

Town of Waitsfield
DEVELOPMENT REVIEW BOARD
Meeting Minutes
Tuesday, April 14, 2009

1. **CALL TO ORDER:** Brian Shupe, Chair, called the meeting to order at 7:00pm at the Waitsfield Town Office.
MEMBERS PRESENT: Brian Shupe (Chair), Mike Kingsbury, Eleanor D'Aponte, and Chris Cook.
MEMBERS ABSENT: Gib Geiger and John Donaldson.
STAFF PRESENT: Vickie Trihy, Planning and Zoning Administrator
APPLICANTS AND THEIR REPRESENTATIVES: Fred Messer, Carla Straight, and Steve Zonies.
INTERESTED PARTIES: Lois DeHeer.
OTHERS PRESENT: None.

2. **#3225-CU, application for home business at 317 Meadow Road (Messer residence) by Carla Straight.** Applicant proposes to operate a dog boarding kennel in an existing barn. Parcel is identified as #03022.000 in the Agricultural-Residential District (§2.07).

Mr. Shupe noted this is a conditional use application to conduct a business at 317 Meadow Road, Messer residence, by applicant Carla Straight, to operate a dog boarding kennel in an existing barn. Ms. Trihy explained that not all abutting land owners were notified of tonight's hearing. Mr. Messer asked if changing the application to include one, but not both, parcels would eliminate the need to contact other adjoining property owners. Ms. Trihy informed Mr. Messer that even if he did eliminate lot one, the additional adjoiners would need to be rewarned. Mr. Shupe noted that the application is not usually heard until all abutting land owners have been notified, but will give the applicants the opportunity to explain their proposal and hear concerns at this time.

Ms. Straight explained the application is for a home business, a dog kennel outside of the dwelling in an accessory building, with some incidental retail sales. She anticipates a maximum of 14 dogs at overflow times when people are picking up and dropping off dogs, with an average of between 4 and 8 dogs present during most business hours. Ms. Straight explained she has been doing this type of business for approximately 5 years in Calais Village, close to neighbors, without complaints. She explained that rather than leaving the dogs in an open pen to sit and bark, dogs in this facility are exercised frequently and allowed to interact with the other dogs which minimizes stress. She further noted that the dogs will be grouped together in two separate pens outside and she can redirect their attention if it is drawn to an outside presence such as a pedestrian. Mr. Shupe confirmed that the application proposes to put in an outside fenced area

between the house and barn at the rear of the house facing Route 100. Ms. Straight explained the old milk house would be renovated for interior space and would provide some sound proofing through the insulation. Mr. Shupe confirmed with Ms. Straight that this would be overnight as well as day use.

Mr. Shupe noted that a home business is defined as an accessory use to a single-family dwelling, and currently there are two apartments in addition to the main residence. Mr. Messer and Ms. Straight confirmed the information and Ms. Straight stated that she would be living in the main residence. Mr. Shupe noted this would need discussion as home business is intended as an accessory to a single-family dwelling and if this is a multi-family dwelling with three units, we need to decide if that creates a problem. Ms. D'Aponte noted that section 4, exterior storage area, may be open for interpretation as in this case you would be storing dogs. Mr. Kingsbury noted that the home business regulations contain more stringent standards with regard to noise than the Conditional Use standard of noise not going beyond the property line. Mr. Shupe said it is not a matter of going beyond the property line, but not exceeding a certain decibel level. Ms. Straight said that if a particular animal is boarded and barking becomes a problem she can speak with the owner to help alleviate the problem either with a prescription from the veterinarian to calm the dog's anxiety, or perhaps by using a bark collar. She added that if the owner was not willing to work with her, she would ask them to find another kennel.

