

**TOWN OF GREENFIELD**  
**ZONING BOARD OF APPEALS**

**June 4, 2013**

**REGULAR MEETING**

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Kevin Veitch at 7:30 p.m. On roll call the following members are present: Kevin Veitch, Joseph Szpak and Denise Eskoff, Alternate. Taylor Conard, Paul Lunde, and Michelle Granger are absent.

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**May 7, 2013 MINUTES**

MOTION: D. Eskoff

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of May 7, 2013, as submitted

VOTE: Ayes: Eskoff, Szpak, Veitch

Noes: None

Absent: Conard, Granger, Lunde

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**OLD BUSINESS**

**COREY & ADRIENNE FREEMAN-GALLANT – Case#913, Area Variance**

Allen Road

Corey and Adrienne Freeman-Gallant are present. K. Veitch reviews and reads from G. McKenna's notes that the applicants are seeking a variance to build a garage and mud room, and require a 27' variance. A public hearing is opened at 7:33 p.m. There being no public comments, this public hearing is closed at 7:34 p.m.

J. Szpak states that this would be a pre-existing condition, the house was built closer to the road, however it is a buffered, treed area from the road. D. Eskoff states that it is a large lot, it is just because of where the house is situated. J. Szpak questions if the house was built that close to the road. A. Freeman-Gallant states that they built it this way because they did not think that they would ever be able to afford a garage. She states that they had not planned ahead for a garage; they were new homeowners with two small children. When they built they tried to cut as few trees as necessary and wanted to keep the house less exposed to the neighbors. D. Eskoff asks why they can't put it on the other side of the house. A. Freeman-Gallant states that at the back of the house they have the septic, leach field and an in-ground propane tank. R. Rowland states that this was also built under the previous zoning. J. Szpak states that that is kind of what he was getting at and there are some feasibility issues there. J. Szpak states that he does not feel that there will be any impact to the neighborhood and it is buffered. K. Veitch does not feel that this is substantial; that there will not be any adverse impact to the environment and that it is not self-created. J. Szpak states that it was reasonable at the time with the zoning that was in place.

**RESOLUTION – C. & A. Freeman-Gallant**

MOTION: J. Szpak

SECOND: D. Eskoff

RESOLVED, that the Zoning Board of Appeals grants the request of Corey and Adrienne Freeman-Gallant for an area variance for property located at 460 Allen Road, TM#124.-2-40.3, as follows:

June 4, 2013

- **Front yard setback variance of 27-feet**

This approval is based on the following:

- **There is not another feasible method to achieve this upgrade**
- **It does not have any adverse impact to the neighborhood**
- **It is already a buffered area**
- **It is not a substantial request**
- **No adverse impact to the environment**

VOTE: Ayes: Eskoff, Szpak, Veitch  
 Noes: None  
 Absent: Conard, Granger, Lunde

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**WILLIAM A. DENNISON – Case#914, Area Variance**  
 Brigham Road

William Dennison is present. K. Veitch reads from G. McKenna's notes that the applicant would like to start a doggie day care, a home occupation type 2, at his home. This requires 8 acres plus 250' of road frontage. The existing lot is 5.3 acres and has no frontage. A public hearing is opened at 7:39 p.m. One letter is read into the record from William J. Dennison, in favor of the request. There being no further public comments, this public hearing is closed at 7:40 p.m.

