

PLANNING & ZONING COMMISSION
Public Hearing & Regular Meeting
February 19, 2013

The Planning & Zoning Commission held a public hearing & regular meeting on Tuesday, February 19, 2013. Chairman Michael DelSanto, called the meeting to order at 7:01 o'clock, p.m.

The following Commissioners were present, viz:

Stephen Kalkowski	James Macchio
Paul Champagne	Paul Chaplinsky
Kevin Conroy	Michael DelSanto, Chair

Alternates: Jennifer Clock
 Randall Gage
 Susan Locks
 Ryan Rogers

Ex-officio members present were as follows, viz:

Robert Librandi, Acting Town Planner
James A. Grappone, Acting Town Engineer
Greg Klimaczewski, Assistant Town Attorney

Absent: James Sinclair
 Mark J. Sciota, Deputy Town Manager/Town Attorney

The Chair seated Susan Locks for James Sinclair for this evening's meeting. A quorum was determined.

The Pledge of Allegiance to the American Flag was recited by everyone in attendance.

MICHAEL DELSANTO, Chairman, presiding:

Approval of Minutes

Regular Meeting of February 5, 2013

Mr. Chaplinsky so moved the motion to approve which was seconded by Mr. Kalkowski. Motion passed unanimously on a voice vote.

Mr. Librandi read the legal notice into the record for the public hearings.

PUBLIC HEARINGS

A. Pack Tracks, Special Permit application to extend hours to allow for 24 hour service for dogs in an existing kennel, 1177 West Street (SPU #511.1)

Mr. Librandi advised the application before the commission at this time is a proposed special permit use application. The applicant received a variance from the ZBA to allow for the use of a kennel less than 500' from a residential area. The variance was approved with conditions on April 25, 2012, a copy of which is attached for your information.

We did send out comments and we did receive responses.

Wendy Shaw, 1177 West Street, Southington, CT. Also, Kim Gravel and Christian Kirkwood are here. All three of us own it and we are a dog daycare right now. We also do training and grooming and we are hoping to do overnight boarding. We've been there about 1.5 year.

We want to provide an overnight cage free environment for the dogs with two overnight attendants at all times.

The ZBA instructed us to fence in the blue pad facing Curtiss Street which we have done. We have moved our grooming room up front and made a specific room just for the boarders which is all cinderblock to help with the noise issue.

I have a video of the decibel readings but the biggest concern as I understand it is the sound. We took readings at the corner of our driveway with just traffic (mild traffic) and then we did it with 48 dogs barking outside with busy traffic and then with 48 dogs outside quiet. The decibel readings go down with the dogs from the traffic.

The last picture shows the cinderblock room. We also did an inside area of our building with a map for you.

The decibel readings were again explained.

The dog number will be capped at 40 for overnight.

Mr. Kalkowski asked: Do you consider dogs barking or normal traffic noise to be more intrusive to residential? Ms. Shaw said her point was you can't hear it over the traffic.

Explained.

Methods for suppressing the barking at night were described by Ms. Shaw. She is a dog trainer for 10 to 15 years. All her employees are trained to keep it down and to a minimum now with the dogs during the day. We will not allow excessive barking dogs to board. That'll be a rule. We'll have two employees there at all times and a dimmer switch so the lights will be down. Dogs tend to be quieter when someone is with them and the lights are down. They won't be caged as

with a regular kennel. To my knowledge we have had no complaints now during the day.

Ms. Gravel stated the drop off time for boarding dogs is by 12:00 noon. They do day care then and they're tired at night and sleep.

The dogs will be able to go out for a maximum of ten minutes at a time every four hours during the night for a bathroom break. Always supervised.

Discussion.

Mr. Kalkowski referred to the ZBA approval and discussed: no dogs outdoors between 7:00 pm to 7:00 am without supervision. Ms. Shaw said they don't do boarding now. And, number three, you are not doing, either. Ms. Shaw said she has training classes from 7:00 pm to 8:00 pm and we do open at 6:00 am.

