MORRISTOWN/MORRISVILLE
DEVELOPMENT REVIEW BOARD
P.O. BOX 748
MORRISVILLE, VT. 05661
Phone (802) 888-6373
Fax (802) 888-6375

Minutes of February 4, 1999

Members Present: Gary Nolan, Tom Paine, Rich Furlong, David Silverman, Theresa Breault, Carol Jennings, and Paul Trudell.

Members Absent: None.

Guest: William Danforth, Richard Workman, Harold Stevens, Gregory Wight, Cindy Knauf, Ann Linton, Frank Lanphier, Linda Wood, Ernest Ruskey, Jeff Lively, John Standish, Wil Jeremczuk, Johann Jeremczuk, and Gene Ann Condon.

Gary: It is 7:30 PM and we will open the meeting of February 4, 1999, Morrisville/Morristown Development Review Board.

Gary: The first order business is to review the minutes of our January 28th meeting.

Theresa: made a motion to approve the minutes of January 28, 1999, as written.

Rich: seconded the motion.

Gary: it has been moved and seconded to approve the minutes as printed.

Gary: Hearing none all in favor say I? (unanimously) All opposed? so moved.

RECESSED WARNED HEARING, NORTH COUNTRY ANIMAL LEAGUE, ANIMAL SHELTER, ROUTE 100 SOUTH.

Gary: Next on the agenda we will reconvene the hearing of the North Country Animal League, for an animal shelter, conditional use permit and site plan approval on route Laporte Road This is recessed from January 14, 1999. It is being reviewed under Sections 260 which is Rural Residential Agriculture use district , Specifically 263.e which is a conditional use for Community Facilities, 450-454, 500-503.4 and 630-637.

Gary: The first thing we will do I think there are some new faces, I want to make sure everybody is signed in before they leave hear tonight and anyone who is planning to give any testimony please raise your right hand and be sworn in.

Theresa: do you swear that the testimony that you are about to give is true and correct to the best of knowledge and belief. (the following were sworn in: William Danforth, Richard Workman, Harold Stevens, Greg Wight, Cindy Knauf, Ann Linton, Frank Lamphier, Jeff Lively, and Gene Condon.

Gary: We will

Ken: You might want to hold up a minute

Theresa: You might want to hold up.

Gary: Yup.

Gary: I assume both of you will want to give testimony could you please raise your right hand.

Theresa: do you both wish to give testimony?

Johann Jeremczuk: No.

Theresa: Do you swear that the testimony that you are about to give is true and correct to the best of knowledge and belief. (Wil Jeremczuk was sworn in.)

Ken: There is a sign in sheet if we could get you gentlemen to sign in please.

Unidentifiable voice: Is this when you give out pay checks?

Gary: (Joke) No this is so we can give out bills so we can get paid. Laughter

Unidentifiable voice: Oh okay.

Tom: There is a sign in sheet floating around somewhere.

Gary: Okay first we will have the applicant proceed with their testimony and their will be questions from the Board and then people for the audience also can ask questions and then there will probably be more questions from the Board. Seeing how we have, taking noted for the record that this project is a few hundred feet down the road south that was already permitted for North Country Animal League that I expect a lot of the testimony would be the same as for both properties and I would ask everybody that they keep to the project before us tonight and anything that we have already heard that was pertinent for the last hearing will also be pertinent.

Mr. Stevens: Point of order here, are we combining all prior applications together.

Gary: No, I am not combining the applications, I am stating a fact that we assume that a lot of the evidence would be the same but any new evidence will be heard on this application.

Mr. Stevens: Are you relying on the evidence you heard on the last application to decide this new application.

Gary: No we aren't.

Mr. Stevens: I just wanted to be clear on this.

Gary: So we will and I would like to for everyone concerned I would like be able to rap this up tonight we have been working on this project for over I guess a year, it seems its time that we get it behind us and it would be everyone concerned as well as, the Board. I would appreciate it rapidity and conciseness and being to the point.

Linda Wood: Well with that I will shorten this up. I just want to introduce myself I am Linda Wood from the North Country Animal League and I just want thank everybody for coming and doing a special heating for us tonight. I know that you have been working on this as hard as we have and we appreciate it. I want to state who we are, we are a non profit 501.c 3 facility. We are a community facility for Lamoille County and other counties around us. What we do is provide a home for orphan dogs, cats, a few ferrets and other small animals. We provide humane education for the public and to the children in this area, and provide a way for people and children to serve their community through volunteerism. So anyone saw me on the new the other night with Walter the dog, I just want you to know we got him a home. Those are the kind of things we do. We came back to the Board with this project because that we think that by moving to this

existing building right here the Vartainan site that we are basically reusing a facility that is already there by no new curb cuts, using the existing building, the well, the electric, and not putting a new build as close to the Farm Resort. So, as being good neighbors we thought we would come back with what we thought was a better project, and, with that I will hand it over to Ernie.
Ernie Ruskey: Hello again, I just want to take a few quick minutes to go through the former plan and where we have come to today, the plan you are looking at. Just to sort of preface that we all along the animal league and Ruskey, Knauf and Associates has been a team in pursuing the design has looked local permitting process here as a process where by we could come up with a better project and I think this shift to the new site, is in fact in doing that sort of building on things we have heard back from you and hopefully we have heard back from the neighbors. To try to produce a project that is better for everyone. That has been one of our goals through the entire process. The two plans that you see here, this is the old plan at the ten acre Schilhammer property and this the new plan at the Vartainan property. Just to quickly to run through with you the differences with these to plans. Some are pretty obvious, the scale of the building has gotten smaller, the relationship of the parking to the road has become much more aesthetically pleasing and that we have move the parking from kind of a massive parking out in front of the building to two broken up pieces of parking on the side of the building. The vocabulary of the building itself has become more farm like in style than the former building pick up some farm like that are aspects that are appropriate for Route 100 corridor, but the new building really took a barn vocabulary and incorporated that into the new and existing building. Another advantage that we see is to the new design we eliminating one new road cut and using existing at Ryder Brook Stables and come in there thereby avoiding another road cut. And one of the big things is just using the existing building and that why we pined this up this modulized and this is new two views of that building there and to kind of dressing that up and making it something more appropriate what you would see along Route 100 and also tying into the Ryder Brook Barn. And sort of using the context, architects talk about context as being a significant factor in trying to have context be an important factor in designing. That is kind of the basic rundown on the differences old building and the new building. I guess the last thing that I will mention is that the design of the new building as I mentioned to you last time is that we brought in a humane society consultant on this second phase here on this new site and he introduced us to us a new way of thinking about the animals and I think the new building incorporates some of that and it is a more humane building for the animals actually and it has to do with kennel area itself so its not just a long string of kennels that the dogs sort of feel is like jail, but there is large atrium space where it will have planters in it will provide a more environmentally humane kind of environment for the animals and that will follow through actually for the cats as well and they will have kind of a public area here and outdoor area here. So, those are the big differences between the previous design that you saw and the design that you are in view of tonight. The other things that I want to mention briefly is the plan we submitted to you at our last hearing has been slightly modified. Cindy and I have been working on it. So you will see a few changes on the plans in front of you now and I will run through those quickly. We tried to clustered the landscaping more closely around the exterior dog run here to try to make these planting more of a significant sound barrier with respect to the exterior dog run. Secondly we have done a little bit of work on the front entry area there is a well head that we to pay attention to there we have to keep a ten foot buffer from that and any

adjacent parking. So basically what we have done from the scheme that you saw several weeks ago we have dressed that front up and have got rid of some of the hardscape and included more softscape and have gotten rid of some of the pavers that we hear before as indicated by that hatch mark around the well will be other types of plantings rather than pavers of some sort of pavers. The other change proposed location of the septic field has not changed but the capacity of that based on discussion with our civil engineer that is Little River Survey is that we are only actually required 1,500 gallons on this facility, but we are deciding to do it for 2,000 gallons to be on the safe side. So we are actually designing it for 2,000 gallons per day which is actually 500 gallon more per day over what would actually be required. Other just minor changes are that we brought utility line in closer to the fence line between Ryder Brook Stables and the easement on the property line there and again our intention is to run the power from a new pole underground to the building and it have initiated some conversations with Steve Cutler at Morrisville Power and Light regarding that and they seam to be in favor of bringing that power line at ninety degrees across the road. The last thing that you see wasn't on the formal plans submitted just like any organization the North Country Animal League has to be thinking about its future and where future parts of there operation might go so we have indicated with dotted lines where a potential future community room expansion would go and where future additional kennels space might go and that is identifying those two pieces we wanted to show those to you just to let you know that the organization is planning on phasing in the future they have to think about that for their future. that is number one but in relation to the exterior dog run there are certain things that are driving where the dog run is located. And with that I will hand it over Greg Wight who is our sound consultant Greg has taken a

Rich: Questions? How many animals were going to be in the old facility that the town has approved.

Mr. Ruskey: The original building had been permit was for 26 kennels.

Rich: How many now?

Mr. Ruskey: the new facility sixteen.

Rich: That is a reduction of ten then

Mr. Ruskey: That is correct.

Gary: I have one more question that is the hatch marked along the where you are proposing plantings to the north of the dog run

Mr. Ruskey: Yes.

Gary: Is that proposed to be mounded or is that

Mr. Ruskey: No, that is just showing the area where we would be interspersing shoulder high ground cover to give a variation of levels of vegetation in their as a sound buffer.

Gary: So it is not a landscaped mound

Mr. Ruskey: No. No. Along those same lines one thing that I will mention is that the Topography is about eleven feet higher Vis via the golf course and neighbors on the eastside of the road added elevation should be pertainment to the sound in a positive way, in other words the added elevation should help the sounds situation.

Mr. Standish: Excuse me, to what direction are you talk about towards the golf course?

Mr. Ruskey: where talking about anywhere.

Mr. Standish In a circle type situation, not in just one direction.

Mr. Ruskey: Yes we are trying to address the sound as it would effect any direction.

Mr. Standish: Your lighting system if this goes into effect.

Gary: Excuse me sir could you.... apparently you were not in hear when I started the hearing what I would like to do is to do is to let the applicant present their case and then the Board member can ask question and then we will open it up other people.

Mr. Standish: Okay, sorry.

Gary also when you do speak it would be appreciate if you state your name and where you live.

Mr. Stevens: I am representing J.D. Associates you want us to hold our questions until they are completely done?

Gary: Until the Board is done. And I will, it depends , For me it easier to and I don not know about the applicants to ask questions like when the presenter is up there who we think who we think can answer them.

Mr. Stevens: So would I.

Gary: I would rather ask the questions when he is up there. I do not know which takes longer or less time.

Mr. Ruskey: were also trying to respect your request we keep it to the point and brief and catered all of our presentation to be pretty short and to the point, but we would be glad to do it either way.