D. Eskoff asks the applicant to explain a little more what type of doggie day care he is looking to run – an estimated number of animals, if there will be a sign, hours of operation, etc. W. Dennison states that there will be no sign; it would just be a small business with his son; he would have no more than 10 dogs; the housing areas are 6' x 12'; the fenced area would be 150' x 200'. D. Eskoff states that the applicant was looking to do the housing area for inclement weather, keeping them in the barn. W. Dennison states that is correct. There are 6' x 12' stalls and each has a ceiling fan. D. Eskoff states that it sounds very nice. The reason she is bringing this up is that New York is kind of wobbly on the commercial kennel aspect of this. Commercial just simply means for pay. If you have one dog, you are a commercial businessperson. NYS Ag and Markets' law defines a commercial kennel as 9 or more dogs and that could be for the purpose of breeding, for the purpose of boarding, for many different purposes. Many of the towns in NY have gone to 5 dogs. The reason is for the applicant's protection as well as the animal's and the people around it for health, welfare and safety. To make sure that they are not rabid, to make sure that they are not loose, that they are not going to bite anybody, they are not loud, etc. In Greenfield, we basically fall under the State's definition of a kennel, except there is no number defined within our definition. D. Eskoff reads from the kennel definition. She states that is basically what the applicant is except for the fact that he is not licensed in the State of NY unless he applies to Ag and Markets because he needs a license for 9 or more animals. It also gets more complicated by the fact that right now all those laws are being looked at again by the State Attorney General because there are problems with puppy mills and things that are secondary to what the applicant is trying to do, but they all tie in. The number of animals may come into play, if not now, when the applicant goes to get a permit for this business so it is important to us to know because a variance runs with the land and even though in the foreseeable future the applicant plans to continue owning this land, or the family does, anything can happen in the future. So the Board has to look at just the land and what is going to be on the land and what we are giving a variance to. If the applicant falls into that commercial category, then he would need to have parking, etc. W. Dennison asks if 8 would be his limit. D. Eskoff states that she cannot say that. Our Town doesn't really have a distinction on that. Ag and Markets may tell him that and that may come into play when he goes before the Planning Board. That is something that the applicant needs to look into or consult with an attorney on and make sure that he knows what ramifications he is under depending on whether or not the ZBA grants this variance and whether he gets some type of permit. K.  
 June 4, 2013

Veitch states that he was thinking about the Ag and Markets' regulations and he is almost at the point that he would feel better if we had documentation from Ag and Markets before we consider this variance. He does not want to give a variance and then have an illegal operation going on. D. Eskoff states that the problem is they have used the term 'pet dealer' and that is not a doggie day care operator, in the State of New York. W. Dennison states that he has a copy of the laws. K. Veitch states that he thinks that we need an interpretation from Ag and Markets or something telling the ZBA that what the applicant is doing either needs a permit or doesn't require a permit, etc. D. Eskoff states that it really depends on the number the applicant chooses and where this will fall with where these laws are. K. Veitch states that Ag and Markets may give the applicant a determination that as long as he stays under a certain amount, he would be below the radar as far as they are concerned on any regs. If that number comes from them, then that would be the number the Town would have to put under conditions on this variance. D. Eskoff states that it is concerning because we don't have anything from our Town. There are other towns who have clearly said that 5 or more dogs for any of these purposes, but they are permitted locally. R. Rowland states that she had offered to look through the Ag and Markets information and was told that there would be nothing and that is why towns have gone to their own licensing. K. Veitch states that he could see a situation, not in this case, where the town could put a condition on a variance of a total number of dogs but then has no mechanics in place to actually follow up and inspect. Although, he states that we have done it with automobile dealerships where we have the right to go and count vehicles. That would give the town the right to inspect and do head counts. R. Rowland states that limits are put on other variances for the numbers of animals. D. Eskoff states that it would be wonderful for the Town to visit this law and to define it. J. Szpak questions that the applicant is getting a variance towards what? This home occupation type 2, where does he find the actual requirements. R. Rowland asks W. Dennison if G. McKenna explained why this would fall under a Home Occupation type 2. The applicant has stated that he is not going to have a sign; he is going to pick up the dogs and not have the customers drop them off. K. Veitch states that the Board should look at some of the balancing tests – the applicant has 5.3 acres and not 8; the applicant has no road frontage and 250' is required – which is substantial. J. Szpak states that his common sense says, he doesn't have any road frontage, so what do you really need the road frontage for in this scenario? K. Veitch states that there must be some good reason or they wouldn't have it in the law. J. Szpak states that laws are written in general for generic, general situations. This is a unique situation where it is a land locked piece of property in the middle of nowhere. He states that he is just trying to understand better. What is the applicant trying to accomplish, what is the real variance the applicant is looking for, what is the intent of the home occupation type 2, etc? D. Eskoff reads from the home occupation type 2 definition. A special use permit is also required. R. Rowland states that without the variance, the applicant cannot get the special use permit. J. Szpak states that since the applicant cannot do a legal business without the special use permit, the ZBA is not trying to govern that. The ZBA is just trying to make a judgment as to whether this is a reasonable variance. D. Eskoff states that she does feel that a 250' frontage variance is substantial. W. Dennison states that this property has always been this way. K. Veitch states that it has only been a residential property and now he is looking to have a business here. He states that the road frontage was obviously not an issue when he built his home. K. Veitch states that he feels that it would be in the applicant's best interest to table this application and to have all the ZBA members present. Distance to neighbors is discussed due to the noise that may come from the dogs. D. Eskoff states that the Board is giving a variance for a home occupation type 2 and she wonders in the future if that could change to another home occupation type 2. R. Rowland states that would depend on the wording of the motion and the conditions placed on it. D. Eskoff states that this is a difficult decision, not that the Board does not want the applicant to have a business. K. Veitch states that some things that the applicant should think about would be – what is the least amount of dogs that the applicant could have that would make this work; hours of operation; be more specific with what he is going to be doing. D. Eskoff asks to see the paper work that the applicant has with him. W. Dennison states that he does not want a lot of dogs. He has been doing construction all his life and wants to do something that is a little easier on him, and that he knows that he will be ok and his kids don't have to take care of him. K. Veitch asks if the applicant has looked into what kind of money this could make for him, how much it will cost him per animal, how much he can charge per animal. W. Dennison states that he has been checking things out. He does not want a huge operation; he wants it to be a nice place and will have an application to even get in. He reiterates that his grandson is the sixth generation growing up on this land, it was his grandmother's farm and there have always been farm

