

**TOWN OF NEW BOSTON  
NEW BOSTON ZONING BOARD OF ADJUSTMENT  
Minutes of 2018**

**July 17, 2018**

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

The Chairman noted that the minutes of the June 20, 2017 and October 17, 2017, had been circulated awhile back and would need to be approved. He asked if the Board had reviewed the minutes and if there would be any changes. The Board did not have any changes to the minutes.

Doug Martin **MOVED** to approve the Zoning Board of Adjustment meeting minutes, of June 20, 2017 and October 17, 2017. Ken Clinton seconded the motion and it **PASSED** unanimously.

The Chairman noted that the Planning Coordinator, Shannon Silver, had explained that the all applications submitted from now on would need to be reviewed for potential for Regional Impacts.

**KRISTIN MORRISSEY & CAMERON JORDAN**

Application for Special Exception

Location: 449 Joe English Road

Tax/Map Lot #14/61

Residential-Agricultural "R-A" District

Present in the audience were Kristin Morrissey and Cameron Jordan; and abutter Lois Partington of 457 Joe English Road.

The Chairman read the public hearing notice. The Chairman noted that the Building and Code Enforcement Officer, Ed Hunter, had sent the applicants a letter to notify them that the operation of a kennel was not allowed in the Residential-Agricultural district and they would need to apply to the Zoning Board for a Special Exception for that use to be permitted.

The Chairman asked the applicants to explain the nature of the kennel business that they would be operating if the Board granted the Special Exception.

Kristin Morrissey said that they had purchased the property about 2 years ago. They have 10+ years of experience with volunteering at non-profit animal rescues. The granting of the Special Exception would allow them to complete the process of getting the approval to operate a non-profit 501c rescue out of their home. She explained that they would be a smaller sized operation with the maximum capacity of 4 rescue dogs at one time in the home, they have 3 personal dogs. They had helped a hand full of dogs and have had a 100% success rate. They are a different type of rescue as they work very closely with the dogs to really prepare them for a new home. They only work with dogs

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that have social challenges and are fostered within the home. They use their guest rooms to house the dogs. She also noted that they are converting the unfinished basement into a kennel space.

The Chairman asked the applicants to explain the property and the sketch that was submitted with the application; he asked where the sketch had come from. Cameron Jordan explained that he had access to programming and created a sketch using the tax maps. The Chairman asked how far down Joe English was their property. They replied that they are the 2<sup>nd</sup> to last house before the Mont Vernon line. Doug Martin pulled up Google Maps and asked the applicants to point out where their property was. The Chairman asked how many acres the property was and how close were the neighbors. Cameron Jordan said the property was a total of 10+ acres and they cannot see their neighbors houses to the left and right, if there is foliage on the trees.

The Chairman asked how long had the applicants started taking in rescue dogs and how many have gone through their process. Kristin Morrissey replied they had started about 10 months ago and 4 dogs had been through the process and adopted out. The Chairman asked the applicants how many dogs do they currently have in the program. Kristin Morrissey replied 2. The Chairman asked generally how long is each dog with them. Kristin Morrissey said that depended on the dog and is case-by-case, but on average the dogs spend around 2 months with them.

Doug Martin asked what would be the maximum dog capacity. Kristin Morrissey said that 4 (plus their 3 personal) dogs would be the maximum they could have within the home. Doug Martin noted that the application proposed the kennel would operate out of the barn on the property. Kristin Morrissey and Cameron Jordan said that they would like to expand into the barn in the future but at this time that was not possible, they are self-funded and the barn would need some improvements. Doug Martin asked how big the barn was. Cameron Jordan said the barn is 30 x 25 and could possibly house another 4-5 dogs.