Gary: I think it easier and that the way proceed tonight after the Board gets done, each presenter can ask questions of each presenter, then the audience can ask questions as well. So is there and other questions of the board.

Paul: Do we have an elevation of the building side facing the golf course. Elevation of the building I assume this the lower one is facing opposite.

Mr. Ruskey: The elevation is around.

Paul: No the building elevation not the (ground) elevation.

Mr. Ruskey: No I do not have elevation of the golf course side.

Paul: Can you tell me how many window are on that side from the plan, approximately

Mr. Ruskey: The plan shows ten windows

Paul: now your testimony last week (time) you would mentioned that you want these to be operable windows.

Mr. Ruskey: we asked the board consideration in granting us operable and with respect to energy conservation issue on this side of the building our proposal would if the board would grant us operable windows in term of monitoring in the one, three and six month monitoring that the Review Board has setup reviews in working with the process and allow you to observe what is happening at the facilities at those time and if there were issues brought forth in the process then the board would agree to keep the windows closed as a policy as a written policy that they would keep the windows closed if they are fact they are a problem, but as you know Paul if you put in non operable windows you never have a option in the future and based on the testimony of Dr. Hundel it was we were led to believe that open windows.

Mr. Stevens: we are going to object to talking about Mr. Hundel as he is not here today.

Gary this was in the previous hearing.

Mr. Stevens: was that on January 28th I do not think you had a noise expert here on

January 28th .

Gary: No.

Mr. Stevens this is why I am concerned about the fact you might be relying on previous testimony on the other application okay and I thought we made a point it of order that we are no relying on any of the evidence in the prior application this is important to J.D. Associates that they are appealing prior application and so we need I and I think that the case that were relying on prior application evidence that it should not be referred to now because Court if there appeal from this preceding they will be reviewing this preceding and not the prior proceeding. Basically as I understand it they do it on the taped record here and the evidence presented. So given this new municipal planing commission thing we have to be careful about that since any appeal is on this record. Do you understand what I am saying Mr. Nolan.

Gary: yes I do

Mr. Stevens: So I object to his referring to some testimony in a prior application.

Mr. Ruskey: I will retract my statement that referred to Dr. Hundal and just state very simply that we would ask the Board based on their capabilities to annualize this project that are request for having operable windows is based on the fact we feel that there not going to be a issue in terms of noise . That we would further ask we allow that be part of the monitoring process that you have set you to assure that

Paul: Do you know of any value difference between a fixed unit and an operable unit.

Mr. Ruskey: In terms of sound transmission.

Paul: Yes

Mr. Ruskey: I don't believe there is a difference when they are closed but I do not know that for a fact.

Paul: Would you be using a window like an Anderson for instance verse an aluminum farmed window.

Mr. Ruskey: I believe were going to use. Well actually no, I believe it is a clad window on this.

Paul; But would it be a wood window, a wood clad window verses an aluminum store front type window.

Mr. Ruskey: Yes that is right

Paul: I would imagine that the manufacture would have values on that, Anderson has tolerances for a certain sound transition coefficients in the past and I suppose information could be had, is that something you could get to us

Mr. Ruskey: Absolutely.

Tom: Would the windows on that side facing the golf course be an awning window as far as opening or a double hung or do you have any idea at this point.

Mr. Ruskey: They would be awning windows.

Mr. Lanpier: I was just curiously is this going to be an air conditioned facility why you would want operable windows?

Mr. Ruskey: Yes it is, well air conditioning cost money to run and this is a non profit organization so there are certain times of the year it might make sense to naturally ventilate the building for energy reasons and cost conservation and honestly there will times of the year that

impossible and we are in an air condition mode.

Gary: Are there any other questions from the Board at the moment.

Mr. Stevens: What are you doing about ventilation if you are going to keep the windows shut how are you going to ventilate the building.

Mr. Ruskey: Well their air handling system circulates air through a mechanical system that has filters and those have exterior vents.

Mr. Stevens: Where will these vents be.

Mr. Ruskey: Likely on the roof

Mr. Stevens: Are they shown on your plans?

Mr. Ruskey: No they aren't show anywhere at this point.

Mr. Stevens: How big are these vents going to be?

Mr. Ruskey: I do not have the specifics at that this point and time.

Mr. Stevens: How many vents will you have

Mr. Ruskey: There probably be not more than two or four.

Mr. Stevens: And you don't have no idea what diameter these vents are going to be?

Mr. Ruskey: Not at this pint and time as the building has not been engineered for mechanical systems

Mr. Stevens: Now why do you located the run where you have. Can you point that out to the Board.

Mr. Ruskey: The location of the exterior dog run has to do with the relationship which in this plan the dog run were part of it your would see it here and it has to do with having a direct relationship with the kennels which is where the dogs are and be able to leave by vertu of this door which was a door that was added between our last hearing and this hearing through a gate structure to the dog run and with relationship to the site there just weren't a lot of options better places to put it that this was the only place this made since with respect with the kennel and the way the dogs will be handled.

Mr. Stevens: You couldn't move it back father towards the Ryder Brook Barn back in that corner are there any limitation there.

Mr. Ruskey: the limitation that I have shown in here that is dotted is that is planned for future expansion so if we moved the kennels back up in here then the external dog run not only do we have to go by the dumpster were also getting into an area that serves their expansion need.

Mr. Stevens: Do you know what size that future expansion need it is how many dogs would be in the future expansion kennels

Mr. Ruskey: The animal league hopes to max out and again there is the time frame is indefinitely at a total of 32.

Mr. Lanphier: does that mean the dog run would be bigger too.

Mr. Ruskey: No

Ken: Asked Gary to get names if there going to speak.

Mr. Lanphier: Im sorry Ed Lanpheir

Mr. Ruskey: No the dog run would stay exactly the same as it is.

Mr. Stevens: Are you an acoustical just on final question are you an acoustical engineer.

Mr. Ruskey: No we have an acoustical engineer with us tonight who is waiting to speak.

Mr. Stevens: Thank you.

Mr. Ruskey: Thank you.

Gary: anyone else?

Mr. Ruskey: With that I will ask Greg to come up.

David: Sir you had a comment before did you want to say anything.

Mr. Standish: he asked a lot of questions I wanted to ask that gentleman right here asked. Thank you very much. Incidently my name is John Standish and I live right across from this dog shelter where it is going to built in Brook and Pines.

Gary: In Brook and Pines.

Ken: If he is going to speak he was not part of those sworn in earlier.

Theresa: are you likely to speak maybe?

Mr. Standish well I am going to wait a little bit.

Theresa: Why don't you raise your right hand.

Mr. Standish: Do you want me to stand?

Theresa: No no. Do you swear that the testimony that you are about to give is true and correct to the best of your belief.

Mr. Standish: Yes Mam.

Gary: Please proceed.

Mr. Wight: My name is Gregory Wight I can here to address noise issues. In the spirt of being brief I have put together a brief one page summary of the expected noise level when a single dog run at four or five locations. We I am hesitant do this we heard in earlier hearings lot of discussion about different ways assess noise levels. I think that it is appropriate at this point to reduce it to the simplest. That is how load would a dog bark be at various locations in the absence of any other back ground noise and in any absence of trucks going by in any absence of any assessment of what frequencies or insinuations. What you see in front of you is at the Vartainan under the table in under the word Vartainan is the number based on the agreed upon 68 decibel at 110 feet all the parties in the previous hearing.

Mr. Stevens: excuse me if he going to be referring to sheets could we all take a look at them

Gary: I am Sorry I thought he had given you copies

Ken: I will make some.

Gary: He has got some Ken

Mr. Wight: there aren't enough to go around but there are enough to share around. So when the dog run is located at the proposed location that distance is 1130 feet from the Farm Resort Hotel in its previous old location posted here the dog run was 840 feet with out considering what is between the dogs and the hotel the noise level will be less because noise dissipates over distance as is shown here. The same is true for the other locations that I considered and I just picked a few in the instance of grivety red barn its distance from the old location the old locations also I collected what I called the closest house and its distance from the dog run, the house I called the Brook Pine house and its distance from the new run location is closer to that house and farther from all the other houses as one might expect. The noise of a single dog barking lower over this new proposal at every place except at the Brook Pine house. I did not consider whether there is a building as in this proposal between the dog run and the receptor location nor did I consider whether there was an eight foot high wall and so those two

issue certainly has some effect these numbers. The number are simple straight forward brief and not the final answer the noise levels behind a wall or building will be less.

Gary the Brook Pine road house you are referring to is the one directly across from the new site.

Mr. Wight: yup directly across.

Paul: what is the noise level road noise level.

Mr. Wight: what is it depends on depending on how many cars going by and trucks going by and so forth in the earlier lots of testimony and we could enter that into record if you like measurements I made along side the road.

Paul: I would like that

Mr. Wight: The measurements made along the fence on the east side of Route 100 approximately here moderate wind and traffic 78 to 80 decibels moderate traffic with truck 81 decibels.

Mr. Stevens: Date and time of that study please.

Mr. Wight: yup June 18, 1998 afternoon 3:00 to 5:00 PM so that very close to the road along the road that at 81 decibels that is just so loud you would be uncomfortable I have a whole page of numbers here lets see if I can pick out a couple the northeast corner of property would be here low wind no traffic 48 decibels, low wind birds chirping 54 decibels, low wind with traffic 75 decibels, low wind with big truck 84 decibels.

Ken: can you give me a copy of that as I am not keeping up writing as fast as rattling the numbers off.

Mr. Wight: well as I say it is was made part of hearing sure I can let you have it and on and on. We have some in fact at Dr Vartainan's property if you are interest in that. The center of west property line behind the facility 50 decibels with low wind and with the dogs there barking and when the dogs bark in low winds 56 decibels.

Ms. Condon: How many dogs?

Mr. Wight: one at a time one at time we could not get the dogs to bark at the same time two or three at once. An air plane 70 decibels some moderate traffic moderate traffic 56 decibels.

Paul So the decibel rating close to the Vartainan road noise is less than far end of the site.

Mr. wight: 56 here way back from the road what as what did I say 75 close to the road it certainly makes a big difference if you are close to the traffic it would be the same here, here and here.

Paul: there are no land forms would change that?

Mr. Wight: No

Paul: Relatively uniform site.

Mr. Wight: there is a little bit grade at the Vartainan place but pretty nominal with out getting into incredibly complex details. I guess as long as we put this up it might be pertinent that 56 decibels here with low wind and traffic 54 to 60 decibels those number greatly different those number can't be so precise that we can say that there is a whole lot of difference between 56 and 54.

David: I would ask you to speculate dogs in a building windows open what would the numbers appear to be at the closest house say.

Mr. Wight: that a little tough. But there are some numbers that suggest that the difference

between a dog being or some noise of any type being outside or even inside even with the windows open

Mr. Stevens: I object to speculation. If he does know I don't think that's going to helping a thing.