The area where the dogs will go at night was discussed. It is fenced near the woods.

Lighting is a quick light we turn on when they go out and then we turn it off when they come in.

Discussion.

The Chair asked the number of dogs they expect to have on average boarding. Ms. Shaw guessed 10-20 to start. Summertime and holidays would be busier.

Discussion.

The Chair asked what happens if the dog is dropped off and then it's a problem: yelping, crying. Ms. Shaw said the dog is appraised as it is cage free pack sleeping. We have to know the dog. There are some dogs we have told the owners can't come as their dog is an excessive barker.

Discussion.

(Those speaking in favor of the application)

Mary Sergeant, 2153 Mt. Vernon Road. My two dogs have been attending this day care for 1.5 year. They've both had knee surgery and at this facility they have rubber flooring. We don't go on vacation because we have no place to bring the dogs.

Discussion.

The dogs are used to this place. It's like a second home. They have nap time and they adjusted beautifully.

This would be a huge need for my family. I really think Southington would thrive with this.

Joan Kiley, 45 Village Road, Southington. I echo those sentiments. These women do a great job with this doggy day care they have. My dog is more than my dog to me. I wouldn't entrust her to anybody else, especially overnight.

Discussion.

They're true to their word and excellent dog handlers. You shouldn't be worried the dogs will be running around and barking incessantly. They care too much about the dogs to let that happen.

Thank you.

Danielle First, 291 Farmingberry Drive. I want to say that anyone who has a dog knows that the dog is part of the family. It's a part of the family you can't find a babysitter for.

Discussion.

What happens? You're faced with that problem every time you want to go overnight. You're not going to drop your dog off with someone for the first time. It creates anxiety for the dog, the dog owner and that's a situation where the dog is going to be barking.

Dogs sleep at night like people. Wendy and the other women run a wonderful business. It's clean. Nice wood laminate floor. It doesn't smell like there are animals there. My dog is comfortable and anxiety free.

This is a business that is needed. The service is needed in Southington. The dogs go there for day care and different activities. I don't foresee they would let anything go on that is going to make anybody in the neighborhood uncomfortable.

(Applause)

Dana Marzek, 245 Berlin Avenue, Southington. I know your concern is the noise at night. I understand. Dogs bark. I drop my dog off in the morning and pick him up at night. My dog is comatose when I pick him up. He comes home, eats and lays down and sleeps for most of the night.

Discussion.

I can't see any dogs playing more at night because they are thoroughly exhausted. I don't think the noise level will be a problem because the dogs are going to be sleeping.

(Applause)

Bethany Theriault, 70 Queen Terrace in Southington. I work there. I wanted to say we do do small groups. And, they're a lot quieter than the big group most of the time. I can see at night they're more apt to be quiet as they've played all day. If they are

up and active, there's only one or two and they're quieter. We stay with them to make sure they're relaxed and well behaved.

The dogs that would be a problem are the ones that we wouldn't let board overnight. Either they bark too much or are uncooperative.

Stephanie (Inaudible) 102 Surrey Drive, Bristol, CT. The Chair advised only Southington residents could speak.

(Those speaking against the application)

Carl Focci, 745 Curtiss Street. I live almost directly across from it. I don't have a problem with the facility, but they've never had dogs overnight there. In the spring and summer and I can hear them barking with the windows open. At night, I definitely do not want to hear that. I'm amazed she said she could have 40 dogs barking on que to measure that decibel reading. I can hear the dogs. It doesn't bother me in the day but at night I don't want to hear them.

This I am not looking forward to because I don't know if anyone can guarantee dogs will not start barking during the middle of the night. With the windows open, I don't want to hear that and I have it heard it.

If they're done at 9:00 and I don't hear it, I don't have a problem with it.

I don't face West Street, I face Curtiss Street and I don't hear the traffic so I can hear it better.