Ms. DeHeer stated that she recently bought a home two doors down from the subject property and knows some amount of noise will reach her residence. She said she would not have bought the home if she knew there was going to be a dog kennel located two doors down and wonders what this will do for the resale of her residence. Ms. DeHeer noted that she does like dogs, but not ever having lived near a kennel before she is uncertain what types of issues may arise in the form of noise, smell, or other unknown elements. Mr. Kingsbury replied that Ms. Straight addressed in the application her process for cleaning the kennel and dealing with odors. He further does not believe that many odors would be created with this daily clean up, and Ms. Straight indicated that she would be using green cleaners. Ms. DeHeer explained that when taking her dogs to Dr. Hadden's the minute they pulled into the parking lot all the dogs would begin to bark. The road where the kennel is to be located is frequented by pedestrians, cyclists, and cars which could cause the boarded dogs to bark any number of times during the day or night. Ms. Straight explained that the dogs boarded at her kennel would have individual pens inside, and share pens outside where they would play with each other, so they are not just standing outside in a pen with nothing more to do than bark. She also noted that despite her business, she also does not like excessive barking or noise and makes it a point to keep noise levels at a minimum. Mr. Shupe confirmed with Ms. Straight that she would be there during the entire day. Ms. D'Aponte referenced a letter received from an abutting land owner which asked what happens when the applicant is away from the premises. Ms. Straight noted that she is very seldom away and in most cases closes the establishment during her absence. On the rare

occasions when she does have boarders and needs to be away from the premises, there are several people available to stay overnight in her stead. Ms. DeHeer asked what the maximum amount of dogs boarded would be. Ms. Straight reiterated that a maximum of 14 dogs are allowed and this would cover the times when pick-ups and drop offs overlap. She also noted that she limits those times to only a half hour in the morning and a half hour in the afternoon for pick-ups and drop offs as this is the time when most barking would occur. In addition, there are a couple days where there is no pick-up or drop off to ensure more quiet. Mr. Shupe asked what the maximum number of dogs overnight is. Ms. Straight said that she has had fourteen, but normally the numbers run ten to twelve. She also noted that this is an area she can limit if need be.

Ms. DeHeer asked what effect, if any, Mr. Messer's firing range would have on the dogs. Ms. Straight noted that the dogs seem to enjoy NPR and she would be outside in the pens with the dogs at that time playing with the dogs and listening to NPR. Mr. Messer noted that he asked Ms. Straight most of these same questions when she approached him with her idea of the kennel, as he enjoys and values his quiet time on the farm. Mr. Messer was convinced the kennel would be a good idea after visiting Ms. Straight's kennel in Calais and noting how quiet it is. He also noted the kennel in Calais has a neighbor closer than any by the Meadow Road residence and there has never been a complaint.

Mr. Shupe noted that although Ms. Straight is addressing the issues raised and taking steps to build a comfort level about the operation with the types of operational strategies used, he is concerned that these are very difficult to enforce. He further explained that this type of permit goes with the land, so a problem could arise if Mr. Messer sells next year and there is a new owner who may have a different management strategy. Ms. Straight noted that this is different from her conditional use permit in East Calais that has a condition saying if the house is sold, the permit does not go with the house.

Ms. DeHeer also noted that when the firing range is being used, and echoes off the mountain, it is amazing how loud it is when standing in her yard. Mr. Kingsbury noted that between the Messer residence and the Peck and DeHeer residences is a big barn which should act as some type of sound barrier. Mr. Shupe asked if the Greenway Path would cause a problem as so many dogs are on it during this time of year and through the summer. Ms. Straight noted that in the main run area there is a 16 X 16 pine shed, and the dogs are more concerned with that and with what is near them. She also plans plantings of annuals such as sun flowers and other big, fast growing plants in front of that section so they would be between the shed area and the potting barn to block sight to the path. Asked by Mr. Shupe if she would consider an opaque or other type of fence instead of chain link to also minimize outside visuals, Ms. Straight said that could be an option. Mr. Shupe suggested measuring in some way the potential noise level of the kennel. Mr. Kingsbury suggested that Mr. Shupe have his dog at the Messer residence and get

her to bark while other members of the DRB are at the Peck and DeHeer residences to ascertain the noise level caused by the barking. Mr. Shupe suggested a site visit be made, prior to which the issue of a home business as an accessory to a multi family residence would be investigated, and all abutting land owners would be notified. In addition, Ms. Trihy will contact the Town Clerk of Calais, Eva Morris, for information on the existing kennel.

