

Ms. O'Brien said she will contact him again for clarification but said she felt that because this is a one-story building a fire truck could access all sides safely.

Chairman Mulligan asked about snow removal.

Ms. O'Brien said the snow would be removed within 48 hours by a dump truck.

Member Easom made a motion to continue Wednesday, August 7, 2013 at 7 PM. The motion was seconded and passed unanimously.

Other business

Minutes and Bills

Member Mahony made a motion to approve the June 5th minutes as drafted. The motion was seconded and passed unanimously. Member Maxwell made a motion to approve the 6/19/13 minutes as drafted. Member Cadle seconded and the motion passed unanimously.

Member Cadle made a motion to adjourn at 8:45 pm. The motion was seconded by Mr. Easom and passed unanimously.

Approved 8/7/13.