

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
APRIL 27, 2016**

Members Present: Christopher Graham, Chairman
Gary Simmons
Larry Kidney
Roger Menard
Heather Salva, Clerk
Donna Lambert

Members Absent: Gerald Coutinho, Vice Chairman

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, section 20(e) – Meeting being recorded.

Christopher J. Desrosiers – RE: An application request for a Special Permit under Westport Zoning Bylaw 2.4.2.1 due to violation of Bylaw 4.0.1D-7 for the keeping of more than three (3) dogs but less than seven (7) dogs. The parcel is shown on Assessor's Map 25, Lot 112. The subject property is located at 7 Third Avenue, Westport, MA.

Voting on Petition: Christopher Graham, Gary Simmons, Heather Salva, Roger Menard and Larry Kidney

Also Present: Ralph Souza (Zoning Enforcement Officer/Building Commissioner)
Christopher J. Desrosiers (petitioner)
Kyle Desrosiers (petitioner's son)
Darlene Desrosiers (petitioner's mother)

Abutters Present: John & Doris Mello, 44 Osborn Street

Chairman Graham called the meeting to order at 7:00 PM with the Pledge of Allegiance and announced the meeting was being recorded under MGL Ch. 30A, section 20(f). Mr. Graham then read the Public Hearing Notice and asked if anyone wished to speak on this petition, to give their name and address for the record.

Mr. Desrosiers stated he does not do any breeding, they use the dogs for hunting, which is a hobby of theirs. Presently, we have seven (7) beagles for hunting and two (2) other dogs (a German Shepard and a Mix breed) as family pets. Mr. Desrosiers stated he would like to apply for a kennel license in order to keep the dogs. Mr. Desrosiers stated the dogs have adequate shelter; the MSPCA has been to his home to inspect after receiving a complaint and they did not even write a report because they found nothing; the MSPCA was going to contact Police Lt. Holden to tell him that they found nothing wrong. Mr. Desrosiers presented a petition signed by abutters who agree that the dogs are not an inconvenience, that they are well taken care of and maintained and that there is no noise disturbances from the dogs.

Mr. Desrosiers stated that some of the dogs were given to him by his great uncle, who has passed away. Mr. Desrosiers stated the German Shepard is 10 years old and two of the beagles are 13 years old; as the dogs die, he has no intention of replacing them. Mr. Desrosiers stated he is looking for permission to keep just the dogs he has now; all the dogs are licensed through the Town and all are up-to-date with their shots and vet records. Mr. Desrosiers stated these dogs are very important to him.

Mr. Souza stated that all this came to a head with the neighbor, who is not present tonight. Mr. Souza stated he found the dogs being well kept but he did find ten dogs on the property at the time and that is why he sent a letter to Mr. Desrosiers due to a violation of the bylaw; he stated in the letter to bring the number of dogs down or to apply to the ZBA for relief. Mr. Souza stated he found the area to be fenced in, with small dog coops for each dog. Mr. Graham asked about setbacks. Mr. Souza stated it is a kennel, not a building so you don't need setbacks; the dogs are located at the back property line, the area is screened from the neighbors and there is a fence that runs on the side property line. Mr. Desrosiers stated he has a neighbor on one side of him, who rents and does not want the dogs so she made a complaint to Mr. Souza and the Police Dept. Mr. Desrosiers stated he had one litter, with most of the pups going to family; it was not done as a business.

Mr. Menard stated according to the Westport Police Department, there have been several complaints of dogs barking and crying. Mr. Desrosiers stated all complaints were by the same neighbor who has a personal vendetta against us. Mr. Desrosiers referred to the petition that was signed by his neighbors, who state they don't have a problem with his dogs and they do not even hear them. Mr. Desrosiers stated the same neighbor provokes the dogs into barking; she has complained that the dogs are vicious, etc.; this is an ongoing thing for over a year and a half. Mr. Graham stated he did a drive-by of the property and while there, he did not hear any dogs barking. Mr. Desrosiers stated that when the Police arrived at his home, and in speaking with the Police Officer, it was noted that no dogs were barking. Ms. Salva stated the Police report states 11 dogs; Mr. Desrosiers stated that when his girlfriend visits, she bring her dog (which is about 4 lbs.) and also, one dog has since died. Mr. Desrosiers stated he presently has nine dogs.

Ms. Salva asked if Mr. Desrosiers has ever tried to communicate with his neighbor. Mr. Desrosiers stated yes, he has tried to speak with his neighbor but she insists only on calling the Police. Mr. Souza stated the complainant would never speak with him directly; how he met the complainant was at the Police Station when she went in to meet with Lt. Holden and that is when Lt. Holden contacted him to be present. Mr. Souza stated the complainant filled out paperwork at the Police Station and gave permission to himself and Lt. Holden to enter the property where she rents to view the dogs. Ms. Salva stated she heard that access was denied to the property. Mr. Souza stated he was denied access to the property by Mrs. Desrosiers. Mr. Desrosiers stated he is the only person who goes into the backyard to handle the dogs, that is why his mother would not let them enter the property. Mr. Desrosiers stated he told his mother to call him anytime someone wanted entrance to the backyard and he would handle it. Mr. Desrosiers stated he is the sole caregiver of the dogs and his father works long hours so his father is not at home, only his mother.

