

# ***Town of Bourne Zoning Board of Appeals***

## ***Meeting Minutes***

Virtual Hearing via Zoom

February 17, 2021

Meeting ID: 995 2429 9942

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### **1. Call to order**

Chair Jim Beyer called to order the meeting of the Zoning Board of Appeals at 7:00 PM on February 17, 2021. Mr. Beyer explained under M.G.L., Section 40A, all appeals must be filed within 20 days of the filing of the decision with the Town Clerk.

Mr. Beyer announced the meeting was being recorded and some attendees are participating by video conference. He explained the ground rules associated with conducting the remote meeting, he confirmed the members of the board who were present, identified the building inspector and verified a representative was present for each filing listed on the agenda.

Members Present: Jim Beyer, Chris Pine, John O'Brien, Wade Keene, Harold Kalick and Associate Member Pat Nemeth.

Members Excused – None.

Also Present: Ken Murphy, Michael McGrath, and Thomas Donovan.

### **Agenda Items**

- 2. Approval of Minutes** – Mr. Beyer entertained a motion to approve the minutes of the December 12, 2020 meeting and the January 20, 2021 meeting. **Mr. Keene moved to approve, Mr. Pine seconded to approving the minutes of the December 12, 2020 meeting and the January 20, 2021 meeting. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Mr. Kalick, abstained, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**
- 3. Public Hearing for Special Permit Kennel (2021-SP01) to operate a dog training facility for group and private classes at 160 MacArthur Blvd, Suite 6.**

*Materials: Application packet, Floor plan, property map, driving directions, Business Plan, Letter from the Building Manager, Abutters list from the Assessing Department, Letter from an abutter and Mr. McGrath's response to this letter.*

Michael McGrath is present for the hearing. He reviewed his proposal and business plan, including the potty plan, COVID plan and other expectations. Mr. McGrath explained there will be group and individual training lessons. He reiterated that no dogs would be without their owners and no dogs would be staying overnight.

Mr. Beyer asked if there were other members of the public present whom would like to speak.

Ms. Kelly Donovan, representing DonBros Realty Trust. Ms. Donovan explained that she and the applicant had exchanged emails and reiterated the request for the dogs not to be walked and allowed to relieve themselves throughout the neighborhood. She also asked to limit the barking from the dogs.

Mr. McGrath explained there will be signage and information on where to walk and potty the dogs. He also reviewed their approach to dogs barking and their intent to limit any excessive barking.

Mr. Beyer asked if Mr. McGrath would not be adverse to a condition stipulating that dogs should be walked in a controlled area, marked out area for defecation, and rules for no barking for the dogs and asked if that is what DonBros Realty Trust, Ms. Donovan agreed.

Ms. Nemeth stated she visited the site today, and reported it looks well prepared. The signage is already up for no walking dogs in the neighborhood, the area is already designated where the dogs should defecate. Ms. Nemeth expressed she finds it unreasonable to assume dogs will not bark. She explained she is not in support of a condition which prohibits dogs barking and expressed that dogs will bark.

Mr. Beyer agreed they cannot put a condition on to stop dogs barking but can have the establishment incorporate rules for excessive barking. Mr. Beyer stated he did see this already posted on the establishment window.

Mr. Beyer read the statement from the Animal Control Officer "Per MGL Chapter 140 Section 136A: "Commercial boarding or training kennel", an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal

shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others. Based on this: As long as the owners are present for training no kennel license shall be required.”

Mr. Beyer then reviewed the need for this applicant to be heard before the Board of Health for a kennel license as expressed in an email from the Health Agent. Mr. McGrath explained he had spoken with the Health Department since that email, and they have since change their stance on this and he does not need to be heard before the Board of Health.

Mr. Murphy agreed with Mr. McGrath and confirmed he had spoken with the Health Agent and Mr. McGrath does not need to be heard before the Board of Health.

Mr. Pine asked what the hours of the establishment will be. He also agreed that the rules in place for excessive barking are more than adequate and felt the defecation areas would be part of the Board of Health requirement but since that department will not be reviewing this application further Mr. Pine felt comfortable including that in the approval. He again asked what the hours will be.

Mr. McGrath stated they would start around 9:00am give or take an hour and go as late as the last class starting at 7:00pm, although there may an exception of an 8:00pm class. Weekends will have morning classes and specialty classes but they would not go over the weekday hours, no later that 7:45pm/8:00pm. Mr. McGrath currently does not see him being open on Sundays or Mondays, having a working schedule Tuesday- Saturday.

Mr. Beyer asked if there are any members of the public with questions or comments. There were none.

**Mr. Beyer entertained a motion to close the public hearing. Mr. O’Brien made a motion to close the public hearing. Mr. Pine Seconded. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. Kalick-yes, Mr. O’Brien- yes, and Mr. Beyer- yes.**

Mr. Beyer discussed how to accommodate the requests from DonBro’s Realty Trust. Ms. Nemeth questioned the need to condition the approval at all, as the applicant has already set up his business to deal with these issues.

Mr. McGrath reiterated those would be his rules for the business whether they are mandated or not.

Ms. Nemeth asked Mr. Murphy about the dog grooming place right next door, and asked if they had the same conditions given in regards to walking their dogs and barking. Mr. Beyer responded that he feels the Board cannot do that as it is public space, but what they can do is have the business exert some control over the animals with its rules. He feels they should condition the approval so Mr. Murphy has some enforcement power if there are any concerns from the neighborhood.

Mr. Kalick agreed it should be part of the decision, not the letter but the specific conditions.

Mr. Beyer he supports either option of including the conditions/stipulations. He then clarified what the Zoning Board of Appeals is being asked to grant a special permit for a use that is otherwise not permitted here. The zoning code gives the Zoning Board of Appeals preview over the granting of that special permit in section 2320. This will allow a special permit for this use.

Mr. Beyer asked if there are any Board members with questions or comments. There were none.

Mr. Beyer entertained a motion to close the public hearing.

**Mr. Pine made a motion to close the public hearing. Mr. Wade second. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

Mr. Beyer asked if there are any comments or discussion from the Board.

**Mr. Beyer entertained made a motion to approve the Special Permit (2021-SP01) to operate a dog training facility for group and private classes at 160 MacArthur Blvd, Suite 6, conditioned on the business establishment rules; for control of dogs walking in neighborhood, establishing a marked out area for animal relief, and rules for excessive barking. Mr. O'Brien made the motion. Mr. Pine seconded the motion. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. Kalick-yes, Mr. O'Brien- yes, and Mr. Beyer- yes.**

*Ms. Nemeth will be writing this decision.*

**Old Business – None.**

**New Business – None.**

**Public Comment** – None.

Adjournment –

**Mr. Beyer entertained a motion to adjourn the hearing. Mr. Keene moved, Mr. Nemeth seconded to adjourn the meeting. Roll call vote: Mr. Pine- yes, Ms. Nemeth- yes, Mr. Keene- yes, Mr. Kalick-yes, Mr. O'Brien- yes, and Mr. Beyer- yes. The meeting adjourned at 7:27pm.**