David: He's an expert.

Mr. Stevens: I am going to object.

David: He is an expert.

Gary: okay for the Board information I do understand it speculation but I am going to allow the answer for that.

Mr. Wight: 15 decibel drop through even an open window 17 to 18 when the window is closed are the numbers the EPA uses. That much quieter compared to a dog or noise outside.

Gary: Okay now you plan on entering that sheet reading off from into testimony.

Mr. Wight: I would be happy to do that Ken asked for it I would be happy to do that it was part of the earlier hearing but there it is.

Gary: This would be an exhibit for this hearing can you make a copy of that so make sure that they get a copy of that Ken.

Ken: Do you want to stop the hearing while I make copies or

Gary: would you like those now Hal

Mr. Stevens: Yes please.

Gary: I think they you have got the hand out, that he handed out this evening.

Mr. Steven: Yes thank you.

Gary: how many copies would you like

Mr. Stevens: two.

Gary: Anybody else.

Ms. Condon: can I ask a question while he out

David: Make that three copies anybody else

Ms. Condon: Just of that, just of that new of the new one I have the other one just of the new one

In recess

Ms.Condon: Can I ask my question that question now. Oh I am sorry Hal your are, go ahead.

Mr. Stevens: If you can go ahead you go first

Ms Condon: Oh alright this dog run does it have walls does it have a roof or is just a big chain link fence.

Mr. Wight: I am not the architect but the architect told me it has two walls. It has a north wall and an east wall eight feet high total.

Ms. Condon: A chain link wall?

Mr. Ruskey: No a solid wooden wall north and east

Me. Condon: North and east and does it have a roof.

Mr. Ruskey: No

Ms. Condon: You've got to have a roof on a dog run when it rains or snows, but I am sorry that is not material to this.

Gary: Anyone else.

Mr. Wight: the walls are the kind you see along highways, wooden wall.

Theresa: Wooden wall it wouldn't be concrete

Mr. Ruskey: No Pressure treated wooden wall most likely solid a diffidently ship lap so there would be no places sound penetrating through the board.

Paul: How many dogs would be in the run at one time I don't know if this was asked at the last hearing.

Mr. Ruskey: we agreed to the conditions in the previous approval which was

Gary: Two at a time.

Theresa: Two.

Gary: Two at a time.

Mr. Ruskey: No more than three I believe.

Ms. Wood: It was three with mechanical monitor.

Tom: I thought it was three.

Ms. Wood: Yup no more than three.

Ms. Wood: No more that three with a monitor system from out side to the shelter managers office or where an attendant would be.

Mr. Stevens: We have I just have a couple of general questions that that and then I ask Mr. Workman has a couple of technical questions which won't take to long. Mr. Wight do you have curriculum vetie or anything about your credentials to prove your a acoustical engineer.

Mr. Wight: I can bring one

Mr. Stevens: You don't have one

Mr. Wight: Not tonight.

Mr. Steven: Okay

Mr. Wight: Not tonight, but I do have one.

Mr. Stevens: Basically what is your training as an acoustical engineer

Mr. Wight: what is my training, I have a masters degree in mechanical engineering with an emphasized on acoustics and environmental issues.

Mr. Stevens: Specifically what area have you ever evaluated kennels before for noise

Mr. Wight: No

Mr. Stevens: And did you fall did you in your regard to your proposed noise study dated June 1998. This is the one was taken sometime between 3:00 and 5:00 PM on some day June 1998

Mr. Wight: I did not put the date on here. It was the day we did the site walking

Mr. Stevens: do you recall if it was a weekday or weekend

Mr. Wight: Weekday

Mr. Stevens: have you done any monitor the level of traffic on Route 100 to see if there is a difference between say opposed to noon or midnight.

Mr. Wight: No, but I bet it is different at midnight.

Mr. Stevens: Would you agree that the noise is loader during rush hour on Route 100.

Mr. Wight: I guess, I don't have any bases to say yes or no but my guess would might.

Mr. Stevens: Your an acoustical engineer sir. Is that correct

Mr. Wight: Yes

Mr. Stevens: And your evaluating road noise with dog noise is that right so all you did

was toke a two hour segment on a weekday and assume this was not a holiday.

Mr. Stevens: Did you take any measurements to any of the residences.

Mr. Wight: Yup.

Mr. Stevens: And those show here too.

Mr. Wight: Yup.

Mr Stevens: Now have you done any further tests since that noise study of June 1998. To determine precisely what the nosie would be from this new facility planned at the Vartainan, Vartianan clinic building whatever from this site.

Mr. Wight: Nope.

Mr. Stevens: Have you done calculations or studies from where the dog run is as to how much dog noise might result from that dog run area.

Mr. Wight: Yup

Mr. Stevens: You have done some studies

Mr. Wight: Right here this report

Mr. Stevens: That report on one dog barking

Mr. Wight: One dog barking.

Mr. Stevens: What about two or three dogs barking have you done that.

Mr. Wight: I am a little hesitant to do this but Dr. Hundel suggested that we might consider.

Mr. Stevens: I am going to object to what Mr. Dr. Hundel suggested You here testifying sir.

Mr. Wight: Dogs will not bark cue it is incredible unlikely that you can get them to simultaneously bark in repetition you can them barking off sequence the noise levels will not add in that regard the frequency will but not be loader

Mr. Stevens: Have you tried it doing that here. Now in your studies about dog barking with using your equipment did you average out the noise levels did you take into account loud barks or yelps or did you just average out.

Mr. Wight: I took into effect the, yes loud yelps.

Mr. Stevens: Pardon

Mr. Wight: Loud yelps

Mr. Stevens: You spiked you, you kept track of the meter

Mr. Wight: Yes I set the meter on short term response rather than the typical slow response average time.

Mr. Stevens: I think I will turn it over to Mr. Workman technical question on how the test were taken on June 1998.

Mr. Workman: You mentioned setting you meter on different setting other than the slow response, what response exactly was it set on?

Mr. Wight: The fast response

Mr. Workman: Is you meter equipped with an impulse response.

Mr. Wight: Nope.

Mr. Workman: Is you meter equipped with a peak hold response.

Mr. Wight: Yes

Mr. Workman: Did you utilize the peak hold

Mr. Wight: Did not.

Mr. Workman: Can you give us name or type of meter I think its right here.

Mr. Wight: LDL 700 it there.

Mr. Workman: What type of microphone does that have.

Mr. Wright: Well I don't have the specs with me.

Mr. Workman: Can you demonstrate for me using something typical to the meter size or approximate could you demonstrate exactly how you meter when you took the reading.

Mr. Wight: Well one wants to hold the meter if the dog is trying to measure is over there it is not facing the dog at head height at arms distance and or set it on a structure and step away from it so its a recorded so it can record the data. So that's what did.

Mr. Workman: And you are not sure what type of microphone its equipped with.

Mr. Wight: I can get those specs for you.

Mr. Workman: If I was to mention free field microphone would that ring a bell at all.

Mr. Wight: I will get the specs

Mr. Workman: If I was to mention random incidents microphone would that ring a bell.

Mr. Wight: I will get the specs.

Mr. Workman: Could you explain the difference between lets say the specs say free field and random incident could you explain to me and the Board the difference and how that microphone is utilized.

Mr. Wight: Well free field it is designed to be free field that is to take in noise from whatever direction and a random incident is used for some different application typically not environmental applications, but it is a subtle difference.

Mr. Workman: A subtle difference between the two

Mr. Wight: I sorry miss spoke not a subtle difference but a significant difference a free field.

Mr. Workman: If a random incidence microphone utilized and held in position of a free field microphone would be utilized how would that effect your data collection. Could it skew it?

Mr. Wight: sure

Mr. Workman: by how much

Mr. Wight: I do not know.

Mr. Workman: do you belong to any societies or organization dealing with acoustics.

Mr. Wight: I belong to some societies but not an acoustical society

Mr. Workman: are you familiar with some If I were to mention the institute of noise control engineering.

Mr. Wight: Slightly

Mr. Workman: You are do you know familiar with there text and publications they send out for an education planner and evaluation

Mr. Wight: I would say

Mr. Ruskey: Gary I would like to object for a second if I could I don't know where this line of questioning is going. Mr. Workman seems to be questioning the credentials and our sound engineers and was by the way recommended by the town as one of the list that we could call ask to give testimony here and I would like to where this line if testimony is going.

Mr. Workman: I think the next question will point that out.

Gary: I would cause I

Mr Workman: I am not questioning his credentials

Mr. Stevens: Let me just say this say this his credentials and what he bases his opinion on and his training and skill is a factor for a prior fact or anybody listening to his testimony to a judge and given how much weight you give it. So it is I think it is highly relevant to know what he did and he to based his opinions on decibels levels and that is what we are trying to get at.

Paul: So you are basing you questions on an appeal of this hearing is that correct.

Mr. Stevens: We hope you will agree with us but if you won't listen to us we at least want to make a record for an appeal.

Paul: We want to have testimony on the project here and I think were getting away from it.

Mr. Stevens: Well unfortunately sir this is the law you have chosen to become a municipal planning commission which means this is a

Ken: Hal this is a not a municipal planning commission its a Development Review Board.

Mr. Stevens: Development Review Board which basically the record you make here is the record for environmental court hears if there is an appeal so I think were entitled to make a record as what this fellow has done and to question his skills in getting the decibels levels because apparently you are giving it some weight in making your decision and I think anybody would I think we have a right to question what he did, what his training is and what he know to come up with the opinion he is coming up with and that is all Mr. Workman is trying to get at.

Paul: Can we get to it quicker

Gary: Just ah

David: Yes lets get to the point here

Gary: Just just ask the questions we don't need a hundred lead up questions just ask it

Mr. Workman: Is your meter equipped with a frequency one third octave or octave frequency data

Mr. Wight: No

Mr. Workman: its not. I have something I would like to read to you I would like to know if you agree or disagree with the from the Noise News International

Ken: We do not have copies

Mr. Lively: Excuse me I like to object to that I sorry my name is Jeff Lively and just like to say based on what we have been going on just said he is now reading from manuals and references that have nothing to do with his particular qualifications I think we made it clear lets get to the point.

Mr. Workman: I beg you pardon it has nothing to do with his qualifications

Mr. Stevens: He is asking a question does he agree or disagree with a statement that's a perfectly valid question as long as it has something to do with the testimony.

Mr. Lively: I think we all agree it is the Board prerogative and responsibility the make proper inquires and I believe they are all capable of that so I think lets move on if the Board has questions there will have a session where we will have an opportunity to ask questions.

Mr. Stevens: Are you saying we can't ask anymore questions.

Mr. Lively: I am not saying that at all its not my position to say that.

Mr. Stevens: So let him ask his question.

Mr. Workman: Would you agree or disagree with this statement calculation of a weighted levels can be as accurate as calculation made for octave frequency band or for one third octave frequency Band if one third octave frequency or octave band is know or predicted this opens up the possibility of using a loudness scale in shomes or phomes shome shomes values relate directly subjectivity perceived loudness which is a major component of noise nuisance the effects of a barrier could then be more closely gaged in terms of human perception.

Mr. Wight: That sounds technically correct I agree with its technical merits do I agree with its applicability here no I don't.

Mr. Workman: Are there any noise barrier being put up there on the premise noise barrier

Mr. Wight: An eight foot wooden wall

Mr. Ruskey: There are landscaped buffers we have been talking about that all evening.

Mr. Workman: Yah right, do you have any berms.

Mr. Ruskey: No you we don't

Mr. Workman: Were you consulted on the design of the barrier that has been put on the drawings.

Mr. Wight: It hasn't been designed yet it is specified as an eight foot wooden wall

Mr. Workman: I see found two different sizes six foot and eight foot so its eight foot

Mr. Wight: Where do you see six foot on here

Mr. Workman: I saw it on the towns.

Gary: On the drawings on the drawings it says eight foot

Mr. Workman: So it is eight feet. I also notices that there are trees, shrubs and plantings you mentioned that was to abate noise is that correct. So were you consulted on that

Mr. Wight: Nope.

Mr. Workman: to what degree will a trees benefit the abatement of noise

Mr. Wight: Little,

Mr. Workman: How little

Mr. Wight: The greatest effect of having trees is probably physiological effect in according to physics one row of trees is going to do anything.

Mr. Workman: Okay So you had nothing to do with the design of the barrier would you have agree in designing the barrier.

Mr. Wight: I did not say that It has not been designed and I might well have something to do with it when its time comes along.

Mr. Workman: The barrier proposed to date in designing a barrier if asked to do that could you give some idea how you would go about that

Mr. Wight: Maybe but maybe not I would look at materials and their absorptive capacities and I would consider various designs and for various thicknesses and various insolation techniques in the wall were talking hypothetically.

Mr. Workman: okay how would you consider the source of the nosie apply in the design of the barrier.

Mr. Wight: I would consider the source of the nosie would apply

Mr. Workman: How So

Gary: Excuse me I not sure we are here to design the barrier this evening and I have one question I assume you have done noise studies taken reading as well along basically in the same

areas that the applicant has is that correct how do your I may ask do you have those with you can I get a copy of them I just would like to see how yours compare

Mr. Workman: I have them but there not going be able to make a comparison, because the fundamental difference our consideration is that Mr. Wight has used DBA's levels which is a combining of averages over the frequency spectrum and I used the actual frequency spectrum and I can certainly show you how that is important if you like

Gary: can you reduce those to dba

Mr. Workman They can mathematically be put in a dba and I do not believe its of any value anymore that this team of expert from the Institutes Noise Control Engineering of which Dr. Hundal And I are both members and Mr Wight has agreed. And he in agreed with that statement not as valuable as frequency values.

Gary: Regardless of if what was the other type study you said

Mr. Workman: Frequency data

Gary: Frequency data if frequency can be reduced to dba data can the dba as well be reduced to the frequency data information. Is there a comparison that can be made

Mr. Workman: I can but in evaluating nuisance noise I would never agree with using dba data to evaluate it nuisance noise so I to provide it I only supply it a precursor to a study and a more in depth study it diffidently overtakes any value dba levels I can sit here and pull out text after text its not worth it

Gary I am sure you can but I guess

Mr. Workman: My concerns is that perhaps some influence on the Board has been made in past situations regarding dba levels just like in past meeting that I was present at some influence was made regarding the use of decidious trees and shrubs as being a better sound barrier than an stc class of a building by another expert and I am afraid you may have been wrongly influenced you may have based or basing some of your decisions on errent information and I am trying to prevent the board from make that situation.

Gary: in order for the Board to make an intelligent decision to present us with evidence that will either contradict or confirm what the applicant has supplied.

Mr. Workman: I can do that.

Mr. Stevens: We plan on doing that when we call him we him basically what his point is he thinks your off on the

Gary: I understand what he saying

Mr. Stevens: wrong track on dba

Gary: I am what your trying to do but we are all lay people up here as opposed to experts it would a lot easier for us if the experts in the group

Tape change

Gary: Okay I guess what I am were the board concerned we like to get all we can get information and the information that we need to make a proper decision in all cases and if we don't have something to compare to if dba noise levels are different than the others noise levels we really don't have anything to compare with. If I know 90 dba is hazardous to your health over prolong period time, but how much more hazardous is it than 80 dba or 70 dba or 50 I understand there its a doubling effect but if we don't have the same parameters to work with it hard for us to make a decision on.

Mr. Workman: Let me say that my testimony later will clarify a little bit of that I am surer but what I would like to say is that in regards to providing DBA levels as compared to frequency data You say you would like me to provide comparable data I would rather provide accurate provide data and dba levels inherent are not accurate they are only a precursor to a more in depth study. When it comes to impulse noise and Mr. Wight mentioned that he has a impulse meter setting but did not any take an impulse reading oh you didn't have an impulse setting I am sorry on this which is the characteristics of a dog bark. Its a whole different ball game compared to what you would take with a regular dba meter and it is inaccurate and is something I wouldn't provide because regardless if it is comparable or not its inaccurate and ah as an example just this last week I walked away from a $2,800. account down in Whopenger Falls New York without pay because they asked me to represent dba's only because it to their benefit because it would have alerted the town of a problem.

Mr Wight: And I get to say here that Mr. Workman has said a number of times my number are inaccurate and they are not.

Mr. Workman: They are accurate dba levels. They are inaccurate for analyzing an impulse sound which is a dog bark which has a rise time of 30 milliseconds and no longer a length of time than a half a second. They are very accurate in use for road traffic which is blended together and machinery noise which is consistent but they are not accurate for using impulse sounds slap bark ah gunshot they just are not accurate, they average in combined and what you need to know in order to judge a whether a sound at any given point is going to be a nuisance to somebody who is hearing it is you have to look at the frequency data and determine and I can certainly explain that in my testimony that will clear it all up I am sure. The last time I was before this Board once upon a time I brought an overhead projector and it was and it did not did not provide a good lighting and a number of other things and I don't think I had too short of a time explain and I don't think you got the whole understanding of it. And I am concerned with that and I think my testimony later will clarify that. And I don't think I have anymore anymore questions.

Gary :Does the Board have other questions

Paul: Yah I have one question I guess that they probably be three dogs outside here how will that noise vary be different from noise from barking dogs elsewhere in the neighborhood is there some relationship between why this noise is different

Mr. Workman: Are you asking me or Mr. Wight

Paul: I asking you.

Mr. Workman: Ask again, I am sorry.

Paul: Okay I guess at the most they will have three dogs in this one area at a time how will the noise generated by these three dog differ from noise generated by other dogs in the neighborhood.

Mr. Workman: Well as I said in the past the frequency data is not to be misunderstood with the frequency of occurrence the more dogs through out the day over an eight hour period of being out there the frequency of occurrence of dogs barking is where the real damage is if you take large numbers of dogs barking simultaneously to increase the levels significantly alright, and it also take dogs barking at exactly as a truck goes by timed exactly as the truck at its peaks level to not hear it so the frequency of occurrence in between vehicles can be heard dogs can be heard that's what talking about frequency of occurrence I testified to at another hearing so

Paul: Were talking about three dogs at the kennel and I don't know how many dogs in the neighborhood say four dogs neighborhood a total of seven dogs.

Mr. Workman: Assuming that everybody else left their dogs outside and they barked through out the same length of time in a day is that what your saying.

Paul: Well the worst case scenario was is it I am trying to find out why three dogs in the kennel is so different from three dogs in the neighborhood

Mr. Workman It would increase their proximity to the golf course is one, alright the lack of any barrier a dog on another neighbors might be behind a house the number of dogs you don't have the same dogs out all the times the frequency of occurrence is greater because you have multiple dogs throughout the day going to be walked through out the as compared to a dog at home where it barks and the owner pulls you still have another dog coming out. Ah behind the one that gets pulled in at the kennel ah ah that's where it is its not in the volume if that's what your asking I guess.

Paul: If the neighborhood has three dogs in it and we put three more in this area I am trying to make the more dramatic.

Mr. Workman: Oh okay, okay let me say this I made probably better than a dozen visit to the Farm Resort and on some of those I was there up to six to eight hours in taking readings and listening and a few things I noticed I did not hear any dogs baring from the neighbors in any of those occurrences and I did not have airplanes buzzing overhead as has been insinuated either I had no incidences of airplanes crossing the golf course I don't know why its not in the flight path but it just happened that way on all those occurrences, traffic noise is there yes and that will be reflected in my readings and that is reflected in my frequency data as well okay I have not run into a community that has said it is acceptable to put a kennel in a residential area for that very reason that dogs outside in constant rotation of the dogs will increase the occurrence and that is a nerve racking experience now especially so on a pre existing golf course so I would think the owners neighboring properties and the golf course have a much greater opportunity to control a situation with a neighbor if that had ever occurred and I don't know to my knowledge never has occurred as compared to what goes to at a kennel establishment commercial establishment I don't know if that answers you question hopefully

Paul: Well they also gave the testimony that they would if the dogs are barking bring them inside

Mr. Workman: And then

Mr. Stevens: And bring another dog

Mr. Workman: Now wait I don't want to get into a match about that because we said another dog will come out what if that one barks and one goes in another one a that one happens and you have a test time with windows open, how many clients do the golf course loose as a result of that six month test time no one can put a number on it cause usually they go down the road and say don't go there so nobody know how many people how much business has been lost by a pre existing business as a result of putting a kennel in a residential area and in next to something that is reserved as a quite zone like a hospital, nursing, home, golf is anybody who watches a tournament on TV is about to make his put now you don't hear the announcer talking out load and there is a reason for that.

David: Would you suppose that there is a difference suppose there is a difference between

championship golf on TV and hackers on a Saturday afternoon.

Mr. Workman: Not if you talk to my father in law

Mr. Lanphier: My name is Ed Lanphier this just goes to show that just because their hackers they want just because their hackers Just because they are hackers doesn't mean they want noise around.

David: I was just was trying to lighten things up a little bit that's all.

Ms. Condon: My name is Gene Condon and I know David if you were putting and I was to say that gee David you look great today you would be really surprised.

David: I would be really surprised that you would say that to me and it would probably help my putt but I agree with you.

Gary: Okay any further questions thank you next.

Mr. Ruskey: Were done.

Gary: Your done have you got any anymore testimony to give

Mr. Stevens: Are they closed with there testimony

Gary: Yes yes

Mr. Stevens: I would just like to call Linda Wood back to just ask her a few questions about the kennel the new kennel operation.

Ms. Wood: Go ahead

Mr. Stevens: Okay now Linda as I understand it what is the primarily purpose of the kennel here on the Vartainan property how does it fit in with your operation

Ms Wood: Your going to have to the purpose of the kennel

Mr. Stevens: The purpose kennel here what's it going to do

Ms. Wood: I stated that in the beginning that it is to house orphan animals.

Mr. Stevens: Okay so these are abandon animals dogs and cats

Ms. Wood: Either abandon or surrendered

Mr. Stevens: Okay and do you do people ever pay you to take the abandon animals

Ms. Wood: Do you mean do they pay an adoption fee

Mr. Stevens: No I mean for instance if I don't want my cat or dog anymore and I didn't want to put it away could I leave it with you and say here's fifty.

Ms. Wood: They pay a surrender fee we try to get a surrender fee some people can't afford it.

Mr. Stevens: Right and so ask for a surrender fee, but if they can't you will just take abandon animal.

Ms. Wood: If we have the space. Were a limited access shelter Hal we don't kill an animal to make room for your animal we would ask you to hold as long as you could

Mr. Stevens: and then and then so that is the primary purpose of the kennels to take abandon animals and to try to find people to adopt them is that right.

Ms. Wood: Our mission statement is to promote animal welfare.

Mr. Stevens: and how do you do that.

Ms. Wood: through housing orphan animals humane education and hopefully low cost spay and neuter.

Mr. Stevens: and I see in your this kennel you have a neutering room and

Ms. Wood: And spaying

Mr. Stevens: Do you charge a fee for that
Ms. Wood: That is part of the adoption fee
Mr. Stevens: And currently your kennels are you have a kennel on Garfield Road
Ms. Wood: We rent space on 102 Vermont Made Acres.
Mr. Stevens: Okay is that off Garfield Road
Ms. Wood: That's the new address thing
Mr. Stevens: Vermont Made Acres
Ms. Wood: Vermont Made Acres
Gary: Vermont Made Acres
Ms. Wood: Made M A D E
Mr. Stevens: And how many dogs do you have in there now
Ms. Wood: I think we have fifteen kennels
Mr. Stevens: Okay and is there room to expand if you wanted to
Ms. Wood: No
Mr Stevens: Have you looked at any other commercial sites in town where a kennel expansion.
Ms. Wood: No
Mr. Ruskey: We actually looked at a lot of sites for this.
Ms. Wood: We looked at a lot of sites
Gary: Yah
Mr. Ruskey: Yah since being looking at this site
Ms. Wood: We actually we did looked at a house closer to Stowe but it was not enough. property
Mr. Stevens: How many properties that are zoned commercially properties did you look at for the kennel for the potential kennel property
Ms. Wood: Actually I wasn't the one actively pursuing looking at some people on the Board looking so forth and I
Mr. Stevens: Do you have any idea
Ms. Wood: Five or six
Mr. Stevens: Do you know if they were commercial properties or not
Ms. Wood: I don't know.
Mr. Stevens: Is this the only site that could have maintained you kennel expansion
Ms. Wood: This is the site we would like
Mr. Stevens: Now prior to deciding on the site did you go and talk to any of the neighbors around the property.
Ms. Wood: We tried to
Mr. Stevens: Who did you talk to
Ms. Wood: We called people we called everybody we called all the neighbors and sent them when we started with the first project
Mr. Stevens: Are there any neighbors here that you called
Ms. Wood: Yah we called Doctor Jurmczuk he would not speak to us
Mr. Stevens: Do you call anybody else in is here in this room
Ms. Wood: I called Gene Ann

Mr. Stevens: Did anybody ever tell you they thought the kennel would be a good idea in their neighborhood.

Ms. Wood: No I never heard that.

Mr. Stevens: Did you ever get any negative replies

Ms. Wood: No

Mr. Stevens: Now I see that the kennel has a store in it.

Ms. Wood: A small store yup.

Mr. Stevens: what's sold in the store

Ms. Wood: Collar leash a cat carrier to bring you cat home a create anything you would need to bring you dog or cat home.

Mr. Stevens: Flea powder or

Ms. Wood: No

Mr. Stevens: Do you charge for a the things you sell at the store

Ms. Wood: Oh yah no we give away inside

Mr. Stevens: Well what is it I don't know

Ms. Wood: Yes

Mr. Stevens: Do you sell it at cost or do you mark it up the good you sell at the store.

Ms. Wood: We mark it up

Mr. Stevens: And do you plan on eventually bringing all the dogs down from this kennel made lane is that the name.

Ms. Wood: The plan is to move from there to here.

Mr. Stevens: And you are anticipating on eventually having 32 dogs at this site

Ms. Wood: Well no were not anticipating that we are just putting it out there possibility that we might have to increase.

Mr. Stevens: Yah and you have shown a potential plan for 16 more animals

Mr. Ruskey: That's not what were applying for here tonight

Ms. Wood: That's not what were applying for here tonight

Mr. Stevens: I understand that, but that is a future possible future plan correct

Ms. Wood: possible

Mr. Stevens: And also can you explain how often the dogs take out on a daily basis to the run.

Gary: A lot of stuff was all gone over in the previous hearing

Mr. Stevens: I don't believe this was in the January 28th hearing

Ken: We didn't discuss this on January 28th

Mr. Stevens: Pardon

Gary: January 14th it was in there initial presentation a lot of the

Mr. Stevens: Okay I just think for the noise aspect we ought to get the rotation in so that's okay. Did did she testify all already how many dogs are rotated through the run in a day

Ms. Wood: well if you have fifteen dogs in the kennel

Gary: Yah

Ms. Wood: If you can put three dogs out at a time for four rotations

Mr. Stevens: How many rotations

Ms. Wood: The dogs are out there about fifteen to twenty minutes

Mr. Stevens: just 15 to 20 minutes

Ms. Wood: Umhum

Mr. Stevens: A and what time of day are they usually

Ms. Wood: Between the time that were open whatever our hours are, well actually start we start feeding at 7:30 so they might go out in the morning and be done by eleven.

Mr. Stevens: So you are planning on the dogs in the run from 7:30 and 11:00

Ms. Wood: It could be.

Mr. Stevens: No other times

Ms. Wood: Um no I can't say that

Mr. Stevens: You can't say that

Ms. Wood: No

Mr. Stevens: Could there be dogs all day in the run most of the day

Ms. Wood: No just at various times just when 15 dogs they might bring it out to introduce to someone outside I just couldn't be that specific I could say this though Hal our dogs are monitored by an attendant either through the monitoring system we discussed with the Board or with someone with them where as someone in the neighborhood leaving there dog at home alone tied up outside doesn't know if its bark all day

Mr. Stevens: Does anybody in the neighborhood leave their dog out all day that you know of

Ms. Wood: Well all I know is that we will be monitoring our dogs

Mr. Stevens: But there you just just said you said is there anybody leaves their dog neighborhood that you know of out all day long

Ms. Wood: I don't know I haven't gone around but I am just telling you how we are going to do it.

Mr. Stevens: So you are going to respond immediately to any dogs barking.

Ms. Wood: Absolutely

Mr. Stevens: Do you know what your response time would be.

Theresa: Oh God

Ms. Wood: No I guess I don't

Mr. Stevens: All right we don't have any further questions.

Ms. Condon: Can I make a comment

Gary: Certainly

Ms. Condon: My name is Gene Condon I have my home and my office there along Route 100 I am the house shown of the east side of the road and there is no one in the neighborhood I know this because I am very conches dog welfare and I get upset where there are certain places way north of us where there is one dog that out 24 hours a day 365 days a year on a chain and it seems there is no facility in this State or community that can respond to that I tried to do something about it about it but I am very aware of dog welfare and there is no dog left in that neighborhood left outside chained outside we are all working people and ah all of our dogs are house dogs and they do go outside their walked but that's just not a consideration here I can say that Mr. Standish who is also a neighbor who is nodding and there is no question about that. The only dog the only howls that we hear in that neighborhood are the howls of coyotes that live between the Stagecoach Road ah between the Route 100 and the Stagecoach Road and if a dog

were to be in a kennel with those open windows or outside when a coyotes howling which is at night and I think anyone who has been around dogs knows dogs will respond to the howls of coyotes. So ah I think the night time hours are important to we do have coyotes to the we have actually to the west and to the east of Route 100.

David: Thank goodness there not here for a permit

Ms. Condon: Were going to sic them on the Board cheer up were going to drop them off in your neighborhood.

Tom: Beep Beep

Mr. Stevens: I would objective if they were Then we call Richard Workman.

Gary Yes sir.

Mr. Workman: Well I could read from volumes I have three or four texts from of people in the field of acoustics but since Mr. Wight to that comment that one third octave or octave band data is much more relevant when concerning nuisance noise than dba levels.

Mr. Stevens: Have you explained to the Board what nuisance noise is

Mr. Workman: Nuisance noise is a noise that occurs not necessarily on a regular basis right but can be a disturbance to anybody on a neighboring property and as defined by the Supreme Court it can be a noise that is clearly audible on a neighboring property that is deemed a nuisance by any user of the property or owner of the property okay that can be defined as a nuisance legally

David: Which Supreme Court

Mr. Workman: The Vermont State ~~Supreme~~ Court Pierce v. Riggs

David: Like there always right

Mr. Workman: Well I don't think they are always right yah I know they

David: Just a point

Mr. Workman: They get well I am glad you passed your personal opinion on that but its none the less it is the law and I intend to conform

Mr. Stevens Okay

Rich: Just one question to nuisance to clarify in my own mind could two different people would think different things could be a nuisance like say could one person not be bother by a dog bark and somebody else could be bothered by dog bark

Mr. Workman: Very possible and that's why the Supreme Court issued that decision because the lower court had taken the opinion of two friendly neighbors to the person who was causing the problems with dogs and the lower court did not take into account that one person who had shown it was a nuisance and I have a case here that I will show you here that is active in the city of Rutland that I am working on with them it is one neighbor okay out of a bunch where when the Board went and set on the mans deck they suddenly understood exactly what he was talking about no one wanted to live there. Now the question is if you have three neighbors down road that happen to be behind an earth berm and were not exposed to that noise this is not a problem to us, but he was and city of Rutland is now spending 50,000 dollars to correct the problem and I think ill start off with that since we might as well define the differences between dba levels and frequencies data frequency data takes the overall sound spectrum from the very lowest frequency the bass drum in a band to the high frequencies like cymbals tinny sounds ah high pitches and it splits that up in there are different degrees if you have an octave band it split it

up into ten parts these are octave 31 Hertz 63 Hertz it is cycles per second it is a definition of the sound wave okay I am trying to get technical and in some ways in do not want to get myself in trouble by not being technical enough so please bear with me

David: Which is high and which way is low

Mr. Workman: The high end is up here 16,000 Hertz 16,000 cycles per second okay and the low end would be here these are your decibels levels sound pressure levels okay and what it does why a dba levels is inaccurate you may have a sound that sounds totally tinny and frequency spectrum might be up like this and down and you have another sound that is totally basis they sound to completely different things with the same dba level So you come and take dba level well say I don't know what the problems is but it might be that sound is a perfect annoyance and an example of that would be a fly buzzing in the window and I may have used that once before you sit down to the table and you are reading a book fly buzzes in the window it not very load at all but certainly if you put it into an esl and average it over an entire years experience its in that particular living room its nothing but it sure enough of a nuisance your going to get up and kill it

Rich: Esl what is that

Mr. Workman: That is the equivalent sound level and ah the reason I tell you that is your you have ah expert of your own and he used that in the past in explain sound it is totally irrelevant to what's going on here okay for nuisance noise okay when you take a dog barking let's say someone comes by your house morning and throw a string of fire crackers in your front yard given that they were legal in the state and they go off and you jump out of bed and this goes on and on or it happen once a week or once a month you never know when it going to happen it just happens alright that is a nuisance to you and I took an esl and I took a reading over 24 hours and I averaged it all out and I put it in and interpolate terpolate it extrapolate out into numbers over a given year that occurrence was nothing nothing at all right but you were in the house and you know doggone well it was a nuisance and I would have to tell you using esl we have no case in court so in analyzing sound and whether it is going to be a nuisance to somebody you need consider the frequency data split it up and what is it doing on the frequency spectrum especially with impulse sounds as I explained earlier an impulse sound has a rise time of 30 milliseconds and extends no longer than a half a second and its gone okay a dog yapping is an impulse sound a coyote howl is not it is more tolerable than a dog yapping because of the quickness of sound its a given known fact that most people are more intolerant to impulse sounds if you set here during this meeting and all you heard was a on the back wall over there it would bother you it bother everybody its an impulse sound if you hear an air handling unit humming eventually you adjust to it and it doesn't bother you as much I am going to show you some examples here I will start with this bottom one this is a case down in southern Vermont where a neighbor was complaining about an outdoor venue and one of the complaints was a the music and when we did the analysis of it and they took dba reading and everything and this is what he got for a increase the background sound at his house was 41 decibels when the music was on 43 decibels but he was bothered and when the owner of the establishment went up he realized there was a problem and he called me to come down why is it with only two decibels increase and yet these people upset and I can understand why I stood in their yard and I understand why it was the rise of the base drum and snare drum in the music boom whack boom whack now people say if you have if have lets say if the decibels in the background was 48 decibels and the music was 43 decibels at that location you

would not here it that is not necessarily true because when you here guitars are much loader than drums and you always hear the drums through it don't you because it is the frequency its not the loudness if I took a dba level of a set of drums playing it might not be as high as the guitar but you are going to hear the drums because its an impulse noise and its the frequency its a rise and fall of the frequency is prepared to the background

David: does that mean maybe I am missing something mean does that mean a deeper sound is more easier heard

Mr. Workman: Deeper sounds are do carry further most people do hear them but your ears do intinuate naturally that is one of the things that man has developed unfortunately dogs bark doesn't fit into the scale of those deeper sounds it fits into the scale right here of the human voice and were going to show you examples of that um some people are bothered more by a low frequency sound if you heard a canon going off constantly in the background you might be more upset than hearing a hissing noise but again it an impulse high energy impulse noise the government is doing a number of studies on count of that because of that communities away from the source of the sound people are bothered by it yet the dba say its nothing but there bothered by it like a dog goes nuts when a thunder goes off and you sit there and go uh you know it can be subjective of hearing or the use of a property a library is not going to tolerate a thumping noise next door there not going to tolerate loud music next door but if it is a gas station they probably will

Paul: Dr Workman from these graphs will we be able to determine if any of that is nuisance noise from a graph alone or do we need a

Mr. Workman: Well you can determine it and I will show you how okay that I can tell you that all of these were cases these are all cases that I have handled that are nuisance.

Paul: Are any of them with dogs though

Mr. Workman: I got impulse noises I don't have dogs I don't have a dog case now wait a minute you have got to understand something I am showing you something the wide frequency spectrum okay is what I am trying to show that an impulse noise is not necessarily a dog yapping it can be a bass drum it can be a snare drum it can a cymbal its the time factor put into comparison to its background okay and I I do have studies if you want to get on the internet and I will show you how there is 135 hits of dog nuisance studies on there and your are welcome to jump on and start reading some of them some are

Mr. Stevens: The point is I think the question is have you done anything to research of issue of dog barking

Mr. Workman: Oh yes I will show you the dog barking yes I have a study of the dog I am sorry yes these particular ones right now no I will show you I will conclude with that

Gary: Is there a lot of stuff here pertinent that is to get to the one with the dog barking

Mr. Workman: Well as long as long as you understand what I am talking about I want to make sure you fully understand

Gary: I I think

Mr. Workman: Here is a situation at IBM where they were to drop the DBA level three decibels and it wasn't acceptable and dropped it two more decibels and it was so what difference it was the impulse sound it was the sound of the rotating equipment out of alinement it was driving crazy sending people home with a headaches when they reduced it this much figuring it

would be enough it wasn't that little bit difference made all the difference in the world but on a dba average it was nothing but a blip this was the case in Rutland that I talked about this is an increase of only three decibels alright when you take it on a A scale these are the rises and fall in a frequency spectrum over the background and this is the one the city of Rutland determined they are willing to spend 50,000 dollars to correct rather than face litigation

Paul: What noise is that

Mr. Workman: That is coming from a skateboard facility and what it is the hitting of a ramp and a skateboard hitting on the concrete as far as the frequency spectrum is concerned its wider but does include the same frequencies as a dog and I will show you that here this would be the case in the motel room now you notice I don't have any dba levels because I defiantly don't and I guarantee you that the dba's level differences would be small but you don't use dba levels in analyzing this just as the text said

Gary: Excuse me how much this and my memory not that good and it been a while I know there is a big difference between going from 44 to 47 dba but it still isn't there a doubling effect in there.

Mr. Workman: Zero to ten decibels ten decibels is a doubling to the ear of a human on a subjective basis except below 125 Hertz five decibels is a doubling of the volume to the human ear that's based on ASHRAE studies and ASHRAE is the American Society of Heating and Refrigeration and Air conditioning Engineers.

Gary: Okay but the But in the higher decibel ranges a 60-70 decibels if you go from 60 decibels to 70 decibels

Mr. Workman if you go from 60 to 70 decibels you have doubled it to the ear at that particular frequency

Gary: right you have not just ten

Mr. Workman: right you have doubled to the ear it a logarithmic exponential scale that's correct

Rich: So 44 to 47 would be almost like thirty percent more

Mr. Workman: No no that's a lienal scale 44 to 47 zero to three is hardly detectible five is perceptible and eight is very noticeable this is subject scale based on ASHRAE most text use it ten is a doubling and twenty is four times because every time you

Rich: Twenty would be doubling the ten

Mr. Workman: exactly

Rich: Thirty would be doubling of the twenty

Mr. Workman: ah you got me ah yah yah

Rich: Forty would be double the thirty

Mr. Workman: Yah each time you raise ten decibels you doubled the to the human ear

Rich: Okay okay at fifty you doubled the forty

Mr. Workman: Right right

Rich: From 44 to 47 approximately thirty percent more louder

Mr. Workman: Is three decibels

Rich: that is thirty percent louder based on what your are saying

Mr. Workman: I would have to work the math I would have to work the math but I don't think its quite that but I wont argue with you

Rich: I am just trying to get a feel for what we are talking about

Mr. Workman: Yah pretty much it is pretty much its said that three decibels and I think Mr. Wight would agree is hardly discernable to the human ear is that correct

Mr. Wight: As I said right it is very hard to tell the difference between 56 and 54 52 sure

Mr. Workman: Right right

Gary: Right

Mr. Workman: Exactly

Rich: But fifty to sixty

Mr. Workman: double

Rich: If that doubles then 50 to 53 would be thirty percent loader 53 would be thirty percent louder that 50 wouldn't

Mr. Workman: I would have to run the math

Gary: Well it would be a third

Rich: What I am saying is the field is (Inaudible due to too many people speaking at once.)

Gary: Yah

Mr. Workman: It would be much better to know

Rich: When you go from 44 to 47 that three a lot bigger than it looks when you look at the numbers as according to the loudness.

Gary: That's the point I am trying to get is the

Mr. Workman: After you surpass the first ten because from the ten to the three its not in other words is not yes I get what you saying now

Rich: Yah I just trying

Mr. Workman: Getting back to the original number alright here a situation with a dog bark in a motel room the way this was extrapolated these numbers was based on a dog bark that I had taken at 110 feet its I have used in other reports the actual intonation of the wall okay the insertion loss of a wall into a motel room was actually measured and subtracted from the dog bark alright so its not a calculated not might be its the actual by an a-b comparison

David: Could you say that in English um what you are say is that say that with the. Wall and windows closed your reading is from the interior of the building

Mr. Workman: Right

David: Thank you

Mr. Workman: Correct

Ken: Your talking from the Motel I think David

David: Yah from the motel room

Mr. Workman: Motel room right um but you see the rise barring in mind this is not a steady state noise it a impulse noise its an impulse noise not a steady state noise okay that rise is equivalent to certainly equivalent to these others where there is problems and there is litigation here we have out in front of the motel before going through the wall

David: It would help me a lot if you could make a conclusion because the graphs themselves are not telling me the story I mean I almost need a statement from you like this will be bothered by

Mr. Workman: This will be absolutely discernable anybody anybody laying around by the pool down by the front of the motel even with the proposed new location given its current design

and its lack of a sufficient barrier and it use of foliage and tree as any type of a barrier okay will be clearly discernable and if somebody is laying around the pool they will hear the dogs barking the implication is been that dba levels that road traffic noise going by is going cover the sound of the dogs on occasionally a truck may indeed cover have enough energy in the frequency of a dog barking to do that okay but have got to get your dog to as I have said once before to bark in perfect time with that truck and if you can't get that dog to back in perfect time the dog going to be heard in between and all around.

Gary: Did you do on that other chart that building of the motel that graph is a dog barking at the building and how its heard at the motel

Mr. Workman: Right this would be and you notice there is very little difference between levels at the kennels the outdoor kennel and at the building and there is very little difference from the old proposed location and the reason of that is

Gary: Now what

Mr. Workman: Is in order to reduce you level by six decibels you have to double your distance and that wasn't quite a doubling of the distance so you didn't lose that much

Gary: Understand now what's I don't understand what the two lines on the graph.

Mr. Workman: The bottom line is the background noise with your traffic

Gary: Okay

Mr. Workman: And that is a steady state noise over a period of time and it has some rises and falls okay and this is your but averaging over time peak average peak average

Paul: What's the period of time what period of time

Mr. Lively: Period of time

Mr. Workman: The period of time that I took these was about fifteen minutes I believe on each one of these some were five minute and some were fifteen reading because I believe these I was up there a many many different times.

Mr. Lively: What dates were these measured

Mr. Workman: ah can pull that information up and have it in a report for you.

Mr. Lively: And time of the day

Mr. Workman: yup Absolutely

Mr. Lively: So the pink line peaks represent specific impulse noises as you referred to them

Mr. Workman: Nope because they don't exist there the pink line represents a sampling of a dog barking that was taken at 110 feet on another case up in Hardwick

Mr. Lively: At 110 feet not a 1,000 feet

Mr. Workman: at 110 feet at 110 feet and then was extrapolated so you can mathematically

I think Mr. Wight would agree you can mathematically determine the what the dogs level would be at any given frequency at 50 feet 200 or whatever Mr. wight used them

Mr. Lively: So it a mathematical calculation how can they the based on the based on measurements of the room but there not you didn't take a dog out an put it in the field and have it bark

Mr. Workman: I think your misunderstanding the background is an actual reading alright at this location at the front of the motel that the actual reading of the traffic noise this is an

extrapolation of what a dogs bark would be at that location from the source location now that's without you can't count a barrier because it does not exist you don't have a berm

Gary: It not like you said before it not an actual field sample

Mr. Workman: Right its actual reading of a dog and

Gary: Not at this site

Mr. Workman: It was extrapolated in order to get idea of what a what that dogs bark frequency content would be now I could run you through 50 dogs have a whole samples of way this was an average dog I have some that were much louder than this but I tried to pull an average dog so it would be the usually case but I certainly would sure be happy to run that data for you and show you a Pekinese to a St Bernard to a whatever.

Gary: I don't need that

Paul: but still at 110 feet

Mr. Stevens: do you want to reduce this or leave the large size you for them the large ones size

Mr. Workman: I can leave these for you if you like if there any help

Ms. Condon: There exhibits right

Ken: If they are exhibits they will have to be left

Mr. Workman: Right right okay right

Mr. Workman: Uh this is at the tee now if

Gary: If there exhibits I want them to have dates and times and the period time periods of the Sample

Mr. Workman: I will provide that I have all that in a report what I did was just bring sections of it and I am not

Gary: You have got a report you are going to turn in

Mr. Workman: I don't have with me these I will see that you have it within 24 hours if you would like.

Gary: Okay

Mr. Workman: This is an example of where the dog would back and this these remember these are background noise occurring at any given time and here is your dog bark and it is going up even above it and this is even at the tee is much greater than some of these noise complaints okay these are peak levels at any given frequency that the dog bark might reach one bark he might bark with a tone like this and the next bark might be a tone that is like that however when you take your peak levels that it will reach at any given frequency when you determine the for comparison.

Mr. Lively: Is the background number again is it the same on all of these charts the measurements from the hotel the motel

Mr. Workman: No it not the same.

Mr. Lively: Well they look to be identical on all the graphs the black line

Mr. Workman: They may look to be identical okay but when you look at the numbers you can see they are different I can get you provide you with the hard numbers if you like they show on the graph because the discernment of the graph is not.

Mr. Lively: So that so the background number for instance is that an average noise

Mr. Workman: Its called a peak average you set your meter on for a given time it

constantly averages and registers the peak noises as anything goes by and then at any given frequency and that is your frequency spectrum.

Mr. Lively: And you said you were there six to eight hours on many times

Mr. Workman: I was there numerous different times but I didn't set the meter up for given length time six to eight hours that would be an esl study and it does't it doesn't

Mr. Lively: But you report will indicate when this sample was taken and the sample was

Mr. Workman: Yes and I will have all the dates

Mr. Lively: And your sample will is of one time is that correct

Mr. Workman: and that one dog that one dog

Mr. Lively: I am talking about background noises

Mr. Workman: The background noises are

Mr. Lively: You said you took a measurement of the room without the dog barking and that's what I am trying to get at is that an average of thirty days you took

Mr. Workman: No that is an average of a period of time over that given time on that given day

Mr. Lively: So

Mr. Workman: Now I went back other times and look at averages to see if there were any variable differences and there were very little or minimal differences

Mr. Lively: Did you report address the differences and

Mr. Workman: I certainly can provide with all the different readings in the motel room for all the background.and you can play with them for all you want and but this is this is a good honest representation I will guarantee you of that

Mr. Lively: It is your representation of the numbers and measurements taken from background room from the background noise taken in the motel room

Mr. Workman: No not here this is the tee.

Mr. Lively: this is what for and

Mr. Workman: At any given location and for example I will show you this here is at the lot line do you see any differences in your background

Mr. Lively: Sure it a but it doesn't mean a thing to me its a chart.

Mr. Workman: Well no this low frequency you had some high levels an low frequencies noise it was a stream and it picked up the low frequency there is your difference as when you get over by the tee you still have the spike in the in that area most of it was extenuated by the grass or whatever in that little area on ah the putting green more than likely

Mr. Lively: So what we how do how do we know what the spikes represents

Mr. Workman: What the spike represents it could be tire noise it could be a number of different things it somebody could have slapped a board on a truck could have gone by and a chain could have clunked in the back it was on the back of the bed and it could have made a low frequency sound the meter picked it up whether you want it there or not its locked in that the peak that occurred

Mr. Lively: Right So those charts don't tell us which one of those is the golf ball hitting the cart and having four people yell fore verses the dog bark verses the coyote yell verses the brakes screeching its just a peak correct

Mr. Workman: Is that a peak Yes at that given frequency that occurred

Mr. Lively: its refects an impulse noise

Mr. Workman: It may or it may have been it may have been a steady state noise it may have been the hum of a tire

Mr. Lively: Okay we don't know

Mr. Workman: We don't know exactly all we know at that given time this was the background level that occurred and we know that a dog barking at that location will spike above that scale at that amount.

Mr. Lively: It could

Mr. Workman: I can get you a dog that will spike up here if you like we could really blow it out of whack or I can get you a dog down here that whimpers a lot this is an average dog

Ms. Wood: What there is no dog

Mr. Workman: What

Ms. Wood: What if there the dogs aren't barking no dogs barking

Mr. Workman: What if no dogs are barking then you don't have a problem do you the kennels not there probably.

Ms. Wood: No no I really mean that dogs don't always bark

Mr Workman: They don't always bark, but I saw you on TV the other night and you had a heck of a time keeping quiet then

Mr. Standish: Yes you did

Mr. Workman: Did you see that news reel

Ms. Wood: What do you mean did I see that news reel I was there and do you know why why they were barking

Mr. Workman: I don't know no I don't Darren was outside I being meaning give him a call and talk to him about it but he was outside and he had to get right on top of the microphone to be heard

Ms. Wood: Right well

Mr. Workman: Why were they barking like that why don't you tell us

Ms. Wood: Because there were because there were dogs on a long line with no windows or barriers to his right it was just plastic that not our section but that where paperwork dogs are

Mr. Workman: What thickness plastic

Ms. Wood: I don't know

Mr. Workman: Four mill

Ms. Wood: I don't know I did no measure it

Mr. Workman: that makes a difference how that sound got through if it got through four mill plastic it was quite a bark

Mr. Lively: It was just plastic

Ms. Wood: Yah no no it like the plastic for a drop cloth

Mr. Lively: It was just plastic

Mr. Workman: I don't know

Ms. Wood: Do you know what I am saying

Mr. Workman: But you know all I can say personal interest is that I have no interest in attacking the humane society alright its not my interest I appreciate what the humane society does however you must understand I have been hired by a client and that a corporation not a person

alright that is concerned that a pre existing business could be put at risk an investment for many years put at risk now when I was first contacted I told them I will come and due a study however it does not work in your favor but don't count on me misrepresenting data don't count on me is that not correct what did I tell you did I tell you that I could even could of I could very possibly be a witness against you misrepresented anything I did

Mr. Jeremczuck: Right

Mr. Workman: And I stand by that with all my clients alright and all I am saying and all I am saying is dogs do bark and say they don't bark at the kennel which I have heard you say many times here is more of a misrepresentation than I have ever dreamed of doing with the data.

Gary: Alright time out we have five minutes and were going to end this any closing statements

Mr. Stevens: Right we just have question I just have one question how many neighbors are here tonight from neighborhood now and from the neighbors with the neighbors I would just like to have them give their name do if they think plan will create a noise nuisance for their property first of with all Ms. Condon.

Ms. Condon: Oh yes I do and beyond that I think there real a question is this I don't think this is the appropriate place is this a community facility this isn't the forum to argue that but I think Yes your right sir about the noise issue.

Mr. Stevens: Alright who else do we have here that is a neighbor yes sir

Mr. Standish: My name is John Standish and I am right across the road I am brook and pine with where the shelter the dog shelter is going to be built I say it no should be built I think she should have a new place really needs it really bad I went out and I came out with tears in my eyes and but I say no for this particular area

Mr. Stevens: Do you think it will create a noise nuisance

Mr. Standish: I diffidently do in other that we got people who are ill emotionally ill under doctors care they need peace and quiet because of their health and that another thing

Mr. Who else do we have here Bill Danforth

Mr. Danforth: I am opposed to it I think it will create noise

Mr. Stevens: You think the dogs barking will bother you

Mr. Danforth: I think it so especially at night.

Mr. Stevens: You sir.

Mr. Lanphier: My name is Ed Lanphier I have nothing against this humane shelter as a matter of fact this last year

Gary: Excuse me could you tell me where you live please

Mr. Lanphier: Oh I live right on the golf course I am the golf course superintendent my

Gary: Oaky

Mr. Lanphier: Dog just passed away last year the first place I went to take a look at it It really didn't matter where the place was located whether it was convenient for me or not I was after and dog I end out not getting it their I went to a foster home which was way out in East Hardwick but this whole thing is you do want it there for convenience but once I have this dog I have now I not going to be back for fourteen years so it no longer a convenience for me being there see what I am saying its not like a grocery store where your are going to be there once a week I don't know why it has to be here.

