

ZONING BOARD OF APPEALS
TOWN OF STUYVESANT
STUYVESANT, NEW YORK 12173

MINUTES OF JULY 24, 2012

**** Approved at 8/28/12 meeting**

MEMBERS PRESENT:

Ms. Patricia Casey, Chairman
Ms. Amy Abbati
Ms. Margaret Pino
Mr. Kent Keller
Mr. Steven Taylor
Mr. Steve Montie, alternate

MEMBERS ABSENT:

Mr. Paul Harpis
Mr. Jeff Jensen

OTHERS PRESENT:

Attorney William Better, on behalf of the Zoning Board

Chairman Pat Casey called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the Flag.

Appeal to the ZBA for a zoning interpretation is continued by William Pflaum, Glencadia Dog Camp, 3 Rybka Road, Town of Stuyvesant, NY of a Citation issued on 8/9/10 by the ZEO, Gerry Ennis for neighbor complaints concerning barking dogs. Chairman Pat Casey read the letter sent by Mr. Ennis to Mr. Pflaum dated 8/9/10 concerning the violations that were issued. (Letter is attached to the minutes.) Kent Keller stated the Zoning Board members previously did a noise study with his own decibel meter that indicated there was no noise at the end of the driveway. Mr. Keller does not feel there is any noise to consider. Mr. Keller also believes the noise from 50 or 1000 dogs barking would not reach an unreasonable level. Mr. Better explained the finding by the judge and that the matter has been remanded back to the Zoning Board to address the appeal. Mr. Better explained that if Mr. Pflaum wants to withdraw his appeal then that would be his decision. Mr. Better then read a letter from Mr. Lynch dated July 24, 2012 (today) stating Mr. Pflaum would withdraw the appeal under two conditions – first, that the town elects not to appeal to the Appellant Division the decision by Judge McGrath dated May 21, 2012, entered June 6, 2012 and secondly, the withdrawal of the appeal to the ZBA not be deemed an admission of wrong doing. Mr. Better stated the town supervisor, Ron Knott, has indicated the town will not be pursuing an appeal of the judge's decision. Ron Knott confirmed this at the meeting. Mr. Better stated if the appeal is withdrawn, the

notice of violation would still stand. The town board would then need to make a determination as to how they want to proceed with a two year old violation. The ZBA cannot enforce a violation. If the applicant does not want to withdraw the appeal, then the ZBA must set a public hearing to hear the specific violation relating to noise. Mr. Pflaum stated a public hearing was not needed as one was already held previously. Mr. Pflaum stated the ZBA can send this to town court or the ZBA can void the violation because there is no active current complaint or written complaint at the time of the violation. Mr. Pflaum stated he will not withdraw the appeal as he does not believe Ron Knott's word is sufficient that the town will not pursue an appeal of Judge McGrath's decision. Chairman Pat Casey read the last part of Judge McGrath's decision (decision attached to minutes). Mr. Better disagreed with Mr. Pflaum explaining the ZBA has no enforcement power. Since Mr. Pflaum will not withdraw the appeal, Mr. Better recommended the Board hold a public hearing and let Mr. Pflaum know whatever information they require to consider this matter. Amy Abbatti stated the prior public hearing addressed a number of issues and asked how that would not be a public hearing. Mr. Better explained that this matter as it relates to the narrow issue was remanded by the judge and sent back for consideration by the Board. In Mr. Better's opinion, the only way the ZBA can act is by holding a public hearing on the narrow issue as outlined in the decision. Steve Montie pointed out Ron Knott stated in public at this meeting that the town would not pursue an appeal. Mr. Pflaum wanted to wait to make sure the appeal is not pursued before he withdraws. Mr. Better requested Mr. Pflaum notify the Board once the time to appeal the judge's decision expires whether he wishes to withdraw his appeal to the ZBA. The town has until July 25, 2012 to appeal the judge's decision which Ron Knott again stated the town will not appeal.

Chairman Pat Casey indicated the next scheduled meeting is for Tuesday, August 28, 2012 at 7:00 pm. If the appeal is not withdrawn by Mr. Pflaum, then the Board will set a public hearing for September. Chairman Pat Casey requested the board members review the information they have on this case including the complaint letters, video tape as well as the violation issued on August 9, 2010. Martin Roby asked if all the planning board meetings could be included for review. Mr. Better stated that if there is a public hearing then any information could be submitted at that time.

A motion to adjourn the meeting was made by Steve Montie and seconded by Margaret Pino. All members voted in favor.

Respectfully submitted,

Shirley Narzynski
Secretary to the Board