



TOWN OF NORTHBOROUGH Zoning Board of Appeals

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Approved 07.28.20

Zoning Board of Appeals Meeting Minutes October 22, 2019

Members in attendance: Brad Blanchett, Chairman; Richard Rand, Mark Rutan, Paul Tagliaferri, Fran Bakstran, Leslie Harrison, Jeffrey Leland.

Others in attendance: Kathy Joubert, Town Planner; Robert Frederico, Inspector of Building/Zoning Enforcement Officer; Fred Litchfield, Town Engineer; Kasey and Chris Oestreicher, Wiggles and Tails; Scott Morrison, EcoTec; Paul F. Grasewicz, Graz Engineering; Amy Poretsky, 47 Indian Meadow Drive; Rick Keene, 159 Rice Avenue; Kathy Shackelford, 159 Rice Avenue; Nick Gibson, 14 Overlock Drive; Craig Mackie, 62 Rice Avenue; Dorothy E. and John Magoun, 63 Rice Avenue; Kevin and Sheila Mader, 109 Rice Avenue; Bill Fitzgerald, 27 Overlock Drive; Jason Perreault, 27 Treetop Circle, Selectman and Groundwater Advisory Committee; Chris Theriault, 136 Rice Avenue; Anthony Ziton, 17 Franklin Circle; Gina Babcock, 54 Coolidge Circle; Rick Robinson, 167 Howard Street; Millie Milton, 50 Fay Lane; Mark Downey, 5 Donald Street; Dawn Schallhorn, 5 Donald Street; Greg Harding, 163 Rice Avenue; LuCille Perry, 163 Rice Avenue; Lisa Maselli, 13 Maple Street; Julianne S. Hirsch, 19 Smith Road; Kerri Martinek, 16 Hemlock Drive; Karen Bailey, 139 Rice Avenue; Henry Squillante, 72 Crestwood Drive; James Kihungi, 140 Rice Avenue; Liz Ryder, 85 Rice Avenue

Chairman Brad Blanchett opened the meeting at 7:00pm

Continued consideration of the petition of Chris Oestreicher & Kasey Oestreicher for a Special Permit/Special Permit with Site Plan Approval and Special Permit per Groundwater Protection Overlay District, to allow the use of an off-leashed dog-walking area for professional dog walkers, primarily employed by the Applicant, who is the owner of Wiggles & Tails Dog Service, LLC, on the property located at 125 Rice Avenue, in the Residential C District and Groundwater Protection Overlay District Area 3

Chairman Blanchette read the continued public hearing notice into the record. He also noted that resident Lisa Maselli, 13 Maple Street, requested to be able to record the meeting and the board members approved.

Applicants Chris and Kasey Oestreicher were present, and Mr. Oestreicher explained they are requesting Special Permits to use their property at 125 Rice Avenue, in the Residential C District, for the use of an off-leash and leashed dog walking area for professional dog walkers primarily employed by him, as he is the owner of Wiggles & Tails Dog Services, LLC.

The site is 18 acres in size, and he plans to create 6-8 trails for the dogs to walk on. He is requesting to have a fenced-in area for off-leash hikes for the dogs. It is a small dog-walking

business with occasional client's dog staying overnight. The hours of operation will be 8:30am to 4:30pm, Monday through Friday. Mr. Oestreicher stated he loves what he does and believes there will be no impact to the neighborhood.

Mr. Oestreicher noted he has gone before the Conservation Commission and the Groundwater Advisory Committee; and members of the Zoning Board of Appeals have walked the site with him. He stated the Conservation Commission issued an Order of Conditions for the project.

