

MINUTES
SPECIAL PERMIT HEARING
BERKSHIRE FENCE

Thursday, September 13, 2007

The meeting was called to order at 7:58 PM.

Members present were: Rene Wood, Anthony Gulotta, David Smith Sr. and Margaret Martin. Christopher Tomich was absent. He will listen to the complete audio tape, certify that in writing and then may participate in decision-making with the rest of the Board.

D. Smith Sr. read the notice of this public hearing into the record.

R. Wood opened the meeting and commenced recording. She stated that the purpose of the hearing was to obtain public input on the Special Permit Application of Berkshire Fence. She also explained the procedure the Board would follow during the hearing.

Attorney Michael MacDonald presented the application with assistance from the principal owner Todd Driscoll. Atty. MacDonald stated that the building at issue is 10,000 square feet and was finished in 2005. There is parking to the rear and along the side. The display area is in front and the septic system to the rear. There are 4 tenant spaces. On the first floor are Berkshire Fence and Doggy Day Care. Half of the second floor is a single family apartment and the other half is commercial office space with no tenant currently. He described the signs for Berkshire Fence and Doggy Day Care. The Special Permit Application includes a request for a Special Permit for a kennel, for a single family dwelling unit, for the Berkshire Fence business and for a major commercial development.

Atty. MacDonald discussed the application for the kennel. In 2006 the definition of a kennel in the bylaws was altered to include the words "boarded or groomed." No dogs are boarded at Doggy Day Care (DDC), they are dropped off and picked up daily. However dogs are groomed at DDC, so the business fits the new definition of a kennel.

Atty. MacDonald read the sections of the bylaws relevant to major commercial development. He walked the Board Members through the attached documents which he presented to show the history of the building's development.

Todd Driscoll explained that he didn't know initially what he wanted to do with the spaces. He asked Brent Getchell, Building Inspector at the time, and his recollection was that the inspector said he could do anything he wanted as far as the apartment. He made the building look like a barn so that it would fit in with the area. Mr. Driscoll remembered Mr. Getchell saying that fences and landscaping are exempt from set-backs. The new building inspector, Tom Carmody, disagreed and it has cost Mr. Driscoll \$5000 to change his display. Mr. Driscoll doesn't understand how a new Building Inspector can change an old Building Inspector's decisions. Mr. Driscoll stated that Tom Carmody told him that when he finished the "punch list" he would sign the certificate of occupancy (c.o.). The building inspector has never signed the c.o. Mr. Driscoll now had 700,000 into this project.

Brennan King, the office manager at Berkshire Fence, who is at the building 5-6 days per week, 8-8.5 hours per day said there are only 15-20 cars coming to the building per day. There have been no complaints from neighbors or passers by.

R. Wood asked if there were any questions from the Board. M. Martin asked about the c.o.

R. Wood asked Todd Driscoll: "Did you ask Tom Carmody why he didn't sign the c.o.?" Todd Driscoll stated "Yes, he said it was because Doggy Day Care wasn't an allowed use and because of the display."

R. Wood asked why the Building Inspector wasn't always copied on all this correspondence. M. Martin inquired about where the site plan was and asked if Berkshire Fence had followed up as the uses changed. Atty. MacDonald pointed out that in response to a public records request many of the documents that were sent to the Building Inspector did not show up. R. Wood asked Atty. MacDonald to list the differences between the 2 sets of documents: those he had submitted to the Board and those he had not received from the town under a request for public information.

R. Wood asked who's responsibility it is to update this building permit. Atty. MacDonald said that it is the applicant's responsibility. Once submitted, he said, if there are amendments, it's the Building Inspector's responsibility. He also said plans are part of the permit and plans do not come up in the public records request. R. Wood noted that nothing is approved until the documents are signed.

R. Wood asked if the apartment is an allowed use, isn't it the applicant's responsibility to come get a Special Permit? Atty. MacDonald stated that the Building Inspector is also the zoning enforcement officer so he should have realized that they would require a special permit.

R. Wood next asked if anyone present wished to speak about the application. No one responded to the opportunity.

R. Wood suggested that the Board next focus on answering the questions of Atty. MacDonald and Mr. Akroyd, who has been hired to do the detailed development analysis, on how to file the analysis. She directed Atty. MacDonald to the Town of Sheffield Rules and Regulations. Atty. MacDonald asked if having Mr. Akroyd doing the very best that he could, would that be sufficient? R. Wood said that the Planning Board was not trying to be onerous and that if it was felt that a specialist was not needed to note that in their submission.

At 8:45 PM, D. Smith Sr. made a motion to continue the hearing until 9/27/07. The motion was seconded and approved.

Respectfully submitted

Nadia Milleron
Secretary to the Planning Board