

Zoning Board of Appeals Minutes
Selectmen's Room, Middleborough Town Hall
10 Nickerson Avenue, Middleborough, MA 02346
July 14, 2022

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey and Joseph Mandile, were present.

7:30 P.M. Approve minutes of June 23, 2022

Upon a motion made by Dr. Edward Braun and seconded by Liz Elgosin, the board

VOTED: **to approve the minutes of June 23, 2022.**

Unanimous vote.

7:30 P.M. Keith Curran, P.E. 457 & 459 Wareham Street

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open. Chairman Darrin DeGrazia informed the board that the applicant has requested a continuance of tonight's hearing. They are still working on revising the plan.

Upon a motion made by Liz Elgosin and seconded by Jack Healey, the board

VOTED: **to continue the hearing until August 11, 2022.**

Chairman Darrin DeGrazia, Dr. Edward Braun, Liz Elgosin, Jack Healey and Joseph Mandile were in favor.
(5-0)

7:32 P.M. Kenneth Lawrence - 5 Smith Street

Chairman Darrin DeGrazia read into the record the legal advertisement and declared the hearing open.

Kenneth Lawrence informed the board that he is requesting a commercial kennel license located at 5 Smith Street. He stated that he originally had 19 dogs there, which was only temporary, until he could place them at a new location. He purchased this home in December, and he thought it was all set to be used as a kennel, as there was already a commercial kennel at this location for 33 years. When he received his mortgage he was being taxed as a State kennel so he figured he was all set, and did not know that he had to go through this process.

Kenneth Lawrence said he went to his veterinarian to update his status. He was later told from an Animal Control Inspector, that he would be getting a visit later that week to inspect the kennel. He said Kelly Jarabek and an MSPCA Officer showed up. He did not have the kennel building set up. He has since set up the kennel building and has enough space for 18 dogs. There are six kennels in the cellar. Kenneth Lawrence reviewed the kennel set up for the board.

Chairman Darrin DeGrazia asked what the date was of the visit of the MSPCA Officer. It was stated that the date was May 18, 2022. Kenneth Lawrence said he is sorry if he went about this wrong, again he thought he was all set with the State and did not know he needed to get approval from the town.

Chairman Darrin DeGrazia asked if they are up to date with everything today, are all the dogs vaccinated. Kenneth Lawrence said all the dogs are vaccinated except four imports that he brought in the country last year. He has two with a litter on the ground now and two that are pregnant. Chairman Darrin DeGrazia asked if there is a period of time that they are not with puppies that they can be vaccinated. Kenneth Lawrence said yes.

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Liz Elgosin read into the record the following letters: letter dated July 6, 2022, from Kayla Smith, Health Officer; letters dated July 12, 2022, and July 11, 2022, from Kelly Jarabek, Animal Control Officer; letter dated July 11, 2022, from Chris Peck, Director of Public Works; letter dated July 5, 2022, from Leeann Bradley, Town Planner and a letter dated July 7, 2022, from Patricia Cassady, Conservation Agent.

Jack Healey said with respect to the letter they received from Patricia Cassady regarding the Zone II and the town well, he would respectfully suggest that prior to the action from this board that the applicant appear before the Board of Selectmen and secure a permit under the WRPD by-law. Discussion ensued regarding the WRPD.

Chairman Darrin DeGrazia asked Kenneth Lawrence if he cared to address the Animal Control Officers letter. Kenneth Lawrence informed the board that they have a history going back to when he was at Linda Shoemaker's house regarding a dangerous dog. Kenneth Lawrence reviewed, in detail, the history for the board. He said he did get upset and posted a video, but there was nothing threatening on that video.

Joseph Mandile said there were a lot of questions asked in the letters from the Department Heads. Kenneth Lawrence asked what he would like answered. Joseph Mandile said there are a lot of questions and it would be nice to have a written response from him.

Liz Elgosin discussed the amount of dogs and the issue with no kennels. The information that was submitted does not seem to be complete, and she also has a lot of questions.