Mr. Litchfield stated the Groundwater Advisory Committee members reviewed the Application and had some concerns. He reviewed a letter he sent to the Zoning Board of Appeals members on October 21, 2019, as follows:

The Groundwater Advisory Committee at their meeting held on October 8, 2019 reviewed the Application for a Special Permit, a Special Permit with Site Plan Approval and a Special Permit in Groundwater, a Stormwater Hydrology Report with revised drainage calculations dated October 3, 2019, a set of plans consisting of three (3) sheets with a revision date of 10-3-19 and a Stormwater Operation & Maintenance Manual by Graz Engineering along with the documentation as submitted by Graz Engineering clarifying the Groundwater impact Assessment for the above referenced property. The site is partially located within the Groundwater Overlay Area 3 and the applicants are seeking a Special Permit in Groundwater relative to section 7-07-010 D (3) (C) [3] of the Zoning Bylaw for the purpose of creating a home occupation at their residential property for a professional Dog Walking business.

The Groundwater Advisory Committee unanimously voted to recommend approval and would like to offer the following comments as conditions of approval:

- 1. The applicant's Engineer, Paul Grasewicz, P.E. did submit a letter dated September 13, 2019 which adequately addresses the items listed in section 7-07-010 D (4) (a) [1-5] which are required to be submitted with every application for a Special Permit in a Groundwater Overlay District.*
- 2. The applicant's Engineer, Paul Grasewicz, P.E. did submit plans and a Stormwater Hydrology Report dated October 3, 2019 which confirms that the increase in post-development net runoff volume does not exceed existing conditions by more than fifteen percent (15%), the impervious cover of the building lot is not increased over existing conditions by no more than forty percent (40%) and the on-site sewage disposal system is less than or equal to two hundred twenty (220) gallons per ten thousand (10,000) square feet of lot area.*
- 3. The Stormwater Operation and Maintenance Manual submitted with the revised plans and Stormwater Hydrology Report should be included in any approval. Annual notification shall be submitted to the Town Engineer and the Groundwater Advisory Committee confirming all inspections and maintenance have been performed in accordance with the Stormwater Operation and Maintenance Manual along with copies of the contract and invoices for all work performed. The Town Engineer shall be afforded the opportunity to inspect the work. All material removed from the drainage system shall be properly disposed of off-site. The Stormwater Operation and Maintenance plan shall be included as part of any approval. Copies of the contract for pet waste removal shall also be submitted annually.*
- 4. The Groundwater Impact Assessment adequately addresses the issue of groundwater contamination due to pet urine which has been calculated to be below the requirements outlined in Section 7-07-010 D (3) (C) [3] of the Zoning Bylaw.*

5. *The applicant will be responsible for performing baseline water quality testing to determine the level of total coliform and total nitrogen within the stream prior to the start of any site work or dog walking operation. The water quality samples shall be taken from the most upstream and downstream locations within the subject property. Additional water quality testing shall be performed twice per year, once between April 1st and 15th and again between October 1st and 15th, each year. All water samples shall be obtained by a qualified professional and all testing shall be performed by a state certified lab. The results of the testing shall be forwarded directly to the Building Inspector with copies also forwarded to the Town Engineer from the lab. The applicant will be responsible for all costs associated with obtaining and performing the water quality tests. This condition will remain in effect as long as a dog walking business occurs on this property or until the Zoning Board of Appeals formally votes to remove this condition.*
6. *After construction the property shall be shown on an as-built site plan to be submitted to the Town Engineer for review and approval prior to the issuance of a certificate of occupancy. The as-built plan shall include, at a minimum, and as applicable to the project, a permanent benchmark, location of the two water quality test locations, elevation of all pipe inverts and outlets, pipe sizes, materials, slopes; all other drainage structures; limits of clearing, grading and fill; all structures, pavement; contours; and all dates of fieldwork. The as-built plan shall also include the pet waste drop zones, pet waste drop off spots, the location of the pet waste removal container and certification the drainage system was built in accordance with the approved plan and will function as designed. The as-built plan will encompass the entire property. Upon approval by the Town Engineer one (1) mylar and three (3) paper copies of the as-built plan shall be submitted in addition to an electronic copy compatible with the Town's GIS system and the Town's vertical datum (U.S.G.S. Datum of 1988). The Stormwater Operation and Maintenance Manual submitted with the revised plans and Stormwater Hydrology Report should be included in any approval. Annual notification shall be submitted to the Town Engineer and the Groundwater Advisory Committee confirming all inspections and maintenance have been performed in accordance with the Stormwater Operation and Maintenance Manual along with copies of the contract and invoices for all work performed. The Town Engineer shall be afforded the opportunity to inspect the work. All material removed from the drainage system shall be properly disposed of off-site. The Stormwater Operation and Maintenance plan shall be included as part of any approval. Copies of the contract for pet waste removal shall also be submitted annually.*

In response to a question from Mr. Rutan, Mr. Litchfield stated the Groundwater Advisory Committee members' main concern was the waste and urine from the dogs.

