

TOWN OF SHEFFIELD
ZONING BOARD OF APPEALS
THURSDAY, JANUARY 30, 2020
SECOND FLOOR MEETING ROOM
7:00 PM

Board Members Present: Eric Carlson, Chairman
Allison Lasso
John Reilley
Paul Nardi
Kenneth Smith

Others Present: Renee LeClair, Zoning Board of Appeals Clerk
Members of the public (see sign in sheet)

Chairman E. Carlson called the meeting to order at 7:00 p.m.

Public Hearing: Concerning the application of Dolores Berkery for an Administrative Appeal, to appeal a decision by the Building Inspector issued on November 12, 2019, detailing the illegal use of the lots in question located at 941 Clayton Road, Ashley Falls, MA. 01222. Assessors Map 8, Block 2, and Lot 23.8 in the Rural Zoning District.
The public hearing notice was read aloud by the clerk. Chairman Carlson invited Attorney Alex Glover to speak on behalf of her client.

Attorney Glover spoke in support of her client Dolores Berkery's administrative appeal of the denial of a Request for Enforcement by Building Inspector, Paul Greene. In denying the request Mr. Greene did not identify the use category that permitted the motocross track in the neighborhood. Attorney Glover gave a summary of ownership and location of both properties involved and details of how the Berkery's came to hire an attorney and are now here today before the Board.

Attorney Glover displayed photographs of the track for the record and described the effect this noise is having on her client. Attorney Glover also played a video as a demonstration of the noise for the Board from her phone. She stated for the record that this video was from a previous social media post of Blake Ovitt riding his motorcycle on the motocross track located at their property.

Attorney Elizabeth Goodman spoke on behalf of her clients, Sally Strano and Jared Clayton. She also gave a summary of events that led up to them being here this evening. She concluded that the issue is the noise. Attorney Goodman pointed out to the Board that Mr. Greene stated in his letter he went to the property to inspect the track. However, there was no statement regarding the noise.

Attorney Goodman mentioned a comparable case that was referenced in her letter for the Board to review. Attorney Goodman respectfully requested that the Board issue a cease and desist.

Dennis Egan the Attorney representing Garry Ovitt, the property owner of 941 Clayton Road, stated that this is not a proper venue for a noise complaint. The question is, is this a commercial use or residential use? Attorney Egan continued there is no business operating at this property. Attorney Egan explained to the Board that recreation is allowed in the rural district and this is an assessory use to the home as Mr. Ovitt is using his property to ride his bike recreationally.

Attorney Egan stated for the record that Exhibit 6 of the appeal presented to the Board by Attorney Glover has two pictures that show Mr. Ovitt riding on a trail in South Carolina.

The attorneys continued to argue their points and clarify comments for the Board regarding use as defined in the Town's Zoning Bylaws and whether the use is allowed. A discussion ensued regarding the regulation of noise in the Town.

Chairman Carlson asked for details on operation of the bikes. Mr. Gary Ovitt spoke regarding the hours of operation and the mediation that took place in front of the magistrate. A discussion ensued regarding the court hearing and the failed mediation.

A number of residents stood up and expressed their opinions and concerns.

K. Smith asked if the neighbors are still willing to mediate. Attorney Glover responded; we are past that point and here today to discuss zoning.

Comments were made regarding a potential mediation and the possibility of including all the neighbors in the discussion.

Chairman Carlson asked if the Board was ready to close public input portion of this hearing. A. Lasso commented that there cannot be mediation by this Board; their decision is specifically whether or not to uphold the building inspector's decision. **K. Smith motioned, with a second from P. Nardi to close the public hearing. The motion passed 5-0.**

Chairman Carlson opened deliberations. A discussion ensued amongst the Board members. It was decided that Chairman Carlson would reach out to Town Counsel to get their opinion on the section 9.4.1 Special Permit Granting Authority, of the Zoning Bylaws. A discussion ensued. Chairman Carlson asked that the hearing be continued to their chosen date of February 13, 2020. **K. Smith motioned, with a second from P. Nardi to continue the deliberation of this hearing until February 13, 2020. The motion passed 5-0.**

FY2021 Annual Budget: The Board reviewed and discussed their proposed budget for FY2021. **K. Smith motioned, with a second from P. Nardi to approve their FY2021 budget in the amount of \$1,230.00. The motion passed 5-0.**

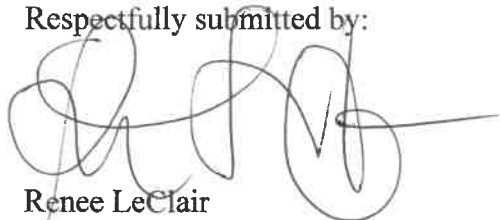
Approval of Minutes: The Board reviewed minutes approved by Chairman Carlson from November 14, 2020. **A. Lasso motioned, with a second from P. Nardi to ratify the approval of the November 14, 2019 minutes. The motion passed 4-0. K. Smith abstained.**

The Board reviewed the draft minutes from January 16, 2020. **K. Smith motioned, with a second from P. Nardi to approve the January 16, 2020 minutes as written. The motion passed 5-0**

There being no further business before the Board this evening. ***K. Smith motioned, with a second from A. Lasso to adjourn the meeting. The motion passed 5-0.***

Chairman Carlson adjourned the meeting at 8:48 p.m.

Respectfully submitted by:



Renee LeClair
Zoning Board of Appeals Clerk

Sheffield Zoning Board of Appeals

Date: January 30, 2020

Name – PLEASE PRINT	Street, Town
1. Mackenzie Collins, Esq. Cain Hibbard & Myers	66 West Street, Pittsford
2. Elizabeth Goodman, Esq. Cain Hibbard & Myers	"
3. Jared Clayton	125 Candan Rd, Ashley Falls
4. Sally Strans	932 Clayton Rd, Ashley Falls
5. Amy M. B. [unclear]	275 [unclear] EAST
6. Lynn Bogarde	150 Hillside Ln, Ashley Falls
7. Blake Oviatt	941 Clayton Rd
8. Cheryl Oviatt	271 Silver St
9. Jay Oviatt Sr	271 Silver St
10. [unclear] [unclear]	161 CAGGERS RD
11. [unclear] [unclear]	9 Park Lane
12. [unclear] [unclear]	941 Clayton Rd.
13. Mike Stevens	57 Amory Lane
14. Colby Stevens	57 Amory Lane Sheffield

Sheffield Zoning Board of Appeals

Date: January 30, 2020

	Name – PLEASE PRINT	Street, Town
1.	Rick Segalk	96 Algonquin Lane Canaan
2.	Walt DCC	199 POLIKOFF RD ASHLEY FALLS
3.	Martin Mitsoff	Undermtn Rd, Sheffield
4.	Mahele Morton	150 Hillside Lane Ashley Falls
5.	Dennis Egan	58 Hwy Drive, P. Ashfield
6.	Alyssa Oviatt	941 Clayton Rd Ashley Falls
7.	JH	202 Philbrick Lane
8.	Garry Pout	941 Clayton Rd
9.	Michael Oviatt	212 Rannapo Rd
10.	Tammy Blackwell	238 Alum Hill Rd
11.	Kendra Hawkins	200 Alum Hill Rd
12.	Walt Hawkins	200 Alum Hill Rd.
13.		
14.		