

Zoning Board of Appeals Minutes
Selectmen's Room, Middleborough Town Hall
10 Nickerson Avenue, Middleborough, MA 02346
March 28, 2019

Chairman Darrin DeGrazia, Dr. Edward Braun, Jack Healey, and Matt Maher were present.

7:30 P.M. Minutes

Upon a motion made by Jack Healey and seconded by Dr. Edward Braun, the board

VOTED: **to approve the minutes of February 28, 2019.**

Unanimous Vote.

7:30 P.M. Nolana Ricci, Pet Salon – 122 East Grove Street

Chairman Darrin DeGrazia informed the applicant that there are only four members present tonight. This would require a unanimous vote and asked the applicant if she would like to proceed or continue tonight's hearing to another date. Nolana Ricci said they would proceed with tonight's hearing.

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

James Tibbetts said they are looking to add additional space on the second floor of 122 East Grove Street, which would be used for boarding dogs. They have submitted a plan showing the layout for the dogs. They are requesting this for their current clients and potential clients. As for the increase in dogs for the daycare they would like an additional ten dogs. They would like to extend their hours to 7am – 6pm. This is a general use district and not residential. Chairman Darrin DeGrazia said they do have residential properties in the back of them.

Nolana Ricci said there are not a lot of dogs that come before 9am. They would like to be allowed to let the dogs out prior to that. They will not be leaving the dogs out the entire time, but they do want to allow them to go out if need to. James Tibbetts said they are outside with the dogs, and it is quiet.

Jack Healey read into the record the following letters: a letter dated March 19, 2019, from Kelly Jarabek, Animal Control Officer, letter dated March 26, 2019, from Robert Whalen, Building Commissioner; letter dated March 25, 2019, from Michael Bumpus, Water Superintendent; letter dated March 21, 2019, from Leeann Bradley, Town Planner; letter dated March 8, 2019, from Christopher Peck, DPW Director and a letter dated March 6, 2019, from Patricia Cassady, Conservation Agent.

James Tibbetts said they have paid the fees that were due for the kennel and are up to date. With regards to the complaints, they have pictures of Rose Archer, Animal Control coming into the property at excessive speed. He went out to meet her, and she said they had a complaint that the dogs were outside barking. The dogs were inside. When he went outside to speak to her, three little dogs got out and started barking. She then backs up, shows no credentials, and leaves.

Kelly Jarabek informed the board that Rose Archer is a part time alternate Animal Control Officer. Chairman Darrin DeGrazia asked if she has authority to inspect. Kelly Jarabek said yes. Chairman Darrin DeGrazia said as a kennel license holder, they understand that a Dog Officer has the right to inspect anytime. James Tibbetts said yes. James Tibbetts said the neighborhood has dogs. He cannot control those dogs from barking. It is not always them. Discussion ensued regarding the barking.

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James Tibbetts said the upstairs kennel will be double walled, which will help with the noise control. The plan they submitted is only a floor plan. They can provide more information on the lighting and ventilation. They would like to add a window and LED lighting. He can discuss this with the Building Commissioner and Animal Control Officer to address these issues. They do have heat and AC and will add duct work, if approved, so it reaches the proper temperatures up there.

Chairman Darrin DeGrazia asked Kelly Jarabek if she has had any complaints prior to 2018. Kelly Jarabek said prior to 2008 they had several neighbors call quite frequently about dogs being outside prior to the time, and excessive barking. Ms. Ricci did rectify the situation by letting one of the employees go, which worked for a while. It seems to have lapsed back over and she received a lot of calls for excessive barking again. You cannot have dogs excessively barking for more than 20 minutes. She understands this is a General Use District but is still a concern of hers.

Nolana Ricci submitted complaints made to the Middleborough Police since 2011, and it was basically the same caller. They haven't had complaints until she filed for this request, and two complaints have come in since this request. Jack Healey asked if they have been open since 2011. Nolana said yes, at this location, but she has been in Middleborough since 2004.

