

Shaftsbury Development Review Board
March 17, 2021

- 1) Call to order
The meeting came to order at 6 p.m. remotely via the Zoom platform. Present were board members Tom Huncharek (chair), Lon McClintock, Mike Day, and Tedd Habberfield. Chris Ponessi, Michelle Leblanc, and zoning administrator Shelly Stiles were also present. Tony Krulikowski joined at around 7 p.m.
- 2) Conflict of interest statement
No one reported a conflict of interest with any item on the agenda.
- 3) Minutes
Mr. Huncharek moved to approve the December 23 minutes. Mr. Day seconded the motion, which upon roll call vote passed 4-0-0.
- 4) Election of officers
Without objection, Mr. Huncharek changed the agenda to address election of officers at that point. Mr. McClintock moved to appoint Mr. Huncharek to chair and Mr. Day to vice chair. Mr. Huncharek seconded the motion, which passed 4-0-0.
- 5) Art Coons permit amendment
Ms. Stiles notified the board that she had heard from Mr. Coons that morning that he had been in the ICU for one week, and was too sick to attend the meeting. Upon discussion, it was agreed that Mr. Coons should file an application for an amendment. Ms. Stiles will pursue that task when Mr. Coons is better, and meanwhile let him know that the DRB wishes him well during his hospital stay.
- 6) Sketch plan review, boundary line adjustment, 539 Blueberry Hill Road
Mr. Ponessi described the proposed boundary line adjustment at the northern end of Blueberry Hill Road. Trevor and Jamie Mance recently purchased parcel 08 20 01 from the Woodard family, a two-lot parcel, and already own 06 20 09, also a two-lot parcel. The Mances propose to create a total of three lots. The Woodard house lot would shrink, and a permit would be sought for a replacement septic. Existing wells and septic systems would continue to serve the Woodard house and the Mance home. All frontage and acreage requirements would be met by the new configuration. The existing Gerald Morrissey survey on which the sketch plan was based will be certified. Neighboring lots will be identified on the preliminary plat. Mr. McClintock moved to accept the sketch plan and designate the subdivision as minor. (The neighborhood predates zoning.) Mr. Habberfield seconded the motion, which passed 4-0-0.
- 7) Review of rules of procedure
This matter was postponed to the April 7 meeting.
- 8) Boundary line adjustment bylaw review
The board reviewed the draft provided by the Planning Commission (see below). They asked that items 4, 11 and 12 in the original list of preliminary plat requirements be added back in to the BLA requirements.

Mr. McClintock noted that the Arlington bylaw allows the zoning administrator to handle BLA matters. He said he thought the Shaftsbury bylaw, both existing and proposed, offered too little direction to the ZA. Ms. Stiles said she would be uncomfortable making decisions alone on BLA matters. Mr. Habberfield said that when the board reviews such plats, each member seems to pick up on a different important item.

Mr. McClintock and Ms. Stiles will review the Arlington bylaw to see if it might offer a way for Shaftsbury to assign BLA review to the ZA.

9) Other business

a) Ms. Michelle Leblanc attended to describe to the board her hopes of starting a service dog training program for veterans and first responders. Mr. McClintock recused himself from the discussion as he has done work for Ms. Leblanc's organization. Mr. Huncharek said the DRB could not in any way serve as an advisory committee.

She said she is looking for five to ten acres with structures that can be renovated to house up to six students and their dogs-in-training. She focuses on veterans and first responders with mobility issues, PTSD, or military sexual trauma. Her program is modeled on the K-9 program, strict and rule-bound, a "tight ship." She ran a police K-9 program for eleven years and has been running Vermont Paws and Boots for several years, initially in Burlington and now, temporarily she hopes, out of the former Angelina's on Gage Street in Bennington.

The students or clients would live on site and train with the dogs every day for two or three months, depending on the student. She noted that per capita, Vermont has more veterans of war than any other state.

