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Couple to Contest Dangerous Dog Finding

By Ashley Varese

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After originally determining a local dog not dangerous pending a home visit, Westport's Dangerous Dog Hearing Board Thursday night decided that Adelaide, the Labrador mix living in the Cove Mill neighborhood, was a danger to the community.

Three of the five board members attended the meeting, rendering a 2-1 vote.

Delmar and Maureen Bogner, the couple who own the dog, will file for injunctive relief this week, said their attorney Erich Gaston.

Gaston said the couple received orders Monday requiring them to muzzle Adelaide when she's leashed, to erect an 8-foot fence around their property and to post a "dangerous dog" sign in their yard.

Nearly 30 people attended a July 24 hearing to determine whether or not Adelaide should be considered dangerous. The hearing stemmed from a July 2007 incident where the Bogners' dogs and another neighborhood dog belonging to Peter Wormser, got into a fight in the cove parking lot.

Police and animal control investigated the incident and determined that the dog was not dangerous.

According to First Selectman Gordon Joseloff, Police Chief Al Fiore never formalized his findings, which Joseloff said was a lapse on the town's part. In the meantime, he said, cove residents contacted him

calling for a public hearing.

Joseloff said Fiore formalized his decision on July 3, and letters went out to the complainants informing them of the finding and stating that they had five business days to contest the decision. He said the town received a letter from the neighbors July 9 requesting a formal meeting.

Gaston refutes Joseloff's timeline, and said when the incident first occurred, Fiore and the animal control officers investigated the incident and required that the couple erect a fence and use a gate at the front door.

Since the couple complied, Gaston said the problem was "resolved by agreement."

"The finding was resolved in March," he said, "and there was no request for a hearing back then. The complaints are untimely."

During the July 24 hearing, neighbors discussed a second alleged incident, which is currently under investigation, in which Adelaide, who was being walked on her leash, was approached by an unleashed neighbor's dog.

Gaston said because the complaint is still under investigation, it should not have been considered at the hearing.

"They haven't made a finding yet," he said. "They have no authority to act on it."

Gaston also takes issue with the town's ordinance, which he said is very vague.

"It says any person can complain they don't have to be injured," he said. "It seems that if 50 people say something, they can't be wrong."

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Delmar Bogner agreed, saying early last week that a number of neighbors are "propagating fear" throughout the community. He said there were no other complaints since the 2007 incident and that he remedied the situation to the fullest extent. He claims four of his neighbors are behind the push against Adelaide, stating they want revenge for an unrelated incident that occurred a few years back.

Gaston said according to the findings in the first incident, he was supposed to be notified by the town of any additional hearings. He did not receive notice for the July 24 hearing, but did attend the July 31 meeting during which the decision was rendered.

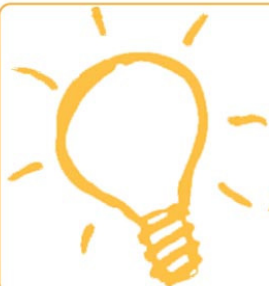
"The problem with the board is that it's not doing its job," Gaston said. "It sees itself as a generalized policing function."

He said after filing the injunction, the court may hold a hearing, but isn't required to. It could set the hearing board's decision aside, or remand the case for further findings of fact.

Gaston also called the hearing "very Salem Witch Trial-esque."

"Plain and simple, this is a railroad job," he said.

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