

Meeting Minutes

Planning Board

Wednesday, September 4, 2019

Newbury Municipal Offices

APPROVED

Members Present: Peter Paicos, Chair; Larry Murphy; Leslie Matthews; George Morse

Members Absent: Martha Leahy (Associate Member)

Staff Present: Martha Taylor, Town Planner

Peter Paicos, Chair, called the meeting to order at 7:01 p.m.

A. August 2019 Financial Report

P. Paicos read the August 2019 Financial Report into the record.

B. Jennifer Ford, Seacoast Canine, and Benjamin Tymann, Tymann, LLC – Status report on Seacoast Canine, 35 Downfall Road

Benjamin Tymann, Tymann, LLC, came before the Board on behalf of Jennifer Ford and Seacoast Canine. B. Tymann also introduced Dory Rosati, Office Manager at Seacoast Canine. B. Tymann provided a copy of the Employee Handbook/ Code of Conduct to the Board. He also provided a copy of a series of exchanges between Sam Joslin, Newbury Building Commissioner, and himself.

B. Tymann said they really just wanted the opportunity to check in with the Board before applying for the renewal of this one-year Special Permit for Seacoast Canine, a daytime dog training facility.

B. Tymann proceeded to cover a few main points. First, they feel that J. Ford has done an excellent job complying with the material conditions of the special permit. They would like to discuss the revision of a few of the conditions to make them a little more reasonable to implement. He referenced the window of time allowed for employees to arrive at work and the number of trips allowed. He noted that there are a number of things J. Ford could do as-of-right in this zoning district that would create more traffic than the traffic she is creating with Seacoast Canine.

B. Tymann then gave a brief overview of the correspondence between S. Joslin and himself and the issues discussed in the correspondence. B. Tymann asked the Board to consider the quality of the complaints from the neighbors not the quantity, as well as the facts.

J. Ford came before the Board to explain how her business is changing and progressing. She will be moving half of her operation off this site. She explained that she has sped up her timeline partly because of the amount of complaints that have been received on this business in her neighborhood. She thought that the sooner she could move the business offsite the better. That move is in progress now.

P. Paicos briefly recapped the previous application process. He asked J. Ford if she was still using her facility in Amesbury. She said yes, but it is too small for the play groups, so they are renting a new, larger space. P. Paicos asked what moving 50 percent of her business would look like – would that mean the volume of dogs would go down to 20? J. Ford said that their average currently is 30 dogs, 40 is their cap, and she thinks they will primarily use the other space because it is mostly indoors and that is easier. The Downfall Road facility will be used for clients who prefer the farm and some dogs who need outdoor space. Ideally, she would like to keep her kennel license for 40 dogs as a fall back if needed, but her plan would be to only have 20 dogs on the farm. The space to grow would be in the new location. P. Paicos asked if the trip count would be going down or would it be the same. J. Ford said that is something they still need to work out. P. Paicos read Condition 5 of the Special Permit Decision which discusses the restriction on traffic trips. P. Paicos asked if she could reduce her trips by 50 percent. J. Ford said she could go from 6 round trips to 4 a day. P. Paicos asked about increasing the farming capacity of her property, J. Ford said that at this point it would not be much more than hobby level.

P. Paicos reminded everyone that this is just an informal discussion and asked for more questions from the Board.

L. Murphy asked a series of questions to make sure he was up to speed since he was not part of the original permit process. These included questions about the operation, the number of employees, and the services Seacoast Canine offers.

Joanne Hogan, 9 Downfall Road, came before the Board and expressed that she feels the decision was made in favor of this business without consideration for the neighbors. She gave some additional background information.

Amanda Cannon, 32 Downfall Road, came before the Board and expressed her concern for business vehicles being on the road when her children are walking to and from the bus. She gave a few examples of incidents where Seacoast Canine cars were driving fast and one close call that included her youngest child. She called J. Ford to discuss the incident but never heard back, so she contacted S. Joslin. She said she doesn't have proof of the number of trips, but she does know that they are on the road outside of their time constraints.

Avery Woodworth, 19 Downfall Road, came before the Board to discuss primarily the traffic. He explained that he has a camera and has recorded all the trips to and from Downfall Road. He said that the number of trips range from 15-50 a day. He said there is traffic outside the time constraints and on the weekends. He said that it used to be safe to walk and for kids to ride their bikes any time of the day. He said that he does not think it is enforceable and S. Joslin doesn't have the time. It is not a small home business.

Gary Scobert, 4 Johnson Lane, came before the Board to explain an incident that occurred while he was walking down Downfall Road. There were 2 vehicles going in opposite directions and going too fast and he had to jump off the road because the road is so narrow.

P. Paicos said that in a dangerous situation like that it would be good to notify the Newbury Police. They are the authority to enforce that. The Planning Board is here to create the guidelines.