She said she'd like support from the board. She said she isn't planning on opening a kennel but rather a training facility. Mr. Krulikowski offered that it seemed more like a school than anything else.

Hers is a 501c3 corporation, an insured non-profit that she supports with fundraising from towns and service clubs, for example. She said GNAT and Channel 3 have done profiles on the organization, which can be found on the Facebook page.

Mr. Huncharek said the program seems to be an important one, but the DRB can't offer an opinion on it and certainly not a statement of support for it. He asked her to try to figure out how she can pursue her dream in the context of the existing bylaw. How that might happen was briefly discussed.

Mr. McClintock suggested that it was inappropriate to continue the discussion. Ms. Leblanc should consult counsel. He noted she could enter into a contract with a landowner, contingent on receiving approval.

b) The Board turned to a review of the Planning Commission's latest iteration of a kennel bylaw. Mr. Huncharek, Mr. Day, and Mr. Habberfield had individually shared comments on line earlier in the week. Mr. McClintock said he was uncomfortable with the sharing of comments on the bylaw via email. It was agreed to make them public by incorporating them in the minutes (see below). Mr. Huncharek suggested we consolidate the comments and share them without further comment with the Planning Commission.

In addition to emailed comments, others included:

- Does the bylaw apply to dogs only or to all household pets?(McClintock) What about horse boarding? (Habberfield)
- The reference to the state's regulation doesn't suggest how the DRB is to use that statute. The board needs more direction; e.g. is noncompliance with the state regulation grounds for denying the permit? (McClintock)

- How about requiring the kennel owner to hire someone like a veterinarian to inspect the facility and provide to the town a statement of compliance with the permit and the state law? (Habberfield)
- Does the six animals include other pets that might not require licensing? (Day)
- Dog breeders could produce litters that would throw the facility over the maximum number of animals in one fell swoop (Habberfield)
- A requirement is needed to ensure that rabies shots and kennel cough immunizations are up to date before an animal is allowed into the facility. (McClintock)
- Six animals maximum doesn't seem financially feasible. (McClintock)
- Clarify the 1000' setback – from what to what? And include an exemption for a permitted kennel situated within 1000' of a newly built residence. The new residence doesn't obviate the permit. (McClintock)
- Make clear that site plan approval is required. (McClintock)

c) It was agreed that the board would meet on April 7 to discuss rules of procedure.

d) Mr. Huncharek moved to adjourn at 8:04 p.m. Mr. Habberfield seconded the motion.

Boundary Line adjustment proposed bylaw

As amended per comments shared at March 17 DRB meeting.

5. APPLICATION & APPROVAL PROCEDURE

5.1 APPLICABILITY

Application and approval is required for the division of a parcel of land into two or more lots or the altering of the configuration of two adjacent lots. Whenever any such division of land is proposed to be made, before any contract for sale of such lands or any part thereof is made, before any grading, clearing, logging, permit for erection of a structure on such lands is granted, the applicant shall apply in writing to the DRB for and secure approval of the proposed division of lands.

5.2 GENERAL APPLICATION PROCEDURES

The Administrative Officer shall provide to any applicant the necessary forms for any municipal permit, and will coordinate the municipal effort in administering its development review programs. The Administrative Officer shall also inform applicants that they should contact the Agency of Natural Resources Permit Specialist for possible requisite state permits.

5.3 DIVISION OF LANDS (See also Section 8, Definitions.)

5.3.1 BOUNDARY LINE ADJUSTMENT

The sale, exchange, or other transfer of parcels between adjoining lot owners, where such transaction does not create additional building sites or cause any existing lot to be made noncomplying regarding density and dimensional requirements, shall be considered a boundary line adjustment. It is not a subdivision. The DRB requires a formal hearing, review and approval of such transaction.

The final boundary line adjustment plat shall include all items listed in sections 5.3.1 i-xi below.

