

Shaftsbury Planning Commission

November 24, 2020

The meeting **came to order** remotely via the teleplatform Zoom. Present were commissioners Chris Williams (chair), Martha Cornwell, Naomi Miller, Mike Cichanowski, and Mike Foley. Also present were DRB chairman Tom Huncharek, citizens Carl Korman, Dorothy Buxbaum, Alice Miller, Derek, and D. Rosner, and zoning administrator Shelly Stiles.

Mr. Williams introduced the **hearing on a proposed Dog Breeding and Pet Boarding Facilities bylaw amendment**. He said the Planning Commission (PC) recognizes that such facilities are necessary in a town like Shaftsbury. He said he is aware of two in town. There may be more. He noted the bylaw at present makes no reference to kennels. The PC knows no one want to live next to a dog kennel and that the amendment could be controversial. The PC believes that by making such facilities a conditional use and imposing some additional restrictions it would allow the DRB to make judgements on a site specific basis. The PC thinks a one-size-fits-all bylaw would be nearly impossible to write.

Mr. Carl Korman described the draft language he had presented to the PC. (Mr. Korman's communications can be found beginning on page 2 of these minutes.) He said noise, traffic, and odors will disturb the neighbors (as he can attest from personal experience), and the PC should make every effort to consider those impacts. In his opinion, the present draft proposal does not protect the neighbors. For example, noise travels well beyond the 100' foot setback required in the proposal. He compared the proposal to Bennington's kennel bylaw, which tries to anticipate these problems. He said the issues affecting neighbors in a city-like environment such as Bennington aren't dissimilar to those affecting rural residents. He highlighted his proposed bylaw's salient points:

- A setback of 1000' from any residence is required
- The number of animals is limited
- The facility must be inspected annually
- Violations of the permit conditions will be met with a financial penalty
- A definition of "excessive barking" should govern the noise issue, not decibel levels. It isn't decibel levels so much as ongoing, repeated barking that is disturbing.
- A caretaker should be present, for the benefit of the animals and to immediately address any complaints.

Mr. Williams said he thought the several pages of conditional use regulations in the bylaw address most of those issues. He said the PC could postpone sending the matter to the voters and revise its draft.

Derek agreed with most of Mr. Korman's recommendations, though he said he thought the fine proposed in Mr. Korman's draft could be too high. Couldn't it be left up to the inspector?

Ms. Buxbaum agreed with Mr. Korman's main points, and added that a provision should be made for revoking the permit should conditions not be met.

Mr. Huncharek said that of the fourteen points covered in the conditional use section, at least seven and probably many more have no or limited applicability to the matter at issue. And re the section's reference to air quality and noise, how are those impacts to be measured? He urged the PC to be more prescriptive, to more precisely describe what is and isn't allowed. He noted that the broader the rule, the more likely it is to be abused. He said more meat must be hung on this before it is sent to the Select Board.

Mr. Williams closed the public comments period and sought opinions from members of the PC.

Mr. Foley said he would like to be somewhat more prescriptive, as to noise at the property line, the presence of a caretaker, a process to rescind the permit if conditions are not met, and a maximum number of animals.

Ms. Miller emphasized that is impossible to address all individual circumstances. She agreed that the items Mr. Foley mentioned should be added.

Ms. Cornwell said Mr. Korman's memo addresses points we need to ponder. She would prefer to postpone sending the matter to the voters.

Mr. Cichanowski had no specific comments.

Ms. Buxbaum asked if there was a reason the matter had to be acted on in 2021. The answer was "no."

The Planning Commission agreed by consensus to withdraw the proposal to amend the bylaw to include a kennels provision .

Ms. Miller moved to **adjourn** at 7 p.m. Mr. Foley seconded the motion, which passed unanimously.

From Carl Korman, November 22, 2020

PROPOSED REVISION

8.16 Dog breeding and Pet Boarding Facilities

8.16.1 Districts Allowed. These facilities shall be permitted in all districts except Village Center(VC) and Forest and recreation (FR) as a Conditional Use subject to review and approval by the DRB with the possibility that more conditions may be added. In reviewing an application for this use, the Development Review Board shall reference the Vermont Agency of Agriculture Food and Market's Animal Welfare Regulation. (Promulgated under authority of the VSA T20 Chapter 194 Section 3908) which also governs the proposed use.

8.16.2 Requirements and Standards

- a. Five acres shall be the minimum lot size for dog breeding and pet boarding facilities not to exceed 6 animals. Facilities intended for dog breeding or pet boarding exceeding this number shall be subject to review and approval by the DRB with the possibility of more conditions to be added.
- b. For all animal activities, a setback of a minimum of 500 feet shall be maintained from the lot lines of any property zoned or used for residential purposes, or a minimum of 200 feet for all other zoned property. Dog kennels, shelters or runs shall not be located within 1000 feet or closer of a residence other than the residence of the Kennel owner. Animal areas shall be securely fenced.
- c. No excessive barking shall emanate from the kennels at any time. Quiet hours shall be maintained from 9:00pm to 7:00am weekdays, and 9:00pm to 8:00am weekends and holidays.
- d. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, and the spread of disease. Animal odors shall not be detectable beyond the lot lines of the property wherein the kennels are located.
- e. Personnel shall be available at all times to care for and supervise the animals. Contact information for such personnel shall be registered with the Town Clerk and Animal Control Officer by the kennel owner.
- f. Facilities shall be inspected once a year at the owner's expense by a Town Animal Control Officer or a licensed veterinarian, who shall report to the Town Clerk the condition of the animals and the facilities.
- g. The Town Animal Control Officer may inspect any kennel for compliance with this Ordinance upon 23 hours verbal or written notice or at any time after receipt of any complaint.

8.16.3 Violations and Penalties

1. A penalty of \$100 shall be imposed for the initial violation of any provision of this Ordinance. The penalty for the second offense within a one year period shall be \$250, and the penalty for each subsequent violation within a one year period shall be \$500. Each day that a violation continues shall constitute a separate violation of this ordinance.
2. In addition to the enforcement procedures set above, the Town may commence a civil action to obtain injunctive or other appropriate relief, or to pursue any other remedy authorized by law.
3. Nothing in this ordinance is intended to limit any cause of action or the rights of third parties to seek judicial relief or other remedies authorized by law related to dog breeding and pet boarding facilities within the Town of Shaftsbury.

8.16.4 Definitions

- a. "Dog breeding or pet boarding facility" - Any facility that houses in exchange for a fee, more than three dogs at a time who are not licensed at the address of the facility. This definition shall not include Veterinary Clinics.
- b. "Excessive Barking" – Any noise by a dog or dogs audible to the property line of a property on which a kennel is located which occurs repeated for at least seven minute period of time with 3 minutes or less lapse of time between each noise during any seven minute period.
- c. "Town Animal Control Officer" – A duly authorized law enforcement officer or other person designated by the Town of Shaftsbury to enforce this ordinance,

Notes by ZA Stiles