Dan Balch, 1230 West Street. Like the other gentleman, I can hear the dogs, too, during the day which doesn't bother me. My concern is at night when they go out to go to the bathroom. Inside isn't a problem for me.

Discussion.

When there is a scuffle with the dogs during the day, I can hear them yelling to calm the dogs down. And, the traffic doesn't drown it out.

Michael Turner, 1150 West Street. As of right now, I have no problem with them. My wife sleeps during the day and once in a while she hears the dogs. I have two small children and I want to be able to open my windows at night. There is a lot of traffic on West Street but not at night, not at 12:00 midnight or 2:00 am. My biggest concern is the noise with 40 dogs outside for 10 minutes. Twenty dogs, two people, okay. What happens when economics don't allow two people to work at night.

Discussion.

My other concern is the lights. You're fencing in the side of the building which faces Curtiss Street, why not the north side which is already fenced in? The lights are bright and my house is lit up even on the inside. They have a couple of floodlights that don't bother me but what about the lights in the fenced area? Are the lights shadowed?

They did some address some of the issues in my email which I sent earlier like the number of dogs, number of supervisors. Again, 7 pm to 7 am, what time are they picking up their dogs? Is it 8:00 pm or 9:00 pm? Midnight? That's a concern.

Lastly is the boarding hours. They said 7 pm to 7 am. Right now they're closed on Saturday and Sunday. Are we going to board over the weekend?

It's rather quiet on Sundays. I can open my windows and not hear traffic or dogs. Is this a 7-day 24-hour proposition? They do do a great job.

Thank you.

(Rebuttal)

Ms. Shaw said it would be a 365 day operation. She understands the concerns. I can't say there won't ever be an issue with dogs in a scuffle, but my staff is trained, they act accordingly and calm them down. They are allowed to bark during the day. If there is an issue, I will address that. I can queue of 40 dogs to bark very easily.

Discussion.

I will address the barking during the day if they want me to prove I can keep them quiet. I haven't heard a complaint. They are here to play and bark. The kids at Pumpkin Patch make a lot of noise, too. I can hear them inside.

Discussion.

I can guarantee we will be more respectful and quiet at night.

Mr. Conroy asked if there are alternatives available or methods used to not letting the dogs out at night for bathrooming.

Discussion.

Ms. Shaw said she would be willing to restrict the hours from 10:00 pm to 5:00 am for no dogs outside. That's fair.

Discussion of moving the night activity to the north side where the woods are.

Mr. Librandi did not recall ever having a complaint about Pack Tracks. He did have something to read into the Minutes.

One of the gentlemen did come up already, noted Mr. Librandi.

Mr. Librandi read a letter from Al Benson, 21 Churchill Street, Southington in objection to the application. (Letter on file in the Planner's Office.)

David Derynosi, 389 Wedgewood Road submitted a letter in support. (Letter on file in the Planner's Office.)

(Applause)

Discussion of limiting the hours for outside from 10:00 pm to 5:00 am.

There are no pickups or drop offs after 7:00 pm. We are open 6:00 am to 7:00 pm and that's it.

Discussion.

There have to be at least two staff people at the facility for safety reasons.

Discussion.

As a responsible business owner and neighbor we will make sure the excessive barking does not happen. Just give us a chance.

Discussion.

Discussion of a trial period.

The Chair hearing no further comments closed the public hearing for this item.

B. Southington Cheshire Community YMCA, earth excavation application for the removal of approximately 125,912 cy of material, 1000 East Street, EE #141, public hearing continued from February 5

Stephen Giudice with Harry Cole & Son represented the application. He reviewed this is a continuation of our public hearing two weeks ago. We've started to make revisions to the plans based on staff comments and hope to have it submitted prior to the next meeting submission time. A couple minor things came up I wanted to go over with the commission. I do have handouts of a map for your convenience.

