



**TOWN OF PITTSFIELD  
ZONING BOARD OF ADJUSTMENT  
TOWN HALL, 85 MAIN STREET  
PITTSFIELD, NH 03263**

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**MEETING MINUTES of Thursday, November 29, 2018**

**CALL TO ORDER**

The Zoning Board of Adjustment Meeting for November 29, 2018 was called to order by Mr. Hetu 7:07p.m.

**MEMBERS PRESENT**

James Hetu  
Brigham Bosen  
Pat Heffernan

**OTHERS PRESENT**

**Pittsfield Residents:** Larry Konopka, Robert Wharem, and Laurie Wharem.

**Others Present:**

**Other Public Officials:**

**Pittsfield Staff:** Jim Pritchard, Zoning Secretary.

**REVIEW AND APPROVE MINUTES**

Motion. Mr. Bosen made a motion to approve the minutes as written for October 25, 2018. Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

**PUBLIC HEARING OF ROBERT AND LAURIE WHAREM FOR A SPECIAL EXCEPTION FOR A KENNEL ACCORDING TO PITTSFIELD ZONING ORDINANCE, ARTICLE 3, SECTION 3, (B), (2) AND (6); ARTICLE 6, SECTIONS 2 AND 3; AND ARTICLE 2, SECTION 3, KENNEL, AT 277 WEBSTER MILLS ROAD, TAX MAP R-53, LOT 4-2, IN THE RURAL ZONING DISTRICT. A. DETERMINATION OF POTENTIAL REGIONAL IMPACT. B. MERITS REVIEW WITH A PUBLIC HEARING.**

Motion. Mr. Heffernan made a motion there is no regional impact. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair informed Mr. Wharem there are only three Board members present and to get an approval he will need three “yes’s.”

The Chair asked Mr. Wharem if he explored grandfathering. Mr. Wharem said he did and he missed it by two years. When he spoke with Mr. Anderson, the ordinance that included kennels was effective in 1988 and the house was purchased in 1990. The way Mr. Anderson explained it to Mr. Wharem; his [Mr. Anderson’s] research had found it effective in 1988. In order to be able to continue what they are doing, they need to go before the Zoning Board and be in compliance. This kennel has been in place 1991.

Mr. Wharem said it has been a “hobby kennel” until last year. He explained a hobby kennel is under so many litters and puppies and last year they had 13 litters which are over the 10 litter limit. Since they had more than 10 litters they have to be a licensed kennel. He is not sure if they will go over again but they felt it was best to go through the proper procedure and be in compliance.

The Chair asked Mr. Wharem to go through their application and what they are looking to do.

Mr. Wharem said the purpose of the application is to allow them to continue what they have been doing since 1991. He explained they are not changing anything or expanding.

Mr. Wharem said they live in a residential area with a farm and horses. There is a lot of hay for the horses and breeding the dogs helps pay for the hay. They have kennels in the basement and they are eight by eight kennels. They had Shih Tzu’s which are smaller dogs. There are four to five in each kennel with two labs in kennels on the other side.

Mr. Wharem explained their proposal is that they have the dogs in the basement. They are cycled in and out to run. They have a small corner in the room with a grooming area set up so the dogs are taken care of. When they have a new litter they have a small whelping area set up in their living room so they can take care of it. They meet up with people rather than have them come to the house because they sell puppies all over the country.

Mr. Wharem said having to be licensed will subject them to random inspections by the state vet for cleanliness, health and location of the dogs. They are AKC registered and in order to be AKC registered they have to have people come check out the facility. They will be more accountatable to the state vet and make sure all the paperwork is in place. They put everything in the Purchase and Sales agreement explaining what the person is buying the dog for including a resolution factor. He explained a resolution factor is if the puppy has a deformity or cancer there is a mechanism for the people to get their money back.

Mr. Wharem stated they give out health certificates and that copies go to the state vet. The state vet regulates that it is a clean premises, the dogs are healthy, they are doing by compliance of the law and that they are not cutting corners. He explained it will cost them \$200 a year to stay in compliance. They discussed the lady in Wolfeboro and the state vet trying to tighten up on it.