The Chairman asked the applicants when they planned on expanding into the barn and what improvements would need to be completed before they could utilize that space for the use. Cameron Jordan noted that they were unsure when they could expand but the barn has existing water and electric but would need to be heated and insulated, along with dog runs and fencing. The Chairman asked if the applicants are requesting the approval for the barn at this time or should that be referenced as future plans. Kristin Morrissey noted that they had not indicated that the barn would be used on the application they submitted and they were only looking to operate the kennel out of their home. Doug Martin asked if they included the barn, the total maximum capacity would be 8-9 dogs (not including their personal pets) at one time. Kristin Morrissey said yes.

Ken Clinton asked about the structure labeled Robin's Kennel on the sketch of the property they had submitted. Cameron Jordan explained that was built for one of their personal dogs that has separation anxiety, he does better outside during the day while they are at work. Ken Clinton asked about the area labeled parking on the sketch and would that be used now or in the future when they expanded into the barn. Kristin Morrissey and Cameron Jordan said this area would be used for parking in the future but

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for now it was used as a meet and greet and walking area. Cameron Jordon explained that he had added the areas to the sketch for parking, lighting, etc., that are required for Site Plan approval from the Planning Board but the parking is not needed at this time with the operation out of the home. He noted that the traffic was minimal with only Kristin and him running the business. Doug Martin asked if the lights shown on the sketch existed. Cameron Jordon said yes.

Ken Clinton asked the applicants why they had continued to operate after receiving the letter that the Building and Code Enforcement Officer had sent them, dated April 3, 2018. He opined that he believed the letter read like a cease and desist, and had noted they would need prior approvals from the Town to operate the kennel. Kristin Morrissey and Cameron Jordon said they had scaled back pending the hearings but it would be difficult to just cease and desist this type of business. The Chairman noted that the application had been submitted immediately after Ed Hunter sent his letter. Kristin Morrissey and Cameron Jordon said this was the first time they have been through this process and they knew approvals would be required but they had been unsure where to go and what approvals would be needed. Kristin Morrissey continued that the letter they received gave them direction to contact the Planning Office and she was guided on what would be required to operate the kennel. The Planning Coordinator, Shannon Silver, noted that the applicants were extremely responsive during the process.

Doug Martin asked at what point does the Town consider you to have not 6 personal dogs but 3 personal and 3 rescues. The Planning Coordinator replied that residents are allowed to have as many personal pets as they want. He noted that he was trying to figure out the point the Town determined they had become a kennel, the applicants keep the dogs for a longer period of time and he thought it to be more like fostering. Kristin Morrissey noted they were only trying to follow rules to operate their rescue legally, there are 2 levels for operating a rescue at the State level and they would be considered small scale. Doug Martin noted that most of the time, there are triggers that a business is operating without approvals. He asked what triggered the Building and Code Enforcement Officer to send the applicants a letter. The Planning Coordinator noted it had been a complaint.

The Chairman noted that the applicants should check into any other State level requirements they would need to operate, the Town does not handle anything that would be handled on the State level. The applicants said they would check but were currently in process of getting approval for the non-profit 501c.

The Chairman asked for public comments.

Abutter, Lois Partington, 457 Joe English Road, asked if the applicants would be approved for a certain number of dogs and would they need to come back for approval if they expanded into the barn. The Chairman explained that the Board could limit what they approved and if they wanted to expand on those conditions, they would need to come back for another hearing. Lois Partington noted that her main concern would be the number of dogs on the property for the noise levels. She asked if they would be required to have all the dogs up to date on their vaccinations. The Planning Coordinator, Shannon Silver, noted that the Town could not regulate that your personal dogs are vaccinated and

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would not even know you have a dog until they get rabies vaccinations but the Town does require that all dogs be licensed by the Ordinance. Lois Partington asked if the applicants would be required to license the rescue dogs. The Planning Coordinator said the Town would not require them to register any rescue dogs but would be notified if they where to get a rabies vaccination, and it would be good to license the dog with the Town if the dog was with them longer than a year. Cameron Jordan noted that every dog they have taken in were up to date on vaccinations and had been adopted out with a valid health certificate. Kristin Morrissey noted that they had partnered up with a local animal hospital for the vet services. Lois Partington asked about waste management on the property. Cameron Jordan replied that they have a dumpster next to the barn that is picked up by Pinard Waste Systems. The Chairman asked what other waste is generated, i.e. padding, bedding, etc. Kristin Morrissey and Cameron Jordan replied that they wash and reuse blankets, there really is no additional waste produced by the dogs. The Chairman asked Lois Partington if all of her answered were answered. Lois Partington replied yes, but mentioned that she had concerns that the kennel operation could have an impact if they ever decided to sell their home. The Chairman asked Lois Partington if she had heard dogs barking from the property. She replied yes, but she believed they were barking more because her and her husband were working outside and making noise. The Chairman asked if the barking was constant or only on occasion. Lois Partington replied that it only seemed to be constant when they were outside working; she said it seemed like the noise they were making bothered the dogs. She continued that they do not hear the dogs barking at night or when they are inside their home. The Chairman asked the applicants to speak on how this could be controlled and mindful of their neighbors. Kristin Morrissey replied that 2 of their personal dogs tend to be the loudest barkers, but only when they are first let out and they would not let it continue for a long period of time. The Chairman asked what breed were the dogs. Kristin Morrissey replied that one was a bulldog mix and the other was a border collie shepherd mix. She continued that she was surprised that the neighbors could hear the dogs and encouraged anyone in the area to come discuss any issues with them if they are ever bothered. She said most of the neighbors have dogs and support their cause. The Chairman asked about the third personal dog that has the special kennel outback, does that dog bark. Kristin Morrissey replied that he was not a barker.

Lois Partington presented a letter for the record that a local realtor had wrote regarding the potential impacts the kennel may have if they were to ever sell their home. The Chairman asked Lois Partington to summarize the letter she presented and what would be its purpose. Lois Partington noted that the realtor had issues selling other homes where there were many barking dogs next door, she was unsure if kennels existed in these situations. She continued that the letter states that the kennel may impact how long it took to sell their home but did not state impacts on the value. The Chairman asked if the realtor had reviewed the application for the Special Exception. Lois Partington said no because the application did not state the number of dogs or size of the kennel. The Chairman clarified that the letter was a general opinion and would not be specific to an evaluation that he observed at the property. Lois Partington said that was

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correct. The Chairman noted that the letter would be accepted into the record and the record could be kept open if the applicants want to have a realtor respond with an opinion in their benefit. The Chairman asked Lois Partington if she would be opposed to the kennel because it could potentially impact their property. She replied that she was more concerned if it was more than 10 to 12 dogs but it does appear that they want to expand at this time and what they had been doing was not a problem.

The Chairman asked how many dogs would be their maximum capacity, including their 3 personal dogs. Kristin Morrissey noted that they would max out at 4 rescues at one time. Doug Martin thought the applicants had proposed 4 in the house and 4-5 in the barn. Cameron Jordan explained that they would not be utilizing the barn at this time, that would be used if they had to expand in the future. The Chairman noted that the Board could limit what is approved and the applicants had clearly stated the barn would not be part of the kennel at this time.

Anthony Olivier asked where the applicants were getting the rescue dogs. Kristin Morrissey said they mostly get dogs by word of mouth and local shelters. Anthony Olivier asked what would happen if they were at max capacity and they were given another rescue. Kristin Morrissey explained that they do have a waiting list and currently have a dog waiting, they did not want to take any more dogs in prior to meeting with the Board. The Chairman asked if they would try to find another rescue in the area if they were maxed out. Kristin Morrissey said yes.

Greg Mattison asked if the applicants had received any funding from the State. Kristin Morrissey noted they had not received any State funding, they currently accept donations and are self funded. They do have a wish list on Amazon for items they need and are waiting for approval from the State for the 501c before they do any fundraising.

Ken Clinton asked if the applicants were aware of the declaration of covenants and restrictions that existed for their property. He continued that he had found the deed and suggested the applicants look into that because it may restrict them from having a kennel operation on the property and become a legal issue. The Chairman said that would concern him if the Board approved something that was not permitted on the property in the first place. The Planning Coordinator, Shannon Silver, noted that she had raised the concern to Town Counsel and was told that the private covenants should not make a determination on the Board's decision. The Chairman believed that to be an opinion and he disagreed. Greg Mattison suggested the application be continued and the owners could look into their property having restrictions. Kristin Morrissey and Cameron Jordan noted that they would look into the matter but would not like to adjourn the hearing to do so. Doug Martin pulled up their deed and it noted a separate protective covenants that was recorded in 1974. The Chairman noted that the Board would not be able to enforce private covenants but their neighbors could bring the matter to a private court.

The Chairman said if the Board was satisfied and had no further questions, he would entertain a motion. Doug Martin asked if the Board should make stipulations as they had with other kennels they approved in the past. Ken Clinton believed that although it was a kennel operation the Board not need to put stipulations if they are only

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operating out of their home. If they decide to use the barn in the future, they would need the Board to approve that and then the Board can put conditions on that approval. Ken Clinton noted that he would like to restrict the amount of dogs allowed at 6 including their personal dogs. The Chairman noted that the applicants had proposed 7 dogs for the maximum. The Board discussed and decided that the approval would be restricted to 7 dogs maximum and the applicants would need to come back for a review hearing in one year. Cameron Jordan asked if they could come back before the review hearing to expand into the barn. The Board noted that a separate application would be required to expand the use into the barn but suggested waiting the one year before doing so.

Ken Clinton **MOVED** to grant the Special Exception on the conditions as follows:

- 1) the applicants will need to come back for a review hearing in one year
- 2) no more than 7 dogs maximum allowed at any given time, including the personal dogs.
- 3) the kennel will only operate out of the home and no use of the barn is allowed without approval by the Board.

Doug Martin seconded the motion and it **PASSED** unanimously.

The Chairman noted that the Board granted the Special Exception with conditions noted and a review hearing will be scheduled in one year.

**GERALD AND SARA LATOUR**

Application for Variance

Location: 195 Mont Vernon Road

Tax/Map Lot #11/27

Residential-Agricultural "R-A" District

Present in the audience were Gerald and Sara Latour, and her parents.

The Chairman read the public hearing notice. He noted that the Board had less power over granting Variances and a hardship would need to be proved for the Board to grant approval.

Gerald Latour explained that they were looking to build a detached 2 stall garage with an apartment on the second story for his in-laws. His father-in-law has some health issues and the apartment would be wheelchair accessible with a chair lift to the apartment upstairs. He noted that they were found to be over the side setback when they applied for the building permit and were told they would need to apply for a Variance in order to build within the setbacks. He explained that there is also a seasonal stream on that side of the house, with an existing driveway. Sara Latour continued that there is no other

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possible location for construction on their property because of the slopes in the back, with the existing septic and the leach field in the front of the house. Doug Martin pulled up Google Maps and explained that the seasonal stream Gerald had mentioned comes from a field outback and runs all the way through to RT 13. Greg Mattison asked if the applicants had considered an attached garage as an option verses a detached. Sara Latour noted that they would lose the windows on that side of the house, including the only 2 windows they had in the basement and they would like to give her parents some feeling of privacy. The Chairman said that there is a separation of 10 feet between the structures and if it were attached that could prevent them being over the setback. Sara Latour said that she was unsure if they would still be within the setback if they attached the garage to the main house. She showed the Board photos of the side of the house and where they planned on building the ADU. The Chairman asked if the Board should know anything else about the physical layout of the property. Sara Latour noted that Fieldstone Engineering was currently working on a new septic plan because the existing septic had failed.

Doug Martin asked how many acres the lot was. Sara Latour replied that it was 1.25 acres total.

The Chairman explained that there is strict criteria for the Board to grant Variances, the applicants would need to prove a hardship and prove that the structure could only be constructed in the area proposed.

Sara Latour said that the Building Office had the old septic plan and thought this was a surveyed plot plan for their lot. The Planning Assistant, Nadine Scholes went to pull the plan from the Building Office. The Chairman asked the applicants in the meantime if the size of the structure could be reduced. Sara Latour said the size was determined to fit 2 cars in the garage and the living space was only 720 sq. ft., with a living room, kitchen, one bathroom and bedroom. Ken Clinton asked when the plan for the new septic design would be available to review. Sara Latour said the engineer was working on the septic design now but unsure when it would be complete. The Chairman clarified that the property does not have an existing garage. Sara Latour said that was correct.

The Planning Assistant, Nadine Scholes presented the plan that she found in the Building Office. Ken Clinton noted that the dimensional layout on the plan would not be accurate figures because the property lines and house locations were approximate figures and not certified. He believed the relief requested for the side setbacks was determined off an unreliable plan. He knew of the property and understood it was confined to only have the one location to construct the structure but did question if it would be within the setbacks if it were attached. Ken Clinton also noted that he would be concerned with the stream on the property, the Town does have a 50 foot wetland setback that the structure may encumber. He explained that Fieldstone Engineering could survey the property lines and the wetland setbacks for the applicants. The Board decided that it would be best to have the applicants have the property properly surveyed to be sure the distance is legit for the structure from the property lines and wetland setbacks before they discuss granting a Variance. Ken Clinton noted that Fieldstone Engineering should be able to survey the lot

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**GERALD AND SARA LATOUR, cont.**

and provide them with a certified plot plan. He noted that if the structure were found to encumber the wetlands setback, they would need to submit another application for the Board to review that as a separate Variance.

The Chairman told the applicants that they could either withdraw the application and resubmit when they had the surveyed plot plan or they can chose to continue the hearing if they would be ready before the next hearing in 30 days. Gerald and Sara Latour believed that they could have the plan to the Board and would like to continue the hearing. The Planning Coordinator, Shannon Silver, noted that if the applicants did not get the surveyed plan by the hearing in August, the Board could open and adjourn to the meeting in September.

The Chairman suggested that the applicants contact the owner of the abutting property to see if they would support the granting of the Variance, this could help the Board with granting an approval.

Ken Clinton **MOVED** to adjourn and continue at the August 21, 2018 hearing. Doug Martin seconded the motion and it **PASSED** unanimously.

**THOMAS AND KIMBERLY L'HEUREUX (APPLICANT)**

**TIMOTHY AND KEITH BEAUREGARD (OWNER)**

Application for Variance

Location: River Road

Tax/Map Lot #3/127

Residential-Agricultural "R-A" District

Present in the audience was Don Grosso.

The Chairman asked the Planning Coordinator if she knew that the applicants could not attend the hearing. She replied that she had not received any notice that they would not be attending.

The Chairman noted that without the applicants or owners of the property, he believed the Board would have to administratively dismiss the application. The applicants could resubmit a new application if they wish.

Ken Clinton **MOVED** to deny the application without prejudice. Greg Mattison seconded the motion and it **PASSED** unanimously.

The Planning Coordinator, Shannon Silver, noted that the Board had the elections of officers. She also noted that she would recommend Nadine Scholes for the Clerk position.



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Doug Martin nominated David Craig as Chairman.

Ken Clinton nominated Greg Mattison as Vice Chairman.

Greg Mattison nominated Nadine Scholes as Clerk.

Doug Martin **MOVED** to approve the officers as nominated. Greg Mattison seconded the motion and it **PASSED** unanimously.

Meeting was adjourned at 8:32 p.m.

Respectfully submitted,  
Nadine Scholes, Planning Board Assistant

Minutes Approved: 09/18/18