Ms. Bakstran asked if the Conservation Commission would do something if there were more dogs on the site. Mr. Litchfield stated the work of the Conservation Commission is the bridge.

Mr. Tagliaferri suggested the Applicant could take his dogs to Lake Chauncy or other places to walk his dogs.

Mr. Leland asked the Applicant if he has his dogs leashed when he goes to Lake Chauncy, and Mr. Oestreicher responded that different places have different requirements, but dogs must be leashed for the safety of the general public.

Ms. Joubert noted that, per the Board of Health and the Animal Control Officer, all dogs must be on a leash.

Paul Grasewicz, Graz Engineering, stated the trail is perpendicular to the stream and is fenced-in from the wetland buffer and the stream.

Nick Gibson, 14 Overlock Drive, asked when the dogs will be leashed, and Mr. Oestreicher responded they are leashed from the van to the fenced-in area, then they are off the leash.

Bill Fitzgerald, 27 Overlock Drive, submitted a letter from his neighbor.

James Kihungi, 140 Rice Avenue, stated he has lived in his house for 15 years, and he likes Mr. Oestreicher; but Rice Avenue is very narrow, with a lot of school buses, and he waits with his kids because he feels it is dangerous.

Gina Babcock, 54 Coolidge Circle, asked who will count the number of vans the Applicant will have on site. Ms. Bakstran responded that it is the responsibility of the Applicant.

Mr. Frederico noted that, if a decision is made in favor of the Applicant, he must be in compliance with it, however they rely on residents to let them know if something is not right.

Ms. Babcock stated it is not a business. Ms. Bakstran stated it is a home business, and there are other people on the street who have a home business.

Karen Bailey, 139 Rice Avenue, stated she has a lovely view of the area, but will be looking at a parking lot if this is approved. She noted she has lived in her house for 13 years.

Amy Poretsky, 47 Indian Meadow Drive, was concerned that walking 70 dogs, in total, will generate too much waste on the property.

Kevin Mader, 109 Rice Avenue, asked the Applicant if he is open to allowing other dog-walking businesses to use his property, as he saw it on the internet. Mr. Oestreicher replied he would not, as he will have 70 dogs maximum per day, and 5 vans with 5-7 dogs per vans, for two walks per day. He noted that what Mr. Mader saw on the internet was a long time ago.

Mr. Rutan confirmed with the Applicant that there will not be 70 dogs all at one time on the site. Mr. Oestreicher stated the vans will be staggered, likely with 14 dogs maximum, on the property at one time.

Chris Theriault, 136 Rice Avenue, asked if the existing driveway will need to be altered. Ms. Oestreicher replied foliage was a concern on Rice Avenue. She noted they spoke to the Department of Public Works, and the DPW will try to clear brush twice a year within the Town's right-of-way on Rice Ave.

Michael O'Connell, 169 Rice Avenue, stated the noise, or ambient noise, is a concern. He also noted that the Applicant who was issued a Special Permit to allow the use of a professional office for training, walking and occasional boarding of dogs at 205 Brewer Street, ZBA Case No.18-18, was restricted to 3 dogs.

Ms. Joubert noted that, with a Special Permit, the Zoning Board of Appeals can make the use limited to the owner.

Millie Milton, 50 Fay Lane, stated the Applicants may run a good business, but the number of employees is not right, as well as the location of the parking area.

Mr. Grasewicz showed Ms. Milton the parking area, which is on a side yard. Mr. Frederico noted there is no restriction regarding having a parking area.

Karen Bailey, 139 Rice Avenue, asked about the number of employees and the dog waste removal.

