

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

MINUTES OF SEPTEMBER 18, 2012

****Approved at 10/16/12 meeting****

MEMBERS PRESENT:

Ms. Patricia Casey, Chairman
Ms. Amy Abbati
Ms. Margaret Pino
Mr. Steven Taylor
Mr. Jeff Jensen
Mr. Steve Montie

MEMBERS ABSENT:

Mr. Kent Keller
Mr. Paul Harpis

OTHERS PRESENT:

Attorney William Better, on behalf of the Zoning Board

Chairman Pat Casey called the meeting to order at 7:05 p.m. with the Pledge of Allegiance to the Flag.

A motion was made by Margaret Pino and seconded by Jeff Jensen to accept and approve the minutes of the August 28, 2012 meeting. All members present voted in favor.

Chairman Casey opened the public hearing concerning Mr. Pflaum's appeal to the ZBA of a Citation issued on 8/9/10 by the ZEO, Gerry Ennis for neighbor complaints concerning barking dogs. Chairman Casey set the ground rules on how the meeting would be conducted. Chairman Casey asked Mr. Pflaum he still wished to pursue his appeal to the ZBA or if he wanted to withdrawn his appeal request ending the matter before the ZBA. Mr. Pflaum indicated he wanted to pursue the appeal. A copy of an email letter sent by Mr. Pflaum on 9/18/12 to the ZBA was provided to the board members and marked as "Exhibit #1". Chairman Casey asked Mr. Pflaum how many dogs were in his care on or before 8/9/10. Mr. Pflaum did not answer. Chairman Casey asked Mr. Pflaum if he had any witnesses. Mr. Pflaum stated he would not answer any questions until his attorney arrived. Chairman Casey asked if he had a copy of the public hearing notice letter and certified mail receipts. Mr. Pflaum stated the certified mail receipts were sent by email to the town and he did not have a copy of the notice letter with him. Chairman Casey indicates he will need to provide a copy of the notice letter and original certified mailing receipts which can be mailed. He did not pay the legal

publication fee to the town for the posting of this public notice as required. Mr. Pflaum disputed the legitimacy of the hearing and if there was a quorum. Chairman Casey indicated she would proceed with the public hearing.

Speakers:

Aenne Grannis – she states there were no complaints before they received their permit. She does not feel the dog barking is loud. She states at the previous hearing they had many supporters. She states scientific testing supports the dogs are not loud. She states her neighbors have not complained about the dog barking. She feels Gerry Ennis wrongly issued the citation issued two years ago.

Will Pflaum – presented papers previously given to the board concerning sound tests and scientific evidence indicating the dogs are not loud. He accused the board of not understanding the evidence. He disputes that dog barking is loud. He states testing has confirmed the noise is not loud. He explained the laws of physics. He feels the town has something to hide. He stated the charge is impossible.

Michael Locker – He asked why speakers are required to face the board versus the audience. Chairman Casey explained the speakers need to address the board and not the audience. He stated many farms have dogs and how do we separate Mr. Pflaum's dogs from other people's dogs. Chairman Casey stated prior video evidence showed there are many dogs barking at the dog camp. He states while on Mr. Pflaum's property he heard Mr. Pflaum's personal dogs but the other dogs were muffled. He also stated there were many dog signs in the town that were defaced.

Janet Rybka – she states they still hear the barking even with the windows closed. She states the barking is not ear piercing but annoying. She is mostly concerned about the loose dogs. Mr. Better asked if she heard dog barking before 8/9/10. She stated yes. She has called Mr. Pflaum about the dog barking and loose animals. Amy Abbati asked if she was concerned about the dogs being vicious and if there were a lot of dogs loose. Janet stated she was concerned about her grandchildren and the dogs might bite.

Bob Balint – He states he received a copy of the hearing notice letter (Exhibit #2) and lives near Mr. Pflaum's property. He states he can hear the dogs and is habitually disturbed by the barking. He states the citation does not mention the barking was loud. He states he is about 78 feet from the property and lived at this property in August 2010. He states a Home Occupation Class 2 does have restrictions which should be enforced.

Sean Cummings - He asked if the public hearing would remain open & the purpose of the hearing. Mr. Better explained the judge remanded the matter back to the ZBA to render a decision on the limited issue of the citation. Mr. Better stated the burden is on Mr. Pflaum to show the violation was issued in error. The public hearing is an opportunity for evidence to be presented.

Martin Roby – He submitted an email (Exhibit #3) he wrote with a response by Steve Montie. He feels it shows bias and Mr. Montie should be removed. He feels there was no effort to separate the noise of personal dogs from the other dogs. He feels the ZBA should have sent Will back to the Planning Board for a permit. Steve Montie read the email referred to by Mr. Roby and the email from Will's attorney.

Gerry Ennis – He states complaints do not need to be written. He states most complaints are made by telephone calls to his office. He wrote the first violation in December 2009. He worked with Mr. Pflaum who requested people call him directly with complaints. The barking complaints continued and the second violation was written in the spring of 2010. Mr. Pflaum stated he would put up fence. Mr. Ennis indicated Mr. Pflaum's actions would show he agreed there was a problem as he was taking action to attempt to correct the dog barking problem. The complaints continued so he issued a violation in August 2010. He states if there are violations of the Home Occupation law, he can issue a violation and revoke the permit. He states the dogs make more noise than a normal household. He states Mr. Pflaum is a business and has an obligation to adhere to the zoning requirements. Mr. Ennis states he personally heard the dogs barking. He states current complaints are going to the dog warden. Margaret Pino asked if they can be made available to the board. Gerry will have copies of the dog warden's reports sent to the board.

Chairman Casey stated the board will accept written correspondence for up to 10 days after the hearing.

Chairman Casey asked again how many dogs Mr. Pflaum had at the time of the violation. He did not have records with him. He stated he had 75 dogs at Christmas but he probably had at least half that amount in August. Mr. Pflaum states he already provided a monthly total of the number of reservations. Mr. Pflaum the number of dogs does not matter. Sean Cummings stated he was at the dog camp in February 2011 and there were 22 dogs boarded at the time.

Chairman Casey advised the board members they have received the evidence and DVD recorded by Fritz. She asked if the board members had any questions or comments.

A motion was made by Steve Montie and seconded by Margaret Pino to close the public hearing. All members voted in favor. A written comment period will remain open for 10 days after the public hearing.

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