Elizabeth Woodworth, 19 Downfall Road, came before the Board and said that when this special permit was first issued, she told M. Taylor that there was no way to enforce the conditions it would all be he said, she said. E. Woodworth presented an overview of the trips she recorded for that day, a total of 34 not including J. Ford's trips.

Evelyn Noyes, 5 Downfall Road, came before the Board to vouch for the character of J. Ford and her family.

Erika O'Neill, 4 Lenway Road, came before the Board and said she moved there 2.5 years ago. They looked for a year and a half for the right place. When they first moved in, it was a quiet neighborhood and now it is not. It is not safe to let her daughter ride her bike to her friend's house on Downfall.

A. Cannon responded to the comment about contacting the Police and she said she did contact them 2 times when she saw cars not stopping at the stop sign on Downfall Road. They said that they would patrol Downfall more often. She said she has seen one police officer since then.

L. Murphy asked if anyone has observed any peak hours of traffic that you associate with the business. A. Cannon said right before and after 8 a.m., there are some trips around noontime, and multiple trips after 3 p.m. as well.

B. Tyman clarified that only business-related trips are regulated.

L. Murphy asked how many company vehicles there are. J. Ford said that her brother uses the Black Suburban for business trips only and another employee uses a business vehicle that stays at their residence. Employees coming to the farm stay for the day. They are not required to stay onsite during their breaks, but they only have 10 minutes breaks.

L. Murphy asked if her employees are mostly younger people. J. Ford said that they have a pretty good range of ages.

L. Murphy said there is a lot of compelling testimony about excessive speed that they are going to have to get a handle on.

There was discussion about how employees get written up and what the consequences are. P. Paicos asked for the log or records of this to be sent to M. Taylor.

A. Woodworth said that he is sure that employees are coming in their vehicles and picking up a company vehicle. Cars with dogs in them are not the only business-related trips that count.

P. Paicos closed the informal discussion.

C. Mark DePiero, DePiero LLC – Informal discussion re. potential Open Space Residential Development (OSRD) at 105 High Road (Continued)

Mark DePiero, DePiero LLC, along with Bob Grasso, Engineering Land Services, Mark Griffin, and Tom Hughes, appeared before the Board to continue the discussion from the previous two meetings regarding a potential OSRD at 105 High Road.

M. Griffin came before the Board to give an informal presentation. He explained that after the last meeting there were a couple questions that needed input from Town Counsel. One was concerning whether the yield plan has to be by right and the other was concerning contiguous upland in open space. M. Griffin said that the main question they want to answer today is whether they have presented a yield plan that comports with Town Counsel's opinion. He pointed out that they strongly disagree with the conclusions made by Town Counsel and that a yield plan could be one that could be reasonably permitted. M. Griffin then presented a yield plan that they believe is by-right, with no waivers and no zoning relief needed, in accordance with Town Counsel's conclusion.

M. Griffin asked the Board for feedback on this yield plan. They would like to focus on whether the Board would like them to proceed with a conventional subdivision based on this yield plan or if they would prefer an OSRD (Open Space Residential Development).

B. Grasso then provided more details on the yield plan, including the length of the cul-de-sac and the turn around for fire trucks.

Tom Hughes, Wetland Scientist, then addressed the wetland crossings. He explained that these crossing are common and there are many ways to do it. He then explained the permitting that would be required to do it. T. Hughes gave a few examples of crossings he has done.

The Board concluded that they would need time to look at the plan and to digest it, so would not be able to give the Applicant any direction tonight. They planned to continue the discussion on September 18, 2019 at 6:45 p.m.

D. 40B Site Approval/Project Eligibility Application – Byfield Estates, 55 Pearson Drive – Discussion of preliminary Planning Board Comments

The Board discussed comments and concerns on this project. They discussed the letter that they are drafting with their comments and when it needs to be complete and sent to Mass Housing.

E. Town Planner's Report

M. Taylor said they are expecting a Site Plan Review Application for the French Student Center at the Governor's Academy. She said she has been contacted by Jeff Hoffman, at Millennium, about the submittal of a subdivision plan for 68 Green Street, owned by the Jackmans. J. Hoffman has tentatively requested to be on the agenda for September 18, 2019 for the submittal of their Application.

F. Liaison Reports

L. Matthews reported that there was not much from the last Board of Selectmen meeting. She said that there is a project to connect Triton to the Fields on Central Street to provide easier passage for students, there is a path but it can be wet so a bridge is proposed. L. Murphy reported on the last Zoning Board of Appeals meeting.

On a motion made by G. Morse and seconded by L. Murphy, the Planning Board meeting was adjourned at 8:53 p.m.

Respectfully Submitted,

Emily Noble
Planning Board Administrator