

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

MINUTES OF JUNE 21, 2011

**\*\* Approved @ 7/19/11 meeting**

MEMBERS PRESENT:

Mr. William Vick, Chairman  
Ms. Amy Abbati  
Ms. Margaret Pino  
Mr. Paul Harpis  
Mr. Jeff Jensen

MEMBERS ABSENT:

Mr. Sal Costanzo

OTHERS PRESENT:

Attorney David Everett, on behalf of the Zoning Board  
Attorney Peter Lynch, on behalf of Mr. Pflaum

Chairman Vick called the meeting to order at 7:03 p.m.

A motion was made by Margaret Pino and seconded by Amy Abbati to accept the minutes of the April 26, 2011 meeting. All members voted in favor.

A motion was made by Amy Abbati and seconded by Margaret Pino to accept the minutes of the October 26, 2010 meeting with a correction made deleting a word in the third paragraph. All members voted in favor.

Application for a Zoning Interpretation: Attorney Peter Lynch appeared before the Board representing William Pflaum, 3 Rybka Road, Town of Stuyvesant, NY. Chairman Vick distributed a privileged and confidential letter addressed to the Zoning Board from Attorney David Everett. Mr. Pflaum was previously issued a zoning violation by the ZEO relating to the provisions of the Stuyvesant Zoning Law entitled "Home Occupancy Class 2". Mr. Lynch stated the Zoning Enforcement Officer should have followed the steps outlined in Section 10, pages 37 and 38 of the Town of Stuyvesant Zoning Ordinance regarding "Enforcement of Violations". Mr. Lynch states the ordinance states the ZEO shall charge the violator with such violation of this ordinance before the Justice Court of the Town of Stuyvesant. Mr. Lynch states the permit was revoked instead of taking the matter to Town Court by way of issuing a violation. Mr. Lynch states the violation does not make an allegation of noise and the town does not have a noise ordinance to measure unusual noise. Mr. Lynch requests the Zoning Board revoke the

violation issued by the ZEO. He requests the matter be sent back to the ZEO and if he wishes to pursue this matter, it should be done through the court. Mr. Lynch referred the Board to a noise study done by Acoustic Dimensions on behalf of Mr. Pflaum. The dogs are housed inside a barn from 7 pm to 7 am. The barn has a steel door with insulation. The dogs stay inside a fenced area during the day. The number of dogs varies throughout the year up with up to 75 dogs. ZEO officer, Gerry Ennis explained he first issued a violation on 12/7/09 based on several calls from Mr. Pflaum's neighbors concerning barking dogs. Mr. Pflaum gave out his number and requested his neighbors contact him if there was a problem. A second violation was issued on 4/26/10 based on continued written complaints to the town concerning the noise from barking dogs. He gave Mr. Pflaum an application for a fence as there was discussion of putting up a fence but the application was never returned. Mr. Ennis states he walks in the mornings at about 5 am. Sometimes he can hear Mr. Pflaum's dogs and other times he cannot hear them. On 8/9/10, he issued a third violation after discussing the complaints further with the town attorney. Mr. Everett advised the town engineer's comments are available concerning his response to Mr. Pflaum's sound test by Acoustic Dimensions. Paul Harpis asked how many dogs were on site during the sound testing. Mr. Pflaum indicated there were about 30 dogs. Amy Abbati asked Mr. Ennis if there were prior noise complaints involving other town residents. Mr. Ennis could not recall. Amy Abbati stated there was a complaint against David Main several years ago concerning noise. Mr. Ennis explained Mr. Main did not have a home occupation. He raced cars as a hobby. The complaint was worked out between neighbors. Margaret Pino asked how often the dogs got out as it could be a safety issue. Mr. Pflaum stated there were other dogs loose in the neighborhood that are not his dogs. Mr. Pflaum states it is impossible for Mr. Ennis to hear the dogs at 5 am as they are in the barn. Mr. Everett advised the Board there are several options outlined in his letter for the Board to consider. Mr. Everett advised once the Board decides which how it wants to proceed; the Board must notify the applicant so the applicant can respond. Chairman Vick recommended the Board review the materials submitted. Mr. Lynch indicated he would send the additional information to the Board as well before the next meeting.

The next meeting was scheduled for Tuesday, July 19, 2011 at 7:00 pm. A motion to adjourn the meeting was made by Margaret Pino and seconded by Jeff Jensen. All members voted in favor.

Respectfully submitted,

Shirley Narzynski  
Secretary to the Board