On earth excavations, there is a 100' buffer required for property lines. The earth excavation portion of this application is outside of the 100' nondisturbance area, however, we do have a small portion of our dewatering area within the 100' of the property line along East Street and we have two access driveways proposed within the 100' of the property line which we have to have those within 100'. In

those small areas we are proposing to encroach within the 100' setback from the property lines.

The other thing is your regulations require a maximum 2 acre disturbance at one time. Working in a 20 acre pond with slopes, et cetera, it is going to be difficult for us to maintain a 2 acre minimum disturbance in the pond itself. I am going to respectfully request a waiver of that 2 acre minimum disturbance area.

Discussion.

Dust and erosion issues were discussed.

Mr. Conroy commented he wasn't sure the 2 acres really applies to this application. Normally you are talking about a detention pond and the pond is acting as your detention pond and the permit is the entire project. I think the 2 acres really only applies to the upland area that is being disturbed.

Discussion.

Mr. Giuddice noted there was a lot of discussion previously about our outlet control and when the pond is done. I mentioned we were installing an outlet control structure and I misspoke a little bit. What we are proposing to install is a drawdown structure. Explained the proposal is to put in a drawdown structure which allows us to lower the level of the water. But the daily flows of this pond when this project is complete will match the pre-development numbers. The flows will be going through the same spillway.

Discussion.

Mr. Giudice advised he had no issues with staff comments raised. We are revising the plans for submission. I'll try to address your questions.

Mr. Grappone brought up the phasing plan noted on the plan. Discussion was that the applicant asked the commission to waive the 2 acre phasing.

Discussion.

Mr. Conroy added he felt DEEP and Army Corp will pay particular attention to how the diversion is staged. That is the time when you'll have the most potential for environmental damage and the most probability of sediment escaping and heading downstream.

Discussion.

Mr. Gage asked about the potential odor for the sediment when it dries. Are there ways to abate that?

Discussion.

(Those speaking in favor of the application)

No response.

(Those speaking in opposition to the application)

No response.

The Chair advised the public hearing would be kept open until the next meeting.

BUSINESS MEETING

A. Pack Tracks, Special Permit application to extend hours to allow for 24 hour service for dogs in an existing kennel, 1177 West Street (SPU #511.1)

Mr. Kalkowski pointed out that he was extremely impressed with the way business is being run today. I'm really impressed with the confidence the applicant and her staff brings to the process. I like the fact that the applicant was willing to work with us and be flexible on the late evening and early morning hours and keeping the dogs inside. We got very positive feedback from all who came up --- even those speaking against the application. The primary focus of their objection as the late night and early morning hours which we can address with an agreed to stipulation.

I want to stop by and see how the applicant herds 50 dogs in in a 1.5 minute.

(Laughter)

I would like to make a motion to approve with a stipulation that no dogs can be outside between the hours of 10:00 pm and 5:00 am. Ms. Locks seconded.

Mr. Chaplinsky brought up the 5:00 am hour --- is it too early? Also should we stipulate two staff people have to be there overnight. And, put the hours in the record for drop off times. No later than 7:00 pm and no earlier than 6:00 am.

Also, if this passes, if the applicant were to sell her business, does the SPU transfer to the new owner? Attorney Klimaszewski said it runs with the land. The same guidelines would also be in place for the new owner.

Discussion.

Discussion on why the ZBA requested the south side and not the north side of the property. Mr. Librandi explained it was because of

the 500' radius and to push it as far back from the R-40 zone for the fenced in area rather than the property line.

Extensive discussion the prohibited hours.

Mr. Conroy said he was supportive of the applicant, not necessarily the application. They've done a good job representing they would be able to control the dogs as best they can be controlled and they are willing to work with the neighbors and the town. A number of issues I find troubling from a procedural standpoint.