Chairman Darrin DeGrazia asked if anyone would like to be heard on this matter. Kelly Jarabek, Animal Control Officer said there is no doubt that Mr. Lawrence cares about his dogs, they are all well fed, a healthy weight and all seem to get together well. She does feel there are discrepancies with the video and what Mr. Lawrence has indicated with the aggressive dog situation. Kelly Jarabek reviewed, in detail, her situation with the aggressive dog situation.

Kelly Jarabek said anytime the MSPCA gets a complaint, in our town, they contact her as a professional courtesy. Kelly Jarabek explained the inspection as well as the Junior Dog Officers responsibility. Kelly Jarabek said the safety issue with having 19 dogs in a household is very concerning to her. If something happens there they need to wait for all the dogs to be secure before entering.

Discussion ensued regarding the amount and size of kennels that should be there. Kenneth Lawrence said he has addressed the kennel issues. He has six (6) 8' x 5' kennels, which holds two dogs a piece, there are five (5) pens and four (4) kennels in the cellar. He has put dividers up for the puppy birthing rooms so when one side gets dirty he opens up the gates, moves them, and can clean without working around mom and dad. He is trying his hardest to make this work and anything he has to do, he will do.

Kayla Smith, Health Officer and Kelly Jarabek's Department Head would like to address her concern with sending her staff to this property. She does not feel comfortable sending her staff for inspections due to the video and would like the board to be aware of her concern.

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Kenneth Lawrence said if the board would like he has the video on his phone and he can play it for them.

Chairman Darrin DeGrazia said all of the board members have seen the video. Jack Healey said it is a little disingenuous for this gentleman, and he uses that word advisedly, to suggest that this was not address to our staff. He has listened to this unfortunate posting many times to make sure he understood exactly who he was referring to.

Dr. Edward Braun expressed his concern with this video and agreed that if he were a town official he would not want to go anywhere near your property. Lengthy discussion ensued regarding the video.

Judy Jennings, 92 Walnut Street said she has three dogs from Kenny. He doesn't have great social skills but he is a great breeder. She would highly recommend his kennels to anyone.

Jack Healey said they have to consider the wellbeing of their employees who are going out to homes, doing inspections, and he would not feel confident that they would be safe after this video. Linda Shoemaker said if they would feel safer she suggested that she and Kenny Lawrence's father could be there for the inspections.

Kenneth Lawrence Sr. expressed his concern with the board's feelings toward his son, and said everyone makes a mistake. Discussion ensued regarding the safety of the town employees, and the concern with the video posted.

Chairman Darrin DeGrazia said the only way this board can make a decision is by the information that has been provided to them. Chairman Darrin DeGrazia said he would like to continue this hearing and allow them an opportunity to respond in writing to the issued that have been brought up.

Denise Avalion, 98 Miller Street, said she has never heard excessive noise. She didn't think anyone would buy this property because of the construction noise in the back. She asked the board what the General Use District means. Chairman Darrin DeGrazia reviewed what you can do it the General Use. Jack Healey also pointed out that this is in the WRPD zone of a very important well. Discussion ensued regarding the WRPD District.

Chairman Darrin DeGrazia said he would like to continue this hearing and allow them an opportunity to respond, in writing, to the issued that have been brought up. Dr. Edward Braun said he is not opposed to a continuance, if the board so wishes, but he is definitely not in favor of approving this until the Animal Control Officer and Health Officer feel comfortable with inspecting the property. Hearing no further comments Chairman Darrin DeGrazia called for a motion.

Upon a motion made by Liz Elgosin and seconded by Joseph Mandile, the board

VOTED: *to continue the hearing until August 11, 2022.*

Chairman Darrin DeGrazia, Liz Elgosin, Jack Healey and Joseph Mandile were in favor, Dr. Edward Braun abstained. (4-1)

Upon a motion made by Liz Elgosin and seconded by Jack Healey, the board

VOTED: *to adjourn at 8:30 P.M.*

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(5-0)