Chairman Darrin DeGrazia asked Kelly Jarabek what she would consider a safe amount of dogs to be on this property at one time. Kelly Jarabek said for the amount of space, she is uncomfortable with the request of 50 dog's total. They do a good job, safety wise, for twenty dogs, but if boarding and grooming get intertwined it could cause problems.

James Tibbetts said they want thirty dogs for the outside. That would be an additional ten, and boarding is a separate entity. They want twenty dogs for overnight and they will not be mixed with the daytime business. Chairman Darrin DeGrazia said it could be possible that you have thirty dogs for the daycare and twenty boarding, which could potentially be a total of fifty dogs onsite, at one time. Nolana said they do have room to expand but she does not think that would ever happen with that many dogs on the premises. Chairman Darrin DeGrazia they have to deal with what they are presenting and requesting.

Chairman Darrin DeGrazia said he is trying to establish what a safe amount is. He has an opinion from Kelly Jarabek that does not believe you can comfortably have 50 dogs, you are saying you won't have 50 dogs, but the request is for a total of 50 dogs. Discussion ensued on the amount of dogs being requested.

Matthew Maher asked Kelly Jarabek what her opinion was on them boarding dogs. Kelly Jarabek said her concern would be the overnight barking. Again, she aware that this is a General Use area however there is residential abutting it. She would be comfortable allowing the doggie daycare to have those dogs overnight, if there was a necessity for it. If they start doing the boarding, they would need to do something to regulate the barking. There are repercussions if they cannot follow the rules as far as barking.

Matthew Maher asked where they live, is it in close proximity to this. James Tibbetts said Halifax, about ten minutes away.

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Discussion ensued regarding the double wall. Matthew Maher said he believes they would have to do more than that. You would have to find out what the decimal level is of twenty dogs barking and go from there.

Chairman Darrin DeGrazia asked if anyone would like to be heard on this matter. Donna Townsend said she abuts this property and has complained a lot. She has called complaining about the constant barking. She hasn't complained lately because she has given up. She was told that the next step would be court and she doesn't want to take away someone's livelihood. She understands people need to work so she stopped complaining. However, now she listens to them on the weekends, all day, etc. She cannot listen to them all night long now. The applicant says they are not out later at night but they are. They are out all hours of the day barking. She did call the Police Department recently because there were dogs inside at night barking. She gets woken up at all hours of the night to the barking. She said they are already advertising that they are open early on Facebook and submitted the paper to show the board. How are they advertising already if they don't have approval? She lives in this Town, she pays taxes to this Town, she loves this Town, and she has a right to sleep at night. Chairman Darrin DeGrazia said she is correct and they don't have a right to be a nuisance.

June Dobson, 7 Crocker Street said she did hear dogs last night around 8:00 -8:15 PM. She is not sure if it was their dogs or not. She has heard the dogs barking there during the day. She said tonight she has heard a lot of iffy information. She believes they should not be doing this permit until they have completed information on what they are doing. She is also a dog lover, and to think about twenty dogs in a building all by themselves, at night, with no staff is troublesome.

James Tibbetts said there was a mistake with the ad and they have removed it.

Discussion ensued regarding barking dogs.

Dr. Edward Braun said he will not be supporting this request. Since there are only four members present, which requires a unanimous vote, he would suggest that the applicant continue the hearing so there are five members present.

Jack Healey said if they are going to consider this further the board needs more information from the applicant and more detail regarding kennel space, sound proofing, venting, lighting etc. to make sure there is no adverse impact on the neighbors.

Hearing no more comments Chairman Darrin DeGrazia called for a motion.

Upon a motion made by Jack Healey and seconded by Dr. Edward Braun, the board

Voted: *to continue the hearing until April 25, 2019.*

Chairman Darrin DeGrazia, Dr. Edward Braun, Jack Healey and Matthew Maher were in favor. (4-0)

Upon a motion made by Jack Healey and seconded by Dr. Edward Braun, the board

VOTED: *to adjourn at 8:45 P.M.*

Unanimous vote.