

**TOWN OF NEW BOSTON  
NEW BOSTON ZONING BOARD OF ADJUSTMENT  
Minutes of January 17, 2017**

The meeting was called to order at 7:00 p.m. by Zoning Board of Adjustment Chairman David Craig. Present were regular members Ken Clinton and Doug Martin. Also present was Planning Coordinator Shannon Silver.

Present in the audience for all or part of the meeting were Michael DePetrillo, Kary Jencks, Noel Sagna, Peter Shea, Cynthia and James St. Jean, Rich Niles and Angela Fitzpatrick.

Approval of minutes was deferred to the next meeting.

**Application for a “VARIANCE”, to the terms of Article V, Section 503, of the New Boston Zoning Ordinance. The applicants are Angela & William Fitzpatrick & Michael DePetrillo & Kari Lewis, for Lilla Holdings, LLC, for the property located on High Street & Depot Road, Tax Map/Lot #'s 18/1 & 18/41, in the Commercial “COM” District, owned by Angela & William Fitzpatrick & Michael DePetrillo & Kari Lewis, for Lilla Holdings, LLC. The applicants are requesting permission to do a lot line adjustment between two non-conforming village lots in order to legitimize the use and enjoyment by lot 18/41 over 18/1 of a defined area.**

The Chairman noted all parties are here. He noted he had a potential conflict as he knows Mike and Kari personally and has done legal work with them. He believes he can be objective but if anyone has concerns, he can be excluded from sitting on this matter. There were no objections and the hearing proceeded.

Mike DePetrillo said the Planning Board requested a variance at a recent hearing because both lots involved are non-conforming. He noted there is an overlap of property that has been there for year. The last time the property was surveyed was 1949, the lines blurred and assumptions were made over the years. The Fitzpatrick property is at the top of the hill and the DePetrillo property is at the bottom of the hill, everyone assumed the top was the Fitzpatrick property and the bottom was the DePetrillo property. Buildings were built, there was a pool in the space at one time, there is a propane tank buried in the area. Mike surveyed the property four years ago to establish exact corners and there are buildings he plans to tear down and replace. The survey discovered the overlap that is significant enough Mike told the Fitzpatrick's about it and a plan was drawn to fix the section with the buildings on it so Mike can move forward with the teardown and replacement and have the property line defined. The Planning Department offered preliminary approval. The only issue that was raised is the two lots are non-conforming and nothing can be done with a non-conforming lot. The plan moves square footage around but doesn't make either lot more or less non-conforming. Mike gave the Board a copy of the plan and it was reviewed. He met with the Planning Board in December and they have stamped copies of the plan.

The ZBA noted section 503 doesn't apply but 204.2 is more appropriate for the area and use. The ZBA will accept an amended application under the proper section of the ordinance. Where the garage had straddled the property line, the proper setback will be established with the new plan but the Board does not require it. The variance on the Fitzpatrick lot is the main point of this application. No noticed abutters are present tonight. There were no public comments. A deed will need to be prepared to convey the land.

Ken Clinton MOVED to approve the application for Tax Map/Lot #'s 18/1 & 18/41, High Street & Depot Road, in the Commercial "COM" District as presented understanding that the proper section for the request is under 204.2 relative to the lot area of the Fitzpatrick lot. Doug Martin seconded the motion. The motion PASSED unanimously.

David Craig noted there is a formal process to request reconsideration with a thirty day deadline, not on new evidence but on evidence that should have been known. The Planning Coordinator noted this matter is on the January 24, 2017 Planning Board agenda.

**Application for a SPECIAL EXCEPTION to the terms of Article II, Section 204.4, of the New Boston Zoning Ordinance. The applicant is Kary Jencks, for the property located on Scobie Road, Tax Map/Lot #4/1, in the Residential-Agricultural "R-A" District, owned by Kary Jencks and F. Noël Sagna. The applicant is requesting permission to operate a kennel out of an existing barn on the property.**

The Chairman noted the applicant e-mailed pictures to him. The Chairman printed them for Board view and the record. He noted he had a potential conflict as Kary and Noel are clients of his and he has known them a long time. He believes he can be objective but if anyone has concerns, he can be excluded from sitting on this matter. There were no objections and the hearing proceeded.