June 4, 2013

animals there. He states that he is not happy that he has to come here and ask to do this. D. Eskoff states that obviously no one is opposed to the business, but the applicant has to understand that this case is precedent for any other case that comes forward and the next person may not be on their grandmother's land, they might be right next to a development and might not have the same good intentions that this applicant is putting forth. She states that the ZBA can only deal with the land and the future of the land. W. Dennison states that he has no plans to sell this land, nor does his son. He states that he also does not want to listen to dogs barking loudly. K. Veitch states that this would be operated as a kennel. D. Eskoff states that it is a kennel, but it does not specifically meet our definition of kennel because the word license infers that Ag and Markets is going to license them because the Town of Greenfield does not license. In a lot of towns it would be a "kennel" and we would send him off to the next office to get his license. We don't have that definition to fall under. She believes that the applicant will have to go up a level to even qualify. W. Dennison states that he wants to get just a few good owners who really care about their dogs. D. Eskoff states that the onus is on the applicant to check with Ag and Markets to see if he is going to qualify or not. K. Veitch states that the applicant should use the next 30 days to get the information, get something in writing if possible and then he can come back and explain to the Board. He should get whatever documentation he can from Ag and Markets. K. Veitch states that if the applicant is going to do a day care, there may be days when he will have the maximum number and days where there may only be 2 dogs. That is the kind of information that would be helpful. D. Eskoff states that this is day care, he is not breeding, not doing any of those things, and that's what we need to find out from Ag and Markets, distinguish himself, find that magic number, if there is a magic number. That would help the ZBA immensely and also the Planning Board. W. Dennison asks about going to the Planning Board. R. Rowland explains that the Planning Board cannot act until the ZBA acts so we might as well wait on that. Public hearing is discussed and W. Dennison states that what helps is that his neighbors know him. J. Szpak asks for clarification as to why the applicant needs to do all this. K. Veitch states that he does not want to see us give a variance for what could be an illegal business. D. Eskoff states that if this is considered a commercial kennel, the applicant will need a variance from 10 acres. K. Veitch states that maybe we are getting into things that are Planning Board concerns. He states that if we were to take doggie day care out of the picture and say that the applicant is just looking for a home occupation type 2 at his home that requires these things, and although the frontage is substantial the acreage isn't. D. Eskoff states that she is concerned because there are health and safety issues. Dogs get licensed and have rabies shots for a reason. She reiterates that if this becomes defined as a kennel, the minimum lot size is 10 acres. If it is a kennel, it is not a home business and that is a whole other situation, and our town does not define it. Legally that is enough to put questions on this. The onus is on the applicant to contact Ag and Markets, have them make a determination as to whether or not this is a kennel, and then for the applicant to decide that a kennel is actually what he wants or not.

**RESOLUTION – W. A. Dennison, Area Variance**

MOTION: J. Szpak

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals tables the application of William A. Dennison for area variances for property located at 364 Brigham Road, TM#126.-1-47.21 to the July 2, 2013

VOTE: Ayes: Eskoff, Szpak, Veitch

Noes: None

Absent: Conard, Granger, Lunde

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Meeting adjourned 8:18 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary