

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

MINUTES OF AUGUST 28, 2012

Approved at 9/18/2012 meeting

MEMBERS PRESENT:

Ms. Patricia Casey, Chairman
Ms. Margaret Pino
Mr. Steven Taylor
Mr. Jeff Jensen

MEMBERS ABSENT:

Ms. Amy Abbati
Mr. Kent Keller
Mr. Paul Harpis
Mr. Steve Montie, alternate

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.

A motion was made by Margaret Pino and seconded by Steven Taylor to accept and approve the minutes of the July 24, 2012 meeting. All members present voted in favor.

Mr. Better provided board members with a copy of Judge McGrath's recent decision concerning Mr. Pflaum's litigation against the Town of Stuyvesant, Zoning Board of Appeals and Ron Knott. Judge McGrath dismissed the Article 78 litigation as "patently meritless". Mr. Better stated Mr. Pflaum brought two other matters before the Zoning Board of Appeals which were both dismissed by the Judge. (Judge McGrath's decision is attached to these minutes.)

Appeal to the ZBA for a zoning interpretation 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 stated Mr. Pflaum contacted her and stated he did not wish to withdraw his appeal to the ZBA. Chairman Casey asked Mr. Ennis to explain the history of complaints. Mr. Ennis explained the process of how complaints are handled by his office and the history of complaints concerning the noise from the dogs barking at Mr. Pflaum's dog camp. Mr. Ennis stated that 99% of complaints he receives are verbal from people who call him.

When he initially received the complaints about dog barking, he spoke to Mr. Plfaum who told him to have the neighbors call him. When the complaints continued, he contacted Mr. Pflaum in April 2010 who told him he was spending \$5,000 in sound proofing. When the complaints continued in August 2010, Mr. Ennis issued another violation and revoked the Home Occupation permit. Mr. Ennis pointed out there were three violations written. Mr. Plfaum has only appealed to the ZBA the violation issued on 8/9/10. Mr. Ennis explained that under a Home Occupation Permit, the noise cannot be more than would normally occur in an average home. Steven Taylor asked how many complaints Mr. Ennis received up to April 2010. Mr. Ennis stated about 10 complaints were made before April 2010. Mr. Better stated the ZEO issued a violation. Mr. Plfaum disagreed with the violation. The judge has now remanded the matter back to the Zoning Board to address Mr. Plfaum's appeal of the 8/9/10 violation only. Mr. Plfaum has advised he does not wish to withdraw the appeal to the ZBA. Mr. Better stated the next step in his opinion is for the board to schedule a public hearing. Mr. Plfaum would have the burden of proof to prove the violation was wrongly issued. The ZBA would then decide if it will uphold the violation or reverse. The public hearing will allow the public an opportunity comment on what is going on and new members of the board to hear directly from the public. A motion was made by Margaret Pino and seconded by Jeff Jensen to set a public hearing for Tuesday, September 18, 2012 at 7pm. All members voted in favor. Steven Taylor asked if there were any guidelines for the public hearing concerning time limits as the prior hearing was three hours. Chairman Casey stated the public hearing is for people, neighbors affected by this matter. Mr. Better explained Mr. Plfaum will need to send written notice of the public hearing to property owners within 300 feet of their property.

Chairman Casey advised the board members and public a meeting is scheduled by the NYS DOT on Thursday, August 30th at 6pm at the Stuyvesant Town Hall. The meeting will discuss the future of Ferry Road and options for the rail crossing and river access.

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