Kary Jencks noted she and Noel have a barn on the property that was converted. She explained the history of the property saying it was established in 1771 with two mill sites and was handed over between a couple families, was a summer home, the longest serving congressman from NH, Wason, lived there. Approximately 1965 Father Paul, a monk from MA bought the property as an experiment in Christian living. He turned the dairy barn into dorms. Local divorcing dads and families going through transition used it. He held services on the sun porch. Kary and Noel purchased the property a couple years ago. The property has a lot of meaning to people who grew up in town and was a source of great spiritual strength. Father Paul passed away in 1992 and St. Anselm College bought the property and owned it for 20-25 years using it for their own retreats and purposes. Kary and Noel are fortunate enough to own it now. The property is named 100 Acres but contains 89.7 acres. Abutters are present and noted the 89 acre figure came from a survey. This property is meaningful to people around the state. The property is in good shape, it is large, and Kary noted she and Noel have been considering what the property needs and to keep it a local gem and upkeep it. A dog kennel idea began, Kary has been talking with Canine Commitment about a business plan. There are rooms and a kitchenette on the first floor of the barn, the business would only be on the first floor with 10-15 dogs at a time, even though the rooms could accommodate more, providing a kennel service to people who need to board their dog. The rooms are set up to have approximately three crates per room. Dog kennels

are not licensed. There is an area on the property to fence for dog playtime. Noise could be a concern.

Abutter Peter Shea was present and noted he does hear noise from the property occasionally.

Kary said the dogs would never be outside if no one was home. The dogs would have playtime outside and spend the majority of their time in the barn. There would be no breeding, grooming, training or sales as part of this business.

This application is for Special Exception 204.4 kennel. The Board reviewed the definition of kennel. Ken Clinton read the definition out loud. The applicant is not planning to do all that is included in the definition at this kennel. The Board was concerned about the impact of this business on future property owners who might expand the business. The Board reviewed the photos. They showed windows for separate rooms, the front of the barn, the first floor with six rooms and a walkout basement. The anticipated fenced area was reviewed. The Board reviewed the property with Google Earth. The Chairman noted the Board cannot rule on this tonight without a formal plan for the record that shows in a detailed way lot lines, the area outside, parking areas and plan requirements as listed under Section 206.1A on page 45 of the ordinance. This will have to go through site plan review with the Planning Board.

Kary noted not much traffic is expected for dog drop off and pick up. The hours of operation are expected to be 8:00 AM to 5:00 PM. There are external lights on the barn. There was a sign for the old monastery on a tree on the property and a sign on Route 136 that could be used for this business.

The ZBA noted the Planning Board will consider and approve the sign requirements. There are decibel meters to measure barking dogs. The ZBA is not sure if they will require that but it might be helpful.

Abutters Cynthia and James St. Jean of 487 Scobie Road, Francestown were present and noted concerns about customers traveling the road as it is a narrow, lightly maintained dirt road and it is already used as a shortcut for New Boston residents going to the Transfer Station. Otherwise they think the proposal sounds modest and reasonable but also concerned another buyer might expand the business. Noise is less of a concern for them as they live further away. They bike and run on the road and appreciate that the dogs will always be leashed or in the fenced area with supervision.

Rich Niles of 60 Scobie Road asked the Board to consider restricting the number of dogs allowed for this owner and future owners. His biggest concern is noise. The barn is between his property and the fenced dog area. He recommended a stockade fence on one side to eliminate noise.

Kary noted they are considering a fence that is a visual barricade so dogs can't see out. She and Noel want to make sure their family and neighbors are safe.

The abutters were also concerned the road might be degraded by traffic. The ZBA noted it is a town maintained road and if the road is degraded that is a town issue. The Planning Board might be able to address this concern if it comes up. The abutters noted the road was not constructed

properly, there are many concerns and they have discussed this with several Road Agents. They asked if the barn is considered an auxiliary dwelling as there is a kitchen and plumbing.

The Planning Coordinator suggested talking with the Code Enforcement Officer if it is an auxiliary dwelling as that may limit the business.

The Board continued this hearing to allow the applicant to get more information and prepare a proper plan. The ZBA will then rule on the proposal. The hearing was continued to the next ZBA meeting February 21, 2017. The abutters are already on notice.

David Craig MOVED to continue the application for Special Exception Tax Map/Lot #4/1, Scobie Road, Residential-Agricultural "R-A" District. Doug Martin seconded the motion and it PASSED unanimously.

David Craig MOVED to adjourn at 8:47 p.m. Ken Clinton seconded the motion and it PASSED unanimously.

Respectfully submitted,  
Maralyn Segien, Selectmen's Assistant/Recording Clerk

Minutes Approved:  
02/21/17