Mr. Oestreicher explained there will be a maximum of 8 employees. He also explained that 4-5 waste bins along the trail will be collected in a 96-gallon barrel, and the waste will be collected by a company once a week.

Mr. Litchfield clarified that a “trip” means the vans will leave the site and come back again once.

Mr. Tagliaferri noted that Town Counsel considered the use at 205 Brewer Street was a home occupation in a residential zone.

Ms. Bailey also asked if there has been a traffic study and a light study, and Mr. Grasewicz replied a traffic study was done and showed that at peak time, in a 10-minute period, there was 10 vehicles on Rice Avenue, or 500 vehicles per hour. He noted the traffic study has been submitted to the board.

Patricia Willems, 10 Captain Eager Drive, was in favor of the project.

Lisa Maselli, 13 Maple Street, was not in favor of the project.

Mr. Oestreicher stated he spoke to the Police Chief to see if there have been any noise complaints and/or traffic accidents on Rice Avenue since he has lived in his house at 125 Rice Avenue, and he was told there have been no complaints or traffic accidents.

Ms. Bakstran motioned to close the hearing, Mr. Rand seconded the motion, and the vote was unanimously in favor of the motion.

Board Discussion

Mr. Blanchette, Mr. Tagliaferri and Ms. Bakstran discussed the site visit the board conducted approximately 3 weeks ago.

Mr. Tagliaferri reviewed the decision for 205 Brewer Street, Case No. 18-18.

Ms. Bakstran suggested they might consider limiting the number of employees and vans.

Mr. Rutan suggested to limit the business to a smaller number of vans and employees; and then the Applicant could come back to the board if they want to expand.

Mr. Tagliaferri noted that anyone could fence-in the property; the fence is integral to the operation; 6500 feet of fencing would be needed based on 8 acres; he is concerned with the length of the fence and the maintenance of it; 205 Brewer Street was a half-acre site; and he is concerned about traffic.

Mr. Rand stated the proposed home business is not appropriate for the neighborhood and there will be noise from the dogs.

Ms. Bakstran stated it's a 22-acre site surrounded by conservation land; and asked what site would be better.

Mr. Leland suggested they limit the number of vans; said it is an appropriate site for the use; visual buffers could be added; and there is direct traffic to Allen Street.

Ms. Bakstran suggested they could place conditions on the use.

Mr. Blanchette stated the scope of the business is too large for a residential neighborhood.

Ms. Bakstran stated reasonable conditions could be placed on the proposal; the primary use of the property is residential; and the dog-walking proposal is an accessory. Possible conditions she suggested were: the use of 3 vans only; 3 employees only; and a change of hours of operation.

Mr. Rutan motioned to grant the Special Permit, Special Permit with Site Plan Approval, and a Special Permit per Groundwater Protection Overlay District, to allow the use of an off-leashed dog-walking area for professional dog walkers, primarily employed by the Applicant, who is the owner of Wiggles & Tails Dog Service, LLC, on the property located at 125 Rice Avenue, in the Residential C District and Groundwater Protection Overlay District Area 3; with the following conditions:

1. *There shall be three vans only;*
2. *There shall be three employees only;*
3. *The employees shall arrive on the site at 8:00am;*
4. *The hours of operation shall be 8:30am to 4:30pm;*
5. *The vans shall return to the property by 4:30pm;*
6. *The parking spaces will be reduced to 6 spaces;*

Ms. Bakstran seconded the motion; and the vote was 2 members in favor (Ms. Bakstran and Mr. Rutan) and 3 members opposed (Mr. Tagliaferri, Mr. Blanchette and Mr. Rand).

OLD/NEW BUSINESS

Master Plan Update: Ms. Bakstran stated they reviewed the final document and discussed and prepared for the December 10th Master Plan Public Presentation.

Ms. Bakstran motioned to adjourn the meeting, Mr. Leland seconded the motion and the vote was unanimously in favor of the motion.

The meeting adjourned at 9:55pm.

Respectfully Submitted by,

Debbie Grampietro
ZBA Administrative Assistant