Mr. Wharem said there is some barking as they live in the country and some deer run through and neighbors have dogs. They do have some dog pens outside and a 6 foot tall fence. He said they are putting a wooden barrier between the dog pens so the dogs can't see each other. They give the neighbors their phone number so if there is an issue they can call them.

The Chair asked how close the neighbors are. Mr. Wharem said they share a driveway with the Grays. He said sometimes Mrs. Gray gets migraines so she may call and they put the dogs away if she does. They are about 500-600 feet away from all their neighbors. They discussed other neighbors in the area.

The Chair asked if they are getting complaints from the neighbors. Mr. Wharem said they are not.

The Chair asked they go through the five criteria.

Mr. Wharem read Criteria A "the use shall not be detrimental or offensive to the neighborhood." He said as of this point no one has complained. They have one neighbor with migraines and they take care of it. If the dogs are loose the neighbors will tell them and they get the dogs.

Mr. Wharem read Criteria B "the use shall no diminish the value of any of the surrounding properties." He said it has been 28 years and the property value has not been diminished. The Chair said the question is asking is the value going to diminish from today to tomorrow. Mr. Wharem said it will not.

Mr. Wharem read Criteria C "The use, its parking needs, and its access ways shall be no nuisance or serious hazard..." He explained the most amount of people that show up is two people at a time so parking will not be an issue.

Mr. Wharem read Criteria D "the use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use." They have everything they need setup. They keep the place clean, have a way of disposing of feces, have a grooming area, and if there is an accident they clean it up right away.

Me. Wharem read Criteria E "the use shall be in harmony with the general purpose and intent of the zoning ordinance." He thinks by coming to the Zoning Board they are doing it. He thinks on a case by case basis they comply. They have not heard anything from any

of the neighbors, even the new neighbor. Mr. Heffernan said no one has complained or is concerned about it.

Mr. Wharem said they can here the dogs barking on Prescott Road and their dogs bark back so occasionally there are barking dogs. They are putting bushes on the outside of the property to prevent any noise.

The Chair asked if there were any questions from the Board. There were no questions.

The Chair opened the hearing to the public and asked for public input. There was no public input.

The Chair brought the hearing back to the Board for discussion.

The Chair explained they are not changing anything. The only thing they are allowing is an official kennel as opposed to a hobby kennel. Mr. Wharem said it is a hobby kennel and they have surpassed it to the point they need a commercial license.

The Chair expressed concern is this special exception would move forward with the property if they were to sell it to someone else. This opens up the potential of someone else coming in, running a kennel and not being like them. He asked what limits they [the Wharem's] would put on the property to not have a puppy mill situation and be able to protect the town.

Mr. Wharem asked if an exception could be granted for just this time or does it go from this point forward. The Chair explained it goes from this point forward and the special exception only goes away if the use is stopped for two years. They like what the Wharem's are doing but how could they cap to allow them to do what they are doing but prevent abuse in the future.

Mr. Wharem said he would give the special exception based upon the proper licensing by the state veterinarian board or can the special exception is granted so long as they maintain the license with the veterinarian. Mrs. Wharem said if they do that then there is an issue if they become a hobby kennel again.

The Chair asked Mr. Wharem if they mention the licensing on the application. Mr. Wharem said he did on the original one he submitted to Mr. Anderson. He showed the Chair what he submitted to Mr. Anderson including letters they received saying they were getting close to the limit and then that they reached the litter. He showed them the response Mr. Anderson had given them.

The Chair expressed concern of someone bouncing back and forth between hobby and commercial. Mr. Wharem said when they leave the house goes to their daughter. Mrs. Wharem said they have to look at it as the property not them in particular.

The Chair said the purpose of the special exception to allow for a home kennel for a breeding program. He suggested they would be willing to make an amendment to allow for a licensed kennel.