- i. Identifying title;
- ii. Name and address of owners of record, with deed identification and designer of the plat, said designer to be qualified to perform such design under applicable regulations of the State of Vermont;
- iii. Location and dimensions of proposed lot lines and areas of proposed lots, both before and after the boundary line adjustment;
- iv. Names of adjacent landowners of record and evidence of notification, such as a certificate of mailing;
- v. Location of existing and proposed easements, structures, watercourses and wetlands, wooded areas, and other essential existing physical features;
- vi. Applicable zoning designation and district boundaries;
- vii. Existing street(s) names and rights-of-way boundaries
- viii. Proposed connection with existing municipal water supply or proposed location of on-site water supplies;
- ix. Proposed locations of any wastewater disposal systems, including location and results of test pits and percolation tests;
- x. Vicinity map at a scale not greater than 1" = 1500' , locating the outline of the entire parcel in relation to surrounding area, and including the nearest street intersection, if possible;
- xi. Numerical and graphic scale with plan not to exceed a scale of 1" = 100' , unless a smaller scale is approved by the DRB, original and revision dates, magnetic and true north arrows;

The final plat shall be recorded per XXX

DRB comments on proposed Kennel Bylaw

From Tedd Habberfield:

- In reviewing Chapter 194 Section 3098, I did not see that vaccinations are specifically required nor are there minimum requirements regarding vaccinations, e.g. rabies, kennel cough, canine flu and other communicable diseases. I would recommend that there be a list of required vaccinations.
- I thought that an earlier version included a requirement for yearly inspections of the facility by a vet or other qualified individual. I think that this should be included.
- I agree that pet boarding is too broad a title, but I would recommend that dog and cat boarding be the focus. I am aware that some boarding facilities accommodate both dogs and cats (separated).

Next, in section 8.16.2 (a) the facility is limited to 6 dogs. If these regulations include dog breeding facilities, one liter could easily put the facility out-of-compliance. I would recommend that they facility be limited to 6 adult dogs (or cats?) in the regulations. Adult could be defined as dogs or cats 6 months of age or older, for example.

Finally, in section 8.16.2 (b), I can't see that it's possible to have a set back of 1,000 feet if the minimum size of the plot is 5 acres. E.g., if my calculations are correct, a perfectly square 5 acre

plot would be approximately 467' X 467'. A 1,000 ft. set back on any side would be impossible. 500 ft. would be a problem in most circumstances, even with an irregularly shaped lot. Also, I would recommend that the set back be from the boundary line and not from the nearest residence, because someone could build a residence on an adjoining property and the facility could become out-of-compliance.

From Mike Day:

To Tom's checklist I think the wording in **section 8.16.3a** needs to be clarified. The current wording implies there has to be three dogs (housed for a fee and not licensed at the facility address). This should address capacity, not actual animals in residence.

From Tom Huncharek:

1) Title of by-law; Change **Pet Boarding** - my understanding is the by-law is specifically addressing **Dog Breeding and Dog Boarding**. Introducing the word pet could be construed as a broadening of the scope of the by-law

2) Section 8.16.1 - Does conditional use in Recreational Center include Recreational overlay areas?

3) Section 8.16.1 - The first sentence should end at DRB and eliminate "with the possibility that more conditions may be added."

4) Reference to Chapter 194 Section 3098 - After review of this statute it appears that only Sections 1.1 thru and including Section 3.14 should be referenced. Remaining sections, other than the section of definitions, are not applicable. I believe this should be an appendix to the by-law for easy reference.

5) Section 8.16.2 - Possibly change formatting. Each specific element (requirement) should have its own "bullet". (example: a) Five acres shall be the minimum lot size for dog breeding and pet boarding facilities. b) The total number of animals shall not exceed 6. c) etc, etc.

6) Section 8.16.2 (f) - Utilize the word "shall" in the appropriate places.

7) Generally - eliminate the word or phrase "**pet boarding**" - I believe this is too broad and opens the door for debate regarding the scope of the definition of pet.