- We don't judge the applications based on the applicant. We judge the application. And, what sticks out for me is that this was approved for a kennel with an SPU. I'm sure at that meeting it was said over and over again this was a night time thing. Strictly a day care center. Respecting that ruling and that decision, that's the baseline from where to start and we are being asked to change a special permit. It is surrounded by I-1 and I-2 zones, but there are a number of nonconforming residences within those zones. These residents were there before the kennel was here and overnight boarding. We have to consider that. Once we approve this there is really no recourse. It's something to consider.

- I like the idea of restricting the hours. I heard there is an alternative to letting the dogs out, but the applicant is not interested in doing that. Is there leeway there to make this work?

- I like the idea of a probationary period and I know the idea of competitor complaints is a legitimate issue. I think we are all smart enough to figure that out.

I'd like to find a way to make this work.

Mr. Rogers discussed the hours for taking the dogs out at night. We should try to be as flexible as we can keeping the neighborhood in mind.

Mr. Gage agreed with Mr. Conroy in that we are expanding a nonconforming use. The residents were there first. This is a different business model that's kind of causing their own hardship, if you will, as the pack sleep is a little different than traditional kennel operations that wouldn't have this potential nuisance at night.
Discussion.

Mr. Kalkowski amended his motion to the hours of 10:00 pm to 6:00 am no dogs outside. From the hours of 6:00 am to 7:00 pm is when there will be drop off and pick up. And, a minimum of two staff between 7:00 pm and 6:00 am. Ms. Locks seconded.

Motion passed 7 to 0 on a roll call vote.

B. Southington Cheshire Community YMCA, earth excavation application for the removal of approximately 125,912 cy of material, 1000 East Street, EE #141.

Mr. Kalkowski made a motion to table. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

C. Southington Cheshire Community YMCA, site plan application to remove sediment from Sloper Pond, install outlet pipe, replace culverts, clear trees/shrubs from dam, install educational/recreational amenities such as handicapp access boardwalks, rope swing and viewing platforms, 1000 East Street (SPR #1630.

Mr. Kalkowski made a motion to table. Mr. Chaplinsky seconded. Motion passed unanimously on a voice vote.

D. S. Carpenter Construction Company, 2-Lot resubdivision application, 176 Townline Road, Lot #3, Strawberry Fields S #159.3.

Stephen Giudice explained this is on Townline Road. This is a resbudivision of a lot that was resubdivided. We did get a variance for a frontage. We've addressed all staff comments.

I'll answer any questions.

Mr. Librandi advised this is ready for action.

Mr. Chaplinsky made a motion to approve which was seconded by Mr. Kalkowski. Motion passed 7 to 0 on a roll call vote.

ADMINISTRATIVE REPORTS

West Street Subcommittee

Mr. Chaplinsky said he had received a few comments from commissioners on the first draft of the West Street Business Zone. Town staff will begin writing the regulations so we can get them back here for final comment and get them referred out.

Mr. Conroy offered his comments this evening:

- I do think this has to have a map attached to it and not just a zoning map. It has to have a plan of development map.

- He would like to revisit the close coordination of the uses between businesses in the CB zone and this zone. I don't think it should be a one for one swap. Generally we are trying to do a lot of high value uses here. (Executive Boulevard)

- He would restate his objection to drive thrus in general and fast food and in particular this zone.

- Some technical regulations will have to be written tightly. They'll have to have specificity to them. Incentives and disincentives need to be included with the various development form based uses we are talking about (access, consolidation).

Discussion.

- With regard the setbacks, we are still abutting some residential zones and we need to look at that. The rear setback, I agree, generally we want to push it back as far as we can and there needs to be some accommodation to the abutting residential zones.

RECEIPT OF NEW APPLICATIONS

Mr. Librandi advised there are no new applications to report.

Mr. Librandi stated the Connecticut Federation of Planning & Zoning Agencies is having their luncheon. If you'd like to go, let me know.

ADJOURNMENT

Mr. Chaplinsky made a motion to adjourn which was seconded by Mr. Kalkowski. Motion passed unanimously on a voice vote.

(Whereupon, the meeting was adjourned at 8:25 o'clock, p.m.)