Mr. Kingsbury suggested working with the school bus routes to ensure pick-up and drop off times do not coincide with school bus runs causing much more traffic than usual. Ms. Straight said at present her pick-up and drop off times are 8:00 – 8:30 in the morning and 4:30 – 5:00 in the afternoon. In addition, usually when there are 10 – 14 dogs it is multi dogs per family and that will cut down on traffic. She also staggers the times to ensure fewer cars and people at one time.

Mr. Kingsbury moved to recess until Tuesday, May 12, with a site visit prior to the meeting at 6:15 p.m. Ms. Cook seconded. There was no discussion. All members voted in favor.

- 3. Reconvene Application #3221, Stephen Zonies for 320 sq. ft. addition to Valley Dental building**, an expansion of a nonconforming structure. Applicant proposes to use addition for offices, a consultation room, and storage. The property is located at 138 Fiddler's Green and is identified as parcel #99177.000 in the Irasville Village District (§2.03).

Mr. Shupe noted that there was a site visit at 6:15 p.m. this evening where DRB members walked the building, measured the existing single story portion, mapped out where the addition would be, and spent a lot of time looking at accessory structure, parking, and storage of other materials in the yard. Mr. Shupe also noted that the one issue discussed at the last meeting was Irasville's by-law that requires multiple story buildings except for small accessory structures less than 600 square feet. Also discussed was the provision that allows for the expansion of a nonconforming structure by up to 50% of the nonconforming portion of the structure. Mr. Shupe noted that the existing nonconforming part of the building is 18' X 20', and the proposed structure is 16' X 20' which is more than 50%. Mr. Shupe asked if a smaller structure would suit Mr. Zonies' purposes. He also noted other issues: the absence of a clear building elevation that shows what Mr. Zonies will do, although he feels it will be very similar to what is there now in terms of windows, siding, et al. The parking was also addressed today and the by-laws have been met, and on-street parking could be used as well as moving the dumpsters to create additional parking in the existing lot. In addition, a way was found to move the existing accessory structure out of the front yard to make it a little less busy. Mr. Shupe noted that the only real thing needing to be dealt with is the two story requirement and how to get there.

Mr. Shupe asked if a portion of the existing building is also single story. Ms. Cook noted that the entry way where the roof comes down is single story, which makes the total nonconforming

area 591sq. ft. and the maximum expansion 295 sq. ft. Mr. Shupe noted that if 25 square feet was taken off the proposed structure, it would satisfy the less than 50% requirement. Stepping the proposed structure back one foot would be better aesthetically, give a steeper pitch to the roof and keep snow from sitting on the base of the windows on that side of the existing building.

Mr. Kingsbury suggested moving the storage shed to the southeast, and also eliminating on-street parking by putting two more parking spaces in the existing lot by moving the dumpsters back. Mr. Kingsbury also suggested consolidating storage by moving the boat currently in the front yard to the area near the dumpsters. Mr. Kingsbury also requested a provision to replace the existing cherry tree should it be lost during construction.

Mr. Shupe asked Mr. Zonies to provide within the next two weeks plans showing more detailed elevations, the new footprint, and building materials to show the addition will blend in with the existing building. Mr. Zonies stated that it is a Fiddlers Green Association requirement that rough sawn cedar be used for the building exterior.

Mr. Kingsbury moved to adjourn. Ms. D'Aponte seconded. There was no discussion. All were in favor.

4. **APPROVAL OF MINUTES:** Ms. Cook moved to approve the minutes of the March 26, 2009 meeting as written. Ms. D'Aponte seconded. There was no discussion. All members voted in favor.
5. **OTHER BUSINESS:** Ms. Trihy stated that there are a few new applications, and that Bisbee's will eventually ask for a second sign on their new building, and Mark Grosby would like to have an accessory apartment in the Valley Professional Center, but at this time it is not a permitted or conditional use.
6. **ADJOURNMENT.** The meeting adjourned at 8:10pm and the Board went into deliberative session.

Respectfully submitted,
Nancy Myrto