Mr. Graham asked how the dog's waste was disposed of. Mr. Desrosiers stated he has a special hole in the ground in the backyard. Mr. Desrosiers stated he cleans every day and once a week, the kennels get a power-washing with bleach. Mr. Desrosiers stated that during the winter, there is hay and every coop is insulated; there are sliders on each one (a lock-in/lock-out device). Mr. Souza stated it was well maintained when he visited and the dogs were well taken care of. Ms. Salva stated the Animal Control Officer and the MSPCA also noted that the dogs were well cared for and in good condition.

Discussion ensued regarding who licensed the dogs; it was established that the dogs were licensed through the Town Clerk because no one knew where to send Mr. Desrosiers. Mr. Souza told Mr. Desrosiers to get the dogs at least licensed and then he could proceed from there with the ZBA.

Mr. Menard stated there are two issues; the original complaint of more dogs than allowed and whether or not he gets a kennel permit is beyond the approval of this Board because we don't issue kennel permits. Mr. Menard stated that six dogs is the most the Zoning Board can do. Mr. Desrosiers stated he was looking for a hobby license; there was a big discussion about a kennel license with the Town Clerk because they were thinking kennel as a business; this is not a business, it for personal use. Mr. Graham stated the one thing this Board can do, is to issue a special permit with restrictions that as the dogs die off, they are not replaced until he gets down to the six. Mr. Desrosiers stated that is all he is looking for. Mr. Menard stated he still did not understand because the bylaw says six. Ms. Salva stated that is why it is a special permit. Mr. Souza

stated this is a special permit with restrictions as the Chairman has stated. The way it will be tracked is through the licensing at the Clerk's Office; once he is at six, he will stay at six.

Darlene Desrosiers stated her dog, Bear (German Shepard) is going back to the veterinarian in two weeks; if he tests for cancer, which they believe he may have, she will have to be putting him down. Mrs. Desrosiers stated she is too old to get another dog and will not be replacing him. Ms. Salva stated the Board was not looking for dogs to die. Mrs. Desrosiers stated she understood, but when she puts her dog down, they will be down one dog and her son will more than likely be putting down his two 13 year olds this summer; these are dogs that her son has had since he was 17 years old, they were his first two dogs. Mrs. Desrosiers explained how these dogs have always been part of her family, from breeding to showing and hunting. This has been an ongoing hobby.

At this time, Mr. Graham read aloud a letter received via email from Miranda Browning, the complainant. Mr. Desrosiers stated the Animal Control Officer said to license each dog while waiting to hear on a kennel license. Mr. Desrosiers stated this is a personal vendetta; the neighbor puts cat food out for the feral cats and naturally, the dogs bark when the cats come. Mr. Desrosiers stated the ACO also spoke with her about leaving food out because of what shows up at night to eat the food.

Mr. & Mrs. Mello, 44 Osborn Street, abutters, stated they have no problem with the dogs. Mr. Mello stated he has gone over near the fence and the dog comes over to be petted. Mrs. Mello stated you would not even know there are dogs there because we never hear them.

Mr. Desrosiers stated he takes his dogs elsewhere to get their exercise; they do not run in the yard since the neighbor moved in. Mr. Desrosiers stated he takes them to the Freetown Forest. Mr. Desrosiers stated he has always taken care of his dogs and they are properly feed; you can't make a dog look healthy in a few days because someone is coming to inspect. Mr. Desrosiers stated all his dogs listen well; and he was told by the neighbor that she would not stop until all the dogs are moved off the property.

7:35 PM

Motion made by Ms. Salva to close the hearing if there is no more input. Second by Mr. Simmons. The Board voted unanimously in favor.

Discussion

Mr. Simmons stated he was in favor of a special permit with the condition that as the dogs pass-on, they will not be replaced until he gets down to the six. Mr. Menard stated he still did not understand how this would be done. Mr. Graham stated by issuing a special permit. Mr. Menard asked how this would be managed; what would stop him when one dies from getting another one. Mr. Graham stated that on the census, he has to claim all his dogs and he has to register all his dogs with the Town Clerk, who tracks the number of dogs. Mr. Kidney stated the special permit will be for six dogs. Mr. Graham stated no, it will be for the nine dogs that he currently has. Mr. Graham stated his only other concern was the waste disposal, which is probably a Board of Health issue. Mr. Graham stated Mr. Desrosiers would have to comply with BOH rules on dog waste. Mr. Desrosiers stated he was willing to comply with whatever it takes. Ms. Salva also suggested a local agency for mediation with the neighbor.

Vote taken:

Motion made by Mr. Simmons to grant a Special Permit with conditions:

- #1 – the dogs will not be replaced as they pass away; until the number of dogs is down to six;
 - #2 – the special permit will be for the nine dogs presently on the premises as currently licensed with the Town Clerk;
 - #3 – the applicant will comply with all Board of Health regulations for the disposal of dog waste.
- Second by Ms. Salva. The Board voted 4 in favor, 1-opposed (Menard).
The hearing is concluded at 7:45 PM.

Approval of Minutes – None.

Action Items – None.

Correspondence – None.

Other business – None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting – None.

8:00 PM

Motion made by Ms. Salva to adjourn the Zoning Board of Appeals Meeting. Second by Mr. Simmons.
The Board voted 6 in favor, 1-absent (Coutinho).

Adjournment.

Respectfully submitted,
Diane Pelland
Principal Clerk to the Zoning Board of Appeals

APPROVED: Heather L. Salva, Clerk