Mr. Stevens: do you think it will create a nuisance for your living there

Mr. Lanphier: Well not just for living there but for the golf course itself yah

Mr. Stevens: And Dr. Jerumczuk

Mr. Jeremczuk: Bill Jeremczuk I am at the golf course quite a bit every day in the summer as a matter of fact and on the weekends and I really feel strongly that this project will very very negative effect on our property value our business and our future expansion as well I feel as a functioning business we try to improve the place continuously and will continue to do so and it will have a negative effect on our business plan secondly

Mr. Stevens: I just I would like to summarize what J.D. Associates positions is that one first of all we all agree we all agree that North Country Animal League is a wonderful organization and nice people and they are doing a great service okay for the animals in this county but at the same time they like anybody else should be given any special rights under the zoning laws and it is clearly to me that and most case law and treaties and whatever and law those working in laws that a kennel is considered a commercial operation whether for profit or non profit here there basically have you know they have store a store selling stuff out of the store, there taking fees for dog adopt for taking dog animals there taking fees for people taking dogs, for spayed fee which in part is a spay fee and I would say that this amounts to a community facility which in the bylaw the zoning bylaws defined as a church or library some thing of this sort that is not involved in commerce and this there involved in commerce the trading of dogs basically all be unwanted one and for a great purpose I don't think it arises to a level of a community facility and fact and I am not trying to be fractious but if anything it fits the definition of a salvage depot which clearly doesn't believe belong in a residential agricultural area the dogs are in fact admittedly abandon goods and that is your definition under salvage depot alright I think anybody want's something and I am not saying I am not calling the kennel a salvage depot but not unlike one and fits that definition under your bylaws if you want to look at definitions and to the most importantly it is going to create a problem in the neighborhood its going to be a nuisance for the neighbors there is not one neighbor that is not here that has come forward that I know of that they think the kennel is a good idea and that is not going to bother them given that for J.D. Associates and I think I can speak for the rest of the neighbors they just don't want this type of operation were you have a kennel there now they certainly could have a photo gallery or something like that but I mean but still you are getting in to a commercial type operation so with all do respect we think with all concern for there operation they should be looking for a more commercially zoned property to put their facility into where it is not in a residential a rural residential area which is in keeping with the area

Gary: Thank you

Mr. Nash: A comment I have a dog from the humane society for five years and she has barked four times even when the coyotes and I live in Hyde Park where there are a huge number of coyotes coming off green river reservoir and she never responds to them and this is a 110 105 pound German Shepard with a grievance (inaudible) and barker and dogs that don't bark don't make noise and supervised dogs generally don't bark

Gary: Thank you David you had a question on Dr. Workman

David I had a question for Mr. Workman assuming dog in a kennel windows closed in the set up that is outlined hereby the Applicant and assume that the dogs back the man who is the

closest to the property.

Mr. Workman: It could depending on some variables that were not addressed tonight no one know anything about the mechanicals of the building the mechanicals can be an tremendous exit for interior noise were

David: Inaudible too many people speaking at the same time

Unknown speaker: Explain yourself

Mr. Stevens: Like the ventilation vents and how your going

Mr. Workman: The hvac I had a situation down in New Hampshire where it was a bar and people were complaining across the lake about the music and the guy was total sealed up tighter than a drum and they could not figure it out it turned out to be a ventilation a ventilation duct the noise was coming out water is not absorbing it is reflective sound tremendously

David: Is your opinion that through proper engineering and with closed windows properly designed walls that dog backing in an enclosed kennel would be a nuisance noise to closest the nearest neighbor

Mr. Workman: anything could built okay to be quiet there is no doubt about that whether you can afford the price tag it certainly would have to be something the humane society would have to determine and the league would determine anything is possible to make it quiet when it is indoors totally indoors yes you can do that it would require a lot treatment and a lot of really good design and it has to be done outside of the dba level consideration it has to be frequency orientate as an example barrier just putting up a barrier requires a design having to do with the frequency you are trying to barrier in this case even the location that would never sophist because it has a building as a reflector right behind it Just that so many things have to be considered that is why I have to carry a million dollars insurance.

David: If you could focus just on this fellows house for a second would this take super human effort would this require brick and walls and cement or because of the distances involved and having a closed building

Mr. Workman: I don't want to seem invasive okay but it would require a study and I am serious about that and I just could not I personally could not put forward a value its like calling a doctor and telling him you have a headache and he tells you to take a couple of aspirin and go to bed and it a brain hemorrhage you might have a problem come two am you know what I mean, I can't

Mr. Stevens: He Can't He can't isolate the dogs inside the building as they will be coming and going all day long and they are going to be out on the run.

David: I understand that.

Mr. Stevens: Sure

Gary Mam you had question or wanted to make a comment earlier yes

Ms. Linton: I have had three dogs for fifteen years and they never bark at night I have coyotes up on Mansfield View and I have wilderness for miles and miles and the coyotes bark and bark and bark and they have never barked in 15 years at night they are a sleep and snoring.

Mr. Danforth: I have some paperwork from Waitesfield and they had the same situation that were are coming across and they can call the Selectmen and they will tell you the problems they had

Gary: You want to enter that as evidence

Mr. Danforth: Yah we do

Ms. Condon: Yah okay

Mr. Danforth: Its all the problems they had with their's until they closed

Gary: With that is everybody spoken their peace or the applicant wants to summerize we have a

Mr. Stevens: Are we closing the evidence now is that it

Gary: Not yet the has a four page report by Dr. Hundel but I am not sure that the about entering it I guess what I would like to do is to give a copy to your groups and allow you comment

Mr. Stevens: I would object to Dr Hundals testimony being enter without him being here to testify about so if he wants to testify he would have to be here to cross examined

Gary: If we are going to do that then the evidence from the Town of Waitsfeild will not be allowed as well

Mr. Stevens: I did not object to it and I don't anyone else objecting to it are you objecting to it.

Mr. Lively: we will object to it

Gary okay That was my concern was his written report without him being here to testify

Mr. Stevens: any evidence is fine as long as it is not objected to

Mr. Lively: This is Board not a

David: Are we bound by rules if evidence

Unknown speaker: Yes it is

Mr. Stevens: You are operating under the Municipal Procedure Act its quasi judicial proceeding

David: We will learn as we go

Paul: We might as well (inaudible)attorney

David: too bad

Mr. Lively: If I may make a suggestion or a comment both experts and both parties have referred to prior testimony comments and beliefs of the town's experts and I don't see any reason why that shouldn't be admitted we have all made reference to it and the actually experts have relied on it also why I have your attention quickly I know everyone want's to get out of here Mr. Stevens made reference to a church and making a community facility type argument I think they take donations for service rendered literary and I believe have bake sales and tag sales and things like and they do end up raiding money for themselves and I think that a closer analogy than anything else also there has been three experts involved here and there two agree and one doesn't two agree and one doesn't and I think that says a lot also the other expert talks about nuisance and states clearly and the only thing that I can understand and understand is that a nuisance is a subjective thing and we all going to have a different idea of what a nuisance and we all agree on that hence the problem and I don't think that means North Country Animal League is asking for or receiving from this Board or anyone else special treatment I don't think I think that was out of line I don't thinks that's something we ever asked for and I think a year long proceeding show they have been playing by the rules attempting to play by the rules and I think it is ironic that everyone says we love North Country Animal League but no one is going to give it a place to be that all.

Mr. Workman: Can I make a comment

Gary: Certainly

Mr. Workman: I was hoping that Dr. Hundal would have been here tonight this past week I gave a visit to his organization that he touted so proudly and which is the Institute for Noise Control Engineering in which I am a member and ah I reviewed his testimony with some of the people there and their comments we you have to be kidding anybody that recommends deciduous trees

Mr. Lively: I have to object his testimony to about other experts he talked to outside this room

Mr. Workman: Excuse me I believe you said I am differing opinion and them I want to show how if I may.

Mr. Lively : By testifying about

Mr. Stevens: the point is are we going to have Hundel come here to testify or were going to object to you relying on his opinion because it is here say he needs to be present

Ms Wood: But really

Ms. Condon: The other thing is the other permit was not approved by a majority vote inaudible too many people speaking at once

Mr. Workman: The other thing is about his credentials can I bring something up a comment was just made about his credentials in 1965 my mother went to visit a doctor and she was diagnosed as having pneumonia and he treated her for eight months right she finally figured something was bad and got a specialist and in three months she was dead of lung cancer now he may not have been able to save her the first doctor but you know what they called him doctor the credentials mean nothing when information and data is inaccurate and proven by text after text after text and I will set here and read um to you

Gary: Oh no you wont

Mr. Workman: Trees make poor sound barriers he recommended deciduous trees and shrubs in place of STC values on a building I have been putting this man's fire out couple of years now and I am not very impressed with his doctor doctor anything

Gary: Anything else

David: What are we going to do with this

Gary: Were not going they objected we can't without him being here to testify so his Dr. Hudel's report will not be allowed and I am not going to close the testimony and we are going to recess to.

Rich: The 18th

Gary: Got to ah

Ken: Unless you want to have it on one of your other nights that's about your only night you got free you are pretty well booked through May.

David: What date are you talking about now

Gary: Well I am not necessarily certain that I think we want to do issue a recess memo and the Board will issue and ask for further

Ken: Information

Gary: Information from either party and if the Board does decide to call Dr. Hundel it will be in the recess memo when the public hearing will be.

Mr. Stevens: I will not be able to be here on the 18th and I would like to be here if Dr. Hundal is going to be here.

Gary: Were going to I second please the Board will recess to a deliberative session immediately following this recess of this hearing and we will come up with the wording for the recess memo and at that time we will decide amongst ourselves if we have enough information at that time if we need to call Dr. Hundal or without him or what we are going to do and at that time in the recess memo will be told if we are going to have public hearing an open hearing or if we are going to make a decision

Mr. Stevens: We will leave these exhibits and he will send you his report that the Mr. Lively asked for

Gary: That will be in the recess memo

Mr. Lively: I would respectfully request if you do determine that more testimony is necessary as much as possible if you folks could narrow the issues so we can focus on

David: Made a motion to go into deliberative session

Rich: Seconded the motion and it was approved unanimously

Please note from now our minutes will not be a transcript of the tape they will be as have been for past few years, the tapes of the meetings and transcripts can be done if requested for a fee covering the time and all associated costs.

Other Business:

John Rubino: Approval and written decision granted by the DRB were revisited to clarify the scope of the motion and draft written decision.

Tom Paine made a motion: "I Thomas Paine Make the motion that the applicant provided us with credible evidence by sworn affidavits from former residents of the apartments that these apartments existed prior to July 1, 1989, and that the Morrisville/Morristown Development Review Board does not intend to pursue enforcement against the property presently owned by Thomas Michelson located at 4808 Randolph Road and being purchased by John Rubino for an existing building that consist of three apartments and an area for a home industry business as per permit 98-133 and all associated decks out building and additions that were constructed before July 1, 1989 or before the property was purchased by Thomas Michelson".

Rich seconded the motion and it was approved unanimously.

David made a motion to adjourn the hearing at 11:55 PM.
Paul seconded the motion and it passed unanimously

Respectfully submitted,

Kenneth J. Sweetser, Scribe.