The Chair asked about the waste disposal process and if the state gets involved in it. Mr. Wharem said the state does not get involved in it. They dig holes and bury it.

Mr. Wharem suggested it be a state authorized or licensed kennel. The Chair asked Mr. Wharem if they require it to be authorized or licensed will there be no chance of abuse. Mr. Heffernan said the state can break down and will probably continue the enforcement end of it. Mr. Wharem said there are a lot of people in violation of this and the state is cracking down. Mr. Heffernan said if someone else was to buy the property and goes muck with it, the state will be on them.

The Chair asked the Board if they agree adding that amendment would solve that issue and if the applicant was agreeable to it. The Board and applicants were agreeable to it.

The Chair read Criteria A “the use shall not be detrimental or offensive to the neighborhood.” Mr. Heffernan said it is running now and no one is complaining.

Motion. Mr. Heffernan made a motion it will not be detrimental because it is not changing current use and there are not any problems now. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair read Criteria B “the use shall not diminish the values of surrounding properties.”

Motion. Mr. Bosen made a motion that the use shall not diminish the values of surrounding properties because the use is not changing and the values haven’t changed. Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair read Criteria C “the use, its parking needs, and its access ways shall be no nuisance or serious hazard to pedestrian or vehicular traffic. Parking needs shall be deemed a nuisance if parking needs force vehicles to park on a street or on a nearby property.”

Motion. Mr. Hetu made a motion that the use, its parking needs, and access ways shall not be a nuisance or serious hazard since it is 15 acres and there are infrequent visits to the property. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair read Criteria D “the use shall have adequate and appropriate facilities and utilities to ensure the proper operation of the use.”

Motion. Mr. Hetu made a motion the use shall have adequate and appropriate facilities and utilities because it has to be state authorized or license. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair read Criteria E “the use shall be in harmony with the general purpose and intent of the zoning ordinance.

The Chair explained in the zoning ordinance under kennel it specifically says every permissible kennel shall effectively prevent all the noise from reaching the adjoining properties. They have already discussed the noise suppression element and it is not a current issue.

Motion. Mr. Heffernan made a motion the use shall be in harmony with the general purpose and intent of the zoning ordinance as it addresses the noise suppression element and there are no current issues. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

Motion. Mr. Bosen made a motion to allow a state licensed or authorized kennel for a breeding program at 277 Webster Mills Road, Map R-53, Lot 4-2 in the rural district. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

Mr. Wharem asked if someone can make a motion to have the Chair sign the state form. He said they need a signature to show they are in compliance. He said they need a name and title of the person signing it.

Motion. Mr. Bosen made a motion to approve the kennel run by Robert and Laurie Wharem as compliant with the applicable zoning regulations in the town of Pittsfield. Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair informed Mr. Wharem there is a 30 day appeal process if someone wanted to appeal their decision. He explained they will issue the notice of decision and if someone did appeal the Board would notify him of it as well.

### **DISCUSSION OF THE SUNCOOK VALLEY SUN LETTER REGARDING ALTERNATES NEEDED FOR THE ZONING BOARD**

Motion. Mr. Bosen made a motion to send the letter the Chair wrote to the Suncook Valley Sun. Mr. Heffernan seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

### **MEMBERS CONCERNS**

The Chair informed the Board Mr. Rokeach submitted a letter of resignation and that he is moving out of town.

### **PUBLIC INPUT**

Mr. Konopka asked the Board if they could post the agenda on the town website so people can know what is on the agenda. The Chair said he will try to address it.

### **ADJOURNMENT**

Motion. Mr. Heffernan made a motion to adjourn. Mr. Bosen seconded the Motion. There was no additional discussion.

A Roll Call Vote was taken: Mr. Hetu – Yes; Mr. Heffernan – Yes; and Mr. Bosen - Yes. The Chair declared the Motion passed.

The Chair adjourned the meeting at 7:51pm.

APPROVED: February 14, 2019

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JAMES HETU, CHAIRMAN

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DATE